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Board of **MEDICOLEGAL** Investigations	445
Department of **MENTAL** Health and Substance Abuse Services	450
MERIT Protection Commission	455
MILITARY Planning Commission, Oklahoma Strategic	457
Department of **MINES**	460
Oklahoma **MOTOR** Vehicle Commission	465
Board of Regents of **MURRAY** State College *(exempted 11-1-98)*	470
Oklahoma State Bureau of **NARCOTICS** and Dangerous Drugs Control	475
Board of Regents of **NORTHERN** Oklahoma College *(exempted 11-1-98)*	480
Oklahoma Board of **NURSING**	485
Oklahoma State Board of Examiners for **LONG-TERM** Care Administrators (*Formerly:* Oklahoma State Board of Examiners for **NURSING** Home Administrators)	490
Board of Regents of **OKLAHOMA** City Community College *(exempted 11-1-98)*	495
Board of Regents of **OKLAHOMA** Colleges *(exempted 11-1-98)*	500
Board of Examiners in **OPTOMETRY**	505
State Board of **OSTEOPATHIC** Examiners	510
PARDON and Parole Board	515
Oklahoma **PEANUT** Commission	520
Oklahoma State **PENSION** Commission	525
State Board of Examiners of **PERFUSIONISTS**	527
Office of **PERSONNEL** Management	530
Board of Commercial **PET** Breeders	532
Oklahoma State Board of **PHARMACY**	535
PHYSICIAN Manpower Training Commission	540
Board of **PODIATRIC** Medical Examiners	545
Oklahoma **POLICE** Pension and Retirement System	550
State Department of **POLLUTION** Control *(abolished 1-1-93)*	555
POLYGRAPH Examiners Board	560
Oklahoma Board of **PRIVATE** Vocational Schools	565
State Board for **PROPERTY** and Casualty Rates *(abolished 7-1-06; see also Title 365)*	570
State Board of Examiners of **PSYCHOLOGISTS**	575
Department of **CENTRAL** Services (*Formerly*: Office of **PUBLIC** Affairs)	580
PUBLIC Employees Relations Board	585
Oklahoma **PUBLIC** Employees Retirement System	590
Department of **PUBLIC** Safety	595
REAL Estate Appraiser Board	600
Oklahoma **REAL** Estate Commission	605
Board of Regents of **REDLANDS** Community College *(exempted 11-1-98)*	607
State **REGENTS** for Higher Education	610
State Department of **REHABILITATION** Services	612
Board of Regents of **ROGERS** State College *(exempted 11-1-98)*	615
Board of Regents of **ROSE** State College *(exempted 11-1-98)*	620
Oklahoma **SAVINGS** and Loan Board *(abolished 7-1-93)*	625
SCENIC Rivers Commission	630
Oklahoma Commission on **SCHOOL** and County Funds Management	635
Advisory Task Force on the Sale of **SCHOOL** Lands *(functions concluded 2-92)*	640
The Oklahoma School of **SCIENCE** and Mathematics	645
Oklahoma Center for the Advancement of **SCIENCE** and Technology	650
SECRETARY of State	655
Department of **SECURITIES**	660
Board of Regents of **SEMINOLE** State College *(exempted 11-1-98)*	665
SHEEP and Wool Commission	670
State Board of Licensed **SOCIAL** Workers	675
SOUTHERN Growth Policies Board	680
Oklahoma **SOYBEAN** Commission *(abolished 7-1-97)*	685
Board of Examiners for **SPEECH-LANGUAGE** Pathology and Audiology (*Formerly:* Board of Examiners for **SPEECH** Pathology and Audiology)	690
STATE Employee Charitable Contributions, Oversight Committee for (*Formerly*: **STATE** Agency Review Committee)	695
STATE Use Committee (*Formerly:* Committee on Purchases of Products and Services of the Severely **HANDICAPPED**) –*See* Title 304	
Oklahoma **STUDENT** Loan Authority	700
TASK Force 2000	705
Oklahoma **TAX** Commission	710
Oklahoma Commission for **TEACHER** Preparation *(merged under Office of Educational Quality and Accountability 7-1-14 - See Title 218)*	712
TEACHERS' Retirement System	715
State **TEXTBOOK** Committee	720
TOBACCO Settlement Endowment Trust Fund	723
Oklahoma **TOURISM** and Recreation Department	725
Department of **TRANSPORTATION**	730
Oklahoma **TRANSPORTATION** Authority (*Name changed to* Oklahoma **TURNPIKE** Authority *11-1-05*) - *See* Title 731	
Oklahoma **TURNPIKE** Authority (*Formerly:* Oklahoma **TRANSPORTATION** Authority AND Oklahoma **TURNPIKE** Authority) - *See* also Title 745	731
State **TREASURER**	735
Board of Regents of **TULSA** Community College *(exempted 11-1-98)*	740
Oklahoma **TURNPIKE** Authority (*Name changed to* Oklahoma **TRANSPORATION** Authority *11-1-99 - no rules enacted in this Title - See* Title 731)	745
Oklahoma **UNIFORM** Building Code Commission	748
Board of Trustees for the **UNIVERSITY** Center at Tulsa *(exempted 11-1-98)*	750
UNIVERSITY Hospitals Authority	752
UNIVERSITY Hospitals Trust	753
Board of Regents of the **UNIVERSITY** of Oklahoma *(exempted 11-1-98)*	755
Board of Regents of the **UNIVERSITY** of Science and Arts of Oklahoma *(exempted 11-1-98)*	760
Oklahoma **USED** Motor Vehicle and Parts Commission	765
Oklahoma Department of **VETERANS** Affairs	770
Board of **VETERINARY** Medical Examiners	775
Statewide **VIRTUAL** Charter School Board	777
Oklahoma Department of **CAREER** and Technology Education (*Formerly:* Oklahoma Department of **VOCATIONAL** and Technical Education)	780
Oklahoma **WATER** Resources Board	785
Board of Regents of **WESTERN** Oklahoma State College *(exempted 11-1-98)*	790
Oklahoma **WHEAT** Commission	795
Department of **WILDLIFE** Conservation	800
WILL Rogers and J.M. Davis Memorials Commission	805
Oklahoma **WORKERS'** Compensation Commission	810

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 252. DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 100. AIR POLLUTION CONTROL

[OAR Docket #15-753]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 2. Incorporation by Reference
252:100-2-3. [AMENDED]
Subchapter 5. Registration, Emission Inventory and Annual Operating Fees
252:100-5-2.1. [AMENDED]
Subchapter 7. Permits for Minor Facilities
Part 1. General Provisions
252:100-7-1.1. [AMENDED]
252:100-7-2. [AMENDED]
Part 9. Permits by Rule
252:100-7-60.6 [NEW]
Subchapter 9. Excess Emission Reporting Requirements
252:100-9-1. [AMENDED]
252:100-9-1.1. [AMENDED]
252:100-9-2. [AMENDED]
252:100-9-8. [AMENDED]
252:100-9-9. [NEW]
Appendix Q. Incorporation by Reference [REVOKED]
Appendix Q. Incorporation by Reference [NEW]

SUMMARY:

The Department is proposing to amend OAC 252:100-5, Registration, Emission Inventory and Annual Operating Fees, for consistency with the U.S. Environmental Protection Agency (EPA) Air Emission Reporting Requirements contained in Subpart A of 40 CFR Part 51. OAC 252:100-5-2.1 excludes de minimis facilities and permit exempt facilities from the requirement to submit an annual emission inventory to the Department. The Department proposes to revise Section 5-2.1 to require the submittal of an emission inventory by these facilities when required by the federal point source reporting thresholds contained in Table 1 to Appendix A of Subpart A, which the Department proposes to incorporate by reference.

The Department is proposing to amend OAC 252:100-7, Permits for Minor Facilities. The Department is considering amendment(s) to definitions and/or developing new definitions in 252:100-7-1.1 as part of the efforts to reduce the regulatory burden on emergency engine only sources, for which a proposed Permit By Rule was carried over from the June 10, 2015 Air Quality Advisory Council meeting. The Permit By Rule is still being considered as an option to simplify the permitting process for facilities whose only obligation to obtain a permit is due to the presence of an emergency engine that is subject to a federal standard. The Department is also proposing to update 252:100-7-2, Requirements for permits for minor facilities, to clarify which air quality control rules apply to de minimis and permit exempt facilities.

The Department is proposing to amend OAC 252:100-9, Excess Emission Reporting Requirements, to comply with the "[State Implementation Plan (SIP)] Call To Amend Provisions Applying to Excess Emissions During Periods of Startup, Shutdown and Malfunction" (SSM) as published in the Federal Register by the EPA on June 12, 2015 (80 FR 33840), and to conform with EPA's restated and updated SSM policy applicable to SIPs, as expressed in the referenced Federal Register notice.

The Department is proposing to update OAC 252:100, Appendix Q, Incorporation by Reference, to incorporate the latest changes to EPA regulations, including Table 1 to Appendix A of Subpart A of 40 CFR Part 51. In addition, the Department is proposing to update language in Subchapter 2, Incorporation by Reference, to reflect the latest date of incorporation of EPA regulations in Appendix Q.

AUTHORITY:

The powers and duties of the Environmental Quality Board are set out in 27A O.S. Sections 2-2-101 and 2-5-106, and those of the Air Quality Advisory Council in 27A O.S. Sections 2-2-201 and 2-5-107. The legal authority authorizing the proposed rules is found in the Oklahoma Clean Air Act, 27A O.S. Sections 2-5-101 through -117, specifically 27A O.S. Sections 2-5-105 and 2-5-112 for Subchapter 5; 27A O.S. Sections 2-5-112 and -114 for Subchapter 7; 27A O.S. Sections 2-5-105 and -110 for Subchapter 9; and 27A O.S. Sections 2-5-105 and -114 for Appendix Q.

COMMENT PERIOD:

Written comments on the proposed rulemakings will be accepted prior to and at the hearing on October 14, 2015. For comments received at least five (5) business days prior to the Council meeting, staff will post written responses on the Department's web page at least one (1) day prior to the Council meeting. Oral comments may be made at the October 14, 2015 hearing and at the November 10, 2015 Environmental Quality Board hearing.

PUBLIC HEARINGS:

A public hearing is scheduled before the Air Quality Advisory Council at 9:00 a.m. on Wednesday, October 14, 2015, at the DEQ Headquarters, 707 N. Robinson, Oklahoma City, Oklahoma 73102.

If the Council recommends adoption of the proposed rules, an additional public hearing will be held before the Environmental Quality Board at its meeting scheduled for 9:30 a.m. on Tuesday, November 10, 2015, at the Canadian Valley Technology Center, 1401 Michigan Avenue, Chickasha, OK 73018.

These hearings shall also serve as public hearings to receive comments on the proposed revisions to the State Implementation Plan (SIP) under the requirements of 40 CFR Section 51.102 and 27A O.S. Section 2-5-107(6)(c), and to the State Title V (Part 70) Implementation Plan under the requirements of 40 CFR Part 70 and 27A O.S. Section 2-5-112(B)(9).

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

The Department requests that business entities or any other members of the public affected by these rules provide the Department, 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, record keeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by a particular entity due to compliance with the proposed rules.

COPIES OF PROPOSED RULES:

The proposed rules are available for review 30 days prior to the hearing on the DEQ Air Quality Division website at http://www.deq.state.ok.us/AQDnew/council_mtgs/index.htm. Copies also may be obtained from the Department by calling the contact person listed below.

RULE IMPACT STATEMENTS:

Pursuant to 75 O.S. Section 303(D), a rule impact statement will be prepared and available on and after September 1, 2015 on the DEQ Air Quality Division website at http://www.deq.state.ok.us/AQDnew/council_mtgs/index.htm. Copies also may be obtained from the Department by calling the contact person listed below.

CONTACT PERSON:

The contact person for these proposals is Cheryl E. Bradley, Environmental Programs Manager, at (405)702-4218. Please send written comments on the proposed rule changes to Ms. Bradley at cheryl.bradley@deq.ok.gov. Mail should be addressed to Department of Environmental Quality, Air Quality Division, P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677, ATTN: Cheryl E. Bradley. The Air Quality Division FAX number is (405)702-4101.

PERSONS WITH DISABILITIES:

Should you desire to attend the public hearing but have a disability and need an accommodation, please notify the Air Quality Division three (3) days in advance at (405)702-4172. For the hearing impaired, the TDD relay number is 1-800-522-8506 or 1-800-722-0353, for TDD machine use only.

[OAR Docket #15-753; filed 8-7-15]

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 205. HAZARDOUS WASTE MANAGEMENT

[OAR Docket #15-752]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 3. Incorporation by Reference
252:205-3-1. [AMENDED]
252:205-3-2. [AMENDED]
Subchapter 15. Transfer Stations
252:205-15-1. [AMENDED]
252:205-15-2. [AMENDED]
252:205-15-3. [AMENDED]
252:205-15-4. [AMENDED]
252:205-15-5. [AMENDED]

SUMMARY:

The purpose of the proposed amendments is twofold: (1) to incorporate by reference the federal hazardous waste regulations found in 40 CFR Parts 124 and 260-279 revised as of July 1, 2015 plus those revisions to 40 CFR published at 80 FR 1694 - 1814 (January 13, 2015), "Definition of Solid Waste: Final Rule" and (2) to revise the regulations for Transfer Station Development and Operations Plans.

With respect to the incorporation by reference of the federal hazardous waste regulations, two federal rule changes will be incorporated into Oklahoma's authorized hazardous waste program. One is the vacatur of Comparable Fuels Rule and the Gasification Rule ordered by the US Court of Appeals in the DC Circuit on June 27, 2014. This federal rule change removed 40 CFR 261.4(a)(16) and 261.38, and modified 261.4(a)(12)(i). The other federal rule being incorporated is the revised Definition of Solid Waste Rule that was promulgated January 13, 2015. Its effective date at the federal level is July 13, 2015, but it will not be effective in Oklahoma until formally incorporated into DEQ's rules.

With respect to transfer stations, rules for these facilities were first promulgated in the early 1990s and were revised once in the early 2000s. Over this period, DEQ and the regulated community have gained a tremendous amount of experience implementing these rules. As a result, many areas for improvement have been identified to address ambiguities and operational questions that have arisen over the years. The proposed rule changes are to update the rules to address these issues.

AUTHORITY:

Environmental Quality Board and Hazardous Waste Management Advisory Council powers and duties, 27A O.S. §§ 2-2-101, 2-2-104, 2-2-201, 2-7-105, and 2-7-106.

COMMENT PERIOD:

Deliver or mail written comments on the proposed rules to the contact person from September 1, 2015 through October 8, 2015.

PUBLIC HEARINGS:

Before the Hazardous Waste Management Advisory Council on October 8, 2015 at 10:00 a.m. at the Tulsa Tech Riverside Campus, 801 East 91st Street, Tulsa OK 74132.

Before the Environmental Quality Board on November 10, 2015 at 9:30 am at the Canadian Valley Technology Center, 1401 Michigan Avenue, Chickasha, OK 73018.

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

The Department of Environmental Quality requests that business entities affected by these modifications provide the DEQ, within the comment period and in dollar amounts if possible, the increase or decrease in the level of direct costs such as fees and the indirect costs such as reporting, record keeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by a particular entity due to compliance with the proposed rules.

COPIES OF PROPOSED RULES:

A copy of the proposed rules may be obtained from the contact person or may be viewed on the DEQ web site at www.deq.state.ok.us/LPDnew/LPProprules.htm or may be reviewed at the Department of Environmental Quality, 707 N. Robinson, Oklahoma City, Oklahoma.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. §303(D), a rule impact statement for the proposed rules will be on file at the DEQ and may be requested from the contact person listed below.

CONTACT PERSON:

Mike Edwards, Hazardous Waste Compliance and Inspection Section, Department of Environmental Quality, P.O. Box 1677, Oklahoma City, OK 73101 - 1677, e-mail at mike.edwards@deq.ok.gov, phone 405-702-5226, or fax 405-702-5101.

ADDITIONAL INFORMATION:

Persons with disabilities who desire to attend the public hearing to be held before the Hazardous Waste Management Advisory Council and need assistance should notify the contact person three days in advance of the meeting during business hours at 405-702-5226 or by using TDD relay number 1-800-522-8506.

[OAR Docket #15-752; filed 8-7-15]

Permanent Final Adoptions

An agency may promulgate rules on a permanent basis upon "final adoption," as defined in 75 O.S., Section 250.3(5), of the proposed rules.

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

Permanent rules are published in the *Oklahoma Administrative Code*, along with a source note entry that cites the *Register* publication of the finally adopted rules in the permanent rule document.

For additional information on the permanent rulemaking process, see 75 O.S., Sections 303, 303.1, 308, 308.1 and 308.3.

TITLE 25. OKLAHOMA AERONAUTICS COMMISSION
CHAPTER 25. AEROSPACE AND AVIATION EDUCATION GRANT PROGRAM

[OAR Docket #15-689]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
25:25-1-2. Requirements for receiving funding for an Aerospace and Aviation Education Grant Program [AMENDED]
25:25-1-3. Criteria selection for applicants [AMENDED]
25:25-1-4. Procedures for awarding funding to an Aerospace and Aviation Education Grant Program [AMENDED]
AUTHORITY:
Oklahoma Aeronautics Commission; 3 O.S. Section 85 (L)
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
November 7, 2014
COMMENT PERIOD:
December 1, 2014 through December 31, 2014
PUBLIC HEARING:
December 31, 2014
ADOPTION:
January 8, 2015
SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:
January 14, 2015
APPROVED BY GOVERNOR'S DECLARATION:
Approved by Governor's declaration on June 8, 2015
FINAL ADOPTION:
June 8, 2015
EFFECTIVE:
September 11, 2015
SUPERSEDED EMERGENCY ACTIONS:
n/a
INCORPORATIONS BY REFERENCE:
n/a
ANALYSIS:
The permanent rule will clarify the requirements for receiving an Aerospace and Aviation Education Grant so that applicants know specifically which documents are required and the deadlines for those required documents to be received by the Oklahoma Aeronautics Commission.
CONTACT PERSON:
Treasure Morgan, Aviation Education & Government Affairs Liaison, Oklahoma Aeronautics Commission, 120 N. Robinson, Suite 1244W, Oklahoma City, OK 73120, (405) 604-6915

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 11, 2015:

25:25-1-2. Requirements for receiving funding for an Aerospace and Aviation Education Grant Program

(a) The Oklahoma Aeronautics Commission shall identify and award grants to public schools, colleges, and universities, and execute contracts with private entities to promote aviation, aerospace, and STEM (science, technology, engineering and mathematics) education programs that have direct application to aviation.~~, which includes the fields of science, technology, engineering and math,~~ and promote careers in aviation and aerospace among Oklahoma students. All grant proposals must demonstrate a direct application to aviation.

(b) Each school, college, university, teacher or private entity must complete the Aerospace and Aviation Education Grant application located on the website of the Commission.

(c) A private entity or organization must also complete the Aerospace and Aviation Education Grant application and if their application is selected, enter into a contract with the Oklahoma Aeronautics Commission for the project. Additional contractual forms will also need to be completed.

(d) Applications must be submitted or postmarked no later than May 31st in order to be considered for the following fiscal year which starts July 1st. If May 31st occurs on a weekend or holiday, applications may be submitted on the next business day following the weekend or holiday.

(e) Applicants who receive approval must provide a Financial ~~Audit~~Report, corresponding receipts, final invoice and a Completion Report to the Oklahoma Aeronautics Commission~~,~~ which documents the usage of funds and gives a detailed description of the program's implementation. ~~The reports is are~~This documentation is due within sixty (60) days of the completion of the program.

(f) If the Financial Report, corresponding receipts, final invoice and the Completion Report are not turned in within the sixty (60) day period, the applicant forfeits the remaining twenty percent (20%) or any outstanding balances.

(g) If an applicant forfeits money, the applicant is prohibited from applying for a grant the following year.

(h) Applicants may request a thirty (30) day extension if they are unable to submit the Financial Report, corresponding receipts, final invoice and the Completion Report within the sixty (60) day period.

(i) The thirty (30) day extension request must be received within sixty (60) days of the completion of the program.

25:25-1-3. Criteria selection for applicants

(a) An applicant's program must have a direct application to aviation with the purpose of increasing aerospace and aviation awareness by promoting science, technology, engineering,

and mathematics (STEM) education, or encourage Oklahoma students to pursue a career in the aviation/aerospace industry.

(b) Applications will be rated according to the following criteria listed in the application:

(1) Program description
(2) Grade levels served
(3) Number of students involved
(4) Program goals and objectives, must be directly linked to aviation
(5) Curriculum/subject areas covered
(6) Desired learning outcomes, must be directly linked to aviation
(7) Student benefits
(8) Measurements of success
(9) Justification of need for the funding

(c) Applications will also be rated according to the following financial information provided by the applicant:

(1) Total budget of the organization
(2) Total budget of the program
(3) Other contributors and the amount contributed
(4) Percentage of the program that the Oklahoma Aeronautics commission is being asked to fund

25:25-1-4. Procedures for awarding funding to an Aerospace and Aviation Education Grant Program

(a) Staff will take up to sixty (60) days after the May 31st deadline date to review the applications based upon the above mentioned criteria. Applications will then be submitted to the Commission for approval at the next regularly scheduled Commission meeting.

(b) The Oklahoma Aeronautics Commission will make a partial payment of eighty percent (80%) upon completion of the program. The remaining twenty percent (20%) will be paid upon receipt of the Financial ~~Audit~~ Report, corresponding receipts, final invoice and the Completion Report.

[OAR Docket #15-689; filed 7-2-15]

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

[OAR Docket #15-648]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 3. Fee Schedules
35:2-3-2.1 [AMENDED]
35:2-3-2.2 [AMENDED]
35:2-3-2.3 [AMENDED]
35:2-3-2.4 [AMENDED]
35:2-3-2.5 [AMENDED]
35:2-3-2.6 [AMENDED]
35:2-3-2.7 [AMENDED]
35:2-3-2.8 [AMENDED]
35:2-3-5 [AMENDED]

AUTHORITY:
Okla. Const., Art. 6, § 31; 2 O.S. § 2-4(A)(2) and 2-4(A)(20); 2. O.S. § 6-181 et. seq.; and 2 O.S. § 14-81 et seq.; State Board of Agriculture
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
November 7, 2014
COMMENT PERIOD:
December 1, 2014 through January 8, 2015
PUBLIC HEARING:
January 8, 2015
ADOPTION:
January 27, 2015
SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:
February 5, 2015
APPROVED BY GOVERNOR'S DECLARATION:
Approved by Governor's declaration on June 8, 2015
FINAL ADOPTION:
June 8, 2015
EFFECTIVE:
September 11, 2015
SUPERSEDED EMERGENCY ACTIONS:
n/a
INCORPORATIONS BY REFERENCE:
n/a
ANALYSIS:
The rule amendments update references to the Code of Federal Regulations.
CONTACT PERSON:
Bennett Abbott, Assistant General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, Office of General Counsel, P.O. Box 528804, Oklahoma City, OK 73152-8804, phone: (405) 522-5803, email: bennett.abbott@ag.ok.gov

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 11, 2015:

SUBCHAPTER 3. FEE SCHEDULES

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

(a) Equine Infectious Anemia:
(1) AGID (agar gel immuno-diffusion) - ~~$7.50~~$10.00.
(2) ELISA (enzyme linked immuno-sorbant assay)~~:~~ - $10.00.
~~(A) Routine - $7.50~~
~~(B) One day turn around - $20.00.~~

(b) Pseudorabies - ~~$4.00~~$6.00.

(c) Brucellosis~~:~~ ~~- $3.00.~~
(1) All tests, except complement fixation (CF) - $5.00.
(2) Complement fixation (CF) - $10.00.

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

(a) Feeds and grains testing fees~~.~~:
(1) Sample preparation - $10.00.
(~~1~~2) Proximate analysis:
(A) Ash - ~~$5.00~~$7.00.
(B) Fat, dry pet foods, ~~and~~ milk replacers, and other extruded feeds - ~~$25.00~~ $50.00.
(C) Fat, all other feeds - ~~$15.00~~$16.00.
(D) Fiber, acid detergent (ADF) - ~~$8.50~~$16.00.

(E) Fiber, crude - $10.00.
(F) Moisture - ~~$5.00~~$7.00.
(G) Non-protein nitrogen - ~~$15.00~~$21.00.
(H) Protein - $10.00.

(~~2~~3) Other feed analysis:
(A) Aflatoxins - ~~$35.00~~$65.00.
(B) Fumonisin - ~~$35.00~~$65.00.
(C) Salt, from chloride - $20.00.
(D) Salt, from sodium - ~~$20.00~~$22.00.
(E) Sulfur - ~~$18.00~~$34.00.
(F) Sugar, total as invert - ~~$50.00~~$75.00.
(G) Vitamin A - $60.00.

(~~3~~4) Drugs in feeds:
(A) Amprolium - $50.00.
(B) Chlortetracycline - $50.00.
(C) Decoquinate - $65.00.
~~(D) Lasalocid - $65.00.~~
(~~E~~D) Oxytetracycline - ~~$50.00~~$90.00.
(~~F~~E) Sulfamethazine - $65.00.
(~~G~~F) Sulfathiazole - ~~$65.00~~$75.00.
(~~H~~G) Tylosin - ~~$65.00~~$85.00.

(b) Fertilizer testing fees~~.~~:

(1) Sample preparation - $10.00.

(~~1~~2) Major nutrients:
(A) Total ~~Nitrogen~~nitrogen - $10.00.
(B) Available ~~Phosphate~~phosphate - ~~$20.00~~$30.00.
(C) Total phosphate - $24.00.
(~~C~~D) Soluble ~~Potash~~potash - $20.00.

(~~2~~3) Micro nutrients: ~~Total Sulfur - $105.00~~.
(A) ~~Combined~~Total Sulfur - ~~$30.00~~$120.00.
(B) ~~Free~~Combined Sulfur - ~~$75.00~~$45.00.
(C) Free Sulfur - $75.00.

(c) Lime ~~analysis, sieve, and effective calcium carbonate equivalent (ECCE) - $40.00.~~testing fees:

(1) Sample preparation - $5.00.

(2) Calcium carbonate equivalent (CCE) analysis, sieves, and effective calcium carbonate equivalent (ECCE) - $40.00.

(~~1~~3) Calcium in ~~Lime~~lime - ~~$20.00~~$22.00.

(~~2~~4) Magnesium in ~~Lime~~lime - ~~$20.00~~$22.00.

(~~3~~5) Calcium carbonate equivalent (CCE) - $20.00.

(d) Elemental analysis testing fees by ~~atomic absorption (AA) or~~ inductively coupled plasma (ICP) spectrometry, each element - ~~$20.00~~$22.00.

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

(a) Sample preparation - $5.00.

(b) Starchy flour (qualitative) - $11.00.

(~~a~~c) Cereal (~~Starch Qualitative~~qualitative) - ~~$20.00~~$45.00.

(~~b~~d) Corn syrup solids - ~~$32.00~~75.00.

(~~c~~e) Fat, total - $30.00.

(~~d~~f) Non-fat dry milk - ~~$32.00~~$75.00.

(~~e~~g) Protein, total - $20.00.

(~~f~~h) Salt - ~~$20.00~~$42.00.

(~~g~~i) Sodium nitrite~~,~~ (quantitative) - ~~$20.00~~$65.00.

(j) Potassium nitrite (quantitative) - $65.00.

(~~h~~k) Sodium sulfite, (qualitative) - $9.00.

(~~i~~l) Soy protein - ~~$30.00~~$45.00.

(~~j~~m) Water, total - $13.00.

(~~k~~n) Water activity - $30.00.

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

(a) Aerobic plate count - ~~$12.00~~$20.00.

(b) Bacillus cereus~~, confirmed~~ - ~~$61.00~~$40.00.

~~(c) Bacillus cereus, presumptive - $14.00.~~

(~~d~~c) Campylobacter - ~~$25.00~~$60.00.

~~(e) Clostridium perfringens - $20.00.~~

(~~f~~d) Coliform, total (PA, MPN, or MF) - $20.00.

~~(g) Confirmed membrane filter (MF), lauryl sulfate tryptose (LST) and brilliant green bile (BGB) - $20.00.~~

(~~h~~e) E. coli - $40.00.

(~~i~~f) E. coli O157:H7 or STEC - ~~$40.00~~$60.00.

(~~j~~g) Enterococcus - $40.00.

(~~k~~h) ~~Fecal coliform, membrane filter (MF), or most probable number~~Coliform, fecal (MF or MPN) - $20.00.

(~~l~~i) Filth and adulteration of foods, gross examination - ~~$10.00~~$20.00.

~~(m) Gram stain - $10.00.~~

(~~n~~j) Listeria spp. or listeria monocytogenes - ~~$40.00~~$60.00.

~~(o) pH food products - $10.00.~~

~~(p) Plate count, coliform - $12.00.~~

~~(q) Residual bacteria count - $12.00.~~

~~(r) Residual coliform count - $12.00.~~

~~(s) Ribotyping, individual bacteria - $105.00.~~

(~~t~~k) Salmonella - ~~$40.00~~$60.00.

(~~u~~l) Shigella - ~~$40.00~~$60.00.

(~~v~~m) Staphylococcus aureus - $40.00.

~~(w) Staphylococcus, confirmation of coagulase positive (+) - $10.00.~~

~~(x) Swab or utensil count - $12.00.~~

(~~y~~n) Thermometer check - $15.00.

(~~z~~o) Yeast and mold count - ~~$18.00~~$20.00.

(~~aa~~p) Antibiotics in dairy products ~~(non-permitted dairies)~~ - ~~$15.00~~$20.00.

~~(bb) Sulfa and tetracycline drugs in milk - $20.00.~~

~~(cc) Fat (percent) in milk and milk products (raw) - $6.00.~~

~~(dd) Direct microscopic somatic cell count - $10.00.~~

(~~ee~~q) ~~Electronic somatic~~Somatic cell count in dairy products - ~~$10.00~~$20.00.

~~(ff) Added water in milk - $12.00.~~

(~~gg~~r) Fat, protein, added water, and lactose ~~(pasteurized milk and retail products)~~in dairy products - ~~$6.00~~$20.00.

~~(hh) Bacterial DNA isolation and enrichment (Applied Biosystems PCR and Pathatrix for E. coli, Listeria, and Salmonella (not pooled samples) - $30.00.~~

~~(ii) Bacterial DNA isolation and enrichment (Applied Biosystems PCR and Pathatrix for E. coli, Listeria, Salmonella (pooled samples, twenty (20) or more) - $20.00.~~

~~(jj) Bacterial DNA identification (Applied Biosystems PCR and Qiacube PCR prep) for E. coli, Listeria, and Salmonella - $20.00~~

(s) Aflatoxin in dairy products - $30.00.

(t) Aklaline phosphatase in dairy products - $30.00.

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

(a) Residue analyses:
(1) Water samples:
(A) Organochloride/organophosphate/organonitrogen analysis - ~~$200.00~~$225.00.
(B) Herbicide analysis, per test - $325.00.
(C) Unknown/other - ~~$375.00~~$400.00.
(2) Soil samples:
(A) Organochloride/organophosphate/organonitrogen analysis - ~~$200.00~~$225.00.
(B) Herbicide analysis, per test - $350.00.
(C) Termiticide analysis - ~~$200.00~~$225.00.
(D) Unknown/other - $375.00.
(3) Vegetation samples:
(A) Organochloride/organophosphate/organonitrogen analysis - ~~$250.00~~$275.00.
(B) Herbicide analysis, per test - $375.00~~$375.00.~~
(C) Unknown/other - $400.00.
(4) Organic food program or food samples:
(A) Organochloride/organophosphate/organonitrogen analysis - $275.00.
(B) Herbicide analysis, per test - $375.00.
(C) Unknown/other - $400.00.
(5) Surface/Swab samples:
(A) Organochloride/organophosphate/organonitrogen analysis - ~~$200.00~~$225.00.
(B) Herbicide analysis, per test - $325.00.
(C) Unknown/other - ~~375.00~~$400.00.
(6) Air Samples:
(A) Organochloride/organophosphate/organonitrogen analysis - ~~$200.00~~$225.00.
(B) Herbicide analysis, per test - $325.00.
(C) Unknown/other - $400.00.
(7) Animal Tissue:
(A) Organochloride/organophosphate/organonitrogen analysis - $375.00.
(B) Herbicide analysis, per test - $400.00.
(C) Unknown/other - $400.00.
(8) Other matrices not listed above:
(A) Organochloride/organophosphate/organonitrogen analysis - $375.00.
(B) Herbicide analysis, per test - $400.00.
(C) Unknown/other - $400.00.

(b) Formulations or tank mixes:
(1) Concentrates or tank mixes:
(A) Single component - $100.00.
(B) Two components - ~~$125.00~~$150.00.
(C) Three or more components - ~~$200.00~~$225.00.
(2) Aerosols - $275.00.
(3) Baits - ~~$300.00~~$325.00.
(4) Unknowns/other - ~~$325.00~~$350.00.

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

(a) Alkalinity, total - $15.00.
~~(b) Biochemical oxygen demand, 5-day (BOD5) - $30.00.~~
~~(c) Biochemical oxygen demand, 20-day (BOD20) - $47.00.~~
~~(d) Biochemical oxygen demand, 30-day (BOD30) - $52.00.~~
(~~e~~b) ~~Carbonate/Bicarbonate~~Carbonate/bicarbonate - $20.00.
(~~f~~c) Chloride - ~~$20.00~~$22.00.
(~~g~~d) Electrical conductivity (EC) - $10.00.
(~~h~~e) Hardness - ~~$25.00~~$40.00.
(~~i~~f) Ion balance, cation/anion balance - ~~$85.00~~$100.00.
(~~j~~g) Ion screen, anions (chloride, sulfate, nitrate-nitrogen, and nitrite-nitrogen) - ~~$40.00~~$50.00.
(~~k~~h) Ion screen, cations (sodium, potassium, calcium, and magnesium) - ~~$40.00~~$50.00.
(~~l~~i) Kjeldahl nitrogen, total (TKN) - ~~$24.00~~$30.00.
~~(m) Monochromatic chlorophyll a and pheophytin - $40.00.~~
(~~n~~j) Monochromatic chlorophyll a and pheophytin, pre-extracted and ground - $10.00.
(~~o~~k) Nitrogen from ammonia - ~~$20.00~~$25.00.
(~~p~~l) Nitrogen from nitrates - ~~$20.00~~$22.00.
(~~q~~m) Nitrogen from nitrites - ~~$20.00~~$22.00.
(~~r~~n) pH - $10.00.
(~~s~~o) Phosphorus from ortho-phosphorus - ~~$20.00~~$22.00.
(~~t~~p) Phosphorus, total (TP) - ~~$24.00~~$30.00.
(~~u~~q) Solids, total dissolved (TDS) - $22.00.
(~~v~~r) Solids, total suspended (TSS) - $22.00.
(~~w~~s) Sulfate - ~~$20.00~~$22.00.
~~(x) Trichromatic chlorophyll a, b, and c - $35.00.~~
~~(y) Turbidity - $15.00.~~
(~~z~~t) LMFO assessment for licensed managed feeding operations pursuant to the Oklahoma Concentrated Animal Feeding Operations Act, ~~Title 2 of the Oklahoma Statutes, Section 20-12~~2 O.S. § 20-12 (electrical conductivity, pH, ammonia-nitrogen, nitrate-nitrogen and total phosphorus) - ~~$45.00~~$60.00.
(~~aa~~u) Water well assessment (non-potable) (anion screen, hardness, pH, total alkalinity, and TDS) - ~~$90.00~~$120.00.

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

(a) Germination all seeds other than native grasses, each component - ~~$12.00~~$13.00.
(b) Germination, native grasses, each component - $25.00.
(~~b~~c) Purity other than grasses, clovers, mixtures, and unprocessed seed - ~~$13.00~~$14.00.
(~~c~~d) Purity for grasses, clovers, mixtures, and unprocessed seed - $20.00 per hour.
(~~d~~e) Tetrazolium (TZ) testing - $20.00.
(~~e~~f) Stress/vigor test/accelerated aging - ~~$12.00~~$15.00.
(~~f~~g) Noxious weed check - $15.00 per hour.
(~~g~~h) Seed count - ~~$4.00~~$8.00.
(~~h~~i) Test weight - $2.00.

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

(a) Mass Echelon III.
(1) Tolerance test weights not adjusted:
(A) Up to and including 10 lbs/5 kg - ~~$7.00~~$9.00.
(B) Over 10 lbs/5 kg and up to 50 lbs/30 kg - ~~$12.00~~$15.00.
(C) Over 50 lbs/30 kg and up to 1,000 lbs/500 kg - ~~$18.00~~$22.00.
(D) Over 1,000 lbs/500 kg and up to 2,500 lbs/1,250 kg - ~~$40.00~~$45.00.

(E) Over 2,500 lbs/1,250 kg and up to 6,000 lbs/3,000 kg - ~~$75.00~~$80.00.

(F) Weight carts up to 6,000 lbs/3,000 kg - $250.00.

(2) Tolerance test weights when adjusted:

(A) Up to and including 10 lbs/5 kg - ~~$21.00~~$27.00.

(B) Over 10 lbs/5 kg and up to 50 lbs/30 kg - ~~$36.00~~$45.00.

(C) Over 50 lbs/30 kg and up to 1,000 lbs/500 kg - ~~$54.00~~$66.00.

(D) Over 1,000 lbs/500 kg and up to 2,500 lbs/1,250 kg - ~~$120.00~~$135.00.

(E) Over 2,500 lbs/1,250 kg and up to 6,000 lbs/3,000 kg - ~~$225.00~~$240.00.

(F) Weight carts up to 6,000 lbs/3,000 kg - $750.00.

(b) Mass Echelon II.

(1) Tolerance test weights not adjusted:

(A) Up to and including 2 lbs/1 kg - ~~$20.00~~$25.00.

(B) Over 2 lbs/1 kg and up to 20 lbs/10 kg - ~~$40.00~~$45.00.

(C) Over 20 lbs/10 kg and up to 50 lbs/30 kg - ~~$80.00~~$85.00.

(D) Over 50 lbs/30 kg and up to 2,500 lbs/1,250 kg - ~~$100.00~~$110.00.

(2) Tolerance test weights when adjusted:

(A) Up to and including 2 lbs/1 kg - ~~$60.00~~$75.00.

(B) Over 2 lbs/1 kg and up to 20 lbs/10 kg - ~~$120.00~~$135.00.

(C) Over 20 lbs/10 kg and up to 50 lbs/30 kg - ~~$240.00~~255.00.

(D) Over 50 lbs/30 kg and up to 2,500 lbs/1,250 kg - ~~$300.00~~$330.00.

(c) Mass Echelon I.

(1) Test weights, manual~~not adjusted~~:

(A) Up to and including 1 kg - $60.00.

(B) Over 1 kg and up to 30 kg - $100.00.

(2) Test weights, automated~~when adjusted~~:

(A) Up to and including 1 kg - ~~$180.00~~$250.00.

(B) Over 1 kg and up to 30 kg - $300.00.

(d) Volume transfer tests:

(1) Up to and including 5 gal/20 liters - ~~$40.00~~$60.00.

(2) Over 5 gal/20 liters and up to 50 gal/200 liters - ~~$100.00~~$120.00.

(3) Over 50 gal/200 liters and up to 100 gal/400 liters - ~~$200.00~~$250.00.

(4) Over 100 gal/400 liters and up to 150 gal/600 liters - ~~$250.00~~$300.00.

(5) Over 150 gal/600 liters and up to 200 gal/800 liters - ~~$300.00~~$350.00.

(6) Over 200 gal/800 liters and up to 400 gal/1,600 liters - ~~$400.00~~$450.00.

~~(7) Over 400 gal/1,600 liters and up to 600 gal/2,400 liters - $500.00.~~

~~(8) Over 600 gal/2,400 liters and up to 800 gal/3,200 liters - $600.00.~~

~~(9) Over 800 gal/3,200 liters and up to 1,200 gal/4,800 liters - $700.00.~~

~~(10) Over 1,200 gal/4,800 liters and up to 1,600 gal/6,400 liters - $800.00.~~

(e) Volume gravimetric tests:

(1) Up to and including 1 qt/1 liter - ~~$75.00~~$100.00.

(2) Over 1 qt/1 liter and up to 5 gal/20 liters - $200.00.

(3) Over 5 gal/20 liters and up to 50 gal/200 liters - $400.00.

(4) Over 50 gal/200 liters and up to 100 gal/400 liters - $600.00.

(f) Volume LPG Provers up to and including 100 gal/400 liters - $500.00.

~~(g) Length calibration per point - $15.00.~~

(~~h~~g) Cleaning of standards, handling, and packing - $50.00 per hour.

(~~i~~h) Minimum fee per calibration certificate - ~~$40.00~~$50.00.

35:2-3-5. Fees for meat inspection overtime

The fee for meat inspection overtime work in an official establishment under the Oklahoma Meat Inspection Act (2 O.S. ~~1971, Section~~§ 6-181) is ~~hereby established at $21.25~~ $29.00 per hour~~, effective July 1, 1990~~.

[OAR Docket #15-648; filed 6-24-15]

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

[OAR Docket #15-642]

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RULES:
Subchapter 1. General Provisions
35:10-1-3 [AMENDED]
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Dates of National Institute of Standards and Technology Handbooks 44, incorporated by reference are changed to "2015 Edition"
Incorporating Rules:
35:10-1-3

Availability:
See contact person below.
ANALYSIS:
The rule amendments update references to the Code of Federal Regulations.
CONTACT PERSON:
Bennett Abbott, Assistant General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, Office of General Counsel, P.O. Box 528804, Oklahoma City, OK 73152-8804, phone: (405) 522-5803, email: bennett.abbott@ag.ok.gov

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 11, 2015:

SUBCHAPTER 1. GENERAL PROVISIONS

35:10-1-3. Handbook and publication editions

References to a Handbook or publication in these rules shall mean the following edition of the National Institute of Standards and Technology (NIST), unless a different reference is made in the text of the rule:

(1) Handbook 44 "Specifications, Tolerances and Other Technical Requirements for Commercial Weighing & Measuring Devices" (~~2014~~2015 Edition).

(2) Handbook 130 "Uniform Laws and Regulations" (~~2014~~2015 Edition), excluding Section G "Uniform Engine Fuels and Automotive Lubricants Regulation."

(3) Handbook 133 "Checking the Net Contents of Packaged Goods" (~~2013~~2015 Edition).

(4) Handbook 105-1 "Specifications and Tolerances for Field Standard Weights" (1990 Edition).

(5) Handbook 105-2 "Specifications and Tolerances for Field Standard Measuring Flasks" (1996 Edition).

(6) Handbook 105-3 "Specifications and Tolerances for Graduated Neck Type Volumetric Field Standards" (2004 Edition).

(7) Publication 14 (2009 Edition).

(8) Publication 12 (1991 Edition).

(9) Federal Grain Inspection Service Moisture Handbook (2006 Edition).

[OAR Docket #15-642; filed 6-24-15]

TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY CHAPTER 13. FUEL ALCOHOL

[OAR Docket #15-640]

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35:13-1-1 [AMENDED]
35:13-1-2 [AMENDED]
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Date of 27 CFR provisions incorporated by reference is changed to "2014 Revision"
Incorporating Rules:
35:13-1-1
35:13-1-2
Availability:
See contact person below.
ANALYSIS:
The rule amendments update references to the Code of Federal Regulations.
CONTACT PERSON:
Bennett Abbott, Assistant General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, Office of General Counsel, P.O. Box 528804, Oklahoma City, OK 73152-8804, phone: (405) 522-5803, email: bennett.abbott@ag.ok.gov

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 11, 2015:

35:13-1-1. Incorporation by reference of federal distilled spirits for fuel use regulations

The Distilled Spirits for Fuel Use regulations found in Title 27 of the Code of Federal Regulations (CFR) (~~2013~~2014 Revision), Part 19.661 et seq. for the United States Department of the Treasury, Alcohol and Tobacco Tax and Trade Bureau, as promulgated and amended in the Federal Register, are hereby adopted in their entirety with the exception of the deleted regulations specified in 35:13-1-2.

35:13-1-2. Deleted regulations

The following sections of the Code of Federal Regulations governing distilled spirits for fuel use of the United States Department of the Treasury, Alcohol and Tobacco Tax and Trade Bureau incorporated by reference under 35:13-1-1 are deleted and are not rules of the Oklahoma Department of Agriculture, Food, and Forestry: 27 CFR §§ 19.669, 19.670, 19.699, and 19.700 (~~2013~~2014 Revision).

35:13-1-3. Definitions

(a) All words or terms defined or used in the ~~Federal~~federal regulations incorporated by reference shall mean the state equivalent or counterpart to those word or terms.

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

(1) **"Commodities"** means nonperishable whole grains or seeds.

(2) **"Producer"** means any person planting, raising, growing, or harvesting commodities.

[OAR Docket #15-640; filed 6-24-15]

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

[OAR Docket #15-643]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 13. Testing and Inspection for Disease and Release of Livestock at Auction Markets
35:15-13-3 [AMENDED]
35:15-13-6 [AMENDED]
Subchapter 36. Scrapie
35:15-36-1 [AMENDED]
35:15-36-2 [AMENDED]
Subchapter 40. Bovine Tuberculosis
Part 3. ~~Rules Adopted from USDA Uniform Methods and Rules for Bovine Tuberculosis Eradication~~General Tuberculosis Rules [AMENDED]
35:15-40-49.1 [AMENDED]
35:15-40-50 [AMENDED]
Part 7. Import Requirements
35:15-40-92 [AMENDED]
35:15-40-92.1 [NEW]
Subchapter 42. Tuberculosis Eradication in Cervidae
Part 7. Incorporations by Reference
35:15-42-54 [AMENDED]
Subchapter 47. Chronic Wasting Disease (CWD) in Cervids
Part 3. Herd Certification Standards
35:15-47-6 [AMENDED]
Part 7. Interstate Movement Requirements
35:15-47-18 [AMENDED]
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Okla. Const., Art. 6, § 31; 2 O.S. § 2-4(A)(2); 2 O.S. § 6-91 et seq.; 2 O.S. § 6-131 et seq.; 2 O.S. § 6-141 et seq.; 2 O.S. § 6-150 et seq.; 2 O.S. § 6-181 et seq.; 2 O.S. § 6-501 et seq.; 2 O.S. § 9-130 et seq.; and 2 O.S. § 9-141 et seq.; State Board of Agriculture
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35:15-47-18
Availability:
See contact person below
ANALYSIS:
The rule amendments update definitions, revise identification and recordkeeping requirements for certain livestock and animals, delete outdated or unnecessary rules, make minor textual changes, and update references to the Code of Federal Regulations.
CONTACT PERSON:
Bennett Abbott, Assistant General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, Office of General Counsel, P.O. Box 528804, Oklahoma City, OK 73152-8804, phone: (405) 522-5803, email: bennett.abbott@ag.ok.gov

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 11, 2015:

SUBCHAPTER 13. TESTING AND INSPECTION FOR DISEASE AND RELEASE OF LIVESTOCK AT AUCTION MARKETS

35:15-13-3. General requirements for a livestock auction market

(a) Any person owning, operating, conducting, or maintaining a livestock auction market shall be required to:

(1) Submit an application for a license to the Department on an official form prior to operation.

(2) Bond the market pursuant to 2 O.S. ~~Section~~§ 9-132, as amended or according to the provisions of the Federal Packers and Stockyards Act as amended.

(3) Employ a livestock auction market veterinarian for auctions selling cattle, horses, swine, or other species as determined by the state veterinarian.

(b) The livestock auction market license shall cost Twenty Five Dollars ($25.00) per year and shall expire on December 31 of each year.

(c) Both the buyer's and seller's invoices shall include the name, address of the owner, and description of the cattle as to breed, sex, and age. Invoices for swine shall show the predominate breed and shall show them to be feeding, breeding, or slaughter swine.

(d) The livestock auction market veterinarian or sale company shall not be responsible for results of any tests that are ~~made~~conducted properly~~,~~ or for any reactor animals or responder animals found in the market.

(e) Refusal or failure to comply with the Department rules shall be just cause for the revocation or suspension of the livestock auction market license.

(f) No person owning, operating, conducting, or maintaining a livestock auction market shall allow any of the following animals to leave the livestock auction market unless it is individually identified by an official identification with an exception for weak cattle or cattle that pose a greater than normal risk of being injured or injuring a person.~~:Weak cattle or cattle that pose a greater than normal risk of being injured or injuring a person may be sold with a back tag and slaughter only tag to be transported directly to slaughter.~~

(1) All beef cattle eighteen (18) months of age or older, except terminal fed ~~steersand~~ steers and heifers, going directly to a feedlot or slaughter which will not be reintroduced into the breeding herd;

(2) All dairy cattle;

(3) All "M" branded cattle including any commingled cattle, and

(4) All roping, exhibition, event, and rodeo cattle.

(g) Weak cattle or cattle that pose a greater than normal risk of being injured or injuring a person may be sold with a back tag and slaughter only tag to be transported directly to slaughter.

(~~g~~h) The owner or operator of the livestock auction market shall keep records of each animal consigned or delivered to the livestock auction market for a period of five (5) years for disease traceback purposes, including but not limited to the following:

(1) "Drive-in" or any other documents identifying the backtag, owners name and address, and license tag of mode of transportation;

(2) Any records kept pursuant to the Livestock Auction Market Act;

(3) Records of any official identification applied to the animal or already existing with the animal; and

(4) Any records available regarding the purchaser of the animals.

(~~h~~i) Each livestock auction market shall sign and have on record with the Department the most current livestock market contract for each of the species sold at the market.

35:15-13-6. Movement of livestock through livestock auction markets

(a) All certificates of veterinary inspection, permits, and other documents, including out-of-state documents accompanying livestock into Oklahoma livestock auction markets, that are incomplete or have been altered in any way are void and shall not be accepted. This includes documents that are incomplete as to official identification number and description of animal it represents. In order to be accurate and acceptable, the prefix of each official identification number shall be recorded.

(b) All livestock shipped or exported from the State of Oklahoma shall meet the state of destination importation requirements.

(c) Dairy cattle or Mexican cattle to be tuberculosis tested after change of ownership that are not held at the livestock auction for testing shall be consigned to the purchaser's accredited veterinarian of choice accompanied by a VS 1-27 form to verify the arrival of the animal for testing.

SUBCHAPTER 36. SCRAPIE

35:15-36-1. Incorporation by reference of federal regulations

Regulations of the United States Department of Agriculture concerning scrapie in sheep and goats found at 9 CFR Part 79 (~~2013~~2014 Revision) are adopted by reference with the exception of the deleted regulations specified in 35:15-36-2.

35:15-36-2. Deleted regulations

The following sections of the Federal regulations governing scrapie in sheep and goats (9 CFR, Part 79 et seq.) (~~2013~~2014 Revision) of the USDA incorporated by reference under 35:15-36-1 are deleted and are not rules of the Oklahoma Department of Agriculture, Food, and Forestry: 79.6 and 79.7.

SUBCHAPTER 40. BOVINE TUBERCULOSIS

PART 3. ~~RULES ADOPTED FROM USDA UNIFORM METHODS AND RULES FOR BOVINE TUBERCULOSIS ERADICATION~~GENERAL TUBERCULOSIS RULES

35:15-40-49.1. Dairy cattle change of ownership

~~(a) Sexually intact dairy cattle six (6) months of age or older and weighing four hundred fifty (450) pounds or more shall:~~

~~(1) Test negative for tuberculosis no more than sixty (60) days prior to a change in ownership; or~~

~~(2) Originate from an accredited tuberculosis free herd.~~

(a) All dairy cattle shall be individually identified with an official identification prior to change of ownership.

(b) ~~Any dairy cattle that do not meet these testing requirements shall be tagged as slaughter only and sent either directly to slaughter or to a restricted feedlot.~~Sexually intact dairy cattle six (6) months of age or older and weighing four hundred fifty (450) pound or more shall:

(1) Test negative for tuberculosis no more than sixty (60) days prior to a change in ownership;

(2) Be quarantined and test negative for tuberculosis within ten (10) days after the change of ownership date; or

(3) Originate from an accredited tuberculosis free herd.

(c) ~~For purposes of this section dairy cattle shall include typical dairy framed animals as determined by the inspecting veterinarian.~~Any dairy cattle that do not meet the testing requirements in subsection (b) shall be tagged as slaughter only and sent either directly to slaughter or to a restricted feedlot.

(d) For purposes of this section, dairy cattle shall include typical dairy framed animals and dairy crossbred animals as determined by the inspecting veterinarian.

35:15-40-50. ~~Dealers and record~~Record keeping

All dealers, auction markets,~~and~~ commission firms, and private individuals shall keep sufficient records for a minimum of ~~two (2)~~five (5) years of all animals ~~purchased for resale~~sold to enable any authorized agent to trace the animals satisfactorily to their herd of origin and to their disposition at the time of sale. These records shall be made available to any authorized agent for the purpose of inspection or photocopying during normal business hours. Failure to maintain or provide adequate records shall constitute a violation of rules adopted by the Board.

PART 7. IMPORT REQUIREMENTS

35:15-40-92. ~~Importation of~~ Mexican origin cattle~~steers and spayed heifers~~

(a) Mexican origin steers and spayed heifers imported as stocker, feeder, slaughter animals may enter Oklahoma provided they test negative for tuberculosis in accordance with the Norma Official Mexicana (NOM) within sixty (60) days prior to entry into Oklahoma and ~~they obtain~~ a telephone entry permit ~~prior to entering Oklahoma~~ providing the following information has been obtained prior to entering Oklahoma:

(1) A certificate of veterinary inspection containing the individual identification and all tag numbers, tuberculosis testing information, statement that the animals are "Mexican Origin Cattle," and complete consignor or consignee information including telephone numbers; and

(2) A VS ~~Form~~ 17-30 form.

~~(3) Cattle from states in Mexico that meet USDA Tuberculosis Free standards are not required to have a negative NOM tuberculosis test.~~

(b) Mexican origin steers,~~and~~ spayed heifers, and any commingled cattle shall not be diverted from or separated from the main group within the stocker, feeder, slaughter channel.

(c) Mexican origin steers and spayed heifers shall not be commingled with any cattle other than stocker, feeder, slaughter cattle. Any commingled cattle assume the same status as the Mexican cattle.

(d) Holstein and Holstein-cross steers and spayed heifers from Mexico shall not enter Oklahoma regardless of test history.

(e) Mexican stocker, feeder, slaughter steers, and spayed heifers which are separated from their imported group shall:

(1) Be accompanied by evidence of a negative tuberculosis test no more than sixty (60) days prior to a change in ownership;

(2) Be quarantined and tested for tuberculosis within ten (10) days after the change of ownership date;

(3) Be consigned to a restricted feedlot; or

(4) Be tagged for slaughter only and transported directly to a slaughter facility or to a restricted feedlot.

(~~e~~f) Mexican origin steers and spayed heifers and U.S. origin Corriente cattle utilized as rodeo stock prior to entry into Oklahoma shall obtain an entry permit, provide individual identification and all tag numbers, and be accompanied by a negative tuberculosis test that meets one of the following:

(1) Performed by a U.S. accredited veterinarian within the previous 365 days; or

(2) Performed in accordance with the Norma Official Mexicana (NOM), the animal is accompanied by a VS 17-30 form, and the animal is quarantined upon entry into Oklahoma until retested by a U.S. accredited veterinarian within sixty (60) to one hundred twenty (120) days of the original tuberculosis test.

(~~f~~g) Mexican origin steers and spayed heifers and U.S. origin Corriente cattle utilized as rodeo stock moving within the state shall meet the following requirements:

(1) Be accompanied by a negative tuberculosis test performed by an accredited veterinarian within the previous 365 days;

(2) Be identified with an official identification; and

(3) There is no change of ownership since the date of the last official test.

(~~g~~h) No sexually intact Mexican origin rodeo stock shall enter Oklahoma unless the animal is accompanied by documentation establishing that USDA requirements for entry of sexually intact Mexican cattle have been completed.

(~~h~~i) The official in charge of an event shall be responsible for verifying that all Mexican origin cattle utilized as rodeo stock entering any exhibition meet all testing requirements.

(1) The official in charge of an event shall not be held responsible for recording or accepting falsified or erroneous information provided by an owner.

(2) Any person providing erroneous or fictitious information shall be in violation of these rules.

(~~i~~j) Any official in charge of an event who knowingly, negligently, or willfully allows an untested or positive animal to enter an exhibition shall be in violation of these rules and the official in charge and the owner of the positive or untested animal shall be equally and individually in violation of these rules.

(k) For the purposes of this section and OAC 35:15-40-92.1, "stocker, feeder, slaughter" means the steps of beef production in which cattle are grazed, finished at a feed lot, and sent to a slaughter establishment.

35:15-40-92.1. Diversion or separation of Mexican origin cattle

If Mexican origin steers, spayed heifers, or any commingled cattle are diverted from or separated from the main group within the stocker, feeder, slaughter channel in violation of OAC 35:15-40-92(c), the diverted or separated cattle shall:

(1) Have a negative tuberculosis test performed within ten (10) days after the change of ownership date; or

(2) Be tagged as slaughter only and sent either directly to slaughter or to a restricted feedlot.

SUBCHAPTER 42. TUBERCULOSIS ERADICATION IN CERVIDAE

PART 7. INCORPORATIONS BY REFERENCE

35:15-42-54. Incorporation by reference of federal regulations

Title 9, sections 77.20 through 77.41 of the Code of Federal Regulations (~~2013~~2014 Revision) and the requirements contained therein pertaining to the eradication of tuberculosis in cervidae, unless otherwise specified, adopted and incorporated by reference in their entirety.

SUBCHAPTER 47. CHRONIC WASTING DISEASE (CWD) IN CERVIDS

PART 3. HERD CERTIFICATION STANDARDS

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

(a) Regulations of the United States Department of Agriculture concerning the control of CWD found at 9 CFR Part 55 (~~2013~~2014 Revision) are adopted by reference.

(b) The Board shall issue a quarantine on any herd that contained a CWD positive cervid. The quarantined herd shall not participate in the herd certification program until all herd plan requirements are completed.

(c) All deaths of cervids twelve (12) months of age or older, regardless of cause of death, shall have the obex and medial retropharyngeal lymph nodes ~~samples~~sampled and submitted to an approved laboratory by a certified CWD sample collector. CWD sample collectors shall submit written test results to the Department within seven (7) days after receiving said test results from the laboratory.

(d) If eligible animal deaths are not tested due to a missed sample, improper sample, or untestable sample, an additional live animal over twelve (12) months of age shall be sacrificed for sampling.

(e) The State Veterinarian may relax the minimum requirements for herd certification for extraordinary circumstances.

(f) Herd owners shall report any animals displaying clinical signs of CWD, which may include but are not limited to, weight loss, behavioral changes, excessive salivation, increased drinking and urination, and depression.

PART 7. INTERSTATE MOVEMENT REQUIREMENTS

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

(a) Regulations of the United States Department of Agriculture concerning the interstate movement of cervidae found at 9 CFR Part 81 (~~2013~~2014 Revision) are adopted by reference.

(b) Caribou and Reindeer shall meet all interstate movement regulations that apply to cervidae found at 9 CFR Part 81 (~~2013~~2014 Revision).

[OAR Docket #15-643; filed 6-24-15]

TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY CHAPTER 17. WATER QUALITY

[OAR Docket #15-646]

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PERMANENT final adoption
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Subchapter 3. Swine Feeding Operations
35:17-3-14 [AMENDED]
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The proposed rule amendments delete obsolete rules.
CONTACT PERSON:
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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 11, 2015:

SUBCHAPTER 3. SWINE FEEDING OPERATIONS

35:17-3-14. Swine Waste Management Plans

(a) A swine waste management plan or its equivalent shall be prepared, according to Departmental policy, for each facility prior to the submission of a CAFO license application. A swine waste management plan or its equivalent may include, but is not limited to, a Comprehensive Nutrient Management Plan per NRCS guidance, or a Nutrient Management Plan per EPA guidance.

(b) The swine waste management plan shall include:

(1) A plan with a proposed schedule for liquid and solid swine waste removal, including sludge.

(2) A date log indicating weekly inspection of wastewater level in the retention structure, including specific measurement of wastewater level. Facilities using pits, ponds, or other waste retention structures for storage and treatment of storm water, manure, and process generated wastewater, including flush water waste handling systems, shall maintain in their wastewater retention structure sufficient capacity to contain rainfall and rainfall runoff from a 25-year, 24-hour rainfall event. The owner shall immediately restore sufficient capacity to contain a 25-year, 24-hour rainfall event after any rainfall event or accumulation of wastes or process generated wastewater which reduces capacity, weather permitting. The 25-year, 24-hour rainfall event capacity shall be in addition to the one (1) foot of freeboard required.

(3) All calculations and all factors and assumptions used in determining land application rates, acreage, and crops for both solid and liquid swine wastes. Land application rates shall take into account the plant available nutrient contribution of any land applied swine wastes. The following requirements shall apply to land application of swine waste on land owned or leased by the owner:

(A) Runoff from swine waste is prohibited where it results in a discharge to surface or groundwaters of the State. The owner shall provide controls for runoff and erosion as appropriate for site conditions.

(B) Swine wastes shall not be applied when the ground is frozen or saturated or during rainfall events.

(C) It shall be considered acceptable emergency procedures for a facility which has been properly designed, constructed, and operated and is in danger of an imminent overflow due to chronic or catastrophic rainfall to discharge wastewaters to land application sites for filtering prior to discharging to surface or groundwaters of the State.

(D) Land application practices shall be managed so as to reduce or minimize the following:

(i) Ponding or puddling of wastewater on the site.

(ii) Adverse conditions that invite pests including flies and rodents.

(E) Facilities including waste retention structures, waste storage sites, land application sites, ponds, pipes, ditches, pumps, and diversion and irrigation equipment shall be maintained to insure the ability to fully comply with the terms of these rules and the Pollution Prevention Plan.

(F) Adequate equipment and land application area shall be available for removal of waste and wastewater as required to maintain the proper operating volume of the retention structure. A list of proposed or actual equipment shall be included.

(G) If swine wastes are sold or given to other persons for disposal, the owner of the LMFO shall maintain a log of the following:

(i) Date of removal from the operation.

(ii) Name of hauler.

(iii) Amount in wet tons, dry tons, gallons, or cubic yards of waste removed from the operation.

(H) Surface disposal of swine wastes in the 100-year flood plain, as established by the Federal Emergency Management Agency (FEMA), or near water courses is prohibited unless protected from inundation and damage that may occur during that flood event by adequate berms or other structures. The land application of swine wastes at agronomic rates shall not be considered surface disposal and is not prohibited.

(I) Runoff from swine waste storage piles shall be retained on site.

(J) Accumulation of water in swine waste storage areas shall be avoided.

(K) Timing and rate of applications shall be in response to crop needs, assuming usual nutrient losses, expected precipitation, and soil conditions. Timing and rate of land application of swine waste shall be based on published materials approved by the Department.

(L) Land application shall not occur in areas defined as do not apply areas in the waste application criteria of the USDA NRCS Waste Utilization Standard Conservation Practice Standard Code 633, Nutrient Management Conservation Practice Standard Code 590, or their current replacement.

(M) The swine waste management plan shall identify areas which due to topography, activities, or other factors have a high potential for significant soil erosion. Where these areas have the potential to contribute pollutants to surface or groundwaters of the State, the Pollution Prevention Plan shall identify measures used to limit erosion and pollutant runoff. Land subject to excessive erosion shall be avoided.

(4) LMFO nutrient loading.

(A) Liquid manure and bottom sludge of a waste retention structure shall be applied to land in accordance with the swine waste management plan as approved by the Department.

(B) Liquid contents of the waste retention structure shall be applied at agronomic rates and shall not exceed the nitrogen uptake of the crop. Where local water quality is threatened by phosphorus, in no case shall the owner exceed the application rates of phosphorus in the most current USDA NRCS Waste Utilization Standard. Watersheds that are nutrient limited and groundwaters that are nutrient vulnerable shall be deemed to be threatened by phosphorus.

(C) Calculation of loading rates shall be based upon the existing nitrogen content of the receiving soil and the optimum nitrogen requirement of a particular crop.

(D) All soil and waste sampling shall occur on an annual basis.

~~(c) Sludge material of LMFOs shall be analyzed pursuant to United States Environmental Protection Agency (USEPA) biosolids testing parameters.~~

[OAR Docket #15-646; filed 6-24-15]

TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY CHAPTER 30. CONSUMER PROTECTION

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Part 6. Pesticidal Product Producing Establishments
35:30-17-13 [AMENDED]
Part 21. Standards for Disposal of Pesticide and Pesticide Containers
35:30-17-89.1 [AMENDED]
35:30-17-92 [AMENDED]
Subchapter 45. Scrap Metal Dealers
35:30-45-1 [AMENDED]
35:30-45-2 [AMENDED]
35:30-45-4 [AMENDED]
35:30-45-11 [AMENDED]
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35:30-45-13 [AMENDED]
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AVAILABILITY:
See contact person below
ANALYSIS:
The proposed rule amendments update legal citations, revise reporting requirements for pesticide spills into public water supplies, and incorporate changes made to 2 O.S. § 11-90 et seq. by HB 3160.
CONTACT PERSON:
Bennett Abbott, Assistant General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, Office of General Counsel, P.O. Box 528804, Oklahoma City, OK 73152-8804, phone: (405) 522-5803, email: bennett.abbott@ag.ok.gov

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 11, 2015:

SUBCHAPTER 17. COMBINED PESTICIDE

PART 6. PESTICIDAL PRODUCT PRODUCING ESTABLISHMENTS

35:30-17-13. Incorporation by reference of federal pesticide producing establishment regulations

(a) The Registration of Pesticide and Active Ingredient Producing Establishments, Submission of Pesticide Reports and Books and Records of Pesticide Production and Distribution Regulations found in Title 40 of the Code of Federal Regulations (CFR) ~~2013~~2014 Revision, Part 167 et seq. and Part 169 et seq. for the United States Environmental Protection Agency (EPA) as promulgated and amended in the Federal Register, are hereby adopted in their entirety with the exception of 40 CFR § 167.90.

(b) All words or terms defined or used in the Federal regulations incorporated by reference shall mean the state equivalent or counterpart to those words or terms.

PART 21. STANDARDS FOR DISPOSAL OF PESTICIDE AND PESTICIDE CONTAINERS

35:30-17-89.1. Incorporation by reference of federal pesticide management and disposal regulations

(a) The Labeling Requirements for Pesticides and Devices, Container Labeling and Pesticide Management and Disposal regulations found in Title 40 of the Code of Federal Regulations (CFR) ~~2013~~2014 Revision, Part 156.140 et seq. and Part 165 et seq. for the United States Environmental Protection Agency (EPA) as promulgated and amended in the Federal Register, are hereby adopted in their entirety.

(b) All words or terms defined or used in the federal regulations incorporated by reference shall mean the state equivalent or counterpart to those words or terms.

35:30-17-92. Handling spills

(a) All uncontained spills of more than ten (10) gallons liquid or twenty-five (25) pounds dry weight of pesticide concentrate or fifty (50) gallons of an application mixture (tank mix) shall be reported within ~~24~~twenty-four (24) hours by telephone and by written notice within three (3) days to Oklahoma Department of Environmental Quality, 405-702-5100 or 800-522-0206, P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677 and Pesticide Section, Oklahoma Department

of Agriculture, Food, and Forestry, 405-521-3864, P.O. Box 528804, Oklahoma City, Oklahoma 73152-8804.

(b) All uncontained spills or backflow of any amount into a public water supply system, as defined by 27A O.S. § 2-6-101(10), shall be reported within twenty-four (24) hours to the Oklahoma Department of Agriculture, Food, and Forestry.

(~~b~~c) Any person shall be responsible for all costs associated with cleanups resulting from pesticide spills in that person's operation.

SUBCHAPTER 45. SCRAP METAL DEALERS

35:30-45-1. Purpose

These rules establish regulation and licensing requirements for scrap metal dealers doing business in Oklahoma pursuant to the Oklahoma Agricultural Code,~~at~~ 2 O.S. § 2-4(A)(33), and Oklahoma Scrap Metal Dealers Act,~~at 59 O.S. §§ 1421~~2 O.S. § 11-90 et seq. The ~~Oklahoma Scrap Metal Dealers Act~~regulation and licensing of scrap metal dealers shall be administered by the Department and the State Board of Agriculture and shall conform to the Administrative Procedures Act, 75 O.S. §§ 250 et seq.~~,~~; to the Oklahoma Agricultural Code, 2 O.S. ~~§§~~§ 1-1 et seq.~~,~~; and to the procedural rules promulgated by the State Board of Agriculture,~~found in~~ Title 35 of the Oklahoma Administrative Code.

35:30-45-2. Definitions

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

"Department" means the Oklahoma Department of Agriculture, Food, and Forestry,~~and~~ its employees, officers, and divisions.

"Investigative fee" means the investigative fee ~~of $100~~ charged by the Department for conducting an investigation of the applicant upon receipt of an initial application for a license as authorized by ~~59 O.S. § 1429(C)~~2 O.S. § 11-98(C).

"License" means a scrap metal dealers license.

"License fee" means the application fee ~~of $100~~ charged by the Department for processing an initial application for a license as authorized by ~~59 O.S. § 1429(C)~~2 O.S. § 11-98(C) and the renewal fee ~~of $100~~ charged by the Department for processing an application for the renewal of a license as authorized by ~~59 O.S. § 1429(H)~~2 O.S. § 11-98(H).

"Oklahoma Scrap Metal Dealers Act" means the Oklahoma Scrap Metal Dealers Act, codified at ~~59 O.S. §§ 1421~~2 O.S. § 11-90 et seq.

"Scrap metal" means any copper material, aluminum material except aluminum beverage cans, or any item listed in ~~Section 1424~~2 O.S. § 11-93(B) of the Oklahoma Scrap Metal Dealers Act, offered for sale,~~or~~ resale, or purchased by any person, firm, or corporation.

"Scrap metal dealer" means any person, firm, or corporation being an owner, keeper, or proprietor of a retail or wholesale business which buys, sells, salvages, processes, or otherwise handles scrap metal materials regulated by the provisions of the Oklahoma Scrap Metal Dealers Act.

"Yard" means the place where any scrap metal dealer stores scrap metal materials or keeps such materials for purposes of sale.

35:30-45-4. Initial license application

(a) The Department shall issue a license to each person or entity who:

(1) Complies with the requirements of the Oklahoma Scrap Metal Dealers Act;

(2) Applies to the Department using the form prescribed by the Department; and

(3) Pays the license fee, investigative fee, and charges related a national criminal history check.

(b) Each yard shall be licensed separately and shall require the submission of a separate application, along with payment of related fees and charges.

(c) The applicant shall submit a completed license application containing the following information:

(1) If the applicant is an individual: the applicant's full name, telephone and email contact information, and place of residence;

(2) If the applicant is a firm, corporation, or other legal entity~~;~~:

(A) The scrap metal dealer representative's full name, telephone and email contact information, residential address, and position with the entity, and

(B) The entity's full name as registered with the Oklahoma Secretary of State, any trade names, and the name and mailing address of the entity's registered service agent;

(3) The address of the yard where the applicant conducts or intends to conduct business or, if the yard does not have a physical address, driving directions from the nearest municipality, and a legal description of the yard;

(4) Proof of ownership, a contract, or lease agreement that permits the applicant to engage in business as a scrap metal dealer at the yard described in the license application;

(5) Proof of a dedicated telephone line for the yard;

(6) Proof of a general liability insurance policy for the yard verifying insurance in an amount not less than $500,000;

(7) Proof of a current discharge permit for the yard issued pursuant to the provisions of the Oklahoma Pollutant Discharge Elimination System Act;

(8) The sales tax identification number for the applicant;

(9) Whether the applicant has ever had a license refused, revoked, or suspended;

(10) Whether the applicant has been previously convicted of, or pled guilty or nolo contendere to any felony or misdemeanor, the court or governmental entity in which the matter was adjudicated, a description of the charges, the date of the conviction, and the sentence received;

(11) An Affidavit of Lawful Presence in the United States of America, as provided under 56 O.S. § 71;

(12) A notarized statement swearing that the information submitted on the application is true and correct;

(13) Any other relevant information required by the Department.

(d) In addition to the application, each applicant shall submit a full set of fingerprints and a photograph to the Department. The fingerprints and photograph shall be used for a national criminal history check as provided in 74 O.S. § 150.9. The applicant shall pay for fingerprints, photographs, and the national criminal history records check separately from the license fee and investigative fee charged by the Department.

(e) If the applicant submits an incomplete application or the Department requests additional information, the Department shall notify the applicant that the application is incomplete and identify the information on the application that is incomplete or needs additional information. The applicant may submit additional information within twenty (20) working days to supplement and complete the application. If the applicant does not respond to the request for additional information in a timely manner, the application shall be denied.

(f) The applicant may withdraw its application from consideration at any time.

(g) An applicant whose application is denied due to insufficient information provided by the applicant or the withdrawal of the application may submit a new application. Any fees and charges paid by the applicant in connection with the denied or withdrawn application shall not be applied to the processing of a new application.

35:30-45-11. Inspections

The Department may inspect any licensed business location, including but not limited to, the premises and the books and records of the licensed ~~Scrap Metal Dealer~~scrap metal dealer. If the scrap metal dealer refuses, denies, or interferes with any right of access, the Department shall have the right to apply to a district court of competent jurisdiction and obtain an administrative or other warrant necessary to enforce the right of access and inspection.

35:30-45-12. Grounds for denial, suspension, or revocation of a license

The Department may deny, suspend, cancel, revoke, or refuse reissuance of a license of any applicant or scrap metal dealer who:

(1) Violates the Oklahoma Scrap Metal Dealers Act;

(2) Violates or fails to follow administrative rules adopted by the Department;

(3) Engages in fraud or deceit in obtaining or renewing a license;

(4) Acts as a scrap metal dealer in this state without a valid license;

(5) Aids or abets another person in acting as a scrap metal dealer without a license;

(6) Is convicted of a crime involving moral turpitude or dishonesty; ~~or~~

(7) Is convicted of a felony punishable under the Oklahoma Racketeer-Influenced and Corrupt Organizations Act~~.~~; or

(8) Fails to pay an administrative penalty or fine assessed by the Department against the scrap metal dealer.

35:30-45-13. Sanctions for misconduct

(a) If the Department determines that a scrap metal dealer has violated the Oklahoma Scrap Metal Dealers Act, Department rules, or other applicable legal authorities, the Department may

(1) Refer the matter to the appropriate law enforcement authority for criminal prosecution; ~~and/or~~

(2) Deny, suspend, cancel, revoke, or refuse reissuance of a license or licenses held by the scrap metal dealer after an administrative hearing conducted in a manner consistent with OAC 35:1-9-1 et seq.;

(3) Tag any weight or measure device utilized by the scrap metal dealer as "Not For Commercial Use" after an administrative hearing conducted in a manner consistent with OAC 35:1-9-1 et seq.;

(4) Assess an administrative penalty or fine of not less than One Hundred dollars ($100) and not more than Ten Thousand dollars ($10,000) against the scrap metal dealer after an administrative hearing conducted in a manner consistent with OAC 35:1-9-1 et seq.;

(5) Apply to a district court of competent jurisdiction and obtain a temporary or permanent injunction prohibiting the continued commercial operation of the scrap metal dealer; and

(6) Apply to a district court of competent jurisdiction and obtain any civil penalties allowed by law, including interest, attorney fees, and costs of collection.

(b) Each action of misconduct or each day a violation continues may constitute a separate and distinct violation.

[OAR Docket #15-644; filed 6-24-15]

TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY CHAPTER 37. FOOD SAFETY

[OAR Docket #15-641]

RULEMAKING ACTION:
PERMANENT final adoption

RULES:
Subchapter 1. Eggs
35:37-1-1 [AMENDED]
35:37-1-2 [AMENDED]
Subchapter 3. Meat Inspection
Part 1. General Provisions
35:37-3-1 [AMENDED]
35:37-3-3 [AMENDED]
Subchapter 5. Poultry Products Inspection
Part 1. General Provisions
35:37-5-1 [AMENDED]
35:37-5-2 [AMENDED]
Subchapter 13. Milk and Milk Products
35:37-13-2 [AMENDED]
Subchapter 15. Organic Products

35:37-15-1 [AMENDED]
35:37-15-2 [AMENDED]
35:37-15-3 [AMENDED]
Appendix A. Chemical, Bacteriological and Temperature Standards for Milk and Milk Products [REVOKED]
Appendix A. Chemical, Bacteriological and Temperature Standards for Individual Distrubuted Raw Milk and Manufacture Grade Milk and Milk Products [NEW]

AUTHORITY:
Okla. Const., Art. 6, § 31; 2 O.S. § 2-4(A)(2); 2 O.S. § 5-301 et seq.; 2 O.S. 6-181 et seq.; 2 O.S. § 6-251 et seq.; 2 O.S. § 7-401 et seq.; and 2 O.S. § 10-71 et seq.; State Board of Agriculture

SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
November 7, 2014

COMMENT PERIOD:
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APPROVED BY GOVERNOR'S DECLARATION:
Approved by Governor's declaration on June 8, 2015.

FINAL ADOPTION:
June 8, 2015

EFFECTIVE:
September 11, 2015

SUPERSEDED EMERGENCY ACTIONS:
n/a

INCORPORATIONS BY REFERENCE:

Incorporated Standards:
Dates of 9 CFR and 7 CFR provisions incorporated by reference are changed to "2014 Revision."
Date of Department of Health and Human Services' "Grade A Pasteurized Milk Ordinance with Administrative Procedures" (PMO) provisions incorporated by reference is chanted to "2013 Recommendations,... as published in the Grade A Pasteurized Milk Ordinance, 2013 Revisions."
"Table 1 of Section 7" exception to PMO provisions incorporated by reference is deleted.

Incorporating Rules:
35:37-3-1
35:37-3-3
35:37-5-1
35:37-5-2
35:37-13-2
35:37-15-2

Availability:
See contact person below

ANALYSIS:
The proposed rules update legal citations, delete obsolete definitions, revise the fee structure for organic certification and registration, replace Appendix A, and correct minor grammatical errors.

CONTACT PERSON:
Bennett Abbott, Assistant General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, Office of General Counsel, P.O. Box 528804, Oklahoma City, OK 73152-8804, phone: (405) 522-5803, email: bennett.abbott@ag.ok.gov

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 11, 2015:

SUBCHAPTER 1. EGGS

35:37-1-1. Oklahoma standards

Grades and weight classes for shell eggs shall be those as set forth in the "United States Standards, Grades, and Weight Classes for Shell Eggs," maintained by the United States Department of Agriculture ("USDA"), Agricultural Marketing Service, Poultry Division, as AMS 56 (~~1995~~2000 Version).

35:37-1-2. Methods of grading

Methods of egg grading shall be the same as those described in USDA ~~Egg Grading Manual, AH-75~~"Regulations Governing the Voluntary Grading of Shell Eggs 7 CFR Part 56" (~~2000~~2008 Version).

SUBCHAPTER 3. MEAT INSPECTION

PART 1. GENERAL PROVISIONS

35:37-3-1. Incorporation by reference of federal meat inspection regulations

The Mandatory Meat Inspection Regulations found in Title 9 of the Code of Federal Regulations (CFR) (~~2013~~2014 Revision), Parts 301 to 391; 416; 417; 418; 424; 430; 441; 442 and 500 for the United States Department of Agriculture (USDA) as promulgated and amended in the Federal Register, are hereby adopted in their entirety with the exception of the deleted regulations specified in 35:37-3-3. Whenever an official mark, form, certificate or seal is designated by federal regulations, the appropriate Oklahoma Department of Agriculture, Food, and Forestry form, certificate or seal shall be substituted.

35:37-3-3. Deleted regulations

The following sections of the Federal regulations governing the mandatory meat inspection of the USDA incorporated by reference under 35:37-3-1 are deleted and are not rules of the Oklahoma Department of Agriculture, Food, and Forestry: 9 CFR §§ 302.2 ~~(2013 Revision)~~; 303.1(c); 304.1; 304.2(a); 304.2(c); 305.2(b); 307.4; 307.5; 307.6; 316.12; 316.13(c); 317.5; 317.7; 317.9; 317.13; 318.8; 318.12; 321; 322; 327; 329; 331; 335; 351; 352; 354; 355; 362; 381; 390; 391; 392; 412; 439; and 590 (~~2011~~2014 Revision).

SUBCHAPTER 5. POULTRY PRODUCTS INSPECTION

PART 1. GENERAL PROVISIONS

35:37-5-1. Definitions and incorporation by reference of federal poultry inspection regulations

(a) The Mandatory Poultry Inspection Regulations found in Title 9 of the Code of Federal Regulations (CFR) (~~2013~~2014 Revision), Parts 381; 416; 417; 418; 424; 430; 441; 442; and

500 for the United States Department of Agriculture (USDA) as promulgated and amended in the Federal Register, are hereby adopted in their entirety with the exception of the deleted regulations specified in 35:37-5-2. Whenever an official mark, form, certificate or seal is designated by federal regulations, the appropriate Oklahoma Department of Agriculture, Food, and Forestry mark, form, certificate or seal shall be substituted.

(b) All words and terms defined or used in the federal regulations incorporated by reference by the Department shall mean the state equivalent or counterpart to those words or terms.

(c) The following terms, when used in this subchapter, shall have the following meaning unless the context clearly indicates otherwise:

(1) **"Act"** means the Oklahoma Poultry Products Inspection Act.

(2) **"Director"** means the Director of Meat Inspection.

(3) **"Poultry"** means any domesticated bird, whether live or dead, including chickens, turkeys, ducks, geese, guineas, ratites, or squabs (also known as young pigeons from one to about thirty (30) days of age).

(4) **"Poultry product"** means any poultry carcass, part, or product made wholly or in part from any poultry carcass or part that can be used as human food, except those exempted from definition as a poultry product in Title 9 of the Code of Federal Regulations (CFR), Part 381.15. This term shall not include detached ova.

(5) **"Poultry byproduct"** means the skin, fat, gizzard, heart, or liver, or any combination of any poultry for cooked, smoked sausage.

35:37-5-2. Deleted regulations and exemptions

(a) The following sections of the Federal regulations governing the mandatory poultry inspection (9 CFR~~,Part~~Parts 381; 416; 417; 418; 424; 441; 442; and 500), (~~2013~~2014 Revision) of the USDA incorporated by reference under 35:15-27-1 are deleted and are not rules of the Oklahoma Department of Agriculture, Food, and Forestry: 381.6; 381.10(a)(2), (5), (6), and (7); 381.10(b); 381.10(d)(2)(i); 381.13(b); 381.16; 381.17; 381.20; 381.21; 381.37; 381.38; 381.39; 381.96; 381.101; 381.103 through 381.112; 381.123(b)(1) and (4); 381.132(c); 381.133; 381.179; 381.185; 381.186; and 381.195 through 381.225.

(b) The provisions of this Act and rules do not apply to poultry producers who slaughter their own poultry raised on their farm, and each of the following apply:

(1) The producers slaughter no more than two hundred and fifty (250) turkeys or their equivalent with a ratio of four (4) birds of other species, excluding ratites, to one (1) turkey during a calendar year;

(2) The producers do not engage in buying or selling poultry products other than those produced from poultry raised on their own farms;

(3) The poultry and poultry products do not move in commerce. Poultry producers are prohibited from selling or donating uninspected poultry products to retail stores, brokers, meat markets, schools, orphanages, restaurants, nursing homes, and other similar establishments and are prohibited from sales or donation of uninspected poultry through any type of retail market or similar establishment owned or operated by the poultry producer;

(4) The producers submit a certificate of registration to the Board;

(5) The poultry is healthy, the poultry is slaughtered and processed under sanitary standards, practices, and procedures that result in the preparation of poultry products that are sound, clean, and fit for human food, and each carcass, part, or poultry product bears a label that lists the customer's name, the producer's name, and the following statement, "This poultry product has not been inspected and passed;"~~;~~

(6) The poultry is sold directly to the household consumer and transported by either the household consumer or the poultry producer without third-party intervention or intervening transfer or storage, and is maintained in a safe and unadulterated condition during transportation; and

(7) The poultry producers, allow an authorized agent of the Board access to their facilities and an opportunity to examine records at all reasonable times upon notice.

SUBCHAPTER 13. MILK AND MILK PRODUCTS

35:37-13-2. Incorporations by reference

(a) **Adopted references.**

(1) **PMO.** "Grade A Pasteurized Milk Ordinance with Administrative Procedures - ~~2005~~ 2013 Recommendations,"~~,~~ including Appendices A through R thereto, hereinafter referred to as the "PMO,"~~,~~ as published in the Grade A Pasteurized Milk Ordinance, ~~2009~~ 2013 Revisions, by the Department of Health and Human Services, Public Health Service/Food and Drug Administration, Washington, D.C.~~, true and correct copies of which shall be maintained by the Commissioner of Agriculture and provided to the State Librarian and Archivist, IS HEREBY INCORPORATED BY REFERENCE~~is hereby incorporated by reference.

(2) **Code of Federal Regulations.** Where mention is made to any section or sections of the Code of Federal Regulations in ~~either~~ the PMO ~~or DMO~~, that section or sections shall be incorporated by reference. The State Board of Agriculture declares that, by incorporating the PMO by reference, it does not intend to create any inconsistency with the Oklahoma Milk and Milk Products Act, in the event there may be any inconsistency.

(b) **Exceptions.**

~~(1) "Table 1"of Section 7 of the PMO is not incorporated by reference.~~

(~~2~~1) Section 16, "Penalty" is not incorporated by reference.

(~~3~~2) Section 17, "Repeal and Date of ~~Effect"is~~Effect" is not incorporated by reference.

(~~4~~3) Section 5, "Certified Industry ~~Inspection"is~~Inspection" is not incorporated by reference.

(~~5~~4) Appendices E, "Examples of 3-out-of-5 Compliance Enforcement ~~Procedures"is~~ Procedures" is not incorporated by reference.

SUBCHAPTER 15. ORGANIC PRODUCTS

35:37-15-1. Definitions of the Oklahoma Department of Agriculture, Food, & Forestry Organic Program

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

"Certifying agent registration" means the mandatory act of filing with the Department, on forms provided by or approved by the Department, the name and address of any accredited certifying agent that certifies organic entities within the state of Oklahoma.

~~**"Crop"** means a plant or part of a plant intended to be marketed as an agricultural product or fed to livestock.~~

~~**"Handler"** or **"Processor"** means any person who processes, packages, or resells organic food products or non-organic food products.~~

"Livestock" means cattle, swine, sheep, goats, poultry, ~~ratites~~, domestic cervidae, and bison.

"NOP" means the National Organic Program~~, as outlined in *Federal Register* Vol. 65, No. 246 NOP 7 CFR, Part 205~~.

"Organic entity" refers to any producer or handler, and the production or handling site and/or facility, that utilizes methods that adhere to those required by the NOP ~~7 CFR, Part 205~~.

"Organic Certification Seal" means the design approved by the Department and which when imprinted or affixed on labels, packages, or products, or used in advertising in any manner, ~~shall signify that the standards and rules developed in accordance with provisions of Chapter 1, Article 5,Title 2, Oklahoma Department of Agriculture, Food, & Forestry Organic Program Codes, and all other conditions and provisions of that chapter have been met~~signifies that the product is certified as organic pursuant to the Oklahoma Organic Food Act, 2 O.S. § 5-301 et seq., or NOP.

"Producer" means any person or organization that grows, raises, or produces a food or non-food product and offers the product for sale as an organic product, or sells the product as an organic product.

35:37-15-2. The Adoption of NOP Standards

The Department adopts or incorporates by reference the following parts of the official rules and regulations of the NOP, 7 CFR Part 205 (2014 Revision), ~~as outlined in *Federal Register* Vol. 65, No. 246 NOP 7 CFR Part 205;~~, except for OAC 35:37-15-1, or as the Department designates otherwise in specific cases:

(1) Subpart A - Definitions, ~~all section;~~ except for those designated otherwise by this subchapter;

(2) Subpart B - Applicability~~, all sections~~;

(3) Subpart C - Organic Production and Handling Requirements~~, all sections~~;

(4) Subpart D - Labels, Labeling, and Market Information~~, all sections~~;

(5) Subpart E - Certification~~, all sections~~;

(6) Subpart F - General Requirements for Accreditation~~, all sections~~; and

(7) Subpart G - Administrative.

(A) Sections 205.600 through 205.607.

(B) Sections 205.660 through 205.663.

(C) Sections 205.670 through 205.672.

(D) Sections 205.680 through 205.681.

35:37-15-3. Procedures for Organic Certification and Registration

(a) The application for organic certification of producers and handlers, as defined by the NOP ~~7 CFR, Part 205~~, shall be submitted to the Department on an approved application form available from the Department, or in a manner prescribed by the Department. ~~Applications shall only be received from Oklahoma-based organic entities.~~

(b) Initial application for certification shall be accompanied by the ~~certification~~application fee and completed information in compliance with the NOP, 7 CFR § 205.401. The initial application shall be received by the Department not less than thirty (30) days before harvest of crop or before final handling of the organic product.

(c) Once granted, certification continues in effect for one (1) year or until surrendered by the certified entity, or suspension or revocation by the Department. An annual renewal application for certification must be submitted to the Department with ~~a certification~~the application fee and information as required by the NOP, 7 CFR § 205.406~~;~~, and an annual reinspection shall be conducted by the Department at each facility to determine whether the certification of the operation should continue.

(d) ~~A certification~~An application fee shall accompany each new or renewal application ~~or renewal application~~ for organic certification. ~~Total certification fees shall be assessed at the rate of~~Fees for inspection services shall be assessed separately pursuant to subsection (g), below. Application fees are as follows:

(1) Crop producers:

(A) Producers with 25 acres or less - ~~$200.00~~$250.00.

(B) Producers with 26 to 250 acres - ~~$250.00~~$325.00.

(C) Producers with 251 to 500 acres - ~~$350.00~~$450.00.

(D) Producers with more than 500 acres - ~~$500.00~~$625.00.

(2) Livestock ~~Producers~~producers:

(A) Producers with 100 head or less - ~~$200.00~~$250.00.

(B) Producers with 101 to 300 head - ~~$300.00~~$375.00.

(C) Producers with 301 to 500 head - ~~$400.00~~$500.00.

(D) Producers with more than 501 head - ~~$500.00~~$625.00.

(3) Handlers or processors:

(A) On-farm processing of any kind - ~~$200.00~~$250.00.

(B) Commercial Food Processors of any kind - ~~$500.00~~$625.00.

(C) Commercial Feed Processors of any kind - ~~$500.00~~$625.00.

(D) Commercial products/services other than food or feed - ~~$500.00~~$625.00.

(4) Fee for each certified organic product label submitted by any processor - $5.00 per label.

(e) A refund of seventy-five percent (75%) of application fees will be made if certification is:

(1) Denied by the Department prior to the on-site inspection; or

(2) A withdrawal of the application and request for refund are made prior to the on-site inspection.

(f) Application fees shall be due and payable before the Department will accept an application packet or conduct organic inspections. Upon payment of the application fee, the Department shall process the application packet, issue transaction certificates, and conduct sampling at no additional charge.

(g) Producers, handlers, and processors shall be assessed a fee of $50.00 per hour for inspection services. Inspection services include on-site inspections, initial and final reviews of the organic system plan, and the inspection report write-up. Travel expenses will be added for out-of-state certifications.

(h) "Exempt" or "excluded" organic producers or handlers, as defined by the NOP, 7 CFR § 205.101, must register with the Department prior to the offering for sale of any organic product. Exempt or excluded organic producers must be registered with the Department as an exempt or excluded organic entity and may apply to be certified "organic" by the Department.

(~~e~~i) Exempt producers, processors, and handlers must submit a $50.00 registration fee with their attestation form annually.

~~(f) All fees include an application packet, on-site inspection, transaction certificates, and sampling; if applicable. Travel expenses will be added for out-of-state certifications.~~

~~(g) A refund of seventy-five percent (75%) will be made if certification is denied by the Department and the request is made prior to the on-site inspection.~~

(~~h~~j) The initial certification fee is not prorated throughout the year.

~~(i) All certification fees shall be due and payable before organic inspections will be conducted.~~

(~~j~~k) Applications to renew certification are due one (1) year from the date of the previous application. ~~Any application postmarked fifteen (15) days after due date shall pay an additional late fee of one hundred dollars ($ 100) to continue certification by the Department.~~

(1) Any application postmarked between one (1) and thirty (30) days after the due date shall pay a late fee of $75.00.

(2) Any application postmarked between thirty-one (31) and sixty (60) days after the due date shall pay a late fee of $100.00.

(3) Any application postmarked between sixty-one (61) and ninety (90) days after the due date shall pay a late fee of $200.00.

(4) Any application postmarked more than ninety (90) days after the due date shall pay a late fee of $500.00.

(~~k~~l) Certified organic entities may petition to withdraw their certification with the Department at any time. In order to withdraw certification, the applicant must submit the request in writing, with company name, address, and signature. A voluntary withdrawal of the certification application by the organic entity shall not result in a "Notice of Certification Denial."

(~~l~~m) Any certified entity that withdraws their certification from the Department or allows their certification to elapse may reapply for recertification, but will be considered to be a renewal application and shall pay the renewal certification fee.

~~(m) "Exempt" or "excluded" organic producers or handlers, as defined by the NOP 7 CFR 205.101, must register with the Department prior to the offering for sale of any organic product. Exempt or excluded organic producers must be registered with the Department as an exempt or excluded organic entity and may apply to be certified "organic" by the Department.~~

APPENDIX A. CHEMICAL, BACTERIOLOGICAL AND TEMPERATURE STANDARDS FOR MILK AND MILK PRODUCTS [REVOKED]

APPENDIX A. CHEMICAL, BACTERIOLOGICAL AND TEMPERATURE STANDARDS FOR INDIVIDUAL DISTRIBUTED RAW MILK AND MANUFACTURE GRADE MILK AND MILK PRODUCTS [NEW]

Individual Distributed Raw Milk and Manufacture Grade Raw Milk	Temperature	Cooled to 7°C (45°F) or less within two hours after milking, provided that the blend temperature after the first and subsequent milking does not exceed 10°C (50°F)
	Bacterial Limits Individual Distributed Raw Milk	Individual distributed raw milk not to exceed 35,000 per ml.
	Bacterial Limits (Manufacture Grade Raw Milk) (Note: Manufacture grade raw milk is raw milk that fails to comply with Grade A raw milk standards)	Individual producer milk for manufacturing not to exceed 500,000 per ml prior to commingling with other milk. Not to exceed 1,000,000 per ml as commingled milk to manufacturing.
	Drugs	No positive results on drug residue detection methods as referenced in Section 6 Laboratory Techniques
	Somatic Cell Count (Individual Distributed Raw Milk and Manufacture Grade Raw Milk)	Individual producer milk: Not to exceed 750,000 per ml.*
Ungraded (Manufacture Grade) Milk Products	Bacterial Limits (except cultured products)	Frozen dessert - 100,000 per ml Soft-serve mix - 30,000 per ml
	Coliform Limits	Frozen dessert - not to exceed 20 per ml Soft-serve mix – not to exceed 10 per ml Cottage cheese – not to exceed 10 per ml
	Butterfat	Must match label

*Goat Milk – 1,500,000/ml

[OAR Docket #15-641; filed 6-24-15]

TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY CHAPTER 44. AGRICULTURE POLLUTANT DISCHARGE ELIMINATION SYSTEM

[OAR Docket #15-645]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 1. Agriculture Environmental Permitting and AGPDES
Part 1. General Provisions
35:44-1-3 [AMENDED]
Subchapter 3. Permit Conditions and Requirements
35:44-3-3 [AMENDED]
AUTHORITY:
Okla. Const., Art. 6, § 31; 2 O.S. § 2-4(A)(2); 2 O.S. § 2-18.2; 2 O.S. § 2A-1 et seq.; 2 O.S. § 2A-21 et seq.; 27A O.S. § 1-3-101(D); State Board of Agriculture
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
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INCORPORATIONS BY REFERENCE:
Incorporated Standards:
Date of 40 CFR provisions incorporated by reference is changed to "as published on July 1, 2014"
Incorporating Rules:
35:44-1-3
35:44-3-3
Availability:
See contact person below.
ANALYSIS:
The proposed rule amendments update references to the Code of Federal Regulations.
CONTACT PERSON:
Bennett Abbott, Assistant General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, Office of General Counsel, P.O. Box 528804, Oklahoma City, OK 73152-8804, phone: (405) 522-5803, email: bennett.abbott@ag.ok.gov

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 11, 2015:

SUBCHAPTER 1. AGRICULTURE ENVIRONMENTAL PERMITTING AND AGPDES

PART 1. GENERAL PROVISIONS

35:44-1-3. Date of federal regulations incorporated

When reference is made to 40 CFR it means, unless otherwise specified, the volume of 40 CFR as published on July 1, ~~2013~~2014.

SUBCHAPTER 3. PERMIT CONDITIONS AND REQUIREMENTS

35:44-3-3. Date of federal regulations incorporated

When reference is made to 40 CFR it means, unless otherwise specified, the volume of 40 CFR as published on July 1, ~~2013~~2014.

[OAR Docket #15-645; filed 6-24-15]

TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY CHAPTER 55. COMMERCIAL PET BREEDERS AND ANIMAL SHELTERS

[OAR Docket #15-647]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 1. Licensing
35:55-1-3 [AMENDED]
Subchapter 3. Standards of Care
35:55-3-1 [AMENDED]
AUTHORITY:
Okla. Const., Art. 6, § 31; 2 O.S. § 2-4(A)(2); and 4 O.S. § 30.1 et seq.; State Board of Agriculture
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
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n/a
INCORPORATIONS BY REFERENCE:
Incorporated standards:
Date of 9 CFR provisions incorporated by reference is changed to "as published on July 1, 2014."
Incorporating rules:
35:55-3-1
Availability:
See contact person below

ANALYSIS:

The proposed rule amendments update legal citations and revise the animal shelter licensing period for the commercial pet breeders and animal shelter program from a fiscal year to a calendar year.

CONTACT PERSON:

Bennett Abbott, Assistant General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, Office of General Counsel, P.O. Box 528804, Oklahoma City, OK 73152-8804, phone: (405) 522-5803, email: bennett.abbott@ag.ok.gov

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 11, 2015:

SUBCHAPTER 1. LICENSING

35:55-1-3. License required

(a) A person shall not act, offer to act, or hold himself or herself out as a commercial pet breeder or operate an animal shelter in this state unless the person holds a license obtained pursuant to the Commercial Pet Breeders and Animal Shelter Licensing Act ~~of 2012~~ for each facility that the person owns or operates in this state.

(b) It shall be unlawful for any person to act as a commercial pet breeder licensee, or to hold himself or herself out as such, unless the person shall have been licensed to do so under the Commercial Pet Breeders and Animal Shelter Licensing Act.

(c) The commercial pet breeder license shall begin on July 1 and expire on June 30 of each calendar year; each commercial pet breeder shall renew the license prior to June 30 of each calendar year.

(d) The animal shelter license shall begin on ~~July~~January 1 and expire on ~~June 30~~December 31 of each calendar year; each animal shelter operator shall renew the license prior to ~~June 30~~ December 31 of each calendar year.

(e) Any person who intends to become a commercial pet breeder or intends to operate an animal shelter shall obtain a license prior to operation.

(f) Any person who does not meet the definition of a commercial pet breeder or animal shelter but chooses to voluntarily obtain a license shall comply with all rules as though they do meet the definition of a commercial pet breeder or animal shelter.

(g) Each commercial pet breeder and animal shelter shall have a fixed place of business with a specific physical location and shall conform to local zoning ordinances authorizing the occupancy of a commercial pet breeder or animal shelter at that location.

SUBCHAPTER 3. STANDARDS OF CARE

35:55-3-1. Incorporation by reference

(a) The following provisions of Title 9 of the Code of Federal Regulations and the requirements contained therein pertaining to Animal Welfare, Part 3 (Standards) are, unless otherwise specified, adopted and incorporated by reference in their entirety:

(1) 3.1 (housing facilities, general)
(2) 3.2 (indoor housing facilities)
(3) 3.3 (sheltered housing facilities)
(4) 3.4 (outdoor housing facilities)
(5) 3.5 (mobile or traveling housing facilities)
(6) 3.6 (primary enclosures), except for 3.6 (c)(1)(ii) and (c)(2)
(7) 3.7 (compatible grouping)
(8) 3.8 (exercise for dogs)
(9) 3.9 (feeding)
(10) 3.11 (cleaning, sanitization, housekeeping, and pest control)
(11) 3.12 (employees)
(12) 3.13 (consignments to carriers and intermediate handlers)
(13) 3.14 (primary enclosures used to transport live dogs and cats)
(14) 3.15 (primary conveyances [motor vehicle, rail, air, and marine])
(15) 3.16 (food and water requirements)
(16) 3.17 (care in transit)
(17) 3.18 (terminal facilities)
(18) 3.19 (handling)

(b) When reference is made to a federal entity, it shall mean the state counterpart.

(c) When reference is made to 9 C.F.R. it means, unless otherwise specified, the volume of 9 C.F.R. as published on July 1, ~~2013~~2014.

[OAR Docket #15-647; filed 6-24-15]

TITLE 40. BOARD OF TESTS FOR ALCOHOL AND DRUG INFLUENCE CHAPTER 10. PERSONNEL

[OAR Docket #15-717]

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RULES:
Subchapter 3. Breath-Alcohol Analysts
40:10-3-7. Instructors for breath-alcohol training courses [AMENDED]

AUTHORITY:
Board of Tests for Alcohol and Drug Influence; 47 O.S. §759

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ANALYSIS:
The amendments in this chapter update and clarify the requirements for breath alcohol training instructors by removing outdated references and requirements.
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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S. SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 11, 2015:

SUBCHAPTER 3. BREATH-ALCOHOL ANALYSTS

40:10-3-7. Instructors for breath-alcohol training courses

(a) **Policies pertaining to breath-alcohol training instructors.** The following policies apply to instructors for breath-alcohol training courses~~ or programs under the jurisdiction and authority of the Board of Tests for Alcohol and Drug Influence~~:

(1) Only the State Director of Tests for Alcohol and Drug Influence or persons possessing the qualifications set forth herein and holding an appropriate valid and current instructor permit shall conduct instruction and training within the State of Oklahoma in breath-alcohol analysis and related subjects under the jurisdiction and authority of this Board.

(2) Instructor permits shall be issued to qualified persons by authority of the Board of Tests for Alcohol and Drug Influence in such categories or combinations of categories as may, from time to time, be established by the Board.

(3) Instructors shall comply with this Board's rules and the policies, practices, procedures and directives for breath-alcohol analysis training established by authority of this Board, and with the other conditions and requirements set forth herein.

(b) **Qualifications of instructors.** Breath-alcohol training instructors shall possess the following qualifications:

(1) ~~Employee of a recognized Oklahoma law enforcement agency~~ Possession of a valid Breath Alcohol Operator Permit in accordance with OAC 40:10-3-1 or OAC 40:10-3-3.

~~(2) Minimum age of 21 years.~~

~~(3) Good moral character~~

~~(4) Current certification by the Council on Law Enforcement Education and Training as a general instructor, specialized instructor, or adjunct instructor, or eligibility for such CLEET certification.~~

~~(5) Possession of a valid and appropriate Breath Alcohol Analysis Supervisor Permit for all approved evidential breath instruments authorized to use a wet bath simulator for verification, issued by authority of the Board of Tests for Alcohol and Drug Influence.~~

(~~6~~2) Satisfactory completion of ~~a breath alcohol training~~an instructor development course or school acceptable to the Board of Tests for Alcohol and Drug Influence, as determined by the State Director of Tests for Alcohol and Drug Influence, or equivalent background as determined by the State Director of Tests for Alcohol and Drug Influence.

(~~7~~3) Competence to conduct instruction and training and to administer examinations, in one or more appropriate categories of training in breath-alcohol analysis and closely related subject matter, as determined by the State Director of Tests for Alcohol and Drug Influence or the State Director's designated representative(s).

(c) **Instructor permits.** Instructor Permits shall be issued by authority of the Board of Tests for Alcohol and Drug Influence, in the categories established by the Board, to persons who meet the above qualifications and have satisfied the requirements set forth herein.

(1) **Requirements.** Requirements for issuance of Breath-Alcohol Training Instructor Permits are as follows:

(A) Submission of a properly completed application form for the appropriate category or categories of Permits, together with the supporting documentation specified therein.

(B) Participation in such conference(s) or exercise(s) for prospective breath-alcohol training instructors as may be conducted by the State Director of Tests for Alcohol and Drug Influence or the State Director's designated representative(s)

(2) **Period of validity.** Breath-Alcohol Training Instructor Permits shall be valid to a period of three (3) years from the date of issue, and shall be subject to earlier termination or revocation at the discretion of the Board of Tests for Alcohol and Drug Influence. Such permits shall be renewable in accordance with such terms and requirements as are established by ~~authority of the Board~~the State Director of Tests for Alcohol and Drug Influence.

[OAR Docket #15-717; filed 7-7-15]

TITLE 40. BOARD OF TESTS FOR ALCOHOL AND DRUG INFLUENCE CHAPTER 50. IGNITION INTERLOCK DEVICES

[OAR Docket #15-718]

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RULES:
40:50-1-1.1. Definitions [AMENDED]
40:50-1-2. Device certification process [AMENDED]

40:50-1-2.3. Revocation of certification [AMENDED]
40:50-1-3. Standards and specifications [AMENDED]
40:50-1-3.1. Violation reset [AMENDED]
40:50-1-3.2. Reportable violations [AMENDED]
40:50-1-7. Service center licensing process [AMENDED]
40:50-1-7.3. Inactivation, suspension, and revocation [AMENDED]
40:50-1-8.3. Inactivation, suspension, and revocation [AMENDED]
40:50-1-12. Reciprocity [NEW]

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ANALYSIS:
The amendments in this chapter add definitions of several new terms, as well as provide for changes to the required settings of devices by requiring a confirmatory test after the recording of a circumvention. Procedures for confirmatory tests are included in the amendments. The amendments provide for revocation of device certification for actions or omissions by an interlock manufacturer. Outdated references to licensed interlock inspectors have been deleted. With regard to service center deactivation, the required distance between service centers has been increased from 25 to 40 miles. Rules allowing for reciprocity in recognizing a foreign jurisdiction's ignition interlock requirements have been added.

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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S. SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 11, 2015:

40:50-1-1.1. Definitions

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

"Alcohol" means Ethyl Alcohol, also called ethanol.

"Anti circumvention feature" means any feature or circuitry incorporated into the device that is designed to prevent activity that would cause the device not to operate as intended.

"Board" means the Administrative Offices of the Oklahoma Board of Tests for Alcohol and Drug Influence created by O.S. 47:759.

"Board *en banc*" means the sitting members of the Board as defined by O.S. 47:759 (A).

"Breath alcohol test" means the analysis of a person's expired alveolar breath to determine the alcohol concentration.

"Calibration" means the process of testing and adjusting a device to ensure accuracy.

"Circumvention" means to bypass the correct operation of an interlock device by starting the vehicle, by any means, without first providing a breath test or passing a confirmatory test.

"Confirmatory test" means a breath test required in response to a circumvention.

"Certification" means a status granted by the Board that permits a manufacturer to distribute a device in the state of Oklahoma.

"Data storage system" means a recording of all events monitored by the device.

"Director" means the position of the State Director of the Board as defined in O.A.C. 40:1-1-3.

"Fee" means a non-refundable administrative fee.

"Free restart" means a function of a device that will allow a vehicle to be restarted under the requirements in this title, without having to complete another breath alcohol test.

"Ignition interlock device" means a mechanism that prevents a vehicle from starting when the breath alcohol concentration of a breath alcohol test meets or exceeds the startup set point. Also referred to as "device".

~~**"Illegal start"** means the starting of a vehicle equipped with a device without successfully completing and passing the required breath alcohol test.~~

"Inclusion Zone" means an area encompassing 25 driven miles from the Oklahoma state line as determined by the Board.

"Installation Authority" means the Oklahoma agency or entity by statute or order requiring or authorizing installation of a device.

"License" means the permission granted by the Board to engage in specific activities of the ignition interlock program.

"Manufacturer" means the actual producer of the device.

"Manufacturer representative" means the individual designated by the manufacturer to act on behalf of or represent the manufacturer in all matters under the jurisdiction or consideration of the Board with respect to device certification.

"Monitor" means the agency, organization and/or person(s) designated by the Installation Authority to receive reports regarding ignition interlock program participants.

"Negative result" means a breath alcohol test result indicating the alcohol concentration is less than the specific point value for the purpose specified.

"Penalty Fail" means a breath alcohol test resulting in a positive result that meets or exceeds the specific point value for the purpose specified.

"Permanent lockout" means a condition wherein the device will not allow a breath alcohol test and therefore will not allow the vehicle to be started.

"Positive result" means a breath alcohol test result indicating the alcohol concentration meets or exceeds the specific point value for the purpose specified.

"Proper Record Maintenance" means the manufacturer's complete records on every participant for a period of five (5) years from the date of removal including, but not limited to, all data retrieved from the data storage system of a

device. The Board, or its designee, shall have access to any and all records.

"Reciprocity" means the process by which the Board may defer to a foreign state's device standards and specifications when an interlock participant is required to meet an interlock requirement for more than one state simultaneously.

"Reference sample device" means any alcohol breath testing external control or device approved for use by the Board.

"Retest" means ~~an additional~~ a breath alcohol test or tests required in accordance with ~~the requirements in this title~~O.A.C. 40:50-1-3(e).

"Startup set point" means an alcohol concentration at which, or above, the device would prevent the vehicle from starting.

"Tampering" means any act or attempt to alter, interfere, disable, defeat or circumvent the installation or operation of the device.

"Vendor" means a licensed ignition interlock technician designated by the Manufacturer representative of a certified device to act on behalf of or represent the manufacturer in all matters under the jurisdiction or consideration of the Board, excluding matters related to device certification.

40:50-1-2. Device certification process

(a) No device may be used in the state of Oklahoma unless it has been approved by the Board in accordance with the requirements stated herein.

(b) A list of approved device models shall be maintained by the Board and available for public review at the administrative office of the Board during regular business hours or by accessing the Board website at http://ignitioninterlock.ok.gov.

(c) A manufacturer representative seeking certification of a device shall:

(1) Complete an application for certification of an ignition interlock device and remit the appropriate fee ~~by accessing the Board website at http://ignitioninterlock.ok.gov~~in accordance with procedures established by the Board.

(2) Provide proof, as deemed appropriate by the Board, the device for which certification is being sought in Oklahoma meets or exceeds the current National Highway Traffic Safety Administration (NHTSA) specifications.

(3) Provide a certificate of insurance, issued by an insurance company authorized to transact business in Oklahoma, specifying:

(A) A product liability policy with a current effective date;

(B) The name and model number of the device model covered by the policy;

(C) Policy coverage of at least one million dollars ($1,000,000) per occurrence and three million ($3,000,000) in the aggregate;

(D) The manufacturer as the insured and the state of Oklahoma as an additional insured;

(E) Product liability coverage for defects in manufacture, materials, design, calibration, installation, and operation of the device; and

(F) The insurance company will notify the Board at least 30 days before canceling the product liability policy.

(4) Devices shall use fuel cell technology for breath alcohol test or other alcohol-specific sensing technology approved by the Board en banc.

(5) Agree to ensure any service performed outside the inclusion zone on a device installed pursuant to an Oklahoma Installation Authority shall be in compliance with all requirements in this title.

(6) Agree to ensure proper record keeping and provide testimony relating to any aspect of the installation, service, repair, use, removal, interpretation of any report or information recorded in the data storage system of a device or performance of any other duties required by this title at no cost on behalf of the State of Oklahoma or any political subdivision.

(7) Advise the Board whether the device for which certification is being sought in Oklahoma is the subject of any action to disallow, or has ever been, in any way, disallowed for use in another state whether such action occurred before or after approval in Oklahoma and if or when such action is or has been appealed in the other state and the outcome of the appeal.

(8) Upon request of the Board, for each device submitted for certification or certified under this section, agree to install the device with all proposed anti circumvention features activated in a vehicle provided by the Board. Any service performed pursuant to this section, including but not limited to, installation, maintenance, calibration or removal shall be completed at no cost to the Board.

(d) The Board may conduct compliance testing on the device submitted for certification.

(e) Certification shall be for only one device. Separate certification is required for devices that differ in any operational aspect.

(f) Approved devices shall be recognizable, as such, upon visual inspection.

40:50-1-2.3. Revocation of certification

(a) The Board may revoke certification of a device for any of the following reasons:

(1) A Defect in the design, materials or workmanship causing the device to fail to function as intended.

(2) A manufacturer's liability insurance coverage is terminated, cancelled or expired.

(3) A manufacturer no longer offers the device for installation.

(4) Receipt of a letter, on manufacturer letterhead, at the administrative offices of the Board requesting voluntary surrender of certification by the manufacturer of a certified device.

(5) Violation by a manufacturer, a manufacturer representative, vendor, licensed service center or licensed ignition interlock technician of any requirements in this title.

(6) The manufacturer, manufacturer representative, vendor, licensed service center or licensed ignition interlock technician fail to submit any report(s) in accordance with this title.

(7) False or inaccurate information provided by the manufacturer, manufacturer representative or independent laboratory relating to the performance of the device.

(8) Modification of the components or design of the device or modification of National Highway Traffic Safety Administration specifications that causes the device to no longer satisfy the current National Highway Traffic Safety Administration specifications.

(9) The device fails to meet the requirements for certification or is no longer in compliance with all the requirements in this title.

(10) Changes in the ignition interlock device technology are such that continued certification of the device would, as determined by the Board, not be in the best interest of the state of Oklahoma.

(b) The Board shall forward the notice and order of revocation of the certification of a device to the manufacturer representative.

(1) The notice and order of revocation shall specify the basis for the revocation.

(2) The manufacture shall:

(A) On the effective date of an order of revocation, cause the immediate cessation of installations of any decertified device.

(B) Be responsible for, and shall bear the cost of:

(i) Removal of the revoked device and facilitate the simultaneous installation of another certified device of the participant's choice, regardless of the manufacturer of the device being substituted or the location of the licensed service center chosen by the participant.

(ii) Retrieval of the revoked device if removed by a licensed service center representing a different manufacturer. Upon removal, the licensed service center removing the revoked device shall notify the manufacturer representative of the revoked device as to where the revoked device may be retrieved.

(iii) Reimburse the participant, within 30 days of removal of the revoked device, all monies paid by the participant for deposits, unrealized lease or advance payments remitted on behalf of the participant for unrealized services.

(iv) The manufacturer shall make every reasonable effort to notify all participants effected by the revocation of a certified device 30 days before the revocation will occur, or as soon as is possible.

(c) A manufacturer of a previously decertified device may apply to have the device certified in accordance with the provisions stated in this title.

(d) The Board will not consider certification of a device from a manufacturer that fails to comply with the provisions stated in this subsection.

40:50-1-3. Standards and specifications

(a) The provisions in this subsection only apply to the use of a device pursuant to an Installation Authority.

(b) The device shall:

(1) Permit a free restart of the motor vehicle within two (2) minutes after the engine has shut off without requiring a further breath alcohol test.

(2) Have a data storage system of sufficient capacity to facilitate the recording and maintaining of all daily driving activities for the period of time elapsed from one maintenance and calibration to the next. All daily driving activity records in this data storage system shall be maintained by the manufacturer or the licensed service center and shall be available to the Installation Authority, Monitor and/or the Board upon request.

(3) Display tamper seals and a warning label that states: "Any person attempting to physically disable, disconnect or wire around this device or who intentionally fails to return the device upon request by the owner may be guilty of a misdemeanor under Oklahoma law (47 O.S. §11-902a)." If the device consists of separate pieces (e.g. a handset and separate base unit) a separate warning label shall be placed on each piece.

(c) The startup set point value for the device shall be an alcohol concentration of 0.02 g/210L.

(d) The penalty fail point value for the device shall be an alcohol concentration of:

(1) 0.03 g/210L for persons under 21 years of age.

(2) 0.09 g/210L for persons 21 years of age and over.

(3) The device shall have a distinct audible and/or visual indicator to notify the driver when a penalty fail has been recorded in the data storage system.

(e) A retest feature is required while a vehicle's engine is in operation.

(1) The first retest shall be required at a randomly variable interval ranging from five (5) to fifteen (15) minutes after passing the initial breath test and starting the vehicle's engine. Subsequent retests shall be required at a randomly variable interval ranging from fifteen (15) to forty-five (45) minutes from the previously requested test for the duration of the travel.

(2) The device shall allow five (5) minutes for the retest to be completed.

(3) The retest set point value shall be an alcohol concentration of 0.03 g/210L.

(4) A distinct audible and/or visual indicator shall come on to alert the driver that a retest is in progress. Once a retest is in progress, failure to deliver a negative result within the time frame allowed shall:

(A) Activate the vehicle's horn to sound repeatedly or activate a unique audible and/or visual indicator inside the passenger compartment of the vehicle, until the engine is shutdown or a negative result is delivered.

(B) Record a retest violation in the data storage system, and

(C) Disable the free restart.

(f) The device shall have an approved anti circumvention feature(s) activated at all times.

(g) The device shall require a confirmatory test in response to a circumvention.

(1) The device shall allow two (2) minutes for the confirmatory test to be completed.

(2) The confirmatory test set point value shall be an alcohol concentration of 0.02 g/210L.

(3) An audible and/or visual indicator shall come on to alert the driver that a confirmatory test is in progress. Once a confirmatory test is in progress, failure to deliver a negative result within the time frame allowed shall:

(A) Activate the vehicle's horn to sound repeatedly or activate a unique audible and/or visual indicator inside the passenger compartment of the vehicle, until the engine is shutdown or a negative result is delivered.

(B) Record a circumvention violation in the data storage system, and

(C) Disable the free restart.

(4) Once the confirmatory test is passed, the device shall enter the normal retest sequence as provided by these rules.

(~~g~~h) In addition to the standards and specifications listed herein, the Board or its designee may impose additional requirements, as needed, depending upon design and functional changes in device technology and to ensure that the device functions properly and reliably.

40:50-1-3.1. Violation reset

(a) A violation reset shall be activated by any of the following:

(1) Three (3) penalty fails, at startup, within a fifteen (15) minute time frame.

(2) ~~An illegal start.~~ A circumvention.

(3) A retest violation.

(b) When a violation reset is activated, the device will initiate a unique audible and/or visual cue that will warn the driver that the device will enter a permanent lockout in five (5) days. This event will be uniquely recorded in the data storage system and will simultaneously start a countdown that culminates in the permanent lockout. A licensed ignition interlock technician shall remedy a permanent lockout in person. However, the Director may approve standards and procedures for an override lockout. For the purposes of this section, override lockout means a method of overriding a lockout condition by providing a breath sample.

(c) Anytime a device is submitted pursuant to a violation reset the licensed ignition interlock technician shall perform a violation reset service consisting of, but not limited to:

(1) Performing a calibration confirmation test in accordance with this title, and

(2) Retrieving all data contained in the data storage system. Proper record maintenance shall be ensured as required in this title.

40:50-1-3.2. Reportable violations

(a) Reportable violations are as follows:

(1) Three (3) penalty fails, at startup, within a fifteen (15) minute time frame.

(2) ~~Any illegal start.~~A circumvention.

(3) Three (3) retest violations constitute a reportable violation. Each retest violation thereafter constitutes a reportable violation.

(4) Removal of the device except:

(A) Upon receipt of documentation from the Installation Authority or Monitor authorizing said removal.

(B) The vehicle is being repaired. The program participant must inform the licensed service center at least every eight (8) days as to the anticipated date of completion of repairs, or

(C) The vehicle is being replaced. In the event the vehicle is being replaced by another vehicle, the removal and reinstallation of the device in the subsequent vehicle must be accomplished within eight (8) days of the removal.

(5) Tampering.

(b) Reportable violations shall be reported to the Installation Authority and/or Monitor, in the form and/or format designated by the Board, within five business days, banking holidays excepted, after the violation reset service or removal of the device

(c) The manufacturer shall ensure proper record maintenance.

40:50-1-7. Service center licensing process

(a) All service centers located in the state of Oklahoma or within the inclusion zone must be licensed by the Board in accordance with the requirements stated herein.

(b) A service center shall be located in a fixed facility which:

(1) Is staffed at all times with at least one (1) ignition interlock technician duly licensed by the Board, and

(2) Properly and successfully accommodates installation, maintenance and calibration, removal and any other necessary services related to a specific device.

(c) Each service center shall be inspected annually by ~~an ignition interlock inspector or~~a designated representative of the Board. Additional inspections may be performed as needed or as directed by the Board.

(d) A vendor shall inform the Board of a licensed service center change of address within fifteen days of the change by accessing the Board website at http://ignitioninterlock.ok.gov.

(e) A vendor seeking licensure for a service center shall initiate a service center license application and remit the appropriate fee by accessing the Board website at http://ignitioninterlock.ok.gov.

(f) The applicant shall complete the service center license application.

(g) Each application for licensure shall be for a single service center. Separate service center applications are required for additional service centers.

(h) Prior to issuance of a license, an on-site evaluation may be required by the Board to ensure compliance with the requirements in this title.

40:50-1-7.3. Inactivation, suspension, and revocation

(a) **Inactivation.** Inactivation refers to the voluntary or temporary discontinuance of a license.

(1) A service center license may be inactivated by the Board:

(A) Upon request from the vendor or service center manager, or

(B) If the service center no longer employs at least one (1) licensed ignition interlock technician.

(2) A licensed service center whose license has expired or no longer meets all the requirements for licensure shall be inactivated.

(3) Upon inactivation, the Board shall forward the notice and order of inactivation of the service center license to the vendor and service center manager specifying the basis for the inactivation.

(4) Inactivation shall be used for administrative program control to safeguard the scientific integrity of the device program.

(b) **Suspension.** Suspension refers to the immediate curtailment of a license.

(1) Suspension of a service center license may be initiated by a ~~licensed inspector or~~ designated representative of the Board when, because of unreliability, incompetence, or violation of these rules, the service center is not in compliance with the provisions stated in these rules or when, in the opinion of the ~~licensed inspector or~~ designated representative of the Board, the continuance of such licensure would not uphold the scientific integrity of the device program and enforcing these rules.

(2) Upon suspension the ~~licensed inspector or~~ designated representative of the Board shall provide the vendor and service center manager with a notice and order of suspension of the service center license specifying the basis for the suspension.

(3) The Board, in its sole discretion, shall determine the period of suspension.

(4) A suspension curtails any license issued to the service center for the period of suspension until reinstatement of the license.

(5) During the period of suspension, the suspended service center may continue to provide service to existing participants but shall not be able to generate official installation verification forms until the license has been reinstated.

(6) Suspension shall be for the purpose of maintaining the scientific integrity of the device program and enforcing these rules.

(7) Licensure of a service center whose license has been suspended will require a written request from the applicant to the Board and successful completion of the original requirements for licensure outlined in this subsection.

(c) **Revocation.** Revocation refers to the immediate cancellation of a license.

(1) A service center license may be revoked by the Board when, in the opinion of the Board, the service center no longer meets the requirements of these rules because of unreliability, incompetence, or violation of these rules, or in any case where, in the opinion of the Board, continuance of licensure would not uphold the scientific integrity of the ignition interlock program.

(2) A revocation cancels any license issued to the service center for the period of revocation.

(3) The Board, in its sole discretion, shall determine the period of revocation.

(4) Upon revocation, the Board shall forward the notice and order of revocation of the service center license to the vendor and service center manager specifying the basis for the revocation.

(5) During the period of revocation, the revoked service center shall cease any and all activities related to the installation, maintenance and calibration, removal and any other services related to any device in the state of Oklahoma.

(6) Licensure of a service center whose license has been revoked will require a written request from the applicant to the Board and successful completion of the original requirements for licensure outlined in this subsection.

(7) Revocation shall be for the purpose of maintaining the scientific integrity of the device program and enforcing these rules.

(d) A manufacturer shall be responsible for providing continuing service by a licensed service center during the installation period, without interruption, should a service center's license be inactivated or revoked. The vendor, on or before the effective date of an order for inactivation or revocation shall cause the immediate cessation of installation, maintenance and calibration, removal and any other services related to any device at the inactivated or revoked service center. Any inactivated or revoked service center shall not be able to generate official installation verification forms.

(e) If the inactivated or revoked service center is being replaced by the manufacturer, the new licensed service center must be located within ~~25~~40 driven miles, as determined by the Board, of the service center that was inactivated or revoked. All reasonable efforts shall be made by the manufacturer representative to obtain participant records and data from the service center being replaced and provide them to the new licensed service center. The new licensed service center shall credit each participant all monies paid to the inactivated or revoked service center by the participant for deposits, unrealized lease or services.

(f) If the new licensed service center is not located within ~~25~~40 driven miles, as determined by the Board, of the inactivated or revoked service center or the inactivated or revoked service center is not being replaced the manufacturer shall:

(1) Make all reasonable efforts to obtain participant records and data from the service center being inactivated or revoked.

(2) Be responsible for, and shall bear the cost of:

(A) Removal of the installed device and facilitate the simultaneous installation of another certified device of the participant's choice, regardless of the manufacturer of the device being substituted or the location of the licensed service center chosen by the participant.

(B) Retrieval of the device removed by a licensed service center representing a different manufacturer. Upon removal, the licensed service center removing the original device shall notify the vendor, as soon as possible, of the original device as to where the original device may be retrieved.

(3) Reimburse the participant, within 30 days of removal of the original device, all monies paid to the inactivated or revoked service center by the participant for deposits, unrealized lease or advance payments remitted on behalf of the participant for unrealized services.

(4) The manufacturer shall make every reasonable effort to notify all participants effected by the inactivation or revocation of a service center's license 30 days before the inactivation or revocation will occur, or as soon as is possible.

40:50-1-8.3. Inactivation, suspension, and revocation

(a) **Inactivation.** Inactivation refers to the voluntary or temporary discontinuance of a license.

(1) Inactivation of an ignition interlock technician license may be initiated by the Board:

(A) Upon request from the vendor, service center manager or ignition interlock technician.

(B) If the ignition interlock technician is no longer employed by a licensed service center representing the same manufacturer under which the current ignition Interlock technician license was issued.

(C) If an ignition interlock technician's license has expired or,

(D) The ignition interlock technician no longer meets all the licensing requirements.

(2) The Board shall provide the ignition interlock technician, vendor and service center manager with a notice and order of inactivation of the ignition interlock technician license specifying the basis for the inactivation.

(3) Inactivation shall be used for administrative program control to safeguard the scientific integrity of the device program.

(4) The renewal of an inactivated ignition interlock technician license shall be the same, unless modified by the Board, as the ignition interlock technician licensure process stated in this title.

(b) **Suspension.** Suspension refers to the immediate and temporary cancellation of a license.

(1) Suspension of an ignition interlock technician license may be initiated by a ~~licensed inspector or~~ designated representative of the Board when, because of unreliability, incompetence, or violation of these rules, the ignition interlock technician is not in compliance with the provisions stated in these rules or when, in the opinion of the ~~licensed inspector or~~ designated representative of the Board, the continuance of such licensure would not uphold the scientific integrity of the device program.

(2) The ~~licensed inspector or the~~ Board shall provide the ignition interlock technician, vendor and service center manager with a notice and order of suspension of the ignition interlock technician license specifying the basis for the suspension.

(3) The Board, in its sole discretion, shall determine the period of suspension.

(4) A suspension curtails any license issued to the ignition interlock technician for the period of suspension until reinstatement of the license.

(5) During the period of suspension, the suspended ignition interlock technician may continue to provide service to existing participants but shall not be able to generate official installation verification forms until the license has been reinstated.

(6) Licensure of an ignition interlock technician whose license has been suspended will require a written request from the applicant to the Board and successful completion of the original requirements for licensure outlined in this subsection.

(7) Suspension shall be for the purpose of maintaining the scientific integrity of the device program and enforcing these rules.

(c) **Revocation.** Revocation refers to the immediate cancellation of a license.

(1) An ignition interlock technician license may be revoked by the Board when, in the opinion of the Board, the ignition interlock technician no longer meets the requirements of these rules because of unreliability, incompetence, or violation of these rules, or in any case where, in the opinion of the Board, continuance of licensure would not uphold the scientific integrity of the ignition interlock program.

(2) Upon revocation, the Board shall forward the notice and order of revocation of the ignition interlock technician license to the ignition interlock technician, vendor and service center manager specifying the basis for the revocation.

(3) The Board, in its sole discretion, shall determine the period of revocation.

(4) A revocation cancels any license issued to the ignition interlock technician for the period of revocation.

(5) During the period of revocation, the revoked ignition interlock technician shall cease any and all activities related to the device in the state of Oklahoma.

(6) Licensure of an ignition interlock technician whose license has been revoked will require a written request from the applicant to the Board and successful completion of the original requirements for licensure outlined in this subsection.

(7) Revocation shall be for the purpose of maintaining the scientific integrity of the device program and enforcing these rules.

40:50-1-12. Reciprocity

(a) Reciprocity may be granted by the Board in its sole discretion when consistent with applicable statutes and regulations and beneficial to the public safety and welfare.

(b) The Board may set policies and procedures for the consideration of requests for reciprocity.

(c) Reciprocity must be requested in writing by the person affected or their attorney on a form provided by the Board.
(d) Requests for reciprocity shall be granted or denied by the Board in writing.

[OAR Docket #15-718; filed 7-7-15]

TITLE 45. ALCOHOLIC BEVERAGE LAWS ENFORCEMENT COMMISSION CHAPTER 30. MANUFACTURERS, WHOLESALERS, BREWERS, NONRESIDENT SELLERS AND CLASS B WHOLESALERS

[OAR Docket #15-685]

RULEMAKING ACTION:
PERMANENT final adoption
RULES
Subchapter 3. Manufacturers and Wholesalers
45:30-3-6 [AMENDED]
Subchapter 5. Brewers, Nonresident Sellers and Class B Wholesalers
45:30-5-6 [AMENDED]
AUTHORITY:
Alcoholic Beverage Laws Enforcement Commission; 37 O.S. §502 *et. seq.* and 37 O.S. § 514(2)
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
January 5, 2015
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APPROVED BY GOVERNOR'S DECLARATION:
Approved by Governor's declaration on June 8, 2015
FINAL ADOPTION:
June 8, 2015
EFFECTIVE:
September 11, 2015
SUPERSEDED EMERGENCY ACTIONS:
n/a
ANALYSIS:
The proposed rule additions are designed to establish a method by which a Wholesaler or Class B Wholesaler may seek permission from the Director of the ABLE Commission to refuse to sell alcoholic beverages to a Retail, Mixed Beverage, Caterer, Mixed Beverage/Caterer or Special Event licensee, either on a temporary or permanent basis, upon on showing, by credible evidence, that the actions of the licensee have created a dangerous or hostile work environment for the Wholesaler or Class B Wholesaler, or its representatives, agents or employees. It also creates a process by which the licensee may be heard before any permanent permission to refuse to sell is granted and an appeal process by which the licensee may appeal the decision of the Director to he full ABLE Commission.
CONTACT PERSON:
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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 11, 2015:

SUBCHAPTER 3. MANUFACTURERS AND WHOLESALERS

45:30-3-6. Wholesaler discrimination prohibited

(a) Every licensed Wholesaler before selling or offering to sell any alcoholic beverages to any Retail, Mixed Beverage, Beer and Wine, Caterer, Mixed Beverage/Caterer or Special Event licensee, shall file with the Director a written statement sworn to by him, or in case of a corporation, one of its principal officers, in which he shall agree that he will sell any of the brands or kinds of alcoholic beverages distributed by him to any Retail, Mixed Beverage, Beer and Wine, Caterer, Mixed Beverage/Caterer, or Special Event licensee, and that all such sales will be made to all such Retail. Mixed Beverage, Beer and Wine, Caterer, Mixed Beverage/Caterer, or Special Event licensees in this State at the same current price and without discrimination, and that the price lists showing the current prices will be filed by him in the office of the Director as often as may be necessary or required by the Director, but at least once every three (3) months.
(b) The said price listing filed by the licensee Wholesaler with the Director shall be the cash price per case for each size of original package of each particular brand or kind of alcoholic beverage sold or offered for sale by such Wholesaler, and shall contain such other information as the Director shall require.
(c) A licensed Wholesaler shall be deemed to have discriminated among Retail, Mixed Beverage, Beer and Wine, Caterer, Mixed Beverage/Caterer or Special Event licensees if he shall, either directly or indirectly or by any agent or employee:
(1) Offer to sell, or sell, alcoholic beverages to a Retail, Mixed Beverage, Beer and Wine, Caterer, Mixed Beverage/Caterer or Special Event licensee at a price less than the listed current price which he has filed with the Director;
(2) Make, or offer to make, any secret rebate to or enter into any transaction with a Retail, Mixed Beverage, Beer and Wine, Caterer, Mixed Beverage/Caterer or Special Event licensee which would result in, or having as its purpose, the purchase of any such alcoholic beverages by a Retail, Mixed Beverage, Beer and Wine, Caterer, Mixed Beverage/Caterer or Special Event licensee at a price less than the current price which he has filed with the Director;
(3) Refuse to sell to a Retail, Mixed Beverage, Beer and Wine, Caterer, Mixed Beverage/Caterer of Special Event licensee in less than case lots or any brand or kind or container size, or combination thereof, of any alcoholic beverages without express authority granted by the Director or the Commission for good cause;
(4) Refuse to sell any brand or kind of alcoholic beverages to a Retail, Mixed Beverage, Beer and Wine, Caterer,

Mixed Beverage/Caterer or Special Event licensee for cash at the listed current price in any particular order provided by the Retail, Mixed Beverage, Beer and Wine, Caterer, Mixed Beverage/Caterer or Special Event licensee without express authority granted by the Director or the Commission for good cause; PROVIDED, that each such Wholesaler in making and transmitting to the Oklahoma Tax Commission their monthly report, in reporting sales on all wines sold in less than case lots, shall convert units sold to the nearest full case.

(5) Refuse to sell any brand or kind of alcoholic beverage to a Retail, Mixed Beverage, Beer and Wine, Caterer, Mixed Beverage/Caterer or Special Event licensee unless the Retail, Mixed Beverage, Beer and Wine, Caterer, Mixed Beverage/Caterer or Special Event licensee shall purchase or agree to purchase alcoholic beverages of another kind, quantity or brand in addition to, or partially in lieu of the brand or kind of alcoholic beverages specifically ordered by the Retail, Mixed Beverage, Beer and Wine, Caterer, Mixed Beverage/Caterer or Special Event licensee;

(6) Fail to fill and ship orders of Retail, Mixed Beverage, Beer and Wine, Caterer, Mixed Beverage/Caterer or Special Event licensee for alcoholic beverages in the sequence and order in which such purchase orders from the Retail, Mixed Beverage, Beer and Wine, Caterer, Mixed Beverage/Caterer or Special Event licensee are received by him without the express authority granted by the Director or the Commission for good cause; PROVIDED, that this paragraph shall not apply where the Wholesaler is operating under a rationing plan approved by the Director;

(7) Accept payment for merchandise from one Retail, Mixed Beverage, Beer and Wine, Caterer, Mixed Beverage/Caterer or Special Event licensee and refuse the same method of payment from anther Retail, Mixed Beverage, Beer and Wine, Caterer, Mixed Beverage/Caterer or Special Event licensee, without authority from the Director or the Commission

(d) A licensed Wholesaler shall not be deemed to have discriminated among Retail, Mixed Beverage, Beer and Wine, Caterer, Mixed Beverage/Caterer or Special Event licensee under the following circumstances:

(1) A licensed Wholesaler requests permission, in writing and signed under oath by a person authorized to represent the Wholesaler, from the Director of the ABLE Commission to refuse to sell alcoholic beverages to a Retail, Mixed Beverage, Beer and Wine, Caterer, Mixed Beverage/Caterer or Special Event licensee when the Wholesaler can substantiate, by credible evidence, that the Retail, Mixed Beverage, Beer and Wine, Caterer, Mixed Beverage/Caterer or Special Event licensee has created a dangerous or hostile work environment for the licensed Wholesaler, its agents, its representatives, or its employees. Evidence of a dangerous or hostile work environment includes, but is not limited to, one or more of the following:

(A) any physical abuse;

(B) repeated verbal abuse

(C) excessive and repeated profanity;

(D) harassment due to race, gender, age, national origin, religion, or other protected status recognized by state or federal law;

(E) threats of harm to any agent or representative of the Wholesaler; or

(F) malicious or unfair business practices; or

(2) The request shall contain at least the following information verified under oath:

(A) the name and ABLE license number of the specific Retail, Mixed Beverage, Beer and Wine, Caterer, Mixed Beverage/Caterer or Special Event licensee;

(B) the date(s) on which a Retail, Mixed Beverage, Beer and Wine, Caterer, Mixed Beverage/Caterer or Special Event licensee created a dangerous or hostile work environment for the Wholesaler;

(C) details of the actions and/or behaviors which created the dangerous or hostile work environment;

(D) the name(s) and addresses of the person(s) who created the dangerous or hostile work environment; and

(E) the names and addresses of persons possessing relevant information to support the events.

(3) Upon receipt of a request to refuse to sell alcoholic beverages from a Wholesaler, the Director may, upon a finding that there exists an eminent threat of physical violence or undue emotional or psychological harm to an agent or representative of the Wholesaler, grant the Wholesaler temporary permission to refuse to sell to the specific Retail, Mixed Beverage, Beer and Wine, Caterer, Mixed Beverage/Caterer or Special Event licensee. In all other cases, the complaint shall be addressed through the process set forth below.

(4) Upon receipt of any verified complaint, whether or not the Wholesaler has been granted temporary permission to refuse to sell to the specific Retail, Mixed Beverage, Beer and Wine, Caterer, Mixed Beverage/Caterer or Special Event licensee, the Director shall promptly notify the named Retail, Mixed Beverage, Beer and Wine, Caterer, Mixed Beverage/Caterer or Special Event licensee in writing, by certified mail, of the complaint. The notice shall contain the name and ABLE license number of the Wholesaler and the specific allegations against the licencee as stated in writing by the Wholesaler. A copy of the verified complaint shall be included as an exhibit to the notice.

(5) Said licensee may request an administrative hearing on the matter within fifteen (15) days of receipt of the complaint. If a hearing is requested, both the Wholesaler and the named licensee may appear and present evidence or testimony, including witnesses, as to why the request should or should not be granted. If a request for a hearing is not made within fifteen (15) days of receipt of the complaint, the Director may grant or deny the request. In those instances where temporary permission has been given to the Wholesaler to refuse to sell, the Director shall indicate whether the temporary permission is revoked or made a permanent permission. The Director's decision shall be

put in writing and sent by certified mail to the named parties. Failure by the party to which notice has been given to request a hearing will constitute a failure to exhaust administrative remedies and the Director's decision may not be further appealed.

(6) If a hearing is requested and the request to refuse to sell alcoholic beverages is granted after the hearing and after notice is given to the licensee, the aggrieved licensee may request an appeal to the full Commission on the record, and such hearing will be conducted in the same manner as all other administrative hearings before the Commission pursuant to 37 O. S. Sections 530, 530.1 and 531.

(7) If a Wholesaler is granted permanent permission to refuse to sell to a specific Retail. Mixed Beverage, Beer and Wine, Caterer, Mixed Beverage/Caterer or Special Event licensee, that permanent permission to refuse to sell shall remain in effect for at least one year and, thereafter, will remain in effect indefinitely unless either the licensee requests, in writing, a reconsideration of the decision after the expiration of one year, and the request is granted by the Director following an evidentiary hearing on the merits with notice to the Wholesaler, or unless the Director revokes his decision, in writing, for good cause.

(8) If a request for refusal to sell is denied, the Director shall put the denial in writing and shall send a copy by certified mail to all named parties. upon receipt of the denial in writing by the Wholesaler, any temporary permission to refuse to sell originally granted by the Director shall expire and become null and void, and the Wholesaler shall be required to resume selling to the specific Retail, Mixed Beverage, Beer and Wine, Caterer, Mixed Beverage/Caterer or Special Event licensee.

(9) A Wholesaler may not refuse to sell alcoholic beverages to any Retail, Mixed Beverage, Beer and Wine, Caterer, Mixed Beverage/Caterer or Special Event licensee unless and until the Director grants the request under any of the conditions set forth above either on a temporary or permanent basis. A permanent grant of the request will be made by the Director, in writing, which shall be sent by certified mail to all named parties.

SUBCHAPTER 5. BREWERS, NONRESIDENT SELLERS AND CLASS B WHOLESALERS

45:30-5-6. Class B Wholesaler discrimination prohibited

(a) Every licensed Class B Wholesaler before selling or offering to sell any beer or brewed product to any Retail, Mixed Beverage, Beer and Wine, Caterer, Mixed Beverage/Caterer or Special Event licensee, shall file with the Director a written statement sworn to by him, in which he shall agree that he will sell any of the brands or kinds of beer or brewed product, distributed by him to any Retail, Mixed Beverage, Beer and Wine, Caterer, Mixed Beverage/Caterer, or Special Event licensee, and that all such sales will be made to all such Retail. Mixed Beverage, Beer and Wine, Caterer, Mixed Beverage/Caterer, or Special Event licensee in this State at the same current price and without discrimination, and that the price lists showing the current prices will be filed by him in the office of the Director as often as may be necessary or required by the Director.

(b) The price listings filed by the licensed Class B Wholesaler with the Director shall be the cash price per case for each size of original package of each particular brand or kind of beer or brewed product sold or offered for sale by such Class B Wholesaler, and shall contain such other information as the Director shall require.

(c) A licensed Class B Wholesaler shall be deemed to have discriminated among Retail, Mixed Beverage, Beer and Wine, Caterer, Mixed Beverage/Caterer or Special Event licensees if he shall, either directly or indirectly or by any agent or employee:

(1) Offer to sell, or sell, beer or brewed products to a Retail, Mixed Beverage, Beer and Wine, Caterer, Mixed Beverage/Caterer or Special Event licensee at a price less than the listed current price which he has filed with the Director;

(2) Make, or offer to make, any secret rebate to or enter into any transaction with a Retail. Mixed Beverage, Beer and Wine, Caterer, Mixed Beverage/Caterer or Special Event licensee which would result in, or having as its purpose, the purchase of any beer or brewed products by a Retail, Mixed Beverage, Beer and Wine, Caterer, Mixed Beverage/Caterer or Special Event licensee at a price less than the current price which he has filed with the Director;

(3) Refuse to sell any brand or kind of beer or brewed product to a Retail, Mixed Beverage, Beer and Wine, Caterer, Mixed Beverage/Caterer or Special Event licensee without express authority granted by the Director or the Commission for good cause;

(4) Refuse to sell any brand or kind of beer or brewed product to a Retail, Mixed Beverage, Beer and Wine, Caterer, Mixed Beverage/Caterer or Special Event licensee unless the Retail, Mixed Beverage, Beer and Wine, Caterer, Mixed Beverage/Caterer or Special Event licensee shall purchase or agree to purchase alcoholic beverages of another kind, quantity or brand in addition to, or partially in lieu of the brand or kind of beer or brewed product specifically ordered by the Retail, Mixed Beverage, Beer and Wine, Caterer, Mixed Beverage/Caterer or Special Event licensee without express authority granted by the Director or the Commission for good cause;

(5) Fail to fill and ship orders of Retail, Mixed Beverage, Beer and Wine, Caterer, Mixed Beverage/Caterer or Special Event licensee who have submitted written purchase orders for beer and brewed products in sequence and order in which such written purchase orders from the Retail, Mixed Beverage, Beer and Wine, Caterer, Mixed Beverage/Caterer or Special Event licensee are received by him, PROVIDED, that this paragraph shall not apply where the Wholesaler is operating under a rationing plan approved by the Director without express authority granted by the Director or the Commission for good cause;

(6) Accept payment for merchandise from one Retail, Mixed Beverage, Beer and Wine, Caterer, Mixed Beverage/Caterer or Special Event licensee and refuse the same method of payment from anther Retail, Mixed Beverage, Beer and Wine, Caterer, Mixed Beverage/Caterer or Special Event licensee, without authority from the Director or the Commission.

(d) A Class B Wholesaler shall not be deemed to have discriminated among Retail, Mixed Beverage, Beer and Wine, Caterer, Mixed Beverage/Caterer or Special Event licensee under the following circumstances:

(1) A Class B Wholesaler requests permission, in writing and signed under oath by a person authorized to represent the Class B Wholesaler, from the Director of the ABLE Commission to refuse to sell alcoholic beverages to a Retail, Mixed Beverage, Beer and Wine, Caterer, Mixed Beverage/Caterer or Special Event licensee when the Class B Wholesaler can substantiate, by credible evidence, that the Retail, Mixed Beverage, Beer and Wine, Caterer, Mixed Beverage/Caterer or Special Event licensee has created a dangerous or hostile work environment for the Class B Wholesaler, its agents, its representatives, or its employees. Evidence of a dangerous or hostile work environment includes, but is not limited to, one or more of the following:

(A) any physical abuse;

(B) repeated verbal abuse

(C) excessive and repeated profanity;

(D) harassment due to race, gender, age, national origin, religion, or other protected status recognized by state or federal law;

(E) threats of harm to any agent or representative of the Wholesaler; or

(F) malicious or unfair business practices; or

(2) The request shall contain at least the following information verified under oath:

(A) the name and ABLE license number of the specific Retail, Mixed Beverage, Beer and Wine, Caterer, Mixed Beverage/Caterer or Special Event licensee;

(B) the date(s) on which a Retail, Mixed Beverage, Beer and Wine, Caterer, Mixed Beverage/Caterer or Special Event licensee created a dangerous or hostile work environment for the Class B Wholesaler;

(C) details of the actions and/or behaviors which created the dangerous or hostile work environment;

(D) the name(s) and addresses of the person(s) who created the dangerous or hostile work environment; and

(E) the names and addresses of persons possessing relevant information to support the events.

(3) Upon receipt of a request to refuse to sell alcoholic beverages from a Class B Wholesaler, the Director may, upon a finding that there exists an eminent threat of physical violence or undue emotional or psychological harm to an agent or representative of the Class B Wholesaler, grant the Class B Wholesaler temporary permission to refuse to sell to the specific Retail, Mixed Beverage, Beer and Wine, Caterer, Mixed Beverage/Caterer or Special Event licensee. In all other cases, the complaint shall be addressed through the process set forth below.

(4) Upon receipt of any verified complaint, whether or not the Class B Wholesaler has been granted temporary permission to refuse to sell to the specific Retail, Mixed Beverage, Beer and Wine, Caterer, Mixed Beverage/Caterer or Special Event licensee, the Director shall promptly notify the named Retail, Mixed Beverage, Beer and Wine, Caterer, Mixed Beverage/Caterer or Special Event licensee in writing, by certified mail, of the complaint. The notice shall contain the name and ABLE license number of the Class B Wholesaler and the specific allegations against the licencee as stated in writing by the Class B Wholesaler. A copy of the verified complaint shall be included as an exhibit to the notice.

(5) Said licensee may request an administrative hearing on the matter within fifteen (15) days of receipt of the complaint. If a hearing is requested, both the Class B Wholesaler and the named licensee may appear and present evidence or testimony, including witnesses, as to why the request should or should not be granted. If a request for a hearing is not made within fifteen (15) days of receipt of the complaint, the Director may grant or deny the request. In those instances where temporary permission has been given to the Class B Wholesaler to refuse to sell, the Director shall indicate whether the temporary permission is revoked or made a permanent permission. The Director's decision shall be put in writing and sent by certified mail to the named parties. Failure by the party to which notice has been given to request a hearing will constitute a failure to exhaust administrative remedies and the Director's decision may not be further appealed.

(6) If a hearing is requested and the request to refuse to sell alcoholic beverages is granted after the hearing and after notice is given to the licensee, the aggrieved licensee may request an appeal to the full Commission on the record, and such hearing will be conducted in the same manner as all other administrative hearings before the Commission pursuant to 37 O. S. Sections 530, 530.1 and 531.

(7) If a Class B Wholesaler is granted permanent permission to refuse to sell to a specific Retail. Mixed Beverage, Beer and Wine, Caterer, Mixed Beverage/Caterer or Special Event licensee, that permanent permission to refuse to sell shall remain in effect for at least one year and, thereafter, will remain in effect indefinitely unless either the licensee requests, in writing, a reconsideration of the decision after the expiration of one year, and the request is granted by the Director following an evidentiary hearing on the merits with notice to the Class B Wholesaler, or unless the Director revokes his decision, in writing, for good cause.

(8) If a request for refusal to sell is denied, the Director shall put the denial in writing and shall send a copy by certified mail to all named parties. upon receipt of the denial in writing by the Class B Wholesaler, any temporary permission to refuse to sell originally granted by the Director shall expire and become null and void, and the Wholesaler

shall be required to resume selling to the specific Retail, Mixed Beverage, Beer and Wine, Caterer, Mixed Beverage/Caterer or Special Event licensee.

(9) A Class B Wholesaler may not refuse to sell alcoholic beverages to any Retail, Mixed Beverage, Beer and Wine, Caterer, Mixed Beverage/Caterer or Special Event licensee unless and until the Director grants the request under any of the conditions set forth above either on a temporary or permanent basis. A permanent grant of the request will be made by the Director, in writing, which shall be sent by certified mail to all named parties.

[OAR Docket #15-685; filed 7-2-15]

TITLE 86. STATE BOARD OF BEHAVIORAL HEALTH LICENSURE
CHAPTER 10. LICENSED PROFESSIONAL COUNSELORS

[OAR Docket #15-654]

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RULES:
Subchapter 1. General Provisions [NEW]
86:10-1-1. [NEW]
86:10-1-2. [NEW]
86:10-1-3. [NEW]
Subchapter 3. Rules of Professional Conduct [NEW]
86:10-3-1. [NEW]
86:10-3-2. [NEW]
86:10-3-3. [NEW]
86:10-3-3.1. [NEW]
86:10-3-4. [NEW]
86:10-3-4.1. [NEW]
86:10-3-5. [NEW]
86:10-3-6. [NEW]
Subchapter 5. Fitness of Applicants [NEW]
86:10-5-1. [NEW]
86:10-5-2. [NEW]
86:10-5-3. [NEW]
Subchapter 7. Application Procedures [NEW]
86:10-7-1. [NEW]
86:10-7-2. [NEW]
86:10-7-2.1. [NEW]
86:10-7-3. [NEW]
86:10-7-4. [NEW]
86:10-7-5. [NEW]
86:10-7-6. [NEW]
86:10-7-7. [NEW]
86:10-7-8. [NEW]
86:10-7-8.1. [NEW]
86:10-7-9. [NEW]
Subchapter 9. Academic Requirements [NEW]
86:10-9-1. [NEW]
86:10-9-2. [NEW]
Subchapter 11. Supervised Experience Requirement [NEW]
86:10-11-1. [NEW]
86:10-11-2. [NEW]
86:10-11-3. [NEW]
86:10-11-4. [NEW]
86:10-11-5. [NEW]
86:10-11-6. [NEW]
86:10-11-7. [NEW]
Subchapter 13. Fees [NEW]
86:10-13-1. [NEW]
86:10-13-2. [NEW]
86:10-13-3. [NEW]
86:10-13-4. [NEW]
86:10-13-5. [NEW]
Subchapter 15. Licensure Examinations [NEW]
86:10-15-1. [NEW]
86:10-15-2. [NEW]
86:10-15-3. [NEW]
86:10-15-4. [NEW]
86:10-15-5. [NEW]
86:10-15-6. [NEW]
86:10-15-7. [NEW]
86:10-15-8. [NEW]
Subchapter 17. Continuing Education Requirements [NEW]
86:10-17-1. [NEW]
86:10-17-2. [NEW]
86:10-17-3. [NEW]
86:10-17-4. [NEW]
86:10-17-4.1. [NEW]
86:10-17-5. [NEW]
86:10-17-6. [NEW]
86:10-17-6.1. [NEW]
86:10-17-6.2. [NEW]
86:10-17-6.3. [NEW]
86:10-17-6.4. [NEW]
86:10-17-7. [NEW]
86:10-17-8. [NEW]
Subchapter 19. Issuance of License [NEW]
86:10-19-1. [NEW]
86:10-19-1.1. [NEW]
86:10-19-2. NEW]
86:10-19-3. [NEW]
86:10-19-4. [NEW]
86:10-19-5. [NEW]
Subchapter 21. License and Specialty Renewal [NEW]
86:10-21-1. [NEW]
86:10-21-2. [NEW]
86:10-21-3. [NEW]
86:10-21-3.1. [NEW]
86:10-21-3.2. [NEW]
86:10-21-4. [NEW]
86:10-21-5. [NEW]
86:10-21-6. [NEW]
86:10-21-7. [NEW]
Subchapter 23. License and Specialty Late Renewal and Expiration [NEW]
86:10-23-1. [NEW]
86:10-23-2. [NEW]
86:10-23-3. [NEW]
86:10-23-4. [NEW]
Subchapter 25. Licensure By Endorsement [NEW]
86:10-25-1. [NEW]
86:10-25-2. [NEW]
86:10-25-3. [NEW]
Subchapter 27. Consumer Information [NEW]
86:10-27-1. [NEW]
86:10-27-2. [NEW]
86:10-27-3. [NEW]
86:10-27-4. [NEW]
Subchapter 29. Enforcement [NEW]
86:10-29-1. [NEW]
86:10-29-2. [NEW]
86:10-29-3. [NEW]
86:10-29-4. [NEW]
86:10-29-5. [NEW]
86:10-29-6. [NEW]
86:10-29-7. [NEW]
86:10-29-8. [NEW]
86:10-29-9. [NEW]
86:10-29-10. [NEW]
86:10-29-11. [NEW]
86:10-29-12. [NEW]
86:10-29-13. [NEW]
86:10-29-14. [NEW]
86:10-29-15. [NEW]

Subchapter 31. Post-Military Service Occupation, Education and Credentialing Rules [NEW]
86:10-31-1. [NEW]
86:10-31-2. [NEW]
86:10-31-3. [NEW]

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Section E.5., Diagnosis of Mental Disorders, of the American Counseling Association (ACA) Code of Ethics, approved by the ACA Governing Council, 2005
Section G., Research and Publication, of the American Counseling Association (ACA) Code of Ethics, approved by the ACA Governing Council, 2005.
Incorporating rules:
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86:10-3-2 (e)
Availability:
8:00 a.m. to 5:00 p.m., Monday through Friday at State Board of Behavioral Health Licensure, 3815 N. Santa Fe., Suite 110, Oklahoma City, OK 73118, 405-522-3696
ANALYSIS:
The following permanent rules interpret the Oklahoma Licensed Professional Counselor Act, (59 O.S. 1991, Sections 1901 et seq.)
CONTACT PERSON:
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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING PERMANENT RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 11, 2015:

SUBCHAPTER 1. GENERAL PROVISIONS

86:10-1-1. Purpose

The rules in this Chapter implement the Oklahoma Licensed Professional Counselor Act, (59 O.S. 1991, Sections 1901 et seq.)

86:10-1-2. Definitions

When used in this Chapter, the following words or terms shall have the following meaning unless the context of the sentence requires another meaning:

"Act" means the Licensed Professional Counselors Act, 59 O.S. §§ 1901 *et seq.*, as amended.

"Approved LPC Supervisor" means an individual who is approved by the Board pursuant to Section 86:10-11-4 of this Chapter.

"Board" means the State Board of Behavioral Health Licensure.

"Complaint Committee" means one Board member who is a LPC, the Executive Director, the Assistant Attorney General and may include other appropriate individuals as determined by the Committee.

"Counselor" means a person licensed as a Licensed Professional Counselor pursuant to this Act.

"Dual relationship" means a familial, social, financial, business, professional, close personal, sexual or other non-therapeutic relationship with a client, or engaging in any activity with another person that interferes or conflicts with the LPC's or LPC Candidate's professional obligation to a client.

"Face-to-face counseling" means the counselor and the client shall be in the physical presence of the other during counseling.

"Face-to-face supervision" means the supervisor and the supervisee shall be in the physical presence of the other during individual or group supervision.

"Forensic services" means the application of knowledge, training and experience from the mental health field to the establishment of facts and/or the establishment of evidence in a court of law or ordered by a court of law.

"Full time" means at least twenty (20) hours of on-the-job experience per week.

"Group supervision" means an assemblage of counseling supervisee consisting of from two (2) to six (6) members.

"Home-study or technology-assisted distance learning" means the delivery of graduate coursework or continuing education through mailed correspondence or other distance learning technologies, which focuses on using synchronous or asynchronous instructional delivery methods.

"License Committee" means two LPC Board members, one Staff member, and may include other appropriate individuals as determined by the Committee.

"OAC" means the Oklahoma Administrative Code.

"On-site supervisor" means a person who may not be an approved LPC supervisor but is licensed by the state of Oklahoma as a Licensed Marital and Family Therapist, Licensed Professional Counselor, Licensed Behavioral Practitioner, Psychologist, Clinical Social Worker, Psychiatrist, or Licensed Alcohol and Drug Counselor employed by the agency employing the LPC Candidate whose assigned job duties include acting as the immediate supervisor to the LPC Candidate and who is available to the candidate at all times when counseling services are being rendered by the LPC Candidate.

"Staff" means the personnel of the Board.

"Technology-assisted supervision" refers to supervision that occurs through video teleconferencing, over secure internet connections, wherein an Approved LPC Supervisor and a Licensed Professional Counselor Candidate are in separate physical locations.

86:10-1-3. Applicability

Every duty, obligation or requirement described in this Chapter and imposed upon a LPC shall be applicable to every licensed professional counselor candidate, unless specifically provided otherwise.

SUBCHAPTER 3. RULES OF PROFESSIONAL CONDUCT

86:10-3-1. Responsibility

It shall be the responsibility of Licensed Professional Counselors (LPCs), in their commitment to the understanding of human behavior, to value objectivity and integrity, and in providing services, to strive to maintain the highest standards of their profession. LPCs shall accept responsibility for the consequences of their work and make every effort to ensure

that their services are used appropriately. LPCs shall be alert to personal, social, organizational, financial, and political situations or pressures that might lead to the misuse of their influence. LPCs shall not participate in, condone, or be associated with dishonesty, fraud, deceit or misrepresentation. LPCs shall not exploit their relationships with clients for personal advantage, profit, satisfaction, or interest.

86:10-3-2. Competence

(a) **Counseling.** LPCs and LPC Candidates shall practice only within the boundaries of their competence, based on their education, training, supervised experience, state and national professional credentials, and appropriate professional experience. An LPC or LPC Candidate shall only practice in a new area when said LPC or LPC Candidate has received the necessary education, training and supervised experience, and shall take steps to ensure the competence of work provided and to protect others from possible harm.

(b) **Testing and assessment.** LPCs and LPC Candidates shall know the limits of their competence and shall therefore perform only those testing and assessment services for which they have received training and supervision in the administration, scoring and interpretation processes associated with the provisions of such services. LPCs and LPC Candidates shall be responsible for receiving training on testing and assessment instruments that have been revised or updated. LPCs and LPC Candidates shall be familiar with related standardization, proper application, copyright restrictions and security demands of any testing or assessment technique utilized. LPCs and LPC Candidates shall ensure that any testing instrument selected is the most current edition available, has been properly evaluated for validity and reliability and is culturally appropriate for the clients with whom it is used. LPCs and LPC Candidates using computer-based test interpretations shall be trained in the construct being measured and the specific instrument being used prior to using this type of computer application. LPCs shall ensure the proper use of assessment techniques by persons under their supervision.

(c) **Diagnosis of mental disorders.** LPCs and LPC Candidates shall provide the proper diagnosis of mental disorders in their clients, as published in Section E.5., Diagnosis of Mental Disorders, of the American Counseling Association (ACA) Code of Ethics, approved by the ACA Governing Council, 2005.

(d) **Specialty.** LPCs and LPC Candidates shall not represent themselves as specialists in any aspect of counseling, unless so designated by the Board.

(e) **Research.** LPCs and LPC Candidates shall plan, design, conduct, and report research only in a manner as published in Section G., Research and Publication, of the American Counseling Association (ACA) Code of Ethics, approved by the ACA Governing Council, 2005.

(f) **Impairment.** LPCs and LPC Candidates shall not offer or render professional services when such services may be impaired by a personal physical, mental or emotional condition(s). LPCs and LPC Candidates shall seek assistance for any such personal problem(s) with their physical, mental or emotional condition, and, if necessary, limit, suspend, or terminate their professional activities. If an LPC or LPC Candidate possesses a bias, disposition, attitude, moral persuasion or other similar condition that limits his or her ability to recommend a course of treatment or decision-making that is indicated, and under such circumstances where all other treatment and decision options are contra-indicated, then in that event the LPC shall not undertake to provide counseling and will terminate the counseling relationship in accordance with these rules.

(g) **Knowledge of impairment.** If a LPC or LPC Candidate becomes aware that a LPC or LPC Candidate is violating an obligation described in OAC 86:10-3-2(f), OAC 86:10-3-4(b) or other provisions of the Act or this Chapter of regulations, the LPC or LPC Candidate must, within thirty (30) days, report the situation to the Board in accordance with OAC 86:10-29-3. The report shall contain, at a minimum, the following:

(1) Name of the LPC or LPC Candidate making the report;

(2) Name of the LPC or LPC Candidate who is allegedly impaired;

(3) Any facts that can be revealed concerning the impairment;

(4) The LPC or LPC Candidate shall maintain the confidentiality of the client pursuant to Title 59 of the Oklahoma Statutes, Section 1910, unless a signed release is received from the client.

(h) **Knowledge of any sexual conduct.** If a LPC or LPC candidate becomes aware that another LPC or LPC Candidate is engaging in sexual conduct that violates the Act or this Subchapter, the LPC or LPC Candidate must, within thirty (30) days, report any sexual conduct to the Board in accordance with OAC 86:10-29-3. The report shall contain, at a minimum, the following:

(1) Name of the LPC or LPC Candidate making the report;

(2) Name of the LPC or LPC Candidate who is alleged to have engaged in the sexual conduct;

(3) Any facts that can be revealed concerning the sexual conduct;

(4) The LPC or LPC Candidate shall maintain the confidentiality of the client pursuant to Title 59 of the Oklahoma Statutes, Section 1910, unless a signed release is received from the client.

(i) **Forensic services.** LPCs and LPC Candidates may perform forensic services, which include, but are not limited to, assessments, interviews, consultations, custody evaluations, reports, expert testimony, or other such activity that is undertaken or conducted by the candidate or licensee in contemplation that the results may, or are intended to be, later furnished to a trier of fact or other decision maker, only under the following conditions:

(1) LPCs and LPC Candidates must demonstrate competence by education and experience in the subject matter relevant to the issues in question, as determined by the court.

(2) LPCs and LPC Candidates shall provide a written notice and make a reasonable attempt to obtain a signature acknowledging receipt of such notice, from each person or

persons who is the subject of the forensic services. This written notice shall include:

(A) a description of what procedure will be followed in the evaluation process;

(B) how such information, interpretations, conclusions, and recommendations will be distributed;

(C) fee arrangements; and

(D) explanation of the role of the evaluator if subsequently called upon to provide expert testimony before a trier of fact.

(3) LPCs and LPC Candidates shall maintain written records, in a form or format that is legible or readable to third persons, of all contacts and information received and used in the preparation of their report.

(4) LPCs and LPC Candidates must conduct a thorough examination and must utilize face-to-face interviews of the person(s) who is the subject of their forensic analysis, and such other person or persons who has/have a legally recognizable right in the subject matter of the proceeding.

(5) LPCs and LPC Candidates shall base their findings and conclusions only upon information gained by appropriate and lawful means. Interviews of minor children shall be preceded by written consent from the joint-custodial parents or from the custodial parent or from the legal guardian or from the legal custodian appointed by the Court.

(6) LPCs and LPC Candidates who provide counseling services for a client shall only provide fact witness testimony, which may include diagnostic impressions, treatment plans and other factual clinical information ordinarily included in a treatment file. Fact witness testimony by LPCs and LPC Candidates shall not include opinions or recommendations pertaining to matter subject to a decision by the Court, in forensic matters involving that client, unless otherwise required by law or court order. LPCs and LPC Candidates who provide mediation, parent coordinating assistance or any other neutral participation, may not undertake to provide counseling to any person(s) involved or directly affected by the LPC's and LPC Candidate's role as a neutral participant. Fact witness testimony means evidentiary statements that are limited to direct observations made by the LPCs and LPC Candidates and shall not include conclusions, opinions or recommendations.

(7) Assessments, interviews, consultations, custody evaluations, reports or other activity not performed in contemplation that the results would be furnished to a trier of fact or decision maker, must be kept confidential and cannot be utilized in the formation or publication of an opinion by the candidate or licensee.

86:10-3-3. Client welfare

(a) **Discrimination.** LPCs shall not, in the rendering of their professional services, participate in, condone, or promote discrimination based on age, culture, disability, ethnicity, race, religion/spirituality, gender, gender identity, sexual orientation, marital status/partnership, language preference, socioeconomic status, or any basis proscribed by law. LPCs do not discriminate against clients, students, employees, supervisees, or research participants in a manner that has a negative impact on these persons.

(b) **Records.**

(1) **Requirement of records.** LPCs shall maintain verifiable, accurate and truthful records necessary for rendering professional services to their clients for at least five (5) years beyond termination of services. LPCs employed at an institution or facility that has a published records retention policy that is equal to the retention required by this subsection will be deemed to be in compliance with this subsection.

(2) **Confidentiality.** LPCs shall maintain the confidentiality of any information received from any person or source about a client, unless authorized in writing by the client or otherwise authorized or required by law or court order.

(3) **Confidentiality of records.** LPCs shall be responsible for complying with the applicable state and federal regulations in regard to the security, safety and confidentiality of any counseling record they create, maintain, transfer, or destroy whether the record is written, taped, computerized, or stored in any other medium.

(4) **Client access.** LPCs shall provide the client with a copy of the client's record in accordance with state and federal laws. In situations involving multiple clients, access to records is limited to those parts of records that do not include confidential information related to another client.

(c) **Dual relationships.** LPCs shall not knowingly enter into a dual relationship(s) and shall take any necessary precautions to prevent a dual relationship from occurring. When the LPC reasonably suspects that he or she has inadvertently entered into a dual relationship the LPC shall record that fact in the records of the affected client(s) and take reasonable steps to eliminate the source or agent creating or causing the dual relationship. If the dual relationship cannot be prevented or eliminated and the LPC cannot readily refer the client to another counselor or other professional, the LPC shall complete one or more of the following measures as necessary to prevent the exploitation of the client and/or the impairment of the LPC's professional judgment:

(1) Fully disclose the circumstances of the dual relationship to the client and secure the client's written consent to continue providing counseling;

(2) Consult with the other professional(s) to understand the potential impairment to the LPC's professional judgment and the risk of harm to the client of continuing the dual relationship.

(d) **Providing counseling to persons of prior association.** LPCs shall not undertake to provide counseling to any person with whom the LPC has had any prior sexual contact or close personal relationship within the previous five (5) years.

(e) **Interaction with former clients.** LPCs shall not knowingly enter into a close personal relationship, or engage in any business or financial dealings with a former client for two (2) years after the termination of the counseling relationship. LPCs shall not engage in any activity that is or may be sexual in nature with a former client for at least five (5) years after the

termination of the counseling relationship. LPCs shall not exploit or obtain an advantage over a former client by the use of information or trust gained during the counseling relationship.

(f) **Invasion of privacy.** LPCs shall not make inquiry into persons or matters that are not reasonably calculated to assist or benefit the counseling process.

(g) **Private or independent practice.** No person may engage in the private or independent practice of professional counseling work or open a facility with the intent of providing private or independent counseling practice unless that person:

(1) is licensed under this Act as a Licensed Professional Counselor; and,

(2) has met all requirements of OAC Section 86:10-11-5 of the LPC Regulations and all other requirements under the Act rules; and

(3) has continued to meet all continuing education requirements set forth in Subchapter 17 of this Chapter.

(h) **Referral.**

(1) If LPCs determine that they are unable to be of professional assistance to a client, the LPC shall not enter a counseling relationship. LPCs shall refer clients to appropriate sources when indicated. If the client declines the suggested referral, the LPC shall terminate the relationship.

(2) LPCs shall not abandon or neglect current clients in treatment without making reasonable arrangements for the continuation of such treatment.

(3) When an LPC becomes cognizant of a disability or other condition that may impede, undermine or otherwise interfere with the LPC's duty of responsibility to the current client, including a suspension of the LPC's license or any other situation or condition described in subchapter 3 of these rules, the LPC shall promptly notify the client in writing of the presence or existence of the disability or condition and take reasonable steps to timely terminate the therapeutic relationship.

86:10-3-3.1. Fees and bartering

(a) **Advance understanding.** LPCs shall clearly explain to clients, prior to entering the counseling relationship, all financial arrangements related to professional services including the consequences for non-payment of fees.

(b) **Bartering.** LPCs may participate in bartering for tangible goods only if the relationship is not exploitive, if the client requests it, if a clear written contract is established and if such arrangements are an accepted practice among professionals in the community.

(c) **Tangible goods.** LPCs shall not barter for services rendered by the client. Only tangible goods, at fair market value, may be accepted by the counselor in lieu of money for counseling services.

86:10-3-4. Professional standards

(a) **Violations of other laws.** It shall be unprofessional conduct for an LPC to violate a state or federal statute if the violation directly relates to the duties and responsibilities of the counselor or if the violation involves moral turpitude.

(b) **Drug and alcohol use.** LPCs shall not render professional services while under the influence of alcohol or other mind or mood altering drugs.

(c) **Sexual contact.**

(1) **Current clients.** LPCs shall not have any type of sexual contact with clients and shall not counsel persons with whom they have had a sexual relationship.

(2) **Supervisees.** LPCs shall not engage in sexual contact with supervisees and shall not supervise persons with whom they have had a sexual relationship within the previous five (5) years. LPCs shall not engage in sexual contact with supervisees they have supervised within the previous five (5) years.

(d) **Updating.** LPCs shall notify the Board of any change in address, telephone number, and employment and shall make necessary adjustments on the Statement of Professional Disclosure, supplying an updated copy to the Board.

(e) **Candor to the Board.** An LPC, LPC candidate, or applicant for LPC licensure, in connection with a license application or an investigation conducted by the Board or the Board's designee pursuant to OAC 86:10-29-1 through 15, shall not:

(1) knowingly make a false statement of material fact;

(2) fail to disclose a fact necessary to correct a misapprehension known by the LPC, LPC candidate or applicant for licensure to have arisen in the application or the matter under investigation; or

(3) fail to respond to a demand for information made by the Board or any designated representative thereof.

86:10-3-4.1. Clinical responsibility to supervisees

(a) LPCs shall not exploit the trust and dependency of supervisees.

(b) LPCs are cognizant of their potentially influential position with respect to supervisees, and shall not exploit the trust and dependency of such persons. LPCs, therefore, shall avoid dual relationships that impair their professional judgment or increase the risk of exploitation. Examples of such dual relationships include, but are not limited to, provision of counseling to supervisees, and business or close personal relationships with supervisees. Sexual intimacy with current supervisees is prohibited.

(c) LPCs shall not permit supervisees to perform or to hold themselves out as competent to perform professional services beyond their training, level of experience, and competence.

(d) LPCs shall not disclose supervisee confidences to anyone, except:

(1) as mandated by law;

(2) in case of clear and imminent danger to a person or persons;

(3) where the professional counselor is a defendant in a civil, criminal, or disciplinary action arising from the supervision (in which case client confidences may be disclosed only in the course of that action);

(4) if there is a waiver previously obtained in writing, and then such information may be revealed only in accordance with the terms of the waiver.

86:10-3-5. Relations with the public and other professions

(a) **Misrepresentation.** LPCs shall not misrepresent nor allow the misrepresentation by others of the efficacy of the LPC's professional services.

(b) **Credentials claimed.** LPCs shall claim or imply only the professional credentials possessed and shall be responsible for correcting any known misrepresentations of their credentials by others. Professional credentials include graduate degrees in counseling or closely related mental health fields, accreditation of graduate programs, national voluntary certifications, government-issued certifications or licenses, or any other credential that might indicate to the public the LPCs additional knowledge or expertise in counseling.

(c) **The use of doctoral degrees and the title "Doctor".** An LPC may use the doctoral degree and the title "Doctor" in advertising, practice and status as a counselor, if the doctoral degree is in counseling or a closely related mental health field, and if the degree was granted by a regionally accredited college or university recognized by the United States Department of Education.

(1) Non-counseling doctorates. An LPC who holds a doctoral degree in a non-counseling related field shall not use the doctoral degree or the term "Dr." in advertising, practice or status as a counselor.

(2) Non-regionally accredited doctorates. An LPC who holds a doctoral degree from a college or university not regionally accredited and recognized by the United States Department of Education shall not use the doctoral degree or the title "doctor" in advertising, practice or status as a counselor, unless the following conditions are met:

(A) the degree was conferred or matriculation was begun before May 5, 1995; and

(B) the conferring institution was certified or accredited by the state wherein the institution is located.

(d) **Advertisement.** When an LPC announces services or advertises, the LPC shall represent services to the public by identifying credentials in an accurate manner that is not false, misleading, deceptive, or fraudulent. An LPC may only advertise the highest degree earned in counseling or a closely related field from a regionally accredited college or university recognized by the U.S. Department of Education. All advertisements or announcements of counseling services including telephone directory listings by an LPC shall clearly state the counselor's licensure status by the use of a title such as "LPC", or "Licensed Professional Counselor" or a statement such as "licensed by the Oklahoma State Board of Behavioral Health Licensure."

(e) **License.** Each LPC shall display the original, current license in a prominent place in the primary location of practice.

(f) **Public statements.** When an LPC provides advice or comment by means of public lectures, demonstrations, radio or television programs, prerecorded tapes, printed articles, mailed material, or other media, they shall take reasonable precautions to ensure that:

(1) The statements are based on appropriate professional literature and practice;

(2) The statements are otherwise consistent with the LPC Rules of Professional Conduct; and

(3) There is no implication that a professional counseling relationship has been established.

(g) **Rebates.** An LPC shall not give or accept a commission, rebate, or other form of remuneration for referral of clients for professional services.

(h) **Accepting fees from agency clients.** An LPC shall refuse a fee or other remuneration for rendering services to persons who are entitled to such services through the employer of the LPC.

(i) **Candidates for LPC licensure.** Candidates for licensure as a Licensed Professional Counselor shall not refer to themselves as Licensed Professional Counselor or LPC.

86:10-3-6. Failure to comply

An LPC who does not comply with Subchapter 3 - Rules of Professional Conduct shall be subject to disciplinary action under Subchapter 29.

SUBCHAPTER 5. FITNESS OF APPLICANTS

86:10-5-1. Purpose

The purpose of this subchapter is to establish the fitness of an applicant as one of the criterion for licensure as an LPC and to set forth the criteria by which the Board shall determine the fitness of applicants.

86:10-5-2. Fitness for licensure

The substantiation of any of the following items related to the applicant may be, as the Board determines, the basis for the denial of or delay of licensure of the applicant.

(1) Lack of necessary skills and abilities to provide adequate services.

(2) Misrepresentation on the application or other materials submitted to the Board.

(3) A violation of the LPC Rules of Professional Conduct.

86:10-5-3. Materials considered to determine fitness

(a) Materials considered to determine fitness of skills and abilities include:

(1) Evaluations from supervisors or instructors;

(2) Statements from persons submitting references for the applicant;

(3) Evaluations from employers and/or professional associations; and

(4) A field examination submitted through questionnaires answered by persons competent to evaluate an applicant's professional competence which may include the submission of written case studies and taped interviews with an applicant's instructors, supervisors and others or submission of such documentary evidence relating to an applicant's experience and competence as required by the Board and

(b) Materials considered to determine fitness of professional conduct include:
(1) Allegations of clients;
(2) Transcripts or other findings from official court, hearing or investigative proceedings; and
(3) Any other information which the Board considers pertinent to determining the fitness of applicants.

SUBCHAPTER 7. APPLICATION PROCEDURES

86:10-7-1. General

(a) The purpose of this subchapter is to ensure that all applicants meet those requirements specified in the Act.
(b) Unless otherwise indicated, an applicant shall submit all required information and documentation of credentials on official Board forms.
(c) The Board will not consider an application as officially submitted until receipt of the Application Form, application fee, official transcript(s), three (3) Document of Recommendation forms, Internship/Practicum Documentation Form, and completed criminal background check. The application fee must accompany the Application Form.
(d) The Board shall notify applicants of their test eligibility no later than 60 days after receiving and approving the required application materials.

86:10-7-2. Application materials and forms

(a) Each application shall include the following documents:
(1) Application form,
(2) Official transcript, mailed from the university or college,
(3) Three (3) Document of recommendation forms,
(4) Practicum documentation form,
(5) Two (2) classifiable sets of fingerprints, and
(6) Fees.
(b) The Application Form requires the following:
(1) Identifying information;
(2) Possession of other credentials;
(3) Previous misconduct;
(4) Education;
(5) References; and
(6) Proposed professional practice.
(c) The Internship/Practicum Documentation form requires the following:
(1) Identifying information; and
(2) Time, place, location of practicum.
(d) The Document of Recommendation requires the following:
(1) Identifying information;
(2) Ratings of ethical and professional characteristics; and
(3) Circumstances and time period submitter has known applicant.
(e) The Statement of Professional Disclosure requires the following:
(1) Statement providing for the applicant's disclosure of professional standing; and
(2) Statement providing for making contact with OSDH for further information.
(f) The Supervision Agreement requires identifying information of supervisee and supervisor.
(g) The On-Site Supervisor Verification Form requires identifying information as follows:
(1) Name of applicant;
(2) Place of employment;
(3) On-Site Supervisor information;
(4) A reproduction of the regulation regarding supervision accrued in a private setting.
(h) The Licensure Verification Request Form requires the following information:
(1) Name of licensee;
(2) Licensee license number; and
(3) Licensee license type.
(i) The Out-of-State Licensure Verification Form requires the following information:
(1) Identifying information;
(2) Type of credential held in other state;
(3) License number;
(4) Issue and expiration date of license;
(5) Current standing of license;
(6) Past complaints or sanctions;
(7) Exam information;
(8) Supervision information;
(9) Graduate education;
(10) Internship documentation; and
(11) Signature and identifying information of person verifying from out-of-state.
(j) The Mailing Addresses Request/Order Form requires the following information:
(1) Type of licensure list requested;
(2) Format requested; and
(3) Identifying information of person making request.
(k) The Licensure Reactivation Request Form requires the following information:
(1) Licensure type;
(2) Identifying information;
(3) Employment information;
(4) Graduate education;
(5) License type and number; and
(6) Dates of inactivation and reactivation of license.
(l) The LPC Continuing Education Approval Application Form requires the following information:
(1) name of workshop;
(2) program context;
(3) program knowledge area;
(4) name of presenter;
(5) presenter qualifications;
(6) date of presentation;
(7) number of hours requested;
(8) sponsoring agency;
(9) name of contact;
(10) phone number of contact;
(11) signature and signature date of contact;

(12) program content in relation to counseling ethics;
(13) program content in relation to counseling supervision;
(14) number of hours requested for counseling ethics; and
(15) number of hour requested for counseling supervision.

(m) The Continuing Education Rosters for LPC Approved Supervisors requires the following information:
(1) name of licensee;
(2) signature and signature date of licensee;
(3) total clock hours of workshop(s);
(4) name of counseling supervision workshop;
(5) sponsoring agency of workshop(s);and
(6) date of workshop(s), and number of hours of each workshop.

(n) The Termination of Supervision Agreement requires the following information:
(1) name of candidate;
(2) current place of employment of candidate;
(3) address of current place of employment of candidate;
(4) phone number of candidate;
(5) email address of candidate;
(6) signature and signature date of candidate, (if available);
(7) name of supervisor;
(8) license number of supervisor;
(9) current place of employment of supervisor;
(10) phone number of supervisor;
(11) email address of supervisor;
(12) signature and signature date of supervisor, (if available); and
(13) effective date of termination of supervision agreement.

86:10-7-2.1. Submission of documents

The applicant shall monitor the progress of the application. The Board shall not automatically contact applicants regarding the receipt or absence of documents.

86:10-7-3. Negative references

The Board may ask an applicant for licensure as a professional counselor or specialty designation, whose file contains negative references of substance, to appear for an interview before the licensure is completed.

86:10-7-4. Re-application for permanently expired license

(a) Re-application after license expires for non-renewal shall include the following documents:
(1) Application form,
(2) Official transcripts, mailed from the university or college,
(3) Document of Recommendation forms,
(4) Supervision Agreement,
(5) Statement of Professional Disclosure,
(6) New Application Fee,
(7) On-Site Supervisor Verification Form, and
(8) Two (2) classifiable sets of fingerprints.

(b) Applicant shall re-take two examinations:
(1) The National Counselor Examination or another equivalent examination as determined by the Board; and
(2) The Oklahoma Legal and Ethical Responsibilities Examination.

(c) The Internship/Practicum Documentation Form on file shall carry over to a new application.

(d) All previously submitted and approved Supervised Experience shall carry over to a new application.

(e) Applicant shall obtain approved supervision until the exams are taken and passed as described in OAC Rule 86:10-29-13.

86:10-7-5. Re-application for revoked license

(a) No re-application for a revoked license will be considered for a period of 5 years following the revocation. Re-application after license is revoked for administrative action shall include the following documents:
(1) Application form,
(2) Official transcripts, mailed from the university or college,
(3) Document of Recommendation forms,
(4) Supervision Agreement,
(5) Statement of Professional Disclosure,
(6) New Application Fee,
(7) On-Site Supervisor Verification Form, and
(8) Two (2) classifiable sets of fingerprints.

(b) Applicant shall re-take two examinations:
(1) The National Counselor Examination or another equivalent examination as determined by the Board; and
(2) The Oklahoma Legal and Ethical Responsibilities Examination.

(c) The Internship/Practicum Documentation Form on file shall carry over to a new application.

(d) All previously submitted and approved Supervised Experience shall not carry over to a new application.

(e) Application materials shall be reviewed by the Board.

(f) At the time of application, applicant must provide additional documentation to demonstrate rehabilitation relating to the cause of the revocation of licensure.

(g) The Board may impose reasonable practice limitations that are in addition to the requirements for completion of approved supervised experience.

86:10-7-6. Re-application for voided application for failure to take scheduled examinations

(a) Re-application after application is voided for failure to take scheduled examinations or after the eligible applicant fails an examination and does not take subsequent scheduled examinations shall include the following documents:
(1) Application form,
(2) Official transcripts, mailed from the university or college,
(3) Document of Recommendation forms,

(4) Supervision Agreement,
(5) Statement of Professional Disclosure Form,
(6) New Application Fee,
(7) On-Site Supervisor Verification Form, and
(8) Two (2) classifiable sets of fingerprints.

(b) Applicant shall take two examinations:
(1) The National Counselor Examination or another equivalent examination as determined by the Board; and
(2) The Oklahoma Legal and Ethical Responsibilities Examination.

(c) The Internship/Practicum Documentation Form on file shall carry over to a new application.

(d) All previously submitted and approved Supervised Experience shall carry over to a new application.

(e) Applicant shall obtain approved supervision until the exams are taken and passed and/or until the supervision requirement is complete as described in OAC Rule 86:10-11-5(h).

86:10-7-7. Re-application for voided application for failure to complete supervised experience

(a) Re-application after application is voided for failure to complete the supervised experience requirement within sixty (60) months as described in OAC Rule 86:10-11-5(i) shall include the following documents:
(1) Application form,
(2) Official transcripts, mailed from the university or college,
(3) Document of Recommendation forms,
(4) Supervision Agreement,
(5) Statement of Professional Disclosure,
(6) New Application Fee,
(7) On-Site Supervisor Verification Form, and
(8) Two (2) classifiable sets of fingerprints.

(b) Applicant shall re-take two examinations:
(1) The National Counselor Examination or another equivalent examination as determined by the Board; and
(2) The Oklahoma Legal and Ethical Responsibilities Examination.

(c) The Internship/Practicum Documentation Form on file shall carry over to a new application.

(d) All previously submitted and approved Supervised Experience shall be voided with prior application and shall not carry over to a new application.

(e) Applicant shall obtain approved supervision until the exams are taken and passed and/or until the supervision requirement is complete as described in OAC Rule 86:10-11-5(h).

86:10-7-8. Re-application for denied application

(a) Re-application after application has been denied, as prescribed in Section 1912 of the LPC Act, shall include the following documents:
(1) Application form,
(2) Official transcripts, mailed from the university or college,
(3) Document of Recommendation forms,
(4) Supervision Agreement,
(5) Statement of Professional Disclosure,
(6) New Application Fee,
(7) On-Site Supervisor Verification Form, and
(8) Two (2) classifiable sets of fingerprints.

(b) Application materials shall be reviewed by the Board.

(c) Applicant shall be required to take necessary examinations.

(d) Applicant shall be required to accrue an additional 500 hours of supervised experience.

(e) Internship/Practicum Documentation Form on file shall carry over to a new application.

(f) All previously submitted and approved Supervised Experience shall carry over to a new application.

(g) Applicant shall obtain approved supervision until the exams are taken and passed. Failure to do so may constitute a violation of OAC Rule 86:10-29-13.

86:10-7-8.1. Re-application for revoked approved supervisor status

No re-application for a revoked approved supervisor status, as a result of administrative action, shall be considered for a period of five (5) years following the revocation and said re-application shall meet the requirements described in subsection 86:10-11-4 of this Chapter.

86:10-7-9. Denial of licensure application

Following the denial of a licensure application by the Board to an applicant who has a felony conviction, as prescribed in Section 1912 (B) of the Act, the applicant may request an administrative hearing to contest the denial of his/her application within 15 days of receiving notification from the Board. If a hearing is not requested within 15 days, the denial will be final.

SUBCHAPTER 9. ACADEMIC REQUIREMENTS

86:10-9-1. Graduate hours and degrees required

Each applicant shall possess at least a master's degree in counseling, or a mental health related graduate degree deemed substantially content-equivalent. All graduate course work applied toward licensure shall be from a regionally accredited college or university recognized by the United States Department of Education. At least sixty (60) semester credit hours or ninety (90) quarter credit hours of graduate counseling-related course work, including internship, shall be earned. In order to be considered acceptable, the graduate degree(s) shall:
(1) follow a planned, sequenced mental health program of study which is reflected in the university catalog and approved by the governing authority of the college or university.
(2) include a program whose primary focus is clearly to prepare the applicant for a career in counseling.
(3) be listed in the college or university catalog.

86:10-9-2. Knowledge area required

(a) Each applicant shall possess as a part of the required sixty (60) semester credit hours or ninety (90) quarter credit hours of graduate curriculum, one (1) or more courses of at least three (3) semester credit hours or four (4) quarter credit hours per course in each of the following core counseling areas:

(1) Human growth and development - at least one (1) course which deals with the process stages of human intellectual, physical, social and emotional development of any of the stages of life from prenatal through old age.

(2) Abnormal human behavior - at least one (1) course which offers a study of the principles of understanding dysfunction in human behavior or social disorganization.

(3) Appraisal/assessment techniques - at least two (2) courses which deal with the principles, concepts and procedures of systematic appraisal, assessment, or interpretation of client needs, abilities, and characteristics, which may include the use of both testing and non-testing approaches.

(4) Counseling theories/methods - at least two (2) courses which survey the major theories and/or techniques of counseling.

(5) Professional orientation/ethics - at least one (1) course which deals primarily with the objectives of professional counseling organizations, codes of ethics, legal aspects of practice, standards of preparation and the role of persons providing direct counseling services.

(6) Research - at least one (1) course in the methods of social science or mental health research which includes the study of statistics or a thesis project in an area relevant to the practice of counseling.

(7) Practicum/internship - at least one (1) course of an organized practicum with at least three hundred (300) clock hours in counseling with planned experiences providing classroom and field experience with clients under the supervision of college or university approved counseling professionals.

(8) Knowledge areas - at least five (5) courses of at least three (3) semester credit hours or four (4) quarter credit hours each from the knowledge areas listed below.

(A) Group counseling - course that provides both theoretical and experiential understandings of group purpose, development, dynamics, theories, methods, skills, and other group approaches in a culturally diverse society, including issues of group counseling leadership, stages, skills, methods, and ethics issues.

(B) Life style and career development - course that provides an understanding of career development and related life factors, as well as an overview of career development theories, program planning, educational planning, assessment techniques, and applied career counseling processes, including those applicable to specific populations in a global economy.

(C) Social and cultural foundations - course that provides an understanding of the cultural context of relationships, issues, and trends in a culturally diverse society, including an overview of social and cultural theories, strategies, and roles to be applied by the pluralistic counselor to establish an environment for optimal client wellness and successful counseling outcomes.

(D) Personality theories - course that examines contemporary and alternative personality theories that provide the student with models to conceptualize client presentation and that help the student select appropriate counseling interventions, including an examination of models of counseling that are consistent with current professional research and practice in the field of counseling.

(E) Crisis intervention - course that provides an overview of crisis and disaster intervention strategies for the professional counselor that addresses areas including, but not limited to, crises of suicide, homicide, disability due to a mental illness, domestic violence, school violence, post-traumatic stress disorder, and vicarious trauma.

(F) Marriage/family counseling - course that provides an overview of the knowledge, skills, and practices necessary to address a wide variety of issues in the context of relationships and families, including historical, theoretical, and developmental issues in systems counseling, in addition to examining the basic skills of marriage, couple, and family counseling.

(G) Addictions counseling - course that provides an overview of assessment and treatment methods available for clients and their family members struggling with substance-related disorders or behavioral/process addiction issues.

(H) Rehabilitation counseling - course that provides an overview of the history, philosophy, and legal basis of rehabilitation programs, the roles of the rehabilitation counselor, and the process of rehabilitation, including the organizational structure of public and private rehabilitation systems, societal trends in rehabilitation, and professional issues related to the role of the rehabilitation counselor.

(I) Gerontology - course that provides a conceptual system for understanding the phenomenon of aging and the counselor's role in working with an aging client population, including practical counseling skills necessary for meeting the demands of coping with aging in a culturally diverse society.

(J) Human sexuality - course that focuses on sexual development and educational issues as applied to the field of professional counseling with emphases placed upon becoming comfortable with one's own sexuality, assisting parents with providing sexual education to their children, providing education with regard to sexual matters, and diagnosing and treating sexual dysfunction.

(K) Counseling with children/adolescents - course that provides instruction in the theories and techniques used in counseling children and adolescents, including instruction on the conceptualization of

childhood and adolescent problems with an emphasis on age- and developmentally-appropriate interventions.

(L) Clinical supervision - course that serves as a didactic and experiential learning experience for counselors who wish to assume the role of clinical supervisor, including the assimilation and application of major theoretical/conceptual models and approaches to clinical supervision in a variety of settings.

(M) Psychopharmacology - course that provides an overview of commonly prescribed psychotropic medications for psychiatric disorders to assist the counselor in understanding his or her role in working with medical professionals in the concurrent treatment of mental health issues using an interdisciplinary approach.

(N) Consultation - course that provides the knowledge and skills necessary for the delivery of counselor consultation, including basic models of consultation, the content and procedural process for implementing consultation, and characteristics of an effective consultant-consultee relationship.

(O) Physical and Emotional Health - course that deals with the overlap of physiological and psychological health models, examining the neural and hormonal bases of learning, memory, motivation, emotions, mental disorders, and other behaviors.

(P) Grief counseling - course that addresses the mental health, social, and cultural manifestations of grief counseling, including, interventions and the coverage of characteristics of grief throughout the life cycle.

(Q) Specialty areas when established.

(b) **Remaining courses.** The remaining courses needed to meet the sixty (60) semester or ninety (90) quarter graduate-hour requirement shall be in any of the knowledge areas listed in 86:10-9-2(a) and may be in increments of one (1), two (2) or three (3) graduate semester hour courses or one (1), two (2), three (3) or four (4) graduate quarter hour courses.

SUBCHAPTER 11. SUPERVISED EXPERIENCE REQUIREMENT

86:10-11-1. Documents required prior to accrual of supervision hours

The following documents must be received and approved by the Board before the accrual of supervised experience can begin:

(1) Application materials;

(2) Verification of Oklahoma Legal and Ethical Responsibilities Examination passing score;

(3) Supervision agreement;

(4) Statement of professional disclosure; and

(5) On-Site Supervisor Verification Form.

86:10-11-2. Responsibility of supervisors and supervisees

(a) The supervisor and supervisee shall be jointly responsible for the following:

(1) Ensuring the requirements under this subchapter are fulfilled. A failure to comply may result in the loss of supervision hours, denial of licensure, initiation of formal complaint procedures, and/or loss of approved supervisor status.

(2) Ensuring the client's right to confidentiality is protected and the rules of the supervisor and supervisee's employers are adhered to during the course of supervision.

(b) The supervisor shall maintain supervision records for each supervisee for at least five (5) years beyond the termination or completion of the supervised experience.

(c) When supervision is terminated by either the supervisor or the supervisee, a Termination of Supervision Agreement Form must be submitted to the Board within three (3) business days of the termination.

(d) The supervisee is responsible for negotiating a new supervision contract with a board approved supervisor and following all requirements set forth in Subchapter 11, section 86:10-11-7.

86:10-11-3. Acceptability of supervised experience

(a) Supervised experience is acceptable when it consists of the performance of counseling activities as described in Section 1902, of the Act under supervision as described below.

(1) Supervision shall focus on the raw data from a supervisee's continuing clinical practice, which may be available to the supervisor through a combination of direct observation, co-therapy, written clinical notes, and audio and video recordings.

(2) Supervision is a process clearly distinguishable from personal psychotherapy, and is contracted in order to serve professional/vocational goals.

(3) Individual supervision consists of face-to-face contact with one supervisor and one supervisee.

(4) Group supervision may be conducted with two (2) to six (6) supervisees and a supervisor.

(5) Technology-assisted supervision must be approved by the Board prior to the accrual of hours. Factors to be considered by the Board include: distance between approved supervisor and candidate; financial hardship on approved supervisor or candidate; physical hardship on approved supervisor or candidate; specialty credentials; and other pertinent factors.

(b) Supervised experience begins after all applicable academic requirements, as stated in LPC Regulations, Subchapter 9, have been completed.

(c) An LPC Candidate may accrue supervised experience hours in academic, governmental or private-not-for-profit and private for-profit settings.

(d) Supervised experienced hours shall be accrued in a private for-profit or not-for-profit counseling practice setting, only if:

(1) The LPC Candidate is employed at the same facility as a person licensed in the state of Oklahoma as a

Licensed Professional Counselor, a Licensed Marital and Family Therapist, a Licensed Behavioral Practitioner, a Psychologist, a Psychiatrist, a Clinical Social Worker, or a Licensed Alcohol and Drug Counselor, whose assigned job duties include being immediately available to the LPC Candidate for supervision at any time the LPC Candidate is engaging in the practice of counseling or counseling-related services.

(2) The LPC Candidate is receiving supervision for licensure from an approved LPC supervisor who is not required to work at the same location as the LPC Candidate.

86:10-11-4. Supervisor qualifications

(a) Supervisor qualifications include:

(1) A Licensed Professional Counselor who has practiced in positions relevant to those the LPC proposes to supervise for two (2) years beyond the date of issue of the Oklahoma license.

(2) As of January 1, 2000:

(A) an LPC who has successfully completed a graduate course in counselor supervision of at least forty-five (45) contact hours or equivalent course of study acceptable to the Board. This equivalent course of study shall consist of workshops in counseling supervision in combination with directed study of counseling supervision literature. Fifteen (15) of the forty-five (45) contact hours shall be in a class or workshop format which includes four (4) supervisors-in-training; the other thirty (30) contact hours shall be reserved for directed study, and

(B) an LPC who has passed the Oklahoma Legal and Ethical Responsibilities Examination.

(3) An agreement to be "on call" to the supervisee on a twenty-four (24) hour basis and to arrange for an alternate supervisor if not available.

(4) After receipt of the LPC supervision agreement, LPC supervisor may be approved by the Board.

(5) Approved LPC Supervisors are required to complete a minimum of three (3) clock hours of continuing education in counseling supervision each renewal period.

(6) Approved Supervisor designation will not be renewed until the continuing education requirement is met for each missed renewal period.

(7) If continuing education requirement is not met within five (5) years of expiration, approved supervisor status will be permanently expired and the LPC must re-apply and meet all requirements in this Subchapter, including the re-taking of 86:10-11-4(2)(A) or (B) to become an approved supervisor.

(8) An active approved supervisor may request inactive status by submitting a request in writing to the Board. An inactive approved supervisor shall not provide any activities described in Subchapter 11 of this Chapter.

(9) An inactive approved supervisor may reactivate by submitting the required counseling supervision continuing education due by the end of the current renewal period.

(10) An active approved supervisor status may be retired by informing the Board in writing. A retired approved supervisor status shall not be reinstated but does not prevent a person from applying for approved supervisor status at a future date.

(11) No re-application for a revoked approved supervisor status, as a result of administrative proceeding, shall be considered for a period of five (5) years following the revocation.

(b) Effective October 1, 2015, a supervisor may not supervise more than a total of twelve (12) candidates for licensure at a time. A supervisor who wants to supervise more than twelve (12) candidates must petition the Board for approval for each person above the maximum number. The petitions will be determined on a case-by-case basis depending on the circumstances of the request.

86:10-11-5. Duration of supervision

(a) Three (3) years or three-thousand (3000) clock hours of full time, on-the-job experience, which is supervised by an approved LPC supervisor, shall be completed.

(b) For each one-thousand (1000) clock hours of full time, on-the-job experience, three hundred fifty (350) hours shall be direct face to face client contact.

(c) "Full time" means at least twenty (20) hours per week.

(d) Weekly, face-to-face supervision shall be accrued under an LPC at the ratio of forty-five (45) minutes of supervision for every twenty (20) hours of on-the-job experience.

(e) "Group supervision" means an assemblage of counseling supervisees consisting of from two (2) to six (6) members and no more than one-half ($\frac{1}{2}$) of the required supervision hours may be received in group supervision. Technology-assisted supervision shall not account for more than 56.25 hours of the total requirement.

(f) One (1) or two (2) years of supervised experience may be gained at the rate of one (1) year for each thirty (30) graduate semester credit hours or forty-five (45) graduate quarter credit hours in counseling-related course work beyond the master's degree. (Minimal educational requirements are a master's degree [at least forty-five (45) hours] or doctorate with the first forty-five (45) hours meeting the minimal educational requirements. As of January 1, 2000, minimal educational requirements are a master's degree [at least sixty (60) semester credit hours or ninety (90) quarter credit hours] or a doctorate with the first sixty (60) semester credit hours or ninety (90) quarter credit hours meeting the minimal educational requirements.)

(g) Regardless of the number of hours earned beyond the master's degree, the LPC supervisee shall receive at least one (1) year or one-thousand (1000) clock hours of supervision in the ratio described in subchapter 11, section 86:10-11-5(b-d).

(h) If an applicant completes the supervised experience requirement before passing the licensure examination, the applicant shall continue to practice under LPC supervision as described in this subchapter, unless exempted by the Act, until licensed. Failure to do so constitutes a violation of the Act and may be subject to prosecution under the District Attorney and sanction by the Board.

(i) Applicants shall complete supervised experience requirements within sixty (60) months of the date of the approval of the first supervision agreement or the application shall be voided.
(j) Approved supervisors shall perform at least two (2) observations (live or tape) per each six (6) month evaluation period for each supervisee.
(k) Approved supervisors shall consult with on-site supervisor at least once during each six (6) month evaluation period for each supervisee.

86:10-11-6. Documentation of supervised experience
(a) A supervision agreement form between the supervisor and supervisee, the Statement of Professional Disclosure Form, and the On-Site Supervisor Verification Form shall be received by the LPC Board prior to beginning the accrual of supervised hours.
(b) The supervisor and supervisee shall sign and submit the "Evaluation of Supervised Experience," including documentation of observations and date of consultation between approved supervisor and on-site supervisor, semi-annually.

86:10-11-7. Supervision agreement
(a) The Supervision Agreement shall include the following:
(1) Supervisor and supervisee agree to terms set forth for the accrual of supervised experience; and
(2) A reproduction of the regulation regarding supervised experience.
(b) Evaluation of Supervised Experience document shall include the following:
(1) Identifying information;
(2) Time, place and duration of supervised experience;
(3) Percentage of time spent in different counseling activities;
(4) Supervisor's rating of professional activity;
(5) Supervisor's comment section; and
(6) Record of supervised experience.

SUBCHAPTER 13. FEES

86:10-13-1. Fees established
The Board shall establish fees to provide for the administration of the LPC Act.

86:10-13-2. Schedule of fees
(a) **Application fee.** One hundred forty-five dollars ($145.00) shall be submitted with the application form.
(b) **License examination fee.** One hundred dollars ($100.00) shall be submitted when the applicant registers for the examination.
(c) **Initial license fee.** Ninety dollars ($90.00) shall be submitted upon notification by the Board. This fee validates the license for a two (2) year period.
(d) **Annual renewal fee.** Eighty dollars ($80.00) shall be submitted upon notification by the Board on or before June 30 and validates the license for twelve (12) months.
(e) **Specialty application fee.** One hundred dollars ($100.00) shall be submitted with the specialty application.
(f) **Specialty designation fee.** Fifty dollars ($50.00) shall be submitted upon notification by the Board.
(g) **Specialty designation renewal fee.** Twenty dollars ($20.00) shall be submitted on or before June 30 and validates the license for twelve (12) months.
(h) **Late renewal fee.** Twenty-five dollars ($25.00) shall be submitted if the license is not renewed by June 30. The licensee must submit this fee as well as the license renewal fee on or before the following June 30 to avoid revocation.
(i) **Replacement fee.** Twenty-five dollars ($25.00) shall be submitted for the issuance of a license to replace a license which has been lost, damaged, or is in need of revision.
(j) **Inactive license fee.** Twenty-five dollars ($25.00). Payment of this fee renders the license inactive and suspends all rights and privileges granted by the license until the license is reactivated.
(k) **Reactivation fee.** A pro-rated fee in accordance with LPC regulation 86:10-21-3.1 shall be submitted at the time of reactivation.

86:10-13-3. Fees non-refundable
Fees paid by applicants are not refundable.

86:10-13-4. Method of payment
Payment of fees shall be by personal check, cashier's check, money order or cash. Payment of fees may be made by credit card or other electronic means, if acceptable by the Board. Any check returned to the Board for non-payment will result in suspension of license.

86:10-13-5. Review of fees
The Board shall periodically review the fee schedule and recommend any adjustments necessary to provide funds to meet its expenses without creating an unnecessary surplus.

SUBCHAPTER 15. LICENSURE EXAMINATIONS

86:10-15-1. Eligibility
An LPC applicant may be eligible to sit for the licensing examination following the submission of:
(1) Application fee and form;
(2) Practicum/Internship Documentation Form;
(3) Official transcript(s) showing completion of all academic requirements listed in subchapter 9, section 86:10-9-2;
(4) Three (3) Document of Recommendation Forms; and
(5) Two (2) classifiable sets of fingerprints.

86:10-15-2. Examinations required

Each applicant shall take two examinations:

(1) The National Counselor Examination for Certification and Licensure or another equivalent examination as determined by the Board; and

(2) The Oklahoma Legal and Ethical Responsibilities Examination.

86:10-15-3. Frequency

The Board shall administer the licensure examination at least one (1) time each year or as often as deemed necessary.

86:10-15-4. Application

(a) The Board shall mail notification of eligibility to sit for examination to the last known address of applicant no later than sixty (60) days after receiving the required and completed application materials.

(b) Upon receiving test eligibility letter from the Board, applicant shall submit examination registration materials and fees to the Board's designee.

(c) An applicant's eligibility to sit for the Oklahoma Legal and Ethical Responsibilities Examination shall be valid once the application has been Board approved.

(d) An applicant's eligibility to sit for the National Counselor Examination for Certification may be valid for two years, at which time if they have not successfully passed the exam, their licensure application shall be voided and the applicant shall be mailed notification at last known address.

(e) An applicant who fails the NCE exam, may schedule additional examinations, within the two-year eligibility period, with the submission of subsequent exam registration materials and fees. The subsequent exam can be scheduled no sooner than 90 days after the prior exam.

86:10-15-5. Grading

(a) Licensure examinations shall be graded by the Board or its designated representatives.

(b) The passing score on the examination shall be that score accepted as passing by the National Board for Certified Counselors.

86:10-15-6. Notice of results

(a) The Board shall mail notification to the examinee at last known address of the examination results within sixty (60) days of the date of the examination.

(b) The Board shall furnish the applicant an analysis of performance.

(c) No matter what numerical or other scoring system the Board may use in arriving at examination results, the official notice of results to the examinees shall be stated in terms of "pass" or "fail".

(d) If the notice of examination results is delayed for more than ninety (90) days after the date of the examination, the Board shall mail notification to the examinee at the last known address before the ninetieth (90th) day.

86:10-15-7. Failure to appear

If an applicant for licensure fails to appear for examination for reasons other than documented illness or other cause beyond the applicant's control after having agreed to do so by applying to take a particular examination, the applicant shall reapply and pay another examination fee before being admitted to a subsequent examination.

86:10-15-8. Failure to apply

The application of a person who fails to apply for, sit for, and successfully pass the National Counselor Examination, within the two-year eligibility period, after the applicant has been mailed notification at last known address in writing of his/her eligibility for examination, shall be voided and the applicant shall be mailed notification at last known address.

SUBCHAPTER 17. CONTINUING EDUCATION REQUIREMENTS

86:10-17-1. Purpose

The purpose of this subchapter is to establish the continuing education requirements necessary for license renewal.

86:10-17-2. Number of hours required

(a) Licensees shall complete and furnish documentation to the Board of twenty (20) clock hours of continuing education per year. One (1) graduate academic semester credit hour is equal to fifteen (15) clock hours. One (1) graduate academic quarter credit hour is equal to ten (10) clock hours. Current LPC License Committee members shall receive clock hours of acceptable continuing education for attendance and participation in Board or Committee meetings.

(b) A minimum of three (3) clock hours of continuing education hours must be in counseling ethics from programs pre-approved by the Board or its designee. Continuing education in counseling ethics is acceptable as meeting the pre-approval requirements by the Board when the continuing education program:

(1) Addresses ethics issues, as the sole focus and specifically pertains to the practice of counseling, as defined in Title 59 of the Oklahoma Statutes, Section 1902(6), counseling treatment interventions, consulting, referral activities, or research activities as defined in Title 59 of the Oklahoma Statutes, Section 1902.

(2) Addresses regulations as promulgated in Subchapter 3 of this Chapter.

(3) Meets all requirements of sections 2-5 of OAC 86:10-17-3.

(4) As of the July 1, 2008 to June 30, 2009 renewal period, the three clock hours of counseling ethics continuing education must be accrued in a face-to-face setting.

(5) Current LPC Board members shall receive clock hours of acceptable continuing education for attendance and participation in Board or Committee meetings.

(c) Approved LPC Supervisors must complete a minimum of three (3) clock hours of continuing education in counseling

supervision from programs pre-approved by the Board of its designee. Continuing education in Counseling Supervision is acceptable as meeting the pre-approval requirements by the Board when the continuing education program:

(1) Addresses issues specifically related to the practice of clinical supervision, as the sole focus, pursuant to regulations promulgated in Subchapter 11 of this Chapter.

(2) Contains content in one or more of the following knowledge areas:

(A) Ethical and legal considerations in the practice of clinical supervision;

(B) Theoretical models of clinical supervision;

(C) Clinical supervision intervention methods and modalities;

(D) Research in clinical supervision; and

(3) Meets all requirements of sections 2-5 of OAC 86:10-17-3 of this Chapter.

(4) As of the July 1, 2008 to June 30, 2009 renewal period, the three clock hours of counseling supervision continuing education must be accrued in a face-to-face setting.

86:10-17-3. Acceptable continuing education

Continuing education (C.E.) is acceptable to the Board when it:

(1) Approximates the content of any of the academic areas listed under OAC 86:10-9-2 of this chapter and;

(2) Is presented by a person who:

(A) is licensed or certified by counseling related professions;

(B) is a licensed or certified member of a non-counseling field, i.e. medicine, law if the content of the presentation is counselor related and falls within the presenter's area of training; or

(C) has experience teaching, at the graduate level, in a regionally accredited college or university from any of the knowledge areas listed in OAC 86:10-9-2 ; or

(D) the person is presenting or has presented at a national mental health conference provided by the American Counseling Association (ACA), or any of its divisions, American Psychological Association (APA), Association for Marriage and Family Therapy (AAMFT), National Association for Social Workers (NASW), the Association for Addiction Professionals (NAADAC), or other nationally recognized professional organization in the mental health field; or

(E) is presenting in a program sponsored or provided by a state or federal government agency with responsibility for mental health and substance abuse services; and

(3) Takes place in the context of:

(A) a college course, in-service training, institute, seminar, workshop, conference or a Board pre-approved home-study or technology-assisted distance learning course;

(B) takes place in the context of a national mental health conference provided by the American Counseling Association (ACA), or any of its divisions, American Psychological Association (APA), American Association for Marriage and Family Therapy (AAMFT), National Association for Social Workers (NASW), the Association for Addiction Professionals (NAADAC), or other nationally recognized professional organization in the mental health field; or

(C) a program approved or offered by a state or federal government agency with responsibility for mental health and substance abuse services; or

(D) Current LPC Board members shall receive clock hours of acceptable continuing education for attendance and participation in Board or Committee meetings.

(4) Is accrued during the twelve (12) months preceding the renewal deadline or, in the case of the first licensing period, twenty-four (24) months preceding.

86:10-17-4. Continuing education accrual from teaching

Continuing education may also be accrued when the LPC teaches in programs such as institutes, seminars, workshops, and conferences, when the content conforms to 86:10-17-3(1) of this subchapter, provided that such teaching is not required as part of the LPC's regular employment. Two (2) hours of continuing education are credited for each hour taught. No more than ten (10) hours of continuing education may be accrued per year through teaching activities. Credit will be given only for the first presentation.

86:10-17-4.1. Continuing education accrual from home-study or technology-assisted distance learning courses

Continuing education may be accrued when the LPC completes home-study or technology-assisted distance learning programs that are approved by the Board. No more than ten (10) hours of continuing education may be accrued per renewal period through home-study or technology-assisted distance learning courses. Presenter or program author must meet all requirements of OAC 86:10-17-3 of this Chapter. Home-study or technology-assisted distance learning is designed to deliver education to learners who are not in the direct physical presence of the educator.

86:10-17-5. Professional audience

Continuing education, whether received or presented by the LPC, shall be targeted toward a professional audience.

86:10-17-6. Documentation of attendance

LPCs shall retain verification of attendance documents for all continuing education hours claimed for a period of two (2) years. Acceptable continuing education verification of attendance documents include:

(1) An official continuing education validation form furnished by the presenter, or,
(2) A letter on the sponsoring presenter's letterhead giving the name of the program, location, dates, subjects taught, total number of hours attended, participant's name and presenter's name and credentials, or,
(3) An official graduate transcript showing course or audit credit, or,
(4) A letter for teaching activities on the sponsor's letterhead giving the name of the program, location, dates, subject taught, and total number of hours taught.

86:10-17-6.1. Submission of continuing education roster

LPCs shall submit a Continuing Education Roster (not individual verification of attendance documents) on an official Board form with the license renewal fee. Rosters may be obtained from the Board. The Continuing Education Roster shall include the name of the licensee, signature and signature date of the licensee, total clock hours of workshop(s), name of workshop(s), sponsoring agency of workshop(s), date of workshop(s), and the number of hours of each workshop. Only continuing education accrued in the preceding license renewal period shall be acceptable.

86:10-17-6.2. Audit of continuing education submissions

In May of each year, the Board shall randomly select from two (2) to twenty-five (25) percent of the number of LPCs on active status the previous year for an audit of their claimed continuing education credits. These selected LPCs shall provide the Board with verification of all credits claimed on their Continuing Education Roster on or before the renewal deadline. The Board may, at its discretion, audit and require verification of any credits claimed which it may consider questionable or fraudulent.

86:10-17-6.3. Penalty for failure to submit continuing education

Failure to fulfill the continuing education requirements by the renewal date renders the license in suspension. All rights granted by the license are null and void until the requirement is fulfilled and a late renewal fee is paid. The LPC has twelve (12) months from the date of suspension to fulfill the requirements for reinstatement. If not reinstated, the license shall expire.

86:10-17-6.4. Submission of fraudulent continuing education

The submission of fraudulent continuing education hours will be reviewed by the License Committee for referral for disciplinary action by the Board and may result in sanction by the Board.

86:10-17-7. Responsibility

The licensee shall be responsible for providing or arranging for sponsors to provide the information necessary for the Board to make a determination of the suitability of the program for continuing education requirements.

86:10-17-8. Failure to complete

A person whose license is not renewed due to failure to complete continuing education requirements shall follow subchapter 23 of this chapter known as "License and Specialty Late Renewal and Expiration."

SUBCHAPTER 19. ISSUANCE OF LICENSE

86:10-19-1. License

The Board shall issue a license certificate which contains the licensee's name, license number, specialty designation, if any, highest accredited counseling-related academic degree and date of issuance.

86:10-19-1.1. Statement of Professional Disclosure

An LPC license shall be issued only after the Board has received the applicant's Statement of Professional Disclosure.

86:10-19-2. Signature

Official licenses shall be signed by the Chair of the Board.

86:10-19-3. Property of Board

All licenses issued by the Board shall remain the property of the Board.

86:10-19-4. Notification

After having fulfilled all requirements for licensure the Board shall mail notification to the licensee, at last known address, of qualification for licensure; and when the license fee is received and the Board approves the candidate for licensure, the license will be mailed to the licensee.

86:10-19-5. Replacement

The Board shall replace a license that is lost, damaged, or is in need of revision upon written request and payment of the license replacement fee. Requests must include the LPCs original license or be accompanied by the damaged license, if available.

SUBCHAPTER 21. LICENSE AND SPECIALTY RENEWAL

86:10-21-1. Responsibility

Each LPC is responsible for renewing the license and specialty designation before the expiration date.

86:10-21-2. Initial licensing period

The renewal date of the original license shall be two (2) years from the last day of the month in which the license was originally issued.

86:10-21-3. Initial renewal

After the first two (2) years of licensure, the licensee shall submit verification of at least forty (40) hours of continuing education required for renewal.

86:10-21-3.1. Interim renewal

The renewal notice for the initial renewal shall solicit the required continuing education documentation and invoice the licensee for the interim period between the original renewal date and the following June 30th so that subsequent renewals shall be on a fiscal year basis. The renewal notice shall inform the licensee of the number of continuing education hours required by June 30th. Fees and continuing education hours will be prorated according to the schedule below.

(1) License expires last day of July:
  (A) Fee - $71.50
  (B) C.E. due June 30th - 16.5 hours
(2) License expires last day of August:
  (A) Fee - $65.00
  (B) C.E. due June 30th - 15 hours
(3) License expires last day of September:
  (A) Fee - $58.50
  (B) C.E. due June 30th - 13.5 hours
(4) License expires last day of October:
  (A) Fee - $52.00
  (B) C.E. due June 30th - 12 hours
(5) License expires last day of November:
  (A) Fee - $45.50
  (B) C.E. due June 30th - 10.5 hours
(6) License expires last day of December:
  (A) Fee - $39.00
  (B) C.E. due June 30th - 9 hours
(7) License expires last day of January:
  (A) Fee - $32.50
  (B) C.E. due June 30th - 7.5 hours
(8) License expires last day of February:
  (A) Fee - $26.00
  (B) C.E. due June 30th - 6 hours
(9) License expires last day of March:
  (A) Fee - $19.50
  (B) C.E. due June 30th - 4.5 hours
(10) License expires last day of April:
  (A) Fee - $13.00
  (B) C.E. due June 30th - 3 hours
(11) License expires last day of May:
  (A) Fee - $ 6.50
  (B) C.E. due June 30th - 1.5 hours
(12) License expires last day of June: not prorated

86:10-21-3.2. Annual renewal

After the initial two (2) year licensing period plus the interim period, renewals shall expire each June 30th, with a renewal fee of eighty dollars ($80.00) and a continuing education requirement of twenty (20) hours.

86:10-21-4. Specialty renewal

Regardless of the date the Board granted a specialty designation, the date of a specialty renewal shall be the same date as that of the licensure renewal.

86:10-21-5. Requirements for renewal

Requirements for renewal include:

(1) Compliance with the Act and rules.
(2) Documentation of the required continuing education.
(3) Payment of the renewal fee(s).
(4) Submission of Continuing Education on the Continuing Educations Roster for Renewal of LPC licensure form.

86:10-21-6. Display of verification card

(a) A current license verification card shall be displayed on the original or replaced license.
(b) A current license verification card shall be readily available on the LPC's person at any time counseling services are being

86:10-21-7. Inactive status

(a) An active license may be placed on inactive status by written request and payment of a one-time twenty-five dollar ($25.00) fee. An inactive license forfeits all rights and privileges granted by the license.
(b) When a license is placed on inactive status, the license and active verification cards shall be returned to the Board.
(c) A license that has remained inactive for at least one (1) year may be reactivated upon payment of a prorated renewal fee and submission of prorated continuing education hours required during the renewal year, in accordance with this Chapter, if there are no impediments to licensure.
(d) A license placed on inactive status may be reactivated within one (1) year when submitted with the required renewal fee and continuing education, in accordance with this Chapter, if there are no impediments to licensure.

SUBCHAPTER 23. LICENSE AND SPECIALTY LATE RENEWAL AND EXPIRATION

86:10-23-1. Renewal notification

The Board shall mail to licensee's last known address, at least forty-five (45) days prior to the expiration date of the LPCs license, a notice of expiration.

86:10-23-2. Failure to renew

If the licensee fails to renew the license by the expiration date, the Board shall mail a notification to the last known address which shall include:

(1) Suspension of the license and forfeiture of rights and privileges granted by the license, and,

(2) The LPC has the right to renew the license by payment of the renewal fee and the late renewal fee and fulfillment of all other renewal requirements for up to one (1) year following the suspension of the license.

86:10-23-3. Return of license

Licenses not renewed within the one (1) year renewal period shall be permanently expired and shall not be reinstated. The license shall be returned to the Board.

86:10-23-4. Misrepresentation

An LPC whose license has been inactivated, suspended, or revoked and continues to represent himself as an LPC, is in violation of the Act and shall be reported to the appropriate District Attorney for prosecution.

SUBCHAPTER 25. LICENSURE BY ENDORSEMENT

86:10-25-1. Submission of verification of license

An applicant applying for licensure by endorsement shall submit a letter from the licensing agency stating the applicant is active and in good standing. The Board may require the applicant to submit a copy of the statute and rules of the agency issuing the license.

86:10-25-2. Licensing procedures

An applicant must submit the application form and related documents as requested, licensure fees, three current documents of recommendation and official transcripts.

86:10-25-3. License by endorsement

The Board shall issue a license by endorsement to an applicant who is licensed or certified as a professional counselor by another state or territory of the United States or the District of Columbia and who meets the following:

(1) The applicant's professional counselor license in the other jurisdiction is active and in good standing which allows the applicant to practice independently without supervision. The applicant shall have no history of suspension or revocation action against the license and fulfills all the requirements located in OAC 86:10-5;

(2) The applicant fulfills the requirements of Title 59 of the Oklahoma Statutes, Section 1906(A) and (B)(1)(3)(4);

(3) The applicant must have at least a masters degree in a counseling or a mental health related field from a regionally accredited college or university;

(4) The applicant must show proof of one of the following:

(A) has held a license in another jurisdiction for at least five years; or

(B) satisfies the requirements located at Title 59 Oklahoma Statutes , Section 1906 (C); and

(5) The applicant successfully completes the Oklahoma Legal and Ethical Responsibilities Examination.

SUBCHAPTER 27. CONSUMER INFORMATION

86:10-27-1. Directory

(a) The Board shall provide a directory of Licensed Professional Counselors (LPC's).

(b) The directory of LPCs shall include but not be limited to the name, academic degree under which the license is held, preferred mailing address, telephone number, and license number of current licensees.

86:10-27-2. Brochure

The Board shall provide information of consumer interest which describes the regulatory functions of the Board and its procedures to handle and resolve consumer complaints.

86:10-27-3. Statement of professional disclosure

(a) The Statement of Professional Disclosure shall inform clients of the LPC's credentials, training, fees, orientation/techniques and inform the client to contact the Board should the client seek additional information about the LPC.

(b) Both LPCs and LPC candidates shall:

(1) Furnish an example copy signed by the LPC, and in the case of a candidate, signed by the LPC supervisor and the candidate, to the Board. The LPC and LPC Candidate shall submit updated copies when the situation warrants; and

(2) Have two (2) copies signed by both the client or adult caretaker and the counselor. One (1) copy shall be given to the client and the other copy shall be retained by the counselor in the client's file.

86:10-27-4. Informed consent

Clients have the freedom to choose whether to enter into or remain in a counseling relationship and need adequate information about the counseling process and the LPC. LPCs have an obligation to review in writing and verbally with clients the rights and responsibilities of both the LPC and the client. Informed consent is an ongoing part of the counseling process, and LPCs appropriately document discussions of informed consent throughout the counseling relationship.

SUBCHAPTER 29. ENFORCEMENT

86:10-29-1. Purpose

The purpose of this subchapter is to specify the procedure of processing of Requests for Inquiry filed by citizens and the filing of disciplinary actions against LPCs or against persons who practice licensed professional counseling without a license or exemption.

86:10-29-2. Definitions

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

"Act" means the Licensed Professional Counselors Act, 59 O.S. §§ 1901 *et seq.*, as amended.

"APA" means Article I and/or Article II of the Administrative Procedures Act, 75 O.S. §§ 250*et seq.*

"Board" means the State Board of Behavioral Health Licensure.

"Complaint Committee" means one Board member who is a LPC, the Executive Director, the Assistant Attorney General, and may include other appropriate individuals as determined by the Committee.

"Formal Complaint" means a written statement of alleged violation of the LPC Act by a person licensed or certified by the Board and which is filed by the Board's attorney along with a Notice of Hearing scheduling an individual proceeding before the Board.

"Hearing" means the process followed by the Board to provide Due Process to a licensee respondent in an individual proceeding. "Individual Proceeding" means the formal process by which the Board takes administrative action against a person licensed or certified by the Board in accordance with the APA and the Act.

"Request for Inquiry" means a written or oral statement of complaint from any person of a possible violation of the Act or rules of the Board.

"Respondent" means the person against whom an individual proceeding is initiated.

"Staff" means the personnel of the Board.

86:10-29-3. Complaint Procedure

(a) **Receiving Requests for Inquiry.** Any person may file a Request for Inquiry against a Licensed Professional Counselor ("LPC") or a person who delivers licensed professional counseling services without a license. A person wishing to report a concern or alleged violation against a LPC or a person delivering licensed professional counseling services without a license may notify the Board in writing, by telephone or by personal visit. The Board or its agent may require complainants to reduce oral complaints to writing to facilitate the review and investigation of the Request for Inquiry. The Complaint Committee will determine whether the Request for Inquiry alleges a possible violation of the Act. Upon receipt of the Request for Inquiry, the Executive Director will:

(1) Stamp all pages with a Board stamp indicating date of receipt;

(2) Review the Request for Inquiry to determine if the person against whom the Request for Inquiry is made is a person who is subject to the jurisdiction of the Board;

(3) Generate a letter to the complainant indicating receipt of the Request for Inquiry;

(4) Notify the members of the Complaint Committee by providing a copy of the Request for Inquiry to each member.

(b) **Authority of Complaint Committee.** The Complaint Committee has the authority to consult on professional duties and responsibilities as set forth in the LPC Act. In addition, the Complaint Committee has authority to do the following:

(1) Appoint an investigator;

(2) Meet with licensees who are the subject of the Request for Inquiry;

(3) Outline the terms of a proposed Consent Order for the informal disposition of Requests for Inquiry to be submitted at a Board hearing for approval;

(4) Authorize the filing of a formal Board Complaint in matters that may result in the revocation, suspension or probation of a license.

(c) **Reviewing Requests for Inquiry.** The Executive Director has the authority to respond directly to individuals filing a Request for Inquiry without need for referral to the Complaint Committee for matters that do not allege a violation of the law or which require no further action, and for allegations that if true, would not be a violation of the law or rules. If the allegation(s) indicate a possible violation of the law or rules, the Complaint Committee shall determine whether additional investigation is needed and shall make the following determination:

(1) The alleged violation(s) if found to be valid, would not result in a denial, revocation or suspension of a license, but one which does indicate the need for Board review and possible informal action.

(2) The alleged violation(s) if found to be valid, would result in a denial, revocation, suspension or probation of a license.

(d) **Allegations, if substantiated, not appearing to result in a denial, revocation or suspension of a license.** If an alleged violation appears to be one which would not result in the revocation, suspension or probation of a license, the Complaint Committee shall proceed with reviewing the Request for Inquiry. Upon the consent of the Complaint Committee and the advice of the Attorney General liaison the Complaint Committee or its designee shall proceed by:

(1) Notification to the licensee by certified mail that a Request for Inquiry has been received, outlining the nature of the inquiry.

(2) Forwarding to the licensee a copy of the informal process for addressing Requests for Inquiry which requires:

(A) a prompt letter to the Board from the licensee responding to the merits of the Request for Inquiry;

(B) an informal interview with the Complaint Committee to fully explore the issues involved in the Request for Inquiry;

(C) an agreement by the Complaint Committee and the licensee on the merits of the Request for Inquiry

(D) a proposed Consent Order for disciplinary action for the licensee, signed by Board member serving on the Complaint Committee, to be submitted for approval of the Board at an open meeting, the terms of which may include but not be limited to the following:

(i) a tutorial assigned to the licensee in areas determined by the Complaint Committee in areas determined by the Board addressing the practice in question, under the supervision of a Board Approved Supervisor assigned by the Board

(ii) a Notice of Violation reprimanding the licensee for the practice in question;

(iii) re take the Jurisprudence exam

(iv) Letter of Explanation

(E) a review of the course of action in a specified time, no longer than six months, to determine whether or not remediation has taken place; and

(F) a letter to the licensee indicating the informal process has ended; or,

(3) Referral to the formal investigation process when:

(A) the licensee fails to respond to the certified letter from the Complaint Committee;

(B) the informal process reveals new or expanded allegations that indicate the possibility of a denial, revocation or suspension of a license;

(C) the licensee fails to meet the requirements of Consent Decree without good cause.

(D) A Consent Order entered into pursuant to this subsection that is agreed to by the Board and the licensee shall not be considered a disciplinary action and will not appear on the Board's website or be reported to a national databank.

(e) **Allegations if substantiated, appearing to result in a revocation, suspension or probation of a license.** If an alleged violation appears to be one which would result in a revocation, suspension or probation of a license, the Complaint Committee shall proceed with addressing the Request for Inquiry by the process detailed below based upon agreement of a majority of its members:

(1) Contacting an investigator designated by the Board as qualified to address the nature of the Request for Inquiry.

(2) Providing the designated investigator with names and addresses of the complainant, if available, and the licensee.

(3) Issuing a letter notifying the licensee of the investigation and Request for Inquiry

(4) Complaint Committee to determine whether or not the licensee is to be interviewed by the contract investigator or upon advice of the Attorney General liaison, conducting an interview by the Assistant Attorney General in a setting under oath; and to determine whether in addition, the matter is to be referred for criminal investigation.

(5) Following investigation, the Complaint Committee shall review and determine whether the Request for Inquiry should be dismissed, referred for informal resolution as there appears to be a violation of the Act but does not appear to be sufficient evidence to support a revocation, suspension or probation of a license, or to proceed with authorizing the filing of a Formal Complaint and the issuance of a Notice of Hearing by the Assistant Attorney General.

(f) **Summary Suspension.** After the filing of a Formal Complaint seeking revocation or other action and the issuance of a Notice of Hearing by the Assistant Attorney General, but prior to the final hearing on the merits of said Formal Complaint, in the event of an emergency, a summary suspension hearing may be held as set forth herein. The Chair of the Board upon concurrence of the Complaint Committee of the Board that an emergency exists for which the immediate suspension of a license is imperative for the protection of the public health, safety or welfare, may conduct a summary suspension hearing to temporarily suspend the license of any person under the jurisdiction of the Board, pending proceedings for revocation or other action set forth in the Formal Complaint. The Chair or Vice Chair, may issue an Order of Temporary Summary Suspension upon a finding of clear and convincing evidence that the immediate suspension is imperative for the protection of the public health, safety or welfare. The summary suspension hearing shall be conducted in accordance with the Sections 314 and 314.1 of the APA. The licensee shall be given at least 48 hours personal notice to appear for the summary suspension hearing outlining the specific issues that constitute an emergency and for which summary suspension is imperative for the protection of the public health, safety or welfare. Following the summary suspension, the Individual Proceeding hearing on the full merits of the Formal Complaint shall be promptly instituted and determined.

(g) **Request for Inquiry confidentiality**

(1) The request for inquiry and the identity of the complainant or informant shall be confidential and shall not be available for public inspection.

(2) The investigator's report are to be used solely to determine whether or not to pursue disciplinary action against the Respondent, and thus constitute confidential and privileged work product material, not subject to disclosure.

86:10-29-4. Investigation

If the Complaint Committee determines a possible violation of the Act or this Chapter has occurred, the Complaint Committee may commence an investigation of the complaint.

86:10-29-5. Cooperation with investigations

Licensees shall cooperate when Board staff, Complaint Committee members, and/or investigators make inquiries concerning a Request for Inquiry made against a licensee. Failure of a licensee to cooperate is grounds for further disciplinary action under the Act.

86:10-29-6. Service of petition and notice

(a) **Service.** The petition and notice shall be served on the respondent(s) personally or by certified mail, return receipt requested to the address of the respondent(s) on file with the Board. It is the duty of the licensee to provide current address information.

(b) **Proof of service.** Proof of service shall be filed with the Board office.

(c) **Substitute service.** If the Board is unable to obtain service on a respondent, the petition and notice shall be mailed by regular mail to the last known address of the respondent, and the Board shall file an affirmation service was attempted.

(d) **Service of other papers and documents.** Service of all other papers and documents connected with an individual proceeding shall be served on the parties or their counsel by delivering a copy in person or via facsimile or regular mail.

86:10-29-7. Hearing

Hearings shall be conducted by the Board in accordance with the APA, 75 O.S., Sections 309-321. The Board shall recommend the most appropriate penalty at the conclusion of the evidence.

86:10-29-8. Continuances

(a) **Continuances by the Board.** The Board chair may continue or adjourn the proceedings at any time for a specified time, with notice or motion.

(b) **Continuance by motion of parties.** Except for good cause shown, or by agreement of all parties, no continuance will be granted upon motion of a party unless written request therefore is filed and served on all parties of record and filed with the Board office and served on the Assistant Attorney General at least seven (7) days prior to the date set for hearing. A stipulation for continuance among all parties of record ordinarily will be approved, unless the Board chair determines that the public interest requires otherwise.

86:10-29-9. Discovery

Discovery shall be conducted generally in accordance with the APA. The Board chair may enter specific orders directing the conduct of discovery.

86:10-29-10. Protective orders

The Board chair at the hearing or at any time upon application of a party, with or without notice, may make such orders relating to discovery as may be necessary or appropriate for the protection of the parties, and to prevent hardship to and excessive burden upon a party.

86:10-29-11. Subpoenas

(a) **Issuance of subpoenas for witnesses and physical evidence.** The Board may compel the attendance of witnesses, and the production of physical evidence before it from witnesses, upon whom process is served by subpoena anywhere within the state. Such subpoenas will be issued over the signature of the chairperson or vice chairperson and the seal of the Board.

(b) **Service of subpoenas.** From the institution of formal Board proceedings, subpoenas will be issued on behalf of the licensee or the Board. Service of the subpoena will be the responsibility of the requesting party. Subpoenas shall be served and return made in the manner prescribed by general civil law.

86:10-29-12. Final order

The Board shall issue a final order on all disciplinary matters. Final orders are appealable under the Administrative Procedures Act to the district courts.

86:10-29-13. Unauthorized practice

Any person found to be practicing licensed professional counseling without being either properly licensed, exempt or under the approved supervision of an LPC as part of the licensure process shall be ordered to cease practicing and may be subject to an administrative penalty. The Board may seek the assistance of the courts if the actions continue.

86:10-29-14. Administrative penalties

(a) The Board may assess an administrative penalty against an individual if the order includes a finding that the individual:

(1) Violated any provision of the Act, including practicing licensed professional counseling without licensure or exemption; or

(2) Violated any rule within this Chapter; or

(3) Violated any order issued pursuant to this Chapter.

(b) The total amount of the administrative penalty assessed shall not exceed ten thousand dollars ($10,000.00) for any related series of violations.

86:10-29-15. Costs of Investigation

Costs of investigation may be assessed against a licensee and incorporated into a Consent Order or any other final order resolving a disciplinary matter against a licensee.

SUBCHAPTER 31. POST-MILITARY SERVICE OCCUPATION, EDUCATION AND CREDENTIALING RULES

86:10-31-1. Education, training and experience completed as a member of the Armed Forces of the United States pursuant to 59 O.S. § 4100.4(A)

If an applicant otherwise qualifies for licensure, the Board shall issue an appropriate license to applicants who present satisfactory evidence of equivalent education, training and experience completed by the applicant as a member of the Armed Forces or Reserves of the United States, National Guard of any state, the Military Reserves of any state, or the Naval Militias of any state.

86:10-31-2. Automatic extension of license, payment of fees and continuing education for active-duty military service members

(a) Automatic extension pursuant to 59 O.S. § 4100.6(A). The license of active-duty military service members shall be automatically extended and placed on inactive licensure status during active-duty military service and for one (1) year after active-duty military service, unless the licensee seeks to maintain said license in good-standing.

(b) Payment of fees and continuing education pursuant to 59 O.S. § 4100.6(B), (C) and (D). Active-duty military service members seeking to maintain his or her license in good-standing may have his or her license renewed during active-duty, and for a period of one (1) year after discharge from active-duty, without:

(1) payment of fees; and

(2) obtaining continuing education credits when:

(A) circumstances associated with military duty prevent obtaining training and a waiver request has been submitted to the Board;

(B) the licensee performs social work as an occupation as part of his or her military duties as shown in Defense Department Form DD 214 (DD Form 214); or

(C) performing any other act typically required for the renewal of the license.

86:10-31-3. Reciprocal licensing of spouses of active-duty members of the Armed Forces of the United States

The procedure to expedite endorsement of licensure pursuant to Section 4100.5 of Title 59 of the laws of the State of Oklahoma for applicants who are licensed in another state and who are the spouse of an active-duty member of the Armed Forces of the United States is as follows:

(1) A license shall be issued to the applicant if the requirements for licensure of the other state are substantially equivalent to those required by this state;

(2) If specific licensure requirements in this state were not required in the state in which the Applicant was licensed, a temporary license for a set period of time shall be issued to Applicants to allow the person to work as a licensed professional counselor while completing those requirements.

[OAR Docket #15-654; filed 6-25-15]

TITLE 86. STATE BOARD OF BEHAVIORAL HEALTH LICENSURE
CHAPTER 15. LICENSED MARITAL AND FAMILY THERAPISTS

[OAR Docket #15-655]

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Subchapter 3. Rules of Professional Conduct [NEW]
86:15-3-1. [NEW]
86:15-3-2. [NEW]
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86:15-3-8.1. [NEW]
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Subchapter 5. Application for Licensure [NEW]
86:15-5-1. [NEW]
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Subchapter 9. Supervised Experience Requirements [NEW]
86:15-9-1. [NEW]
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86:15-13-1. [NEW]
86:15-13-2. [NEW]
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86:15-15-1. [NEW]
86:15-15-2. [NEW]
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CONTACT PERSON:
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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING PERMANENT RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 11, 2015:

SUBCHAPTER 1. GENERAL PROVISIONS

86:15-1-1. Purpose

The rules in this Chapter implement the Marital and Family Therapist Licensure Act, 59 O.S. Section 1925.1 et seq.

86:15-1-2. Consumer information

(a) **Directory.** The Board shall provide a directory of Licensed Marital and Family Therapists (LMFTs). The directory of LMFT's shall include but not be limited to the name, academic degree under which the license is held, preferred mailing address, telephone number and license number.

(b) **Brochure.** The Board shall prepare information of consumer interest which describes the regulatory functions of the Board and Board procedures to handle and resolve consumer complaints.

86:15-1-3. Definitions

When used in this Chapter, the following words or terms shall have the following meaning unless the context of the sentence requires another meaning:

"Act" means the Marital and Family Therapist Licensure Act, 59 O.S. §§ 1925.1 *et seq.*, as amended.

"Approved LMFT supervisor" means an individual who meets the qualifications to become an approved supervisor and is approved by the Board as set forth in Section 86:15-9-3 of this Chapter.

"Board" means the State Board of Behavioral Health Licensure.

"Complaint Committee" means one Board member who is a LMFT, the Executive Director, the Assistant Attorney General and may include other appropriate individuals as determined by the Committee.

"Extra therapeutic relationship" means a familial, social, financial, business, professional, close personal, sexual or other non-counseling relationship with a client, or engaging in any activity with another person that interferes or conflicts with the LMFT's professional obligation to a client.

"Forensic services" means the application of knowledge, training and experience from the mental health field to the establishment of facts and/or the establishment of evidence in a court of law or ordered by a court of law.

"Home-study or technology-assisted distance learning" refers to the delivery of graduate coursework or continuing education through mailed correspondence or other distance learning technologies, which focuses on synchronous or asynchronous instructional delivery methods. Home-study or technology-assisted distance learning is designed to deliver education to learners who are not in the direct physical presence of the educator.

"License Committee" means two LMFT Board members, one Staff member, and may include other appropriate individuals as determined by the Committee.

"OAC" means the Oklahoma Administrative Code.

"On-site supervisor" means a person who may not be an approved LMFT supervisor but is licensed in the State of Oklahoma as a Licensed Marital and Family Therapist, Licensed Professional Counselor, Licensed Behavioral Practitioner, Psychologist, Clinical Social Worker, Psychiatrist, or Licensed Alcohol and Drug Counselor employed by the agency employing the LMFT Candidate whose assigned job duties include acting as the immediate supervisor to the LMFT Candidate.

"Staff" means the personnel of the Board.

"Technology-assisted supervision" refers to supervision that occurs through video teleconferencing, over secure internet connections, wherein an Approved LMFT Supervisor and a Licensed Marital and Family Therapist Candidate are in separate physical locations.

86:15-1-4. Applicability

Every duty, obligation or requirement described in this Chapter and imposed upon a LMFT shall be applicable to every licensed marital and family therapist candidate, unless specifically provided otherwise.

SUBCHAPTER 3. RULES OF PROFESSIONAL CONDUCT

86:15-3-1. Responsibility to clients

(a) LMFTs are dedicated to advancing the welfare of families and individuals, including respecting the rights of those persons seeking their assistance, and making reasonable efforts to ensure that their services are used appropriately.

(b) LMFTs shall not, in the rendering of their professional services, participate in, condone, or promote discrimination based on age, culture, disability, ethnicity, race, religion/spirituality, gender, gender identity, sexual orientation, marital status/partnership, language preference, socioeconomic status, or any basis proscribed by law. LMFTs do not discriminate against clients, students, employees, supervisees, or research participants in a manner that has a negative impact on these persons.

(c) LMFTs are cognizant of their potentially influential position with respect to clients, and they shall not exploit the trust and dependency of such persons. LMFTs therefore shall avoid extra therapeutic relationships with clients that could impair their professional judgment or increase the risk of exploitation. When extra-therapeutic relationships cannot be avoided, LMFTs shall take appropriate professional precautions to insure that judgment is not impaired and that no exploitation occurs. Examples of such extra therapeutic relationships include, but are not limited to, business or close personal relationships with clients. Sexual intimacy with clients is prohibited. Sexual intimacy with former clients for two years following the termination of therapy is prohibited.

(d) LMFTs shall not use their professional relationship with clients to further their own interests.

(e) LMFTs respect the right of clients to make decisions and help them to understand the consequences of those decisions. LMFTs shall clearly advise a client that a decision on marital status is the responsibility of the client.

(f) LMFTs shall continue therapeutic relationships only so long as it is reasonably clear that clients are benefiting from the relationship.

(g) LMFTs shall assist persons in obtaining other therapeutic services if a marital and family therapist is unable or unwilling, for appropriate reasons, to see a person who has requested professional help.

(h) LMFTs shall not abandon or neglect clients in treatment without making reasonable arrangements for the continuation of such treatment by other appropriate professionals as necessary and indicated.

(i) When an LMFT becomes cognizant of a disability or other condition that may impede, undermine or otherwise interfere with the LMFTs duty of responsibility to the client, including a suspension of the LMFTs license or any other situation or condition described in subchapter 3 of these rules, the LMFT shall promptly notify the client in writing of the presence or existence of the disability or condition and take reasonable steps to timely terminate the therapeutic relationship consistent with the provisions of paragraphs (g) and (h) herein.

(j) LMFTs shall obtain informed consent of clients before taping, recording, or permitting third party observation of their activities.

86:15-3-2. Confidentiality

(a) LMFTs have unique confidentiality problems because the "client" in a therapeutic relationship may be more than one person. The overriding principle is that LMFTs respect the confidences of their client(s).

(b) LMFTs shall not disclose client records and confidences to anyone, except:

(1) as mandated by law;

(2) to prevent a clear and immediate danger to a person or persons;

(3) where the LMFT is a defendant in a civil, criminal, or disciplinary action rising from the therapy (in which case client confidences may be disclosed only in the course of that action);

(4) if there is a waiver previously obtained in writing, and then such information may be revealed only in accordance with the terms of the waiver.

(c) In circumstances where more than one person in a family is receiving therapy, each such family member who is legally competent to execute a waiver must agree to the waiver required by paragraph (b)(4) of this section. Absent such a waiver from each family member legally competent to execute a waiver, an LMFT shall not disclose information received from any family member.

(d) LMFTs shall use client and/or clinical materials in teaching, writing, and public presentations only if a written waiver has been received in accordance with subsection (c) of this section, or when appropriate steps have been taken to protect client identity.

(e) LMFTs shall store or dispose of client records in ways that maintain confidentiality.

(f) LMFTs shall maintain verifiable records necessary for rendering professional services to their clients for at least seven (7) years beyond termination of services. LMFTs employed at an institution or facility that has a published records retention policy that is equal to the retention required by this subsection will be deemed to be in compliance with this subsection.

(g) LMFTs shall maintain the confidentiality of any information received from any person or source about a client, unless authorized in writing by the client or otherwise authorized or required by law or court order.

(h) LMFTs shall be responsible for complying with the applicable state and federal regulations in regard to the security, safety and confidentiality of any therapeutic record they create, maintain, transfer, or destroy whether the record is written, taped, computerized, or stored in any other medium.

86:15-3-3. Professional competence and integrity

(a) LMFTs are dedicated to maintaining high standards of professional competence and integrity.

(b) LMFTs are presumed to have violated high standards of integrity or competence if they:

(1) are convicted of a felony;

(2) are convicted of a misdemeanor (related to their qualifications or functions);

(3) engage in conduct which could lead to conviction of felonies, or misdemeanors related to their qualifications or functions;

(4) have their licenses or certificates suspended or revoked; or

(5) are no longer competent to practice marital and family therapy because they are impaired due to physical or mental causes or the abuse of alcohol or other substances.

(c) LMFTs shall seek appropriate professional assistance for their own personal problems or conflicts that are likely to impair their work performance and their clinical judgment.

(d) LMFTs, as teachers and supervisors, are dedicated to maintaining high standards of scholarship and presenting information that is accurate.

(e) LMFTs shall remain abreast of new developments in family therapy knowledge and practice through both educational activities and clinical experiences.

(f) LMFTs shall not engage in sexual or other harassment or exploitation of clients, students, trainees, supervisees, employees, colleagues, research subjects, or actual or potential witnesses or complainants in ethical proceedings.

(g) LMFTs shall not attempt to diagnose, treat, or advise on problems outside the recognized boundaries of their competence.

(h) LMFTs shall prevent the distortion or misuse of their clinical and research findings.

(i) LMFTs are aware that, because of their ability to influence and alter the lives of others, they must exercise special care when making public their professional recommendations and opinions through testimony or other public statements.

(j) LMFTs shall protect the welfare of the client by storing and/or destroying, when appropriate, client files.

(k) LMFTs shall not, under normal circumstances, offer professional services to clients concurrently receiving services from another professional except with the knowledge of the professional.

(l) LMFTs shall display their original, current license certificate in a prominent place in the primary location of their practice.

(m) LMFTs shall keep the Board updated regarding changes in mailing address, phone number and place of employment. Failure to do so may place the license in jeopardy due to missed renewal notices and other important communications.

(n) LMFTs and LMFT Candidates may perform forensic services, which may include, but are not limited to, assessments, interviews, consultations, custody evaluations, reports, or expert testimony, or other such activity that is undertaken or conducted by the candidate or licensee in contemplation that the results may, or are intended to be, later furnished to a trier of fact or other decision maker, only under the following conditions:

(1) LMFTs and LMFT Candidates must demonstrate competence by education or experience in the subject matter relevant to the issues in question, as determined by the court.

(2) LMFTs and LMFT Candidates shall provide a written notice and make reasonable attempts to obtain a signature acknowledging receipt of such notice, from each person or persons who is the subject of the forensic services. This written notice shall include:

(A) a description of what procedure will be followed in the evaluation process;
(B) how such information, interpretations, conclusions, and recommendations will be distributed;
(C) fee arrangements; and
(D) explanation of the role of the evaluator if subsequently called upon to provide expert testimony before a trier of fact

(3) LMFTs and LMFT Candidates shall maintain written records, in a form or format that is legible or readable to third persons, of all contacts and information received and used in the preparation of their report.
(4) LMFTs and LMFT Candidates must conduct a thorough examination of the person who is the subject of their forensic analysis, and such other person or persons who has/have a legally recognizable right in the subject matter of the proceeding.
(5) LMFTs and LMFT Candidates must base their findings and conclusions only upon information gained by appropriate and lawful means. Interviews of minor children shall be preceded by written consent from the joint-custodial parents or from the custodial parent or from the legal guardian or from the legal custodian appointed by the Court.
(6) LMFTs and LMFT Candidates who provide therapy services for a client shall only provide fact witness testimony, which may include diagnostic impressions, treatment plans and other factual clinical information ordinarily included in a treatment file. Fact witness testimony by LMFTs and LMFT Candidates shall not include opinions or recommendations pertaining to matter subject to a decision by the Court, in forensic matters involving that client, unless otherwise required by law or court order. LMFTs and LMFT Candidates who provide mediation, parent coordinating assistance or any other neutral participation, may not undertake to provide therapy concurrently or subsequently to any person(s) involved or directly affected by the LMFT's or LMFT Candidate's role as a neutral participant. Fact witness testimony means evidentiary statements that are limited to direct observations by the LMFT or LMFT Candidate and shall not include conclusions, opinions or recommendations.
(7) Assessments, interviews, consultations, custody evaluations, reports or other activity not performed in contemplation that the results would be furnished to a trier of fact or decision maker, must be kept confidential and cannot be utilized in the formation or publication of an opinion by the candidate or licensee.

(o) An LMFT, LMFT candidate, or applicant for LMFT licensure, in connection with a license application or an investigation conducted by the Board pursuant to OAC 86:15-15-1 through 15, shall not:
(1) knowingly make a false statement of material fact; LMFT, LMFT candidate or applicant for licensure to have arisen in the application or the matter under investigation; or
(2) fail to disclose a fact necessary to correct a misapprehension known by the LMFT, LMFT candidate or applicant for licensure to have arisen in the application or the matter under investigation; or
(3) fail to respond to a demand for information made by the Board or any designated representative thereof.

(p) No person may engage in the private or independent practice of marital and family therapy work or open a facility with the intent of providing private or independent therapy practice unless that person:
(1) is licensed under this Act as a Licensed Marital and Family Therapist; and,
(2) has met all requirements of OAC 86:15-9-4 and all of the LMFT Regulations; and
(3) has continued to meet all continuing education requirements set forth in Subchapter 13 of this Chapter.

86:15-3-4. Responsibility to students, employees, and supervisees

(a) LMFTs shall not exploit the trust and dependency of students, employees and supervisees.
(b) LMFTs are cognizant of their potentially influential position with respect to students, employees, and supervisees, and shall not exploit the trust and dependency of such persons. LMFTs, therefore, shall avoid extra therapeutic relationships that impair their professional judgment or increase the risk of exploitation. Examples of such extra therapeutic relationships include, but are not limited to, provision of therapy to students, employees, or supervisees, and business or close personal relationships with students, employees, or supervisees. Sexual intimacy with students or supervisees is prohibited.
(c) LMFTs shall not permit students, employees, or supervisees to perform or to hold themselves out as competent to perform professional services beyond their training, level of experience, and competence.
(d) LMFTs shall not disclose supervisee confidences to anyone, except:
(1) as mandated by law;
(2) to prevent a clear and immediate danger to a person or persons;
(3) where the marital and family therapist is a defendant in a civil, criminal, or disciplinary action arising from the supervision (in which case client confidences may be disclosed only in the course of that action);
(4) if there is a waiver previously obtained in writing, and then such information may be revealed only in accordance with the terms of the waiver.

86:15-3-5. Responsibility to research participants

(a) LMFTs shall respect the dignity and protect the welfare of persons who participate in research and are cognizant of federal and state laws and regulations and professional standards governing the conduct of research with human participants.
(b) In planning a study, the LMFT has the responsibility to make a careful examination of its ethical acceptability. To the

extent that services to research participants may be compromised by participation in research, the LMFT incurs a correspondingly serious obligation to seek the ethical advice of others not directly involved in the investigation and to observe safeguards to protect the rights of research participants. Examples of compromising conditions include, but are not limited to, random assignment to control groups, waiting lists, and inflexible treatment protocols.

(c) In requesting involvement in research, LMFTs are obligated to fully inform potential participants of all aspects of the research that might reasonably be expected to influence willingness to participate and to explain all other aspects of the research about which participants inquire. LMFTs are especially sensitive to the possibility of diminished consent when participants are also receiving clinical services or when participants are children or have impairments which limit understanding and/or communication.

(d) The LMFT respects the individual's freedom to decline to participate in or to withdraw from the research at any time. This obligation requires special thought and consideration when the LMFT or other members of the research team are in positions of authority or influence over the participant.

(e) Information obtained about a research participant during the course of an investigation is confidential unless otherwise agreed upon in advance. When the possibility exists that others, including family member, may obtain access to such information, this possibility, together with the plan for protecting confidentiality, is explained as part of the procedure for obtaining informed consent.

86:15-3-6. Responsibility to colleagues

(a) Marital and family therapists shall respect the rights and responsibilities of professional colleagues.

(b) LMFTs shall assign publication credit to those who have contributed to a publication in proportion to their contributions and in accordance with customary professional publication practices.

(c) LMFTs who author books or other materials that are published or distributed shall cite appropriately persons to whom credit for original ideas is due.

(d) LMFTs who author books or other materials published or distributed by an organization shall take reasonable precautions to ensure that the organization promotes and advertises the materials accurately and factually.

86:15-3-7. Financial arrangements

(a) LMFTs shall clearly explain to clients, prior to entering the therapy relationship, all financial arrangements related to professional services including the consequences for non-payment of fees.

(b) LMFTs shall not offer or accept payment for referrals.

(c) LMFTs shall not charge excessive fees for services.

(d) LMFTs shall represent facts truthfully to clients and third party payor regarding services rendered.

86:15-3-8. Advertising

(a) LMFTs shall accurately represent their competence, education, training, and experience relevant to their practice of marriage and family therapy.

(b) LMFTs shall not use a name which could mislead the public concerning the identity, responsibility, source, and status of those practicing under that name and shall not hold themselves out as being partners or associates of a firm if they are not.

(c) LMFTs shall not use any professional identification (such as a professional card, office sign, letterhead, or telephone or association directory listing) if it includes a statement or claim that is false, fraudulent, misleading or deceptive. A statement is false, fraudulent, misleading, or deceptive if it:

(1) contains a material misrepresentation of fact;

(2) fails to state any material fact necessary to make the statement, in light of all circumstances, not misleading;

(3) is intended to or is likely to create an unjustified expectation.

(d) LMFTs shall correct false, misleading, or inaccurate information and representations made by others concerning the marriage and family therapist's qualifications, services or products.

(e) LMFTs shall make certain that the qualifications of persons in their employ are represented in a manner that is not false, misleading or deceptive.

86:15-3-8.1. Candidate for LMFT licensure

Candidates for licensure as a Licensed Marital and Family Therapist shall not refer to themselves as a Licensed Marital and Family Therapist or LMFT.

86:15-3-9. Failure to comply

An LMFT who does not comply with the Rules of Professional Conduct in this Subchapter shall be guilty of unprofessional conduct.

SUBCHAPTER 5. APPLICATION FOR LICENSURE

86:15-5-1. Fitness of applicants

(a) **Purpose.** The purpose of this section is to establish the fitness of an applicant as one of the criteria for approval for licensure as an LMFT.

(b) **Fitness for licensure.** Any of the following items related to the applicant may be, as the Board determines, the basis for the denial of or delay of licensure of the applicant.

(1) Lack of necessary skills and abilities to provide adequate services.

(2) Misrepresentation on the application or other materials submitted to the Board.

(3) A violation of the Code of Ethics of the professional discipline espoused by the applicant.

(4) Any violation of the Board rules in effect at the time of application which is applicable to an unlicensed person.

(c) **Materials considered to determine fitness.**

(1) Materials considered to determine fitness of skills and abilities include:

(A) Evaluations of supervisors or instructors.

(B) Statements from persons submitting references for the applicant.

(C) Evaluations of employers and/or professional associations.

(2) Materials considered to determine fitness of professional conduct includes:

(A) Allegations of clients.

(B) Transcripts or other findings from official court, hearing or investigative proceedings.

(C) Any other information which the Board considers pertinent to determining the fitness of applicants.

86:15-5-2. Application procedures

(a) **General.**

(1) The purpose of this section is to insure that all applicants meet those requirements specified in Section 1925.6 of the Act.

(2) Unless otherwise indicated, an applicant must submit all required information and documentation of credentials on official Board forms.

(3) The Board will not consider an application as officially submitted until receipt of the Application, application fee, official graduate transcripts, three (3) Document of Recommendation Forms, Internship/Practicum Documentation Form, and completed criminal background check. The fee must accompany the Application Form.

(4) The Board must receive all required application materials at least 60 days prior to the date the applicant wishes to take the examination.

(b) **Application materials.** The purpose of this section is to list the materials required in the application process. All forms must be completed in full by the applicant, as per the instructions on the following individual forms:

(1) Application form.

(2) Official graduate transcript.

(3) Documents of recommendation.

(4) Internship/practicum documentation form.

(5) Two (2) classifiable sets of fingerprints.

(6) Fees.

(c) **Application forms.**

(1) Application form - identifying information; graduate education and course work; possession of other credentials; professional ethics and conduct.

(2) Internship/Practicum Documentation form - identifying information; time, place, location of practicum

(3) Document of Recommendation - identifying information; ratings of ethical and professional characteristics; circumstances and time period submitter has know applicant

(4) Supervision Agreement - supervisor and supervisee agree to terms set forth for the accrual of supervised experience; a reproduction of the regulation regarding supervised experience

(5) Evaluation of Supervised Experience document - identifying information; time, place and duration of supervised experience; number of hours of direct client contact with different populations; supervisor's rating of professional activity; supervisor's comment section, and record of supervised experience.

(6) On-Site Supervisor Verification form - identifying information; name of applicant; place of employment; on-site supervisor information; a reproduction of the regulation regarding supervision accrued in a private setting.

(7) Two (2) classifiable sets of fingerprints.

(d) **Negative references.** The License Committee may ask any applicant for licensure as an LMFT, whose file contains negative references of substance, to come before the License Committee for an interview before the licensure designation process may proceed.

86:15-5-2.1. Reapplication procedures

(a) **Re-application for permanently expired license.**

(1) Re-application after license expires for non-renewal shall include the following documents:

(A) Application form,

(B) Three (3) Documents of Recommendation,

(C) Supervision Agreement,

(D) On-Site Supervisor Verification Form,

(E) New Application Fee, and

(F) Two (2) classifiable sets or fingerprints.

(2) Applicant shall re-take two examinations:

(A) The Licensing Examination in Marital and Family Therapy (Professional Examination Service) or another equivalent examination as determined by the Board, and

(B) An oral and/or written examination covering the LMFT law and regulations as approved by the Board.

(3) The Internship/Practicum Documentation Form on file shall carry over to a new application.

(4) All previously submitted and approved Supervised Experience shall carry over to a new application.

(5) Applicant shall obtain approved supervision until the exams are taken and passed. Failure to do so may constitute a violation of OAC Rule 86:15-15-13.

(b) **Re-application for revoked license.**

(1) No re-application for a revoked license will be considered for a period of 5 years following the revocation. Re-application after license is revoked as a result of administrative action shall include the following documents:

(A) Application form,

(B) Official university or college transcript,

(C) Three (3) Documents of recommendation.

(D) Internship/Practicum Documentation form,

(E) Supervision Agreement,

(F) On-Site Supervisor Verification Form,

(G) New Application Fee, and

(H) Two (2) classifiable sets of fingerprints.

(2) Applicant shall re-take two examinations:

(A) The Licensing Examination in Marital and Family Therapy (Professional Examination Service) or another equivalent examination as determined by the Board, and

(B) An oral and/or written examination covering the LMFT law and regulations as approved by the Board.

(3) All previously submitted and approved Supervised Experience shall not carry over to a new application.

(4) Application materials shall be reviewed by the License Committee.

(5) At the time of application, applicant must provide additional documentation to demonstrate rehabilitation relating to the cause of the revocation of licensure.

(6) The Board may impose reasonable practice limitations that are in addition to the requirements for completion of approved supervised experience.

(c) **Re-application for voided application.**

(1) Re-application after application is voided for failure to take scheduled examinations or after the eligible applicant fails an examination and does not take subsequent scheduled examinations shall include the following documents:

(A) Application form,

(B) Three (3) Documents of Recommendation,

(C) Supervision Agreement,

(D) On-Site Supervisor Verification Form,

(E) New Application Fee, and

(F) Two (2) classifiable sets of fingerprints.

(2) Applicant shall take two examinations:

(A) The Licensing Examination in Marital and Family Therapy (Professional Examination Service) or another equivalent examination as determined by the Board, and

(B) An oral and/or written examination covering the LMFT law and regulations as approved by the Board.

(3) The Internship/Practicum Documentation Form on file shall carry over to a new application.

(4) All previously submitted and approved Supervised Experience shall carry over to a new application.

(5) Applicant shall obtain approved supervision until the exams are taken and passed. Failure to do so may constitute a violation of OAC Rule 86:15-15-13.

(d) **Re-application for denied application.**

(1) Re-application after application has been denied as prescribed in Section 1925.15 of the Act shall include the following documents:

(A) Application form,

(B) Official university or college transcripts,

(C) Three (3) Documents of Recommendation,

(D) Internship/Practicum Documentation form,

(E) Supervision Agreement,

(F) On-Site Supervisor Verification Form,

(G) New Application Fee, and

(H) Two (2) classifiable sets of fingerprints.

(2) Application materials shall be reviewed by the LMFT License Committee.

(3) Applicant shall be required to take necessary examinations.

(4) Applicant shall be required to accrue an additional 500 hours of supervised experience.

(5) Internship/Practicum Documentation Form on file shall carry over to a new application.

(6) All previously submitted and approved Supervised Experience shall carry over to a new application.

(7) Applicant shall obtain approved supervision until the exams are taken and passed. Failure to do so may constitute a violation of OAC Rule 86:15-15-13.

(8) At the time of application, applicant must provide additional documentation to demonstrate rehabilitation relating to the cause of denial of licensure application.

(9) The Board may impose reasonable practice limitations that are in addition to the requirements for completion of approved supervised experience.

86:15-5-2.2. Hearing upon denial of licensure application

Following the denial of a licensure application by the Board to an applicant who has a felony conviction, as prescribed in Section 1925.15 (B) of the Act, the applicant may request an administrative hearing to contest the denial of his/her application within 15 days of receiving notification from the Board. If a hearing is not requested within 15 days, the denial will be final.

86:15-5-3. Academic and experience requirements

(a) **Fulfillment of Section 1925. 6, subsection B of the LMFT Act.** Persons applying for licensure must have fulfilled the requirements listed in Section 1925.6, Subsection B of the LMFT Act.

(b) **Academic requirements.** Applicants must possess at least a masters degree in marital and family therapy or in a mental health, behavioral science, or counseling related field from a college or university accredited by one of the following six regional accrediting associations recognized by the U.S. Department of Education: The New England Association of Schools and Colleges, The Middle States Association of Colleges and Schools, The North Central Association of Colleges and Schools, The Northwestern Association of Schools and Colleges; The Western Association of Schools and Colleges, or The Southern Association of Colleges and Schools which is content-equivalent to a graduate degree in marital and family therapy. In order to qualify as a "content-equivalent" degree, a graduate transcript must document the minimum number of graduate hours and knowledge areas listed below. Academic courses (3 semester hours or 4 quarter credit hours) must include a minimum of 45 class hours for each course.

(1) Theoretical Foundations of Marital and Family Systems - any course which deals primarily in areas such as family life cycle; theories of family development; marriage and/or the family; sociology of the family; families under stress; the contemporary family; family in a social context; the cross-cultural family; youth/adult/aging and the family; family subsystems; individual, interpersonal

relationships (marital, parental, sibling). (3 courses: 9 semester or 12 quarter hours.)

(2) Assessment and Treatment in Marital and Family Therapy -any course which deals primarily in areas such as family therapy methodology; family assessment; treatment and intervention methods; overview of major clinical theories of marital and family therapy such as: communications, contextual, experiential, object relations, strategic, structural, systemic, transgenerational. (3 courses: 9 semester or 12 quarter hours.)

(3) Human Development - any course which deals primarily in areas such as human development; personality theory; human sexuality, psychopathology; at least one of which must be in psychopathology or abnormal human behavior. (3 courses: 9 semester or 12 quarter hours.)

(4) Ethics and Professional Studies - any course which deals primarily in areas such as professional socialization and the role of the professional organization; legal responsibilities and liabilities; independent practice and interprofessional cooperation; ethics; family law. (1 course: 3 semester or 4 quarter hours.)

(5) Research - any course which deals primarily in areas such as research design, methods, statistics; research in marital and family studies and therapy. (1 course: 3 semester or 4 quarter hours.)

(6) Practicum/Internship (at least 300 clock hours.)

(c) **International degrees.** For applicants with international degrees, the Board shall review the applications of applicants for licensure under this Chapter who have received a post-secondary degree from an educational institution outside the United States. The Board shall determine whether the applicant's experience, command of the English language, and completed academic program meet the standards of an academic program of an accredited educational institution.

(d) **Experience requirement.**

(1) Applicants must complete two (2) calendar years of work in marital and family therapy following the receipt of the qualifying degree.

(2) These two years must be completed under a supervisor approved by the Board.

(e) **Examination.** Applicants must achieve a passing score on the LMFT examinations.

86:15-5-4. Additional forms

(a) Licensure Verification Request Form - name of licensee; licensee license number; and licensee license type.

(b) Out-of-State License Verification Form - identifying information; type of credential held in other state; license number; issue and expiration date of license; current standing of license; past complaints or sanctions; exam information; supervision information; graduate education; internship documentation; signature and identifying information of person verifying from out-of-state.

(c) Mailing Addresses Request/Order Form - type of licensure list requested; format requested; identifying information of person making request.

(d) Licensure Reactivation Request Form - licensure type, identifying information; employment information; graduate education; license type and number; dates of inactivation and reactivation of license.

(e) LMFT Continuing Education Approval Application Form - name of workshop; program context; program knowledge area; name of presenter; presenter qualifications; date of presentation; number of hours requested; sponsoring agency; name of contact; phone number of contact; signature and signature date of contact; program content in relation to mental health ethics; program content in relation to therapy supervision; number of hours requested for mental health ethics; number of hour requested for therapy supervision.

(f) The Termination of Supervision Agreement requires the following information:

(1) name of candidate;

(2) current place of employment of candidate;

(3) address of current place of employment of candidate;

(4) phone number of candidate;

(5) email address of candidate;

(6) signature and signature date of candidate, (if available);

(7) name of supervisor;

(8) license number of supervisor;

(9) current place of employment of supervisor;

(10) phone number of supervisor;

(11) email address of supervisor;

(12) signature and signature date of supervisor, (if available); and

(13) effective date of termination of supervision agreement.

SUBCHAPTER 7. LICENSURE EXAMINATIONS

86:15-7-1. Eligibility

An LMFT applicant is eligible to sit for the licensing examination following the submission and approval of:

(1) Application Form and fee

(2) Practicum/Internship Documentation Form

(3) Official transcript(s) showing completion of all academic listed in Subchapter 5 of this Chapter

(4) Three (3) Document of Recommendation Forms; and

(5) Two (2) classifiable sets of fingerprints.

86:15-7-2. Format

Applicants shall take two examinations:

(1) The Licensing Examination in Marital and Family Therapy or another equivalent examination as determined by the Board and

(2) The Oklahoma LMFT Examination covering the LMFT law and regulations as approved by the Board.

86:15-7-3. Frequency

The Board shall administer licensure examinations at least once a year or more often if deemed necessary.

86:15-7-4. Application

(a) The Board shall mail notification of eligibility to sit for examination(s) to the last known address of applicant no later than sixty (60) days after receiving the required and completed application materials.

(b) The Board will schedule the Licensing Examination in Marital and Family Therapy or another equivalent examination as determined by the Board and notify the applicant of test date. An applicant who wishes to take a scheduled national examination must complete an examination registration form, return it to the Board's designee and submit the required fee prior to the date of the examination.

(c) An applicant's eligibility to sit for the Oklahoma LMFT Examination shall be valid once the application has been Board approved.

(d) An applicant's eligibility to sit for the national examination shall be valid for three years, at which time if the applicant has not successfully passed the national exam, the licensure application shall be voided and the applicant shall be mailed notification at last known address. An applicant may re-apply with an additional requirement of a plan of remediation acceptable to the License Committee.

86:15-7-5. Notice of results

(a) The Board shall mail notification of the examination results and an analysis of performance to examinee at last known address.

(b) If the notice of examination results will be delayed for more than 90 days after the date of the examination, the Board shall mail notification of the delay to the applicant at last known address before the 90th day.

86:15-7-6. Failure to appear

If an applicant for licensure fails to appear for examination for reasons other than documented illness or other cause beyond the applicant's control after applying to take a particular examination, the applicant must re-register and pay another examination fee before being admitted to a subsequent examination.

SUBCHAPTER 9. SUPERVISED EXPERIENCE REQUIREMENTS

86:15-9-1. Supervisor and supervisee responsibilities

Supervisor and Supervisee shall be jointly responsible for:

(1) insuring the requirements under this subchapter are fulfilled. Any failure to comply may result in the loss of supervision hours, denial of licensure, initiation of formal complaint procedures, and/or loss of approved supervisor status.

(2) insuring the client's right to confidentiality is protected and the rules of the supervisor's and supervisee's respective employers are adhered to during the course of supervision.

(3) When supervision is terminated by either the supervisor or the supervisee, a Termination of Supervision Agreement Form must be submitted to the Board within three (3) business days of the termination.

(4) The supervisee is responsible for negotiating a new supervision contract with a board approved supervisor and following all requirements set forth in Subchapter 5, section 86:15-5-2(c).

86:15-9-2. Acceptable supervised experience

Supervised experience is acceptable when:

(1) it begins after all applicable academic requirements as stated in Subchapter 5 have been completed, verification of Oklahoma LMFT Examination passing score has been received by the Board, and supervision agreement has been approved by the Board.

(2) official application for licensure has been made. This includes Application, application fee, Internship/Practicum Documentation Form, official graduate transcript, three (3) Document of Recommendation Forms, completed criminal background check, On-Site Supervisor Verification Form, and Supervision Agreement. Applicants who have met part or all of supervision experience requirements for clinical membership in AAMFT will be considered to have met part or all of the supervision requirements for licensure in Oklahoma.

(3) it consists of the performance of therapy activities as described in Section 1925.2, subsection 7 and 9 of the LMFT Act and contains the following characteristics:

(A) supervision focuses on the raw data from a supervisee's continuing clinical practice, which may be available to the supervisor through a combination of direct observation, co-therapy, written clinical notes, and audio and video recordings and the LMFT Act and Regulations.

(B) supervision is a process clearly distinguishable from personal psychotherapy, and is contracted in order to serve professional/vocational goals.

(C) individual supervision shall be face-to-face with one supervisor and one or two supervisees.

(D) group supervision may be done with up to six supervisees and a supervisor.

(E) technology-assisted supervision must be approved by the Board prior to the accrual of hours. Factors to be considered by the Board include: distance between approved supervisor and candidate; financial hardship on approved supervisor or candidate; physical hardship on approved supervisor or candidate; specialty credentials; and other pertinent factors.

(4) supervised experience hours may be accrued in academic, governmental, or private practice settings.

(5) the supervised experience is accrued in a private for-profit or private not-for-profit therapy setting without having an approved LMFT supervisor providing on-site supervision, if the agency employing the LMFT Candidate provides an on-site supervisor who is available to the LMFT Candidate any time services are being rendered by

the LMFT Candidate, and the LMFT Candidate is receiving supervision for licensure from an approved LMFT supervisor.

86:15-9-3. Supervisor qualifications

(a) In order to be approved as a supervisor for therapists seeking MFT licensure, an individual must:

(1) be an American Association for Marriage and Family Therapy approved Supervisor familiar with Oklahoma LMFT Act and Rules duly promulgated, or

(2) be an LMFT

(A) with two (2) years of experience in marital and family therapy beyond the number of years of experience required for licensure and

(B) who has successfully completed a graduate course in therapist supervision (at least 45 contact hours) or equivalent course of study acceptable to the Board. This equivalent course of study should consist of workshops in marriage and family therapy supervision in combination with directed study of the marriage and family therapy supervision literature. Fifteen (15) of the 45 clock hours should be in a class or workshop format which includes a minimum of four supervisors-in-training; the other 30 clock hours should be reserved for the directed study. Directed study must be approved and monitored by an Approved Supervisor.

(b) Approved LMFT Supervisors are required to complete a minimum of three (3) clock hours, every three (3) years, of continuing education in therapy supervision specific to Oklahoma law provided by the LMFT License Committee, or its designee. Approved Supervisor designation will not be renewed until the continuing education requirement for each missed renewal period is met.

(c) If continuing education requirement is not met within six (6) years of expiration, approved supervisor status will be permanently expired and the LMFT must re-apply and meet all requirements, including passing the Oklahoma LMFT Examination, in this Subchapter to become an approved supervisor.

(d) An active approved supervisor may request inactive status by submitting a request in writing to the Board. An inactive approved supervisor shall not provide any activities described in Subchapter 9 of this Chapter.

(e) An inactive approved supervisor may reactivate by submitting the required therapy supervision continuing education due by the end of the current renewal period. If approved supervisor status has been inactive for three (3) or more years, the supervisor must retake and pass the Oklahoma LMFT Examination before approved status is reinstated.

(f) An active approved supervisor status may be retired by informing the Board in writing. Retired approved supervisor status shall not be reinstated but does not prevent a person from applying for approved supervisor status at a future date.

(g) No re-application for a revoked approved supervisor status, as a result of administrative proceeding, shall be considered for a period of five (5) years following the revocation.

(h) Effective October 1, 2015, a supervisor may not supervise more than a total of twelve (12) candidates for licensure at a time. A supervisor who wants to supervise more than twelve (12) candidates must petition the Board for approval for each person above the maximum number. The petitions will be determined on a case-by-case basis depending on the circumstances of the request.

86:15-9-4. Duration of supervised experience

(a) Work experience under supervision must extend over a minimum of 24 months. This marital and family therapy related experience must include a minimum of 1000 hours of direct client contact. The candidate must have a minimum of 250 relational hours with two or more members of the relational system present in the session.

(b) Supervision sessions:

(1) should be scheduled weekly and shall be no less than 6.25 hours of supervision for each 42 hours of direct client contact. No more than 42 hours of direct client contact can be counted in a four week period of time, or

(2) may be arranged on a different schedule upon:

(A) written request of the supervisor and supervisee in advance, and

(B) approval of the schedule by the Board.

(c) Total number of face-to-face supervision hours must be at least 150. Supervision in group sessions shall equal no more than 75 hours of the total requirement. Technology-assisted supervision shall not account for more than 75 hours of the total requirement.

(d) Approved LMFT Supervisors shall meet with LMFT candidate(s) in person at least once every six month evaluation period when performing technology-assisted supervision.

(e) Supervisors shall perform at least two (2) observations, (live or tape) per each six (6) month evaluation period for each supervisee.

(f) Approved supervisors shall consult with on-site supervisor at least once per supervisee during each reporting period.

86:15-9-5. Documentation of supervised experience

(a) An LMFT Supervision Agreement between supervisor and supervisee as well as the On-Site Supervisor Verification form must be received and approved by the Board prior to the accrual of supervision hours.

(b) Semi-annual documentation of supervision hours, evaluation of competence, date of observations (live or tape), and date of consultation between approved supervisor and on-site supervisor must be submitted by the supervisor and co-signed by the supervisee on official Supervision Evaluation Forms. Incomplete evaluations will not be accepted by the Board until all requirements for the semi-annual evaluation period have been completed.

(c) Upon completing the supervision requirement, the supervisee must complete and submit the Final Evaluation of Supervision Experience by Supervisee form for each supervisor. The Final Evaluation of Supervision Experience by Supervisee Form shall include the name of the supervisee and supervisor; period covered by supervision; ratings of supervision; recommendation of supervisor to other supervisees.

(d) Supervisors shall maintain supervision records for at least seven (7) years beyond termination of supervision.

SUBCHAPTER 11. FEES

86:15-11-1. Fees established

The Board shall establish fees to provide for the support of the administration of the Act.

86:15-11-2. Schedule of fees

The following fees apply to the administration of the Act:

(1) Application fee - $200.00 - Shall be submitted with the application form.

(2) License examination - $295.00 - Shall be submitted when the applicant is notified of eligibility to sit for the examination.

(3) License fee - $100.00 - Shall be submitted upon notification that all application materials and fees have been received and are in order. This fee validates the license for the initial two-year period.

(4) License renewal fee - $100.00 - After the initial two-year period of licensure, this is a yearly fee to be submitted on or before December 31 of each year.

(5) Late renewal fee - $25.00 - This fee is assessed in addition to the renewal fee for failure to renew license on or before December 31.

(6) Replacement fee - $25.00 - This fee is for the issuance of a license certificate to replace a license certificate which has been lost, damaged, or is in need of revision to be submitted with documentation of the necessary replacement.

(7) Inactive license fee - $25.00 - Payment of this fee renders the license inactive and suspends all rights and privileges granted by the license until the license is reinstated.

86:15-11-3. Fees non-refundable

Fees paid by applicants are not refundable.

86:15-11-4. Method of payment

Any remittance submitted to the Board in payment of a required fee may be in the form of a cashiers check, money order, personal check or cash. Payment of fees may be made by credit card or other electronic means, if acceptable by the Board. Any check returned to the Board for non-payment may result in expiration or suspension of license.

86:15-11-5. Review of fees

The Board shall make periodic reviews of its fee schedule and make any adjustments necessary to provide funds to meet its expenses without creating an unnecessary surplus.

SUBCHAPTER 13. ISSUANCE AND MAINTENANCE OF LICENSE

86:15-13-1. Issuance of license

(a) **Certificate.** The license issued by the Board shall contain the licensee's name, license number, highest accredited therapy-related academic degree and date of issuance.

(b) **Signature.** Official licenses shall be signed by the Chair of the Board and be affixed with the seal of the Board.

(c) **Property of the Board.** All licenses issued by the Board shall remain the property of the Board and must be surrendered on demand.

(d) **Notification.** After having fulfilled all requirements for licensure, the Board shall mail notification to the licensee, at last known address, of qualification for licensure; and when the license fee is received and the Board approves the candidate for licensure, the license will be mailed to the licensee.

86:15-13-2. Replacement of certificate

The Board will replace a license certificate that is lost, damaged, or is in need of revision upon written request from the LMFT and payment of the license replacement fee. Requests must include the LMFT's original license or be accompanied by the damaged certificate, if available.

86:15-13-3. License renewal

(a) **Responsibility.** Each LMFT is responsible for renewing his/her license before the expiration date.

(b) **Initial licensing period.** The renewal date of the original license shall be two (2) years from the last day of the month in which the license was originally issued.

(c) **Annual renewal.** Subsequent renewals will be yearly, on or before January 1. License fees will be prorated on a quarterly basis for the first renewal.

(d) **Interim renewal.** The notice for the initial renewal shall solicit the required continuing education documentation and invoice the LMFT for the interim period between the original renewal date and the following December 31 so that subsequent renewals shall be on a calendar year basis. The renewal notice shall inform the licensee of the number of continuing education hours required by December 31. Fees and continuing education hours shall be prorated according to the schedule below.

(1) For a license expiring during January, February or March the following shall apply:

(A) The renewal fee shall be $100.00; and

(B) Continuing education of 20 hours shall be due by December 31.

(2) For a license expiring during April, May or June the following shall apply:

(A) The renewal fee shall be $75.00; and

(B) Continuing education of 15 hours shall be due by December 31.

(3) For a license expiring during July, August or September the following shall apply:

(A) The renewal fee shall be $50.00; and

(B) Continuing education of 10 hours shall be due by December 31.

(4) For a license expiring during October or November, the following shall apply:

(A) The renewal fee shall be $25.00; and

(B) Continuing education of 5 hours shall be due by December 31.

(5) Licenses expiring in December are not prorated.

(e) **Requirements for renewal.** Requirements for renewal are:

(1) Compliance with the Act and Board rules.

(2) Documentation of the required continuing education. (See 86:15-13-4 for information regarding C.E.).

(3) Payment of the renewal fee(s).

(4) Submission of Continuing Education Roster, on official Board form.

(f) **Display of renewal certificate.**

(1) License renewal verification cards shall be displayed on the original (or replaced) license certificate.

(2) A current license verification card shall be readily available on the LMFTs person at any time marital and therapy services are being provided.

86:15-13-4. Continuing education

(a) **Purpose.** The purpose of the requirements in this Section is to establish the continuing education requirements necessary for license renewal.

(b) **Number of hours required.**

(1) Licensees shall complete and furnish documentation to the Board of twenty (20) clock hours of acceptable continuing education per year. One college credit hour is equal to fifteen (15) clock hours.

(2) A minimum of three (3) clock hours of continuing education hours must be in mental health ethics from programs pre-approved by the Board or its designee. Continuing education in mental health ethics is acceptable as meeting the pre-approval requirements by the Board when the continuing education program:

(A) Addresses ethics issues specifically pertaining to the practice of therapy, as defined in Section 1925.2(7) of this Act;

(B) Addresses regulations as promulgated in Subchapter 3 of this Chapter; and

(C) Meets all requirements of subsections (b) through (e) of OAC 86:15-13-4 of this Chapter.

(D) Beginning renewal year 2009, the three clock hours of mental health ethics continuing education must be accrued in a face-to-face setting.

(E) Current LMFT Board members shall receive clock hours of acceptable continuing education in mental health ethics for attendance and participation in Board or Committee meetings.

(3) Approved LMFT Supervisors are required to complete a minimum of three (3) clock hours, every three (3) years, of continuing education in therapy supervision specific to Oklahoma law provided by the Board or its designee. Continuing education in Therapy Supervision is acceptable as meeting the pre-approval requirements by the Board when the continuing education program:

(A) Addresses issues specifically related to the practice of therapy supervision pursuant to regulations promulgated in Subchapter 9 of this Chapter; and

(B) Contains content in one or more of the following knowledge areas:

(i) Overview of a supervision model;

(ii) Supervisors' areas of focus and roles in supervision;

(iii) Supervisors' process and practical application;

(iv) Ethical dilemmas involved in therapy supervision;

(v) Methods of effectively addressing and preventing ethical dilemmas in therapy supervision;

(vi) Overview of AAMFT standards of supervision; or

(vii) Overview of Oklahoma LMFT Rules and Regulations regarding therapy supervision; and

(C) Meets all requirements of subsections (b) through (e) of OAC 86:15-13-4 of this Chapter.

(c) **Acceptable continuing education.** Continuing education is acceptable to the Board when it:

(1) approximates the content of any of the academic areas listed under Subchapter 5 of this Chapter and;

(2) is presented by a person who meets one of the following qualifications:

(A) is licensed or certified by therapy related professions;

(B) is a licensed or certified member of a non-therapy field (i.e. medicine, law) if the content of the presentation is therapy related and falls within the presenter's area of training;

(C) has experience teaching, at the graduate level, in a regionally accredited college or university from any of the knowledge areas listed in OAC 86:15-5-3 of this Chapter;

(D) the person is presenting or has presented at a national mental health conference provided by the American Association for Marriage and Family Therapy (AAMFT), American Psychological Association (APA), American Counseling Association (ACA), or any of its divisions, National Association for Social Workers (NASW), the Association for Addiction Professionals (NAADAC), or other nationally recognized professional organization in the mental health field;

(E) is presenting in a program sponsored or provided by a state or federal government agency with responsibility for mental health and substance abuse services; and

(3) takes place in the context of one of the following:

(A) a college course, in-service training, institute, seminar, workshop, conference or a Board pre-approved technology-assisted distance learning or home-study course;

(B) a national mental health conference provided by the American Association for Marriage and Family Therapy (AAMFT), American Psychological Association (APA), American Counseling Association (ACA), or any of its divisions, National Association for Social Workers (NASW), the Association for Addiction Professionals (NAADAC), or other nationally recognized professional organization in the mental health field;

(C) a program approved or offered by a state or federal government agency with responsibility for mental health and substance abuse services; or

(D) Board or Committee meetings, for current Board members.

(d) **Continuing education accrual from teaching.** Continuing education may also be accrued when the LMFT teaches in programs such as institutes, seminars, workshops, and conferences, when the content conforms to OAC 86:15-13-4(c) of this subchapter, provided that such teaching is not required as part of the LMFT's regular employment. Two hours of C.E. is credited for each hour taught.

(e) **Continuing education accrual from technology-assisted distance learning or home-study courses.** Continuing education may be accrued when the LMFT completes technology-assisted distance learning or home-study programs that are approved by the Board. No more than ten (10) hours of continuing education may be accrued per renewal period through technology-assisted distance learning or home-study courses.

(f) **Professional audience.** Continuing education, whether received or presented by the LMFT must be targeted toward a professional audience.

(g) **Documentation of attendance.** LMFT's shall retain verification of attendance documents for all C.E. hours claimed for a period of two (2) years. Acceptable C.E. verification of attendance documents are:

(1) an official continuing education validation form furnished by the presenter, or,

(2) a letter on the sponsoring presenter's letterhead giving the name of the program, location, dates, subjects taught, total number of hours attended, participant's name and presenter's name and credentials, or,

(3) an official college transcript showing courses or audit credit, or

(4) (For teaching) a letter on sponsoring agency's letterhead giving the name of the program, location, dates, subject taught and total number of hours taught.

(h) **Submission of continuing education roster.** LMFT's shall submit a Continuing Education Roster, on official Board forms, (not individual verification of attendance documents) with the license renewal fee. Rosters may be obtained from the LMFT office. The Continuing Education Roster shall include the name of the licensee, signature and signature date of the licensee, total clock hours of workshop(s), name of workshop(s), sponsoring agency of workshop, date of workshop, and the number of hours of each workshop. Only C.E. accrued in the preceding license renewal period is acceptable.

(i) **Audit of continuing education submissions.** In November of each year, the Board will randomly select from two (2) to twenty-five (25) percent of the number of LMFT's on active status the previous year for an audit of their claimed Continuing Education credits. These selected LMFT's must then provide the Board with verification of all credits claimed on their Continuing Education Roster on or before the renewal deadline. The Board may, at its discretion, audit and require verification of any credits claimed which it may consider questionable or fraudulent.

(j) **Penalty for failure to submit continuing education.** Failure to fulfill the C.E. requirement by the renewal date renders the license in suspension. All rights granted by the license are null and void until the requirement is fulfilled and a late renewal fee is paid. The LMFT has 12 months from the date of suspension to become reinstated. If not reinstated, the license shall be revoked.

(k) **Submission of fraudulent continuing education.** The submission of fraudulent C.E. hours will be reviewed by the License Committee for disciplinary action and may result in suspension or revocation of license.

(l) **Responsibility.** The licensee is ultimately responsible for providing or arranging for sponsors to provide the information necessary for the Board to make a determination of the suitability of the program for continuing education requirements.

(m) **Continuing Education Rosters for LMFT Approved Supervisors.** Every three (3) years, LMFT Approved Supervisors are required to submit three (3) hours of continuing education in therapy supervision on the LMFT Approved Supervisor Continuing Education Roster. The LMFT Approved Supervisor Continuing Education Roster shall include name of licensee, signature and signature date of licensee, total clock hours of workshop(s), name of therapy supervision workshop, sponsoring agency of workshop(s), date of workshop(s), and number of hours of each workshop.

86:15-13-5. Inactive status

(a) An active license may be placed on inactive status by written request and payment of a one-time twenty-five dollar ($25.00) fee. An inactive license forfeits all rights and privileges granted by the license.

(b) When a license is placed on inactive status, the license and active verification cards shall be returned to the Board.

(c) A license that has remained inactive for at least one (1) year may be reactivated upon payment of a prorated renewal fee and submission of prorated continuing education hours required during the renewal year, in accordance with this Chapter, if there are no impediments to licensure.

(d) A license placed on inactive status may be reactivated within one (1) year when submitted with the required renewal fee and continuing education, in accordance with this Chapter, if there are no impediments to licensure.

86:15-13-6. Late license renewal; reapplication

(a) **Renewal notification.** The Board shall mail a notice of expiration to licensee's last known address, 45 days prior to the expiration date of the LMFT's license.

(b) **Failure to renew.** If the licensee fails to renew his/her license by the expiration date:

(1) the license will expire and the rights and privileges granted by the license will be forfeited.

(2) the LMFT has the right to reinstate the license by payment of the renewal fee and the late renewal fee and fulfillment of all other renewal requirements for up to one year following the expiration of the license.

(3) licenses not renewed within the 1 year renewal period shall not be reinstated and shall be permanently expired. The license must be returned to the Board.

(c) **Reapplication.** It shall be the responsibility of the former licensee to reapply for licensure. Reapplication means making application, payment of all fees, taking and passing the exam and fulfillment of all requirements for licensure in effect at the time of reapplication. No contact will be initiated by the Board.

(d) **Retirement of license.** An LMFT whose license is current and in good standing, who wishes to retire the license, may do so by informing the Board in writing and returning the license to the LMFT office. A license so retired shall not be reinstated but does not prevent a person from applying for a license at a future date.

86:15-13-7. Misrepresentation

If a therapist whose license has been inactivated, suspended, or revoked continues to represent himself as a Licensed Marital and Family Therapist or practices Marital and Family Therapy, he is in violation of Section 1925.10 and 1925.16 of the Licensed Marital and Family Therapist Act and shall be subject to discipline and injunction reported to the appropriate District Attorney for prosecution.

86:15-13-8. Licensure by endorsement

The Board may grant a license by endorsement, in accordance with Section 1925.9 of the LMFT Act.

(1) **Submission of Out-of-State License Verification Form.** An applicant for licensure by endorsement must submit the Out-of-State License Verification Form and may be required to submit a copy of the statute and rules of the agency issuing the license and the name and address of the licensing agency.

(2) **Licensing procedures.** An applicant must submit all application materials as described in OAC 86:15-5-2(b)(1), (2), (3), (5) and (6).

(3) The Board shall issue a license by endorsement to an applicant who is licensed or certified as a marital and family therapist in another jurisdiction and who meets the following:

(A) The applicant's marital and family therapy license in the other jurisdiction is active and in good standing with no history of suspension or revocation action against the license.

(B) The applicant fulfills the requirements of Section 1925.6 (A), (B), (C) of the LMFT Act;

(C) The applicant must have at least a masters degree in marital and family therapy, or in a mental health, behavioral science, or counseling related field, or a content-equivalent degree from a regionally accredited college or university;

(D) The applicant takes and passes the examination as provided in Section 1925.7, unless the applicant has passed a written, marital and family therapist examination that, in the judgment of the Board, is substantially equivalent to the examination established by the Board; and

(E) The applicant takes and passes the Oklahoma LMFT Examination.

(4) If the Applicant cannot meet the requirements of Paragraph (3) of this section, the Board shall issue a license by endorsement to an applicant who is licensed or certified as a marital and family therapist in another jurisdiction and who meets the following:

(A) The applicant's marital and family therapy license in the other jurisdiction is active and in good standing which allows the applicant to practice independently without supervision and shall have no history of suspension or revocation action against the license;

(B) The applicant must show proof of practice in marital and family therapy for five (5) years prior to application in Oklahoma;

(C) The applicant fulfills the requirements of Section 1925.6 (A), (B), (C) of the LMFT Act;

(D) The applicant must have at least a masters degree in marital and family therapy or in a mental health, behavioral science, or counseling related field from a regionally accredited college or university;

(E) The applicant takes and passes the Oklahoma LMFT Examination as described in OAC 86:15-7-2(2) of this Chapter.

(F) The applicant meets the requirements in OAC 86:15-5-1(b).

(5) The applicant must meet the requirements in OAC 86:15-5-2(a)(2),(3) and (4).

SUBCHAPTER 15. ENFORCEMENT

86:15-15-1. Purpose

The purpose of this subchapter is to specify the procedure of processing of Requests for Inquiry filed by citizens and the filing of disciplinary actions against Licensed Marital Family Therapists ("LMFT") or against persons who practice as a licensed marital family therapist without a license or exemption.

86:15-15-2. Definitions

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

"Act" means the Marital and Family Therapist Licensure Act, 59 O.S. §§ 1925.1 *et seq.* , as amended.

"APA" means Article I and/or Article II of the Administrative Procedures Act, 75 O.S. §§ 250 *et seq.*

"Board" means the State Board of Behavioral Health Licensure.

"Complaint Committee" means one Board member who is a LMFT, the Executive Director, the Assistant Attorney General, and may include other appropriate individuals as determined by the Committee.

"Formal Complaint" means a written statement of alleged violation of the LMFT Act by a person licensed or certified by the Board and which is filed by the Board's attorney along with a Notice of Hearing scheduling an individual proceeding before the Board.

"Hearing" means the process followed by the Board to provide Due Process to a licensee respondent in an individual proceeding.

"Individual Proceeding" means the formal process by which the Board takes administrative action against a person licensed or certified by the Board in accordance with the APA and the Act.

"Request for Inquiry" means a written or oral statement of complaint from any person of a possible violation of the Act or rules of the Board.

"Respondent" means the person against whom an individual proceeding is initiated.

"Staff" means the personnel of the Board.

86:15-15-3. Complaint Procedure

(a) **Receiving Requests for Inquiry.** Any person may file a Request for Inquiry against a Licensed Marital and Family Therapist ("LMFT") or a person who delivers licensed marital and family therapy services without a license. A person wishing to report a concern or alleged violation against a LMFT or a person delivering licensed marital and family therapy services without a license may notify the Board in writing, by telephone or by personal visit. The Board or its agent may require complainants to reduce oral complaints to writing to facilitate the review and investigation of the Request for Inquiry. The Complaint Committee will determine whether the Request for Inquiry alleges a possible violation of the Act. Upon receipt of the Request for Inquiry, the Executive Director will:

(1) Stamp all pages with a Board stamp indicating date of receipt;

(2) Review the Request for Inquiry to determine if theperson against whom the Request for Inquiry is made is a person who is subject to the jurisdiction of the Board;

(3) Generate a letter to the complainant indicating receipt of the Request for Inquiry;

(4) Notify the members of the Complaint Committee by providing a copy of the Request for Inquiry to each member.

(b) **Authority of Complaint Committee.** The Complaint Committee has the authority to consult on professional duties and responsibilities as set forth in the LMFT Act. In addition, the Complaint Committee has authority to do the following:

(1) Appoint an investigator;

(2) Meet with licensees who are the subject of the Request for Inquiry;

(3) Outline the terms of a proposed Consent Order for the informal disposition of Requests for Inquiry to be submitted at a Board hearing for approval;

(4) Authorize the filing of a formal Board Complaint in matters that may result in the revocation, suspension or probation of a license.

(c) **Reviewing Requests for Inquiry.** The Executive Director has the authority to respond directly to individuals filing a Request for Inquiry without need for referral to the Complaint Committee for matters that do not allege a violation of the law or which require no further action, and for allegations that if true, would not be a violation of the law or rules. If the allegation(s) indicate a possible violation of the law or rules, the Complaint Committee shall determine whether additional investigation is needed and shall make the following determination:

(1) The alleged violation(s) if found to be valid, would not result in a denial, revocation or suspension of a license, but one which does indicate the need for Board review and possible informal action.

(2) The alleged violation(s) if found to be valid, would result in a denial, revocation, suspension or probation of a license.

(d) **Allegations, if substantiated, not appearing to result in a denial, revocation or suspension of a license.** If an alleged violation appears to be one which would not result in the revocation, suspension or probation of a license, the Complaint Committee shall proceed with reviewing the Request for Inquiry. Upon the consent of the Complaint Committee and the advice of the Attorney General liaison the Complaint Committee or its designee shall proceed by:

(1) Notification to the licensee by certified mail that a Request for Inquiry has been received, outlining the nature of the inquiry.

(2) Forwarding to the licensee a copy of the informal process for addressing Requests for Inquiry which requires:

(A) a prompt letter to the Board from the licensee responding to the merits of the Request for Inquiry;

(B) an informal interview with the Complaint Committee to fully explore the issues involved in the Request for Inquiry;

(C) an agreement by the Complaint Committee and the licensee on the merits of the Request for Inquiry;

(D) a proposed Consent Order for disciplinary action for the licensee, signed by Board member serving on the Complaint Committee, to be submitted for approval of the Board at an open meeting, the terms of which may include but not be limited to the following:

(i) a tutorial assigned to the licensee in areas determined by the Complaint Committee in areas determined by the Board addressing the practice in question, under the supervision of a Board Approved Supervisor assigned by the Board

(ii) a Notice of Violation reprimanding the licensee for the practice in question;

(iii) re take the Jurisprudence exam

(iv) Letter of Explanation

(E) a review of the course of action in a specified time, no longer than six months, to determine whether or not remediation has taken place; and

(F) a letter to the licensee indicating the informal process has ended; or,

(3) Referral to the formal investigation process when:

(A) the licensee fails to respond to the certified letter from the Complaint Committee;

(B) the informal process reveals new or expanded allegations that indicate the possibility of a denial, revocation or suspension of a license;

(C) the licensee fails to meet the requirements of Consent Decree without good cause.

(4) A Consent Order entered into pursuant to this subsection that is agreed to by the Board and the licensee shall not be considered a disciplinary action and will not appear on the Board's website or be reported to a national databank.

(e) **Allegations if substantiated, appearing to result in a revocation, suspension or probation of a license.** If an alleged violation appears to be one which would result in a revocation, suspension or probation of a license, the Complaint Committee shall proceed with addressing the Request for Inquiry by the process detailed below based upon agreement of a majority of its members:

(1) Contacting an investigator designated by the Board as qualified to address the nature of the Request for Inquiry.

(2) Providing the designated investigator with names and addresses of the complainant, if available, and the licensee.

(3) Issuing a letter notifying the licensee of the investigation and Request for Inquiry

(4) Complaint Committee to determine whether or not the licensee is to be interviewed by the contract investigator or upon advice of the Attorney General liaison, conducting an interview by the Assistant Attorney General in a setting under oath; and to determine whether in addition, the matter is to be referred for criminal investigation.

(5) Following investigation, the Complaint Committee shall review and determine whether the Request for Inquiry should be dismissed, referred for informal resolution as there appears to be a violation of the Act but does not appear to be sufficient evidence to support a revocation, suspension or probation of a license, or to proceed with authorizing the filing of a Formal Complaint and the issuance of a Notice of Hearing by the Assistant Attorney General.

(f) **Summary suspension.** After the filing of a Formal Complaint seeking revocation or other action and the issuance of a Notice of Hearing by the Assistant Attorney General, but prior to the final hearing on the merits of said Formal Complaint, in the event of an emergency, a summary suspension hearing may be held as set forth herein. The Chair of the Board upon concurrence of the Complaint Committee that an emergency exists for which the immediate suspension of a license is imperative for the protection of the public health, safety or welfare, may conduct a summary suspension hearing to temporarily suspend the license of any person under the jurisdiction of the Board, pending proceedings for revocation or other action set forth in the Formal Complaint. The Chair or Vice Chair, may issue an Order of Temporary Summary Suspension upon a finding of clear and convincing evidence that the immediate suspension is imperative for the protection of the public health, safety or welfare. The summary suspension hearing shall be conducted in accordance with the Sections 314 and 314.1 of the APA. The licensee shall be given at least 48 hours personal notice to appear for the summary suspension hearing outlining the specific issues that constitute an emergency and for which summary suspension is imperative for the protection of the public health, safety or welfare. Following the summary suspension, the Individual Proceeding hearing on the full merits of the Formal Complaint shall be promptly instituted and determined.

(g) **Request for inquiry confidentiality.**

(1) The request for inquiry and the identity of the complainant or informant shall be confidential and shall not be available for public inspection.

(2) The investigator's report are to be used solely to determine whether or not to pursue disciplinary action against the Respondent, and thus constitute confidential and privileged work product material, not subject to disclosure.

86:15-15-4. Investigation

If the Complaint Committee determines a possible violation of the Act or this Chapter has occurred, the Complaint Committee may commence an investigation of the complaint.

86:15-15-5. Cooperation with investigations

Licensees shall cooperate when Board staff, Complaint Committee members, and/or investigators make inquiries concerning a Request for Inquiry made against a licensee. Failure of a licensee to cooperate is grounds for further disciplinary action under the Act.

86:15-15-6. Service of petition and notice

(a) **Service.** The petition and notice shall be served on the respondent(s) personally or by certified mail, return receipt requested to the address of the respondent(s) on file with the Board. It is the duty of the licensee to provide current address information.

(b) **Proof of service.** Proof of service shall be filed with the Board office.

(c) **Substitute service.** If the Board is unable to obtain service on a respondent, the petition and notice shall be mailed by regular mail to the last known address of the respondent, and the Board shall file an affirmation service was attempted.

(d) **Service of other papers and documents.** Service of all other papers and documents connected with an individual proceeding shall be served on the parties or their counsel by delivering a copy in person or via facsimile or regular mail.

86:15-15-7. Hearing

Hearings shall be conducted by the Board in accordance with the APA, 75 O.S., Sections 309-321. The Board shall recommend the most appropriate penalty at the conclusion of the evidence.

86:15-15-8. Continuances

(a) **Continuances by the Board.** The Board chair may continue or adjourn the proceedings at any time for a specified time, with notice or motion.

(b) **Continuance by motion of parties.** Except for good cause shown, or by agreement of all parties, no continuance will be granted upon motion of a party unless written request therefore is filed and served on all parties of record and filed with the Board office and served on the Assistant Attorney General at least seven (7) days prior to the date set for hearing. A stipulation for continuance among all parties of record ordinarily will be approved, unless the Board chair determines that the public interest requires otherwise.

86:15-15-9. Discovery

Discovery shall be conducted generally in accordance with the APA. The Board chair may enter specific orders directing the conduct of discovery.

86:15-15-10. Protective orders

The Board chair at the hearing or at any time upon application of a party, with or without notice, may make such orders relating to discovery as may be necessary or appropriate for the protection of the parties, and to prevent hardship to and excessive burden upon a party.

86:15-15-11. Subpoenas

(a) **Issuance of subpoenas for witnesses and physical evidence.** The Board may compel the attendance of witnesses, and the production of physical evidence before it from witnesses, upon whom process is served by subpoena anywhere within the state. Such subpoenas will be issued over the signature of the chairperson or vice chairperson and the seal of the Board.

(b) **Service of subpoenas.** From the institution of formal Board proceedings, subpoenas will be issued on behalf of the licensee or the Board. Service of the subpoena will be the responsibility of the requesting party. Subpoenas shall be served and return made in the manner prescribed by general civil law.

86:15-15-12. Final order

The Board shall issue a final order on all disciplinary matters. Final orders are appealable under the Administrative Procedures Act to the district courts.

86:15-15-13. Unauthorized practice

Any person found to be practicing licensed marital and family counseling without being either properly licensed, exempt or under the approved supervision of an LMFT as part of the licensure process shall be ordered to cease practicing and may be subject to an administrative penalty. The Board may seek the assistance of the courts if the actions continue.

86:15-15-14. Administrative penalties

(a) The Board may assess an administrative penalty against an individual if the order includes a finding that the individual:

(1) Violated any provision of the Act, including practicing licensed marital and family therapy without licensure or exemption; or

(2) Violated any rule within this Chapter; or

(3) Violated any order issued pursuant to this Chapter.

(b) The total amount of the administrative penalty assessed shall not exceed ten thousand dollars ($10,000.00) for any related series of violations.

86:15-15-15. Costs of investigation

Costs of investigation may be assessed against a licensee and incorporated into a Consent Order or any other final order resolving a disciplinary matter against a licensee.

SUBCHAPTER 17. POST-MILITARY SERVICE OCCUPATION, EDUCATION, AND CREDENTIALING RULES

86:15-17-1. Education, training and experience completed as a member of the Armed Forces of the United States pursuant to 59 O.S. § 4100.4(A)

If an applicant otherwise qualifies for licensure, the Board shall issue an appropriate license to applicants who present satisfactory evidence of equivalent education, training and experience completed by the applicant as a member of the Armed Forces or Reserves of the United States, National Guard of any state, the Military Reserves of any state, or the Naval Militias of any state.

86:15-17-2. Automatic extension of license, payment of fees and continuing education for active-duty military service members

(a) Automatic extension pursuant to 59 O.S. § 4100.6(A). The license of active-duty military service members shall be automatically extended and placed on inactive licensure status during active-duty military service and for one (1) year after active-duty military service, unless the licensee seeks to maintain said license in good-standing.

(b) Payment of fees and continuing education pursuant to 59 O.S. § 4100.6(B), (C) and (D). Active-duty military service members seeking to maintain his or her license in good-standing may have his or her license renewed during active-duty, and

for a period of one (1) year after discharge from active-duty, without:

(1) payment of fees; and

(2) obtaining continuing education credits when:

(A) circumstances associated with military duty prevent obtaining training and a waiver request has been submitted to the Board;

(B) the licensee performs social work as an occupation as part of his or her military duties as shown in Defense Department Form DD 214 (DD Form 214); or

(C) performing any other act typically required for the renewal of the license.

86:15-17-3. Reciprocal licensing of spouses of active-duty members of the Armed Forces of the United States

The procedure to expedite endorsement of licensure pursuant to Section 4100.5 of Title 59 of the laws of the State of Oklahoma for applicants who are licensed in another state and who are the spouse of an active-duty member of the Armed Forces of the United States is as follows:

(1) A license shall be issued to the applicant if the requirements for licensure of the other state are substantially equivalent to those required by this state;

(2) If specific licensure requirements in this state were not required in the state in which the Applicant was licensed, a temporary license for a set period of time shall be issued to Applicants to allow the person to work as a licensed professional counselor while completing those requirements.

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CHAPTER 20. LICENSED BEHAVIORAL PRACTITIONERS

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n/a

ANALYSIS:
The following permanent rules interpret the Oklahoma Licensed Professional Counselor Act, (59 O.S. 1991, Sections 1901 et seq.)

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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING PERMANENT RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 11, 2015:

SUBCHAPTER 1. GENERAL PROVISIONS

86:20-1-1. Purpose

The rules in this Chapter implement the Oklahoma Licensed Behavioral Practitioner Act, (59 O.S., Sections 1930 et seq.)

86:20-1-2. Definitions

When used in this Chapter, the following words or terms shall have the following meaning unless the context of the sentence requires another meaning:

"Act" means the Licensed Behavioral Practitioner Act, 59 O.S. §§ 1930 *et seq.*, as amended.

"Board" means the State Board of Behavioral Health Licensure.

"Complaint Committee" means one Board member who is a LBP, the Executive Director, the Assistant Attorney General and may include other appropriate individuals as determined by the Committee.

"Dual relationship" means a familial, social, financial, business, professional, close personal, sexual or other non-therapeutic relationship with a client, or engaging in any activity with another person that interferes or conflicts with the LBP's professional obligation to a client.

"Face-to-face behavioral health services" means the behavioral practitioner and the client shall be in the physical presence of the other in a behavioral health setting.

"Face-to-face supervision" means the supervisor and the supervisee shall be in the physical presence of the other.

"Full time practice" means working at least 20 hours per week.

"Group supervision" means two (2) to six (6) LBP Candidates.

"Technology-assisted distance learning" refers to the delivery of graduate coursework or continuing education, which focuses on synchronous or asynchronous instructional delivery methods. Technology-assisted distance learning is designed to deliver education to students who are not in the direct physical presence of the educator.

"License Committee" means two LBP Board members, one Staff member, and may include other appropriate individuals as determined by the Committee.

"Staff" means the personnel of the Board.

"Technology-assisted supervision" refers to supervision that occurs through video teleconferencing, over secure internet connections, wherein an Approved LBP Supervisor and a Licensed Behavioral Practitioner Candidate are in separate physical locations.

86:20-1-3. Prohibition

Any person who is not specifically listed in Section 1932 of the Act shall not practice behavioral health services or use the title Licensed Behavioral Practitioner or LBP.

86:20-1-4. Applicability

Every duty, obligation or requirement described in this Chapter and imposed upon a LBP shall be applicable to every licensed behavioral practitioner candidate, unless specifically provided otherwise.

SUBCHAPTER 3. FORMS

86:20-3-1. Forms

Each application shall include the following documents:
(1) Application Form;
(2) Official transcript, mailed from the university or college;
(3) Internship/practicum Documentation Form;
(4) Three (3) Document of Recommendation Forms;
(5) Two (2) classifiable sets of fingerprints; and
(6) Fees.

86:20-3-2. Description of forms

(a) The Application Form requires the following:
(1) Identifying information of applicant;
(2) Possession of other credentials;
(3) Previous misconduct;

(4) Education;
(5) References; and
(6) Proposed professional Practice.

(b) The Internship/Practicum Documentation Form requires the following:
(1) Identifying information of applicant;
(2) Place, time, duration and nature of supervised experience;
(3) School arranging supervision and name of supervisor; and,
(4) Signature and title of supervisor.

(c) The Document of Recommendation requires the following:
(1) Identifying information of applicant;
(2) Scale of performance rating personal character and professional skills;
(3) Circumstances and time period rater has known applicant;
(4) Space for rater's comments;
(5) Identifying information of rater.

(d) The Statement of Professional Disclosure is composed of alternative forms depending on the status of the applicant, as follows.
(1) The LBP Candidate's Statement of Professional Disclosure requires the following:
(A) Explanation of LBP Candidate's responsibilities;
(B) Name and contact information for person who will be responsible for the client's records in the event of the LBP Candidate's infirmity or death;
(C) Supervisor's identifying information;
(D) Address and phone number of the Agency; and,
(E) Signatures of client and LBP Candidate.
(2) The LBP's Statement of Professional Disclosure requires the following:
(A) Explanation of the LBP's responsibilities;
(B) Name and contact information for person who will be responsible for the client's records in the event of the LBP's infirmity or death;
(C) Address and phone number of the Agency; and,
(D) Signatures of client and LBP.

(e) The Supervision Agreement requires the following:
(1) Statement of agreement to fulfill Subchapter 13 and consequences of violation; and
(2) Identifying information and signatures of supervisee and supervisor.

(f) The On-Site Supervisor Verification Form requires the following identifying information:
(1) Name of applicant;
(2) Place of employment;
(3) On-Site Supervisor Information;
(4) A reproduction of the regulation regarding supervision accrued in a private setting.

(g) The Evaluation of Supervised Experience Form requires the following:
(1) Names of supervisee and supervisor;
(2) Name and location of supervision site;
(3) Duration of work experience and supervision;
(4) Types of professional activities and clients seen;
(5) Rating of quality of professional activities;
(6) Supervisor and supervisee comments; and
(7) Signatures of supervisee and supervisor.

(h) The Continuing Education Roster requires the following:
(1) LBP's name and license number;
(2) Total number of hours accrued and LBP's signature and signature date of licensee;
(3) Listing of workshops, sponsor, content and date of continuing education experience.

(i) The Licensure Verification Request Form requires the following information:
(1) Name of licensee;
(2) Licensee license number; and
(3) Licensee license type.

(j) The Out-of-State Licensure Verification Form requires the following information:
(1) Identifying information;
(2) Type of credential held in other state;
(3) License number;
(4) Issue and expiration date of license;
(5) Current standing of license;
(6) Past complaints or sanctions;
(7) Exam information;
(8) Supervision information;
(9) Graduate education;
(10) Internship documentation;
(11) Signature and identifying information of person verifying from out-of-state.

(k) The Mailing Addresses Request/Order Form requires the following information:
(1) Type of licensure list requested;
(2) Format requested;
(3) Identifying information of person making request.

(l) The Licensure Reactivation Request Form requires the following information:
(1) Licensure type;
(2) Identifying information;
(3) Employment information;
(4) Graduate education;
(5) License type and number;
(6) Dates of inactivation and reactivation of license.

(m) The Termination of Supervision Agreement requires the following information:
(1) name of candidate;
(2) current place of employment of candidate;
(3) address of current place of employment of candidate;
(4) phone number of candidate;
(5) email address of candidate;
(6) signature and signature date of candidate, (if available);
(7) name of supervisor;
(8) license number of supervisor;
(9) current place of employment of supervisor;
(10) phone number of supervisor;
(11) email address of supervisor;

(12) signature and signature date of supervisor, (if available); and
(13) effective date of termination of supervision agreement.

SUBCHAPTER 5. RULES OF PROFESSIONAL CONDUCT

86:20-5-1. Responsibility

LBPs shall accept responsibility for the consequences of their work and ensure that their services are used appropriately. LBPs shall not participate in, condone, or be associated with dishonesty, fraud, deceit or misrepresentation. LBPs shall not use their relationships with clients for personal advantage, profit, satisfaction, or interest.

86:20-5-2. Competence

(a) **Behavioral health services.** LBPs shall practice only within the boundaries of their competence, based on their education, training, supervised experience, state and national professional credentials, and appropriate professional experience.
(b) **Testing.** LBPs shall know the limits of their competence and shall therefore perform only those testing and assessment services for which they have been trained. LBPs shall be familiar with related standardization and proper application and security of any technique utilized. LBPs using computer-based test interpretations shall be trained in the construct being measured and the specific instrument being used prior to using this type of computer application. LBPs shall ensure the proper use of assessment techniques by persons under their supervision.
(c) **Specialty.** LBPs shall not represent themselves as specialists in any aspect of behavioral health services, unless so designated by the Board.
(d) **Research.**
(1) LBPs shall plan, design, conduct, and report research only in a manner consistent with current, pertinent ethical principles put forth in the "Ethical Standards and Code of Conduct" governing Northamerican Association of Masters in Psychology (NAMP), federal and state laws, rules, and scientific standards governing research with human subjects.
(2) The research principles of the NAMP "Ethical Standards and Code of Conduct" are as follows:
(A) Principle 8: Research with Human and Animal Participants
(i) 8.1 Relevant research. The Masters in Psychology shall only undertake research pertaining to human subjects when such research contributes to psychology as a science and humankind in general. On the premise of this forethought, one conducts the research with the utmost concern for the dignity and welfare of their research participants.
(ii) 8.2 Informed consent in research. The Masters in Psychology shall make certain that research participants fully understand the conditions and comprehend the general nature of the research when requesting informed consent. Research that involves deception on the part of the researcher should in general be avoided, unless the perceived outcomes far exceed any perceived minimal adverse reactions and in either case a debriefing session suitable to the research will always be conducted.
(B) Principle 10: Teaching, Training & Research Publication
(i) 10.1 Candidness in research techniques. The Masters in Psychology shall make every effort to make available any and all appropriate materials supporting research materials and to readily disseminate results for replication.
(ii) 10.2 Proper supervision. The Masters in Psychology shall maintain proper supervision of their employees, subordinates, supervisees, and research assistants in the delegation of duties and shall make every ethically appropriate effort to ensure that only those individuals competent to perform such services do so.
(e) **Impairment.** LBPs shall not offer or render professional services when such services may be impaired by a personal physical, mental or emotional condition(s). LBPs shall seek assistance for any such personal problem(s) with their physical, mental or emotional condition, and, if necessary, limit, suspend, or terminate their professional activities. If an LBP possesses a bias, disposition, attitude, moral persuasion or other similar condition that limits his or her ability to recommend a course of treatment or decision-making that is indicated, and under such circumstances where all other treatment and decision options are contra-indicated, then in that event the LBP shall not undertake to provide counseling and shall terminate the counseling relationship in accordance with this Chapter.
(f) **Knowledge of improper sexual contact.** If an LBP becomes aware that another LBP or LBP Candidate is violating Section 86:20-5-4, the LBP or LBP Candidate must, within a reasonable time, report the improper sexual contact to the Board in accordance with Section 86:20-29-3.
(g) **Evaluations.** LBP candidates and licensees may not perform forensic services, which include, but are not limited to, assessments, interviews, consultations, custody evaluations, reports, or expert testimony, or other such activity that is undertaken or conducted by the candidate or licensee in contemplation that the results may, or are intended to be, later furnished to a trier of fact or other decision maker, except under the following conditions:
(1) LBP candidates and licensees must demonstrate competence by certification, education or experience in the subject matter relevant to the issues in question and must certify in writing that they have complied with all applicable provisions of the Rules and Regulations (described in Sections 86:20-5-1, 86:20-5-2(a)(f), and 86:20-5-7(f)(1)(2)(3) of this Chapter.
(2) LBP candidates and licensees shall prepare a written report and include a separate section therein containing

the author's findings and conclusions relative to their analysis. Additionally, the candidate or licensee must provide to the person who is the subject of their forensic analysis, and such other person or persons who has/have a legally recognizable right in the subject matter of the proceeding, which may be directly adversely affected by the findings and conclusions made by the candidate or licensee, a copy of the written report at no cost to the person or persons entitled to receive a copy of the written report pursuant to this section. The copy(ies) must be provided at least ten (10) days prior to the report's publication unless otherwise required by law or court order.

(3) LBP candidates and licensees shall maintain written records, in a form or format that is legible or readable to third persons, of all contacts and information received and used in the preparation of their report.

(4) LBP candidates and licensees must conduct a thorough examination of the person who is the subject of their forensic analysis, and such other person or persons who has/have a legally recognizable right in the subject matter of the proceeding, which may be directly adversely affected by the findings and conclusions made by the candidate or licensee, and must utilize a "face-to-face" interview of the person who is the subject of the forensic analysis, or any other such person who may be directly adversely affected by the findings and conclusions made by the candidate or licensee.

(5) LBP candidates and licensees must base their findings and conclusions only upon information gained by appropriate and lawful means. Interviews of minor children must be preceded by written consent from the joint-custodial parents or from the custodial parent or from the legal guardian or from the legal custodian appointed by the Court.

(6) LBP candidates and licensees who provide counseling services for a client may only provide fact witness testimony in forensic matters involving that client, unless otherwise required by law or court order. LBP candidates and licensees who provide mediation, parent coordinating assistance or any other neutral participation, may not undertake to provide counseling to any person(s) involved or directly affected by the LBP candidate's or licensee's role as a neutral participant. Fact witness testimony means evidentiary statements that are limited to direct observations made by the LBP candidate or licensee and shall not include conclusions, opinions or recommendations.

(7) Assessments, interviews, consultations, custody evaluations, reports or other activity not performed in contemplation that the results would be furnished to a trier of fact or decision maker, must be kept confidential and cannot be utilized in the formation or publication of an opinion by the candidate or licensee.

86:20-5-3. Client welfare

(a) **Discrimination.** LBPs shall not, in the rendering of their professional services, participate in, condone, or promote discrimination on the basis of race, color, age, gender, religion or national origin.

(b) **Records.**

(1) **Requirement of records.** LBPs shall maintain verifiable records necessary for rendering professional services to their clients for at least five (5) years beyond termination of services. LBPs employed at an institution or facility that has a published records retention policy that is equal to the retention required by this subsection will be deemed to be in compliance with this subsection.

(2) **Confidentiality.** LBPs shall maintain the confidentiality of any information received from any person or source about a client, unless authorized in writing by the client or otherwise authorized or required by law or court order.

(3) **Confidentiality of records.** LBPs shall be responsible for complying with the applicable state and federal regulations in regard to the security, safety and confidentiality of any behavioral health services record they create, maintain, transfer, or destroy whether the record is written, taped, computerized, or stored in any other medium.

(4) **Client access.** LBPs shall provide the client a copy of the client's record in accordance with state and federal laws. In situations involving multiple clients, access to records is limited to those parts of records that do not include confidential information related to another client.

(c) **Invasion of privacy.** LBPs shall not make inquiry into persons or situations not directly associated with the client's situation.

(d) **Private or Independent Practice.** No person may engage in the private or independent practice of behavioral practitioner work or open a facility with the intent of providing private or independent counseling practice unless that person:

(1) is licensed under this Act as a Licensed Behavioral Practitioner; and,

(2) has met all requirements of Section 86:20-13-2 of LBP Regulations; and

(3) has continued to meet all continuing education requirements set forth in Subchapter 19 of this Chapter.

(e) **Referral.**

(1) If LBPs determine they are unable to be of professional assistance to a client, the LBP shall not enter a behavioral health services relationship. LBPs shall refer clients to appropriate sources when indicated. If the client declines the suggested referral, the LBP shall terminate the relationship.

(2) LBPs shall not abandon or neglect current clients in treatment without making reasonable arrangements for the continuation of such treatment.

(3) When an LBP becomes cognizant of a disability or other condition that my impede, undermine or otherwise interfere with the LBPs duty of responsibility to the current client, including a suspension of the LBPs license or any other situation or condition described in Subchapter 5 of these rules, the LBP shall promptly notify the client in writing of the presence or existence of the disability or condition and take reasonable steps to timely terminate the therapeutic relationship.

86:20-5-4. Non-professional relations with clients

(a) **Dual relationships.** LBPs shall not knowingly enter into a dual relationship(s) and shall take any necessary precautions to prevent a dual relationship from occurring. When the LBP reasonably suspects that he or she has inadvertently entered into a dual relationship the LBP shall record that fact in the records of the affected client(s) and take reasonable steps to eliminate the source or agent creating or causing the dual relationship. If the dual relationship cannot be prevented or eliminated and the LBP cannot readily refer the client to another counselor or other professional, the LBP shall complete one or more of the following measures as necessary to prevent the exploitation of the client and/or the impairment of the LBP's professional judgment:

(1) Fully disclose the circumstances of the dual relationship to the client and secure the client's written consent to continue providing counseling;

(2) Consult with other professional(s) to understand the potential impairment to the LBP's professional judgment and the risk of harm to the client of continuing the dual relationship;

(b) **Sexual contact.** The following restrictions apply to sexual contacts between LBPs and clients, students or supervisees.

(1) **Current clients.** LBPs shall not engage in sexual contact with clients and shall not counsel persons with whom they have had a sexual relationship.

(2) **Students and supervisees.** LBPs shall not engage in sexual contact with students or supervisees and shall not teach or supervise persons with whom they have had a sexual relationship.

(c) **Providing counseling to persons of prior association.** LBPs shall not undertake to provide counseling to any person with whom the LBP has had any close personal relationship within the previous five (5) years.

(d) **Interaction with former clients.** LBPs shall not knowingly enter into a close personal relationship, or engage in any business or financial dealings with a former client for two (2) years after the termination of the counseling relationship. LBPs shall not engage in any activity that is or may be sexual in nature with a former client for at least five (5) years after the termination of the counseling relationship. LBPs shall not exploit or obtain an advantage over a former client by the use of information or trust gained during the counseling relationship.

86:20-5-4.1. Responsibility to supervisees

(a) LBPs shall not exploit the trust and dependency of supervisees.

(b) LBPs are cognizant of their potentially influential position with respect to supervisees, and shall not exploit the trust and dependency of such persons. LBPs, therefore, shall avoid dual relationships that impair their professional judgment or increase the risk of exploitation. Examples of such dual relationships include, but are not limited to, provision of counseling to supervisees, and business or close personal relationships with supervisees. Sexual intimacy with current supervisees is prohibited.

(c) LBPs shall not permit supervisees to perform or to hold themselves out as competent to perform professional services beyond their training, level of experience, and competence.

(d) LBPs shall not disclose supervisee confidences to anyone, except:

(1) as mandated by law;

(2) in case of clear and imminent danger to a person or persons;

(3) where the professional counselor is a defendant in a civil, criminal, or disciplinary action arising from the supervision (in which case client confidences may be disclosed only in the course of that action);

(4) if there is a waiver previously obtained in writing, and then such information may be revealed only in accordance with the terms of the waiver.

(5) to the Board in reporting ethical or professional concerns as a part of the supervision agreement.

86:20-5-5. Client fees and bartering

(a) **Advance understanding.** LBPs shall clearly explain to clients, prior to entering the behavioral health services relationship, all financial arrangements related to professional services including the consequences for non-payment of fees.

(b) **Bartering.** LBPs may participate in bartering for services only if the relationship is not exploitive, if the client requests it, if a clear written contract is established and if such arrangements are an accepted practice among professionals in the community.

(c) **Tangible goods.** LBPs shall not barter for services rendered by the client. LBPs shall accept only tangible goods, at fair market value, in lieu of money for behavioral health services.

86:20-5-6. Professional standards

(a) **Violations of other laws.** It shall be unprofessional conduct for an LBP to violate a state or federal law if the law directly relates to the duties and responsibilities of the LBP or if the violation involves moral turpitude.

(b) **Drug and alcohol use.** LBPs shall not render professional services while under the influence of alcohol or other mind or mood altering drugs.

(c) **Updating.** LBPs shall notify the Board of any change in address, telephone number, and employment and shall make necessary adjustments on the Statement of Professional Disclosure, supplying an updated copy to the Board.

(d) **Candor to the Board.** An LBP, LBP candidate, or applicant for LBP licensure, in connection with a license application or an investigation conducted by the Board pursuant to OAC 86:20-29-4, shall not:

(1) knowingly make a false statement of material fact;

(2) fail to disclose a fact necessary to correct a misapprehension known by the LBP, LBP candidate or applicant for licensure to have arisen in the application or the matter under investigation; or

(3) fail to respond to a demand for information made by the Board or any designated representative thereof.

86:20-5-7. Relations with the public and other professions

(a) **Misrepresentation.** LBPs shall not misrepresent nor accept the misrepresentation by others of the efficacy of the LBPs' professional services.

(b) **Credentials claimed.** LBPs shall claim or imply only the professional credentials possessed and shall be responsible for correcting any known misrepresentations of their credentials by others. Professional credentials include graduate degrees in behavioral health services or closely related mental health fields, accreditation of graduate programs, national voluntary certifications, government-issued certifications or licenses, or any other credential that might indicate to the public the LBPs' additional knowledge or expertise in behavioral health services.

(c) **The use of doctoral degrees and the title "Doctor."** An LBP may use the doctoral degree and the title "Doctor" in advertising, practice and status as an LBP, only if the doctoral degree from a program in psychology and if the degree was granted by a regionally accredited college or university recognized by the United States Department of Education.

(d) **Advertisement.** When an LBP announces services or advertises, the LBP shall represent services to the public by identifying credentials in an accurate manner that is not false, misleading, deceptive, or fraudulent. An LBP shall only advertise the highest degree earned in behavioral health services or a closely related field from a regionally accredited college or university recognized by the U.S. Department of Education. All advertisements or announcements of behavioral health services including telephone directory listings by an LBP shall clearly state the LBP's licensure status by the use of a title such as "LBP", or "Licensed Behavioral Practitioner" or a statement such as "licensed by the Oklahoma State Board of Behavioral Health Licensure."

(e) **License.** Each LBP shall display the original, current license in a prominent place in the primary location of practice.

(f) **Public statements.** When an LBP provides advice or comment by means of public lectures, demonstrations, radio or television programs, prerecorded tapes, printed articles, mailed material, or other media, they shall take reasonable precautions to ensure that:

(1) The statements are based on appropriate professional literature and practice;

(2) The statements are otherwise consistent with the LBP Rules of Professional Conduct; and

(3) There is no implication that a professional behavioral health services relationship has been established.

(g) **Rebates.** An LBP shall not give or accept a commission, rebate, or other form of remuneration for referral of clients for professional services.

(h) **Accepting fees from agency clients.** An LBP shall refuse a private fee or other remuneration for rendering services to persons who are entitled to such services through the agency or institution that employs the LBP. If the policies of a particular agency provide for agency clients to receive behavioral health services from members of its staff in private practice, the agency shall inform clients of other options open to them should they seek private behavioral health services.

(i) **Candidates for LBP licensure.** Candidates for licensure as a Licensed Behavioral Practitioner shall not refer to themselves as a Licensed Behavioral Practitioner or LBP.

86:20-5-8. Failure to comply

An LBP who does not comply with Subchapter 5 - Rules of Professional Conduct shall be guilty of unprofessional conduct and subject to disciplinary action under Subchapter 29.

SUBCHAPTER 7. FITNESS OF APPLICANTS

86:20-7-1. Purpose

The purpose of this subchapter is to establish the fitness of an applicant as one of the criterion for licensure as an LBP and to set forth the criteria by which the Board shall determine the fitness of applicants.

86:20-7-2. Fitness for licensure

The substantiation of any of the following items related to the applicant may be, as the Board determines, the basis for the denial of or delay of licensure of the applicant:

(1) Lack of necessary skills and abilities to provide adequate services;

(2) Misrepresentation on the application or other materials submitted to the Board; or

(3) A violation of the LBP Rules or the Act.

86:20-7-3. Materials considered to determine fitness

(a) Materials considered to determine fitness of skills and abilities include:

(1) Evaluations from supervisors or instructors;

(2) Statements from persons submitting references for the applicant;

(3) Evaluations from employers and/or professional associations; and

(4) A field examination submitted through questionnaires answered by persons competent to evaluate an applicant's professional competence which may include the submission of written case studies and taped interviews with an applicant's instructors, supervisors and others or submission of such documentary evidence relating to an applicant's experience and competence as required by the Board.

(b) Materials considered to determine fitness of professional conduct include:

(1) Allegations of clients;

(2) Transcripts or other findings from official court, hearing or investigative proceedings; and

(3) Any other information which the Board considers pertinent to determining the fitness of applicants.

SUBCHAPTER 9. APPLICATION PROCEDURES

86:20-9-1. General

(a) The purpose of this subchapter is to ensure that all applicants meet those requirements specified in the Act.

(b) Unless otherwise indicated, an applicant shall submit all required information and documentation of credentials on official Board forms.

(c) The Board shall not consider an application form as officially filed until it has received the application form and application fee.

86:20-9-2. Application materials

Persons desiring to be licensed as an LBP may obtain an official application form and packet from the Board.

86:20-9-3. Submission of documents

The applicant shall monitor the progress of the application. The Board shall not automatically contact applicants regarding the receipt or absence of required documents.

86:20-9-4. Negative references

If an applicant for licensure as an LBP or LBP specialty designation has negative references in his or her file, the Board may ask the applicant to appear for an interview before the licensing process is completed.

86:20-9-5. Materials required of LBP applicants

In addition to the application form and fee, an applicant for LBP licensure shall file the following completed materials with the Board prior to taking the examination:

(1) Three documents of recommendation;
(2) Internship/practicum Documentation Form;
(3) Official university transcript(s); and
(4) Two (2) classifiable sets of fingerprints.

86:20-9-6. Re-application for expired license

(a) Re-application after license expires for non-renewal shall include the following documents:

(1) Application form,
(2) Official transcripts, mailed from the university,
(3) Document of recommendation forms,
(4) Supervision Agreement,
(5) Statement of Professional Disclosure,
(6) New Application Fee,
(7) On-Site Supervisor Verification Form; and
(8) Two (2) classifiable sets of fingerprints.

(b) Applicant shall re-take two examinations:

(1) The Practitioner's Examination of Psychological Knowledge or another equivalent examination as determined by the Board; and
(2) The LBP State Standards Test.

(c) Internship Documentation Form on file may carry over to a new application.

(d) All previously submitted and approved Supervised Experience shall carry over to a new application.

(e) Applicant shall obtain approved supervision until the exams are taken and passed as described in Subchapter 86:20-13-2(e)(2).

86:20-9-7. Re-application for revoked license

(a) No re-application for a revoked license will be considered for a period of 5 years following the revocation.

(b) Re-application after license is revoked for administrative action shall include the following documents:

(1) Application form,
(2) Official transcripts, mailed from the university,
(3) Document of recommendation forms,
(4) Supervision Agreement,
(5) Statement of Professional Disclosure,
(6) New Application Fee,
(7) On-Site Supervisor Verification Form, and
(8) Two (2) classifiable sets of fingerprints.

(c) Applicant shall re-take two examinations:

(1) The Practitioner's Examination of Psychological Knowledge or another equivalent examination as determined by the Board; and
(2) The LBP State Standards Test.

(d) Internship Documentation Form on file may carry over to a new application.

(e) All previously submitted and approved Supervised Experience shall not carry over to a new application.

(f) At the time of application, applicant must provide additional documentation to demonstrate rehabilitation relating to the cause of revocation.

(g) The Board may impose reasonable practice limitations that are in addition to the requirements for completion of approved supervised experience.

(h) Application materials shall be reviewed by the LBP License Committee for approval.

86:20-9-8. Re-application for voided application for failure to take scheduled examinations

(a) Re-application after application is voided for failure to take scheduled examinations or after the eligible applicant fails an examination and does not take subsequent scheduled examinations shall include the following documents:

(1) Application form,
(2) Official transcripts, mailed from the university,
(3) Document of recommendation forms,
(4) Supervision Agreement,
(5) Statement of Professional Disclosure Form,
(6) New Application Fee,
(7) On-Site Supervisor Verification Form, and
(8) Two (2) classifiable sets of fingerprints.

(b) Applicant shall take two examinations:

(1) The Practitioner's Examination of Psychological Knowledge or another equivalent examination as determined by the Board; and
(2) The LBP State Standards Test.

(c) Internship Documentation Form may carry over to a new application

(d) All previously submitted and approved Supervised Experience shall carry over to a new application.
(e) Applicant shall obtain approved supervision until the exams are taken and passed and/or until the supervision requirement is complete as described in Subchapter 86:20-13-2(e)(2) of these rules.

86:20-9-9. Re-application for voided application for failure to complete supervised experience

(a) Re-application after application is voided for failure to complete the supervised experience requirement within sixty (60) months as described in Subchapter 86:20-13-2(e)(3 shall include the following documents:
(1) Application form,
(2) Official transcripts, mailed from the university,
(3) Document of recommendation forms,
(4) Supervision Agreement form,
(5) Statement of Professional Disclosure form,
(6) New Application Fee,
(7) On-Site Supervisor Verification Form, and
(8) Two (2) classifiable sets of fingerprints.
(b) Applicant shall re-take two examinations:
(1) The Practitioner's Examination of Psychological Knowledge or another equivalent examination as determined by the Board; and
(2) The LBP State Standards Test.
(c) Internship Documentation Form may carry over to a new application
(d) All previously submitted and approved Supervised Experience shall be voided with prior application and shall not carry over to a new application.
(e) Applicant shall obtain approved supervision until the exams are taken and passed and/or the supervision requirement is complete as described in Subchapter 86:20-13-2(e)(2).

86:20-9-10. Re-application for denied application

(a) Re-application after licensure application has been denied as prescribed in Section 1941 of the Act, shall include the following documents:
(1) Application form,
(2) Official transcripts, mailed from the university,
(3) Document of Recommendation forms,
(4) Supervision Agreement,
(5) Statement of Professional Disclosure,
(6) New Application Fee,
(7) On-Site Supervisor Verification Form, and
(8) Two (2) classifiable sets of fingerprints.
(b) Application materials shall be reviewed by the LBP License Committee for approval.
(c) Applicant shall be required to take necessary examinations.
(d) Applicant shall be required to accrue an additional 500 hours of supervised experience.
(e) Internship Documentation Form on file may carry over to a new application.
(f) All previously submitted and approved Supervised Experience shall carry over to a new application.
(g) Applicant shall obtain approved supervision until the exams are taken and passed as described in Subchapter 86:20-13-2(e)(2).
(h) At the time of application, applicant must provide additional documentation to demonstrate rehabilitation relating to the cause of denial of licensure application.
(i) The Board may impose reasonable practice limitations that are in addition to the requirements for completion of approved supervised experience.

86:20-9-11. Hearing upon denial of licensure application

Following the denial of a licensure application by the Board to an applicant who has a felony conviction, as prescribed in Section 1941 (B) of the Act, the applicant may request an administrative hearing to contest the denial of his/her application within 15 days of receiving notification from the Board. If a hearing is not requested within 15 days, the denial will be final.

SUBCHAPTER 11. ACADEMIC REQUIREMENTS

86:20-11-1. Graduate degree requirements

(a) Pursuant to the Act, all applicants shall possess at least a masters degree from a program in psychology from a regionally accredited college or university.
(b) The program must be intended to prepare a scientist-practitioner in the field of psychology at the masters level and meet all the following criteria:
(1) The masters program must be clearly identified as a psychology program. Such a program must specify in a pertinent institutional catalogue, its intent to educate and train students in the field of psychology at the masters level;
(2) The pertinent institutional catalogue must state the structure and content of the curriculum of the program; and
(3) The program must have faculty who hold graduate degrees in psychology or closely related fields.
(c) The academic requirements set forth in the Act must be completed before a person applies for licensure.

86:20-11-2. Required knowledge areas

On or after January 1, 2008, all applicants shall have the following core knowledge areas as part of the required 60 graduate semester hours:
(1) Assessment and Diagnosis - at least six (6) semester hours. Psychological theory, research, and methods concerning the measurement and assessment of an individual's behavioral or psychological functioning, such as the assessment of psychopathology, personality characteristics, intellectual functioning, skills and interests, and neuropsychological functioning;

(2) Intervention - at least nine (9) semester hours. Psychological theory, research, and methods regarding empirically validated treatment modalities for the remediation, treatment, or prevention of behavior disorders, adjustment problems, and psychopathology, or other disturbances in psychological functioning;

(3) Experimental Foundations - at least six (6) semester hours. Psychological theory, research, and methods concerning the design, conduct, analysis, and interpretation of psychological research, or concerning the general principles and processes for the core areas of experimental psychology;

(4) Psychopathology - at least six (6) semester hours. Psychological theory, research, and methods concerning the descriptive characteristics, diagnosis, and etiology of psychopathology, or mental and behavioral disorders of children and adults;

(5) Personality and Social Psychology - at least six (6) semester hours. Psychological theory, research, and methods concerning the psychological or behavioral development and functioning of the individual and group differences. Three (3) of these hours shall be in a course in multicultural issues or cultural bases of behavior;

(6) Professional orientation/ethics - at least (3) semester hours. Objectives of professional behavioral health services organizations, codes of ethics, legal aspects of practice, standard of preparation and the role of persons providing direct behavioral health services.

(7) Biological bases of behavior - at least three (3) semester hours. Physiological, or genetic underpinnings of behavior.

(8) Practicum/internship. Organized practica/internships with at least three hundred (300) clock hours in behavioral health services with planned experiences providing classroom and field experience with clients under the supervision of college or university approved behavioral health services professionals; and

(9) Elective courses. The remaining courses needed to meet the sixty (60) graduate hour requirement shall be in any of the knowledge areas listed above.

SUBCHAPTER 13. SUPERVISED EXPERIENCE REQUIREMENT

86:20-13-1. Supervised experience

All applicants for licensure after December 31, 2001 shall complete the supervised experience required by the Act before being licensed.

86:20-13-2. Duration of supervision

(a) Each applicant shall complete three (3) years or three-thousand (3000) clock hours of full time, on-the-job experience, which is supervised by an approved LBP supervisor.

(b) For each one thousand (1000) clock hours of full time, on-the-job experience, three hundred fifty (350) hours shall be direct face-to-face client contact.

(c) Weekly, face-to-face supervision shall be accrued at the ratio of forty-five (45) minutes of supervision for every twenty (20) hours of on-the-job experience.

(d) No more than one-half ($\frac{1}{2}$) of the required supervision hours may be received in group supervision. Technology-assisted supervision shall not account for more than 56.25 hours of the total requirement.

(e) One (1) or two (2) years of supervised experience may be gained at the rate of one (1) year for each thirty (30) graduate hours in behavioral health services-related course work beyond the minimum number of required graduate semester hours.

(1) Regardless of the number of hours earned beyond the minimum number of required graduate semester hours, the LBP Candidate shall receive at least one (1) year or one thousand (1000) clock hours of supervision in the ratio described in this rule.

(2) If an LBP Candidate completes the supervised experience requirement before passing the licensure examination, the LBP Candidate shall continue to practice under LBP supervision as described in this subchapter, unless exempted by the Act, until licensed.

(3) LBP Candidates shall complete supervised experience requirements within sixty (60) months of the date of the approval of the first supervision agreement or the license application shall be voided.

(f) Approved supervisors shall perform at least two (2) observations (live or tape) per each six (6) month evaluation period for each supervisee.

(g) Approved supervisors shall consult with on-site supervisor at least once during each six (6) month evaluation period for each supervisee.

86:20-13-3. Documents required for the accrual of supervised hours

The following documents must be received and approved by the Board before the accrual of supervised experience can begin:

(1) Application materials;

(2) Verification of LBP State Standards Test passing score;

(3) Supervision agreement;

(4) Statement of professional disclosure; and

(5) On-Site Supervisor Verification Form.

86:20-13-4. Responsibility of supervisors and supervisees

(a) The supervisor and supervisee shall be jointly responsible for the following:

(1) Ensuring the requirements under this subchapter are fulfilled. A failure to comply may result in the loss of supervision hours, denial of licensure, initiation of formal complaint procedures, and/or loss of approved supervisor status.

(2) Ensuring the client's right to confidentiality is protected and rules of the supervisor's and supervisee's employer(s) are adhered to during the course of supervision.

(b) The supervisor shall maintain supervision records for each supervisee for at least five (5) years beyond the termination or completion of the supervised experience.
(c) When supervision is terminated by either the supervisor, or the supervisee, a Termination of Supervision Agreement Form must be submitted to the Board within three (3) days of the termination.
(d) The supervisee is responsible for negotiating a new supervision contract with a board approved supervisor and following all requirements set forth in Subchapter 13, section 86:20-13-3.

86:20-13-5. Acceptability of supervised experience
(a) Supervised experience is acceptable when it consists of the performance of behavioral health services as described in Section 1931, of the Act as described below.
(1) Supervision shall focus on the raw data from an LBP Candidate's continuing clinical practice, which may be available to the supervisor through a combination of direct observation, co-therapy, written clinical notes, and audio and video recordings.
(2) Supervision is a process clearly distinguishable from personal psychotherapy, and is contracted in order to serve professional/vocational goals.
(3) Individual supervision consists of face-to-face contact with one supervisor and one LBP Candidate.
(4) Group supervision may be conducted with two (2) to six (6) LBP Candidates and a supervisor.
(5) Technology-assisted supervision must be approved by the Board prior to the accrual of hours. Factors to be considered by the Board include: distance between approved supervisor and candidate; financial hardship on approved supervisor or candidate; physical hardship on approved supervisor or candidate; specialty credentials; and other pertinent factors.
(b) An LBP Candidate may accrue supervised experience hours in academic, governmental or private practice settings.
(c) The supervised experience is accrued in a private not-for-profit or a private for-profit practice without having an on-site approved LBP Supervisor providing supervision, if:
(1) The agency employing the LBP candidate employs a person licensed in the state of Oklahoma as a Licensed Behavioral Practitioner, a Licensed Professional Counselor, a Licensed Marital and Family Therapist, a Psychologist, a Physician, a Licensed Clinical Social Worker, or a Licensed Alcohol and Drug Counselor who directs and is responsible for the professional duties of the LBP Candidate and is available to the LBP candidate any time services are being rendered by the LBP candidate.
(2) The LBP Candidate is receiving supervision for licensure from an approved LBP supervisor who is not required to work at the same location as the LBP Candidate.

86:20-13-6. Supervisor qualifications
A Behavioral Practitioner, Professional Counselor, Marital and Family Therapist, Psychologist, Clinical Social Worker or Physician licensed by the state of Oklahoma is eligible as an LBP supervisor. In addition, these professionals shall have:
(1) practiced in positions similar to those the LBP proposes to practice for a period of two years past the issuance of the license;
(2) fulfilled the continuing education requirements pursuant to Section 1948 of the Act;
(3) signed an official supervision agreement;
(4) agreed to be "on call" to the LBP Candidate on a twenty-four (24) hour basis and to arrange for an alternate supervisor if not available;
(5) taken and passed the LBP State Standards Test; and
(6) agreed to teach the Oklahoman LBP Act and OAC 86:20 to the supervisee.
(4) Effective October 1, 2015, a supervisor may not supervise more than a total of twelve (12) candidates for licensure at a time. A supervisor who wants to supervise more than twelve (12) candidates must petition the Board for approval for each person above the maximum number. The petitions will be determined on a case-by-case basis depending on the circumstances of the request.

86:20-13-7. Documentation of supervised experience
(a) A Supervision Agreement Form between the supervisor and supervisee, Statement of Professional Disclosure Form, and the On-Site Supervisor Verification Form shall be received and approved by the Board prior to beginning the accrual of supervised hours.
(b) The supervisor and LBP Candidate shall sign and submit an "Evaluation of Supervised Experience," including documentation of observations, date of consultation between approved supervisor and on-site supervisor, and the Record of Supervised Experience on a semi-annual basis. Incomplete evaluations will not be accepted by the Board until all requirements for the semi-annual evaluation period have been completed.

SUBCHAPTER 15. FEES

86:20-15-1. Schedule of fees
(a) **Application fee.** Two hundred seventy-five dollars ($275.00) shall be submitted with the application form.
(b) **License examination fee.** Seventy-five dollars ($75.00) shall be submitted when the applicant registers for the Practice Examination of Psychological Knowledge.
(c) **Specialty application fee.** One hundred dollars ($100.00) shall be submitted with the specialty application.
(d) **Specialty designation fee.** Fifty dollars ($50.00) shall be submitted upon notification by the Board of the specialty designation.
(e) **Specialty designation renewal fee.** Twenty dollars ($20.00) shall be submitted on or before December 31 and validates the license for twelve (12) months for the designated specialty.
(f) **License renewal fee.** After the initial two-year period of licensure, this is a yearly fee of one hundred dollars ($100) shall be submitted on or before December 31.

(g) **Late renewal fee.** An additional twenty-five dollars ($25.00) shall be submitted for the late renewal of a license.
(h) **Replacement fee.** Twenty-five dollars ($25.00) shall be submitted for the issuance of a license to replace a license, which has been lost, damaged, or is in need of revision.
(i) **Inactive license fee.** Twenty-five dollars ($25.00) shall be submitted with a request to place the license on inactive status.
(j) **Reactivation fee.** When an inactive license is reactivated, a pro-rated fee in accordance with OAC 86:20-23-5 shall be submitted at the time of reactivation.

86:20-15-2. Method of payment

Payment of all fees shall be by personal check, cashier's check, money order or cash. Payment of fees may be made by credit card or other electronic means, if acceptable by the Board. Any check returned to the Board for non-payment may result in expiration or suspension of license.

SUBCHAPTER 17. LICENSURE EXAMINATION

86:20-17-1. Examination required

The examination for licensure shall consist of two parts as follows:

(1) The Practice Examination of Psychological Knowledge published by the Northamerican Association for Masters In Psychology or another equivalent examination as determined by the Board; and
(2) The LBP State Standards Test.

86:20-17-1.1. Eligibility

An LBP applicant is eligible to take the licensing examination following the submission of:

(1) Application form and fee;
(2) Practicum/Internship Documentation Form;
(3) Official transcript(s) showing completion of all academic requirements listed in Subchapter 11, Section 86:20-11-2;
(4) Three (3) Document of Recommendation Forms;
(5) Two (2) classifiable sets of fingerprints; and
(6) Examination fee.

86:20-17-2. Frequency

The Board shall administer the licensure examination at least one (1) time each year or more often if necessary.

86:20-17-3. Registration

(a) The Board shall mail an applicant notice of eligibility to sit for examination at least sixty (60) days prior to the date of the next scheduled examination.
(b) An applicant's eligibility to sit for the LBP State Standards Test shall be valid once the application has been Board approved.
(c) To take the Practice Examination of Psychological Knowledge examination, the applicant shall complete an examination registration form and return it to the Board with the required fee ($75) at least thirty (30) days prior to the date of the examination.
(d) The application for licensure of a person who fails to register for and pass the Practice Examination of Psychological Knowledge one of the first two examinations for which the applicant is eligible shall be voided and the applicant shall be mailed notice.

86:20-17-4. Grading

(a) The licensure examination shall be graded by the Board or its designated representative.
(b) The passing score on the examination shall be the passing score as set by the authors of the examination.

86:20-17-5. Notice of results

(a) The Board shall mail the examination results to the examinee within sixty (60) days of the date of the examination.
(b) No matter what numerical or other scoring system the Board may use in arriving at examination results, the official notice of results to the examinees shall be stated in terms of "pass" or "fail."

86:20-17-6. Failure to appear

If an applicant for licensure fails to appear for examination for reasons other than documented illness or other cause beyond the applicant's control after having agreed to do so by registering to take a particular examination, the applicant shall register and pay another examination fee before being admitted to a subsequent examination.

86:20-17-6.1. Failure to apply

(a) The application may be voided if a person fails to apply for and take one of the first two examinations scheduled after the applicant has been mailed notification at last know address in writing of his/her approval for examination.
(b) The application maybe voided if a person fails to apply for and take one of the first two examinations scheduled after the applicant has failed the exam and has been mailed notification at last known address in writing of this/her approval for examination.

86:20-17-7. Licensure prior to January 1, 2002

(a) Applicants for LBP licensure prior to January 1, 2002 are required to take and complete the examination.
(b) The authors of the examination shall use the results of this testing process to obtain normative data to set the passing score for other applicants.
(c) These applicants shall not receive a score but shall be notified that they completed the examination as required by statute.

SUBCHAPTER 19. CONTINUING EDUCATION REQUIREMENTS

86:20-19-1. Purpose

The purpose of this subchapter is to establish the continuing education requirements.

86:20-19-1.1. Documentation of attendance

LBPs shall retain verification of attendance documents for all continuing education hours claimed for a period of two (2) years. Acceptable continuing education verification of attendance documents include:

(1) An official continuing education validation form furnished by the presenter, or,

(2) A letter on the sponsoring presenter's letterhead giving the name of the program, location, dates, subjects taught, total number of hours attended, participant's name and presenter's name and credentials, or,

(3) An official graduate transcript showing course or audit credit, or,

(4) A letter for teaching activities on the sponsor's letterhead giving the name of the program, location, dates, subject taught, and total number of hours taught.

86:20-19-2. Submission of continuing education roster

LBPs shall submit a Continuing Education Roster to the Board, on an official Board form, of ten (10) clock hours of continuing education per year by December 31 of each year. One (1) academic hour is equal to fifteen (l5) clock hours. Rosters may be obtained from the Board. The Continuing Education Roster shall include the name of the licensee, signature and signature date of the licensee, total clock hours of workshop(s), name of workshop(s), sponsoring agency of workshop(s), date of workshops(s), and the number of hours of each workshop. Only continuing education accrued in the preceding license renewal period shall be acceptable.

86:20-19-3. Acceptable continuing education

(a) Continuing education shall take place in the context of a college course, in-service training, institute, seminar, workshop, conference or a technology-assisted distance learning program approved by the Board.

(b) Continuing education shall be accrued during the twelve (12) months preceding the renewal deadline or, in the case of the first licensing period, twenty-four (24) months preceding renewal.

(c) Of the ten (10) hours of C.E. required annually, two (2) hours must be in mental health ethics.

(d) Current LBP Board members shall receive clock hours of acceptable continuing education in mental health ethics for attendance and participation in Board and Committee meetings.

86:20-19-3.1. Continuing education accrual from teaching

Continuing education may also be accrued when the LBP teaches in programs such as institutes, seminars, workshops, and conferences, when the content conforms to 86:20-19-3 of this Subchapter, provided that such teaching is not required as part of the LBPs regular employment. Two (2) hours of continuing education are credited for each hour taught. No more than five (5) hours of continuing education may be accrued per year through teaching activities. Credit will be given only for the first presentation.

86:20-19-4. Audit of continuing education submissions

In November of each year, the Board shall randomly select from two (2) to twenty-five (23) percent of the number of LBPs on active status the previous year for an audit of their claimed continuing education credits. These selected LBPs shall provide the Board with verification of all credits claimed on their Continuing Education Roster on or before the renewal deadline. The Board may, at its discretion, audit and require verification of any credits claimed which it may consider questionable or fraudulent.

86:20-19-5. Penalty for failure to submit continuing education

Failure to fulfill the continuing education requirements by the expiration date will result in non-renewal of the license. All rights granted by the license are null and void until the license is reinstated. The LBP has twelve (12) months from the date of expiration to fulfill the requirements for reinstatement.

86:20-19-6. Submission of fraudulent continuing education

The submission of fraudulent continuing education hours will be reviewed by the License Committee for referral for disciplinary action and may result in sanction by the Board.

86:20-19-7. Responsibility

The LBP shall be responsible for providing the information necessary for the Board to make a determination of the suitability of the program for continuing education requirements.

86:20-19-8. Failure to complete continuing education

A person whose license is not renewed due to failure to complete continuing education requirements shall follow subchapter 23 of this chapter known as "License and Specialty Renewal."

SUBCHAPTER 21. ISSUANCE OF LICENSE

86:20-21-1. License

The license issued by the Board shall contain the LBP's name, license number, specialty designation, if any, highest accredited behavioral health services-related academic degree and date of issuance.

86:20-21-1.1. Statement of Professional Disclosure

An LBP license shall be issued only after the Board has received the applicant's Statement of Professional Disclosure.

86:20-21-2. Signature

Official licenses shall be signed by the Chair of the Board.

86:20-21-3. Property of Board

All licenses issued by the Board shall remain the property of the Board.

86:20-21-4. Notification

After having fulfilled all requirements for licensure, the Board shall mail notification to the licensee, at last known address, of qualification for licensure; and when the license fee is received and the Board approves the candidate for licensure, the license will be mailed to the licensee.

86:20-21-5. Replacement

The Board shall replace a license that is lost, damaged, or is in need of revision upon written request and payment of the license replacement fee. Requests must include the LBPs original license or be accompanied by the damaged license, if available.

SUBCHAPTER 23. LICENSE AND SPECIALTY RENEWAL

86:20-23-1. Responsibility

Each LBP is responsible for renewing the license and specialty designation before the expiration date.

86:20-23-2. Requirements for renewal

The requirements for renewal are:

(1) Compliance with the Act and rules;

(2) Documentation of the required continuing education; and

(3) Payment of the renewal fee(s).

86:20-23-3. Renewal notification

The Board shall mail to the LBP at least forty-five (45) days prior to the expiration date of the LBP's license, a notice of expiration.

86:20-23-4. Initial licensing period

(a) The expiration date of the original license shall be two (2) years from the last day of the month in which the license was originally issued.

(b) After the first two (2) years of licensure, the LBP shall submit a Continuing Education Roster verifying at least twenty (20) hours of continuing education required for renewal.

86:20-23-5. Interim renewal

The notice for the initial renewal shall solicit the required continuing education documentation and invoice the LBP for the interim period between the original renewal date and the following December 31 so that subsequent renewals shall be on a calendar year basis. The renewal notice shall inform the licensee of the number of continuing education hours required by December 31. Fees and continuing education hours shall be prorated according to the schedule below.

(1) For a license expiring during January, February or March, the following shall apply:

(A) The renewal fee shall be $100.00; and

(B) Continuing education of 10 hours shall be due by December 31.

(2) For a license expiring during April, May or June, the following shall apply:

(A) The renewal fee shall be $75.00; and

(B) Continuing education of 7.5 hours shall be due by December 31.

(3) For a license expiring during July, August or September, the following shall apply:

(A) The renewal fee shall be $50.00; and

(B) Continuing education of 5 hours shall be due by December 31.

(4) For a license expiring during October, November or December, the following shall apply:

(A) The renewal fee shall be $25.00; and

(B) Continuing education of 2.5 hours shall be due by December 31.

86:20-23-6. Annual renewal

After the initial two (2) year licensing period plus the interim period, licenses shall expire each December 31, with a renewal fee of one hundred dollars ($100.00) and a continuing education requirement of ten (10) hours.

86:20-23-7. Specialty renewal

Regardless of the date the Board grants a specialty designation, the date of a specialty renewal shall be the same date as that of the licensure renewal.

86:20-23-8. Display of verification card

(a) LBPs shall display a current license verification card on the original or replaced license.

(b) A current license verification card shall be readily available on the LBPs person at any time behavioral health services are being provided.

86:20-23-9. Inactive status

(a) An active license may be placed on inactive status by written request and payment of a one-time twenty-five dollar ($25.00) fee. An inactive license forfeits all rights and privileges granted by the license.

(b) When a license is placed on inactive status, the license and active verification cards shall be returned to the Board.

(c) A license that has remained inactive for at least one (1) year may be reactivated upon payment of a prorated renewal fee and submission of prorated continuing education hours required during the renewal year, in accordance with this Chapter, if there are no impediments to licensure.

(d) A license placed on inactive status may be reactivated within one (1) year when submitted with the required renewal fee and continuing education, in accordance with this Chapter, if there are no impediments to licensure.

86:20-23-10. Failure to renew

If the LBP fails to renew the license by the expiration date, the Board shall mail the LBP a notice to the last known address, which shall include:

(1) Expiration of the license and forfeiture of rights and privileges granted by the license, and,

(2) The LBP's right to reinstate the license by payment of the renewal fee and the late renewal fee and fulfillment of all other renewal requirements for up to one (1) year following the expiration of the license.

86:20-23-11. Return of license

Licenses not reinstated within the one (1) year late renewal period shall be permanently expired and not be reinstated. The license shall be returned to the Board.

86:20-23-12. Misrepresentation

An LBP whose license has been inactivated, suspended, or revoked and continues to represent himself as an LBP, is in violation of the Act and may be subject to enforcement action under OAC 86:20-29.

SUBCHAPTER 25. LICENSURE BY ENDORSEMENT

86:20-25-1. Requirements for licensure by endorsement

(a) The Board shall issue a license by full endorsement to an applicant who is licensed as a behavioral practitioner in another jurisdiction and who meets the following:

(1) Possess a behavioral practitioner's license which is active and in good standing, with no history of suspension or revocation against license;

(2) Fulfill the requirements of Section 1935 (A), (B), and (C) of the Act;

(3) Possess at least a masters degree from a program in psychology from a regionally accredited college or university;

(4) Pass the LBP State Standards Test; and

(5) Pass the Practice Examination of Psychological Knowledge unless the applicant has passed a written examination that, in the judgment of the Board, is substantially equivalent to the examination established by the Board

(b) The Board shall issue a two (2) year, non-renewable, license by endorsement to applicants seeking full endorsement who do not fulfill the requirements set forth in subsection 86:20-25-1(a) of this Chapter, under the following conditions:

(1) The applicant must show proof of continuous practice in counseling for five (5) years prior to application in Oklahoma;

(2) The applicant must show proof of behavioral practitioner license in the other jurisdiction is current and in good standing, with no history of suspension or revocation against the license;

(3) The applicant takes and passes the examinations as provided in subsection 86:20-17-1 of this Chapter; and,

(4) The applicant completes all deficient course work to meet the academic requirements as provided in subchapter 7 of this Chapter.

(c) The license by endorsement will expire after two years from the date of issue. Failure to fulfill the requirements as provided in this subsection, within the two (2) year licensure period, will require the applicant to fulfill licensure requirements set forth in Section 1935 (C)(2)(3) of the Act.

86:20-25-2. Submission of verification of license

An applicant for licensure by endorsement shall submit documentation from the licensing agency stating the applicant is active and in good standing. The Board may require the applicant to submit a copy of the statute and rules of the agency issuing the license.

86:20-25-3. Licensing procedures

An applicant for licensure by endorsement must submit the application form, fees and related documents as required.

SUBCHAPTER 27. CONSUMER INFORMATION

86:20-27-1. Directory

(a) The Board shall provide a directory of Licensed Behavioral Practitioners.

(b) The directory of LBPs shall include but not be limited to the name, academic degree under which the license is held, preferred mailing address, telephone number, and license number of current licensees.

86:20-27-2. Brochure

The Board shall prepare information of consumer interest, which describes the regulatory functions of the Board and its procedures to handle and resolve consumer complaints.

86:20-27-3. Statement of professional disclosure

(a) The Statement of Professional Disclosure shall inform clients of the LBP's credentials, training, fees, orientation/techniques and inform the client to contact the Board should the client seek additional information about the LBP.

(b) Both LBPs and LBP candidates shall:

(1) Furnish an example copy signed by the LBP, and in the case of a candidate, signed by the LBP supervisor and the candidate, to the Board. The LBP and LBP Candidate shall submit updated copies when the situation warrants; and

(2) Have two (2) copies signed by both the client or adult caretaker and the counselor. One (1) copy shall be given to the client and the other copy shall be retained by the counselor in the client's file.

SUBCHAPTER 29. ENFORCEMENT

86:20-29-1. Purpose

The purpose of this subchapter is to specify the procedure of processing of Requests for Inquiry filed by citizens and the filing of disciplinary actions against LBPs or against persons who practice behavioral health services without a license or exemption.

86:20-29-2. Definitions

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

"Act" means the Licensed Behavioral Practitioner Act, 59 O.S. §§ 1930 *et seq.*, as amended.

"APA" means Article I and/or Article II of the Administrative Procedures Act, 75 O.S. §§ 250*et seq.*

"Board" means the State Board of Behavioral Health Licensure.

"Complaint Committee" means one Board member who is a LBP, the Executive Director, the Assistant Attorney General, and may include other appropriate individuals as determined by the Committee.

"Formal Complaint" means a written statement of alleged violation of the Licensed Behavioral Practitioner Act by a person licensed or certified by the Board and which is filed by the Board's attorney along with a Notice of Hearing scheduling an individual proceeding before the Board.

"Hearing" means the process followed by the Board to provide Due Process to a licensee respondent in an individual proceeding.

"Individual Proceeding" means the formal process by which the Board takes administrative action against a person licensed or certified by the Board in accordance with the APA and the Act.

"Request for Inquiry" means a written or oral statement of complaint from any person of a possible violation of the Act or rules of the Board.

"Respondent" means the person against whom an individual proceeding is initiated.

"Staff" means the personnel of the Board.

86:20-29-3. Complaint procedure

(a) **Receiving Requests for Inquiry.** Any person may file a Request for Inquiry against a Licensed Behavioral Practitioner ("LBP") or a person who delivers licensed behavioral health practitioner services without a license. A person wishing to report a concern or alleged violation against a LBP or a person delivering licensed behavioral health practitioner services without a license may notify the Board in writing, by telephone or by personal visit. The Board or its agent may require complainants to reduce oral complaints to writing to facilitate the review and investigation of the Request for Inquiry. The Complaint Committee will determine whether the Request for Inquiry alleges a possible violation of the Act. Upon receipt of the Request for Inquiry, the Executive Director will:

(1) Stamp all pages with a Board stamp indicating date of receipt;

(2) Review the Request for Inquiry to determine if the person against whom the Request for Inquiry is made is a person who is subject to the jurisdiction of the Board;

(3) Generate a letter to the complainant indicating receipt of the Request for Inquiry;

(4) Notify the members of the Complaint Committee by providing a copy of the Request for Inquiry to each member.

(b) **Authority of Complaint Committee.** The Complaint Committee has the authority to consult on professional duties and responsibilities as set forth in the Licensed Behavioral Practitioners Act. In addition, the Complaint Committee has authority to do the following:

(1) Appoint an investigator;

(2) Meet with licensees who are the subject of the Request for Inquiry;

(3) Outline the terms of a proposed Consent Order for the informal disposition of Requests for Inquiry to be submitted at a Board hearing for approval;

(4) Authorize the filing of a formal Board Complaint in matters that may result in the revocation, suspension or probation of a license.

(c) **Reviewing Requests for Inquiry.** The Executive Director has the authority to respond directly to individuals filing a Request for Inquiry without need for referral to the Complaint Committee for matters that do not allege a violation of the law or which require no further action, and for allegations that if true, would not be a violation of the law or rules. If the allegation(s) indicate a possible violation of the law or rules, the Complaint Committee shall determine whether additional investigation is needed and shall make the following determination:

(1) The alleged violation(s) if found to be valid, would not result in a denial, revocation or suspension of a license, but one which does indicate the need for Board review and possible informal action.

(2) The alleged violation(s) if found to be valid, would result in a denial, revocation, suspension or probation of a license.

(d) **Allegations, if substantiated, not appearing to result in a denial, revocation or suspension of a license.** If an alleged violation appears to be one which would not result in the revocation, suspension or probation of a license, the Complaint Committee shall proceed with reviewing the Request for Inquiry. Upon the consent of the Complaint Committee and the advice of the Attorney General liaison the Complaint Committee or its designee shall proceed by:

(1) Notification to the licensee by certified mail a Request for Inquiry has been received, outlining the nature of the inquiry.

(2) Forwarding to the licensee a copy of the informal process for addressing Requests for Inquiry which requires:

(A) a prompt letter to the Board from the licensee responding to the merits of the Request for Inquiry;

(B) an informal interview with the Complaint Committee to fully explore the issues involved in the Request for Inquiry;

(C) an agreement by the Complaint Committee and the licensee on the merits of the Request for Inquiry

(D) a proposed Consent Order for disciplinary action for the licensee, signed by Board member serving on the Complaint Committee, to be submitted for approval of the Board at an open meeting, the terms of which may include but not be limited to the following:

(i) a tutorial assigned to the licensee in areas determined by the Complaint Committee in areas determined by the Board addressing the practice in question, under the supervision of a Board Approved Supervisor assigned by the Board

(i) a Notice of Violation reprimanding

(ii) the licensee for the practice in question;

(iii) re take the Jurisprudence exam

(iv) Letter of Explanation

(E) a review of the course of action in a specified time, no longer than six months, to determine whether or not remediation has taken place; and

(F) a letter to the licensee indicating the informal process has ended; or,

(3) Referral to the formal investigation process when:

(A) the licensee fails to respond to the certified letter from the Complaint Committee;

(B) the informal process reveals new or expanded allegations that indicate the possibility of a denial, revocation or suspension of a license;

(C) the licensee fails to meet the requirements of Consent Decree without good cause.

(4) A Consent Order entered into pursuant to this subsection that is agreed to by the Board and the licensee shall not be considered a disciplinary action and will not appear on the Board's website or be reported to a national databank.

(e) **Allegations if substantiated, appearing to result in a revocation, suspension or probation of a license.** If an alleged violation appears to be one which would result in a revocation, suspension or probation of a license, the Complaint Committee shall proceed with addressing the Request for Inquiry by the process detailed below based upon agreement of a majority of its members:

(1) Contacting an investigator designated by the Board as qualified to address the nature of the Request for Inquiry.

(2) Providing the designated investigator with names and addresses of the complainant, if available, and the licensee.

(3) Issuing a letter notifying the licensee of the investigation and Request for Inquiry

(4) Complaint Committee to determine whether or not the licensee is to be interviewed by the contract investigator or upon advice of the Attorney General liaison, conducting an interview by the Assistant Attorney General in a setting under oath; and to determine whether in addition, the matter is to be referred for criminal investigation.

(5) Following investigation, the Complaint Committee shall review and determine whether the Request for Inquiry should be dismissed, referred for informal resolution as there appears to be a violation of the Act but does not appear to be sufficient evidence to support a revocation, suspension or probation of a license, or to proceed with authorizing the filing of a Formal Complaint and the issuance of a Notice of Hearing by the Assistant Attorney General.

(f) **Summary Suspension.** After the filing of a Formal Complaint seeking revocation or other action and the issuance of a Notice of Hearing by the Assistant Attorney General, but prior to the final hearing on the merits of said Formal Complaint, in the event of an emergency, a summary suspension hearing may be held as set forth herein. The Chair of the Board upon concurrence of the Complaint Committee that an emergency exists for which the immediate suspension of a license is imperative for the protection of the public health, safety or welfare, may conduct a summary suspension hearing to temporarily suspend the license of any person under the jurisdiction of the Board, pending proceedings for revocation or other action set forth in the Formal Complaint. The Chair or Vice Chair, may issue an Order of Temporary Summary Suspension upon a finding of clear and convincing evidence that the immediate suspension is imperative for the protection of the public health, safety or welfare. The summary suspension hearing shall be conducted in accordance with the Sections 314 and 314.1 of the APA. The licensee shall be given 48 hours personal notice to appear for the summary suspension hearing outlining the specific issues that constitute an emergency and for which summary suspension is imperative for the protection of the public health, safety or welfare. Following the summary suspension, the Individual Proceeding hearing on the full merits of the Formal Complaint shall be promptly instituted and determined.

(g) **Request for Inquiry confidentiality.**

(1) The request for inquiry and the identity of the complainant or informant shall be confidential and shall not be available for public inspection.

(2) The investigator's report are to be used solely to determine whether or not to pursue disciplinary action

against the Respondent, and thus constitute confidential and privileged work product material, not subject to disclosure.

86:20-29-4. Investigation

If the Complaint Committee determines a possible violation of the Act or this Chapter has occurred, the Complaint Committee may commence an investigation of the complaint.

86:20-29-5. Cooperation with investigations

Licensees shall cooperate when Board staff, Complaint Committee members, and/or investigators make inquiries concerning a Request for Inquiry made against a licensee. Failure of a licensee to cooperate is grounds for further disciplinary action under the Act.

86:20-29-6. Service of petition and notice

(a) **Service.** The petition and notice shall be served on the respondent(s) personally or by certified mail, return receipt requested to the address of the respondent(s) on file with the Board. It is the duty of the licensee to provide current address information.

(b) **Proof of service.** Proof of service shall be filed with the Board office.

(c) **Substitute service.** If the Board is unable to obtain service on a respondent, the petition and notice shall be mailed by regular mail to the last known address of the respondent, and the Board shall file an affirmation service was attempted.

(d) **Service of other papers and documents.** Service of all other papers and documents connected with an individual proceeding shall be served on the parties or their counsel by delivering a copy in person or via facsimile or regular mail.

86:20-29-7. Hearing

Hearings shall be conducted by the Board in accordance with the APA, 75 O.S., Sections309-321.The Board shall recommend the most appropriate penalty at the conclusion of the evidence.

86:20-29-8. Continuances

(a) **Continuances by the Board.** The Board chair may continue or adjourn the proceedings at any time for a specified time, with notice or motion.

(b) **Continuance by motion of parties.** Except for good cause shown, or by agreement of all parties, no continuance will be granted upon motion of a party unless written request therefore is filed and served on all parties of record and filed with the Board office and served on the Assistant Attorney General at least seven (7) days prior to the date set for hearing. A stipulation for continuance among all parties of record ordinarily will be approved, unless the Board chair determines that the public interest requires otherwise.

86:20-29-9. Discovery

Discovery shall be conducted generally in accordance with the APA. The Board chair may enter specific orders directing the conduct of discovery.

86:20-29-10. Protective orders

The Board chair at the hearing or at any time upon application of a party, with or without notice, may make such orders relating to discovery as may be necessary or appropriate for the protection of the parties, and to prevent hardship to and excessive burden upon a party.

86:20-29-11. Subpoenas

(a) **Issuance of subpoenas for witnesses and physical evidence.** The Board may compel the attendance of witnesses, and the production of physical evidence before it from witnesses, upon whom process is served by subpoena anywhere within the state. Such subpoenas will be issued over the signature of the chairperson or vice chairperson and the seal of the Board.

(b) **Service of subpoenas.** From the institution of formal Board proceedings, subpoenas will be issued on behalf of the licensee or the Board. Service of the subpoena will be the responsibility of the requesting party. Subpoenas shall be served and return made in the manner prescribed by general civil law.

86:20-29-12. Final order

The Board shall issue a final order on all disciplinary matters. Final orders are appealable under the Administrative Procedures Act to the district courts.

86:20-29-13. Unauthorized practice

Any person found to be practicing behavioral health services without being either properly licensed, exempt or under the approved supervision of an LBP as part of the licensure process shall be ordered to cease practicing and may be subject to an administrative penalty. The Board may seek the assistance of the courts if the actions continue.

86:20-29-14. Administrative penalties

(a) The Board may assess an administrative penalty against an individual if the order includes a finding that the individual:

(1) Violated any provision of the Act, including practicing behavioral health services without licensure or exemption; or

(2) Violated any rule within this Chapter; or

(3) Violated any order issued pursuant to this Chapter.

(b) The total amount of the administrative penalty assessed shall not exceed ten thousand dollars ($10,000.00) for any related series of violations.

86:20-29-15. Costs of investigation

Costs of investigation may be assessed against a licensee and incorporated into a Consent Order or any other final order resolving a disciplinary matter against a licensee.

SUBCHAPTER 31. POST-MILITARY SERVICE OCCUPATION, EDUCATION AND CREDENTIALING RULES

86:20-31-1. Education, training and experience completed as a member of the Armed Forces of the United States pursuant to 59 O.S. § 4100.4(A)

If an applicant otherwise qualifies for licensure, the Board shall issue an appropriate license to applicants who present satisfactory evidence of equivalent education, training and experience completed by the applicant as a member of the Armed Forces or Reserves of the United States, National Guard of any state, the Military Reserves of any state, or the Naval Militias of any state.

86:20-31-2. Automatic extension of license, payment of fees and continuing education for active-duty military service members

(a) Automatic extension pursuant to 59 O.S. § 4100.6(A). The license of active-duty military service members shall be automatically extended and placed on inactive licensure status during active-duty military service and for one (1) year after active-duty military service, unless the licensee seeks to maintain said license in good-standing.

(b) Payment of fees and continuing education pursuant to 59 O.S. § 4100.6(B), (C) and (D). Active-duty military service members seeking to maintain his or her license in good-standing may have his or her license renewed during active-duty, and for a period of one (1) year after discharge from active-duty, without:

(1) payment of fees; and

(2) obtaining continuing education credits when:

(A) circumstances associated with military duty prevent obtaining training and a waiver request has been submitted to the Board;

(B) the licensee performs social work as an occupation as part of his or her military duties as shown in Defense Department Form DD 214 (DD Form 214); or

(C) performing any other act typically required for the renewal of the license.

86:20-31-3. Reciprocal licensing of spouses of active-duty members of the Armed Forces of the United States

The procedure to expedite endorsement of licensure pursuant to Section 4100.5 of Title 59 of the laws of the State of Oklahoma for applicants who are licensed in another state and who are the spouse of an active-duty member of the Armed Forces of the United States is as follows:

(1) A license shall be issued to the applicant if the requirements for licensure of the other state are substantially equivalent to those required by this state;

(2) If specific licensure requirements in this state were not required in the state in which the Applicant was licensed, a temporary license for a set period of time shall be issued to Applicants to allow the person to work as a licensed professional counselor while completing those requirements.

[OAR Docket #15-656; filed 6-25-15]

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

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ANALYSIS:
The rule deletes language regarding event tickets duplicated at OAC 92:10-1-10.
CONTACT PERSON:
Aleta Billings, Oklahoma State Athletic Commission, 1000 NE 10th Street, Room 159, Oklahoma City, OK 73117-1299; Phone: (405) 271-2694

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E) WITH AN EFFECTIVE DATE OF SEPTEMBER 11, 2015:

SUBCHAPTER 1. GENERAL PROVISIONS

92:10-1-8. Disciplinary action

(a) The Commission may take disciplinary action against:

(1) any licensee who violates any provision of the Act or any rule or order of the Commission;

(2) any licensee who fails to follow the instructions of a Commission representative at a sanctioned event;

(3) any licensee who engages in unsportsmanlike conduct including but not limited to the use of foul and abusive language or mannerisms;

(4) any participant in a contest who fails to strive earnestly in good faith to win or who commits flagrant or repeated fouls;

(5) any licensee who engages in conduct at any time or place or in any manner that is deemed by the Commission to reflect discredit to combative sports; or

(6) any licensee who is convicted or pleads guilty or nolo contendre to a felony or to a crime of moral turpitude.

(b) Disciplinary action by the Commission may include immediate suspension pending a hearing, suspension for a definite term, conditional suspension, fines, and/or revocation. Disciplinary action shall be taken by the Commission as provided in Chapter 1 of this Title, and pursuant to the provisions of the Administrative Procedures Act, 75 O.S. §§ 250 et seq.

~~(c) The retail price of the tickets shall be printed in large type and displayed prominently above or near all ticket sellers or ticket windows. The promoter shall disclose the retail ticket prices to the Commission no later than the time the sanctioning permit for the event is issued, and shall not be changed. Tickets of different prices shall be printed in different colors, or state the retail price on the face of the ticket.~~

[OAR Docket #15-730; filed 7-7-15]

TITLE 140. BOARD OF CHIROPRACTIC EXAMINERS
CHAPTER 1. ADMINISTRATIVE ORGANIZATION AND OPERATIONS

[OAR Docket #15-682]

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ANALYSIS:
The Oklahoma Board of Chiropractic Examiners needed to amend language to keep language in line with language presently in the statutes and throughout OAC 140 so that each section provides the same meaning.
CONTACT PERSON:
Beth Carter, Executive Director, Oklahoma Chiropractic Examiners, 421 NW 13th, Suite 180, Oklahoma City, OK 73103, 405-522-3400.

PURSUANT TO THE ACTIONS DESCRIBERED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 11, 2015:

SUBCHAPTER 1. GENERAL PROVISIONS

140:1-1-2. Definitions

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

"Accredited Chiropractic College" means a chiropractic educational institution, which is accredited by the Commission on Accreditation of the Council on Chiropractic Education or its successor.

"Act" means the Oklahoma Chiropractic Practice Act, 59 O.S. 1991, §§161.1 et seq.

"APA" means the Oklahoma Administrative Procedures Act, 75 O.S.1991, §§ 250 et seq.

"Advisory Committee" means the committee appointed by the Board to advise and assist the Board in the investigation of the qualifications for licensure, complaints as to the conduct of chiropractic physicians, and for such other matters as the Board delegate to them.

"Applicant" means any person submitting an application for licensure to the Board.

"Board" means the Board of Chiropractic Examiners.

"Certified chiropractic assistant" means an unlicensed member of a chiropractic physician's team of healthcare workers who may assist a chiropractic physician in the performance of examination and therapeutic procedures and techniques necessary to deliver healthcare services within the scope of chiropractic~~.~~ and has been certified by the Board.

"Chiropractic" means the science and art that teaches health in anatomic relation and disease or abnormality in anatomic. disrelation, and includes hygienic, sanitary and therapeutic measures incident thereto in humans.

"Chiropractic physician" or "licensee" means a person who holds an original license to practice chiropractic in this state.

"Continuing education requirements" means attendance by a licensee at a minimum of (16) sixteen hours of Chiropractic education seminars as required for a renewal license.

"Emergency meeting" means a meeting of the board, which is called pursuant to the Open Meeting Act based upon exigent circumstances, which require expedited attention, by the board to the matters concerned.

"Emergency meeting" means a meeting of the board, which is called pursuant to the Open Meeting Act based upon exigent circumstances, which require expedited attention, by the board to the matters concerned.

"Examination" means the process used by the Board, prior to the issuance of an original license, to test the qualifications and knowledge of an applicant on any or all of the following: current statutes, rules, or any of those subjects listed in Section 161.8 of the Act.

"Executive Director" means the Executive Director of the Board.

"Final order" means on order made by the Board pursuant to the APA and which is subject to judicial review.

"Individual proceeding" means the formal process employed by the Board to provide a hearing for a licensee of the Board to provide a hearing for the licensee of the Board accused of a violation of the Act and in which the Board may take action against such person's original license to practice chiropractic in this state

"Licensure" means the Board's process with respect to the grant, denial, renewal, revocation, or suspension of an original or renewal license.

"Nonclinical" means of a business nature including, but not limited to, practice management, insurance information, and computer information. It shall also mean the discussion of philosophy as it relates to the performance of chiropractic;

"OAC" means the Oklahoma Administrative Code.

"Order" means a formal or official decision of the Board including, but not limited to, final orders.

"Original license" means a license which grants initial authorization to practice chiropractic in this state issued by the Board to an applicant found by the Board to meet the requirements for licensure of the Act,

(A) by examination pursuant to § 161.7 and 161.8 of the Act and 140:10-3-1 through 140:10-or

(B) by relocation of practice pursuant to § 161.9 of the Act and 140:10-3-5.

"Party" means a person or agency named and participating or properly seeking and entitled by law to participate in an individual proceeding.

"Person" means any individual, association, governmental subdivision, or public or private organization of any character other than an agency.

"Regular meetings" means regular meetings of the Board held at such times and places as scheduled by the Board and includes continued and reconvened meetings as may be allowed pursuant to the Open Meetings Act. Provided, however, that continued and reconvened meetings shall be as limited by the Open Meeting Act.

"Relocation of Practice" means the ability for an applicant to obtain a chiropractic license on the following conditions:

(A) The applicant is of good moral character;

(B) The applicant shall submit documentary evidence that they have been in active practice for five (5) years immediately preceding the date of application;

(C) The applicant has had no disciplinary action pending against their license in any other state, country or province:

(D) The licensee requesting relocation of practice shall comply with the jurisprudence assessment examination administered by the Board of Chiropractic Examiners of this state.

(E) The applicant may be requested to appear before the Board for a personal interview, and:

(F) The applicant shall meet all other requirements set forth in the Oklahoma Chiropractic Practice Act.

"Renewal license" means a license issued by the Board on or before the first day of July of each year to a licensee, which authorizes the licensee to practice chiropractic in this state for the succeeding calendar year.

"Revocation" means the recalling, annulling or rendering inoperative of an original license or renewal license, or both, by the Board, after notice and an opportunity for a hearing in an individual proceeding.

"Rule or rules" means the rules of the Board promulgated pursuant to the APA or its successor statutes.

"Rule-making" means the process employed by the Board for the promulgation of a rule.

"Scope of practice" means chiropractic is the science and art that teaches health in anatomic relation and disease or abnormality in anatomic disrelation, and includes hygienic, sanitary and therapeutic measures incident thereto in humans. The scope of practice of chiropractic shall include those diagnostic and treatment services and procedures, which have been taught by an accredited chiropractic college and have been approved by the Board of Chiropractic Examiners. Such diagnostic and treatment services and procedures shall include the following: Chiropractic physicians may examine, analyze and diagnose the human body to correct, relieve or prevent diseases and abnormalities by the use of any physical, chemical, electrical, or thermal method; use or order diagnostic radiological imaging; use or order laboratory testing; and use any other method of examination for diagnosis and analysis taught by an accredited chiropractic college and approved by the Board of Chiropractic Examiners. In addition, Chiropractic physicians may adjust, manipulate and treat the human body by manual, mechanical, chemical, electrical, or natural methods; by the use of physiotherapy; meridian therapy; by utilizing hygienic, sanitary and therapeutic measures; by the administration of naturopathic and homeopathic remedies, by the application of first aid or by performing any other treatment taught by an accredited chiropractic college and approved by the Board of Chiropractic Examiners. Nothing in this rule shall permit a Chiropractic Physician to prescribe legend drugs, beyond injectable nutrients, as is currently the law in Title 59 Section 161.12 of the Oklahoma Statutes.

"Secretary-Treasurer" means the Secretary-Treasurer of the Board.

"Special meeting" means all meetings of the Board other than regular or emergency meetings.

"Suspension" means temporary discontinuance or cessation, with an expectation of reinstatement, of an original license

or renewal license, or both, by the Board after notice and an opportunity for a hearing as required in an individual proceeding.

[OAR Docket #15-682; filed 7-2-15]

TITLE 140. BOARD OF CHIROPRACTIC EXAMINERS
CHAPTER 3. DISCIPLINARY PROCEDURES

[OAR Docket #15-683]

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APPROVED BY GOVERNOR'S DECLARATION:
Approved by Governor's declaration on June 8, 2015
FINAL ADOPTION:
June 8, 2015
EFFECTIVE:
September 11, 2015
SUPERSEDED EMERGENCY ACTIONS:
n/a
INCORPORATIONS BY REFERENCE:
n/a
ANALYSIS:
The Oklahoma Board of Chiropractic Examiners needed to amend language to change the renewal month from "January" to "July" so that it would be in line with current language throughout the practice act.
CONTACT PERSON:
Beth Carter, Executive Director, Oklahoma Chiropractic Examiners, 421 NW 13th, Suite 180, Oklahoma City, OK 73103, 405-522-3400.

PURSUANT TO THE ACTIONS DESCRIBERED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 11, 2015:

SUBCHAPTER 1. GENERAL PROVISIONS

140:3-1-2. Definitions

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

"Act" means the Oklahoma Chiropractic Practice Act, 59 O.S. 1991, §§161.1 et seq.

"Advisory Committee" means the committee appointed by the Board to advise and assist the Board in the investigation of the qualifications for licensure, complaints as to the conduct of chiropractic physicians, and for such other matters as the Board delegates to them.

"Board" means the Board of Chiropractic Examiners.

"Chiropractic" means the science and art that teaches health in anatomic relation and disease or abnormality in anatomic disrelation, and includes hygienic, sanitary and therapeutic measures incident thereto.

"Chiropractic physician" or "licensee" means a person who holds an original license to practice chiropractic in this state.

"Code of Ethics" means the Oklahoma Chiropractic Code of Ethics, OAC 140:15-7-5.

"Complaints" means a written statement by the person alleging that a chiropractic physician has committed a violation of the Act or the rules of the Board.

"Examination" means the process used by the Board prior to the issuance of an original license to test the qualifications and knowledge of an applicant on any or all the following: current statutes, rules or any of those subjects listed in Section 161.8 of the Act.

"Final order" means an order made by the Board pursuant to the APA and which is subject to judicial review.

"Individual proceeding" means the formal process employed by the Board to provide a hearing for a licensee of the Board to provide a hearing for the licensee of the Board accused of a violation of the Act and in which the Board may take action against such person's original license to practice chiropractic in this state.

"Letter of Concern" means a letter issued by the Board to a chiropractic physician to advise a said chiropractic physician of a probable violation of the Act or the rules of the Board.

"Order" means a formal or official decision of the Board including, but not limited to, final orders.

"Original license" means a license which grants initial authorization to practice chiropractic in this state issued by the Board to an applicant found by the Board to meet the requirements for licensure of the Act,

(A) by examination pursuant to § 161.7 and 161.8 of the Act and 140:10-3-1 through 140:10-3-4; or

(B) by relocation of practice pursuant to § 161.9 of the Act and 140:10-3-5.

"Party" means a person or agency named and participating or properly seeking and entitled by law to participate in an individual proceeding.

"Penalty" means one or more of the penalties specified in subsection A of §161.12 of the Act.

"Person" means any individual, association, governmental subdivision, or public or private organization of any character other than an agency.

"Relocation of Practice" means the ability of an applicant to obtain Oklahoma Licensure on the following conditions:

(A) The applicant is of good moral character;

(B) The requirements for licensure in the state, country, territory or province in which the applicant is

licensed are deemed by the Board to be equivalent to the requirements for obtaining an original license by examination in this state at the date of such license;

(C) The applicant has no disciplinary matters pending against him or her in any state, country, territory or province;

(D) The license being relocated was obtained by examination in the state, country, territory or province wherein it was issued, or was obtained by examination of the National Board ofChiropractic Examiners;

(E) The applicant passes any examination given by the Board; and

(F) The applicant meets all other requirements of the Oklahoma Chiropractic Practice Act.

"Renewal license" means a license issued by the Board on or before the first day of ~~January~~July of each year to a licensee which authorizes the licensee to practice chiropractic in this state for the succeeding calendar year.

"Revocation" means the recalling, annulling or rendering inoperative of an original license or renewal license, or both, by the Board, after notice and an opportunity for a hearing in an individual proceeding.

"Summary suspension" means the temporary suspension of a license to practice chiropractic medicine by the Board without notice or an opportunity for a hearing.

"Violation" means a violation of the Act or rules of the Board for which the Board is empowered to take disciplinary action against a licensee.

[OAR Docket #15-683; filed 7-2-15]

TITLE 140. BOARD OF CHIROPRACTIC EXAMINERS
CHAPTER 30. CERTIFIED CHIROPRACTIC ASSISTANTS

[OAR Docket #15-684]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 1. General Provisions
140:30-1-2 [AMENDED]
Subchapter 3. Certified Chiropractic Assistant
140:30-3-2 [AMENDED]
140:30-3-3 [AMENDED]
140:30-3-4 [AMENDED]
140:30-3-6 [AMENDED]
140:30-3-7 [AMENDED]
AUTHORITY:
Oklahoma Board of Chiropractic Examiners; 59 O.S. § 161.3
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
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PUBLIC HEARING:
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Approved by Governor's declaration on June 8, 2015
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SUPERSEDED EMERGENCY ACTIONS:
n/a
INCORPORATIONS BY REFERENCE:
n/a
ANALYSIS:
The detrimental effect on the public if these rules were not implemented would be the confusion of the chiropractic physician, certified chiropractic assistant, and those that perform nonclinical services in the chiropractor's office. The public would not have recourse if this agency did not implement this rule, and they would have to take matters to District Court.
CONTACT PERSON:
Beth Carter, Executive Director, Oklahoma Chiropractic Examiners, 421 NW 13th, Suite 180, Oklahoma City, OK 73103, 405-522-3400.

PURSUANT TO THE ACTIONS DESCRIBERED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 11, 2015:

SUBCHAPTER 1. GENERAL PROVISIONS

140:30-1-2. Definitions

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

"Act" means the Oklahoma Chiropractic Practice Act, 59 O.S. 1991, §§ 161.1 et seq.

"Board" means the Board of Chiropractic Examiners.

"Certified Chiropractic Assistant" (CCA) means an unlicensed member of a chiropractic physician's team of healthcare workers who may assist a chiropractic physician in the performance of examination and therapeutic procedures and techniques necessary to deliver healthcare services to patients within the scope of chiropractic and has been certified by the Board.

"Certified Chiropractic Assistant Applicant" means a person who is undergoing training to become a certified chiropractic assistant.

"Certified Chiropractic Assistant examination" means the testing procedures ~~to determine if a administered by the sponsor's course presenter and~~ approved by the Board.~~chiropractic assistant has obtained kowled on all of the following current statutes, rules, the ability to perform objective examination procedures, physiological therapeutics and rehabilitation, and the ability to augment historical and clinical patient information, thereby qualifying for certification.~~

"Executive Director" means the Executive Director of the Board.

"Nonclinical" means of a business nature including, but not limited to, practice management, insurance information, and computer information. It shall also mean the discussion of philosophy as it relates to the performance of chiropractic.

"Supervisory chiropractic physician"means the chiropractic physician who employs or supervises the certified chiropractic assistant.

SUBCHAPTER 3. CERTIFIED CHIROPRACTIC ASSISTANT

140:30-3-2. Application for certification

(a) Chiropractic assistants seeking certified chiropractic assistant status shall complete and submit an application on a form provided by the Board. The application shall contain the signature of the applicant's supervisory chiropractic physician and be accompanied by a nonrefundable application fee.

~~(b) The application to the Board shall be submitted within ninety (90) days of the date the applicant is hired by the supervisory chiropractic physician.~~ The applicant must complete the certification process and pass the certification examination as set forth in these rules within twelve (12) months of the date of application.~~hire. If the applicant has not passed the examination by this point the applicant may continue to work only in a non-clinical position. They may no longer function as a chiropractic assistant even under the direct supervision of a chiropractic physician.~~

(b~~c~~) If an applicant is approved by the Executive Director, the applicant shall be notified by the Executive Director of such approval and will thereafter be eligible to take the certified chiropractic assistant examination.

(c~~d~~) If an applicant is disapproved, the applicant shall be notified by the Executive Director of such disapproval by the return of the application along with the reason(s) for disapproval being fully stated in writing.

(d~~e~~) A fraudulent or false statement as to any material fact which is contained in any application for the certification, or failure to provide any requested information, shall constitute sufficient cause for the disapproval of the application.

(e~~f~~) The certified chiropractic assistant shall display his/her certificate in an area for public view.

140:30-3-3. Certified chiropractic assistant examination

(a) If an application to become a certified chiropractic assistant is approved by the Executive Director pursuant to 140:30-3-2, they must have taken ~~a twelve (12)~~a four (4) hour training course approved by the Board before taking the certified chiropractic assistant exam. The applicant will have ~~two (2) opportunities to pass the exam.~~three (3) opportunities to pass the exam. If the exam is failed ~~twice~~three times, the applicant will be required to take another ~~twelve (12)~~four (4) hour course before he or she can retake the exam.

(b) A nonrefundable examination fee will be charged each time an applicant takes the certified chiropractic assistant examination.

(c) In order to pass the certified chiropractic examination, the applicant must receive a score of ~~seventy five percent (75%)~~sixty percent (60%) or higher.

(d) After certification, that certification will remain with the assistant even if the assistant leaves the employment of the supervisory chiropractic physician who employed the assistant at the time of certification.

~~(e) Certification status will remain with the assistant even if the assistant leaves the employment of the supervisory chiropractic physician who employed the assistant at the time of certification.~~

(e~~f~~) If an applicant has a minimum of two thousand (2000) hours of full time employment as a chiropractic assistant employed by a licensed Oklahoma chiropractic physician, that applicant will be exempt from obtaining ~~the twelve (12)~~ four (4) hours of training prior to taking the examination the first time as required in paragraph (a) of this section. If the applicant is unable to pass the examination after ~~two (2) attempts~~ three (3) attempts, the applicant must, at that time, successfully complete ~~twelve (12)~~ four (4) hours of training obtained at an educational program approved by the Board before taking the certified chiropractic assistant examination a ~~third~~fourth time.

140:30-3-4. Continuing education

Each certified chiropractic assistant shall complete ~~six (6) hours~~2 hours of continuing education every two (2) years beginning the year following certification by the Board. Continuing education may be obtained by attending training offered by an accredited chiropractic college, or other educational program which has been approved by the Board.

140:30-3-6. Responsibility of supervisory chiropractic physician

(a) The supervisory chiropractic physician shall only delegate services to a certified chiropractic assistant, ~~a certified chiropractic assistant applicant,~~ and other employees which services are within the scope of practice of the chiropractic physician. Such delegation may only be made in a manner consistent with the Chiropractic Practice Act or Rules.

(b) The supervisory chiropractic physician is responsible for all acts or omissions of a certified chiropractic assistant, ~~certified chiropractic assistant applicant, or~~and other employees to whom duties are delegated.

(c) The supervisory chiropractic physician shall ensure at all times that a certified chiropractic assistant, ~~a certified chiropractic assistant applicant~~ and other employees have the necessary skills and training required to competently perform all delegated services.

140:30-3-7. Prohibited acts

(a) Certified chiropractic assistants and ~~certified chiropractic assistant applicants~~other employees to whom duties are delegated by the supervisory physician shall not:

(1) Perform independent examinations
(2) Diagnose conditions
(3) Determine or change a regimen of patient care/plan case management
(4) Perform chiropractic manipulation or adjustments
(5) Perform Acupuncture
(6) Unlawfully disclose patient information

(7) Violate any portion of the Chiropractic Practice Act or Rule

(b) The Board may refuse to grant a certificate to any certified chiropractic assistant applicant, may suspend or revoke a certificate, or may impose upon a certified chiropractic assistant or a certified chiropractic assistant applicant, a penalty not to exceed one thousand dollars ($1,000.00) per occurrence upon finding a violation of any prohibited act as stated in 140:30-3-

(c) The supervising chiropractic physician is required to notify the Board, in writing of any dismissal of a certified chiropractic assistant or certified chiropractic applicant for a prohibited act within thirty (30) days of the dismissal.

(d) The supervising chiropractic physician is required to immediately notify the Board, in writing if the supervising chiropractic physician learns that a certified chiropractic assistant and certified chiropractic assistant applicant has:

(1) Committed fraud or misrepresentation in applying for or maintaining certification

(2) Plead guilty, nolo contendere or was convicted of:

(A) a felony

(B) a misdemeanor involving moral turpitude, or

(C) a violation of federal or state controlled dangerous substance laws;

[OAR Docket #15-684; filed 7-2-15]

TITLE 158. CONSTRUCTION INDUSTRIES BOARD
CHAPTER 1. PROCEDURES OF THE OKLAHOMA CONSTRUCTION INDUSTRIES BOARD

[OAR Docket #15-722]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 1. Description of Organization
158:1-1-2 [AMENDED]
158:1-1-3 [AMENDED]
Subchapter 3. General Operation and Procedures
158:1-3-4 [AMENDED]
158:1-3-10 [AMENDED]
158:1-3-11 [AMENDED]
158:1-3-12 [AMENDED]
AUTHORITY:
Construction Industries Board; 59 O.S. §§ 858-627, 1000.4, 1000.5, 1002, 1032, 1681, 1850.3, 1151.2a, and 1151.4
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
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APPROVED BY GOVERNOR'S DECLARATION:
Approved by Governor's declaration on June 8, 2015
FINAL ADOPTION:
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SUPERSEDED EMERGENCY ACTIONS:
Superseded rules:
Subchapter 3. General Operation and Procedures
158:1-3-10 [AMENDED]
158:1-3-11 [AMENDED]
158:1-3-12 [AMENDED]
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December 17, 2014
Register publication:
32 Ok Reg 432
Docket number:
15-17
INCORPORATIONS BY REFERENCE:
n/a
ANALYSIS:
The proposed amendments clarify that employees of the Construction Industries Board are unclassified employees. The proposed amendments to 158:1-3-4 updates language to reflect current provisions of the Oklahoma Open Records Act. The amendments to 158:1-3-10, 158-1-3-11 and 158-13-12 are for the purpose of administering provisions of the Roofing Contractor Registration Act, as amended by House Bill 3184 which became effective November 1, 2014, as such relate to the Post-Military Service Occupation, Education and Credentialing Act, 59 O.S. § 4100.4, et seq.
CONTACT PERSON:
Linda Ruckman, Board Secretary/Executive Assistant, 405-521-6550.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 11, 2015:

SUBCHAPTER 1. DESCRIPTION OF ORGANIZATION

158:1-1-2. Definitions

Unless the context otherwise requires, singular words shall be deemed to include the plural, and masculine words to include the feminine, and vice versa. The following words or terms, when used in this Chapter, shall have the following meaning unless the context clearly indicates otherwise:

"Act" means the Construction Industries Board Act as found at 59 O.S. § 1000.1, *et seq*.

"Administrator" means the Administrator of the Board as described in the Act.

"Administrative Law Judge" means a person appointed by the Construction Industries Board to conduct an individual hearing under the Administrative Procedures Act and may be an employee or a private attorney with whom the Construction Industries Board has a contract for services.

"Board" means the Oklahoma Constructions Industries Board.

"Employees" means the administrative staff of the Board referenced in 59 O.S. 2011 § 1000.4(B)(5) who were previously codified as unclassified employees in Senate Bill 354, effective July 1, 2001.

"Respondent" means the person(s) or legal entity(ies) named in a petition for an individual proceeding, against whom relief is sought.

158:1-1-3. Organization

The employees of the Board shall be unclassified, organized and divided into such divisions or units, as the Board deems desirable for efficiency. Such organization and division may be revised by the Board as it finds necessary or expedient. Copies of the organizational chart are available upon request to the Office of the Administrator.

SUBCHAPTER 3. GENERAL OPERATION AND PROCEDURES

158:1-3-4. Board statements, orders and forms

~~The Administrator shall make available to the public all rules and other written statements of policy or interpretations formulated, adopted or used in the discharge of its functions; all final orders, decisions and opinions; and all forms, applications and instructions for use by the public, including those required to apply for a license or permit~~All records not privileged from disclosure by law are subject to the provisions of the Oklahoma Open Records Act, 51 O.S. § 24A.1, *et seq.* Copies will be provided upon payment of a fee as allowed under the Oklahoma Open Records Act.

158:1-3-10. Acceptance of Military education, training, and experience toward qualification for licensure or endorsement examination

(a) **Licensure or endorsement - post-military service.** In accordance with 59 O.S. § 4100.4 of the Post-Military Service Occupation, Education and Credentialing Act, the related trade committee and the Board shall, upon satisfactory evidence of substantially equivalent education, training and experience by an applicant for licensure, registration, or endorsement, accept the education, training and experience completed by the applicant as a member of the Armed Forces or Reserves of the United States, National Guard of any jurisdiction, the Military Reserves of any jurisdiction, or the Naval Militias of any jurisdiction, and apply it in the manner most favorable toward satisfying the applicant's qualifications for examination and license or endorsement issuance.

(1) An applicant applying under this paragraph must complete and submit the following:

(A) Appropriate application(s).

(B) Satisfactory evidence of education, training and experience obtained by the applicant as a member of the military Armed Forces or Reserves of the United States.

(C) License, registration, or endorsement certification(s) from jurisdiction(s) in which the applicant has held or currently holds a license, registration, or endorsement, if applicable.

(D) Criminal history background application, finger print card and fee, if applicable.

(E) Successful completion of the appropriate examination.

(b) **Military spouse applicant - equivalency.** In accordance with 59 O.S. § 4100.5 the Board shall issue the individual an equivalent license, registration, or endorsement in an equivalent category if, in the opinion of the related trade committee, the requirements for licensure, registration, or endorsement of the other state are substantially equivalent to those required by this state, and the applicant:

(1) is actively licensed or holds active registration or endorsement in another state;

(2) is the spouse of an active-duty member of the Armed Forces or Reserves of the United States;

(3) has a spouse subject to a military transfer to this state; and

(4) left employment in another state to accompany their spouse to this state.

(c) **May be required to meet additional requirements.** If, in the opinion of the related trade committee, there is a question as to the competence of the previously licensed, registered, or endorsed applicant, the individual may be required to meet additional educational courses and/or successfully complete the required examination.

158:1-3-11. Expediting issuances of license, registration, or endorsement to military spouse

The following procedures are hereby established to expedite the issuance of a license, registration, or endorsement for spouses of certain members of the Armed Forces on active duty in this state.

(1) The Board shall expedite consideration of requests by military spouses by methods appropriate to the volume of such requests by, in its sole discretion, referring to the related trade committee to review them, or other appropriate methods. The Board may request supplemental information as may be necessary. The application will be heard, if necessary, at the next practicable trade related committee meeting following submission of all requested documentation.

(2) Upon satisfactory completion of any specific requirements in Oklahoma that were not required in the state in which the military spouse is licensed or holds an active registration or endorsement, or passing the required examination, the Board may issue the applicant an electrical, mechanical or plumbing journeyman license, or electrical, mechanical, or plumbing contractor license, or building and construction inspector license, or home inspector license, roofing registration or commercial roofing endorsement subject to the usual requirements of Oklahoma licensure, roofing registration or endorsement, including, but not limited to, continuing education, payment of license, roofing registration or endorsement fees and renewal fees, and compliance with all applicable statutes and rules of the Board.

158:1-3-12. Renewals for licensee or registration or endorsement holder - post-military service

(a) **Active duty as a member of the Armed Forces of the United States.** In accordance with 59 O.S. § 4100.6 of the Post-Military Service Occupation, Education and Credentialing Act, while a licensee or registration or endorsement holder is on active duty the license, registration or endorsement may be renewed without payment of the license, registration or endorsement renewal fee and meeting the continuing education requirement. Such waiver shall be requested in writing to the Board prior to license, registration or endorsement expiration, along with evidence of the order for active duty. The license, registration or endorsement issued pursuant to this rule may be continued as long as the licensee or registration or endorsement holder is a member of the Armed Forces of the United States on active duty and for a period of at least one (1) year after discharge from active duty. Upon discharge from active duty and a request for license, registration or endorsement activation, the licensee or registration or endorsement holder shall submit to the Board evidence of successful completion of the continuing education requirement for the current license or endorsement renewal term.

(1) If a licensee, or registration or endorsement holder on active duty does not request such waiver in writing and the license, registration or endorsement expires, the applicant may, by written request, provide the Board documentation as required in paragraph (a) of this section; however, no later than one (1) year after discharge from active duty.

(2) In the event a license, registration or endorsement expires during the events as noted herein, the Board shall waive any retesting license or endorsement examination as a result of the expired license or endorsement.

(b) **Member of the National Guard or reserve component of the Armed Forces.** In accordance with 72 O.S. § 48.2 Extension and Renewal of Professional Licenses, any licensee, or registration or endorsement holder whose license, registration or endorsement expires while on active duty as a member of the National Guard or reserve component of the armed forces shall be extended until no later than one (1) year after the member is discharged from active duty status. Upon the Board receiving a copy of the official orders calling the member or reservist to active duty and official orders discharging the member or reservist from active duty all license, registration or endorsement fees and continuing education shall be waived for this time period as well as license or endorsement examination otherwise required as a result of license, registration or endorsement expiration.

[OAR Docket #15-722; filed 7-7-15]

TITLE 158. CONSTRUCTION INDUSTRIES BOARD
CHAPTER 10. FINE SCHEDULE

[OAR Docket #15-723]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 3. Administrative Fine Schedule
158:10-3-1 [AMENDED]
AUTHORITY:
Construction Industries Board; 59 O.S. §§ 858-627, 1000.4, 1000.5, 1002, 1032, 1681, 1850.3, 1151.2a, and 1151.4
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
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Superseded rules:
Subchapter 3. Administrative Fine Schedule
158:10-3-1 [AMENDED]
Gubernatorial Approval:
December 17, 2014
Register publication:
32 Ok Reg 434
Docket number:
15-18
INCORPORATIONS BY REFERENCE:
n/a
ANALYSIS:
The proposed amendments establish the fines that may be assessed for violations of the Roofing Contractor Registration Act within the parameters established by the Act as amended by House Bill 3184 which became effective November 1, 2014.
CONTACT PERSON:
Linda Ruckman, Board Secretary/Executive Assistant, 405-521-6550.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 11, 2015:

SUBCHAPTER 3. ADMINISTRATIVE FINE SCHEDULE

158:10-3-1. Common requirements under the Electrical License Act, the Mechanical Licensing Act, the Plumbing License Law of 1955, ~~and~~ Home Inspection Licensing Act, and the Roofing Contractor Registration Act

(a) The schedule of fines in this Section is based on violation of requirements common to the rules promulgated under authority of the Electrical License Act, the Mechanical Licensing Act and The Plumbing License Law of 1955, or each of the respective licensing laws, and the Roofing Contractor Registration Act. Except residential roofing jobs where a written warning may be issued prior to applying the fine schedule and as provided in Section 158:10-3-2, the fine schedule for citations issued by the Board for violations of the following requirements is:

(1) Contracting without license or registration or endorsement, which includes offering to perform work through advertisement or otherwise:
- (A) First - $500.00
- (B) Second or subsequent - $1,000.00.

(2) Inactive contractor or a journeyman engaged in contracting:
- (A) First - $500.00
- (B) Second or subsequent - $1,000.00.

(3) Contractor working unlicensed or unregistered individual (per person):
- (A) First - $500.00;
- (B) Second or subsequent - $1,000.00.

(4) Contractor working registered apprentice without direct supervision (per apprentice):
- (A) First - $500.00;
- (B) Second or subsequent - $1,000.00.

(5) Unlicensed or unregistered individual performing trade work under the direction of one acting as a contractor:
- (A) First - $500.00;
- (B) Second or subsequent - $1,000.00.

(6) Loaning a license or registration or endorsement:
- (A) First - $500;
- (B) Second or subsequent - $1,000.00.

(7) Forging, falsifying or altering a license or registration or endorsement:
- (A) First - $500.00;
- (B) Second or subsequent - $1,000.00.

(8) Code violations per day (after NOV compliance date):
- (A) First - $500.00.

(9) Contracting with an expired bond:
- (A) First - $500.00;
- (B) Second or subsequent - $1,000.00.

(10) Contracting with expired insurance
- (A) First - $500.00;
- (B) Second or subsequent - $1,000.00.

(11) Failure to properly display firm name and state license number, roofing registration number, and if applicable commercial endorsement number on vehicles; or roofing registrants failing to post on the job site and all media the name, registration number, and commercial endorsement number:
- (A) First - $500.00;
- (B) Second or subsequent - $1,000.00.

(b) The fine schedule for citations issued by the Board for Violations of the Home Inspection Licensing Act or the Rules promulgated there under shall be subject to the following fines:

(1) Violation of 158:70-5-2(d):
- (A) First violation: $50.00
- (B) Subsequent violation: $200.00

(2) Violations of 158:70-11-2(a):
- (A) First violation: up to $500.00
- (B) Subsequent violation: up to $1,000.00

(3) Violations of 158:70-11-2(b):
- (A) First violation: up to $500.00
- (B) Subsequent violation: up to $1,000.00

(4) Violations of 158:70-11-2(c):
- (A) First violation: up to $500.00
- (B) Subsequent violation: up to $1,000.00

(5) Violations of 158:70-11-2(d):
- (A) First violation: up to $200.00
- (B) Subsequent violation: up to $500.00

(6) Violations of 158:70-11-2(e):
- (A) First violation: up to $500.00
- (B) Subsequent violation: up to $1,000.00

(7) Violations of 158:70-11-2(f):
- (A) First violation: up to $500.00
- (B) Subsequent violation: up to $1,000.00

(8) Violations of 158:70-11-2(g):
- (A) First violation: up to $500.00
- (B) Subsequent violation: up to $1,000.00

(9) Violations of 158:70-11-2(h):
- (A) First violation: up to $500.00
- (B) Subsequent violation: up to $1,000.00

(10) Violations of 158:70-11-2(i):
- (A) First violation: up to $500.00
- (B) Subsequent violation: up to $1,000.00

(11) Violations of 158:70-11-2(j):
- (A) First violation: up to $1,000.00
- (B) Subsequent violation: up to $2,000.00

(12) Violations of 158:70-11-2(k):
- (A) First violation: up to $200.00
- (B) Subsequent violation: up to $500.00

(13) Violations of 158:70-11-2(l):
- (A) First violation: up to $200.00
- (B) Subsequent violation: up to $500.00

(14) Violations of 158:70-11-2(m):
- (A) First violation: up to $200.00
- (B) Subsequent violation: up to $500.00

(15) Violations of 158:70-11-2(n):
- (A) First violation: up to $200.00
- (B) Subsequent violation: up to $500.00

(c) Violations of any other provision of the Electrical Industry Regulations, the Mechanical Industry Regulations and the Plumbing Industry Regulations not otherwise provided hereinabove or in 158:10-3-2, shall be subject to a fine of $200.00 for the first offense and $400.00 for each subsequent offense.

(d) Violations of any other provision of the Roofing Contractor Registration Act or the Roofing Contractor Registration Regulations involving a residential job as provided in Chapter 85 of OAC 158, shall be subject to a fine of $500.00 for the first offense, $1,000.00 for a second offense, and $3,500.00 for each subsequent offense.
(e) Subsequent violations involving residential roofing jobs after adjudication of a $1,000.00 fine, can be fined up to $3,500.00.
(f) Violations of any other provision of the Roofing Contractor Registration Act or the Roofing Contractor Registration Regulations involving a commercial job as provided in Chapter 85 of OAC 158, shall be subject to a fine of $500.00 for the first offense, $1,000.00 for a second offense, and $5,000.00 for each subsequent offense.
(g) Subsequent violations involving commercial roofing jobs after adjudication of a $1,000.00 fine, can be fined up to $5,000.00.

[OAR Docket #15-723; filed 7-7-15]

TITLE 158. CONSTRUCTION INDUSTRIES BOARD
CHAPTER 30. PLUMBING INDUSTRY REGULATIONS

[OAR Docket #15-724]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 1. General Provisions
158:30-1-2 [AMENDED]
158:30-1-3 [AMENDED]
158:30-1-4 [AMENDED]
Subchapter 3. Procedures of the Committee and Hearing Board
158:30-3-1 [AMENDED]
158:30-3-2 [AMENDED]
Subchapter 5. License Types, Bond Requirements, and Display of License Number and Firm Name
158:30-5-2 [AMENDED]
158:30-5-4 [AMENDED]
Subchapter 9. Examination Procedures, License and Registration Fees and Duration of Licenses
158:30-9-1 [AMENDED]
158:30-9-1.1 [NEW]
158:30-9-1.2 [NEW]
158:30-9-1.3 [NEW]
158:30-9-2 [AMENDED]
158:30-9-3 [AMENDED]
158:30-9-4 [AMENDED]
Subchapter 11. License Revocation or Suspension and Prohibited Acts
158:30-11-1 [AMENDED]
158:30-11-2 [AMENDED]
Subchapter 13. Procedure of the Variance and Appeals Board, Plan Review Applications and Fees, Code Variance Applications and Fee, and Code Interpretation Appeals
158:30-13-1 [AMENDED]
158:30-13-4 [AMENDED]
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32 Ok Reg 193
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INCORPORATIONS BY REFERENCE:
n/a
ANALYSIS:
Many of the proposed amendments are cleanup in nature and correct punctuation and grammar, correct or clarify references and citations, and delete duplicative/obsolete language. In addition, 158:30-1-2 amends the definition of "Applicant" as it relates to a person applying for review of plans and specifications or for a plumbing code variance to clarify that the applicant would be applying for a variance from the standard of installation as described in OAC 158:30-1-4 and adds a definition for "Oklahoma Uniform Building Code Commission" or "OUBCC"; 158:30-5-4 corrects obsolete fee amounts, resulting from fee changes approved in 2009 but not updated throughout all sections of OAC 158:30, by referring applicants to the general fee schedule which is NOT being changed; 158:30-9-1 adds a provision requiring an apprentice registration to be on file with the Construction Industries Board for experience required to be eligible for the licensing exam, with the exception of experience lawfully obtained according to applicable federal or state laws, and adds emergency rule language which allows those who participate in approved plumbing educational programs that are less than 500 classroom hours to substitute at least a portion of the classroom hours completed for a portion of the experience required to test for licensing; 158:30-9-1.1, 158:30-9-1.2 and 158:30-9-1.3 are new sections for the purpose of clarifying that provisions of OAC 158:1 related to the Post-Military Service Occupation, Education and Credentialing Act, are applicable to applicants for initial plumbing license or renewal of a plumbing license; 158:30-9-4 adds a provision to clarify continuing education requirements for an individual who does not complete the required continuing education prior to the expiration of their plumbing license and allows for all licensees to be able to receive continuing education credit for approved correspondence and online courses.
CONTACT PERSON:
Linda Ruckman, Board Secretary/Executive Assistant, 405-521-6550.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 11, 2015:

SUBCHAPTER 1. GENERAL PROVISIONS

158:30-1-2. Definitions

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

"Act" means the Plumbing License Law of 1955 as found at 59 O.S. § 1001, *et seq., as amended.*

"Administrator" means the Administrator of the Board as described in the Construction Industries Board Act found at 59 O.S. § 1000.1,*et seq.*

"Applicant" means any person applying for an examination, for a license or registration, for review of plans and specifications or for a plumbing code variance from the ~~current, published edition of the code of plumbing regulations endorsed by the International Code Council (ICC) by the Board under the Act~~ standard of installation as described in OAC 158:30-1-4 by the Construction Industries Board under the Act.

"Board" means the Oklahoma Construction Industries Board.

"Bonds and Insurance Unit" means the consolidated unit that processes bonds and insurance under the direction of the Construction Industries Board.

"Cheating" means any unapproved deviation from any official instruction given before, during or after a license examination, for the purpose of affecting or influencing the examination results or otherwise providing an undue advantage to any examinee.

"Committee" means the Committee of Plumbing Examiners.

"Direct supervision" means the on-the-job presence by the supervisor who must be a licensed plumbing contractor or plumbing journeyman.

"Farm Operations"

(A) For purposes of the Plumbing License Law, "farm" means land devoted primarily to production for sale of livestock or agricultural commodities in sufficient quantity to be capable of contributing materially to the operator's support.

(B) For purposes of the Plumbing License Law, "farm building" means all homes (i.e., domiciles, residences), or buildings therewith designed and used primarily for and in conjunction with conducting farming operations, provided that said buildings are not connected to a public water and/or sewage system. A "farm building" shall not include other structures such as stores, service stations, schools, motels, or any other building having public access, whether connected to private or public water or sewer systems.

"Hearing Board" means the Plumbing Hearing Board.

"Maintenance of state owned or operated facilities" means maintenance of state institutions and school districts and will be construed as all repair and/or upkeep of existing plumbing or plumbing fixtures within existing state owned buildings or local school district owned buildings. This term shall not include the installation of plumbing in a new building or new additions to existing structures or replacement of plumbing systems in existing buildings.

"Oklahoma Uniform Building Code Commission" or **"OUBCC"** means the state agency created under 59 O.S. § 1000.20, *et seq.*, and authorized to adopt all building codes and standards for residential and commercial construction to be used as minimum standards by all entities within this State.

"Plumbing" means and includes:

(A) all piping, fixtures, appurtenances and appliances for, and in connection with, a supply of water within or adjacent to any building, structure, or conveyance, on the premises and to the connection with a water main or other source of supply;

(B) all piping, fixtures, appurtenances and appliances for sanitary drainage or storm drainage facilities, including venting systems for such facilities, within or adjacent to any building, structure, or conveyance, on the premises and to the connection with a public disposal system or other acceptable terminal;

(C) the installation, repair, maintenance and renovation of all piping, fixtures, appurtenances and appliances for a supply of water, or for the disposal of waste water, liquid waste, or sewage within or adjacent to any building, structure, or conveyance, on the premises and to the source of supply of water or point of disposal of wastes;

(D) the original installation of a water softener but not the exchanging of the units whereby only unions are disturbed in the replacement;

(E) the installation of water services and building sewers; and

(F) sewer cleaning-house sewer maintenance.

"Plumbing License Unit" means the staff and administrative support unit to the Committee of Plumbing Examiners and the Plumbing Hearing Board.

"Reciprocity agreement" means an agreement whereby a person holding a plumber's license or registration who is licensed in another state with substantially similar or greater licensure requirements may be licensed in this State after payment of a fee for licensing by reciprocity.

"Variance" means the use of an alternative material or method of construction from that prescribed in the standard of installation as described in OAC 158:30-1-4 for use at a particular location or project specified in the variance application; and

"Variance and Appeals Board" means the Oklahoma State Plumbing Installation Code Variance and Appeals Board.

158:30-1-3. License requirement

(a) No person, on his or her own behalf ~~of himself~~ or on behalf of a plumbing firm, shall engage or offer to engage in, by advertisement or otherwise, any plumbing work who does not possess a valid and appropriate license or registration from the Construction Industries Board pursuant to ~~these rules~~this Chapter.

(b) Any changes in address, business relationship, structure or affiliation shall be reported in writing to the Oklahoma Construction Industries Board within thirty (30) days of such change.

158:30-1-4. Standard of installation

The standards of installation are the provisions of the plumbing codes - the International Plumbing Code, the International Fuel Gas Code and the plumbing portion of the International Residential Code, as revised and adopted by the ~~Oklahoma Uniform Building Code Commission~~OUBCC pursuant to the Oklahoma Uniform Building Code Commission Act.

SUBCHAPTER 3. PROCEDURES OF THE COMMITTEE AND HEARING BOARD

158:30-3-1. Procedures of the Committee

The Committee ~~of Plumbing Examiners (the "Committee")~~ shall serve the Board in an advisory capacity, formulate rules pursuant to the Plumbing License Law of 1955, and assist and advise the Administrator on the examination of applicants for licenses as journeyman plumber and/or plumbing contractor, in accordance with ~~these rules~~this Chapter and the terms and conditions of the ~~law~~Act. The Committee shall make up a part of the State Plumbing Hearing Board.

(1) The Committee shall meet at least twice each year. Meetings of the Committee will comply with the Oklahoma Open Meeting Act. The Board shall notify all examination applicants by direct mail of the procedures and contact information to set a date and time for examination.

(2) The public may obtain information and make submissions, requests, and applications for plumbing examinations by mail or in person at the Oklahoma Construction Industries Board.

(3) Application for licensure shall be done by filling out an application for examination on a form provided by the Plumbing Licensing Unit.

(4) All forms and instructions used by the Plumbing Licensing Unit shall be approved by the Administrator pursuant to 59 O.S. § 1007, and are available at the offices of the Board.

(5) All records not privileged from disclosure by law are subject to the provisions of the Oklahoma Open Records Act, 51 O.S. § 24A.1, *et seq*. Copies shall be priced as determined by ~~rule of the Oklahoma Construction Industries Board~~OAC 158:1-3-5.

(6) The Administrator will confirm or deny that a person is licensed upon request of the public.

158:30-3-2. Procedures of the Hearing Board

(a) The Hearing Board shall meet as often as is necessary to enforce the requirements of the Act and ~~these rules~~this Chapter. The Hearing Board shall be comprised of a designee of the Construction Industries Board and the Committee.

(b) The standard of review to be used by the Hearing Board for individual proceedings concerning the work of contractors, journeymen and apprentices shall be the standard of installation referenced in OAC 158:30-1-4.

SUBCHAPTER 5. LICENSE TYPES, BOND REQUIREMENTS, AND DISPLAY OF LICENSE NUMBER AND FIRM NAME

158:30-5-2. Insurance and bond requirements

(a) Unless as otherwise provided in ~~OAC 158:30-5-2~~(b) ~~below~~of this Section: Each active plumbing contractor must maintain a five thousand dollar ($5,000.00) corporate surety bond, payable to the Board, and must cause the surety to deposit a copy of such bond with the Plumbing Licensing Unit ~~and with each municipality in which the bonded plumbing contractor proposes to commence plumbing work~~.

(b) An active plumbing contractor may satisfy the requirements of ~~OAC 158:30-5-2~~(a) ~~above~~of this Section by depositing with the Plumbing Licensing Unit, either the sum of $5,000 cash, or a certificate of deposit in the sum of $5,000 payable to the order of the Plumbing Licensing Revolving Fund.

(c) Failure to maintain a corporate surety bond in effect shall constitute grounds for summary suspension of a bonded plumbing contractor license immediately upon the expiration of such bond.

(d) A corporate surety bond may be accepted from any surety authorized to do business in the State of Oklahoma. It shall continue in effect until thirty (30) days have elapsed after the Bond and Insurance Unit is notified by the surety of the cancellation of such bond, unless the bond expired on a date certain on its face. Sureties must notify each municipality furnished with a copy of the bond regarding the pending cancellation if known to them.

(e) The Board shall notify the surety of the summary suspension or revocation of the license of any of its bonded licensed plumbing contractors.

(f) A bond or other surety filed in accordance with ~~OAC 158:30-5-3~~(a) of this Section shall be in lieu of filing a bond with each municipality where the plumbing contractor works, and shall be conditioned upon all the following terms:

(1) Plumbing contractors shall faithfully and properly conduct business in compliance with applicable statutes, rules of the Oklahoma Construction Industries Board, and with all the applicable ordinances of the municipality in which plumbing work is performed.

(2) Plumbing contractors shall pay all fines and penalties imposed by penalty orders of the Board and fines and penalties imposed by courts of competent jurisdiction for the violation of municipal ordinances. The Board may seek payment through the surety bond of any fines or penalties, which the licensee fails to pay.

(3) In lieu of a corporate surety, an active plumbing contractor may deposit with the Bonds and Insurance Unit the required amount in lawful money or negotiable bonds of the United States, accompanied by a written instrument, to be approved by the Construction Industries Board, executed and acknowledged by the active plumbing contractor, and setting forth the conditions upon which the deposit is made. When the true owner is other than the active plumbing contractor making the deposit, the instrument shall so state and shall also be executed

and acknowledged by the true owner. Upon exoneration, the instrument and deposit may be returned by the Bonds and Insurance Unit to the depositor or the true owner, if the depositor is other than the named true owner, after application of the deposit to claims made pursuant to ~~these Rules~~this Section.

(4) Notwithstanding any provision of a security instrument to the contrary, every surety or depositor of security subjects himself or herself to the jurisdiction of the Construction Industries Board and irrevocably appoints the Administrator as his or her agent upon whom any papers affecting his or her liability may be served. Every surety or depositor of security consents to his or her liability being joint and several. Consequently, judgment may be entered against the surety, or depositor of security, in accordance with his or her obligation simultaneously with judgment against the principal, and execution may thereupon issue.

(5) Plumbing contractors shall protect, save harmless and indemnify the State and municipalities against any liability imposed by law against the State and municipalities for the negligence of said contractor arising from any act or omission while engaged in work pursuant to the Plumbing License Law.

(6) Any aggrieved person may bring an action upon the bond for the recovery of penalty thereof to the same extent and with equal rights as though such aggrieved person had been named as the obligee in the bond.

(7) For purposes of this Section, the term plumbing contractor also includes the agents, servants, and employees of a plumbing contractor.

(g) Exceptions. The bond and insurance requirement will be waived if:

(1) The plumbing contractor wishes to be inactive. A contractor may choose to place his or her license on inactive status and may practice as a journeyman but shall not practice as an active contractor. The inactive contractor can obtain an active license at any time if his or her license is valid and the bond and insurance requirements are met; or

(2) The plumbing contractor is employed by a corporation, partnership, public entity, or political subdivision and said corporation, partnership, public entity or political subdivision submits an affidavit on behalf of the contractor that the employee will only perform plumbing work on property owned by said corporation, partnership, public entity, or political subdivision and the employer assumes all financial responsibility in lieu of the contractor providing bond and insurance. The affidavit must include a statement by the employer that the Board will be notified if the contractor is no longer employed by said employer, or if the employer no longer wishes to assume financial responsibility for the contractor.

(h) Insurance. A plumbing contractor shall provide proof of financial responsibility by providing a certificate of insurance, which indicates a minimum general liability policy of $50,000.

158:30-5-4. Plumbing journeymen and contractor licenses by reciprocity

(a) **General procedures for application.** Any person holding a valid plumbing journeyman license or plumbing contractor license issued by another ~~State~~state who is seeking to obtain a license by reciprocity shall first submit an application to the Construction Industries Board on a form provided by the Board. The application shall include all documentation necessary to show the applicant meets the requirements established by ~~these rules~~the Act and this Chapter. All applications shall first be directed to the Committee or its designee for an initial review to determine if the applicant meets the qualifications for a license by reciprocity as set forth in ~~these rules~~this Chapter and in 59 O.S. § 1000.5A or any subsequent enactment of the Legislature. Following this review, the Committee or its designee shall make a recommendation to the Board or its designee as to whether the application should be approved or disapproved. The Board or its designee shall make the final determination as to whether an application shall be approved or disapproved. If the Board or its designee disapproves an application, the application shall be returned to the applicant with the reason for the disapproval.

(b) **Application fees.** Before an application will be considered, a person applying for a plumbing journeyman license by reciprocity must pay ~~an~~the journeyman application fee and ~~licensing~~the initial journeyman license fee ~~of $ 75~~as set forth in OAC 158:30-9-2. If the person is applying for a plumbing contractor license, the person must pay ~~an~~the contractors application fee and ~~licensing~~the initial contractor license fee ~~of $225~~as set forth in OAC 158:30-9-2. These fees shall not be refundable under any circumstances.

(c) **Requirements for issuance of a license by reciprocity.** An application for a license by reciprocity may be approved upon a satisfactory showing by the applicant of the following:

(1) That the requirements for licensure from the ~~State~~state in which the applicant is licensed are determined to be substantially the same or equivalent to the requirements for obtaining a license by examination in this ~~state~~State. In making this determination the following shall be considered:

(A) Whether the experience required by the other ~~State~~state to be eligible to sit for the license examination is substantially the same or equivalent to the Board's requirements;

~~(B) Whether the experience commercial/industrial work required by the other State is substantially the same or equivalent to the Board's requirements;~~

(~~C~~B) Whether the continuing education requirements of the other ~~State~~state are substantially the same or equivalent to the Board's requirements;

(~~D~~C) Whether the codes adopted by the other ~~State~~state are substantially the same or equivalent to the Board's requirements;

(~~E~~D) Whether the examination of the other ~~State~~state is substantially the same or equivalent to the Board's requirements. This shall include the score required to pass the examination, the subject matter of the examination, the codes on which the

examination is based, and whether the examination is in written form.

(2) That the other ~~State~~state will recognize a license issued by the State of Oklahoma through the Construction Industries Board. Paragraphs (1) and (2) of this ~~rule~~subsection may only be satisfied by the existence of a reciprocity agreement between the Board and the ~~State~~state issuing the applicant's current license as provided in ~~subsection~~ (d) of this ~~rule~~Section.

(3) That the applicant is currently licensed by a ~~State~~state that meets the requirements of ~~Section~~(1) of this ~~rule~~subsection and that one (1) year immediately prior to the application, the applicant lawfully practiced an applicable trade within and under the laws of that ~~State~~state.

(4) That no disciplinary matters are pending against the applicant in any jurisdiction in which the applicant is currently licensed. This requirement will be considered satisfied upon presentation of a certified statement from the licensing authorities of all jurisdictions in which the applicant is currently licensed that no disciplinary matters are pending against applicant.

(5) That the applicant obtained the license to be reciprocated by examination.

(d) **Reciprocity agreements.** The Board may enter into a reciprocity agreement with another ~~State~~state if the requirements for licensure in the other ~~State~~state are deemed by the Board to be substantially the same or equivalent to the requirements for obtaining an original license by examination in this ~~state~~State.

(e) **Additional requirements for contractor applicants.** Applicants seeking a plumbing contractor license by reciprocity who meet the necessary qualifications for a license as required in this ~~rule~~Section will be granted a journeyman license by reciprocity. The applicant will be issued a contractor license upon successfully passing the Oklahoma Plumbing Contractor Business and Law portion of the full contractor examination and satisfaction of the bonding and insurance requirements of OAC 158:30-5-2.

SUBCHAPTER 9. EXAMINATION PROCEDURES, LICENSE AND REGISTRATION FEES AND DURATION OF LICENSES

158:30-9-1. Examination procedures

(a) The plumbing standards for the plumbing examination shall be the ~~International Plumbing Code as adopted~~ standard of installation as described in OAC 158:30-1-4.

(b) Any previously certified examination may be used to meet an examination requirement.

(c) Examination for a plumber's license shall include, but not be limited to, written questions and drawings and/or charts.

(d) The maximum grade value of each part of the plumbing examination shall be 100 points. An examinee must make 75% or more on each part, ~~above,~~ to pass the examination.

(e) Applicants for the plumbing contractor examination must be capable of reading English without assistance. A person who cannot meet this requirement may request a hearing before the Committee to request reasonable accommodations.

(f) Except as authorized by the Plumbing ~~Examining~~Examiners Committee, no person, other than examinees, shall be permitted in the examination area.

(g) An examinee who is caught cheating during the course of an examination shall be deemed to have failed the examination.

(h) Applicants for the journeyman examination must be eighteen (18) years of age or older and have ~~either~~:

(1) three (3) years of experience in the plumbing trade while employed by a licensed Plumbing contractor~~.~~; or

(2) equivalent verifiable three (3) years of experience in the plumbing trade while serving in the U.S. military~~.~~; or

(3) a verifiable out-of-state plumbing license that must be:

(A) current, and

(B) in good standing.

(i) Applicants for the contractors examination must be eighteen (18) years of age or older and have four (4) years of experience in the plumbing trade while employed by a licensed Plumbing contractor.

(j) Applicants for plumbing license examinations who are not licensed and wish to include experience gained in Oklahoma must maintain an apprentice registration on file with the Oklahoma Construction Industries Board for all experience obtained in Oklahoma. The Construction Industries Board will not consider experience obtained in or outside of Oklahoma as verifiable experience for periods in which an apprentice is unregistered, except for experience lawfully obtained according to any applicable federal or state laws, and must be comprised of plumbing work as defined in the Act and in this Chapter.

(~~j~~k) The following may be substituted for a portion of the experience requirement in (h)(1) and (i) of this Section:

(1) An associate degree or Career Tech diploma certifying completion of a plumbing educational program consisting of a minimum of one thousand (1,000) classroom hours from a school, approved by the Committee, may be substituted for two (2) years of experience.

(2) A Career Tech diploma certifying completion of an educational program consisting of a minimum of five hundred (500) classroom hours from a school, approved by the Committee, may be substituted for one (1) year of experience.

(3) A Career Tech diploma certifying completion of an educational program consisting of a minimum of three hundred and seventy five (375) classroom hours from a school, approved by the Committee, may be substituted for three-fourths (3/4) of a year, or nine months of experience.

(4) A Career Tech diploma certifying completion of an educational program consisting of a minimum of three hundred and thirty four (334) classroom hours from a school, approved by the Committee, may be substituted for two-thirds (2/3) of a year, or eight months of experience.

(5) A Career Tech diploma certifying completion of an educational program consisting of a minimum of two hundred and fifty (250) classroom hours from a school, approved by the Committee, may be substituted for one-half (1/2) year, or six months of experience.

(~~k~~l) The fees for a license must be on deposit with the Administrator in advance of the examination.

(~~l~~m) If the applicant fails to meet the minimum qualifications to take the examination, the application fee will be forfeited.

158:30-9-1.1. Acceptance of Military education, training and experience toward qualification for licensure examination

(a) **Licensure - post-military service.** See OAC 158:1-3-10 for provisions related to the application of substantially equivalent education, training, and experience completed as a member of the Armed Forces or Reserves of the United States, National Guard of any jurisdiction, the Military Reserves of any jurisdiction, or the Naval Militias of any jurisdiction toward satisfying the qualifications for examination and license issuance.

(b) **Military spouse applicant - equivalency.** See OAC 158:1-3-10 for provisions related to issuance of an equivalent license in an equivalent category for the spouse of an active-duty member of the Armed Forces or Reserves of the United States.

158:30-9-1.2. Expediting issuances of license to military spouse

See OAC 158:1-3-11 for provisions related the Board expediting the issuance of a license for spouses of certain members of the Armed Forces on active duty in this State.

158:30-9-1.3. Renewals for licensee - post-military service

See OAC 158:1-3-12 for provisions related to license renewal while a licensee holder is a member of the Armed Forces of the United States on active duty, and for provisions related to a licensee whose license expires while on active duty as a member of the National Guard or reserve component of the Armed Forces.

158:30-9-2. Fee schedule for contractors, journeymen, and apprentices

(a) **Examination fees for contractors and journeyman.** The Construction Industries Board, or its designated representative, may collect for the actual cost of any examination provided by ~~these rules~~this Chapter. The cost for each such examination referenced in ~~section~~ OAC 158:30-9-1 shall be posted in plain view at the testing site that provides and administers the examination. Every person whose application for examination is approved shall be informed of the specific fee prior to setting for the examination. The unit testing fee shall be the amount negotiated by the Administrator in accordance with the provisions of the Oklahoma Central Purchasing Act, but cannot exceed the maximum allowable fee provided in 59 O.S. § 1000.5(A)(2). Documentation confirming the contractual fee shall be available upon request.

(b) **Licensing, registration and application fee schedule for contractors, journeyman, and apprentices.** The licensure, application, ~~and~~ registration and annual renewal fees shall be ~~annually~~ as follows:

(1) contractors application - $30.00
(2) initial contractor license - $300.00
(3) renewal contractor license - $200.00
(4) renewal contractor late fee - $100.00
(5) journeyman application - $25.00
(6) initial journeyman license - $50.00
(7) renewal journeyman license - $75.00
(8) renewal journeyman late fee - $25.00
(9) apprentice application - $5.00
(10) apprentice registration - $20.00

158:30-9-3. Duration of licenses

(a) All licenses shall have a duration of no longer than one (1) year, and shall expire on the last day of the birth month of the licensee each year.

(b) Before any license may be renewed, all applicable continuing education requirements must be met.

(c) Any license issued by examination may be renewed by submitting the renewal application and the license fee for the next year by check or money order which must be delivered or mailed on or before the birth month expiration date, or by credit card through a state-wide internet online licensing system.

(d) An expired license issued by examination may be reinstated ~~if: The license fee is submitted after the license expired, and is accompanied by a late fee~~ by submitting the license renewal fee and late fee with the filing of a renewal application and proof of meeting all license renewal requirements.

(e) A licensee who, during an investigation of the licensee by the Construction Industries Board, surrenders their license shall be treated as if the license had been revoked for one (1) year from the day of surrender.

(f) A license cannot be renewed until the licensee has paid any and all outstanding fines due and owing to any division of the Construction Industries Board.

158:30-9-4. Continuing Education

(a) **Continuing education requirements.**

(1) By July 1, 2014, no contractor or journeyman license shall be renewed unless the licensee has completed at least six (6) hours of continuing education ("CE"); and thereafter, the licensee shall complete six (6) hours every three (3) years or thirty-six (36) months. The continuing education course and instructor shall be approved in advance by the Committee. Exceptions to advance approval, or post-course approval, may be allowed by the Committee, or its designee, for substitute instructors in emergency situations when written notice of the emergency is provided to the ~~Administrator, or trade section chief,~~Committee or its designee within seven (7) days of the course. The continuing education material shall cover codes and revisions adopted by the ~~Oklahoma Uniform~~

~~Building Code Commission~~OUBCC~~,any other code approved by the Committee as an appropriate code for topics of continuing education for licensees,~~ and/or other trade related subject matters appropriate for topics of continuing education for licensees and approved by the Committee including: examination materials, manufacturers' installation of equipment or parts, the licensing ~~act~~Act, the trade regulations as set forth in this Chapter as well as the rules of the Construction Industries Board in OAC 158:10, and other trade or safety related subject matters approved by the Committee.

(2) If a license expires before the licensee completes the CE requirement, any CE that is completed while the license is expired will be applied to the CE requirement for the thirty-six (36) months preceding the date the license expired. Six (6) hours of CE will still have to be completed in order to meet the CE requirement for the subsequent thirty-six (36) month period.

(~~2~~3) Credit will be given for CE programs including correspondence and online courses approved by the Plumbing ~~Examining~~Examiners Committee or its designee.

(~~3~~4) Except as provided herein ~~these rules~~this Section shall apply to every journeyman or contractor licensed by the Construction Industries Board.

(~~4~~5) A licensee is exempt from the educational requirements of ~~these rules~~this Section for three (3) years from the date he or she passed their current licensing exam.

(b) The following standards will govern the approval of continuing education programs by the Committee.

(1) The program must be offered by a provider having substantial, recent~~,~~ experience in offering continuing education or demonstrated ability to organize and present effectively continuing education. Demonstrated ability arises partly from the extent to which individuals with trade training or educational experience are involved in the planning, instruction and supervision of the program.

(2) If written materials are provided, the materials must be thorough, high quality, readable, and must be made available to all participants at or before the time the course is presented.

(3) The program must be conducted in a comfortable physical setting which is conducive to learning.

(4) The program itself must be conducted by an individual or group qualified by practical or academic experience. The program including the named advertised participants must be conducted substantially as planned, subject to emergency withdrawals and alterations.

(5) Changes including but not limited to location, date, instructors, or cancellations must be requested from the Committee or its designee in writing prior to the start of class. All requests for change must include the Course ID number.

(6) The training location shall be outside the regular work place or after regular working hours.

(7) A credit hour is at least fifty (50) minutes of instruction with a ten (10) minute break.

(8) CE courses shall be presented in one of the following formats:

(A) Six (6) credit hours presented on one (1) day

(B) Two sessions of three (3) credit hours each presented within a seven (7) day period

(C) One (1) session of two (2) credit hours for the purposes of presenting a manufacturers' installation course,

(D) An approved correspondence or online course, or

(E) Another format approved by the Committee.

(9) Verification of Credit.

(A) The Course Provider shall verify the total number of continuing education hours completed by each attendee.

(B) Continuing education providers shall require attendees to present a photo I.D. prior to the attendee signing the sign-in sheet provided by the Construction Industries Board. Sign-in sheets shall include the name and license number of each licensee in attendance.

(C) As soon as practicable but in any event on or before seven (7) days following an approved education program, the provider shall furnish to the ~~Examining~~Plumbing License Unit the original sign-in sheets from the course.

(D) Providers must maintain copies of all sign-in sheets for a period of two (2) years following the conclusion of the course.

(10) Course providers or instructors may not advertise or promote the sale of any goods, products or services between the opening and closing of any Continuing Education Course.

(c) Any organization desiring approval of a course shall apply to the Plumbing ~~Examining~~Examiners Committee by submitting an application on a form to be obtained from the Construction Industries Board and supporting documentation at least thirty (30) days prior to the date for which the course is scheduled. An application is to be submitted for each date or set of dates that constitute a single class. Each class must be included on a separate application. The Committee or its designee will review each application for completeness of form and supporting documentation as well as course content. The applicant will be notified in writing by mail whether the program is approved or disapproved. Applicants denied approval of a course may appeal such a decision by submitting a letter of appeal to the Committee within fifteen (15) days of the receipt of the notice of disapproval. All appeals will be heard by the Committee at its next regularly scheduled meeting.

(1) Supporting documentation includes:

(A) resumes or a brief summary of qualifications for all instructors providing instruction for the class,

(B) a class agenda designating beginning and ending of actual instructional times, sign-in times, breaks, lunches and evaluation time, and

(C) A class curriculum indicating the subject or code areas to be taught with sufficient detail to determine which code revisions are to be addressed or the product for which the installation education is being provided.

(2) The Committee or its designee may refuse to accept any application for approval if the supporting documentation is insufficient or incomplete. The Committee may deny or revoke approval of an application for any of the following reasons:

(A) Failure to comply with the continuing education provisions;

(B) Inadequate application or supporting documentation;

(C) Failure to instruct on the topic approved, or

(D) Unsatisfactory assessments of the course, instructor, or materials from previous classes.

(3) If an application is refused or disapproved, written notice detailing the basis of the decision shall be provided to the applicant.

(4) The Committee may at any time reconsider and grant or revoke approval of an application or course.

(A) The Committee may at any time review courses for quality in instruction. The Committee shall also investigate and take appropriate action, up to and including revocation of authority to provide CE, regarding complaints involving approved courses.

(B) A provider's failure to comply with ~~any continuing education rule~~the provisions of this Section constitutes grounds for disciplinary action, up to and including revocation of authority to provide CE, against the provider or for denial of future applications for coursework.

(d) **Course advertisement.**

(1) All advertising must include the course identification number.

(2) Approved program courses may be advertised.

(3) The provider of an approved continuing education program may announce or indicate as follows: Course #_____ has been approved by the Construction Industries Board Plumbing ~~Examining~~Examiners Committee for _____ hours of CE credit.

(e) **Correspondence or online course approval.**

(1) Entities seeking to offer correspondence courses for continuing education shall submit a course curriculum and study material for review and approval by the Committee prior to the courses being offered as continuing education. Approved correspondence courses shall be required to comply with all requirements for other continuing education courses except for sign-in sheets. Providers shall provide a student with a document of completion which certifies completion of approved correspondence courses.

~~(2) Only licensees meeting one or more of the following requirements may receive CE credit for taking a correspondence or online course:~~

~~(A) Any licensee residing outside of Oklahoma~~

~~(B) Who has an expired license that requires a CE course that is no longer available in the classroom,~~

~~(C) Any licensee who is currently incarcerated, or~~

~~(D) Any licensee who submits written proof to the Board from a physician stating the medical reason that the licensee is unable to attend a CE class.~~

(2) Providers seeking to offer online courses for continuing education shall submit a course curriculum and study material for review and approval by the Committee prior to the courses being offered as continuing education. An access code and password shall be provided to the Committee, or its designee, for an online course for the purpose of review and approval. Providers of an on-line course shall submit verification of six (6) hours of real time on-line instruction. Correspondence or online courses shall have sufficient explanation and or graphics to expound the concepts being taught. The format of the online course shall be constructed so as to elicit interaction between the student and the material presented. Each page of text shall be designed with a question that must be answered before advancing to the next page or a test at the end of a subject matter before the course is considered complete. Providers shall provide a student with a document of completion that shall certify completion of an approved online course.

(3) Approval of any correspondence or online course is rescinded upon the adoption of a different statewide code and a new application showing updated course subject matter and materials is necessary in order to obtain updated course approval.

(4) Applications for correspondence or online courses shall be resubmitted annually, from date of approval, for review and approval.

(f) **Alternate Credit accrual.**

(1) Credit may be earned through teaching in an approved continuing education class. The Committee may award up to six (6) hours of CE credit not to exceed the number of approved hours for that CE class.

(2) Credit may also be earned through teaching a course in an accredited trade school or a trade-specific program approved by the Committee. The Committee may award up to six (6) hours of CE credit for each semester of academic credit awarded by the academic institution for the course.

(g) **Complaint procedure.**

(1) A person, government, or private organization may submit a written complaint to the Committee, or its designee, charging a provider of continuing education with a violation of ~~the rules~~this Section, and specifying the grounds for the complaint.

(2) Complaints must be in writing and include contact information, and shall be filed on the proper complaint form prescribed by the Construction Industries Board, or its designee.

(3) The Committee may consider an unsigned or anonymous complaint for further investigation.

(4) Upon receipt of a signed complaint form, a copy shall be sent to the continuing education provider addressed in the complaint. The continuing education provider shall provide a written response within fifteen (15) days. Upon receipt of the continuing education provider's written response, both complaint and response shall be considered by the Committee, or its designee,

for appropriate action including dismissal of the complaint, further investigation, or a finding of violation of ~~a statute or rule~~the Act or this Chapter. The Committee, or its designee, shall notify both complainant and continuing education provider of the determination made by the Committee. Failure of the continuing education provider to respond will be considered as a violation of this ~~rule~~Section.

(5) If a reasonable cause violation determination is made by the Committee, the Oklahoma Administrative Procedure Act shall be followed for all disciplinary proceedings undertaken ~~including but not limited to all parts of this subsection~~.

SUBCHAPTER 11. LICENSE REVOCATION OR SUSPENSION AND PROHIBITED ACTS

158:30-11-1. License revocation or suspension

(a) The employment and use of unlicensed individuals as journeymen plumbers, the employment and use of individuals as apprentices without registration, or cheating may be considered justification to suspend or revoke said plumbing contractor's license based upon illegal use of license.

(b) The repeated violation of any of ~~these~~the rules in this Chapter or any provision of the Act, or the violation of a multiple of any of ~~these~~the rules in this Chapter or provision of the Act, may be considered justification to suspend or revoke the licensee's license or registration.

158:30-11-2. Prohibited acts

(a) No person, entity, or firm may perform plumbing work without first obtaining the appropriate license or registration pursuant to ~~these Rules~~this Chapter.

(b) No person shall offer to engage in work as a plumber during the period his or her license is suspended or revoked.

(c) No employing plumbing firm shall employ or use an unlicensed or unregistered plumber to perform plumbing work.

(d) No person, entity, or firm may transfer a license or registration.

(e) No plumber, licensed pursuant to ~~these Rules~~the Act and this Chapter, shall enter into an agreement for the use of his or her license with any firm or person which is, or has been adjudicated to be, in violation of any provision of the Act or this Chapter, or whose license is currently suspended or has within the last year been revoked, unless or until otherwise approved by the Board.

(f) No person shall make a materially false or fraudulent statement in an application for license.

(g) No person may alter a license.

(h) No person may engage in cheating or any act involving the fraudulent misrepresentation of an applicant by an examinee.

(i) No person or entity shall deny access to the Construction Industries Board or its representative on a job site.

SUBCHAPTER 13. PROCEDURE OF THE VARIANCE AND APPEALS BOARD, PLAN REVIEW APPLICATIONS AND FEES, CODE VARIANCE APPLICATIONS AND FEE, AND CODE INTERPRETATION APPEALS

158:30-13-1. Plan review applications and fees

(a) Applications for the review of plans and specifications to ensure conformance with State adopted installation codes may be submitted in writing to the Construction Industries Board. An application and the appropriate filing fee shall accompany the construction plans and specifications submitted for plan review. Plan review ~~may~~shall only be conducted for construction projects where a city or town has not adopted a trade installation code by ordinance that is more stringent than the standard of installation as described in OAC 158:30-1-4. Applications shall only be reviewed if submitted prior to the bid dates for the project.

(b) The Board will advise the applicant through its liaison if the application is determined to be incomplete in order for the applicant to re-submit a complete plan review application.

(c) The plan review fee for:

(1) plumbing plans and specifications shall be $75.00;

(2) plumbing and electrical or mechanical plans and specifications shall be $150.00;

(3) plumbing, electrical, and mechanical plans and specifications shall be $200.00.

(4) If electrical, plumbing, and mechanical review is required, the fees will be equally distributed among the three trades.

(d) Plan review is not required but is a service provided by the Board to assist with code compliance.

158:30-13-4. Code interpretation appeals

A plumbing contractor, or any party who has an ownership interest in or who is in responsible charge of the design of or work on the plumbing installation, may appeal the Administrator's interpretation of the standard of installation as described in OAC 158:30-1-4 as applied during the Administrator's review of plumbing plans and specifications or inspection of the plumbing installation to the Variance and Appeals Board created pursuant to 59 O.S. § 1021.1. Such appeals shall be made in writing to the Administrator within fourteen days after the Administrator's code interpretation or receipt of written notice of the alleged code violation by the licensed plumbing contractor, and shall be heard only if based on a claim that:

(1) the true intent of the installation code has been incorrectly interpreted;

(2) the provisions of the code do not fully apply~~,~~; or

(3) an equal or better form of installation is proposed.

[OAR Docket #15-724; filed 7-7-15]

TITLE 158. CONSTRUCTION INDUSTRIES BOARD
CHAPTER 40. ELECTRICAL INDUSTRY REGULATIONS

[OAR Docket #15-725]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 1. General Provisions
158:40-1-2 [AMENDED]
158:40-1-3 [AMENDED]
158:40-1-4 [AMENDED]
Subchapter 3. Procedures of the Committee and the Hearing Board
158:40-3-1 [AMENDED]
158:40-3-2 [AMENDED]
Subchapter 5. Licensing Requirements, Display of License, and Firm Name, and Bond Requirements
158:40-5-1 [AMENDED]
158:40-5-2 [AMENDED]
158:40-5-3 [AMENDED]
158:40-5-4 [AMENDED]
158:40-5-5 [AMENDED]
Subchapter 7. License Classifications
158:40-7-1 [AMENDED]
158:40-7-2 [AMENDED]
158:40-7-4 [AMENDED]
158:40-7-5 [AMENDED]
Subchapter 9. Examination Applications, Examinations and License and Registration Fees and Renewals
158:40-9-1 [AMENDED]
158:40-9-2.1 [NEW]
158:40-9-2.2 [NEW]
158:40-9-2.3 [NEW]
158:40-9-3 [AMENDED]
158:40-9-4 [AMENDED]
Subchapter 11. License Revocation or Suspension and Prohibited Acts
158:40-11-1 [AMENDED]
158:40-11-2 [AMENDED]
Subchapter 13. Procedures of the Variance and Appeals Board, Plan Review Applications and Filing Fees, Code Variance Applications and Filing Fee and Code Interpretation Appeals
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Construction Industries Board: 59 O.S. §§ 1000.4(A)(1), 1000.5, and 1681.
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Many of the proposed amendments are cleanup in nature and correct spelling, punctuation and grammar, and correct or clarify references and citations. In addition, 158:40-7-5 does not change the amount of any fee, but refers applicants to the general fee schedule which also has no fee change; 158:40-9-2.1, 158:40-9-2.2 and 158:40-9-2.3 are new sections for the purpose of clarifying that provisions of OAC 158:1 related to the Post-Military Service Occupation, Education and Credentialing Act, are applicable to applicants for an initial electrical license or renewal of an electrical license; and 158:40-9-4 adds a provision to clarify continuing education requirements for an individual who does not complete the required continuing education prior to the expiration of their electrical license.
CONTACT PERSON:
Linda Ruckman, Board Secretary/Executive Assistant, 405-521-6550.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 11, 2015:

SUBCHAPTER 1. GENERAL PROVISIONS

158:40-1-2. Definitions

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

"Act" means the Electrical License Act as found at 59 O.S. § 1680, *et seq*.

"Administrator" means the Administrator of the Board as described in the Construction Industries Board Act found at 59 O.S. § 1000.1, *et seq*.

"Alarm Endorsement" or **"Alarm Endorsement registration"** means a licensed electrician or registered electrical apprentice who has met the endorsement registration requirements may install, service, or repair alarm or security systems or electronic security devices such as residential or commercial burglar alarms or security systems, electronic access control, closed circuit television, nurse call systems and the like.

"Applicant" means any person applying for an examination, for a license or registration, for review of plans and specifications, or for an electrical code variance from the standard of installation as described in OAC 158:40-1-4 by the Board under the Act.

"Apprentice" means an electrical worker registered pursuant to OAC 158:40-5-1 who is limited to working for a contractor and is directly supervised by a licensed contractor or journeyman with the appropriate license classification for the work being performed.

"Associated with and responsible for" means the relationship between an electrical contractor and electrical firm based on the electrical contractor being a permanent employee, owner, partner, or officer in a corporate firm, and whereby the electrical contractor shall give full time to the supervision and control of operations necessary to secure full compliance with the provisions of the Electrical License Act and this Chapter.

"Board" means the Oklahoma Construction Industries Board.

"Bonds and Insurance Unit" means the consolidated unit that processes bonds and insurance under the direction of the Construction Industries Board.

"Cheating" means any unapproved deviation from any official instruction given before, during or after a license examination, for the purpose of affecting or influencing the examination results or otherwise providing an undue advantage to any examinee.

"Committee" means the Committee of Electrical Examiners.

"Contractor" means a person who meets the definition of 59 O.S. § 1682(5) and is licensed in the appropriate category for any electrical work performed.

"Direct supervision" means the on-the-job presence by the supervisor who must be a licensed electrical contractor or electrical journeyman in the appropriate category for any electrical work supervised.

"Electrical facility" means wiring, fixtures, appurtenances and appliances used for and in connection with a supply of electricity, but excludes the connection with a power meter or other supply source.

"Electrical firm" means any firm, corporation, partnership, sole proprietorship, joint venture or any other business entity engaged in the business of planning, contracting, supervising or furnishing labor or labor and materials for the installation, repair, maintenance or renovation of electrical facilities according to the Act.

"Electrical License Unit" means the staff and administrative support unit to the Committee of Electrical Examiners and the Electrical Hearing Board.

"Electrical maintenance" means electrical work limited to maintaining existing electrical systems, facilities or equipment by an employee of a person, company, corporation or entity owning the electrical systems, facilities or equipment. Maintenance shall not include any alterations or additions to existing systems, facilities or equipment.

"Electrical work" means work on "electrical facilities" as that term is defined in 59 O.S. §_1682.

"Hearing Board" means the Electrical Hearing Board created by the Act.

"Inactive contractor" means any class of licensed electrical contractor who has formally and voluntarily placed their contractor's license in an inactive status.

"Journeyman electrician" or "journeyman" means any person, other than a contractor or apprentice, who engages in the installation, repair, maintenance or renovation of electrical facilities according to the Act, in the category in which the person is licensed.

"Limited electrical contractor" means any person who has qualified and become licensed in accordance with OAC 158:40-7-4. Such person is prohibited from engaging in the work of a journeyman electrician.

"Military electrical ~~installation~~ experience" means verifiable military experience in electrical work which is the same as or similar to electrical construction work as defined ~~under Oklahoma law~~in the Act.

"Oklahoma Uniform Building Code Commission" or **"OUBCC"** means the state agency created under 59 O.S. § 1000.20, *et. seq*., and authorized to adopt all building codes and standards for residential and commercial construction to be used as minimum standards by all entities within this State.

"Reciprocity agreement" means an agreement whereby a person holding an electrical license or registration who is licensed in other states with substantially similar or greater licensure requirements may be licensed in this State after payment of a fee for licensing by reciprocity.

"Refinery Electrical Journeyman" means an electrician licensed as a refinery electrical journeyman electrician pursuant to OAC 158:40-7-6 and is limited to performing electrical work only in refinery facilities.

"Residential contractor" means an electrician licensed as a residential contractor pursuant to OAC 158:40-7-2 and is limited to performing residential electrical construction work.

"Residential journeyman" means an electrician licensed as residential journeyman electrician pursuant to OAC 158:40-7-2 and limited to performing residential electrical construction work.

"Temporary electrical journeyman" means an electrician temporarily licensed by the Oklahoma Construction Industries Board as a journeyman electrician and is limited to electrical construction per the equivalent temporary journeyman classification determined by the Board.

"Variance" means the use of an alternative material or method of construction from that prescribed in the standard of installation as described in OAC 158:40-1-4 for use at a particular location or project specified in the variance application; and

"Variance and Appeals Board" means the Oklahoma State Electrical Installation Code Variance and Appeals Board.

158:40-1-3. License requirement

(a) No person, on their own behalf or on behalf of an electrical firm, shall engage or offer to engage in, by advertisement or otherwise, any electrical work who does not possess a valid and appropriate license or registration from the Construction Industries Board pursuant to ~~these rules~~this Chapter.

(b) No person shall act as a foreman, supervisor or superintendent over any electrical work on behalf of an electrical contractor unless such person possesses a valid license as an electrical contractor or journeyman from the Construction Industries Board in the appropriate category for the work performed.

(c) Any changes in address, business relationship, structure or affiliation shall be reported in writing to the Oklahoma Construction Industries Board within thirty (30) days of such change.

158:40-1-4. Standard of installation

The standards of installation are the provisions of the electrical codes - the National Electrical Code (National Fire Protection Association, "NFPA" 70) and the electrical portion of the International Residential Code, as revised and adopted by the ~~Oklahoma Uniform Building Code Commission~~OUBCC pursuant to the Oklahoma Uniform Building Code Commission Act.

SUBCHAPTER 3. PROCEDURES OF THE COMMITTEE AND THE HEARING BOARD

158:40-3-1. Procedures of the Committee

(a) Committee meetings are generally, unless otherwise stated by the Administrator, held in the principal offices of the Construction Industries Board referenced at OAC 158:1-3-1. The Committee shall oversee the continuing availability of the examination and shall meet as often as is necessary, but at least once each quarter when applications are pending. Meetings of the Committee will comply with the Oklahoma Open Meeting Act.

(b) The Committee shall work with the Construction Industries Board to provide for the administration, grading and processing of electrical examinations, by contract or otherwise. The Committee may recommend regulations to the Administrator and to the Construction Industries Board, and shall act as advisor to the Administrator on electrical matters.

(c) Application for licensure shall be done by filling out an application for examination on a form provided by the Electrical License Unit.

(d) The public may communicate with the Committee, in person or by mail, through the Oklahoma Construction Industries Board. All records not privileged from disclosure by law are subject to the provisions of the Oklahoma Open Records Act, 51 O.S. § 24A.1, *et seq*. Copies will be provided upon payment of ~~a~~the fee ~~of 25 cents per page~~for copies as set forth in OAC 158:1-3-5.

158:40-3-2. Procedures of the Hearing Board

(a) The Hearing Board shall meet as often as is necessary to enforce the requirements of the Act and ~~these rules~~this Chapter. The Hearing Board shall be comprised of a designee of the Oklahoma Construction Industries Board and the Committee.

(b) The standard of installation to be used by the Hearing Board for individual proceedings concerning the work of contractors, journeymen and apprentices shall be the applicable standard established pursuant to OAC 158:40-1-4, unless a city or county electrical requirement is otherwise applicable as a matter of law.

SUBCHAPTER 5. LICENSING REQUIREMENTS, DISPLAY OF LICENSE, AND FIRM NAME, AND BOND REQUIREMENTS

158:40-5-1. Apprentice requirements

(a) Apprentice electricians shall be registered with the Construction Industries Board and must be under the direct "on-the-job" supervision of a licensed journeyman or contractor of the appropriate category of the work performed when engaged in the work of an apprentice.

(b) No more than two (2) apprentice electricians shall work under the supervision of a single journeyman or contractor.

(c) Apprentice electricians shall work only under a licensed electrician who shall be responsible for the direct supervision of no more than two electrical apprentices.

(d) Apprenticeship registration is effective upon the posting of the application and evidence of such posting shall be a copy of the executed application form with proof of tender of the proper fee which may serve as evidence of registration for a period not to exceed thirty (30) days.

(e) Prior to engaging in any activity described in ~~subsection~~ (f) ~~herein~~of this Section, a registered electrical apprentice shall obtain an alarm endorsement registration from the Construction Industries Board. Such alarm endorsement registration may only be issued to an applicant upon the completion of a satisfactory national criminal history record check. An application for an ~~electrical~~alarm endorsement registration shall require an additional fee in accordance with OAC 158:40-9-3. To obtain an ~~electrical~~alarm endorsement registration, a registered apprentice electrician shall provide the following:

(1) A recent passport style and quality photograph;

(2) Two classifiable sets of fingerprints taken by a local, state or federal law enforcement agency;

(3) A disclosure of convictions of all crimes of applicant, both felony and misdemeanor; and,

(4) Other such information as required by 74 O.S. §150.9 for a national criminal history record check.

(f) A registered apprentice electrician shall not sell, install, service, or repair alarm or security systems or electronic security devices such as residential or commercial burglar alarms or security systems, electronic access control, closed circuit television, nurse call systems and the like when the registered apprentice electrician has disclosed or a national criminal history record check reveals a conviction of applicant for a disqualifying crime, as described in ~~subsection~~ (h) ~~herein~~of this Section.

(g) A satisfactory "national criminal history record check" means a national criminal history record check which reveals no disqualifying crime, as described in ~~subsection~~ (h) ~~herein~~of this Section.

(h) "Disqualifying crime" includes any conviction by any state or the United States of any of the following:

(1) Murder in any degree;

(2) Voluntary manslaughter;

(3) Rape;

(4) Lewd conduct with a minor;

(5) Sexual abuse or exploitation of a child, including offenses involving child pornography;

(6) Kidnapping;

(7) Robbery;

(8) Burglary;

(9) Possession of stolen property;

(10) Aggravated assault;

(11) Aggravated battery;

(12) Arson;

(13) Any felony punishable by death or life imprisonment;

(14) Any felony determined by the Construction Industries Board Administrator to be an offense which constitutes the theft, damage or destruction of property or the infliction of physical harm on another person committed while unlawfully present on the property of another~~.~~;

(15) Attempt, conspiracy or accessory after the fact or aiding and abetting to commit any disqualifying crime; or

(16) A disqualifying five year crime as set forth in ~~subsection~~ (i) ~~herein~~of this Section.

(i) A "disqualifying five year crime" shall mean a conviction within five years of the date of application for alarm endorsement registration by any state or the United States of any of the following:

(1) Felony theft or grand theft;

(2) Felony passing of a bogus, stolen, fraudulent or counterfeit check;

(3) A felony involving a controlled substance;

(4) A felony involving a firearm;

(5) Forgery or counterfeiting;

(6) Forgery of or fraudulent use of a credit card;

(7) A felony involving the theft of the identity of another;

(8) A felony involving fraud or embezzlement;

(9) Insurance or public assistance fraud;

(10) Any felony other than a "disqualifying crime" determined by the Construction Industries Board Administrator to be an offense which constitutes the theft, damage or destruction of property of another~~.~~;

(11) Any felony other than a "disqualifying crime" determined by the Construction Industries Board Administrator to be an offense which constitutes the infliction of physical harm on another person;

(12) Attempt, conspiracy, accessory after the fact or aiding and abetting to commit any disqualifying five-year crime.

(j) An individual who has been convicted of a disqualifying crime as set forth in ~~subsection~~ (h) of this Section shall be denied an alarm endorsement registration. Written notice of said denial shall be issued by the Construction Industries Board Administrator after completion and review of the individual's national criminal history record check. An individual has ten (10) business days after receipt of the denial to appeal said denial in writing to the Construction Industries Board Administrator. The Construction Industries Board Administrator shall issue a written decision to said appeal within ten (10) business days after receiving same. The Administrator's decision may be appealed to the Electrical Hearing Board within ten (10) business days after receipt of the Administrator's written decision. An appeal of a denial of an alarm endorsement registration to the Electrical Hearing Board shall be governed by Article II of the Administrative Procedures Act, 75 O.S. § 308a, *et seq*.

158:40-5-2. Journeyman requirements

(a) Each journeyman must be licensed and employed by a licensed contractor before engaging in the work of a journeyman electrician.

(b) No journeyman shall contract to furnish labor or labor and materials.

(c) Prior to engaging in any activity described in ~~subsection~~ (d) ~~herein~~of this Section, a licensed electrical journeyman shall obtain an electrical license alarm endorsement from the Construction Industries Board. Such alarm endorsement may only be issued to an applicant upon the completion of a satisfactory national criminal history record check. An application for an electrical license alarm endorsement shall require an additional fee in accordance with OAC 158:40-9-3. To obtain an electrical license alarm endorsement, a licensed electrical journeyman shall provide the following:

(1) A recent passport style and quality photograph;

(2) Two classifiable sets of fingerprints taken by a local, state or federal law enforcement agency;

(3) A disclosure of convictions of all crimes of applicant, both felony and misdemeanor; and,

(4) Other such information as required by 74 O.S. § 150.9 for a national criminal history record check.

(d) A licensed journeyman electrician shall not sell, install, service, or repair alarm or security systems or electronic security devices such as residential or commercial burglar alarms or security systems, electronic access control, closed circuit television, nurse call systems and the like when the licensed journeyman electrician has disclosed or a national criminal history record check reveals a conviction of applicant for a disqualifying crime, as described in ~~subsection~~ (f) ~~herein~~of this Section.

(e) A satisfactory "national criminal history record check" means a national criminal history record check which reveals no disqualifying crime, as described in ~~subsection~~ (f) ~~herein~~of this Section.

(f) "Disqualifying crime" includes any conviction by any state or the United States of any of the following:

(1) Murder in any degree;

(2) Voluntary manslaughter;

(3) Rape;

(4) Lewd conduct with a minor;

(5) Sexual abuse or exploitation of a child, including offenses involving child pornography;

(6) Kidnapping;

(7) Robbery;

(8) Burglary;

(9) Possession of stolen property;

(10) Aggravated assault;

(11) Aggravated battery;

(12) Arson;

(13) Any felony punishable by death or life imprisonment;

(14) Any felony determined by the Construction Industries Board Administrator to be an offense which constitutes the theft, damage or destruction of property or the infliction of physical harm on another person committed while unlawfully present on the property of another;

(15) Attempt, conspiracy or accessory after the fact or aiding and abetting to commit any disqualifying crime; or

(16) A disqualifying five year crime as set forth in ~~subsection~~ (g) ~~herein~~of this Section.

(g) A "disqualifying five year crime" shall mean a conviction within five years of the date of application for electrical license alarm endorsement by any state or the United States of any of the following:

(1) Felony theft or grand theft;

(2) Felony passing of a bogus, stolen, fraudulent or counterfeit check;
(3) A felony involving a controlled substance;
(4) A felony involving a firearm;
(5) Forgery or counterfeiting;
(6) Forgery of or fraudulent use of a credit card;
(7) A felony involving the theft of the identity of another;
(8) A felony involving fraud or embezzlement;
(9) Insurance or public assistance fraud;
(10) Any felony other than a "disqualifying crime" determined by the Construction Industries Board Administrator to be an offense which constitutes the theft, damage or destruction of property of another;
(11) Any felony other than a "disqualifying crime" determined by the Construction Industries Board Administrator to be an offense which constitutes the infliction of physical harm on another person; or
(12) Attempt, conspiracy, accessory after the fact or aiding and abetting to commit any disqualifying five-year crime.

(h) An individual who has been convicted of a disqualifying crime as set forth in ~~subsection~~ (f) of this Section shall be denied an electrical license alarm endorsement. Written notice of said denial shall be issued by the Construction Industries Board Administrator after completion and review of the individual's national criminal history record check. An individual has ten (10) business days after receipt of the denial to appeal said denial in writing to the Construction Industries Board Administrator. The Construction Industries Board Administrator shall issue a written decision to said appeal within ten (10) business days after receiving same. The Administrator's decision may be appealed to the Electrical Hearing Board within ten (10) business days after receipt of the Administrator's written decision. An appeal of a denial of an electrical license alarm endorsement to the Electrical Hearing Board shall be governed by Article II of the Administrative Procedures Act, 75 O.S. § 308a, *et seq*.

158:40-5-3. Contractor requirements

(a) Each electrical firm must have a person who is currently licensed as an electrical contractor employed full time, and who shall give full time to the supervision and control of operations necessary to secure full compliance with the provisions of the Act and ~~these Rules~~this Chapter. Such contractor shall be an officer, partner or owner of that electrical firm, and shall be responsible for the work of and licensed on behalf of that electrical firm.

(b) An electrical contractor may choose to place his or her license on inactive status and not be required to provide a bond and insurance. An inactive electrical contractor is a person who, because of the nature of his or her business, does not hold out or offer to provide services to the public as an electrical contractor. The inactive electrical contractor's license may be used to perform work as a journeyman electrician.

(c) Each electrical contractor shall advise the Electrical License Unit by mail within thirty (30) days of any change in address or business relationship, structure or affiliation. Failure to so notify shall be cause for administrative sanction.

(d) An electrical contractor shall only be permitted to represent one electrical firm.

(e) When two or more electrical firms desire to associate on a job or project as electrical contractors, each person or electrical firm shall have an electrical contractor licensed by the Board, and each shall register with the city or town in whose jurisdiction they intend to operate where registration is required.

(f) Each person on initial application and upon receiving an active contractor's license, prior to engaging in electrical work, and all active electrical contractors submitting renewal applications, shall provide proof of compliance with bond and insurance requirements as set forth in OAC 158:40-5-5 and proof of compliance with 68 O.S. §§ 1701 through 1707, by providing the following:
(1) Address of business;
(2) Phone number of business;
(3) Number of employees;
(4) Federal Tax Number;
(5) Employer's Social Security Numbers;
(6) Employer's account number assigned by the Oklahoma Employment Security Commission;~~ and~~
(7) Nonresident electrical contractor bond on file with the Oklahoma Tax Commission, if applicable~~.~~; and
(8) Proof of workers' compensation policy in compliance with the provisions of ~~Title~~Titles 85 and 85A of the Oklahoma Statutes.

(g) Each active electrical contractor shall document the hours worked by each apprentice electrician and the hours worked in commercial, industrial and residential electrical work.

(h) Prior to engaging in any activity described in ~~subsection~~ (i) ~~herein~~of this Section, a licensed electrical contractor shall obtain an electrical license alarm endorsement from the Construction Industries Board. Such alarm endorsement may only be issued to an applicant upon the completion of a satisfactory national criminal history record check. An application for an electrical license alarm endorsement shall require an additional fee in accordance with OAC 158:40-9-3. To obtain an electrical license alarm endorsement, a licensed electrical contractor shall provide the following:
(1) A recent passport style and quality photograph;
(2) Two classifiable sets of fingerprints taken by a local, state or federal law enforcement agency;
(3) A disclosure of convictions of all crimes of applicant, both felony and misdemeanor; and,
(4) Other such information as required by 74 O.S. § 150.9 for a national criminal history record check.

(i) A licensed electrical contractor shall not sell, install, service, or repair alarm or security systems or electronic security devices such as residential or commercial burglar alarms or security systems, electronic access control, closed circuit television, nurse call systems and the like when the licensed contractor electrician has disclosed or a national criminal history record check reveals a conviction of applicant for a

disqualifying crime, as described in ~~subsection~~ (k) ~~herein~~of this Section.

(j) A satisfactory "national criminal history record check" means a national criminal history record check which reveals no disqualifying crime, as described in ~~subsection~~ (k) ~~herein~~of this Section.

(k) "Disqualifying crime" includes any conviction by any state or the United States of any of the following:

(1) Murder in any degree;

(2) Voluntary manslaughter;

(3) Rape;

(4) Lewd conduct with a minor;

(5) Sexual abuse or exploitation of a child, including offenses involving child pornography;

(6) Kidnapping;

(7) Robbery;

(8) Burglary;

(9) Possession of stolen property;

(10) Aggravated assault;

(11) Aggravated battery;

(12) Arson;

(13) Any felony punishable by death or life imprisonment;

(14) Any felony determined by the Construction Industries Board Administrator to be an offense which constitutes the theft, damage or destruction of property or the infliction of physical harm on another person committed while unlawfully present on the property of another;

(15) Attempt, conspiracy or accessory after the fact or aiding and abetting to commit any disqualifying crime; or

(16) A disqualifying five year crime as set forth in ~~subsection~~ (l) ~~herein~~of this Section.

(l) A "disqualifying five year crime" shall mean a conviction within five years of the date of application for electrical license alarm endorsement by any state or the United States of any of the following:

(1) Felony theft or grand theft;

(2) Felony passing of a bogus, stolen, fraudulent or counterfeit check;

(3) A felony involving a controlled substance;

(4) A felony involving a firearm;

(5) Forgery or counterfeiting;

(6) Forgery of or fraudulent use of a credit card;

(7) A felony involving the theft of the identity of another;

(8) A felony involving fraud or embezzlement;

(9) Insurance or public assistance fraud;

(10) Any felony other than a "disqualifying crime" determined by the Construction Industries Board Administrator to be an offense which constitutes the theft, damage or destruction of property of another;

(11) Any felony other than a "disqualifying crime" determined by the Construction Industries Board Administrator to be an offense which constitutes the infliction of physical harm on another person; or

(12) Attempt, conspiracy, accessory after the fact or aiding and abetting to commit any disqualifying five-year crime.

(m) An individual who has been convicted of a disqualifying crime as set forth in ~~subsection~~ (k) of this Section shall be denied an electrical license alarm endorsement. Written notice of said denial shall be issued by the Construction Industries Board Administrator after completion and review of the individual's national criminal history record check. An individual has ten (10) business days after receipt of the denial to appeal said denial in writing to the Construction Industries Board Administrator. The Construction Industries Board Administrator shall issue a written decision to said appeal within ten (10) business days after receiving same. The Administrator's decision may be appealed to the Electrical Hearing Board within ten (10) business days after receipt of the Administrator's written decision. An appeal of a denial of an electrical license alarm endorsement to the Electrical Hearing Board shall be governed by Article II of the Administrative Procedures Act, 75 O.S. § 308a, *et seq.*

158:40-5-4. Display of license number and firm name

(a) All electrical contractors or electrical firms shall, on all vehicles used to transport materials and tools in the operation of the business, display the firm name and the license number bearing the initials "OK" preceding that number issued by the Administrator. Such signs and license numbers shall be printed in letters and numerals at least two (2) inches high in conspicuous places on both sides of each vehicle in contrasting color to background surface.

(b) The Electrical Contractor State License Number must be displayed on all advertising, contracts, and bids. Advertising for the purposes of this ~~section~~Section shall not include uniforms or promotional items including but not limited to pens, pencils, key chains, tape measures, and the like.

(c) The pocket license issued by the Administrator shall be on the electrician's person while on the job.

158:40-5-5. Bond and insurance requirements

(a) Each active electrical contractor must furnish a license bond in the amount of $5,000.00 to the Bonds and Insurance Unit. This bond is to be a continuous bond with a thirty (30)-day cancellation notice. Such bond shall be conditioned upon faithful and lawful performance of all work entered upon by the contractor within the State of Oklahoma and shall be for the benefit of persons injured or suffering financial loss by reason of failure of such performance. The bond will be filed with the Bonds and Insurance Unit of the Oklahoma Construction Industries Board and be in lieu of all other license bonds to any political subdivision.

(b) Each active electrical contractor must maintain insurance coverage and furnish and maintain in effect in the Bonds and Insurance Unit of the Oklahoma Construction Industries Board, Electrical Licensing ~~Division~~Unit, a certificate of insurance therefore which indicates that the electrical contractor has a comprehensive general liability policy including manufacturers and contractors, completed operations, and independent contractors liability coverage. Limits of liability are to be no less than $50,000.00 combined single limit for bodily injury and property damage.

(c) Each active electrical contractor shall be aware of the requirements of ~~Title~~Titles85 and 85A of the Oklahoma Statutes (Workers' Compensation ~~Act~~Acts~~)~~ and the Rules and Regulations of the Workers' Compensation Court of the State of Oklahoma), and indicate in the space provided on the application compliance therewith.

(d) Failure to provide the complete information with current bond and insurance certificate will result in an inactive electrical contractor's license being issued until such time as the requirements are met. Failure to maintain the bond and insurance in force, as required, will result in the summary suspension of the electrical contractor's active license and the issuance of an inactive license to said electrical contractor.

(e) Electrical contractors shall pay all fines and penalties imposed by penalty orders of the Board and fines and penalties imposed by courts of competent jurisdiction for the violation of municipal ordinances. The Board may seek payment through the surety bond of any fines or penalties~~,~~ which the licensee fails to pay.

(f) Exceptions. The bond and insurance requirement will be waived if the electrical contractor is employed by a corporation, partnership, public entity, or political subdivision and said corporation, partnership, public entity or political subdivision submits an affidavit on behalf of the contractor that the employee will only perform electrical work on property owned by said corporation, partnership, public entity, or political subdivision and the employer assumes all financial responsibility in lieu of the contractor providing bond and insurance. The affidavit must include a statement by the employer that the Board will be notified if the contractor is no longer employed by said employer, or if the employer no longer wishes to assume financial responsibility for the contractor.

SUBCHAPTER 7. LICENSE CLASSIFICATIONS

158:40-7-1. Unlimited electrical license

(a) Applicants for an unlimited electrical contractor examination must be eighteen (18) years of age or older and must verify at least twelve thousand (12,000) hours (6 years) experience on-the-job in electrical construction work. At least six thousand (6,000) of the hours of experience must be verified in commercial/industrial work. Experience must be obtained while employed by a licensed electrical contractor. No more than two thousand (2,000) of ~~the hours~~verified actual classroom hours of formal electrical education may be counted ~~as~~toward the experience requirement~~ for any combination of verified actual classroom hours of formal electrical education and/or military electrical experience~~. Applicants must submit proof of two (2) years' experience as an unlimited licensed electrical journeyman prior to making application for the unlimited electrical contractor's license.

(b) Applicants for an unlimited electrical journeyman examination must be eighteen (18) years of age or older and must verify eight thousand (8,000) hours (4 years) on-the-job experience in the electrical construction trade, as defined in ~~90-2~~90.2 National Electrical Code, under the supervision of a journeyman or contractor. Experience must be obtained while employed by a licensed electrical contractor. Four Thousand (4,000) of the hours of experience must be verified in commercial/industrial work. No more than two thousand (2,000) of ~~the hours~~verified actual classroom hours of formal electrical education may be counted ~~as~~toward the experience requirement~~ for any combination of verified actual classroom hours of formal electrical education and/or military electrical experience~~.

(c) A licensed residential electrician may work as an apprentice electrician on commercial/industrial jobs in order to qualify experience for an unlimited license exam.

(d) A licensed residential electrician may work as an apprentice under the unlimited license category.

158:40-7-2. Residential electrical license

(a) Residential electrical licenses are limited to wiring buildings as defined in the National Electrical Code for one and two family dwellings.

(b) Applicants for residential electrical contractor examination must:

(1) be eighteen (18) years of age or older,

(2) have passed the residential or unlimited journeyman examination, and

(3) submit proof of two (2) years experience as a licensed electrical journeyman and have at least four thousand (4,000) hours of experience as a residential or unlimited journeyman electrician under the employment and supervision of an unlimited or residential electrical contractor.

(c) Applicants for residential electrical journeyman examination must:

(1) be eighteen (18) years of age or older, and

(2) verify at least four thousand (4,000) hours (2 years) experience in the electrical construction trade as an apprentice under the direct supervision of an unlimited or residential journeyman electrician or unlimited or residential electrical contractor, with no more than one thousand (1,000) of ~~the hours~~verified actual classroom hours of formal electrical education being counted ~~as~~toward the experience requirement~~ for any combination of verified actual classroom hours of formal electrical education and/or military electrical experience~~.

158:40-7-4. Limited electrical contractor

(a) Applicants for Limited Electrical Contractor examination must be eighteen (18) years of age or older and must have a degree in Electrical Engineering from an accredited college or university. Additionally, an applicant must have eight thousand (8,000) hours (4 years) of electrical experience in field construction, electrical estimating, electrical project management in commercial and industrial electrical work; or

(b) ~~Applicant~~Applicants for a Limited Electrical Contractor examination must be eighteen (18) years of age or older and must verify sixteen thousand (16,000) hours (8 years) experience in the electrical trade performing electrical work, estimating or project management. The experience must be verified in commercial and/or industrial work.

158:40-7-5. Electrical journeyman and contractor licenses by reciprocity

(a) **General procedures for application.** Any person holding a valid electrical journeyman license or electrical contractor license issued by another state who is seeking to obtain a license by reciprocity shall first submit an application to the Construction Industries Board on a form provided by the Board and confirm that a written reciprocity agreement exists between the applicant's state and Oklahoma for the license the applicant is seeking. The application shall include all documentation necessary to show the applicant meets the requirements established by ~~these rules~~this Chapter. All applications shall first be directed to the Committee or its designee for an initial review to determine if the applicant meets the qualifications for a license by reciprocity as set forth in ~~these rules~~this Chapter and in 59 O.S. § 1000.5a or any subsequent enactment of the Legislature. Following this review, the Committee or its designee shall make a recommendation to the Board or its designee as to whether the application should be approved or disapproved. The Board or its designee shall make the final determination as to whether an application shall be approved or disapproved. If an application is disapproved by the Board or its designee, the application shall be returned to the applicant with the reason for the disapproval.

(b) **Application fees.** Before an application will be considered, a person applying for an electrical journeyman license by reciprocity must pay ~~an~~the journeyman application fee and ~~licensing~~the initial journeyman license fee ~~of $ 75~~as set forth in OAC 158:40-9-3(b). If the person is applying for an electrical contractor license, the person must pay ~~an~~the contractors application fee and ~~licensing~~the initial contractor license fee ~~of $300~~as set forth in OAC 158:40-9-3(b). These fees shall not be refundable under any circumstances.

(c) **Requirements for issuance of a license by reciprocity.** An application for a license by reciprocity may be approved upon a satisfactory showing by the applicant of the following:

(1) That the requirements for licensure from the state in which the applicant is licensed is determined to be substantially the same or equivalent to the requirements for obtaining a license by examination in this State. In making this determination the following shall be considered:

(A) Whether the experience required by the other state to be eligible to sit for the license examination is substantially the same or equivalent to the Board's requirements;

(B) Whether the experience in commercial/industrial work required by the other state is substantially the same or equivalent to the Board's requirements;

(C) Whether the continuing education requirements of the other state are substantially the same or equivalent to the Board's requirements;

(D) Whether the codes adopted by the other state are substantially the same or equivalent to the Board's requirements;

(E) Whether the examination of the other state is substantially the same or equivalent to the Board's requirements. This shall include the score required to pass the examination, the subject matter of the examination, the codes on which the examination is based, and whether the examination is in written form; and

(F) Whether the above-listed factors are set forth and determined to be substantially the same or equivalent in a written reciprocity agreement.

(2) That the other state will recognize a license issued by the State of Oklahoma through the Construction Industries Board. Paragraphs (1) and (2) of this ~~rule~~subsection may only be satisfied by the existence of a reciprocity agreement between the Board and the state issuing the applicant's current license as provided in ~~subsection~~ (d) of this ~~rule~~Section.

(3) That the applicant is currently licensed by a state that meets the requirements of ~~Section~~ (c)(1) of this ~~rule~~Section and that one year immediately prior to the application, the applicant lawfully practiced an applicable trade within and under the laws of that state.

(4) That no disciplinary matters are pending against the applicant in any jurisdiction in which the applicant is currently licensed. This requirement will be considered satisfied upon presentation of a certified statement from the licensing authorities of all jurisdictions in which the applicant is currently licensed that no disciplinary matters are pending against applicant.

(5) That the applicant obtained the license to be reciprocated by examination.

(d) **Reciprocity agreements.** The Board may enter into a reciprocity agreement with another state if the requirements for licensure in the other state are deemed by the Board to be substantially the same or equivalent to the requirements for obtaining an original license by examination in this State.

(e) **Additional requirements for contractor applicants.** Applicants seeking an electrical contractor license by reciprocity, who meet the necessary qualifications for a license as required in this ~~rule~~Section and for which there is a written reciprocity agreement for contractors, will be granted a journeyman license by reciprocity. The applicant will be issued a contractor license upon successfully passing the Oklahoma Electrical Contractor Business and Law portion of the full contractor examination and satisfaction of the insurance and bonding requirements of OAC 158:40-5-5.

SUBCHAPTER 9. EXAMINATION APPLICATIONS, EXAMINATIONS AND LICENSE AND REGISTRATION FEES AND RENEWALS

158:40-9-1. Examination applications

(a) Applicants for electrical license examinations who are not licensed and wish to include experience gained in Oklahoma must maintain an apprentice registration on file with the Oklahoma Construction Industries Board for all experience obtained in Oklahoma. The Oklahoma Construction Industries Board will not consider experience obtained in or outside of Oklahoma for periods in which an apprentice is unregistered~~. Experience gained outside of the State of Oklahoma must~~

~~be~~, except for experience lawfully obtained according to any applicable federal or state laws, and must be comprised of electrical construction work as defined ~~under Oklahoma law~~in the Act~~or similar types of electrical work~~.

(b) Formal electrical education shall mean attendance at a technical school or one or more training courses approved by the Committee, with specialization in electrical wiring skills. The credit shall be based upon actual classroom hours. Applicants must present transcripts showing schools, classroom hours attended, grades and certificates achieved to substitute education for experience. The Administrator shall make the final determination.

158:40-9-2.1. Acceptance of Military education, training and experience toward qualification for licensure examination

(a) **Licensure - post-military service.** See OAC 158:1-3-10 for provisions related to the application of substantially equivalent education, training, and experience completed as a member of the Armed Forces or Reserves of the United States, National Guard of any jurisdiction, the Military Reserves of any jurisdiction, or the Naval Militias of any jurisdiction toward satisfying the qualifications for examination and license issuance.

(b) **Military spouse applicant - equivalency.** See OAC 158:1-3-10 for provisions related to issuance of an equivalent license in an equivalent category for the spouse of an active-duty member of the Armed Forces or Reserves of the United States.

158:40-9-2.2. Expediting issuances of license to military spouse

See OAC 158:1-3-11 for provisions related the Board expediting the issuance of a license for spouses of certain members of the Armed Forces on active duty in this State.

158:40-9-2.3. Renewals for licensee - post-military service

See OAC 158:1-3-12 for provisions related to license renewal while a licensee holder is a member of the Armed Forces of the United States on active duty, and for provisions related to a licensee whose license expires while on active duty as a member of the National Guard or reserve component of the Armed Forces.

158:40-9-3. License and registration fees and renewals

(a) **Examination fees for contractors and journeyman.** The Construction Industries Board, or its designated representative, may collect for the actual cost of any examination provided by ~~these rules~~this Chapter. The cost for each such examination referenced in OAC 158:40-9-2 shall be posted in plain view at the testing site that provides and administers the examination. Every person whose application for examination is approved shall be informed of the specific fee prior to setting for the examination. The unit testing fee shall be the amount negotiated by the Administrator in accordance with the provisions of the Oklahoma Central Purchasing Act, but cannot exceed the maximum allowable fee provided in 59 O.S. § 1000.5(A)(2). Documentation confirming the contractual fee shall be available upon request.

(b) **Licensing, registration and application fee schedule for contractors, journeyman, and apprentices.** The licensure, application, and registration and annual renewal fees shall be as follows:

(1) contractors application - $30.00
(2) initial contractor license - $300.00
(3) renewal contractor license - $200.00
(4) renewal contractor license with late fee - $300.00
(5) journeyman application - $25.00
(6) initial journeyman license - $50.00
(7) renewal journeyman license - $75.00
(8) renewal journeyman license with late fee - $100.00
(9) apprentice application - $5.00
(10) apprentice registration - $20.00
(11) initial alarm endorsement - $75.00
(12) renewal alarm endorsement - $25.00

(c) **License renewal penalties.** Thirty (30) days after the expiration of a license for contractors and journeyman a late license renewal fee is effective, as provided in the Act and as listed ~~above~~in (b) of this Section. Upon meeting the continuing education requirements listed in OAC 158:40-9-4, a license may be renewed up to a year from the original renewal date. Any license which remains expired for longer than one (1) year shall not be renewed. The former license holder shall be required to make an initial application and retest to obtain the license formerly held.

(d) **Outstanding fines.** A license cannot be issued or renewed until the applicant has paid any and all outstanding fines due and owing to any ~~department~~division of the Construction Industries Board.

(e) **Duration of licenses.** All licenses and alarm endorsements shall have a duration of no longer than one year, and shall expire on the last day of the birth month of the licensee each year. The alarm endorsement for apprentices shall expire on the expiration date of each apprentice registration.

158:40-9-4. Continuing education

(a) **Continuing Education Requirements.**

(1) By July 1, 2014, no contractor or journeyman license shall be renewed unless the licensee has completed at least six (6) hours of continuing education (CE); and thereafter, the licensee shall complete six (6) hours every three (3) years or thirty-six (36) months. The continuing education course and instructor shall be approved in advance by the Committee. Exceptions to advance approval, or post-course approval, may be allowed by the Committee, or its designee, for substitute instructors in emergency situations when written notice of the emergency is provided to the Committee or its designee within seven (7) days of the course. The continuing education material shall cover codes and revisions adopted by the OUBCC and/or other trade related subject matters appropriate for topics of continuing education for licensees and approved

by the Committee including: examination materials, manufacturers' installation of equipment or parts, the licensing ~~act~~Act, the trade regulations as set forth in this Chapter as well as the rules of the Construction Industries Board in OAC 158:10, and other trade or safety related subject matters approved by the Committee.

(2) If a license expires before the licensee completes the CE requirement, any CE that is completed while the license is expired will be applied to the CE requirement for the thirty-six (36) months preceding the date the license expired. Six (6) hours of CE will still have to be completed in order to meet the CE requirement for the subsequent thirty-six (36) month period.

(~~2~~3) Credit will be given for CE programs approved by the Committee or its designee.

(~~3~~4) Except as provided herein ~~these rules~~this Section shall apply to every journeyman or contractor licensed by the Construction Industries Board.

(~~4~~5) A licensee is exempt from the educational requirements of ~~these rules~~this Section for three (3) years from the date he or she passed their current licensing exam.

(b) **The following standards will govern the approval of continuing education programs by the Committee.**

(1) The program must be offered by a provider having substantial, recent~~,~~ experience in offering continuing education or demonstrated ability to organize and present effectively continuing education. Demonstrated ability arises partly from the extent to which individuals with trade training or educational experience are involved in the planning, instruction and supervision of the program.

(2) If written materials are provided, the materials must be thorough, high quality, readable, and must be made available to all participants at or before the time the course is presented.

(3) The program must be conducted in a comfortable physical setting which is conducive to learning.

(4) The program itself must be conducted by an individual or group qualified by practical or academic experience. The program including the named advertised participants must be conducted substantially as planned, subject to emergency withdrawals and alterations.

(5) Changes including but not limited to location, date, instructors, or cancellations must be requested from the Committee or its designee in writing prior to the start of class. All requests for changes must include the Course ID number.

(6) The training location shall be outside the regular work place or after regular working hours.

(7) Each attendee of a continuing education course shall have, or otherwise be provided with, a copy of the OUBCC's most recently adopted edition of the National Electrical Code and revisions for use during the duration of the course.

(8) Sixty (60) minutes constitutes one (1) instructional hour.

(9) CE courses shall be presented in one of the following formats:

(A) Six instructional hours presented on one day

(B) Two sessions of three instructional hours each presented within a seven day period

(C) An approved correspondence or online course, or

(D) Another format approved by the Committee.

(10) Verification of Credit.

(A) The Course Provider shall verify the total number of continuing education hours completed by each attendee.

(B) Continuing education providers shall require attendees to present a photo I.D. prior to the attendee signing the sign-in sheet provided by the Construction Industries Board. Sign-in sheets shall include the name and license number of each licensee in attendance.

(C) As soon as practicable but in any event on or before seven (7) days following an approved education program, the provider shall furnish to the Electrical License Unit the original sign-in sheets.

(D) Providers must maintain copies of all sign-in sheets for a period of two (2) years following the conclusion of the course.

(11) Course providers or instructors may not advertise or promote the sale of any goods, products or services between the opening and closing of any Continuing Education Course.

(c) Any organization desiring approval of a course shall apply to the ~~Electrical Examining~~ Committee by submitting an application on a form to be obtained from the Construction Industries Board and supporting documentation at least thirty (30) days prior to the date for which the course is scheduled. An application is to be submitted for each date or set of dates that constitute a single class. Each class must be included on a separate application. The Committee or its designee will review each application for completeness of form and supporting documentation as well as course content. The applicant will be notified in writing by mail whether the program is approved or disapproved. Applicants denied approval of a course may appeal such a decision by submitting a letter of appeal to the Committee within fifteen (15) days of the receipt of the notice of disapproval. All appeals will be heard by the Committee at its next regularly scheduled meeting.

(1) Supporting documentation includes:

(A) resumes or a brief summary of qualifications for all instructors providing instruction for the class,

(B) a class agenda designating beginning and ending of actual instructional times, sign-in times, breaks, lunch time, and

(C) A class curriculum indicating the subject or code areas to be taught with sufficient detail to determine which code revisions are to be addressed.

(2) The Committee or its designee may refuse to accept any application for approval if the supporting documentation is insufficient or incomplete. The Committee may deny or revoke approval of an application for any of the following reasons:

(A) Failure to comply with the continuing education provisions;

(B) Inadequate application or supporting documentation;

(C) Failure to instruct on the topic approved~~,~~; or

(D) Unsatisfactory evaluations of the course, instructor, or materials from previous classes.

(3) If an application is refused or disapproved, written notice detailing the basis of the decision shall be provided to the applicant.

(4) The Committee may at any time re-evaluate and grant or revoke approval of an application or course.

(A) The Committee or its designee shall be granted access to attend, observe and audit any continuing education course approved by the Committee.

(B) The Committee may at any time review courses for quality in instruction. The Committee shall also investigate and take appropriate action, up to and including revocation of authority to provide CE, regarding complaints involving approved courses.

(C) A provider's failure to comply with ~~any continuing education rule~~this Section constitutes grounds for disciplinary action, up to and including revocation of authority to provide CE, against the provider or for denial of future applications for coursework.

(d) **Course Advertisement.**

(1) All advertising must include the course identification number.

(2) Approved program courses may be advertised.

(3) The provider of an approved continuing education program may announce or indicate as follows: Course #_____ has been approved by the Construction Industries Board Electrical ~~Examining~~Examiners Committee for _____ hours of CE credit.

(e) **Correspondence or Online course approval.** Providers seeking to offer correspondence or online courses for continuing education shall submit a course curriculum and study material for review and approval by the Committee, or its designee, prior to the courses being offered as continuing education. An access code and password shall be provided to the Committee, or its designee, for an online course for the purpose of review and approval. Correspondence or online courses shall have sufficient explanation and or graphics to expound the concepts and changes being taught. The format of the online course shall be constructed so as to ~~illicit~~elicit interaction between the student and the material presented. Each page of text shall be designed with a question that must be answered before advancing to the next page or a test at the end of a subject matter before the course is considered complete. Approved correspondence and online courses shall be required to comply with all requirements for other continuing education courses except for sign-in sheets. Providers shall provide a student with a document of completion that shall certify completion of an approved correspondence or online course.

(f) **Alternate Credit accrual.**

(1) Credit may be earned through teaching in an approved continuing education class. The Committee may award up to six (6) hours of CE credit not to exceed the number of approved hours for that CE class.

(2) Credit may also be earned through teaching a course in an accredited trade school or a trade-specific program approved by the Committee. The Committee may award up to six (6) hours of CE credit for each semester of academic credit awarded by the academic institution for the course.

(g) **Complaint procedure.**

(1) A person, government, or private organization may submit a written complaint to the Committee, or its designee, charging a provider of continuing education with a violation of ~~the rules~~this Section, and specifying the grounds for the complaint.

(2) Complaints must be in writing and include contact information, and shall be filed on the proper complaint form prescribed by the Construction Industries Board, or its designee.

(3) The Committee may consider an unsigned or anonymous complaint for further investigation.

(4) Upon receipt of a signed complaint form, a copy shall be sent to the continuing education provider addressed in the complaint. The continuing education provider shall provide a written response within fifteen (15) days. Upon receipt of the continuing education provider's written response, both complaint and response shall be considered by the Committee, or its designee, for appropriate action including dismissal of the complaint, further investigation, or a finding of violation of ~~a statute or rule~~the Act or this Chapter. The Committee, or its designee, shall notify both complainant and continuing education provider of the determination made by the Committee. Failure of the continuing education provider to respond will be considered as a violation of this ~~rule~~Section.

(5) If a reasonable cause violation determination is made by the Committee, the Oklahoma Administrative Procedure Act shall be followed for all disciplinary proceedings undertaken ~~including but not limited to all parts of this subsection~~.

SUBCHAPTER 11. LICENSE REVOCATION OR SUSPENSION AND PROHIBITED ACTS

158:40-11-1. License revocation or suspension

(a) The employment and use of unlicensed individuals performing electrical work, the employment and use of individuals as apprentices without registration, or cheating may be considered justification to suspend or revoke said electrical contractor's license based upon illegal use of license.

(b) The repeated violation of any of ~~these~~the rules of this Chapter or any provision of the Act, or the violation of a multiple of any of ~~these~~the rules of this Chapter or provision of the Act, may be considered justification to suspend or revoke the licensee's license or registration.

158:40-11-2. Prohibited acts

(a) The following prohibited acts apply to all license holders:

(1) No person, entity, or firm may perform work without first obtaining the appropriate license or registration pursuant to ~~these Rules~~this Chapter.

(2) No licensee shall perform work contrary to any provision of the standard of installation in OAC 158:40-1-4, except as otherwise provided by law or rule. Each violation of the standard of installation in OAC 158:40-1-4 can be treated as a separate violation of this Chapter.

(3) No person shall offer to engage in work during the period his or her license is suspended or revoked.

(4) No employing firm shall employ or use an unlicensed or unregistered individual or entity to perform work.

(5) No person, entity, or firm may transfer a license or registration.

(6) No individual or entity, licensed pursuant to ~~these Rules~~this Chapter, shall enter into an agreement for the use of his or her license with any firm or person which is, or has been adjudicated to be, in violation of any provision of the Act, or whose license is currently suspended or has within the last year been revoked, unless or until otherwise approved by the Board.

(7) No person shall make a materially false or fraudulent statement in an application for license.

(8) No person may alter a license.

(9) No licensee shall perform work without keeping their license on their person or in close proximity while performing work.

(10) No person may engage in cheating or any act involving the fraudulent misrepresentation of an applicant by an examinee.

(11) No person or entity shall deny access to the Construction Industries Board or its representative on a job site.

(b) The following prohibited acts apply to persons issued a contractor license:

(1) No licensee shall allow more than two (2) apprentices per journeyman at a job site.

(2) No licensee shall fail to maintain a bond and insurance as provided for in OAC 158:40-5-5.

(3) No licensee shall be associated with and responsible for more than one firm.

(c) The following prohibited acts apply to persons issued a journeyman license:

(1) No licensee shall perform work except under the employment or supervision of a contractor.

(2) No licensee shall engage in the planning, contracting, or furnishing of labor and/or materials used for work.

SUBCHAPTER 13. PROCEDURES OF THE VARIANCE AND APPEALS BOARD, PLAN REVIEW APPLICATIONS AND FILING FEES, CODE VARIANCE APPLICATIONS AND FILING FEE AND CODE INTERPRETATION APPEALS

158:40-13-1. Plan review applications and filing fees

(a) Applications for the review of plans and specifications to ensure conformance with State adopted installation codes may be submitted in writing to the Oklahoma Construction Industries Board. An application, and the appropriate filing fee, shall accompany the construction plans and specifications submitted for plan review. Plan review ~~may~~shall only be conducted for construction projects where a city or town has not adopted a trade installation code by ordinance that is more stringent than the standard of installation as described in OAC 158:40-1-4. Applications shall only be reviewed if submitted prior to the bid dates for the project.

(b) The Board will advise the applicant through its liaison if the application is determined to be incomplete in order for the applicant to re-submit a complete plan review application.

(c) The plan review fee for:

(1) electrical plans and specifications shall be $75.00;

(2) electrical and mechanical or plumbing plans and specifications shall be $150.00;

(3) electrical, mechanical and plumbing plans and specifications shall be $200.00.

(4) If electrical, plumbing, and mechanical review is required, the fees will be equally distributed among the three trades.

(d) Plan review is not required, but is a service provided by the Board to assist with code compliance.

[OAR Docket #15-725; filed 7-7-15]

TITLE 158. CONSTRUCTION INDUSTRIES BOARD
CHAPTER 50. MECHANICAL INDUSTRY REGULATIONS

[OAR Docket #15-726]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 1. General Provisions
158:50-1-2 [AMENDED]
158:50-1-3 [AMENDED]
158:50-1-4 [AMENDED]
Subchapter 3. Procedures of the Committee and the Hearing Board
158:50-3-1 [AMENDED]
Subchapter 5. License Types, Limitations of Licenses, Contractor Special Requirements and Display of License Number and Firm Name
158:50-5-3 [AMENDED]
Subchapter 9. Qualifications for Mechanical Licensure, License and Registration Fees, Duration of License, Mechanical License Application, and Apprentice Registration
158:50-9-1 [AMENDED]
158:50-9-1.1 [NEW]
158:50-9-1.2 [NEW]
158:50-9-1.3 [NEW]
158:50-9-2 [AMENDED]
158:50-9-3 [AMENDED]
158:50-9-5 [AMENDED]
158:50-9-6 [AMENDED]
158:50-9-7 [AMENDED]
Subchapter 11. License Revocation or Suspension and Prohibited Acts
158:50-11-1 [AMENDED]
158:50-11-2 [AMENDED]
158:50-11-3 [AMENDED]

Subchapter 13. Procedures of the Variance and Appeals Board, Plan Review Applications and Fees, Code Variance Applications and Fee, Code Interpretation Appeals
158:50-13-1 [AMENDED]

AUTHORITY:
Construction Industries Board; 59 O.S. §§ 1000.4 and 1850.3

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n/a

INCORPORATIONS BY REFERENCE:
n/a

ANALYSIS:
Many of the proposed amendments are cleanup in nature and correct spelling, punctuation and grammar, and correct or clarify references and citations. In addition, 158:50-1-2 clarifies/amends the definition for "Minor repairs and maintenance" and adds a definition for "Oklahoma Uniform Building Code Commission" or "OUBCC"; 158:50-9-1 clarifies experience credited towards the experience requirement for licensing examination; 158:50-9-1.1, 158:50-9-1.2 and 158:50-9-1.3 are new sections for the purpose of clarifying that provisions of OAC 158:1 related to the Post-Military Service Occupation, Education and Credentialing Act, are applicable to applicants for an initial mechanical license or renewal of a mechanical license; 158:50-9-7 adds a provision to clarify continuing education requirements for an individual who does not complete the required continuing education prior to the expiration of their mechanical license.

CONTACT PERSON:
Linda Ruckman, Board Secretary/Executive Assistant, 405-521-6550.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 11, 2015:

SUBCHAPTER 1. GENERAL PROVISIONS

158:50-1-2. Definitions

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

"Act" means Mechanical Licensing Act as found at 59 O.S. § 1850.1, *et seq*.

"Administrator" means the Administrator of the Board as described in the Construction Industries Board Act found at 59 O.S. § 1000.1, *et seq*.

"Applicant" means any person applying for an examination, for a license or registration, for review of plans and specifications or for a mechanical code variance from the standard of installation described in OAC 158:50-1-4 by the Construction Industries Board under the Act.

"Associated with and responsible for" means the relationship between a mechanical contractor and mechanical firm based on the mechanical contractor being a permanent employee, owner, partner, or officer in a corporate firm, and whereby the mechanical contractor shall give full time to the supervision and control of operations necessary to secure full compliance with the provisions of the Mechanical Licensing Act and this Chapter.

"Board" means the Oklahoma Construction Industries Board.

"Bonds and Insurance Unit" means the consolidated unit that processes bonds and insurance under the direction of the Construction Industries Board.

"Cheating" means any unapproved deviation from any official instruction given before, during or after a license examination, for the purpose of affecting or influencing the examination results or otherwise providing an undue advantage to any examinee.

"Committee" means the Committee of Mechanical Examiners.

"Credit Hour or Hour" means at least 50 minutes of classroom instruction with a 10 minute break.

"Direct supervision" means the on-the-job presence by the supervisor who must be a licensed mechanical contractor or mechanical journeyman.

"Gas piping" means and includes all natural gas piping within or adjacent to any building, structure, or conveyance, on the premises up to the connection with a natural gas meter, regulator, or other source of supply.

"Ground source piping" means piping buried below the earth's surface or submerged in a water well, lake or pond and used in conjunction with a heat pump to provide heating, ventilation and/or air conditioning to a structure.

"Health care facility" includes but is not limited to hospitals, nursing homes, limited care facilities, clinics, medical or dental offices, and ambulatory care centers, whether permanent or moveable.

"Hearing Board" means the Mechanical Hearing Board.

"Humidification" when applied to air conditioning, means and includes an increase or decrease in moisture content of the air being conditioned and supplied to the space for human occupancy by means of that integral part of the entire air conditioning system, equipment, and control devices; when applied to refrigeration, means and includes an increase or decrease in the moisture content of the air or product being conditioned for a food preservation measure or manufacturing process by means of the integral part of the entire refrigeration system, equipment, and control devices.

"HVAC" or **"heating, ventilation and air conditioning"** means the process of treating air by controlling its temperature, humidity, and cleanliness and of supplying such air to spaces for human occupancy by means of an integrated system of air conditioning and ventilation equipment, accessories and control devices.

"ICC" means the International Code Council.

"Limited residential journeyman" means a type and category of mechanical license that is restricted to new installations in new construction for detached one or two family dwellings and multiple single family dwellings (townhouses) not more than three stories in height with a separate means of egress as regulated by this ~~chapter~~Chapter.

"Mechanical License Unit" means the staff and administrative support unit to the Committee of Mechanical Examiners and the Mechanical Hearing Board.

"Mechanical work" means the installation, maintenance, repair, or renovation, in whole or in part, of any heating system, exhaust system, cooling system, mechanical refrigeration system, ventilation system, medical gas system, medical-surgical vacuum systems, or any equipment or piping carrying chilled water, air for ventilation purposes, or natural gas, or the installation, maintenance, repair, or renovation of process piping used to carry any liquid, substance, or material, including steam and hot water used for space heating purposes not under the jurisdiction of the Department of Labor or Department of Health, provided that minor repairs and maintenance are excluded.

"Medical gas piping work" means the lay out, assembly, installation, and maintenance of pipe systems used in health care facilities for oxygen, nitrous oxide, medical air, carbon dioxide, helium, nitrogen, instrument air, medical-surgical vacuum, waste anesthetic gas disposal, mixtures thereof, or any other gaseous, partly gaseous substance, material or any mixtures thereof used in a health care facility. Replacing cylinders and filters, and performing routine and preventive maintenance that does not breach the integrity of the medical gas piping system and does not constitute the installation, repair, or replacement of medical gas piping shall not require a medical gas piping licensee.

"Medical gas journeyman" means a type and category of mechanical license that is restricted to medical gas piping.

"Minor repairs and maintenance" means minor repairs or maintenance as each are prescribed in the manufacturer's operating instructions to be performed by the equipment owner or his authorized agent, and shall not include replacement and repairs of any nature on natural gas piping, natural gas controls, the ~~low-voltage~~ manufacturer installed controls and components, the vent system of fuel burning appliances, a breach of the integrity of a refrigeration system or any repair or maintenance which would violate the safe operation of the equipment.

"Oklahoma Uniform Building Code Commission" or **"OUBCC"** means the state agency created under 59 O.S. § 1000.20, *et seq.*, and authorized to adopt all building codes and standards for residential and commercial construction to be used as minimum standards by all entities within this State.

"Petroleum refinery" means an industrial plant which processes petroleum for purposes of creating products derived from petroleum and includes industrial plants which produce and/or refine alternative fuels or petroleum additives. "Petroleum refinery" shall not mean gas processing plant or gas gathering pipeline operations.

"Petroleum refinery journeyman" means a type and category of mechanical license that is restricted to petroleum refinery process piping.

"Petroleum refinery process piping work" means the lay out, assembly, installation, and maintenance of pipe systems used in the petroleum refining process or product refining systems of a petroleum refinery.

"Process" means a series of operations performed in the making or treatment of a product.

"Process piping" means lay out, assembly, installation, and maintenance of pipe systems, pipe supports, and related hydraulic and pneumatic equipment for steam, hot water, heating, cooling, lubricating and fire sprinklers, not subject to regulation pursuant to the Alarm Industry Act, and industrial production and processing systems, and piping used to carry any gaseous, or partly gaseous, substance or material as part of a medical gas piping system.

"Reciprocity" means an agreement whereby a person holding a mechanical license or registration who is licensed in other states with substantially similar or greater licensure requirements may be licensed in this State after payment of a fee for licensing by reciprocity.

"Refrigeration system" means installation, repairing and servicing of a system employing fluid which normally is vaporized and liquefied in an air conditioning system, food preservation measure or manufacturing process.

"Variance" means the use of an alternative material or method of construction from that prescribed in the standard of installation as described in OAC 158:50-1-4 and/or other approved documents by the ~~Oklahoma Uniform Building Code Commission~~OUBCC for use at a particular location or project specified in the variance application; and

"Variance and Appeals Board" means the Oklahoma State Mechanical Installation Code Variance and Appeals Board.

"Verifiable experience" means mechanical experience obtained while employed by a licensed Mechanical contractor, or by other means approved by the Committee of Mechanical Examiners including equivalent experience earned while serving in the U.S. Military, for which one (1) year of verifiable experience equals two thousand (2,000) hours.

158:50-1-3. License requirement and exemptions

(a) No person, on their own behalf or on behalf of a mechanical firm, shall engage or offer to engage in, by advertisement or otherwise, any mechanical work who does not possess a valid and appropriate license from the Construction Industries Board unless otherwise exempt by law or this Chapter. No State agency, a political subdivision of the State, business entity or trust shall act as a mechanical firm unless a licensed, active mechanical contractor is associated with and responsible for all mechanical work of such entity.

(b) The terms air conditioning, sheet metal, and heating do not include the design, installation, construction, maintenance, service, repair, alteration, or modification of a portable or self contained ductless air conditioning or heating unit that has a cooling capacity of less than two and one-half (2 1/2) tons or

a heating capacity of 36,000 British Thermal Units per Hour (Btu/h) or less.

(c) No person shall install, replace or repair gas piping unless such person is licensed under the Mechanical Licensing Act or is licensed as a plumbing contractor or journeyman plumber pursuant to the laws of this ~~state~~State.

(d) No person shall install, replace or repair floor furnaces or wall heaters unless such person is licensed under the Mechanical Licensing Act or is licensed as a plumbing contractor or journeyman plumber pursuant to the laws of this ~~state~~State.

(e) No person shall install, replace or repair any radiant-floor heating systems unless such person is licensed under the Mechanical Licensing Act or is licensed as a plumbing contractor or journeyman plumber pursuant to the laws of this ~~state~~State.

(f) No person shall install, replace or repair any medical gas or medical-surgical vacuum systems unless such person is licensed under the Mechanical Licensing Act as a medical gas journeyman, an unlimited mechanical contractor, process piping mechanical contractor, plumbing contractor or journeyman plumber pursuant to the laws of this ~~state~~State and shall provide proof of being certified by examination in accordance with the most current National Fire Protection Act ("NFPA") 99 standard or certified in the proper installation of medical gas piping by an organization approved by the Committee.

(g) No person shall act as a foreman, supervisor or superintendent over any mechanical work on behalf of a mechanical contractor unless such person possesses a valid license as a mechanical contractor or journeyman from the Construction Industries Board.

(h) Any changes in address, business relationship, structure or affiliation shall be reported in writing to the Oklahoma Construction Industries Board within thirty (30) days of such change.

158:50-1-4. Standard of installation

The standards of installation are the provisions of the mechanical codes - the International Mechanical Code, the International Fuel Gas Code, the mechanical portion of the International Residential Code, and the medical gas system standards portion of the National Fire Protection Association ("NFPA" 99) as referenced in the International Plumbing Code, as revised and adopted by the ~~Oklahoma Uniform Building Code Commission~~OUBCC pursuant to the Oklahoma Uniform Building Code Commission Act.

SUBCHAPTER 3. PROCEDURES OF THE COMMITTEE AND THE HEARING BOARD

158:50-3-1. Procedures of the Committee

The Committee shall serve the Board in an advisory capacity, assist and advise the Board on all matters pertaining to the formation of rules pursuant to the Act, and assist and advise the Administrator on the examination of applicants for licenses as a mechanical contractor or journeyman and on all matters related to the licensing of mechanical contractors and mechanical journeymen and the registering of mechanical apprentices, in accordance with ~~these rules~~this Chapter and the terms and conditions of the ~~law~~Act. The Committee shall make up a part of the Mechanical Hearing Board.

(1) Committee meetings are generally, unless otherwise stated by the Administrator, held in the principal offices of the Construction Industries Board referenced at OAC 158:1-3-1. The Committee shall oversee the continuing availability of the examination and shall meet as often as is necessary, but at least once each quarter. Meetings of the Committee will comply with the Oklahoma Open Meeting Act.

(2) The Committee shall work with the Construction Industries Board to provide for the administration, grading and processing of mechanical examinations, by contract or otherwise. The Committee may recommend regulations to the Administrator and to the Construction Industries Board, and shall act as advisor to the Administrator on mechanical matters.

(3) Application for licensure shall be done by filling out an application for examination on a form provided by the Mechanical License Unit.

(4) The public may communicate with the Committee, in person or by mail, through the Oklahoma Construction Industries Board. All records not privileged from disclosure by law are subject to the provisions of the Oklahoma Open Records Act, 51 O.S. § 24A.1, *et seq*. Copies will be provided upon payment of ~~a~~the fee ~~of 25 cents per page~~for copies as set forth in OAC 158:1-3-5.

SUBCHAPTER 5. LICENSE TYPES, LIMITATIONS OF LICENSES, CONTRACTOR SPECIAL REQUIREMENTS AND DISPLAY OF LICENSE NUMBER AND FIRM NAME

158:50-5-3. Bond and insurance requirements

(a) **Bond.**

(1) A corporate surety bond, (the "bond") in the sum of five thousand dollars ($5,000.00) payable to the Oklahoma Construction Industries Board and approved by the Administrator shall be permanently deposited with the Bonds and Insurance Unit prior to the issuance of the mechanical contractor's license.

(2) Said bond shall be executed by the applicant for the contractor's license and by a surety authorized to do business in the State of Oklahoma, and shall be a continuous bond with a thirty (30) day cancellation notice to the Board.

(3) Said bond shall be in lieu of filing a bond with each municipality where the contractor works and shall be conditioned upon all of the following terms:

(A) The mechanical contractor, his or her agents and employees shall faithfully and properly conduct business in compliance with all the applicable provisions of ordinances and provisions of the municipality in which he is performing mechanical work;

(B) The mechanical contractor shall pay all fines and penalties imposed by courts of competent jurisdiction for the violation of said ordinances or provisions. The Board may seek payment through the surety bond of any fines or penalties, which the licensee fails to pay.

(C) The mechanical contractor shall protect, save harmless and indemnify the municipality and the ~~state~~State against any liability imposed by law against said municipality or ~~state~~State for the negligence of said contractor, his or her agents or employees, which arises from any act or omission of said individuals engaged in work pursuant to the Mechanical Licensing Act;

(D) Any person aggrieved may bring an action upon the bond for the recovery of the penalty thereof to the same extent and with equal rights as though such aggrieved person had been named as the obligee in the bond.

(b) **Insurance.** A mechanical contractor shall provide proof of financial responsibility by providing a certificate of insurance, which indicates a minimum general liability policy of $50,000.

(c) **Exceptions.** The bond and insurance requirement will be waived if:

(1) The mechanical contractor wishes to be inactive. A contractor may choose to place his or her license on inactive status and may practice as a journeyman but shall not practice as an active contractor. The inactive contractor can obtain an active license at any time if his or her license is valid and the bond and insurance requirements are met; or

(2) The mechanical contractor is employed by a corporation, partnership, public entity, or political subdivision and said corporation, partnership, public entity or political subdivision submits an affidavit on behalf of the contractor that the employee will only perform mechanical work on property owned by said corporation, partnership, public entity, or political subdivision and the employer assumes all financial responsibility in lieu of the contractor providing bond and insurance. The affidavit must include a statement by the employer that the Board will be notified if the contractor is no longer employed by said employer, or if the employer no longer wishes to assume financial responsibility for the contractor.

SUBCHAPTER 9. QUALIFICATIONS FOR MECHANICAL LICENSURE, LICENSE AND REGISTRATION FEES, DURATION OF LICENSE, MECHANICAL LICENSE APPLICATION, AND APPRENTICE REGISTRATION

158:50-9-1. Qualifications for mechanical licensure

(a) **Application.** A person desiring to be licensed under this Chapter shall file an application with the application fee, examination fee (unless the examination fee is paid directly to a testing provider), and the initial License fee to the Administrator. The fees must be received no less than three (3) working days before the examination date. If the applicant fails to meet the minimum qualifications to take the examination, the application fee will be forfeited.

(b) **Experience.** All persons applying for a license must provide proof of experience in the mechanical trade. Applicants for mechanical license examinations who are not licensed and wish to include experience gained in Oklahoma must maintain an apprentice registration on file with the Oklahoma Construction Industries Board for all experience obtained in Oklahoma. The Construction Industries Board will not consider experience obtained in or outside of Oklahoma as verifiable experience for periods in which an apprentice is unregistered~~. Experience gained outside of the State of Oklahoma must be~~, except for experience lawfully obtained according to any applicable federal or state laws, and must be comprised of mechanical ~~construction~~ work as defined under ~~Oklahoma law or similar types of mechanical work~~the Act and in this Chapter.

(1) Applicants for a journeyman license must be at least eighteen (18) years of age and have:

(A) three (3) years of verifiable experience in the mechanical trade in the category for which he or she is applying, or

(B) an associate's degree or vocational diploma certifying completion of an educational program consisting of one thousand (1,000) hours or more from a school, approved by the Committee, which exhibits knowledge of the trade in the category of license applied for and one (1) year of verifiable experience in the mechanical trade, or

(C) a vocational diploma certifying completion of an educational program consisting of five hundred (500) or more hours from a school, approved by the Committee, which exhibits knowledge of the trade in the category of license applied for and two (2) years of verifiable experience in the mechanical trade, or

(D) equivalent, verifiable experience in the mechanical trade while serving in the U.S. military, or

(E) experience sufficient to obtain the special certification required for the mechanical category sought by the tendered application, such as Ground Source Piping and Medical Gas, or

(F) a verifiable out-of-state license in the mechanical classification for which the applicant is applying. The license must:

(i) be current,

(ii) be in good standing, and

(iii) meet qualifications listed in (A) through (E) above.

(2) Applicants for a contractor license must meet the same requirements as a journeyman with an additional one (1) year of experience.

(c) **Examination.** A license cannot be issued until the applicant has passed the appropriate examination for the license type and category. Examinations and the passing score for each examination shall be approved by the Committee. Applicants

for the Ground Source Piping category shall provide proof of being certified by examination in the proper installation of ground source piping by an organization approved by the Committee. Applicants for the Petroleum Refinery journeyman category shall provide proof of being certified by examination in the area of industrial pipefitter by an organization approved by the Committee. Applicants for the Medical Gas category shall provide proof of being certified by examination in accordance with the most current NFPA 99 standard or certified in the proper installation of medical gas piping by an organization approved by the Committee.

(1) If the applicant does not pass the exam, the applicant may reapply for the exam and pay an additional retesting fee. However, no person will be allowed to retake an exam within thirty (30) days of the first failed exam or within ninety (90) days of the second or subsequent failed exam.

(2) Any person suspected of cheating during an examination shall be immediately notified of the suspicion and shall not be allowed to finish the examination. He or she shall be called before the Committee during the next scheduled meeting for discussion of the incident. If the Committee determines that the person did in fact cheat, the examinee's application for licensure shall be denied and the Committee shall determine when the applicant can next apply for an examination.

(3) No person shall be allowed any assistance in reading the contractor's examination, nor shall any persons other than the examinees or the Committee members be allowed in the examination area. However, an applicant may request that the Committee make reasonable accommodations for any disability.

(d) **Outstanding fines.** A license cannot be issued or renewed until the applicant has paid any and all outstanding fines due and owing to any division of the Construction Industries Board.

158:50-9-1.1. Acceptance of Military education, training and experience toward qualification for licensure examination

(a) **Licensure - post-military service.** See OAC 158:1-3-10 for provisions related to the application of substantially equivalent education, training, and experience completed as a member of the Armed Forces or Reserves of the United States, National Guard of any jurisdiction, the Military Reserves of any jurisdiction, or the Naval Militias of any jurisdiction toward satisfying the qualifications for examination and license issuance.

(b) **Military spouse applicant - equivalency.** See OAC 158:1-3-10 for provisions related to issuance of an equivalent license in an equivalent category for the spouse of an active-duty member of the Armed Forces or Reserves of the United States.

158:50-9-1.2. Expediting issuances of license to military spouse

See OAC 158:1-3-11 for provisions related the Board expediting the issuance of a license for spouses of certain members of the Armed Forces on active duty in this State.

158:50-9-1.3. Renewals for licensee - post-military service

See OAC 158:1-3-12 for provisions related to license renewal while a licensee holder is a member of the Armed Forces of the United States on active duty, and for provisions related to a licensee whose license expires while on active duty as a member of the National Guard or reserve component of the Armed Forces.

158:50-9-2. License and registration fees and renewals

(a) **Examination fees for contractors and journeyman.** The Construction Industries Board, or its designated representative, may collect for the actual cost of any examination provided by ~~these rules~~this Chapter. The cost for each such examination referenced in OAC 158:50-9-1 shall be posted in plain view at the testing site that provides and administers the examination. Every person whose application for examination is approved shall be informed of the specific fee prior to sitting for the examination. The unit testing fee shall be the amount negotiated by the Administrator in accordance with the provisions of the Oklahoma Central Purchasing Act, but cannot exceed the maximum allowable fee pursuant to 59 O.S. § 1000.5(A)(2). Documentation confirming the contractual fee shall be available upon request.

(b) **Licensing, registration and application fee schedule for contractors, journeyman, and apprentices.** The licensure, application, ~~and~~ registration and annual renewal fees shall be ~~annually~~ as follows:

(1) contractors application - $30.00
(2) initial contractor license - $300.00
(3) renewal contractor license - $200.00
(4) renewal contractor late fee - $100.00
(5) journeyman application - $25.00
(6) initial journeyman license - $50.00
(7) renewal journeyman license - $75.00
(8) renewal journeyman late fee - $25.00
(9) apprentice application - $5.00
(10) apprentice registration - $20.00

158:50-9-3. Duration of licenses

(a) All licenses shall have a duration of no more than one (1) year, and shall expire on the last day of the birth month of the licensee each year.

(b) Any license issued may be renewed by submitting the renewal application and the license fee for the next year by ~~a~~ check or money order ~~and~~ which must be delivered or ~~be~~ mailed on or before the birth month expiration date.

(c) A license renewed under the provision of ~~OAC 158:50-9-3~~(b) of this Section is effective when notice of such renewal is issued by the Construction Industries Board.

(d) An expired license may be reinstated ~~if: The license fee is submitted and is accompanied by a late fee, plus any applicable continuing education, and any insurance and bonding requirements~~by submitting the license renewal fee and late fee with the filing of a renewal application and proof of meeting all license renewal requirements.

(e) A licensee who, during an investigation of the licensee by the Construction Industries Board, surrenders their license shall be treated as if the license had been revoked for one (1) year from the day of surrender.

(f) A license cannot be renewed until the licensee has paid any and all outstanding fines due and owing to any division of the Construction Industries Board.

158:50-9-5. Apprentice registration

(a) A person may register as a mechanical apprentice if the person does not meet the qualifications for licensure but wishes to learn or perform mechanical work. An individual licensed in any category shall be permitted to work as an apprentice in any category for which they are not licensed by complying with the requirements of this chapter for ratio and direct supervision.

(b) The apprentice will be registered for a one (1) year period if a completed application form with the application and registration fee listed in OAC 158:50-9-2~~(a)(4)~~(b)(10) ~~for a one (1) year period~~ is submitted to the Mechanical License Unit along with verification of enrollment in an approved school or training course or a statement of employment by the licensed mechanical contractor who arranged for employment of the apprentice.

(c) The apprentice must perform mechanical work in the same category as the licensed mechanical person who is supervising the apprentice.

(d) An apprentice who participates in activities inconsistent with the provisions of the Act and the rules of this Chapter shall be subject to the sanctions described in OAC 158:50-11-3.

(f) Mechanical apprentices must be under the direct supervision of a licensed Mechanical contractor or journeyman when engaged in Mechanical work.

158:50-9-6. Mechanical journeyman and contractor licenses by reciprocity

(a) **General procedures for application.** Any person holding a valid mechanical journeyman license or mechanical contractor license issued by another ~~State~~state who is seeking to obtain a license by reciprocity shall first submit an application to the Construction Industries Board on a form provided by the Board. The application shall include all documentation necessary to show the applicant meets the requirements established by ~~these rules~~this Chapter. All applications shall first be directed to the Committee or its designee for an initial review to determine if the applicant meets the qualifications for a license by reciprocity as set forth in ~~these rules~~this Section and in 59 O.S. ~~Supp. 2002,~~ § 1000.5~~A~~a or any subsequent enactment of the Legislature. Following this review, the Committee or its designee shall make a recommendation to the Board or its designee as to whether the application should be approved or disapproved. The Board or its designee shall make the final determination as to whether an application shall be approved or disapproved. If an application is disapproved by the Board or its designee, the application shall be returned to the applicant with the reason for the disapproval.

(b) **Application fees.** Before an application will be considered, a person applying for a mechanical journeyman license by reciprocity must pay ~~an~~the journeyman application fee and the initial journeyman ~~licensing~~license fee ~~of $ 75~~as set forth in OAC 158:50-9-2(b). If the person is applying for a mechanical contractor license, the person must pay ~~an~~the contractors application fee and ~~licensing~~the initial contractor license fee ~~of $225~~as set forth in OAC 158:50-9-2(b). These fees shall not be refundable under any circumstances.

(c) **Requirements for issuance of a license by reciprocity.** An application for a license by reciprocity may be approved upon a satisfactory showing by the applicant of the following:

(1) That the requirements for licensure from the ~~State~~state in which the applicant is licensed is determined to be substantially the same or equivalent to the requirements for obtaining a license by examination in this ~~state~~State. In making this determination the following shall be considered:

(A) Whether the other ~~State~~state regulates and issues licenses for mechanical trade categories in a manner that is substantially the same or equivalent to the State of Oklahoma;

(B) Whether the experience required by the other ~~State~~state to be eligible to sit for the license examination is substantially the same or equivalent to the Board's requirements;

(C) Whether the continuing education requirements of the other ~~State~~state are substantially the same or equivalent to the Board's requirements;

(D) Whether the codes adopted by the other ~~State~~state are substantially the same or equivalent to the Board's requirements;

(E) Whether the examination of the other ~~State~~state is substantially the same or equivalent to the Board's requirements. This shall include the score required to pass the examination, whether examinations are given for specific mechanical trade categories, and whether the examination is in written form.

(2) That the other ~~State~~state will recognize licenses issued by the State of Oklahoma through the Construction Industries Board. Paragraphs (1) and (2) of this ~~rule~~subsection may be satisfied by the existence of a reciprocity agreement between the Board and the ~~State~~state issuing the applicant's current license as provided in ~~subsection~~ (d) of this ~~rule~~Section.

(3) That the applicant is currently licensed by a ~~State~~state that meets the requirements of ~~Section~~ (c)(1) of this ~~rule~~Section and that one year immediately prior to the application, the applicant lawfully practiced an applicable trade within and under the laws of that ~~State~~state.

(4) That no disciplinary matters are pending against the applicant in any jurisdiction in which the applicant is currently licensed. This requirement will be considered satisfied upon presentation of a certified statement from

the licensing authorities of all jurisdictions in which the applicant is currently licensed that no disciplinary matters are pending against applicant.

(5) That the applicant obtained the license to be reciprocated by examination in the applicable mechanical trade category.

(d) **Reciprocity agreements.** The Board may enter into a reciprocity agreement with another ~~State~~state if the requirements for licensure in the other ~~State~~state are deemed by the Board to be substantially the same or equivalent to the requirements for obtaining an original license by examination in this ~~state~~State.

(e) **Additional requirements for contractor applicants.** Applicants seeking a mechanical contractor license by reciprocity who meet the necessary qualifications for a license as required in this ~~rule~~Section will be granted a journeyman license by reciprocity. The applicant will be issued a contractor license upon successfully passing the Oklahoma Mechanical Contractor Business and Law portion of the full contractor examination and satisfaction of the requirements of OAC 158:50-5-3.

(f) **Additional requirements for ground source piping license applicants.** Applicants seeking a mechanical license by reciprocity in the ground source piping category must provide proof of being certified in the proper installation of ground source piping by an organization approved by the Committee.

158:50-9-7. Continuing Education

(a) **Continuing Education Requirements:**

(1) By July 1, 2014, no contractor or journeyman license shall be renewed unless the licensee has completed at least six (6) hours of continuing education ("CE"); and thereafter, the licensee shall complete six (6) hours every three (3) years or thirty-six (36) months. The continuing education course and instructor shall be approved in advance by the Committee. Exceptions to advance approval, or post-course approval, may be allowed by the Committee, or its designee, for substitute instructors in emergency situations when written notice of the emergency is provided to the Committee or its designee within seven (7) days of the course. The continuing education material shall cover codes and revisions adopted by the ~~Oklahoma Uniform Building Code Commission~~OUBCC and/or other trade related subject matters appropriate for topics of continuing education for licensees and approved by the Committee including: examination materials, manufacturers' installation of equipment or parts, the licensing ~~act~~Act, the trade regulations as set forth in this Chapter as well as the rules of the Construction Industries Board in OAC 158:10, and other trade or safety related subject matters approved by the Committee.

(2) If a license expires before the licensee completes the CE requirement, any CE that is completed while the license is expired will be applied to the CE requirement for the thirty-six (36) months preceding the date the license expired. Six (6) hours of CE will still have to be completed in order to meet the CE requirement for the subsequent thirty-six (36) month period.

(~~2~~3) Credit will be given for CE programs approved by the Committee, or its designee.

(~~3~~4) Except as provided herein, ~~these rules~~this Section shall apply to every licensed mechanical journeyman or contractor.

(~~4~~5) A licensee is exempt from the education requirements of ~~these rules~~this Section for three (3) years from the date he or she passed their current licensing exam.

(b) **Standards.** The following standards will govern the approval of continuing education programs by the ~~Mechanical Examining~~ Committee.

(1) The program provider shall submit evidence that the provider and instructional staff are qualified by reason of education, experience or training. The training provider and instructors will be of good reputation and of good moral character.

(2) Any written material that is distributed during the session shall be readable, of high quality and shall be made available to all attendees.

(3) The program shall be presented in a comfortable location such as hotel/motel conference room, corporate meeting room, or regular classroom.

(4) The training session shall be presented outside the regular workplace or after regular working hours. An onsite conference room, that meets standards imposed by ~~number~~ (3) ~~above~~of this subsection, shall be considered outside the regular workplace.

(5) A credit hour means at least fifty (50) minutes of classroom instruction with a ten (10) minute break.

(6) CE courses shall be presented in one of the following formats.

(A) Six (6) credit hours presented in one (1) day.

(B) Two (2) sessions of three (3) credit hours each presented within a seven (7) day period.

(C) One (1) session of two (2) credit hours of trade related instruction, Mechanical Licensing Act and/or Mechanical Industry Regulations.

(D) An approved correspondence course.

(E) Another format approved by the Committee.

(7) Verification of Credit.

(A) The Course Provider shall verify the total number of continuing education hours completed by each attendee.

(B) Continuing education providers shall require attendees to present a photo I.D. prior to the attendee signing the sign-in sheet provided by the Construction Industries Board. Sign-in sheets shall include the name and license number of each licensee in attendance.

(C) As soon as practicable but in any event on or before seven (7) days following an approved continuing education program, the provider shall furnish the original sign-in sheets from the course to the ~~Examining~~Mechanical License Unit of the Construction Industries Board.

(D) Providers shall maintain copies of all sign-in sheets for a period of two (2) years following the conclusion of the course.

(E) Complaint Procedure.

(i) A person, government, or private organization may submit a written complaint to the Committee, or its designee, charging a provider of continuing education with a violation of ~~the rules~~this Section, and specifying the grounds for the complaint.

(ii) Complaints must be in writing and include contact information, and shall be filed on the proper complaint form prescribed by the Construction Industries Board, or its designee.

(iii) The Committee may consider an unsigned or anonymous complaint for further investigation.

(iv) Upon receipt of a signed complaint form, a copy shall be sent to the continuing education provider addressed in the complaint. The continuing education provider shall provide a written response within fifteen (15) days. Upon receipt of the continuing education provider's written response, both complaint and response shall be considered by the Committee, or its designee, for appropriate action including dismissal of the complaint, further investigation, or a finding of violation of ~~a statute or rule~~the Act or this Chapter. The Committee, or its designee, shall notify both complainant and continuing education provider of the determination made by the Committee. Failure of the continuing education provider to respond will be considered as a violation of this ~~rule~~Section.

(v) If a reasonable cause violation determination is made by the Committee, the Oklahoma Administrative Procedure Act shall be followed for all disciplinary proceedings undertaken~~ including but not limited to all parts of this subsection~~.

(8) Course providers or instructors may not advertise or promote the sale of any goods, products or services between the opening and closing of any Continuing Education Course.

(c) **Application Procedures.**

(1) A completed application form, with all supporting documentation, shall be submitted to the Construction Industries Board at least thirty (30) days prior to the scheduled start date.

(A) Supporting documents shall include the following.

(i) A resume or brief summary of qualifications of all course developers and instructors.

(ii) A course agenda designating the beginning and ending of actual instruction times, sign-in times, breaks, lunches and evaluation time.

(iii) A course curriculum indicating the subject or code areas to be taught with sufficient detail to determine which code revisions are to be addressed or the trade related instruction being provided.

(2) An application is to be submitted for each date, or dates, that constitute a single course.

(3) Each course must be included on a separate application.

(d) **Mechanical ~~Examining~~Examiners Committee Acceptance.**

(1) The Committee, or its designee, will review each application for completeness of form and supporting documentation, as well as course content.

(2) The approval of any course will be made by a majority vote of the Committee at ~~the~~a regularly scheduled meeting of the Mechanical ~~Examining~~Examiners Committee.

(3) The Committee's designee may approve additional dates and locations after the course has been approved by Committee vote. Substantive change to course content must be brought before the Committee.

(4) The applicant will be notified in writing whether the program is approved or disapproved, detailing the basis of the decision if disapproved.

(5) Approval is rescinded upon the adoption of a different statewide code and a new application showing updates of new code is necessary.

(e) **Committee Rejection and Reevaluation of a Course.**

(1) The Committee, or its designee, may refuse to accept any application for approval if the supporting documentation is insufficient or incomplete. The Committee may deny or revoke approval of an application for any of the following reasons.

(A) Failure to comply with the continuing education provisions.

(B) Inadequate application or supporting documentation.

(C) Failure to instruct on topic approved.

(D) Inadequate experience of program developer or instructor.

(E) Unsatisfactory evaluation of the course instructor or materials from previous classes.

(2) The Committee may, at any time, re-evaluate and grant or revoke approval of application or course.

(A) The Committee may, at any time, review courses for quality of instruction. The Committee may also investigate complaints regarding approved courses. The Committee may then take appropriate action, up to and including revocation of authority to provide CE courses.

(B) A provider's failure to comply with ~~any continuing education rule~~thisSection constitutes grounds for disciplinary action, up to and including revocation of authority to provide CE, against the provider or for denial of future applications for course work.

(3) The Committee, or its designee, will notify the provider, in writing, of any changes in approval status.

(f) **Appeals.**

(1) Applicants denied approval of a course may appeal such a decision by submitting a written letter of appeal to the ~~committee~~Committee within fifteen (15) days of the receipt of the notice.

(2) All appeals will be heard by the Committee at its next regularly scheduled meeting.

(g) **Course Presentation.**

(1) The program, including the named advertised participants, shall be conducted as approved by the ~~committee~~Committee, subject to emergency withdrawals and minor alterations.

(2) Changes including but not limited to location, date, instructors, or cancellations must be requested from the Committee, or its designee, in writing prior to start of class. All requests for change must include the course ID number.

(h) **Course Advertisement.**

(1) All advertising must include the course ID number.

(2) Approved program courses may be advertised.

(3) The provider of an approved continuing education program may announce or indicate as follows: Course # has been approved by the Construction Industries Board Mechanical ~~Examining~~Examiners Committee for hours of CE credit.

(i) **Correspondence and Online Courses.**

(1) Applications, approvals and rejections, and appeals of all correspondence and online courses shall be the same as for classroom-based courses.

(2) Correspondence courses shall be required to comply with all requirements of ~~continuous~~continuing education courses, except sign-in sheets.

(3) Providers of an on-line course shall submit verification of six (6) hours of real time on-line instruction.

(4) Course providers shall provide a student with a document of completion which certifies completion of approved correspondence course.

(5) Applications shall be resubmitted annually, from date of approval, for review and approval.

(j) **Alternate Credit Method.** Credit may be earned through teaching an approved continuing education course. The Committee may award up to six (6) hours of CE credit, not to exceed the number of approved hours for that CE course.

(k) **Continuing Education Not Required for Petroleum Refinery Journeyman.** Provisions (a) - (j) herein shall not apply to the license category of Petroleum Refinery Journeyman. The Petroleum Refinery Journeyman license may be renewed without continuing education.

(l) **Continuing Education Not Required for Ground Source Piping.** Provisions (a) - (j) herein shall not apply to the license category of Ground Source Piping. The Ground Source Piping category license may be renewed without continuing education provided that a current approved certification is submitted.

(m) **Continuing Education Not Required for Medical Gas.** Provisions (a) - (j) herein shall not apply to the license category of Medical Gas. The Medical Gas category may be renewed without continuing education provided that a current approved certification is submitted.

SUBCHAPTER 11. LICENSE REVOCATION OR SUSPENSION AND PROHIBITED ACTS

158:50-11-1. License retention requirements

All mechanical work performed by the licensee shall be minimally in accordance with the ~~adopted references~~standards of installation as described in OAC 158:50-1-4. An exception shall be made only if the plans calling for other than the ~~adopted references~~standards of installation described in OAC 158:50-1-4 ~~or~~ have been approved by the Office of State Fire Marshal.

158:50-11-2. Prohibited acts

(a) The following prohibited acts apply to all license holders:

(1) No person, entity, or firm may perform mechanical work without first obtaining the appropriate license or registration pursuant to ~~these rules~~this Chapter.

(2) No licensee shall perform mechanical work in a category under which he or she is not licensed or work outside of the confinements of the required Medical Gas certification.

(3) No licensee shall perform work contrary to any provision of the ~~adopted references~~standards of installation as described in OAC 158:50-1-4, except as otherwise provided by law or rule. Each violation of the ~~adopted references~~standards of installation in OAC 158:50-1-4 can be treated as a separate violation of this Chapter.

(4) No person shall offer to engage in mechanical work during the period his or her license is suspended or revoked.

(5) No employing mechanical firm shall employ or use ~~and~~an unlicensed or unregistered individual or entity to perform mechanical work.

(6) No person, entity, or firm may transfer a license or registration.

(7) No individual or entity, licensed pursuant to ~~these Rules~~this Chapter shall enter into an agreement for the use of his or her license with any firm or person which is, or has been adjudicated to be, in violation of any provision of the Act, or whose license is currently suspended or has within the last year been revoked, unless or until otherwise approved by the Board.

(8) No person shall make a materially false or fraudulent statement in an application for license.

(9) No person may alter a license.

(10) No licensee shall fail to notify the Administrator of a change in his or her address.

(11) No licensee shall perform mechanical work without keeping their license and any required certification on their person or in close proximity while performing mechanical work.

(12) No person may engage in cheating or any act involving the fraudulent misrepresentation of an applicant by an examinee.

(13) No person or entity shall deny access to the Construction Industries Board or its representative on a job site.

(b) The following prohibited acts apply to persons issued a contractor license:

(1) No licensee shall employ or supervise persons performing mechanical work unless those persons are licensed or registered to perform that category of work.

(2) No licensee shall allow any apprentice to perform mechanical work at the contractor's job site unless the apprentice will have direct supervision by a person licensed to perform in that category of mechanical work.

(3) No licensee shall allow more than three (3) apprentices per journeyman at a job site.

(4) No licensee shall fail to maintain a bond as provided for in OAC 158:50-5-3.

(5) No licensee shall fail to provide proof of financial responsibility to the Administrator as provided for in OAC 158:50-5-3-(b).

(6) No licensee shall be associated with and responsible for more than one mechanical firm.

(c) The following prohibited acts apply to persons issued a journeyman license:

(1) No licensee shall allow an apprentice under his or her direct supervision to perform mechanical work for which the journeyman is not licensed to perform.

(2) No licensee shall perform mechanical work except under the employment or supervision of a Mechanical Contractor.

(3) No licensee shall engage in the planning, contracting, or furnishing of labor and/or materials used for mechanical work.

158:50-11-3. License revocation or suspension

(a) The employment and use of unlicensed individuals performing mechanical work, the employment and use of individuals as apprentices without registration, or cheating may be considered justification to suspend or revoke said mechanical contractor's license based upon illegal use of license.

(b) The repeated violation of any of these rules or any provision of the Act, or the violation of a multiple of any of these rules or provision of the Act, may be considered justification to suspend or revoke the licensee's license or registration.

SUBCHAPTER 13. PROCEDURES OF THE VARIANCE AND APPEALS BOARD, PLAN REVIEW APPLICATIONS AND FEES, CODE VARIANCE APPLICATIONS AND FEE, CODE INTERPRETATION APPEALS

158:50-13-1. Plan review applications and fees

(a) Applications for the review of plans and specifications to ensure conformance with State adopted installation codes may be submitted in writing to the Oklahoma Construction Industries Board. An application and the appropriate filing fee shall accompany the construction plans and specifications submitted for plan review. Plan review ~~by the Division~~ shall only be conducted for the construction projects where a city or town has not adopted a trade installation code by ordinance that is more stringent than the standard of installation as described in OAC 158:50-1-4. Applications shall only be reviewed by the Administrator if submitted prior to the bid dates for the project. Plan review shall be completed within (14) fourteen days of the receipt of a complete application.

(b) The Board will advise the applicant through its liaison if the application is determined to be incomplete in order for the applicant to re-submit a complete plan review application.

(c) The plan review fee for:

(1) mechanical plans and specifications shall be $75.00;

(2) mechanical and plumbing or electrical plans and specifications shall be $150.00;

(3) mechanical, plumbing, and electrical plans and specifications shall be $200.00.

(4) If electrical, plumbing, and mechanical review is required, the fees will be equally distributed among the three trades.

(d) Plan review is not required but is a service provided by the Board to assist with code compliance.

[OAR Docket #15-726; filed 7-7-15]

TITLE 158. CONSTRUCTION INDUSTRIES BOARD
CHAPTER 60. INSPECTORS REGULATIONS

[OAR Docket #15-727]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 5. Categories and Classifications of Inspector Licenses, Qualifications for Inspector Licensure, License Requirements for Inspectors, Fees, Certification and Continuing Education for Inspectors, and Continuing Education Courses
158:60-5-2 [AMENDED]
158:60-5-2.1 [NEW]
158:60-5-2.2 [NEW]
158:60-5-2.3 [NEW]
158:60-5-5 [AMENDED]
AUTHORITY:
Construction Industries Board: 59 O.S. §§ 1000.4 and 1032.
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SUPERSEDED EMERGENCY ACTIONS:
n/a
INCORPORATIONS BY REFERENCE:
n/a

ANALYSIS:

The proposed amendments to 158:60-5-2 and 158:60-5-5 are cleanup in nature and correct spelling, grammar, and citation references. The new sections are for the purpose of clarifying that the provisions of OAC 158:1 related to the Post-Military Service Occupation, Education and Credentialing Act are applicable to applicants for an inspectors license or renewal of an inspectors license.

CONTACT PERSON:

Linda Ruckman, Board Secretary/Executive Assistant, 405-521-6550.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 11, 2015:

SUBCHAPTER 5. CATEGORIES AND CLASSIFICATIONS OF INSPECTOR LICENSES, QUALIFICATIONS FOR INSPECTOR LICENSURE, LICENSE REQUIREMENTS FOR INSPECTORS, FEES, CERTIFICATION AND CONTINUING EDUCATION FOR INSPECTORS, AND CONTINUING EDUCATION COURSES

158:60-5-2. Qualifications for inspector licensure

(a) Initial application must be made on the form provided by the Administrator and must be approved by the employing political subdivision or authority having jurisdiction ("AHJ").

(b) The proper fees must accompany any application, including the late fee if application for renewal is made after expiration of the initial license.

(c) The applicant must submit, as soon as is practicable after application for initial license is made, proof of certification by a national inspector certifying organization recognized by the Committee.

(d) Before an application for license renewal can be approved, the Board must receive proof of completion of the required C.E.U.'s.

(e) OAC 158:60-5-4 sets forth the licensing qualifications for the license categories and classifications provided in OAC 158:60-5-1. Additional certifications or exams may be recognized by approval of the Committee and the Construction Industries Board on a case by case basis. However, no person shall be required to meet the continuing education requirements for the licensing year the certification requirements of subsection ~~OAC 158:60-5-2~~(c) of this Section are met.

(f) A provisional license is issued to allow a person to work as an inspector even though all the license qualifications have not been met. This provisional license will provide the licensee with adequate time and motivation to become educated and meet all licensure requirements within two (2) years after being issued the provisional license. No person shall be issued more than one provisional license in any category. The initial fee for the provisional license shall be $35.00.

158:60-5-2.1. Acceptance of Military education, training and experience toward qualification for licensure examination

(a) **Licensure - post-military service.** See OAC 158:1-3-10 for provisions related to the application of substantially equivalent education, training, and experience completed as a member of the Armed Forces or Reserves of the United States, National Guard of any jurisdiction, the Military Reserves of any jurisdiction, or the Naval Militias of any jurisdiction toward satisfying the qualifications for examination and license issuance.

(b) **Military spouse applicant - equivalency.** See OAC 158:1-3-10 for provisions related to issuance of an equivalent license in an equivalent category for the spouse of an active-duty member of the Armed Forces or Reserves of the United States.

158:60-5-2.2. Expediting issuances of license to military spouse

See OAC 158:1-3-11 for provisions related the Board expediting the issuance of a license for spouses of certain members of the Armed Forces on active duty in this state.

158:60-5-2.3. Renewals for licensee - post-military service

See OAC 158:1-3-12 for provisions related to license renewal while a licensee holder is a member of the Armed Forces of the United States on active duty, and for provisions related to a licensee whose license expires while on active duty as a member of the National Guard or reserve component of the Armed Forces.

158:60-5-5. Continuing education

(a) **Continuing education requirements:**

(1) No license shall be renewed unless the licensee has completed at least six (6) hours of continuing education within twelve (12) months preceding the application for renewal.

(2) Credit will only be given for continuing education programs approved by the Committee.

(3) A licensee is exempt from the continuing education requirements of ~~these rules~~ this Chapter for one (1) year from the date he or she passed their current licensing exam.

(b) **Application procedures for continuing education course approval.** Any provider or instructor which desires to sponsor education to licensees in compliance with the continuing education requirements of OAC 158:60-5-4 shall file an application for approval on the form prescribed by the Committee, or its designee. The application shall include a list of the course instructors and their qualifications, an agenda detailing the material to be presented, the location of the training, the program objectives, and the number of credit hours of classroom and supervised instruction. Licensees shall not receive continuing education credit for attending classes that are not approved by the Committee. Within seven (7) days of the completion of the course, the provider or instructor shall

submit the original sign-in sheets for all sessions to the ~~Inspectors Examining~~Inspector Examiners Unit of the Construction Industries Board. The sign-in sheets shall include the signature and state inspector license number of each person in attendance. The provider or instructor shall verify the total number of continuing education hours completed by each attendee. All programs shall be presented as submitted unless changes have been approved. Changes to the program shall be submitted to the Committee, or its designee, within ten (10) days of the training session for review by the Committee. Failure to obtain approval of changes may result in loss of CEU approval.

(c) **Standards for continuing education.** The following standards will govern the approval of continuing education programs by the ~~Inspectors Examining~~Inspector Examiners Committee:

(1) The program provider shall submit evidence that the provider and instructional staff are qualified by reason of education, experience or training.

(2) All material and information presented shall pertain to the discipline in which the person is licensed.

(3) All courses must be of at least two (2) credit hours in length.

(4) The training location must be outside the regular work place or after hours.

(5) Correspondence or online course approval standards:

(A) Providers or instructors seeking to offer correspondence courses for continuing education shall submit a course curriculum and study material for review and approval by the Committee prior to the courses being offered as continuing education. Approved correspondence courses shall be required to comply with all requirements for other continuing education courses except for sign-in sheets. Providers shall provide a student with a document of completion which certifies completion of approved correspondence courses.

(B) Only licensees meeting one or more of the following requirements may receive CEU credit for taking a correspondence or online course;

(i) Any licensee residing outside of Oklahoma,

(ii) Any licensee that has an expired license which requires a continuing education course that is no longer available in the classroom,

(iii) Any licensee who is currently incarcerated, or

(iv) Any licensee who submits written proof to the Committee from a physician stating the medical reason that the licensee is unable to attend a continuing education class.

(6) Along with a course application, a video presentation may be submitted for course material and instructor approval by the Committee if the video presentation is closely related to the subject matter of the course and meets the following:

(A) All video presentations must be submitted in electronic format at least thirty (30) days in advance of the Committee meeting reviewing the course application, except for manufacturer's videos generally accepted in the industry covering accepted industry practices or standards. If the electronic format does not allow forwarding by email, then seven (7) copies of a portable storage format ~~is~~ are required.

(B) Video segments shall be no more than thirty (30) minutes, followed by a discussion and no more than fifty percent (50%) of the total course time.

(C) The required copies of each individual video presentation training segment must be submitted with the CEU class approval request for review and approval by the Committee of the course material and instructor. However, if the video is a manufacturer's video, the Committee is not required to approve of the instructor in the video as long as the video course material and video presentation is approved by the Committee.

(D) An approved instructor will be present during the viewing of any video and will monitor the class for questions. Prior to any video presentation, class participants shall be instructed to raise their hand if they have a question or comment during the video presentation. When a class participant has a question or comment during the video presentation, the instructor must be able to stop or pause the video to accommodate live interactive discussion.

(E) Audio and video equipment shall be arranged in advance or otherwise provided to assure that class participants are able to see and hear all portions of any video presentation. In the case of audio or video failure, the time of the video presentation may be presented by the approved instructor over subject matter previously approved for that instructor.

(d) **Approval Limitations.**

(1) The Committee's designee may approve additional course dates and locations after the course has been approved by Committee vote. Substantive change to course content must be brought before the Committee.

(2) Approval is rescinded upon the adoption of a different statewide code by OUBCC, and a new application showing updates of new code is necessary.

(e) **Complaint procedure**:

(1) A person, government, or private organization may submit a written complaint to the Committee, or its designee, charging a provider of continuing education with a violation of the rules, and specifying the grounds for the complaint.

(2) Complaints must be in writing and include contact information, and shall be filed on the proper complaint form prescribed by the Construction Industries Board, or its designee.

(3) The Committee may consider an unsigned or anonymous complaint for further investigation.

(4) Upon receipt of a signed complaint form, a copy shall be sent to the continuing education provider addressed in the complaint. The continuing education provider shall provide a written response within fifteen

(15) days. Upon receipt of the continuing education provider's written response, both complaint and response shall be considered by the Committee, or its designee, for appropriate action including dismissal of the complaint, further investigation, or a finding of violation of a statute or rule. The Committee, or its designee, shall notify both complainant and continuing education provider of the determination made by the Committee. Failure of the continuing education provider to respond will be considered as a violation of this rule.

(5) If a reasonable cause violation determination is made by the Committee, the Oklahoma Administrative Procedure Act shall be followed for all disciplinary proceedings undertaken including but not limited to all parts of this subsection.

[OAR Docket #15-727; filed 7-7-15]

TITLE 158. CONSTRUCTION INDUSTRIES BOARD
CHAPTER 70. HOME INSPECTION INDUSTRY REGULATIONS

[OAR Docket #15-728]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 1. General Provisions
158:70-1-2 [AMENDED]
158:70-1-3 [AMENDED]
Subchapter 3. Procedures of the Committee
158:70-3-1 [AMENDED]
Subchapter 9. Examination Applications, Examinations, Course Approval Requirements, Instructor Requirements, Continuing Education, Denied Application Appeal, Submission of Records, Substantial Compliance and Reciprocity
158:70-9-1.1 [NEW]
158:70-9-1.2 [NEW]
158:70-9-1.3 [NEW]
158:70-9-3 [AMENDED]
158:70-9-4 [AMENDED]
158:70-9-7 [AMENDED]
158:70-9-8 [AMENDED]
AUTHORITY:
Construction Industries Board; 59 O.S. §§ 858-627 and 1000.4.
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ANALYSIS:
Many of the proposed amendments are cleanup in nature and correct formatting, spelling, punctuation and grammar, correct or clarify references and citations, and delete obsolete language. The new sections, 158:70-9-1.1, 158:70-9-1.2 and 158:70-9-1-3, are for the purpose of clarifying that provisions of OAC 158:1 related to the Post-Military Service Occupation, Education and credentialing Act, are applicable to applicants for an initial home inspector license or renewal of a home inspector license.
CONTACT PERSON:
Linda Ruckman, Board Secretary/Executive Assistant, 405-521-6550.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 11, 2015:

SUBCHAPTER 1. GENERAL PROVISIONS

158:70-1-2. Definitions

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

"Act" means the Home Inspection Licensing Act, found at 59 O.S. § 858-621, *et seq*.

"Alarm systems" means warning devices, installed or free-standing, including but not limited to: carbon monoxide detectors, flue gas and other spillage detectors, security equipment, ejector pumps and smoke alarms.

"Applicant" means any person applying for an examination for a license or registration under the Act.

"Architectural service" means any practice involving the art and science of building design for construction of any structure or grouping of structures and the use of space within and surrounding the structures or the design for construction, including but not specifically limited to, schematic design, design development, preparation of construction contract documents, and administration of the construction contract.

"Board" means the Construction Industries Board.

"Certificates of course completion" means a document acceptable to the Committee which signifies satisfactory completion of course work and reflects the hours of credit earned.

"Cheating" means any unapproved deviation from any official instruction given before, during or after a home inspector license examination for the purpose of affecting or influencing the examination results or otherwise providing an undue advantage to any examinee.

"Classroom hour", **"credit hour"**, and **"clock hour"** are each equal to fifty (50) minutes out of each sixty (60) minute segment.

"Client" means a person with a direct material interest in the outcome of a home inspection who hires and compensates a home inspector for the performance of a home inspection.

"Committee" means the Committee of Home Inspector Examiners established by the Home Inspection Licensing Act, 59 O.S. § 858-624.

"Component" means a part of a system.

"Continuing education" and **"CE"** means education that is approved by the Committee to satisfy education requirements in order to renew licensure as a home inspector.

"Continuing education verification form" means a form acceptable to the Committee and completed by the course provider, that documents compliance with the continuing education requirements.

"Cosmetic" means a condition that affects appearance but not the manner in which the system or component functions.

"Decorative" means ornamental; not required for the operation of the essential systems and components of a home.

"Defect" means a condition, malfunction or problem, which is not decorative or cosmetic, that would have a materially adverse effect on the value of a system or component, or would impair the health or safety of the occupants or client.

"Describe" means to report a system or component by its type or other observed, significant characteristics to distinguish it from other systems or components.

"Dismantle" means to take apart or remove any component, device or piece of equipment that would not be taken apart or removed by a homeowner in the course of normal and routine homeowner maintenance.

"Engineering service" means any professional service or creative work requiring engineering education, training, and experience and the application of special knowledge of the mathematical, physical and engineering sciences to such professional service or creative work as consultation, investigation, evaluation, planning, design and supervision of construction for the purpose of assuring compliance with the specifications and design, in conjunction with structures, buildings, machines, equipment, works or processes.

"Further evaluation" means examination and analysis by a qualified professional, tradesman or service technician beyond that provided by the home inspection.

"Home" or **"residence"** means any dwelling, from one to four (1-4) units in design, intended principally for residential purposes by one (1) or more individuals.

"Home inspection" or **"inspection"***means a visual examination of any or all of the readily accessible physical real property and improvements to real property consisting of four or fewer dwelling units, including structural, lot drainage, roof, electrical, plumbing, heating and air conditioning and such other areas of concern as are specified in writing to determine if performance is as intended.* [59 O.S. § 858-622(3)]

"Home inspection license unit" means the staff and administrative support unit to the Committee of Home Inspector Examiners.

"Home inspection report" means a written opinion of the functional and physical condition of property written by the licensed home inspector pursuant to home inspection.

"Home Inspection Training" means prelicense education that is approved by the Committee to satisfy the education requirements to qualify an applicant to take a home inspector examination for licensure as a home inspector.

"Home inspector" means an individual licensed pursuant to the Home Inspection Licensing Act who, for compensation, conducts home inspections.

"Inspect" means to examine readily accessible systems and components of a building in accordance with these Standards of Practice, using normal operating controls and opening readily openable access panels.

"Installed" means attached such that removal requires tools.

"Instructor" means a person who presents course materials approved for qualifying education and continuing education credit hours that has the experience, training, and/or education in the course subject matter and has been approved by the Committee.

"Normal working order" means the system or component functions without defect for the primary purpose and manner for which it was designed.

"Normal operating controls" means devices such as thermostats, switches or valves intended to be operated by the homeowner.

"Practice of Architecture" means that practice defined in 59 O.S. § 46.3(2) and exempt from the Home Inspection Licensing Act under 59 O.S. § 858-623(B)~~(2)~~.

"Professional craftsman" means a person who can demonstrate by certification, education or experience, specialized skill in the construction or repair of homes, duplexes, apartment buildings or similar structures. Persons demonstrating specialized skill by experience alone must be able to show that they have been actively engaged in their profession, trade or craft for at least one (1) year prior to the performance of a single item inspection.

"Provider" means a person, corporation, professional association or its local affiliates, or any other entity, which is approved by the Committee and provides approved ~~qualifying and~~home inspection training or continuing education to home inspectors.

"Readily accessible" means available for visual inspection without requiring moving of personal property, dismantling, destructive measures, or any action which will likely involve risk to persons or property.

"Readily openable access panel" means a panel provided for homeowner inspection and maintenance that is within normal reach, can be removed by one person, and is not sealed in place.

"Reciprocity agreement" means an agreement whereby a home inspector who is licensed in other states with substantially similar or greater licensure requirements may be licensed in this State after payment of a fee for licensing by reciprocity.

"Recreational facilities" means spas, saunas, steam baths, swimming pools, exercise, entertainment, athletic, playground or other similar equipment and associated accessories.

"Report" means to communicate in writing.

"Roof drainage systems" means components used to carry water off a roof and away from a building.

"Shut down" means a state in which a system or component cannot be operated by normal operating controls.

"Solid fuel burning appliances" means a hearth and fire chamber or similar prepared place in which a fire may be built and which is built in conjunction with a chimney; or a

listed assembly of a fire chamber, its chimney and related factory-made parts designed for unit assembly without requiring field construction.

"Structural component" means a component that supports non-variable forces or weights (dead loads) and variable forces or weights (live loads).

"System" means a combination of interacting or interdependent components, assembled to carry out one or more functions.

"Technically exhaustive" means an investigation that involves dismantling, the extensive use of advanced techniques, measurements, instruments, testing, calculations, or other means.

"Under-floor crawl space" means the area within the confines of the foundation and between the ground and the underside of the floor.

"Unsafe" means a condition in a readily accessible, installed system or component which is judged to be a significant risk of personal injury during normal operation. The risk may be due to damage, deterioration, improper installation or a change in accepted residential construction standards.

"Wiring methods" means identification of electrical conductors or wires by their general type, such as "non-metallic sheathed cable" ("Romex"), "armored cable" ("bx") or "knob and tube", etc.

158:70-1-3. Standards of workmanship and practice

(a) **General requirements.**

(1) These standards of practice are the minimum levels of inspection practice required of inspectors for the components and systems identified in these rules. Home inspections performed in accordance with these standards of practice are intended to provide the client with information regarding the condition of the systems and components at the time of the inspection.

(2) The inspector shall be governed by the following general requirements:

(A) The inspector shall inspect all readily accessible installed systems and components listed in these standards of practice.

(B) The inspector shall complete a written inspection report in accordance with these standards and submit the report to the client within an agreed upon time frame.

(C) The inspector shall identify in any written report the client, the inspector who performed the inspection by name and license number, and the address of the inspected property.

(D) The inspector shall report:

(i) those systems and components inspected, which in the professional opinion of the inspector, are in normal working order;

(ii) those systems and components inspected which, in the professional opinion of the inspector, are not in normal working order and the reason, if not self-evident;

(iii) those systems and components inspected which, in the professional opinion of the inspector, could impair the safety of the occupants or client and the reason, if not self-evident;

(iv) the inspector's recommendations to have corrected, further evaluated or monitored any reported condition or defect; and,

(v) any systems and components designated for inspection in these standards, which were present at the time of the Home Inspection but were not inspected and the reason they were not inspected.

(3) These standards of practice are not intended to limit inspectors from:

(A) including other inspection services or inspecting other systems or components in addition to those required by these Standards;

(B) providing a higher level of inspection performance than required by these Standards;

(C) reporting other observations or conditions in addition to those required by these Standards; or,

(D) excluding systems and components from the inspection, if requested by the client in writing prior to the inspection and recorded on a signed form, such as the sample form "Sample Home Inspection Exclusion" at Appendix A of this Chapter.

(4) All home inspectors shall maintain a log or record of all home inspections performed, for a minimum period of five (5) years from the date of inspection. The log or record shall include the name of the client, the address of the property, and the date of the inspection. The home inspector shall maintain a copy of all home inspections completed within the past thirty-six (36) months. The log or record and inspection reports may be a hard file or an electronic file and shall be maintained at the home inspector's principal business address. The files shall be available for review upon request of an authorized representative of the Construction Industries Board.

(5) A home inspector who visually examines any portion of a residential unit that is part of a real property consisting of more than four (4) dwelling units, shall advise, in writing, the person requesting the visual examination that the visual examination being conducted by the home inspector is not governed by the Act and these rules.

(b) General limitations and exclusions.

(1) The inspector is not required to perform any action or make any determination not specifically stated in these Standards of Practice.

(2) Inspections performed in accordance with these standards are not required to be technically exhaustive, will not identify concealed conditions or latent defects and are only applicable to buildings with four or fewer dwelling units and their garages, both attached and detached, or carports.

(3) The inspector is not required to:

(A) perform any action or make any determination unless specifically stated in these Standards, except as may be required by lawful authority;

(B) determine the condition of systems or components which are not readily accessible;

(C) determine the remaining life of any system or component;
(D) determine the strength, adequacy, effectiveness, efficiency or insurability of any system or component;
(E) determine the causes of any condition or defect;
(F) determine the methods or materials for repair or correction of any defect;
(G) determine future conditions including, but not limited to, failure of systems and components;
(H) determine the suitability of the property for any specialized use or compliance with any regulatory requirements other than this Chapter;
(I) determine the presence of potentially hazardous plants or animals including, but not limited to, wood destroying organisms, mold, mildew, fungi, or diseases harmful to humans;
(J) determine the presence of any environmental hazards including, but not limited to, toxins, carcinogens, noise, and contaminants in soil, water, or air;
(K) determine the effectiveness of any system installed or methods utilized to control or remove suspected hazardous substances;
(L) determine the operating costs of any system or component;
(M) determine the acoustical properties of any system or component;
(N) perform engineering or architectural services or perform work in any trade or professional service other than home inspections;
(O) provide warranties or guarantees of any kind;
(P) operate any system or component which is shut down or otherwise inoperable or turn on any utility services;
(Q) operate any system or component which does not respond to normal operating controls, or shut-off valves;
(R) enter any area which will, in the opinion of the inspector, likely be dangerous to the inspector or other persons or may damage the property or its systems or components;
(S) enter the under-floor crawl spaces, attics or any area which, in the opinion of the inspector, is not readily accessible;
(T) inspect or determine the integrity of underground systems or components, including, but not limited to, main drain lines connecting to sewers, water lines, gas lines, electrical lines and underground storage tanks or other underground indications of their presence whether abandoned or active;
(U) inspect systems or components which are not installed, decorative items, systems or components located in areas that are not entered in accordance with these Standards, detached structures other than garages and carports, or common elements and areas in multi-unit housing, such as condominium properties or cooperative housing;
(V) move suspended ceiling tiles, personal property, furniture, equipment, plants, soil, snow, ice, or debris;
(W) dismantle any system or component, except as explicitly required by these rules; or,
(X) light any standing gas pilot light that does not have a spark-igniter, including but not limited to heating systems, water heaters and fireplaces; or,
(Y) determine the cost to correct any defect or provide cost estimates.

(4) The inspector shall not:
(A) offer or perform any act or service contrary to law;
(B) determine or report on the market value of the property or its marketability;
(C) report on the advisability of the purchase of the property; or,
(D) advertise or solicit to perform repair services on the inspected home for a period of one (1) year from the date of the inspection.

(c) **Structural system inspection requirements.**

(1) The inspector shall inspect:
(A) the foundation structure including slabs, piers, columns, posts, stem walls;
(B) the floor structure including beams, girders, joists, trusses, sill plates, blocking, bracing, drilling, notching and sub floors;
(C) the wall structure;
(D) the roof structure including rafters, trusses, sheathing, blocking, bracing, drilling, notching and fire stops;
(E) the ceiling structure including joists, trusses, blocking, bracing, drilling, notching and fire stops at ceiling penetrations; and,
(F) the ~~crawlspace~~ crawl space, basement and attic moisture conditions and indicators of harmful water penetration or condensation on structural components.

(2) The inspector is required to:
(A) describe the foundation, floor structure, roof structure, ceiling structure and wall structure;
(B) describe indicators of foundation or structural movement;
(C) enter the ~~crawlspace~~ crawl space and attic to determine the general condition of the components;
(D) report the method used to observe the ~~crawlspace~~ crawl space and attic if the inspector did not enter; and,
(E) probe structural components where deterioration is suspected or where clear indications of possible deterioration exist. Probing is not required where no deterioration is visible.

(3) The inspector is not required to:
(A) enter a ~~crawlspace~~ crawl space or any foundation area where the headroom is less than 18 inches, the access opening is less than 18 inches by 24 inches,

where the area is excessively wet, or where the inspector reasonably determines the conditions or materials are hazardous to the safety of the inspector;

(B) enter an attic space where head room is less than 30 inches, the access opening is less than 18 inches wide by 24 inches long, or where the inspector reasonably determines conditions or materials are hazardous to the safety of the inspector; or

(C) perform any invasive or destructive inspection.

(d) **Exterior inspection requirements.**

(1) The inspector shall inspect:

(A) the exterior wall covering, trim, flashings, caulking and protective coatings;

(B) all exterior doors and locking devices;

(C) overhead garage doors and garage door openers including safety mechanisms;

(D) storm windows and doors;

(E) attached decks/patios, balconies, stoops, steps, porches, and their associated railings;

(F) eaves, soffits and fascias;

(G) driveways and walkways leading to dwelling entrances;

(H) vegetation, grading, surface drainage, and retaining walls on the property when any of these are likely to have an adverse effect on the structure; and,

(I) the primary garage or carport.

(2) The inspector shall describe:

(A) the exterior wall covering;

(B) attached decks/patios and balconies;

(C) driveways; and,

(D) walkways.

(3) The inspector is not required to inspect:

(A) screening, shutters, awnings, and similar seasonal accessories;

(B) fences;

(C) geotechnical or hydrological conditions;

(D) recreational facilities;

(E) detached structures except the primary garage or carport;

(F) seawalls, break-walls, and docks; or,

(G) erosion control and earth stabilization measures.

(e) **Roof system inspection requirements.**

(1) The inspector shall inspect the:

(A) roof covering;

(B) roof drainage systems;

(C) flashings;

(D) skylights;

(E) chimneys;

(F) attic ventilation covers; and,

(G) other roof penetrations.

(2) The inspector shall describe the roof covering.

(3) The inspector shall report:

(A) the number of layers of roof covering;

(B) asphalt/composition shingles over wood shingles; and,

(C) the methods used to inspect the roof.

(4) The inspector is not required to inspect:

(A) the interiors of flues or chimneys;

(B) antennae; or,

(C) other installed accessories.

(f) **Plumbing system inspection requirements.**

(1) The inspector shall inspect:

(A) the interior water supply and distribution systems and components;

(B) the connections, flow and drainage of fixtures, and fittings at bathtubs, showers, sinks, toilets and the exterior hose bibs immediately adjacent to the structure;

(C) the clothes washing machine faucets and drains, unless a washing machine is in place;

(D) drain, waste and vent systems and components;

(E) the shower and bathtub enclosure surfaces;

(F) the water heating equipment, safety devices/valves, clearances, vent systems, flues and chimneys, gas supply piping, and gas shut off valves;

(G) the fuel storage and/or fuel distribution systems; and,

(H) the drainage sumps, sump pumps and related piping.

(2) The Inspector shall describe:

(A) water supply piping materials;

(B) drain, waste, and vent piping materials;

(C) the water heating equipment and the energy sources;

(D) the location of the main water shut-off, main fuel shut-off and the house sewer cleanout, and

(E) the presence of any shade of yellow corrugated stainless steel tubing ("CSST") flexible gas piping observed during the inspection in which the inspector is not required to identify concealed conditions, components not readily accessible, or any other item excepted from inspection pursuant to OAC 158:70-1-3. If any shade of yellow CSST flexible gas piping is observed, the home inspector shall notify the client, in writing, as follows: "Manufacturers believe the product is safer if properly bonded and grounded as required by the manufacturer's installation instructions. Proper bonding and grounding of the product can only be determined by a licensed electrical contractor."

(3) The inspector is not required to:

(A) inspect the interiors of flues or chimneys, wells, well pumps, or water storage related equipment, water conditioning systems, solar water heating systems, fire and lawn sprinkler systems, or private waste disposal systems;

(B) determine the quantity or quality of the water supply;

(C) determine whether water supply and waste disposal are public or private;

(D) operate safety valves, shut-off valves or washing machine hose connections, if installed appliances are present; or,

(E) use technically exhaustive techniques to determine the water tightness or integrity of shower pans or enclosures.

(g) **Electrical system inspection requirements.**

(1) Except as provided in OAC 158:70-1-3(b), the Inspector shall inspect:

(A) The service drop;

(B) the service entrance conductors, cables, and raceways;

(C) the service equipment and main disconnects;

(D) the service grounding;

(E) the interior components of service panels and sub panels by removing the panel dead front covers;

(F) the branch circuit conductors, over current protection devices and the compatibility of the conductors with the device;

(G) conduit, wiring and splicing including the basement, crawl space and attic;

(H) interior and exterior installed lighting fixtures, switches and ceiling fans;

(I) receptacles including polarity and grounding, ground fault circuit interrupters and arc fault circuit interrupters; and,

(J) exterior electrical components that provide service to a qualifying garage or carport.

(2) The Inspector shall describe:

(A) the amperage and voltage rating of the service;

(B) the wiring methods;

(C) the location of main disconnect(s), distribution panels and sub panels;

(D) the presence of solid conductor aluminum branch circuit wiring; and,

(E) the absence of smoke detectors.

(3) The inspector is not required to:

(A) inspect remote control devices unless the device is the only control device, alarm systems and components, low voltage wiring systems and components or ancillary wiring systems and components not a part of the primary electrical power distribution system;

(B) measure amperage, voltage/voltage drop, or impedance;

(C) insert any tool, probe or testing device inside panels or dismantle any electrical device or control other than to remove the dead front covers of the main and sub panels; or,

(D) test or operate any over current protection device except ground fault and arc fault circuit interrupters.

(h) **Heating, Air conditioning and distribution system inspection requirements.**

(1) Heating systems.

(A) The inspector shall open readily openable access panels.

(B) The inspector shall inspect:

(i) the installed heating equipment including backup heating devices;

(ii) controls;

(iii) heating operation;

(iv) burners and burner chambers in fuel fired heating systems;

(v) combustion air provisions;

(vi) gas supply piping and shut off valve;

(vii) electrical supply provisions and disconnects;

(viii) clearances;

(ix) vent systems, flues, and chimneys; and,

(x) bathroom supplemental heating appliances.

(C) The inspector shall describe the heating methods by their distinguishing characteristics and the energy sources.

(D) The inspector is not required to:

(i) inspect the interiors of flues or chimneys, humidifiers or dehumidifiers, solar space heating systems, and heat exchangers;

(ii) measure amperage of electric heating elements.

(2) Air conditioning systems.

(A) The inspector shall open readily openable access panels.

(B) The inspector shall inspect:

(i) installed cooling equipment;

(ii) cooling operation;

(iii) condensate disposal provisions;

(iv) the electrical supply provisions and disconnect; and,

(v) the refrigerant lines.

(C) The inspector shall describe the cooling methods by their distinguishing characteristics and the energy sources.

(D) The inspector is not required to:

(i) verify sizing or component matching; or,

(ii) operate equipment when outdoor temperatures may cause damage to the equipment.

(3) Heat and air conditioning distribution systems.

(A) The inspector shall inspect:

(i) plenums and ducts with associated supports, insulation, supply registers and return grills;

(ii) radiators and piping;

(iii) filters; and,

(iv) main air handlers fans and blowers.

(B) The inspector shall describe the type of conditioned air distribution system.

(C) The inspector is not required to:

(i) inspect electronic air filters, heat reclamation equipment or dampers;

(ii) determine duct leakage or calculate duct sizing; or,

(iii) determine the uniformity, adequacy, or distribution balance of the heat or cooling supply to habitable rooms.

(i) **Interior inspection requirements.**

(1) The inspector shall inspect:

(A) walls, ceilings and floors of the dwelling and garage;

(B) steps, stairways, balconies and railings;
(C) doors and windows including operation, glazing and thermal pane seals;
(D) installed cabinets and countertops; and,
(E) indicators of harmful water penetration or condensation on interior and structural components.
(2) The inspector shall describe the walls, ceilings and floors.
(3) The inspector is not required to inspect:
(A) paint, wallpaper, and other finish treatments;
(B) carpeting and other floor coverings;
(C) window treatments;
(D) the operation of interior door locks, latches and devices; or,
(E) recreational facilities.

(j) Insulation and ventilation inspection requirements.
(1) The inspector shall inspect:
(A) insulation and vapor retarders/barriers in unfinished spaces;
(B) ventilation of attics and foundation areas;
(C) mechanical ventilation systems; and,
(D) the clothes dryer exhaust system.
(2) The inspector shall describe:
(A) the insulation and vapor retarders or barriers in unfinished spaces; and,
(B) the absence of insulation in unfinished spaces at conditioned surfaces.
(3) The inspector is not required to:
(A) disturb insulation or vapor retarders or barriers;
(B) operate powered attic vents; or,
(C) determine indoor air quality.

(k) **Appliance inspection requirements.**
(1) The inspector shall inspect the:
(A) food waste disposal;
(B) range/stove, regardless of whether it is an installed or free standing appliance;
(C) cook top;
(D) oven(s);
(E) dishwasher;
(F) ventilation equipment or range hoods;
(G) installed microwave;
(H) trash compactor; and,
(I) gas appliance connectors and shut off valves.
(2) The inspector shall describe the range/stove, cook top and oven(s) by the energy source.
(3) The inspector is not required to:
(A) operate appliances in all modes or self-cleaning cycles; or,
(B) inspect clocks, timers, thermostats or household appliances not listed in these standards.

(l) **Fireplaces and solid fuel burning appliances inspection requirements.**
(1) The inspector shall inspect the:
(A) hearth and hearth extension;
(B) damper;
(C) gas supply; and,
(D) the firebox, vent systems, flues and chimneys.
(2) The inspector shall describe:
(A) the fireplaces;
(B) solid fuel burning appliances; and,
(C) chimneys.
(3) The inspector is not required to:
(A) inspect the interiors of flues or chimneys, the fire screens and doors, the seals and gaskets, the automatic fuel feed devices, the mantels and fireplace surrounds, the combustion make-up air devices, the heat distribution assists whether gravity controlled or fan assisted or free standing solid fuel burning appliances;
(B) ignite or extinguish fires;
(C) determine draft characteristics; and,
(D) move fireplace inserts, stoves or firebox contents.

SUBCHAPTER 3. PROCEDURES OF THE COMMITTEE

158:70-3-1. Procedures of the Committee

(a) Committee meetings are generally, and unless otherwise stated by the Committee, held at the offices of the Construction Industries Board at 2401 N.W. 23rd Street, Suite 2F, Oklahoma City, Oklahoma 73107. The Committee shall meet as often as is necessary, but at least once each quarter. Meetings of the Committee will comply with the Oklahoma Open Meetings Act.

(b) The Committee shall provide oversight to the overall licensure examination process; shall set minimum standards for certifying qualified applicants; may write examinations; may recommend regulations to the Administrator and to the Board; and, shall act as advisor to the Administrator on home inspection licensing and standards enforcement matters.

(c) ~~The only formal procedure available to the public is to apply for a home inspection license.~~ Application for a home inspection license shall be accomplished by filling out an application for examination on a form provided by the Committee.

(d) The public may communicate with the Committee, in person or by mail, through the Board. The Board will make available all forms and instructions used by the Committee, rules, and all other written statements of policy or interpretations, all final orders, decisions and opinions. Copies of same may be provided in accordance with OAC 158:1-3-5.

SUBCHAPTER 9. EXAMINATION APPLICATIONS, EXAMINATIONS, COURSE APPROVAL REQUIREMENTS, INSTRUCTOR REQUIREMENTS, CONTINUING EDUCATION, DENIED APPLICATION APPEAL, SUBMISSION OF RECORDS, SUBSTANTIAL COMPLIANCE AND RECIPROCITY

158:70-9-1.1. Acceptance of Military education, training and experience toward qualification for licensure examination

(a) **Licensure - post-military service.** See OAC 158:1-3-10 for provisions related to the application of substantially equivalent education, training, and experience completed as a member of the Armed Forces or Reserves of the United States, National Guard of any jurisdiction, the Military Reserves of any jurisdiction, or the Naval Militias of any jurisdiction toward satisfying the qualifications for examination and license issuance.

(b) **Military spouse applicant - equivalency.** See OAC 158:1-3-10 for provisions related to issuance of an equivalent license in an equivalent category for the spouse of an active-duty member of the Armed Forces or Reserves of the United States.

158:70-9-1.2. Expediting issuances of license to military spouse

See OAC 158:1-3-11 for provisions related the Board expediting the issuance of a license for spouses of certain members of the Armed Forces on active duty in this state.

158:70-9-1.3. Renewals for licensee - post-military service

See OAC 158:1-3-12 for provisions related to license renewal while a licensee holder is a member of the Armed Forces of the United States on active duty, and for provisions related to a licensee whose license expires while on active duty as a member of the National Guard or reserve component of the Armed Forces.

158:70-9-3. Course approval requirements

(a) Any person or entity seeking to conduct an approved course for home inspection training or continuing education credits shall make application and submit documents, statements and forms as may reasonably be required by the Committee in accordance with OAC 158:70-5-2.

(b) Applications shall include the following information:

(1) Name and address of the provider;

(2) Contact person and his or her address, telephone number and fax number;

(3) The location of the courses or programs;

(4) The number and type of education credit hours requested for each course;

(5) Topic outlines, which list the summarized topics, covered in each course and upon request a copy of any course materials;

(6) If a prior approved course has substantially changed, a summarization of these records;

(7) The names and qualifications of each instructor who is qualified in accordance with OAC 158:70-9-4;

(8) Information demonstrating the proposed home inspection training program meets the education standards for licensing; and,

(9) Information demonstrating the proposed continuing education course meets the standard provided in OAC ~~158:70-9-5 (b)~~ 158:70-9-5(b).

(c) The Board may automatically accept without further review, courses pre-approved by the Committee.

(d) The Committee may withhold or withdraw approval of any provider for violation of or non-compliance with any provision of this section.

(e) No person or entity sponsoring or conducting a course shall advertise that it is endorsed, recommended, or accredited by the Committee. All advertising must include the course ID number and the number of hours of CE credit approved by the Committee, except for advertising that refers or links to a website that displays the required information including the course ID in the website material that advertises or refers to the home inspection class.

(f) The Committee may decline to renew, or revoke the approval of any qualifying course or any instructor or entity previously approved to conduct a home inspection training course upon a showing or demonstration that the course, instructor or entity has substantially failed to adequately prepare its attendees or participants to pass the national Home Inspection Examination or similar qualifying examination.

(g) Each course is to be submitted on a separate application for each date, or dates, that constitute a single course.

(h) Applications shall be resubmitted annually, from date of approval, for review and approval.

158:70-9-4. Instructor requirements

(a) Instructor qualifications. An instructor should have one of the following qualifications:

(1) Three (3) years of recent experience in the subject matter being taught; or

(2) A degree related to the subject area being taught; or

(3) Two (2) years of recent experience in the subject area being taught and twelve (12) hours of college credit and/or vocational technical school ~~technical~~ credit hours in the subject being taught; or

(4) Other educational, teaching, or professional qualifications determined by the Committee which constitute an equivalent to one or more of the qualifications in the previously stated sub-paragraphs (1), (2), and (3) of this paragraph.

(b) Instructor renewal. In order to maintain approved status, an instructor must furnish evidence that the instructor has taught a Committee approved course, or any other CE course the Committee determines to be equivalent, within a required thirty-six (36) month period.

(c) Re-application. Any instructor not meeting the requirements of this subsection will be required to re-apply as an original instructor applicant.

158:70-9-7. Submission of records

(a) An entity conducting an ~~offering~~ approved CE course shall, within five (5) working days of the completion thereof, submit to the Committee on a form approved by the Committee, a list of the names and license numbers or social security

numbers of the licensees who successfully completed the said ~~offering~~ course. Each licensee successfully completing an ~~offering~~ approved CE course shall be furnished a certificate certifying completion by the CE provider.

(b) Providers shall maintain course records for at least five (5) years. The Committee may order an examination of the records for good cause shown.

158:70-9-8. Substantial compliance and reciprocity

(a) In addition to accepting courses approved as described in this Subchapter, qualifying and continuing education credits may be granted to an individual in such case that said individual supplies acceptable documentation showing that the ~~offering~~ course meets applicable Committee requirements for the category of credit applied for, including proof that said individual attended and successfully completed the ~~offering~~ course.

(b) If a non-resident licensee satisfies a continuing education requirement in another state for license renewal, the Committee will exempt the non-resident licensee from the continuing education requirement in ~~the~~ this state. In order to qualify for the exemption, the non-resident licensee must file with the license renewal of this state a certificate from the state in which the continuing education was satisfied stating that the non-resident licensee had completed the continuing education requirement for license renewal in that state. The certificate from the state verifying the non-resident's compliance with continuing education in the other state must be received by the Committee within sixty (60) days of issuance by the other state and must be received in conjunction with license renewal.

[OAR Docket #15-728; filed 7-7-15]

TITLE 158. CONSTRUCTION INDUSTRIES BOARD
CHAPTER 85. ROOFING CONTRACTOR REGISTRATION REGULATIONS

[OAR Docket #15-729]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Chapter 85. Roofing Contractor Registration Regulations [NEW]
AUTHORITY:
Construction Industries Board; §§ 1000.4, 1151.2a, and 1151.4
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
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Approved by Governor's declaration on June 8, 2015
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June 8, 2015
EFFECTIVE:
September 11, 2015
SUPERSEDED EMERGENCY ACTIONS:
Superseded rules:
Chapter 85. Roofing Contractor Registration Regulations [NEW]
Gubernatorial Approval:
December 17, 2014
Register publication:
32 Ok Reg 435
Docket number:
15-19
INCORPORATIONS BY REFERENCE:
n/a
ANALYSIS:
The proposed rules are for the purpose of establishing regulations required for administering the Roofing Contractor Registration Act ("the Act") as amended by House Bill 3184 which became effective November 1, 2014. The amendments to the Act include the creation of the Committee of Roofing Examiners, the Roofing Hearing Board, and the Oklahoma State Roofing Installation Code Variance and Appeals Board; authority for the Construction Industries Board to enforce the Act; requirement of an examination endorsement and continuing education for commercial roofing registrations; change in expiration date from June 30 to birth month for roofing registrations, etc.
CONTACT PERSON:
Linda Ruckman, Board Secretary/Executive Assistant, 405-521-6550.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 11, 2015:

SUBCHAPTER 1. GENERAL PROVISIONS

158:85-1-1. Purpose

The rules in this Chapter implement the Roofing Contractor Registration Act, Title 59 O.S. § 1151, *et seq.*, *as amended*.

158:85-1-2. Definitions

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

"Act" means Roofing Contractor Registration Act as found at 59 O.S. § 1151, *et seq.*

"Administrator" means the Administrator of the Board as described in the Construction Industries Board Act found at 59 O.S. § 1000.1, *et seq.*

"Advertise" means any written publication, dissemination, solicitation, contract, bid, promotional item, or circulation which is intended to directly or indirectly induce any person to contract for roofing construction services with the advertiser, including, but not limited to, business cards, telephone directory display advertisements, vehicle signage, radio, television and electronic solicitations.

"Applicant" means the qualifying party, or if no qualifying party, any person applying under the Roofing Contractor Registration Act for a roofing contractor registration to be issued by the Construction Industries Board. Applicant also

means any person making application under the Act for endorsement, examination, roofing code variance, or continuing education program and instructor approval.

"Board" means the Oklahoma Construction Industries Board.

"Bonds and Insurance Unit" means the staff unit that processes bonds and insurance for all trades, under the direction of the Construction Industries Board.

"Business entity" means a person as defined in this Subchapter.

"Certificate of insurance" means a general liability policy in the amounts specified in 59 O.S. Section 1151.5(C)(4) for roofing contractor work for which the general liability policy includes the registration number, if any, the roofing firm name, and that the policy specifically covers roofing work, with the Construction Industries Board added as a certificate holder to be immediately provided notice in the event such liability policy is cancelled for any reason or expires for non-payment of premiums.

"Commercial roofing contractor work" means work done on roofing systems or structures as defined as commercial in the International Building Code, as adopted by the Oklahoma Uniform Building Code Commission; except it does not mean buildings used for commercial purposes having equivalent or substantially the same roofing requirements as a "residence" defined herein, including but not limited to business offices converted from a structure that formerly was a residence.

"Committee" means the Committee of Roofing Examiners.

"Credit Hour" or **"Hour"** means at least fifty (50) minutes of classroom instruction with a ten (10) minute break.

"Excluded from registration" means those for whom no registration or endorsement is required pursuant to 59 O.S. § 1151.2(18)(a) through (d) and 59 O.S. §1151.9(B).

"Handyman" means, a person who is receiving compensation from the owner in an amount less than $10,000.00 or a repair area covering less than 25% of the roofing surface and who is performing roofing work in conjunction with other repairs to the property and who does not perform more than two roofing repair jobs per calendar year. Any roofing repair jobs performed by a handyman in excess of two per calendar year are not excluded from the provisions of the Act. Roofing repair jobs estimated at $10,000.00 or more or repair of an area covering 25% or more of the roofing surface and paid out at less than $10,000.00 are not excluded.

"Hearing Board" means the Roofing Hearing Board created by the Act.

"Homeowner" means one who owns and resides in, or who resides in, or who contracts for the purchase, construction, remodeling or repairing of a residence.

"ICC" means the International Code Council.

"Nonresident contractor" means any contractor who has not established and maintained a place of business as a roofing contractor in this state within the preceding year, or who claims residency in another state, or who has not submitted an income tax return as an Oklahoma resident within the preceding year.

"Oklahoma Uniform Building Code Commission" or **"OUBCC"** means the state agency created under 59 O.S. § 1000.20, *et seq*., and authorized to adopt all building codes and standards for residential and commercial construction to be used as minimum standards by all entities within this State.

"Owner" means the person who owns the property or is a lessee of the property.

"Person" means any natural person, firm, limited or general partnership, corporation, association, limited liability company, trust, association, other legal entity and any organization capable of conducting business, or any combination thereof acting as a unit, unless the intent to give a more limited meaning is disclosed clearly by the Roofing Contractor Registration Act.

"Prime contractor" means a general contractor, commercial contractor, or other contractor who contracts directly with the owner for construction trade work in multiple trade areas.

"Project manager" means one who manages construction projects consisting of work involving multiple trades.

"Public contract" means a contract with the State of Oklahoma, its political subdivisions, or any board, commission, or department thereof, or with any board of county commissioners, or with any city council, school board, or with any state or municipal agency, or with any other public board, body, commission, or agency authorized to award contracts for the construction or reconstruction of public works and includes subcontracts undertaken to perform works covered by the original contract or any part thereof.

"Qualifying party" means a natural person who is an officer or owner of the corporation, a member of the limited liability company, or a general partner of the limited liability partnership, and who is actively engaged in the work undertaken by the registrant for which a registration is required pursuant to the Roofing Contractor Registration Act who meets the experience and ability requirements for registration on behalf of the registrant.

"Reciprocity agreement" means a written agreement between states whereby a person holding a roofing registration, endorsement or license in another state with substantially similar or greater requirements than Oklahoma may be registered and endorsed for commercial roofing work, if any, in this State after application and payment of a fee for registration and endorsement by reciprocity.

"Registrar" means the Construction Industries Board or any person designated by the Board to administer the provisions of the Roofing Contractor Registration Act.

"Registration" means the process of applying for an initial or renewal registration which upon approval is exhibited by a registration number and card issued pursuant to the Roofing Contractor Registration Act.

"Registration number" means the roofing registration number issued by the registrar to the registrant's qualifying party.

"Registrant" means a holder of a registration issued pursuant to the Roofing Contractor Registration Act.

"Residence" means a single structure for residential occupancy or use which is a detached one- to four-family

dwelling or a multiple single-family dwelling (townhouse) not more than three (3) stories/floors above grade plane in height with a separate means of egress, and which is intended for use as a primary habitation, and any appurtenances thereto shall be in compliance with the International Residential Code, as adopted by the Oklahoma Uniform Building Code Commission.

"Residential roofing contractor work" means work done on roofing systems as defined in the International Residential Code, as adopted by the Oklahoma Uniform Building Code Commission, or as defined as a "residence" herein; except for buildings used for commercial purposes having equivalent or substantially the same roofing requirements as a "residence" defined herein, including but not limited to business offices converted from a structure that formerly was a residence

"Roofing contractor" means any person, including a subcontractor and nonresident contractor, engaged in the business of commercial or residential roofing contractor work as that term is defined and exclusions listed in 59 O.S. § 1151.2 and this Chapter.

"Roofing contractor work" means the installation, fabrication or assembly of equipment or systems included in commercial or residential roofing systems as defined in the International Building Code and the International Residential Code, as adopted by the Oklahoma Uniform Building Code Commission, and roofing construction work including, but not limited to, installation, renovation, remodeling, reroofing, reconstructing, repair, maintenance, improvement, alteration, and waterproofing, unless specifically excluded in the Roofing Contractor Registration Act.

"Roofing firm" means any person, as defined by the Act, offering to engage or engaging in roofing contractor work.

"Roofing Hearing Board" means the Hearing Board enacted pursuant to 59 O.S. § 1151.28 which shall consist of a designee of the Construction Industries Board, as chair, and the members of the Committee of Roofing Examiners acting in compliance with the provisions of the Construction Industries Board Act, rules and Article II of the Administrative Procedures Act

"Roofing Unit" means the staff and administrative support unit to the Committee of Roofing Examiners and the Roofing Hearing Board.

"Subcontractor" means one who contracts with a prime contractor, general contractor, residential contractor, project manager, property manager, another subcontractor, or another entity for roofing contractor work.

"Variance" means the use of an alternative material or method of construction from that prescribed in the International Building Code or the International Residential Code or other approved documents by the Oklahoma Uniform Building Code Commission, described as the standard of installation at OAC 158:85-1-4, for use at a particular location or project specified in the variance application.

"Variance and Appeals Board" means the Oklahoma State Roofing Installation Code Variance and Appeals Board enacted pursuant to 59 O.S. § 1151.29.

158:85-1-3. Requirement to be registered and endorsed

No person, on his or her own behalf or on behalf of a roofing firm, shall engage or offer to engage in, by advertisement or otherwise, any roofing work who does not possess a valid and appropriate registration and endorsement, if required, from the Construction Industries Board unless otherwise excluded by law. All registrations are nontransferable.

158:85-1-4. Standard of installation

The standards of installation are the provisions of the building codes - the International Residential Code ("IRC") and the International Building Code ("IBC"), as revised and adopted by the Oklahoma Uniform Building Code Commission pursuant to the Oklahoma Uniform Building Code Commission Act.

SUBCHAPTER 2. REGISTRATION AND ENDORSEMENT APPLICATION AND RENEWAL REQUIREMENTS, PROCEDURES, FEES, DURATION, MILITARY AND RECIPROCITY

158:85-2-1. Registration, insurance, and workers compensation coverage

(a) **Registration Requirement.**

(1) All persons performing roofing contractor work are required to apply and obtain from the Board a roofing registration number before advertising or engaging in the performance of roofing contractor work unless excluded under the Act. All persons performing commercial roofing contractor work as defined in this Chapter are required to apply and obtain from the Board a commercial endorsement to a roofing registration before advertising or engaging in the performance of commercial roofing contractor work unless excluded under the Act. The commercial endorsement is in addition to the registration. Roofing contractors who do not perform commercial roofing contractor work and only perform residential roofing contractor work do not need to obtain a commercial endorsement.

(2) Each roofing firm must have a person who is currently registered as a roofing contractor, and employed, full time, and who shall give full time to the supervision and control of operations necessary to ensure full compliance with the provisions of the Act and these Rules. Such contractor shall be an officer, partner or owner of that roofing firm, and shall be responsible for the work, registered, and endorsed if applicable, on behalf of that roofing firm.

(3) Applications for registration and commercial endorsement for any commercial roofing work shall be made to the Construction Industries Board in writing and under oath on forms approved and provided by the Board and shall be accompanied by the proper fee. If the registrar deems it appropriate or necessary, the registrar may also require other information to be included on the application form to assist the registrar in registering the person as a contractor.

(b) **Insurance.**

(1) Prior to engaging in roofing work, each person on an initial application process, and all roofing contractors submitting renewal applications, shall provide proof of financial responsibility by providing a certificate of insurance which indicates a minimum general liability policy of $500,000.00 for residential roofing contractor work and $1,000,000.00 for endorsement of commercial roofing contractor work. Proof that the general liability policy specifically includes coverage of roofing work must be provided by the insurance policy carrier to the registrar.

(2) Any insurance company issuing a liability policy to a roofing contractor pursuant to the provisions of the Roofing Contractor Registration Act shall include the registration number, if any, the roofing firm name, and sufficient information to demonstrate the policy specifically covers roofing work; shall add the Construction Industries Board as a certificate holder; and shall be required to notify the Construction Industries Board in the event such liability policy is cancelled for any reason or expires for non-payment of premiums.

(c) **Workers Compensation.** The roofing contractor shall submit proof that the contractor has secured workers' compensation coverage satisfactory under the Workers' Compensation Act, or an affidavit of exemption or self-insurance as authorized pursuant to the Workers' Compensation Act which shall be maintained during all times of engaging in and performing roofing contractor work. Any insurance company issuing a workers' compensation coverage policy to a roofing contractor pursuant to the provisions of the Roofing Contractor Registration Act shall include the registration number, if any, the roofing firm name, and sufficient information to demonstrate the policy specifically covers roofing work, add the Construction Industries Board as a certificate holder and shall be required to notify the Construction Industries Board in the event such liability policy is cancelled for any reason or expires for non-payment of premiums.

(d) **Failure to Provide.** Any person failing to provide certificate of insurance or worker's compensation information at the time of initial application may be refused registration or endorsement for incomplete information, and all current registrations and endorsements under the Roofing Contractor Registration Act shall be placed not in good standing on the date of the policy cancellation. The registrar must receive proof of insurance and workers compensation prior to restoring the registration and endorsement. Any registrations and endorsements remaining in not good standing may be suspended or revoked according to the Act.

158:85-2-2. Endorsement required for commercial roofing work

(a) **Application.** Application for roofing endorsement shall be done by filling out an application for examination on a form provided by the Roofing Unit. The requirements for commercial endorsement are the same as for roofing registration with additional requirements as listed in this Subchapter.

(b) **Business entity.** The qualifying party applying for a commercial roofer endorsement must provide information on the legal business entity, including but not limited to the articles, organizational agreements or documents establishing the legal business entity, including a list of the officers, members, managers, partners, or other managing agents of the legal entity.

(c) **Insurance.**

(1) Each person on initial application and upon receiving a contractor's registration endorsement, prior to engaging in commercial roofing work, and all commercial roofing contractors submitting endorsement renewal applications, shall provide proof of financial responsibility by providing a certificate of insurance which indicates a minimum general liability policy of $1,000,000.00 for endorsement of commercial roofing contractor work.

(2) Any insurance company issuing a liability policy to a roofing contractor pursuant to the provisions of the Roofing Contractor Registration Act shall add the Construction Industries Board as a certificate holder and shall be required to notify the Construction Industries Board in the event such liability policy is cancelled for any reason or expires for non-payment of premiums.

(d) **Examination.** In order to obtain a commercial endorsement on a roofing registration for those doing commercial roofing contractor work, the qualifying party shall have successfully passed the appropriate examination. Any applicant initially failing to pass the examination shall not be permitted to take another examination for a period of thirty (30) days. Any applicant subsequently failing to pass the examination shall not be permitted to take another examination for a period of ninety (90) days. However, in a declared state of emergency, the examination shall be available as often as possible as determined by the registrar.

(e) **Continuing Education.** No commercial endorsement shall be renewed unless the qualifying party has completed the required hours of continuing education, as determined and approved by the Committee of Roofing Examiners and the Construction Industries Board. Continuing education requirements are at Subchapter 9.

158:85-2-3. Application procedure and information required

(a) To obtain a roofing contractor registration under the Roofing Contractor Registration Act, an applicant who is a qualifying party of eighteen (18) years of age or older shall submit, on forms the registrar prescribes, the following:

(1) An application under oath and notarized containing a statement:

(A) of the applicant's qualifying party's experience and qualifications, if any, as a roofing contractor,

(B) that the qualifying party desires the issuance of a roofing contractor registration certificate,

(C) that the qualifying party has read the Roofing Contractor Registration Act and will comply with the provisions of the Roofing Contractor Registration Act and rules,

(D) that the qualifying party will comply with state laws and local ordinances relating to standards and permits,

(E) that the qualifying party has or has not been registered or licensed as a roofing contractor in another state and whether any disciplinary action has been taken against such registration or license and whether it is currently in good standing, and

(F) that the nonresident qualifying party appoints the Secretary of State as legal service agent for all lawful process to be served upon the applicant for work performed in this state or as otherwise provided in the Roofing Contractor Registration Act; and

(G) that the information contained on the application form is true and correct to the best of the qualifying party's knowledge.

(b) The qualifying party shall provide the following:

(1) Full legal name;

(2) Mailing address, and physical address, if different, of the roofing firm business and personal address - unless listing physical address of registered service agent other than the Secretary of State in lieu of personal address;

(3) Business and personal telephone numbers;

(4) Email address;

(5) Age;

(6) Disclosure of State of residence;

(7) Disclosure of whether registered contractor is a resident or non-resident;

(8) Name address and telephone number of any business entity used to engage in business as a roofing contractor;

(9) Name and address of legal registered service agent in the State of Oklahoma for any business entity listed;

(10) Disclosure of all felony offenses of which applicant has been charged in this or any state;

(11) Disclosure of any citations, fines, suspensions, revocations or other disciplinary actions taken against applicant as a roofing contractor in Oklahoma or any other state;

(12) Proof of lawful presence in the United States;

(13) Valid certificate of general liability insurance as required by the Act;

(14) Proof of adequate workers compensation insurance coverage;

(15) Certificate of good standing from the Oklahoma Secretary of State if applicant is registering a domestic business entity;

(16) Information on any other person who will be authorized to act as the business entity;

(17) Additional information required by the registrar.

(c) Each person on initial application and upon receiving a contractor's registration, prior to engaging in roofing work, and all roofing contractors submitting renewal applications, shall provide proof of compliance with insurance requirements as set forth in this Subchapter and must show proof of compliance with the Nonresident Contracting Act, 68 O.S. §§ 1701 through 1707, by providing on initial and annual renewal applications the following:

(1) Address of business;

(2) Phone number of business;

(3) Number of employees;

(4) Federal Tax Number;

(5) Employer's Social Security Numbers;

(6) Employer's account number assigned by the Oklahoma Employment Security Commission;

(7) Nonresident contractor bond on file with the Oklahoma Tax Commission, if applicable; and

(8) Proof of workers' compensation policy in compliance with the provisions of Title 85 of the Oklahoma Statutes.

158:85-2-4. Renewal of registration and endorsement

(a) Applications for renewal of a registration and commercial endorsement shall be made to the Construction Industries Board in writing and under oath on forms approved and provided by the Board and shall be accompanied by the proper fee.

(b) Any registration issued may be renewed by submitting the completed registration form, requirements and fee for the next year before the birth month expiration date.

(c) Any endorsement issued may be renewed by submitting the completed registration and endorsement form, requirements and fee for the next year before the birth month expiration date, along with providing any applicable continuing education and insurance requirements. Before any commercial endorsement may be renewed, all applicable continuing education requirements must be met. Any endorsement which remains expired for longer than two (2) years shall not be renewed. The former endorsement holder shall be required to make an initial application and retest to obtain the endorsement.

(d) A registration or endorsement renewed under the provision of this Chapter is effective when notice of such renewal is issued by the Construction Industries Board.

158:85-2-5. Fees

(a) The annual registration and commercial endorsement fee and application fee schedule shall be as follows:

(1) initial roofing contractor registration - $75.00

(2) initial roofing contractor registration by reciprocity - $75.00

(3) initial roofing endorsement by reciprocity - $200.00

(4) renewal of roofing contractor registration - $75.00

(5) application for commercial endorsement on roofing contractor registration - $30.00

(6) initial commercial endorsement on roofing contractor registration - $200.00

(7) initial commercial endorsement and registration by reciprocity - $275.00

(8) renewal of commercial endorsement on roofing contractor registration - $100.00

(9) renewal of commercial endorsement and registration by reciprocity - $175.00

(10) renewal roofing contractor registration late fee if overdue 31 to 60 days - $100.00

(11) renewal roofing contractor registration late fee for suspended registration - $150.00

(12) renewal roofing contractor registration reinstatement fee for revoked registration - $300.00

(b) In addition to a registration being categorized as not in good standing or suspended for nonrenewal, pursuant to 59 O.S. § 1151.12(D), registrants have 31 to 60 days after the expiration of a roofing contractor registration to renew, but a late registration renewal fee of $100.00 is effective as provided in the Act and as listed above.

(c) Pursuant to 59 O.S. § 1151.12(E), a roofing contractor desiring to renew a registration certificate that has been suspended for any cause provided in the Act shall be assessed a fee equal to twice the amount of the fee established by 59 O.S. § 1151.8(D) as listed above. Further, for any registration that has been revoked for any cause provided in the Act, a reinstatement fee in addition to the registration renewal fee is assessed, both of which are listed above.

(d) Commercial endorsement of a registration requires an examination. Examination fees are separate fees and are paid directly to the testing provider.

(1) **Payable when.** All registration and endorsement fees shall be paid at the time that the application is filed.

(2) **Initial Registration and Endorsement Fee.** The fee for registration as a Registered Roofing Contractor with commercial endorsement shall be Two Hundred Seventy-Five Dollars ($275.00)

(3) **Renewal Registration and Endorsement Fee.** The fee for a renewal registration as a Registered Roofing Contractor with commercial endorsement shall be One Hundred Seventy-Five Dollars ($175.00)

(4) **Change of registry information fee.** The fee for the change of information of a registered roofing contractor in the Oklahoma Registry of Roofing Contractors shall be Twenty Five Dollars ($25.00). This fee shall be applicable when an applicant or registrant submits a change of information notification form required by 59 O.S. § 1151.11.

158:85-2-6. Duration of registration and endorsement

(a) All registrations and commercial endorsements shall have a duration of no more than one year.

(b) An expired registration and endorsement, if any, may be reinstated if: The registration form, fee, and other information are submitted according to the Act, rules, and OAC 158:85-2-5.

(c) A registrant who, during an investigation of the registrant by the Construction Industries Board or Office of the District Attorney, surrenders their registration or endorsement shall be treated as if the registration and any endorsement had been revoked for one (1) year from the day of surrender, unless in conjunction with a subsequent misdemeanor charge for which it shall be treated as revoked for two (2) years.

(d) A registration cannot be renewed or reinstated until the registrant has paid any and all outstanding fines due and owing to the Construction Industries Board, Office of the District Attorney, or District Court of Oklahoma.

158:85-2-7. Registration and Endorsement - post-military and military spouse application, expediting issuance of endorsement to military spouse, and renewals for endorsement - post-military service

(a) **Acceptance of Military education, training and experience toward qualification for endorsement.**

(1) **Registration and Endorsement - post-military service.** See OAC 158:1-3-10 for provisions related to the application of substantially equivalent education, training, and experience completed as a member of the Armed Forces or Reserves of the United States, National Guard of any jurisdiction, the Military Reserves of any jurisdiction, or the Naval Militias of any jurisdiction toward satisfying the qualifications for registration, examination and endorsement issuance.

(2) **Military spouse applicant - equivalency.** See OAC 158:1-3-10 for provisions related to registration and issuance of an equivalent endorsement in an equivalent category for the spouse of an active-duty member of the Armed Forces or Reserves of the United States.

(b) **Expediting issuances of registration and endorsement to military spouse.** See OAC 158:1-3-11 for provisions related the Board expediting the issuance of a registration and endorsement for spouses of certain members of the Armed Forces on active duty in this state.

(c) **Renewals for registration and endorsement - post-military service.** See OAC 158:1-3-12 for provisions related to registration renewal while a registrant is a member of the Armed Forces of the United States on active duty, and for provisions related to a registrant whose registration expires while on active duty as a member of the National Guard or reserve component of the Armed Forces.

158:85-2-8. Roofing contractor registration and commercial endorsement by reciprocity

(a) **General procedures for application.** Any person holding a valid commercial roofing contractor license or registration issued by another state who is seeking to obtain a registration and endorsement by reciprocity shall first submit an application to the Construction Industries Board on a form provided by the Board. The application shall include all documentation necessary to show the applicant meets the requirements under Oklahoma law to receive a roofing contractor registration and commercial endorsement, if any. All applications shall first be directed to the Committee or its designee for an initial review to determine if the applicant meets the qualifications for a registration endorsement by reciprocity as set forth in these rules and in 59 O.S. § 1000.5A. Following this review, the Committee or its designee shall make a recommendation to the Board or its designee as to whether the application should be approved or disapproved. The Board or its designee shall make the final determination as to whether an application shall be approved or disapproved. If an application is disapproved by the Board or its designee, the application shall be returned to the applicant with the reason for the disapproval.

(b) **Application fees.** Before an application will be considered, a person applying for a roofing contractor registration commercial endorsement by reciprocity must pay a registration fee if not already registered, and an application and endorsement fee as listed in OAC 158:85-2-5. The registration and application fees shall not be refundable under any circumstances.

(c) **Requirements for issuance of a registration endorsement by reciprocity.** An application for a registration endorsement by reciprocity requires the following:

(1) That the requirements for registration endorsement from the state in which the applicant is registered or licensed is determined to be substantially the same or equivalent to the requirements for obtaining a registration endorsement by examination in this state. In making this determination, the following shall be considered:

(A) Whether the experience required by the other state to be eligible to sit for the registration endorsement examination is substantially the same or equivalent to the Board's requirements;

(B) Whether the experience in commercial work required by the other state is substantially the same or equivalent to the Board's requirements;

(C) Whether the continuing education requirements of the other state are substantially the same or equivalent to the Board's requirements;

(D) Whether the codes adopted by the other state are substantially the same or equivalent to the Board's requirements;

(E) Whether the examination of the other state is substantially the same or equivalent to the Board's requirements. This shall include the score required to pass the examination, the subject matter of the examination, the codes on which the examination is based, and whether the examination is in written form; and

(F) Whether the above-listed factors are set forth and determined to be substantially the same or equivalent in a written reciprocity agreement between the states.

(2) That the other state will recognize a registration endorsement issued by the State of Oklahoma through the Construction Industries Board. Paragraphs 1 and 2 of this rule may only be satisfied by the existence of a written reciprocity agreement between the Board and the state issuing the applicant's current registration or license as provided in subsection (d) of this Section.

(3) That the applicant is currently registered or licensed by a state that meets the requirements of (c)(1) of this Section and that one year immediately prior to the application, the applicant lawfully practiced an applicable trade within and under the laws of that state.

(4) That no disciplinary matters are pending against the applicant in any jurisdiction in which the applicant is currently registered or licensed. This requirement will be considered satisfied upon presentation of a certified statement from the licensing authorities of all jurisdictions in which the applicant is currently registered or licensed that no disciplinary matters are pending against applicant.

(5) That the applicant obtained the registration or license to be reciprocated by examination.

(d) **Reciprocity agreements.** The Board may enter into a reciprocity agreement with another state if the requirements for licensure in the other state are deemed by the Board to be substantially the same or equivalent to the requirements for obtaining an original registration endorsement by examination in this state.

(e) **Reciprocal discipline.** Disciplinary action taken against the reciprocal license or registration or endorsement is grounds for disciplinary action against the registration issued pursuant to the Roofing Contractor Registration Act.

158:85-2-9. [RESERVED]

158:85-2-10. [RESERVED]

158:85-2-11. [RESERVED]

158:85-2-12. [RESERVED]

158:85-2-13. [RESERVED]

158:85-2-14. [RESERVED]

SUBCHAPTER 3. PROCEDURES OF THE COMMITTEE AND HEARING BOARD

158:85-3-1. Procedures of the Committee

(a) The Committee shall serve the Construction Industries Board in an advisory capacity, assist and advise on all matters pertaining to the formation of rules pursuant to the Act, and assist and advise the Administrator, as needed, on the examination of applicants for registration endorsement as a commercial roofing contractor and on all matters related to the registering of roofing contractors, in accordance with these rules and the Act. The Committee shall make up a part of the Roofing Hearing Board.

(b) Committee meetings will be held in the principal offices of the Construction Industries Board referenced at OAC 158:1-3-1, unless posted otherwise according to the Open Meeting Act. The Committee shall meet as often as is necessary, but at least once each quarter.

(c) The public may communicate with the Committee, in person or by mail, through the Oklahoma Construction Industries Board.

158:85-3-2. Procedures of the Hearing Board

(a) The Hearing Board shall meet as often as is necessary to enforce the requirements of the Act and these Rules. The designee of the Construction Industries Board, as chair, and the members of the Committee of Roofing Examiners shall constitute a Roofing Hearing Board, which may on its own motion

make investigations and conduct hearings, including administrative hearings on individual proceedings according to OAC 158:1-3-6 with a hearing examiner, for citations issued which can result in fines, probation or reprimand, and revocation or suspension of a registration or endorsement, or any other hearing authorized by the Act.

(b) The procedure in individual proceedings shall be held in accordance with the provisions of Article II of the Administrative Procedures Act, the Roofing Contractor Registration Act and its rules, and the rules of the Construction Industries Board, specifically Subchapter 5 (OAC158:1-5-3, *et seq.*).

(c) The Roofing Hearing Board may, on its own motion or upon complaint in writing duly signed and verified by the complainant, and upon not less than ten (10) days' notice to the registrant, suspend any registration or endorsement issued under the Act and may revoke such registration or endorsement in the manner provided in the Act, if by clear and convincing evidence it finds that the holder of the registration or endorsement has violated the provisions of the Act.

(d) The standard of installation to be used by the Hearing Board for individual proceedings concerning the work of contractors shall be the applicable standard established pursuant to OAC 158:85-1-4, unless a city or county roofing requirement is otherwise applicable as a matter of law.

158:85-3-3. [RESERVED]

158:85-3-4. Authority for proceedings

The Construction Industries Board is authorized:

(1) To investigate complaints, qualifications of qualifying parties, applicants for registration, job sites, and any person to determine if there is a violation of the provisions of the Roofing Contractor Registration Act.

(2) To initiate disciplinary proceedings, request prosecution, and initiate injunctive proceedings against any who violate the provisions of the Roofing Contractor Registration Act or rules.

(3) To refer complaints of violations of the Roofing Contractor Registration Act to the district attorney for prosecution or the Board may determine to issue an administrative fine according to the Act.

(A) Complaint for failure to obtain a valid registration prior to acting as a roofing contractor or acting as a roofing contractor when his or her registration is not in good standing, suspended, or revoked without complying with the proper disclosure and option to the homeowner to cancel the contract pursuant to 59 O.S. § 1151.5 and is a first offense may be administratively fined and disciplined.

(B) Complaints for violations of any other provisions of the Act on first offense may be administratively fined and disciplined or referred to the district attorney by the Roofing Hearing Board.

(C) Notice of violation and notice of hearing will be provided pursuant to law.

SUBCHAPTER 5. REGISTRATION AND ENDORSEMENT REQUIREMENTS AND LIMITATIONS, DISPLAY OF REGISTRATION NUMBER, ENDORSEMENT, FIRM NAME AND CONTACT INFORMATION, EXCLUSIONS

158:85-5-1. Registration requirements

(a) A valid and current registration issued pursuant to the Roofing Contractor Registration Act is required before a person may advertise or act as a roofing contractor, unless the person is exempt under the Roofing Contractor Registration Act. A roofing contractor's registration and required liability insurance shall be valid and in good standing at the time of soliciting a project and during subsequent job performance.

(b) A roofing contractor's registration certificate cannot be shared or used by any other individual or business entity; provided, however, a combination of contractors may be collectively registered for use by designated contractors acting as agents for a business entityso long as the application for registration contains sufficient information on each member of the business entity, each member individually meets all of the requirements for registration set forth in the Act and these rules, and the business entity is registered listing all designated contractor members of the business entity.

158:85-5-2. Grounds for refusal to grant registration

An applicant may be denied registration for any of the following:

(1) An applicant's application contains false, misleading or incomplete information;

(2) An applicant refuses to provide information requested by the application form or additional information requested by the Registrar;

(3) An applicant does not pay the required fees;

(4) An applicant is currently a registrant whose Roofing Contractor Registration has been suspended or revoked pursuant to the Act;

(5) An applicant is a registered or licensed roofing contractor in a state other than Oklahoma and the license or registration has been suspended or revoked by the other state(s); or

(6) Applicant has failed, neglected or refused to pay taxes currently due in the State of Oklahoma.

158:85-5-3. Registration responsibilities and limitations

The holder of a roofing registration or roofer registration with commercial endorsement, shall:

(1) maintain required liability insurance coverage at all times,

(2) maintain workers' compensation coverage satisfactory under the Workers' Compensation Act.

(3) maintain or renew a roofing contractor registration as provided in the Roofing Contractor Registration Act;

(4) file or renew a trade name registration;

(5) file, renew, or properly amend any fictitious name certificate.

(6) maintain an active status of a corporation or registration as a foreign corporation, a limited liability company or registration as a foreign limited liability company, a limited liability partnership registration or foreign limited liability partnership registration, or a limited partnership certificate or limited partnership or foreign limited partnership certificate of authority, with the Oklahoma Office of the Secretary of State.

(7) maintain a registration or license as required by law in another state while registered in this state as a nonresident roofing contractor;

(8) notify the registrar in writing within ten (10) days of a change in name, qualifying party, address, legal business entity, business relationship, structure or affiliation, change in firm ownership of fifty percent (50%) or more of the stock or beneficial interest in the company, legal service agent, or adjudication by a court of competent jurisdiction for any act or omission specified in 59 O.S. § 1151.14(A) or a violation of the Roofing Contractor Registration Act;

(9) file and pay all taxes of the qualifying party and business entity when due in this state.

(10) pay all fines imposed by final orders of the Construction Industries Board, and fines and penalties imposed by courts of competent jurisdiction and agreements with a District Attorney.

(11) comply with state laws and local ordinances relating to standards and permits for roofing services and projects;

(12) submit the roofing contractor's registration certificate number when applying for any permit issued by the state, or any of its political subdivisions, for commercial or residential roofing services or projects, if a permit is required by such authority;

(13) notify the registrar within ten (10) days after he or she receives notice that any conviction has been rendered against him or her or the registrant or qualifying party has made any plea of guilty, nolo contendere or finding of guilt. The notification shall be in writing, by certified mail, and shall include a copy of the conviction, plea, finding of guilt or judgment and sentence;

(14) notify the registrar immediately upon receipt of an order imposing disciplinary action upon its registration issued by any other professional regulatory board, in this or any other jurisdiction.

158:85-5-4. Display and posting of registration number, endorsement, and firm name

(a) Each person issued a contractor registration shall display the roofing contractor firm name, the contractor registration number bearing the initials "OK" preceding that registration number issued by the registrar, and commercial endorsement, if any, on all vehicles used to transport materials and tools in the operation of the business. Such names, numbers and lettering shall be printed in letters and numerals at least two (2) inches in height in a conspicuous location on both sides of each vehicle in contrasting color to the background color.

(b) The roofing contractor state registration number, along with any commercial endorsement, must be displayed on all advertising, contracts, and bids. Advertising for the purposes of this subsection shall not include uniforms or promotional items including but not limited to pens, pencils, key chains, tape measures, and the like.

(c) Each registrant, or the agents, servants, and employees of a registered roofing contractor shall post in a conspicuous place on the job site where any roofing work is performed, in size, color contrast, language and written form that is easily legible, the roofing firm name, registration number, existence of any commercial endorsement, and telephone number for the registrant pursuant to 59 O.S. § 1151.7 under which any work is being performed, and on all media containing the registrant's name, including but not limited to magnetic signs on vehicles, business cards, contracts, bids, letterhead, signs, and advertisements.

158:85-5-5. Exclusions to requirements of registration and endorsement

Unless exempt under the Roofing Contractor Registration Act, a person must be a registered roofing contractor, and endorsed if required, pursuant to the Roofing Contractor Registration Act before advertising or acting as a roofing contractor. Persons excluded from registration, and accompanying endorsement, are:

(1) a person engaged in the demolition of a structure or the cleanup of construction waste and debris that contains roofing material,

(2) a person working under the direct supervision of the roofing contractor who is hired either as an employee, day laborer, or contract laborer whose payment, received in any form, from the roofing contractor is subject to self-employment tax,

(3) a person working on his or her own property or that of an immediate relative and such person is not receiving any compensation, or

(4) a person acting as a handyman, as defined in this Chapter, who does not perform more than two roofing repair jobs per calendar year. Roofing repair jobs performed by a handyman per calendar year in excess of two per year do not fall under the exclusions from the provisions of the Act. Roofing repair jobs by a handyman in excess of two per year require registration. Roofing repair jobs estimated at $10,000.00 or more or repair area covering 25% or more of the roofing surface and paid out at less than $10,000.00 are not excluded;

(5) an actual owner of residential or farm property who physically performs, or has family member, employee or employees who perform with or without remuneration, roofing services including, construction, installation, renovation, repair, maintenance, alteration, waterproofing, or removal of materials or structures on property owned by such person;

(6) any authorized employee, representative or representatives of the United States Government, the State of Oklahoma, or any county, municipality, or other political subdivision of this state doing roofing work on their own

facility that does not violate manufacturer specifications, applicable codes, nor compromise health or safety standards and practices;

(7) any person who furnishes any fabricated or finished product, material, or article of merchandise which is not incorporated into or attached to real property by such person so as to become affixed thereto;

(8) any person, including churches, or other charitable entities that provide roof repairs or replacements at no charge using volunteer labor;

(9) any employee of a registrant who does not hold himself or herself out for hire, advertise, or engage in contracting, except as an employee of a registrant;

(10) licensed engineers, licensed architects, licensed HVAC and any other person licensed by the jurisdiction, operating under the purview and within the scope of their respective license;

(11) a person who only furnishes roofing materials, roofing supplies or equipment and does not, nor do the person's employees, install or fabricate them into or consume them in the performance of the work of the roofing contractor;

(12) prime contractors, general contractors, property managers and project managers who bid on construction trade work in areas additional to roofing contractor work, and subcontract the roofing contractor work as long as they subcontract the roofing work to a currently registered roofing contractor who is in good standing; if the bid is solely for roofing contractor work, then a registration is required;

(13) owners of commercial properties including residential rental properties consisting of four (4) dwelling units or less, when acting as their own roofing contractor and providing all material supervision themselves, lessees of residential properties with the consent of the owner, who, whether themselves or with their own employees, perform roofing construction in or upon the properties, all installing roofing materials according to the International Building Code, as adopted by the Oklahoma Uniform Building Code Commission, or the manufacturer's installation instructions; or

(14) owners of property when acting as their own roofing contractor, providing all material supervision themselves, and installing roofing materials according to the International Residential Code, as adopted by the Oklahoma Uniform Building Code Commission, or the manufacturer's installation instructions when building or improving a single family dwelling residence on such property for the occupancy of such owners and not intended for sale or rent. In any action brought under the Roofing Contractor Registration Act, proof of the sale or offering for sale of such structure or the renting or offering to rent of such structure by the owners of property within one (1) year after substantial completion of the structure when the structure can be occupied and used as intended but punch list items may remain, is presumptive evidence that the construction was undertaken with the intent of sale or rent.

SUBCHAPTER 7. [RESERVED]

SUBCHAPTER 9. ENDORSEMENT QUALIFICATIONS, REQUIREMENTS, EXAMINATION AND CONTINUING EDUCATION

158:85-9-1. Roofing registration endorsement qualifications

(a) **Registration.** A person desiring to have a commercial endorsement must already have a valid and current registration, or file an initial application for registration pursuant to this Chapter concurrently with application for endorsement, pay the required fees for application, registration if not already obtained, and the endorsement, and pay an examination fee directly to the testing provider.

(b) **Requirements.** To obtain a commercial endorsement, the applicant must meet certain qualifications and pass an examination approved by the Committee of Roofing Examiners. To renew an endorsement, continuing education requirements must be met.

(c) **Annual renewal.**

(1) Upon meeting the continuing education requirements for a commercial endorsement, a commercial endorsement may be renewed up to a year from the originally set renewal date pursuant to this Chapter.

(2) Any commercial endorsement which remains expired for longer than one (1) year shall not be renewed. The former endorsement holder shall be required to make an initial application and retest to obtain the commercial endorsement formerly held.

(d) **Outstanding fines.** A registration or commercial endorsement cannot be issued, renewed, or reinstated until the applicant has paid any and all outstanding fines due and owing to the Construction Industries Board, and any and all fines and penalties imposed by courts of competent jurisdiction and agreements with a District Attorney.

158:85-9-2. Qualifications for commercial endorsement on a roofing contractor registration

(a) A qualifying party for a roofing registration commercial endorsement must meet the same requirements of a roofing registration and pass the commercial endorsement examination or meet the reciprocal requirements for registration and endorsement.

(b) Experience gained outside of the State of Oklahoma must be lawfully obtained according to any applicable federal or state laws and must be comprised of commercial roofing contractor work as defined under Oklahoma law or substantially similar types of roofing contractor work.

(c) Education or certification, approved by the Committee of Roofing Examiners, may be substituted for experience.

158:85-9-3. Commercial endorsement examination

(a) **Exam required.** A commercial endorsement cannot be issued until the applicant's roofing registration has been approved, all endorsement requirements met, and the qualifying party has passed the examination.

(b) **Exam content.** The commercial endorsement examination may include, without limitation, the following parts:

(1) Written questions consisting of open book problems based on the standards of installation for roofing adopted by the Oklahoma Uniform Building Code Commission at OAC 158:85-1-4.

(2) Practical shop, which shall also include written questions on job estimating and the laws and regulations relating to roofing contractors.

(3) The maximum grade value of each part of the examination shall be 100 points. A passing score is 70% or more on each part.

(4) The qualifying party shall present current identification before undertaking an examination.

(5) If the qualifying party does not pass the exam, the qualifying party may reapply for the exam and pay an additional retesting fee. However, no person will be allowed to retake an exam within thirty (30) days of the first failed exam or within ninety (90) days of the second or subsequently failed exam.

(6) An examinee that is caught cheating during the course of an examination shall be deemed to have failed the examination.

(c) **Examination fees.** The Construction Industries Board, or its designated representative, may collect for the actual cost of any examination provided by the Act and this Chapter. Every person whose application for examination is approved shall be informed of the specific fee prior to sitting for the examination. The testing fee shall be the amount negotiated by the Administrator with a third-party provider in accordance with the provisions of the Oklahoma Central Purchasing Act. Documentation confirming the contractual fee shall be available upon request.

158:85-9-4. Continuing education

(a) **Continuing education required for endorsement renewal.** Beginning on July 1, 2016, no roofing contractor commercial endorsement shall be renewed unless the endorsee has completed at least four (4) hours of continuing education within thirty-six (36) months preceding the application for renewal; and thereafter, the endorsee shall complete four (4) hours every three (3) years or thirty-six (36) months.

(b) **Continuing education course requirements.**

(1) The continuing education course and instructor shall be approved in advance by the Committee. Exceptions to advance approval, or post-course approval, may be allowed by the Committee, or its designee, for emergency situations when written notice of the emergency is provided to the Committee within seven (7) days of the course. The continuing education material shall cover codes and revisions adopted by the Oklahoma Uniform Building Code Commission or other trade related subject matters appropriate for topics of continuing education for endorsees and approved by the Committee including manufacturers' installation of materials or equipment, the registration act, the trade rules and regulations, and other trade or safety related subject matters approved by the Committee.

(2) Course content should be designed to update knowledge and improve roofing contracting knowledge and skills.

(3) Credit will be given for CE courses approved by the Committee of Roofing Examiners, or its designee.

(4) Except as provided herein, these rules shall apply to every registered roofing contractor commercial endorsement.

(5) An endorsee is excluded from the education requirements of these rules for three (3) years from the date he or she passed their current endorsement exam.

(c) **Standards.** The following standards will govern the approval of continuing education programs by the Committee of Roofing Examiners.

(1) The program provider shall submit evidence that the provider and instructional staff are qualified by reason of education, experience or training.

(2) Any written material that is distributed during the session shall be readable, of high quality and shall be made available to all attendees.

(3) The program shall be presented in a comfortable location such as hotel/motel conference room, corporate meeting room, or regular classroom.

(4) The training session shall be presented outside the regular workplace or after regular working hours. An on-site conference room, that meets standards imposed by (3) of this subsection, shall be considered outside the regular workplace.

(5) A credit hour means at least 50 minutes of classroom instruction with a 10 minute break.

(6) CE courses shall be presented in one of the following formats.

(A) Four (4) credit hours presented in one day.

(B) Two sessions of two credit hours each presented within a seven day period.

(C) One session of two credit hours of trade related instruction, Roofing Contractor Registration Act and/or Roofing Contractor Industry Regulations.

(D) An approved correspondence or online course.

(E) Another format approved by the Committee.

(7) Verification of Credit.

(A) The Course Provider shall verify the total number of continuing education hours completed by each attendee.

(B) Continuing education providers shall require attendees to present a current photo I.D. prior to the attendee signing the sign-in sheet form approved by the Construction Industries Board. Sign-in sheets shall include the name and registration number of each registrant in attendance.

(C) As soon as practicable but in any event on or before seven (7) days following an approved continuing education program, the provider shall furnish the

original sign-in sheets from the course to the Roofing Unit of the Construction Industries Board.

(D) Providers shall maintain copies of all sign-in sheets for a period of two (2) years following the conclusion of the course.

(8) Course providers or instructors may not advertise or promote the sale of any goods, products or services between the opening and closing of any Continuing Education Course.

(d) **Application procedures and requirements.**

(1) In order to receive continuing education credit, a course must be approved by the Committee.

(2) A completed application form, with all supporting documentation, shall be submitted to the Construction Industries Board at least sixty (60) days prior to the scheduled start date.

(3) An application is to be submitted for each date, or dates, that constitute a single course.

(4) Each course must be included on a separate application.

(5) The application shall include the following information:

(A) Name and address of the provider.

(B) Contact person and his or her address, telephone number and fax number.

(C) The location of the courses or program.

(D) The number and type of education credit hours requested for each course.

(E) Topic outlines listing the summarized topics covered in each course.

(F) If a prior approved course has substantially changed, a summarization of these records.

(G) The names and qualifications of each instructor who is qualified in accordance with this Chapter.

(H) Information as to how the proposed course meets the standard in accordance with this Chapter.

(I) Supporting documents which shall include the following:

(i) A resume or brief summary of qualifications of all course developers and instructors.

(ii) A course agenda designating the beginning and ending of actual instruction times, sign-in times, breaks, lunches and any evaluation time.

(iii) A course curriculum indicating the subject or code areas to be taught with sufficient detail to determine which codes and codes revisions are to be addressed or the trade related instruction being provided and, if requested, a copy of any course materials.

(6) Entities seeking to offer correspondence courses for continuing education must comply with the application procedures and requirements of this Subchapter and shall submit a course curriculum and study material for review and approval by the Committee prior to the courses being offered as continuing education. Approved correspondence courses shall be required to comply with all requirements for other continuing education courses except for sign-in sheets. Providers shall provide a student with a document of completion which certifies completion of approved correspondence courses.

(7) Providers seeking to offer online courses for continuing education must comply with the application procedures and requirements of this Subchapter and shall submit a course curriculum and study material for review and approval by the Committee prior to the courses being offered as continuing education. An access code and password shall be provided to the Committee, or its designee, for an online course for the purpose of review and approval. Providers of an on-line course shall submit verification of four (4) hours of real time on-line instruction. Correspondence or online courses shall have sufficient explanation and or graphics to expound the concepts being taught. The format of the online course shall be constructed so as to illicit interaction between the student and the material presented. Each page of text shall be designed with a question that must be answered before advancing to the next page or a test at the end of a subject matter before the course is considered complete. Approved online courses shall be required to comply with all requirements for other continuing education courses except for sign-in sheets. Providers shall provide a student with a document of completion that shall certify completion of an approved online course.

(8) Approval of any correspondence or online course is rescinded upon the adoption of a different statewide code and a new application showing updated course subject matter and materials is necessary in order to obtain updated course approval.

(9) Applications for correspondence or online courses shall be resubmitted annually, from date of approval, for review and approval.

(e) **Instructor requirements.** An instructor must be qualified and approved by the Committee. An instructor should have one of the following qualifications:

(1) Three (3) years of recent experience in the subject matter being taught, or

(2) A degree related to the subject area being taught, and two (2) years of recent experience in the subject area being taught, or

(3) Other educational, teaching, or professional qualifications determined by the Committee to constitute equivalent qualification to one or more of the qualifications in the previously stated sub-paragraphs of this paragraph.

(f) **Committee of Roofing Examiners acceptance.**

(1) The Committee, or its designee, will review each application for completeness of form and supporting documentation, as well as course content.

(2) The approval of any course or instructor will be made by a majority vote of the Committee at the regularly scheduled meeting of the Committee of Roofing Examiners.

(3) The Committee's designee may approve additional dates and locations after the course and instructor have been approved by Committee vote. Substantive change to course content must be brought before the Committee for approval.

(4) The applicant will be notified in writing whether the program is approved or disapproved, and the reason for disapproval.

(g) **Committee rejection and reevaluation of a course.**

(1) The Committee, or its designee, may refuse to accept any application for approval if the supporting documentation is insufficient or incomplete. The Committee may deny or revoke approval of an application for any of the following reasons.

(A) Failure to comply with the continuing education provisions.

(B) Inadequate application or supporting documentation.

(C) Failure to instruct on topic approved.

(D) Inadequate experience of program developer or instructor.

(E) Unsatisfactory evaluation of the course instructor or materials from previous classes.

(2) The Committee may, at any time, re-evaluate and grant or revoke approval of application, course, or instructor.

(3) The Committee may, at any time, review courses for quality of instruction. The Committee may also investigate complaints regarding approved courses. The Committee may then take appropriate action, up to and including revocation of authority to provide CE courses.

(4) A provider's failure to comply with any continuing education rule constitutes grounds for disciplinary action, up to and including revocation of authority to provide CE, against the provider or for denial of future applications for course work.

(5) The Committee, or its designee, will notify the provider, in writing, of any changes in approval status.

(h) **Appeals.**

(1) Applicants denied approval of a course may appeal such a decision by submitting a written letter of appeal to the committee within fifteen days of the receipt of the notice.

(2) All appeals will be heard by the Committee at its next regularly scheduled meeting.

(i) **Course presentation.**

(1) The course program, including the named advertised participants, shall be conducted as approved by the committee, subject to emergency withdrawals and minor alterations.

(2) Changes including but not limited to location, date, instructors, or cancellations must be requested from the Committee, or its designee, in writing prior to start of class. All requests for change must include the course ID number.

(j) **Course advertisement.**

(1) All advertising must include the course ID number.

(2) Approved program courses may be advertised.

(3) The provider of an approved continuing education program may announce or indicate as follows: Course # has been approved by the Construction Industries Board Committee of Roofing Examiners for "x" hours of CE credit.

(k) **Correspondence and online courses.**

(1) Applications, approvals and rejections, and appeals of all correspondence and online courses shall be the same as for classroom-based courses.

(2) Correspondence courses shall be required to comply with all requirements of continuous education courses, except sign-in sheets.

(3) An access code and password shall be provided to the Committee, or its designee, for an online course for the purpose of review and approval. Correspondence or online courses shall have sufficient explanation and or graphics to expound the concepts and changes being taught. The format of the online course shall be constructed so as to illicit interaction between the student and the material presented. Each page of text shall be designed with a question that must be answered before advancing to the next page or a test at the end of a subject matter before the course is considered complete.

(4) Providers of an on-line course shall submit verification of four (4) hours of real time on-line instruction.

(5) Course providers shall provide a student with a document of completion which certifies completion of approved correspondence course.

(6) Applications shall be resubmitted annually, from date of approval, for review and approval.

(l) **Alternate credit method.** Credit may be earned through teaching an approved continuing education course. The Committee may award up to four (4) hours of CE credit, not to exceed the number of approved hours for that CE course.

(m) **Exception to continuing education requirement.** Continuing education is not required for roofing registration (residential work) only.

(n) **Course, instructor, and provider complaint procedure.**

(1) A person, government, or private organization may submit a written complaint to the Committee, or its designee, charging a provider of continuing education with a violation of the rules, and specifying the grounds for the complaint.

(2) Complaints must be in writing and include contact information, and shall be filed on the proper complaint form prescribed by the Construction Industries Board, or its designee.

(3) The Committee may consider an unsigned or anonymous complaint for further investigation.

(4) Upon receipt of a signed complaint form, a copy shall be sent to the continuing education provider addressed in the complaint. The continuing education provider shall provide a written response within fifteen days. Upon receipt of the continuing education provider's written response, both complaint and response shall be considered by the Committee, or its designee, for appropriate action including dismissal of the complaint, further investigation, denying future course or instructor approval, or a finding of violation of a statute or rule. The Committee, or its designee, shall notify both complainant and continuing education provider of the determination

made by the Committee. Failure of the continuing education provider to respond will be considered as a violation of this rule and an admission of the allegations in the complaint.

(5) If a reasonable cause violation determination is made by the Committee, the Oklahoma Administrative Procedure Act shall be followed for all disciplinary proceedings undertaken including but not limited to all parts of this subsection.

SUBCHAPTER 10. ENFORCEMENT

158:85-10-1. Authority and procedures

(a) **Enforcement authority.** Pursuant to 59 O.S. Section 1151.4, the Construction Industries Board shall have the authority to administer and enforce the provisions of the Roofing Contractor Registration Act, including the authority to:

(1) Conduct investigations on roofing applications, registrations and endorsements for compliance with the provisions of the Roofing Contractor Registration Act, and of the rules of the Board promulgated pursuant thereto, and allegations of violations by written complaint or otherwise;

(2) Issue to any person, who violates any of the provisions of the Roofing Contractor Registration Act or any rule promulgated pursuant thereto, a written warning or administrative citation of Five Hundred Dollars ($500.00) on a first violation for a residential job. For any residential job the Board may; for any second administrative citation issued levy an administrative fine not to exceed One Thousand Dollars ($1,000.00); on a third violation, levy an administrative fine not to exceed Three Thousand Five Hundred Dollars ($3,500.00); and for any additional subsequent violation, revoke the registration and commercial roofer endorsement, if any. Issue to any person, who violates any of the provisions of the Roofing Contractor Registration Act or any rule promulgated pursuant thereto, an administrative citation of Five Hundred Dollars ($500.00) on a first violation for a commercial job. For any commercial job the Board may; for any second offense issue a One Thousand Dollars ($1,000.00) administrative citation; on a third violation of a commercial job issue an administrative citation of up to five percent (5%) of the commercial job, but not to exceed Five Thousand Dollars ($5,000.00); and for any additional subsequent violation, revoke the registration and commercial roofer endorsement.

(3) Initiate administrative or disciplinary proceedings and provide hearings on any person who violates any of the provisions of the standards of the Roofing Contractor Registration Act or any rule promulgated pursuant thereto,

(4) Investigate written complaints, as described in 59 O.S. § 1151.14, and any roofing project and any person to the extent necessary to determine if the person is engaged in the violation of the provisions of the Roofing Contractor Registration Act, including unlawful, unregistered, or unendorsed activity. The Construction Industries Board may refer the matter for misdemeanor prosecution, whether or not the person ceases the unlawful and/or unregistered activity;

(5) Initiate disciplinary proceedings and administrative individual procedures against any person, request prosecution of and initiate injunctive proceedings against any person who violates any of the provisions of the Roofing Contractor Registration Act or any rule promulgated pursuant to the Roofing Contractor Registration Act;

(6) Reprimand or place on administrative probation, or both, any holder of a registration pursuant to the Roofing Contractor Registration Act.

(7) Investigate written complaints alleging gross defects in workmanship in a roofing contractor project that must be submitted in writing setting forth an explanation of the risks of serious harm or injury to a person, or monetary damages in excess of Five Thousand Dollars ($5,000.00) caused unjustly, pursuant to 59 O.S. § 1151.14 (A)(15), and must include a verified written estimate by a registered roofing contractor, or another person whose estimate is based on a registered roofing contractor's estimate, describing the damage, cost to repair and the residential code or commercial building code violation.

(b) **Procedures.**

(1) Upon investigation, the registrar may issue citation for violations of the Act or rules.

(2) The citations will provide the administrative hearing date. Citations may be paid in advance of the hearing date and the hearing and personal appearance waived.

(3) For citations that are referred to the office of the district attorney in the county in which the violations occurred, the district attorney will determine the hearing date and the procedures for that case.

(4) Any administrative hearing on suspensions, revocations or fines shall be conducted by a hearing examiner appointed by the Construction Industries Board, held in accordance with the provisions of the Act, the Article II of the Administrative Procedures Act, the Construction Industries Board Act, and the rules promulgated thereto.

(5) Any person whose registration or endorsement has been revoked may, after the expiration of one (1) year from the date of such revocation, but not before, apply for a new endorsement and registration.

(6) Notwithstanding any other provision of law, a political subdivision of this state that has adopted a nationally recognized building code and appointed an inspector pursuant to state or local law for such work shall have jurisdiction over the interpretation of the code and the installation of all roofing work done in that political subdivision. Provided, a state inspector may work directly with a roofing contractor in such a locality if a violation of the code creates an immediate threat to life or health.

(7) In the case of a complaint about, investigation of, or inspection of any license, registration, permit or roofing in any political subdivision of this state which has not adopted a nationally recognized building code and has not appointed an inspector pursuant to state or local law for such work, the Construction Industries Board shall have jurisdiction over such matters.

(8) Any proposed or final order or notice of hearing to the last known address of record shall be considered delivered when deposited in the United States mail and/or sent registered or certified or post office receipt secured. Any other communication to the last known address or record of a registrant shall be considered delivered when deposited in the United States mail, regular mail;

(9) Disciplinary action taken against any other professional registration, endorsement, or license held by the registrant in this jurisdiction or any other jurisdiction is grounds for investigation and disciplinary action against the registration issued pursuant to the Roofing Contractor Registration Act.

SUBCHAPTER 11. REGISTRATION AND ENDORSEMENT REVOCATION OR SUSPENSION AND PROHIBITED ACTS

158:85-11-1. Registration and endorsement retention requirements

Roofing contractor registrations and commercial endorsements are to be retained subject to the limitations of the Act and subject to being removed from good standing, suspended, or revoked pursuant to the Act. The violation of these rules or any provisions of the Act may be considered justification to suspend or revoke a registration or endorsement.

158:85-11-2. Prohibited acts

(a) The following prohibited acts apply to all persons performing roofing contractor work:

(1) Offering to engage in, by advertisement or otherwise, or performing roofing contractor work without first obtaining the appropriate registration and endorsement, if applicable, and maintaining it in good standing pursuant to the Act and these rules, unless otherwise excluded under the Act.

(2) Advertising, either directly or through another, for roofing contractor work without a valid registration, or without displaying registration number and endorsement, if any, on any advertisement, including but not limited to contracts and signage on vehicles.

(3) Soliciting roofing contractor work through contracts obtained by salespersons not under the direct supervision and employment of a registered roofing contractor when such contract is then sold for remuneration or something of value and consists of a pattern of conduct that can be shown to be a business practice in a secondary market of sales of contracts for profit. This does not include marketing or sales leads where no contract or bid was made.

(4) Bringing or maintaining any claim, action, suit or proceeding in any court of this state related to the person's capacity as a roofing contractor without a valid registration and endorsement, when required, continuously while performing the work for which the claim, action, suit or proceeding is sought.

(5) Committing fraud when executing or materially altering a roofing contract, mortgage, promissory note or other document incidental to performing roofing contractor work.

(6) Performing roofing work contrary to any provision of the adopted references in OAC 158:85-1-4, except as otherwise provided by law or rule. Each violation of the adopted references in OAC 158:85-1-4 can be treated as a separate violation of this Chapter.

(7) Making a false or fraudulent statement in an application for registration or endorsement.

(8) Falsifying a registration.

(9) Transferring a registration or endorsement.

(10) Sharing a roofing contractor's registration or endorsement with another individual or business entity not otherwise allowed pursuant to 59 O.S. § 1151.7.

(11) Engaging in or offering to engage in roofing contractor work using a roofing registration number or endorsement of another, whether the registration or endorsement is or is not in good standing.

(12) Engaging in cheating or any act involving the fraudulent misrepresentation of an applicant by an examinee or one in the process of sitting for the examination.

(13) Denying access to the Construction Industries Board or its representative on a job site for purposes of administering the Act.

(14) Contracting for or performing roofing contractor work with expired general liability insurance policy.

(b) The following prohibited acts apply to persons having received a registration number:

(1) All prohibited acts applying to all persons performing roofing contractor work in (a) above apply to one having received a registration number.

(2) Offering to engage in roofing contractor work while not in good standing or during a period of suspension or revocation of a registration or endorsement; or, acting as a roofing contractor without complying with the required disclosure and owner option to cancel the contract pursuant to 59 O.S. § 1151.5.

(3) Making a false or misleading statement in an application for roofing contractor registration or renewal application or in soliciting a contract for roofing services.

(4) Failing to display the roofing firm name and the roofing contractor registration number on all vehicles used to transport materials and tools in the operation of the business in letters and numerals at least two (2) inches in height in a conspicuous location on both sides of each vehicle in contrasting color to the background color.

(5) Failing to post in a conspicuous place on each job site the name, registration number, and telephone number for the registration under which any work is being performed.

(6) Performing roofing contractor work without keeping their registration on their person or in close proximity.

(7) Failing to utilize a valid written contract when engaging in the business of roofing contractor work as described in Section 1151.21 of the Act.

(8) Transferring a registration or endorsement.

(9) Engaging in any fraudulent or deceptive acts or practices or misrepresentation of products, services or qualifications as a roofing contractor;
(10) Failing to comply with any tax laws authorized by the state or any of its political subdivisions.
(11) Abandoning a roofing contract without legal excuse after a deposit of money or other consideration has been paid.
(12) Diverting funds or property entrusted to a roofing contractor.
(13) Engaging in or offering to engage in roofing services without obtaining a proper permit as may be required by any state or local authority.
(14) Damaging property or injuring persons while performing roofing services under a valid roofing contractor registration for which the roofing contractor's liability insurance or workers compensation coverage was inadequate.
(15) Performing roofing work having gross defects in workmanship in a roofing contractor project that risks serious harm or injury to a person, or unjustly causes monetary damages in excess of Five Thousand Dollars ($5,000.00).
(16) Failing to comply with a specified provision of this Chapter or the Roofing Contractor Registration Act.
(17) Demonstrating incompetence to act as a roofing contractor performing residential roofing work.
(18) Violating any provisions of the Roofing Contractor Registration Act, or any rule or order prescribed by the Construction Industries Board pursuant to the provisions of the Roofing Contractor Registration Act.
(19) Willfully failing to perform normal business obligations without justifiable cause.

(c) The following prohibited acts apply to those having received an endorsement:
(1) All prohibited acts applying to those having received a registration number in (b) of this Section apply to one having received an endorsement.
(2) Making a material misstatement in the application for an endorsement, or the renewal of an endorsement.
(3) Obtaining any endorsement by false or fraudulent representation.
(4) Loaning or allowing the use of such endorsement by any other person or illegally using an endorsement.
(5) Transferring an endorsement.
(6) Failing to display the existence of any commercial roofer endorsement on all vehicles used to transport materials and tools in the operation of the business in letters at least two (2) inches in height in a conspicuous location on both sides of each vehicle in contrasting color to the background color.
(7) Failing to post in a conspicuous place on each job site the existence of any commercial roofer endorsement for the registration under which any work is being performed.
(8) Performing roofing contractor work without keeping their registration and endorsement on their person or in close proximity while performing roofing contractor work.
(9) Demonstrating incompetence to act as a commercial roofing contractor.
(10) Violating any provisions of the Roofing Contractor Registration Act, or any rule or order prescribed by the Construction Industries Board pursuant to the provisions of the Roofing Contractor Registration Act.

SUBCHAPTER 13. PROCEDURES OF THE VARIANCE AND APPEALS BOARD, CODE VARIANCE APPLICATIONS AND FEE, CODE INTERPRETATION APPEALS

158:85-13-1. Procedures of the Variance and Appeals Board

The Administrator shall call a meeting of the Variance and Appeals Board after the Administrator receives proper application for a variance accompanied by the fifty dollar ($50.00) filing fee or receives proper notice of an appeal of the Administrator's interpretation of the standard of installation as described in OAC 158:85-1-4 as applied to a particular installation. Variance and Appeals Board meetings are held at the principal offices of the Construction Industries Board referenced at OAC 158:1-3-1, or at another location named by the Administrator and posted in compliance with the Oklahoma Open Meetings Act.

158:85-13-2. Code variance applications and fee

(a) Applications for a variance from the adopted references in OAC 158:85-1-4 by an Oklahoma-registered roofing contractor, or other person as stated in statute, shall be submitted to the Administrator. An application form and the fifty-dollar ($50.00) filing fee shall accompany sufficient technical data submitted to support the proposed variance. Applications submitted after the use of materials or methods of construction not in conformance with the standard of installation as described in 158:85-1-4, or submitted where a city or town has adopted a more stringent roofing installation code by ordinance, shall not be considered by the Variance and Appeals Board.
(b) The applicant and the Administrator, or the Administrator's designee, may offer testimony to the Variance and Appeals Board which is relevant to the code variance requested. If testimony will be offered to support the application, the applicant shall include in the application the identity of the applicant's witnesses by name, profession or occupation, address and telephone number, and a concise summary of the expected testimony of each witness. If the Administrator, or the Administrator's designee, contests the application, and will offer testimony to rebut the application, the Administrator, or the Administrator's designee, will provide the applicant with the identity of the Administrator's, or the Administrator's designee's witnesses by name, profession or occupation, address and telephone number, and a concise summary of the expected testimony of each witness.

158:85-13-3. Code interpretation appeals

A roofing contractor, or any party who has an ownership interest in or who is in responsible charge of the design of or work on the roofing installation, may appeal the Roofing Unit's interpretation of the standard of installation as described in OAC 158:85-1-4 as applied during the Administrator's review or inspection of a roofing installation to the Variance and Appeals Board created pursuant to 59 O.S. § 1151.29. Such appeals shall be made in writing to the Administrator within fourteen (14) days after the Roofing Unit's code interpretation or receipt of written notice of the alleged code violation by the registered roofing contractor, and shall be heard only if based on a claim that:

(1) the true intent of the installation code has been incorrectly interpreted;

(2) the provisions of the code do not fully apply; or

(3) an equal or better form of installation is proposed.

[OAR Docket #15-729; filed 7-7-15]

TITLE 160. DEPARTMENT OF CONSUMER CREDIT
CHAPTER 75. CONSUMER LITIGATION FUNDING

[OAR Docket #15-680]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 1. General Provisions [NEW]
160:75-1-1 [NEW]
160:75-1-2 [NEW]
160:75-1-3 [NEW]
Subchapter 3. Licensing [NEW]
160:75-3-1 [NEW]
160:75-3-2 [NEW]
160:75-3-3 [NEW]
160:75-3-4 [NEW]
Subchapter 5. Records [NEW]
160:75-5-1 [NEW]
Subchapter 7. Complaints and Investigations [NEW]
160:75-7-1 [NEW]
160:75-7-2 [NEW]
Subchapter 9. Forms [NEW]
160:75-9-1 [NEW]
Appendix A. Consumer Litigation Funding Agreement Model Form [NEW]
AUTHORITY:
Commission on Consumer Credit; 14A O.S. § 3-816
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
January 6, 2015
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June 8, 2015
EFFECTIVE:
September 11, 2015
SUPERSEDED EMERGENCY ACTIONS:
n/a
INCORPORATIONS BY REFERENCE:
n/a
ANALYSIS:

The rules implement the Consumer Litigation Funding Act, 14A O.S. §§ 3-801-3-817. The rules regarding Subchapter 1, General Provisions, state the purpose of the rules and includes a severability provision and a definitions section.

The rules regarding Subchapter 3, Licensing, establish requirements for a license application. The rules also establish license renewal requirements and procedures for license changes and address changes.

The rules regarding Subchapter 5, Records, establish a minimum time period for maintaining records. The rules also specify that records may be maintained in an electronic format.

The rules regarding Subchapter 7, Complaints and Investigations, specify the required content for complaints. The rules establish a time period for the production of information in connection with an investigation. The rules also authorize the production of information in connection with an investigation to be made by electronic mail, United States mail or courier services.

The rules regarding Subchapter 9, Forms, state that the Administrator may publish a consumer litigation funding agreement model form. The rule further specifies that the utilization of the consumer litigation funding agreement model form by a consumer litigation funder creates a presumption that the required disclosures of the Consumer Litigation Funding Act have been provided.

The rules also include a consumer litigation funding agreement model form as an appendix. The model form includes the disclosures required to be provided by consumer litigation funders to consumers.

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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 11, 2015:

SUBCHAPTER 1. GENERAL PROVISIONS

160:75-1-1. Purpose

The rules in this chapter implement the Consumer Litigation Funding Act.

160:75-1-2. Severability

If any provision of this chapter or the application thereof to any person or circumstance is for any reason held to be invalid, the remainder of the chapter and the application of such provision to persons or circumstances other than those as to which it is held invalid shall not be affected thereby.

160:75-1-3. Definitions

Except as otherwise specifically defined in this chapter, the definitions set forth in the Consumer Litigation Funding Act are incorporated herein and made a part of this chapter. The following words or terms, when used in this chapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Administrator" means the Administrator of Consumer Credit.

"Applicant" means an entity, foreign business entity or individual that submits an application to the Department for licensure as a consumer litigation funder.

"Complainant" means an entity or individual that submits a written complaint to the Department regarding a licensee.

"Consumer Litigation Funding Act" means the provisions of the Uniform Consumer Credit Code regarding consumer litigation funding at 14A O.S. §§ 3-801 through 3-817.

"Department" means the Oklahoma Department of Consumer Credit.

"Entity" means a corporation, limited liability company, partnership or other type of business entity authorized by the laws of the State of Oklahoma or any district, possession, state or territory of the United States of America.

"Foreign business entity" means a business entity formed under the laws of any state of the United States of America other than the State of Oklahoma or a business entity formed under the laws of any district, possession or territory of the United States of American or any foreign country.

"Individual" means a natural person or a sole proprietor.

"Licensee" means a consumer litigation funder that is either licensed by the Department or is subject to the Consumer Litigation Funding Act.

SUBCHAPTER 3. LICENSING

160:75-3-1. License application package

A complete license application package shall consist of the following information and documentation:

(1) **License application.** The license application shall consist of the following information:

(A) The legal name of the applicant.

(B) The trade name(s) of the applicant in the State of Oklahoma, if applicable.

(C) The fictitious name of the applicant in the State of Oklahoma, if applicable.

(D) The name of the applicant that will be identified on the license.

(E) The Internet website address of the applicant, if applicable.

(F) The type of business entity of the applicant.

(G) The principal place of business of the applicant.

(H) The date of the application.

(I) The contact person of the applicant. The contact person shall be the representative of the applicant that is responsible for all correspondence with the Department, including but not limited to, licensing, complaints and enforcement matters. The applicant shall specify the full name and title of the contact person. The applicant shall specify the telephone number, mailing address, facsimile number and electronic mail address of the contact person.

(J) The registered agent of the applicant for the receipt of service of process within the State of Oklahoma. The applicant shall specify the full name of the registered agent, the street address, telephone number and electronic mail address of the registered agent.

(K) An applicant that is a limited liability company shall provide contact information as directed in the application for each member and manager, as applicable.

(L) An applicant that is a corporation shall provide contact information as directed in the application for each director and officer, as applicable.

(M) An applicant that is a partnership shall provide contact information as directed in the application for each partner, as applicable, and any agent(s), if applicable.

(2) **Disclosures.** The applicant must respond to disclosure questions regarding the background of the applicant and the officers, directors, members, partners, managers or agents of the applicant, as applicable. The disclosure questions address the character and fitness of the applicant for purposes of determining whether or not the applicant will operate honestly and fairly in accordance with the Consumer Litigation Funding Act. The disclosure questions address the following matters:

(A) **Pending administrative, civil or criminal actions.** An applicant is required to provide a certified copy of a petition or other document that initiated a pending administrative, civil or criminal action against the applicant and/or any officer, director, member, partner, manager or agent of the applicant, as applicable.

(B) **Business or professional license suspensions and revocations.** An applicant is required to provide a certified copy of an order imposing the suspension or revocation of a business or professional license of the applicant and/or any officer, director, member, partner, manager or agent of the applicant, as applicable, by any federal, municipal or state agency in the United States of America.

(C) **Previous monetary penalties in connection with activities conducted under a business or professional license.** An applicant is required to provide a certified copy of an order imposing a monetary penalty that has been issued against the applicant and/or any officer, director, member, partner, manager or agent of the applicant, as applicable, by a federal, municipal or state agency in the United States of America regarding activities conducted under a business or professional license.

(D) **Felony convictions.** An applicant is required to provide a certified copy of a Judgment and Sentence imposed against the applicant and/or any officer, director, member, partner, manager or agent of the applicant regarding a felony crime. The law of the federal, state or military court in which the applicant and/or any officer, director, member, partner,

manager or agent of the applicant was convicted determines whether a particular crime is classified as a felony.

(3) **Bond or irrevocable letter of credit.** The applicant must furnish a certified copy of a bond or an irrevocable letter of credit in the amount of Fifty Thousand Dollars ($50,000.00). The bond or irrevocable letter of credit shall include the terms mandated by the Consumer Litigation Funding Act.

(4) **Business documents.** An entity must furnish business documents to verify the identity and business structure of the applicant. An entity must also provide documentation from the Oklahoma Secretary of State regarding the authority of the applicant to transact business in the State of Oklahoma. The business documents required to be furnished to the Department are specified in the application. A foreign business entity that is exempt from obtaining a Certificate of Authority, Registration or Qualification from the Oklahoma Secretary of State, as applicable, shall provide to the Department the exemption that is applicable and a certified copy of a document issued by an authorized officer of the jurisdiction in which the foreign business entity was formed or incorporated evidencing the existence and good standing of the foreign business entity in such jurisdiction.

(5) **Fees.** The applicant shall submit all applicable fees as required by the Consumer Litigation Funding Act and/or any applicable administrative rules of the Department.

(6) **Affidavit verifying lawful presence in the United States of America.** A notarized affidavit must be submitted for individuals or sole proprietors to verify the lawful presence of the individual in the United States of America. Information and forms are included with the application.

(7) **Attestation.** An authorized officer, member, manager, director, or agent, as applicable, of the applicant must sign the application and attest to the information submitted in the application. The attestation shall include an acknowledgment that the applicant understands and will comply with the laws of the State of Oklahoma regarding consumer litigation funding.

160:75-3-2. License renewal

A complete license renewal package shall consist of the following information:

(1) **License renewal application.** The license renewal application shall consist of the following information and documentation:

(A) The name of the licensee identified on the license.

(B) The license number of the licensee.

(C) The date of the license renewal application.

(D) The licensee shall specify if any information submitted in the initial license application has changed since the date of the initial license application submission. If any information submitted in the initial license application has changed since the date of the initial license application submission, the licensee shall specify if the changes have been reported as required by the rules of this chapter regarding license and address changes. If the licensee has not complied with the rules of this chapter regarding license and address changes, the licensee shall submit any revised information and any applicable documentation in the license renewal application.

(2) **Fees.** The licensee shall submit a renewal fee determined by the Administrator to be Five Hundred Eighty Dollars ($580.00).

(3) **Bond or irrevocable letter of credit.** The licensee must furnish a certified copy of a current bond or an irrevocable letter of credit in the amount of Fifty Thousand Dollars ($50,000.00). The bond or irrevocable letter of credit shall include the terms mandated by the Consumer Litigation Funding Act.

(4) **Business documents.** A business entity licensee shall submit a current Certificate of Good Standing issued by the Oklahoma Secretary of State. A current Certificate of Good Standing means a Certificate of Good Standing or other applicable document issued within thirty (30) days of the date of the license renewal application. A foreign business entity that is exempt from obtaining a Certificate of Authority, Registration or Qualification from the Oklahoma Secretary of State shall provide a current Certificate of Good Standing or other applicable document by an authorized official of the jurisdiction in which the foreign business entity was formed or incorporated evidencing the existence and good standing of the foreign business entity.

(5) **Affidavit verifying lawful presence in the United States of America.** A notarized affidavit of lawful presence in the United States of America shall be submitted for individuals or sole proprietorships that are qualified aliens.

(6) **Attestation.** An authorized officer, member, manager, director, or agent, as applicable, of the applicant must sign the application and attest to the information submitted in the license renewal application. The attestation shall include an acknowledgment that the applicant understands and will comply with the laws of the State of Oklahoma regarding consumer litigation funding. The attestation must also acknowledge that the licensee has reported any revised information to the Department since the initial license application submission.

160:75-3-3. License changes

A licensee shall notify the Department in writing within thirty (30) days of any change in information provided in the license application package other than an address change. The written notification shall also include any documentation relating to the change of information as applicable. Written notification may be submitted by electronic mail, United States mail or courier service and shall be directed to the attention of the Administrator.

160:75-3-4. Address changes

A licensee shall notify the Department in writing at least thirty (30) days in advance of any change in the principal place of business and/or mailing address of the licensee. Written notification may be submitted by electronic mail, United States mail or courier service and shall be directed to the attention of the Administrator.

SUBCHAPTER 5. RECORDS

160:75-5-1. Records

A licensee shall maintain records regarding a consumer litigation funding transaction for a period of four (4) years from the resolution date. A licensee may maintain records regarding consumer litigation funding transactions in an electronic format.

SUBCHAPTER 7. COMPLAINTS AND INVESTIGATIONS

160:75-7-1. Complaints

(a) **Content and format.** A complaint submitted to the Department regarding a consumer litigation funding transaction shall be in writing and shall contain the following information:

(1) The full name of the complainant.

(2) The address of the complainant.

(3) The telephone number of the complainant.

(4) The electronic mail address of the complainant, if applicable.

(5) The name of the entity or individual that is the subject of the complaint.

(6) The address of the entity or individual that is the subject of the complaint.

(7) The telephone number of the entity or individual that is the subject of the complaint, if available to the complainant.

(8) The alleged violation of law.

(9) The details of the complaint.

(10) The desired resolution of the complaint.

(11) The date of the complaint.

(12) Documentation necessary to establish the basis of the complaint.

(b) **Private controversy.** Action shall not be taken regarding a complaint if the complaint involves a matter of private controversy and does not adversely affect the public interest.

(c) **Submission of information.** By submitting a complaint, the complainant agrees that the Department may submit any information provided by the complainant to the entity, foreign business entity or individual that is the subject of the complaint.

(d) **Purpose of the complaint process.** The purpose of the complaint process is to facilitate the exchange of information between a complainant and a licensee. The complaint process is also utilized to determine if any violations of law affecting the public interest are at issue.

(e) **Time.** A licensee shall provide a written response to the Department within thirty (30) days of the submission of a complaint from the Department. The response from a licensee shall include any documentation requested by the Department that is relevant to a complaint. A licensee may request in writing an extension of time in which to submit a response to a complaint.

160:75-7-2. Investigations

(a) **Authority.** The Administrator has the authority to conduct investigations of consumer litigation funding transactions in accordance with 14A O.S. §§ 3-815 and 6-106.

(b) **Production of information.** The Administrator may, in addition to or in lieu of other available methods of production specified in 14A O.S. § 6-106, require a licensee to produce information relevant to an investigation to the Department by electronic mail, certified United States Mail, return receipt requested, or courier service.

(c) **Time.** A licensee shall produce information requested by the Department that is relevant to an investigation within thirty (30) days of the submission of a request by the Department. A licensee may request in writing an extension of time in which to submit the production of information that is relevant to an investigation.

SUBCHAPTER 9. FORMS

160:75-9-1. Model consumer litigation funding agreement

(a) **Publication and usage.** The Administrator may publish a model consumer litigation funding agreement for utilization by a consumer litigation funder. A consumer litigation funder may, but is not required to, utilize a model consumer litigation funding agreement for consumer litigation funding transactions in the State of Oklahoma. A model consumer litigation funding agreement published by the Administrator shall also be published as an appendix to the rules of this chapter.

(b) **Presumption of compliance.** The utilization of a model consumer litigation funding agreement published as an appendix to the rules of this chapter shall create a presumption that a consumer litigation funder has provided the required disclosures of the Consumer Litigation Funding Act.

APPENDIX A. CONSUMER LITIGATION FUNDING AGREEMENT MODEL FORM [NEW]

ABC Legal Funding
123 Elm Street
Oklahoma City, OK 73102

John Doe
321 Main Street
Oklahoma City, OK 73103

CONSUMER LITIGATION FUNDING AGREEMENT

FUNDED AMOUNT (to be paid to the consumer)	**TOTAL AMOUNT ASSIGNED (includes the funded amount and all charges)**

ITEMIZATION OF ONE-TIME CHARGES

1. _____

2. _____

3. _____

PAYMENT SCHEDULE

Funded Amount/Charges	**Amount of Payments**	**When Payments Are Due**

PAYMENT FROM PROCEEDS OF LEGAL CLAIM

"THE FUNDED AMOUNT AND AGREED TO CHARGES SHALL BE PAID ONLY FROM THE PROCEEDS OF YOUR LEGAL CLAIM, AND SHALL BE PAID ONLY TO THE EXTENT THAT THERE ARE AVAILABLE PROCEEDS FROM YOUR LEGAL CLAIM. YOU WILL NOT OWE ABC LEGAL FUNDING ANYTHING IF THERE ARE NO PROCEEDS FROM YOUR LEGAL CLAIM, UNLESS YOU HAVE VIOLATED ANY MATERIAL TERM OF THIS AGREEMENT OR YOU HAVE COMMITTED FRAUD AGAINST ABC LEGAL FUNDING."

Legal claims

1. ABC Legal Funding may not participate in deciding whether, when, or the amount for which a legal claim is settled;

2. ABC Legal Funding may not interfere with the independent professional judgment of the attorney handling the legal claim or any settlement or adjudication of the legal claim; and

3. The consumer shall notify ABC Legal Funding of the settlement or adjudication of the legal claim before the resolution date.

CONSUMER'S RIGHT TO CANCELLATION/RESCISSION:

You may cancel this agreement without penalty or further obligation within five business days after the funding date if you either:

1. Return to ABC Legal Funding the full amount of the disbursed funds by delivering the funder's uncashed check to the office of ABC Legal Funding in person; or

2. Send, by insured, certified, or registered United States mail, to ABC Legal Funding at the address specified in the agreement, a notice of cancellation and include in the mailing a return of the full amount of disbursed funds in the form of an uncashed check of ABC Legal Funding or a registered or certified check or money order."

"Do not sign this agreement before you read it completely or if it contains any blank spaces. You are entitled to a completed copy of the agreement. Before you sign this agreement, you should obtain the advice of an attorney. Depending on the circumstances, you may want to consult a tax, public or private benefits planning, or financial professional."

Signature of the consumer

Date

[OAR Docket #15-680; filed 7-2-15]

TITLE 175. STATE BOARD OF COSMETOLOGY AND BARBERING CHAPTER 1. ADMINISTRATIVE OPERATIONS

[OAR Docket #15-581]

RULEMAKING ACTION:
PERMANENT final action
RULES:
Subchapter 1. General Provisions
175:1-1-2 [AMENDED]
Subchapter 5. Rules of Practice
175:1-5-4 [AMENDED]
175:1-5-15 [NEW]
AUTHORITY:
59 O.S. § 199.3 (A); State Board of Cosmetology and Barbering
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
December 8, 2014
COMMENT PERIOD:
January 2, 2015 to February 6, 2015
PUBLIC HEARING:
February 6, 2015
ADOPTION:
February 9, 2015
SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:
February 11, 2015
APPROVED BY GOVERNOR'S DECLARATION:
Approved by Governor's declaration on June 8, 2015
FINAL ADOPTION:
June 8, 2015
EFFECTIVE:
September 11, 2015
SUPERSEDED EMERCENCY ACTIONS:
n/a
INCORPORATIONS BY REFERENCE:
n/a
ANALYSIS:
The Board is adding the definition for a mobile type salon which is a specialty Establishment. The Board is also is allowing for fines for citations for violations allowed by statute and in Rule #175:1-5-14.
CONTACT PERSON:
Jennifer McRee, Principal Assistant, Oklahoma State Board of Cosmetology and Barbering, 2401 NW 23rd Street, Oklahoma City, OK 73107, 405-522-7616, jmcree@cosmo.ok.gov

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 250.3(5) AND 308(E), WITH EFFECTIVE DATE OF SEPTEMBER 11, 2015:

SUBCHAPTER 1. GENERAL PROVISIONS

175:1-1-2. Definitions

The terms and phrases defined in the Oklahoma Cosmetology Act shall have the same meaning when applied in the rules which are herein set forth in this Chapter to substantiate the Cosmetology and Barbering Law. The following rules and terms shall have the same meaning, unless the context clearly indicates otherwise:

"Act" means the Oklahoma Cosmetology and Barbering Act.

"Apprentice" means a person who is engaged in learning the practice of cosmetology or barbering in a cosmetology or barber establishment. [Title 59 O.S. Section 199.1]

"Assigned practice or clinic work" means demonstrations and lesson practice in which services may be performed on patron, student or model on clinic floor in classroom for the benefit of student observation, notes, etc. The practice or demonstration shall be assigned by or with approval of the instructor in charge and materials/supplies used for the education demonstration are the responsibility of the school.

"Barber/Barber Stylist" means any person who engages in the practice of barbering.

"Barber Establishment" means an Establishment or place of business where one or more persons are engaged in the practice of barbering but shall not include barber schools or colleges.

"Barbering" means any one or combination of practices done upon the upper part of the human body for cosmetic purposes and when done for payment either directly or indirectly for the general public, constitutes the practice of barbering, to wit: shaving or trimming the beard or cutting the hair; giving facial or scalp massages or treatment with oils, creams, lotions or other preparations, either by hand or mechanical appliances; singeing, shampooing or applying lighteners or color to the hair, applying hair tonics; applying cosmetic preparations, antiseptics, powders, oils, clays or lotions to scalp, face, neck or upper part of the body; and removing superfluous hair from the face, neck or upper part of the body.

"Barber school or college" means an Establishment operated for the purpose of teaching barbering.

"Board" means the State Board of Cosmetology and Barbering.

"Clock hour" means a measure of time determined to be sixty (60) minutes that a student spends in an educational or training activity.

"Cosmetic studio" means any place or premises where demonstrators give demonstrations, without compensation, for the purpose only of advertising and selling cosmetics.

"Cosmetician" means a person licensed by the Board to perform patron services limited to hair arranging and application of make-up, including, but not limited to using hairstyling tools and products. Services must be performed in a licensed establishment.

"Cosmetologist" means any person who engages in, follows or performs any of the practices of cosmetology.

"Cosmetology" means any one or combination of practices generally and usually performed by and known as the occupation of beauticians, beauty culturists, beauty operators, cosmeticians, cosmetologists, or hairdressers, or any other person holding himself or herself out as practicing cosmetology by whatever designation and within the meaning of the Oklahoma Cosmetology and Barbering Act and in or upon whatever place or premises. Cosmetology shall include, but not limited to, any one or combination of the following practices: bleaching, cleansing, curling, cutting, coloring, dressing, removing, singeing, styling, waving or similar work upon the hair of any person by any means, whether with hands or mechanical or electrical apparatus or appliances. Nothing in the Oklahoma

Cosmetology and Barbering Act shall be construed to prohibit the use of hands or mechanical or electrical apparatus or appliances for the non permanent removal of hair from the human body without puncturing of the skin or the use of stimulating exercising, beautifying or similarly working the scalp, face, neck, arms or the manicuring of the nails of any person, exclusive of such of the foregoing practice as are within the scope of practice of the healing arts as provided by law.

"Cosmetology Establishment" means an Establishment or place of business where one or more persons are engaged in the practice of cosmetology but shall not include barber schools and colleges.

"Cosmetology or Barber school" means a school or department that is approved by the Board to conduct and provide cosmetology and/or barber training and education in Oklahoma. It means any place or premises where instruction in any or all the practices of cosmetology and or barbering are given. Any person, firm, institution or corporation, who holds himself, firm, institution or corporation who shall teach and train any other person or persons in any of the practices of cosmetology and/or barbering is hereby declared to be engaged in operating a cosmetology and/or barbering school, and shall be operating cosmetology and/or barbering school, and shall be subject to the provisions of the Oklahoma Cosmetology and Barbering Act. Licensed cosmetology and barbering schools may offer education to secondary and post secondary students in this state.

"Credit hour" means a unit of value awarded to a student for successful completion of a program, course or course lesson and credit to clock ration is as recognized by the United States Department of Education or a regional or national accreditation entity recognized by the United States Department of Education.

"Demonstrator" means a person who is not licensed in this state as a Cosmetologist, Barber or Instructor and who demonstrates any cosmetic preparation. The person shall be required to obtain a Demonstrator license from the Board before making any such demonstrations.

"Dry sanitizer" means a clean, dry, closed (covered) cabinet, drawer, chest or other type container used in a cosmetology/barber Establishment school for the purpose of storing clean, dry disinfected~~sanitized~~ combs, brushes and other implements without fumigant after the articles have been cleaned and disinfected~~sanitized~~ in a wet sanitizer (or by other approved method in the case of metal implements).

"Emergency circumstances" means a serious injury, illness or death in the immediate family of applicant for registration, examination, licensure, etc.

"Establishment" means a place or premises, cosmetology salon or barber shop, cosmetic or other speciality shop/salon where any one or combination of cosmetology or barbering practices are performed on the public except that the term shall not include a cosmetology or barbering school.

"Esthetician/Facialist/Facial Operator" means a person licensed by the Board to perform skin care, make-up and hair removal services to the public provided the hair removal services shall not include electrolysis.

"Facial/Esthetics Instructor" means a person licensed by the Board as a qualified teacher of the art and science of skin care theory and practice.

"Hairbraiding Technician" means a person licensed by the Board to perform hairbraiding, hairweaving techniques, and hair extensions in a licensed cosmetology establishment.

"Hybrid learning" means courses that combine face-to-face classroom instruction with on-line computer based learning.

"Manicurist/Nail Technician" means a person licensed by the Board to perform nail care services to the public in a place licensed by the Board where nail care/manicuring/pedicuring services may be performed.

"Manicurist/Nail Technician Instructor" means a person licensed by the Board as a qualified teacher of the art and science of nail technology theory and practice.

"Master Barber Instructor" means a person licensed by the Board who gives instruction in barbering or any practices thereof and trained in a school after November 1, 2014.

"Master Cosmetology Instructor" means a person licensed by the Board as a qualified teacher of cosmetology theory and practice.

"Mobile Establishment" means a specialty Establishment that is operated in a self-contained, self-supporting, enclosed mobile unit.

"Post secondary institution" means a school licensed to teach students according to prescribed curriculum as in Title 59 O.S. § 199.7 (F) 1 Board rule 175:10-3-34(a).

"Secondary institution" means a school licensed to teach students eligible for credit for 500 hours of related subjects as prescribed in Title 59 O.S. § 199.7 (f)2 and in Board rule 175:10-3-34(b).

"Student" means a person who is enrolled in a cosmetology or barber school and appropriately registered with the Board for the purpose of being educated and trained in the practice of cosmetology or barbering.

"Unassigned practice or clinic work" means a personal service of cosmetology or barber practice (on student on another etc.); which shall be elective practice which one student chooses to perform or to receive (routine shampoo not included); and in which school supplies may be used (i.e. bleach/color/perm, etc.); and which practice and service is not assigned by the instructor and/or performed for the benefit of a group of students who have been scheduled to observe as a classroom or clinic demonstration; and for which a reasonable cost for supplies used in the practice may be charged to the student receiving the unassigned services.

"Wet sanitizer" means a large, pan-type covered container which shall contain a liquid chemical disinfectingsanitizing agent used in a school or Establishment for the purpose of ~~sanitizingand~~ disinfecting combs, brushes and other non-metal tools and implements used in training and practice.

SUBCHAPTER 5. RULES OF PRACTICE

175:1-5-4. Board sanctions

(a) If it is proven that violations of the Oklahoma Cosmetology Act and Board rules and regulations have occurred, sanctions available to the Board are:

(1) Revocation of license; or

(2) Suspension of license; or

(3) Refusal to issue license; or

(4) Placing licensee on probation.

(5) Fines for citations for violations of the Cosmetology and Barber Act or Board rules as in Rule 175:1-5-15.

(b) Such matters of violation may be referred to the District Attorney or to the Attorney General for injunctive or other relief.

175:1-5-15. Schedule of fines

The fine schedule for citations issued by the Board for violations of the Cosmetology and Barber Act or rules promulgated thereunder shall be subject to the fines as follows providing each day a violation continues shall be a separate offense:

(1) Engaging in barbering in any of the licensed practices without a license

(A) First: $250

(B) Subsequent: $500

(2) Employing an unlicensed person to perform cosmetology or barbering (per person):

(A) First: $250

(B) Subsequent: $500

(3) Allowing a barbering student or barber apprentice to work without direct supervision:

(A) First: $50

(B) Subsequent: $50

(4) Training more than one apprentice per Establishment (fine per apprentice):

(A) First: $50

(B) Subsequent: $50

(5) Operating a barber work station in violation of any general disinfection requirement as required by Board rule:

(A) First: $50

(B) Subsequent: $50

(6) Failure to comply with a specific provision of the Cosmetology and Barber Act or Board rules by a person practicing on a work permit, apprentice, or any licensee of the Board:

(A) First: $50

(B) Subsequent: $50

(7) Failure to comply with a specific provision of the Cosmetology and Barber Act or rules by an individual not licensed under the Act:

(A) First: $250

(B) Subsequent: $500

(8) Operate a barber school without first obtaining a license from the Board:

(A) First $250

(B) Subsequent: $500

(9) Operating a barber school that is not in compliance with Board rules for disinfection and safety:

(A) First: $50

(B) Subsequent: $50

(10) Operating a barber school without the appropriate number of licensed instructors:

(A) First $50

(B) Subsequent $50

[OAR Docket #15-581; filed 6-16-15]

TITLE 175. STATE BOARD OF COSMETOLOGY AND BARBERING CHAPTER 10. LICENSURE OF COSMETOLOGISTS, BARBERS, SCHOOLS AND RELATED ESTABLISHMENTS

[OAR Docket #15-582]

RULEMAKING ACTION:

PERMANENT final action

RULES:

Subchapter 3. Licensure of Schools

Part 5. Equipment and Curriculum Requirements

175:10-3-31 [AMENDED]

175:10-3-34 [AMENDED]

175:10-3-38 [AMENDED]

175:10-3-39 [AMENDED]

175:10-3-40 [AMENDED]

175:10-3-41 [AMENDED]

175:10-3-43 [AMENDED]

175:10-3-45 [AMENDED]

Part 7. General Operations and Licensing Requirements

175:10-3-54 [AMENDED]

175:10-3-79 [NEW]

Subchapter 5. Licensure of Cosmetology and Barber Establishments

175:10-5-2 [AMENDED]

Subchapter 7. Sanitation, Disinfection and Safety Standards ~~for Cosmetology and Barber~~ Establishments~~, Salons~~ and Schools

175:10-7-2 [AMENDED]

175:10-7-5 [AMENDED]

175:10-7-6 [AMENDED]

175:10-7-11 [AMENDED]

175:10-7-13 [AMENDED]

175:10-7-14 [AMENDED]

175:10-7-15 [AMENDED]

175:10-7-17 [AMENDED]

175:10-7-18 [AMENDED]

175:10-7-28 [AMENDED]

175:10-7-30 [AMENDED]

Subchapter 9. Licensure of Cosmetologists, Barbers and Related Occupations

Part 1. Apprenticeship

175:10-9-1 [AMENDED]

Part 3. State Board Examinations

175:10-9-25 [AMENDED]

Part 5. Demonstrators; Cosmetic Studios; Trade Shows; Guest Artists; Wig Dressing;Other Practices of Cosmetology and Barbering

175:10-9-50 [AMENDED]

175:10-9-54 [AMENDED]

175:10-9-55 [AMENDED]

Subchapter 11. License Renewal, Fees and Penalties

175:10-11-2 [AMENDED]

Subchapter 13. Reciprocal and Crossover Licensing

175:10-13-1 [AMENDED]

175:10-13-2 [AMENDED]

Subchapter 17. Emergency Cosmetology and Barbering Service

175:10-17-1 [AMENDED]

175:10-17-3 [NEW]

AUTHORITY:

59 O.S. § 199.3 (A); State Board of Cosmetology and Barbering

SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
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APPROVED BY GOVERNOR'S DECLARATION:
Approved by Governor's declaration on June 8, 2015
FINAL ADOPTION:
June 8, 2015
EFFECTIVE:
September 11, 2015
SUPERSEDED EMERCENCY ACTIONS:
n/a
INCORPORATIONS BY REFERENCE:
n/a
ANALYSIS:
The Board amending specific rules and adding three new rules. The Board is updating requirements for schools regarding equipment and clarifying that the Board allows for credit of 500 hours in statutory approved related subjects for parochial, private school or home school high school transcript documentation. The Board is updated language by deleting the outdated terminology of sterilization and instead requiring disinfection. Amendments add for new regulations to allow for public barber school students to obtain 500 hours of approved related subjects that is the same allowance for currently for public cosmetology students. New rules clarify the statutory authority for hybrid learning in all courses. Amended rules allow that schools may count the instructor student in the required ration of instructor to student count. A new rule was added that was previously a Barber rule to allow for kiosk style Establishments to be licensed. The Board is lowering the passing score of all exams to 75% on all portions. Fees were updated to match current statute and reciprocity rule requirements were updated to match the statute. The Board is adding provisions to allow for mobile type establishments with limited provisions.
CONTACT PERSON:
Jennifer McRee, Principal Assistant, Oklahoma State Board of Cosmetology and Barbering, 2401 NW 23rd Street, Oklahoma City, OK 73107, 405-522-7616, jmcree@cosmo.ok.gov

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 11, 2015:

SUBCHAPTER 3. LICENSURE OF SCHOOLS

PART 5. EQUIPMENT AND CURRICULUM REQUIREMENTS

175:10-3-31. Training equipment requirements.

(a) The following minimum equipment is considered by the Board to be adequate for the appropriate and safe training of no more than thirty-seven (37) students. The minimum equipment shall be required for one (1) to and including thirty-seven (37) students.

(1) One (1) school seal
(2) One (1) Chart of Anatomy to include:
(A) bones
(B) muscles
(C) nerves
(D) circulatory system
(E) skin
(3) One (1) blackboard
(4) Three (3) large wet sanitizers (pan-type with covers)
(5) One (1) large dry sanitizer with airtight cabinet (without fumigant) to keep instruments, combs, and brushes after they have been taken from wet sanitizer
(6) One (1) small dry sanitizer for each student (closed dry cabinet, drawer or other covered box-type container)
(7) One (1) container with cover for each student to store soiled brushes/combs etc. until such time as all items shall be cleaned and sanitized according to approved rules and methods
(8) Four (4) shampoo basins equipped with shampoo sprays and connected with hot and cold water (one shampoo basin for each additional 15 students or major fraction thereof)
(9) Four (4) shampoo chairs (one for each additional 15 students or major fraction thereof)
(10) Two (2) facial chairs, considered adequate for patron service; reclining, styling or shampoo are acceptable for student practice (one for each additional 15 students or major fraction thereof)
(11) One (1) facial supply cabinet (one for each additional 15 students or major fraction thereof)
(~~13~~12) Four (4) hair dryers - hood or chair type ~~(one for each additional 15 students or major fractionthereof)~~
(~~14~~13) Twelve (12) blow-dryers (one for each additional 15 students or major fraction thereof)
(~~15~~14) Twelve (12) curling irons (one for each additional 15 students or major fraction thereof)
(~~16~~15) One (1) mannequin for each student
(~~17~~16) Four hundred (400) permanent wave rods and other permanent wave supplies as necessary
(~~18~~17) Twenty (20) work/styling stations with mirrors ~~(one for each additional 5 students)~~
(~~19~~18) Twenty (20) styling chairs ~~(one for each additional 5 students)~~
(~~20~~19) Five (5) covered waste receptacles
(~~21~~20) One (1) large closed cabinet for clean towels
(~~22~~21) Four (4) large covered receptacles for soiled towels (one for each additional 15 students or major fraction thereof)
(~~23~~22) One (1) large dispensary cabinet
(~~24~~23) Four (4) manicure tables and chairs considered adequate for patron service. A longnarrow (18") folding table is acceptable for student practice. This is a requirement for a cosmetology school and not a barber school.
(~~25~~24) One (1) covered hair pin or clippie container for each student. This is a requirement for a cosmetology school and not a barber school.
(~~26~~25) Subscriptions to at least three (3) professional cosmetology related periodicals (electronic periodicals are acceptable)

(~~27~~26) Four (4) heaters and irons and/or four (4) electric pressing combs
(~~28~~27) Five (5) head forms
(~~29~~28) Five (5) wefts

(b) Other additional equipment shall be required if the Board's Inspector shall show evidence that the need for additional equipment is necessary to the appropriate and safe training in all phases of cosmetology and barbering to each student enrolled in the school.

175:10-3-34. Basic Cosmetologist course curriculum for privately owned and public schools

(a) **Privately owned cosmetology school.** The 1500 clock hour curriculum (pure cosmetology) is prescribed as follows: (Note: Hours may be measure in credits and ratio is as recognized by the United States Department of Education as recognized by a national accreditation entity as recognized by the United States Department of Education.)

(1) Theory (must be coordinated with each practical practice subject as is appropriate throughout the course of training) 150 clock hours
(2) Manicuring and pedicuring (including sculptured nails and tips and other artificial nail application procedures and care) 90 clock hours
(3) Facials (skin care training includes make-up, waxing and/or other methods for non-permanent hair removal) 30 clock hours
(4) Scalp treatments 30 clock hours
(5) Shampooing/conditioning rinses 60 clock hours
(6) Hairstyling, including finger waving, the dressing of wigs, thermal and blow drying 390 clock hours
(7) Hair color tints and bleaching and other color treatments 120 clock hours
(8) Hair cutting and hair shaping with shears and thinning shears (scissors) razor and clipper (includes beard) 180 clock hours
(9) Lash and brow tinting and arching 30 clock hours
(10) Professional ~~Personality~~development, Establishment~~shop~~ management and unassigned hours for review, examinations, etc. 180 clock hours
(11) Hair restructuring/permanent waving and chemical hair relaxing 240 clock hours
(12) Total cosmetology hours 1500 hours

(b) **Public cosmetology school.** The 1500 clock hour curriculum (1000 hours pure cosmetology plus 500 hours of cosmetology related high school subjects) is prescribed for public school, parochial school, private school or home schooled students in the following situations:

(1) Cosmetology students that are currently attending high school, parochial, private school or a home school.
(2) Persons that did not otherwise complete their cosmetology training while registered as a cosmetology student in high school, parochial school, or a home school .

(A) Students who shall qualify for training in this matter must complete 1000 clock hours in a Basic cosmetology course and 500 hours of approved related subjects. The official parochial, private school or home school high school transcript shall serve as documentation for the 500 hours of related instruction. The transcript must show passing grades in related subjects and completion of at least the first semester of the twelfth (12th) grade. Related subjects shall run concurrently with and shall be in no instance older than three (3) years at time of enrollment in a cosmetology school course. The curriculum as follows has a recommended completion time of two (2) school years.
(B) Adult students registered in a cosmetology school are not eligible to train under the 1000 hours pure cosmetology plus 500 hours of cosmetology related high school subjects unless qualified under (b) (1) and (2) of this rule.

(3) Theory (must be coordinated with each practical practice subject as is appropriate
throughout the course of training) 150 clock hours
(4) Manicuring and pedicuring (including sculptured nails and tips and other artificial nail application procedures and care) 60 clock hours
(5) Facials (skin care training includes make-up, waxing and/or other methods for non-permanent hair removal) 30 clock hours
(6) Scalp treatments 30 clock hours
(7) Shampooing/conditioning rinses 30 clock hours
(8) Hairstyling, including finger waving, the dressing of wigs, thermal and blow drying 180 clock hours
(9) Hair color tints and bleaching and other color treatments 90 clock hours
(10) Hair cutting and hair shaping with shears and thinning shears (scissors) razor and clipper (includes beard) 120 clock hours
(11) Lash and brow tinting and arching 30 clock hours
(12) Professional development ~~Personality~~, Establishment~~shop~~ management and unassigned hours for review, examinations, etc. 100 clock hours
(13) Hair restructuring/permanent waving and chemical hair relaxing 180 clock hours
(14) Cosmetology related subjects 500 clock hours
(15) Total cosmetology hours 1500 hours

(c) Minimum student kit contents for private and public schools.

(1) A Basic Cosmetology student kit minimum equipment is required as follows:
(A) one (1) approved text on theory of cosmetology
(B) one (1) razor-type hair shaper and shaper blades or razor hone
(C) one (1) pair each hair cutting shears and thinning shears
(D) one (1) cuticle nipper for finger nails and one (1) nipper for toe nails
(E) one (1) cuticle scissors
(F) one (1) nail brush
(G) one (1) nail file or package of emery boards
(H) one (1) tweezer
(I) six (6) assorted hair brushes

(J) twelve (12) combs (including ~~rat-tail~~tail, ~~color, regular~~all purpose and/or barber-type)
(K) one (1) box of curl clips (100 per box)
(L) one (1) shampoo cape
(M) twelve (12) dozen hair styling rollers
(N) one (1) kit or tray to contain student personal training equipment

(2) In addition to the list of equipment in (1) of this Section the school shall immediately have available for student training:
(A) appropriately disinfected~~sanitized~~ set of manicuring implements for student training use on each patron
(B) toe nail clipper
(C) permanent wave rods
(D) other hair restructuring supplies
(E) an adequate supply of applicator bottles
(F) an adequate supply of protective gloves (disposable)
(G) an adequate supply of neck strips
(H) an adequate supply of hair clippers
(I) an adequately supplied products dispensary to appropriately train students in cosmetology classes
(J) visual aid equipment in addition to the chalk or marker board

175:10-3-38. Manicurist/Nail Technician course entrance and curriculum requirements

(a) **Entrance requirements.** Manicurist/nail technician course entrance requirements are the same as for a Basic course student.
(1) Each student shall be provided an approved textbook before commencing classroom training.
(2) A manicurist/nail technician student shall not be allowed to perform patron services until such time as he/she has received at least 80 clock hours of practice and classroom instruction under the direct supervision of a licensed instructor.
(3) Kit is required on or before completion of classroom training.
~~(4) If a licensed manicurist/nail technician registers for the Basic course, credit of 224 clock hours is allowed.~~

(b) **Curriculum requirements.** The 600 clock hour curriculum is prescribed as follows: (Note: Hours may be measure in credits and ratio is as recognized by the United States Department of Education as recognized by a national accreditation entity as recognized by the United States Department of Education.)
(1) Bacteriology, disinfection~~sterilization~~ and sanitation 40 clock hours
(2) Nail structure, composition, disorders and diseases 60 clock hours
(3) Manicuring and pedicuring (includes waxing or other non-permanent hair removal) 160 clock hours
(4) Artificial nails 160 clock hours
(5) Nail art 60 clock hours
(6) Establishment~~Salon~~ development (includes business administration and law; insurance; professional ethics; record keeping; business telephone techniques; salesmanship; displays advertising; hygiene and public health) 80 clock hours
(7) Board rules, regulations and statutes 40 clock hours
(8) Total hours 600 hours

(c) **Minimum student kit contents.**
(1) A Manicurist/nail technician minimum kit equipment is required as follows:
(A) one (1) textbook or manual
(B) one (1) cuticle nipper for finger nails and one (1) nipper for toe nails
(C) one (1) cuticle scissor
(D) one (1) cuticle pusher
(E) one (1) nail brush
(F) one (1) nail file or package of emery boards
(G) artificial nail product and tools
(H) one (1) kit or tray to contain student personal training equipment

(2) In addition to the list of equipment in (1) of this subsection, the school shall have immediately available for student training:
(A) appropriately disinfected~~sanitized~~ set of manicuring implements for student use on each patron
(B) an adequate supply of protective gloves (disposable)
(C) visual aid equipment in addition to the chalk or marker board

175:10-3-39. Esthetician/Facialist/Facial Operator course entrance and curriculum requirements

(a) **Entrance requirements.** Esthetician/Facialist/Facial Operator course entrance requirements are the same as for a basic course student.
(1) Each student shall be provided an approved textbook before commencing classroom training.
(2) An esthetician/facialist/facial operator student shall not be allowed to perform patron services until such time as he/she has received at least 80 clock hours of practice and classroom instruction under the direct supervision of a licensed instructor.
(3) Kit is required on or before completion of classroom training
~~(4) If a licensed esthetician/facialist/facial operator registers for the basic cosmetologist course, credit of 224 clock hours is allowed.~~

(b) **Curriculum requirements.** The 600 clock hour curriculum is prescribed as follows: (Note: Hours may be measured in credits and ratio is as recognized by the United States Department of Education as recognized by a national accreditation entity recognized by the United States Department of Education.)
(1) Bacteriology, disinfection,~~sterilization,~~ sanitation and safety 80 clock hours
(2) Sciences: Histology, dermatology and physiology of the skin (includes structure and function of skin and glands; color and morphology) 180 clock hours

(3) Facials: (includes draping, manipulations, cleaning and toning; chemistry and light therapy and make-up 200 clock hours

(4) Non-permanent hair removal: (includes methods and procedures and arching) 40 clock hours

(5) Salon development: (includes business administration and law; insurance; professional ethics; record keeping; business telephone techniques; salesmanship; displays and advertising;hygiene and public health) 60 clock hours

(6) Board rules, regulations and statutes 40 hours

(7) Total hours 600 hours

(c) **Minimum student kit contents.**

(1) An esthetician/facialist/facial operator kit equipment is required as follows:

(A) one (1) textbook or manual

(B) make-up with disposable applicators

(C) one (1) set of five (5) make-up brushes

(D) one (1) comb-out cape

(E) one (1) tweezer

(F) one (1) kit or tray to contain student personal training equipment

(2) In addition to the list of equipment in (1) of this subsection, the school shall have immediately available for student training:

(A) an adequate supply of protective gloves (disposable)

(B) an adequately supplied dispensary with skin care products

(C) visual aid equipment in addition to the chalk or marker board

175:10-3-40. Curriculum and training requirements for cosmetology and barbering courses

(a) Curriculum training shall include the study of electricity, safety measures and chemistry and must be carried through all classes in which it is used. Mannequin practice must be given to each student.

(b) A student who has completed the training in the Basic courses in a cosmetology and/or barbering school or as an apprentice who completed the course in an Establishment, must have had required amount of patron practice by working under actual cosmetology/barbering Establishment conditions to that he should be able to:

(1) perform any ordinary operation satisfactorily and in the same amount of time customarily allotted to that operation in an Establishment.

(2) conduct a consultation on any ordinary cosmetology or barbering subject and prescribe proper treatment.

(3) mix any preparation used in an Establishment.

(c) Establishment~~Salon~~ management must include purchasing, price determination, selling, appointment scheduling, dispensing of supplies and personal management.

(d) The teaching of wig styling and hairpieces shall consist of training in the proper fitting, dressing, styling and arranging of wigs and hairpieces.

(e) State Cosmetology and Barbering Law and Board rules and regulations must be taught in all courses.

(f) A school owner shall maintain an adequate dispensary room with supplies necessary for school operation and student training.

(g) A student enrolled in a school shall not be allowed to work on the public until such time as he has received at least 150 clock hours or equivalent number of credit hours of training spent in classroom theory and in mannequin or student practice under the direct supervision of a licensed instructor.

(h) A Basic Cosmetology or Barber student who fails to complete the course and registers in the Manicurist, Cosmetician, Hairbraiding Technician or Facialist course may be credited with 10% of the previously accumulated hours. A Manicurist, Cosmetician, Hairbraiding Technician, Facialist or Barber student who fails to complete the course and registers in the Basic Cosmetology or Barber course may be credited with 10% of the previously accumulated hours.

(i) If a person who holds a current Board license and registers in any course other than a Master Instructor course, credit of 224 clock hours is allowed.

(j~~i~~) Cosmetology and Barber schools must teach the curriculum for each course approved by the Board. A copy of current curriculum must be on file with the Board. The curriculum must be proven by a schedule which must be posted, followed and made available to students. The schedule may be interrupted for a period not to exceed more than eight (8) hours per month for assembly purposes.

(k~~j~~) If a school stays open more than eight (8) hours per day, a curriculum and schedule must be submitted to the Board covering extra hours.

(l~~k~~) An evening school cannot be approved unless information as to the instructors in charge and a curriculum and schedule for each course to be taught is submitted to the Board before beginning evening classes. A student may attend both day and evening classes provided the entire time does not exceed eight (8) hours daily. A schedule must be submitted to each student training in such manner.

(m~~l~~) Each manager, instructor or other person shall exercise the greatest care in keeping his person, all instruments used in school in the cleanest possible condition. Each must be knowledgeable of the more communicable diseases and the techniques necessary to prevent the transmission of disease.

175:10-3-41. Cosmetician course entrance and curriculum requirements

(a) **Entrance requirements.** Cosmetician course entrance requirements are the same as for a Basic course.

(1) Each student shall be provided an approved textbook or manual before commencing classroom training.

(2) A Cosmetician student shall not be allowed to perform patron services until such time as he/she has received at least 80 clock hours of practice and classroom instruction under the direct supervision of a licensed instructor.

(3) Kit is required on or before completion of practice and classroom instruction hours.

~~(4) If a licensed Cosmetician registers for the Basic course, credit of 224 clock hours is allowed.~~

(b) **Curriculum requirements.** The 600 clock hour curriculum is prescribed as follows: (Note: Hours may be

measured in credits and ratio is as recognized by the United States Department of Education as recognized by a national accreditation entity recognized by the United States Department of Education.)

(1) Bacteriology, disinfection~~sterilization~~ and sanitation 60 clock hours

(2) Make-up application (includes application of make-up, lipstick, eye shadow, eyeliner, mascara and rouge) 200 clock hours

(3) Hair arranging (includes arranging of the hair using curling irons, hot rollers, combs, brushes and any necessary product and accessories) 200 clock hours

(4) Establishment~~Salon~~ development (includes business administration and law, insurance, professional ethics, record keeping, business telephone techniques, salesmanship, displays advertising, hygiene and public health) 90 clock hours

(5) Board rules, regulations and statutes 50 clock hours

(6) Total hours 600 hours

(c) **Minimum student kit contents.**

(1) A Cosmetician minimum kit equipment is required as follows:

(A) textbook or manual

(B) make-up with disposable applicators

(C) lipstick with disposable applicators

(D) eye shadow with disposable applicators

(E) mascara with disposable applicators

(F) eyeliner with disposable applicators

(G) rouge/blush with disposable applicators

(H) 1 set of five (5) make-up brushes

(I) hairspray

(J) minimum of twelve (12) combs

(K) minimum of twelve (12) hairbrushes

(L) disposable make-up sponges

(M) hot rollers

(N) curling iron

(O) one (1) kit or tray to contain student personal training equipment

(P) one (1) comb-out cape

(2) In addition to the list of equipment in (1) of this subsection, the school shall have immediately available for student training:

(A) an adequate supply of protective gloves (disposable)

(B) an adequate supply of neck strips

(C) visual aid equipment in addition to the chalk or marker board.

175:10-3-43. Hairbraiding Technician course entrance and curriculum requirements

(a) **Entrance requirements.** Hairbraiding Technician course entrance requirements are the same as for a Basic course pursuant to OAC 175:10-3-16.

(1) Each student shall be provided an approved textbook or manual before commencing classroom training.

(2) A Hairbraiding Technician student shall not be allowed to perform patron services until such time as he/she has received at least 80 clock hours of practice and classroom instruction under the direct supervision of a licensed Instructor.

(3) Kit is required on or before completion of practice and classroom instruction hours.

~~(4) If a licensed Hairbraiding Technician registers for the Basic course, credit of 224 clock hours is allowed.~~

(b) **Curriculum requirements.** The 600 clock hour or curriculum is prescribed as follows: (Note: Hours may be measure in credits and ratio is as recognized by the United States Department of Education as recognized by a national accreditation entity as recognized by the United States Department of Education.)

(1) Bacteriology, chemistry, shampooing, disinfection~~sterilization~~ and sanitation (includes hair and scalp disorders) 100 clock hours

(2) Hairbraiding/hairweaving skills (includes purpose and effect, procedures, repair, removal weft, sizing and finishing, extension and maintenance/care of braids/weaves) 300 clock hours

(3) Salon development (includes business administration and law, insurance, professional ethics, record keeping, business telephone techniques, salesmanship, displays, advertising, hygiene and public health 180 clock hours

(4) Board rules, regulations and statutes 30 clock hours

(5) Total hours 600 hours

(c) **Minimum student kit contents.**

(1) A Hairbraiding Technician minimum kit equipment is required as follows:

(A) textbook or manual

(B) four (4) hair brushes

(C) four (4) hard rubber combs or other good quality combs (shall include rat-tail, color, regular and/or barber type)

(D) hair extension material

(E) one (1) comb-out cape

(F) one (1) box of curl clips (100 per box)

(G) one (1) kit or tray to contain student personal training equipment

(2) In addition to the list of equipment in (1) of this subsection, the school shall have immediately available for student training:

(A) an adequate supply of protective gloves (disposable)

(B) an adequate supply of neck strips

(C) visual aid equipment in addition to the chalk, marker board or acceptable alternative.

175:10-3-45. Barber course entrance and curriculum requirements

(a) **Entrance requirements.** A Barber course entrance requirements are the same as for a Basic cosmetology course pursuant to OAC 175:10-3-16.

(1) Each student shall be provided an approved textbook or manual before
commencing classroom training.

(2) A Barber student shall not be allowed to perform patron services until such
time as he/she has been trained in safety and disinfection procedures on the clinic services
performed ~~received at least 150 clock hours of practice and classroom instruction~~ under the direct supervision of a licensed Instructor.

(3) Kit is required on or before completion of practice and classroom instruction hours.

(b) **Curriculum requirements.** The 1500 clock hour curriculum for the barber course is prescribed as follows: (Note: Hours may be measured in credits and ratio is as recognized by the United States Department of Education as recognized by a national accreditation entity recognized by the United States Department of Education.)

(1) Safe work practices, infection control, bacteriology, implements, tools, equipment, sterilization, disinfection~~sanitation~~ and safety 155 clock hours

(2) Salesmanship, job search, shop management, history of barbering and professional image 175 clock hours

(3) Anatomy, physiology, chemistry, electricity and light therapy, properties and disorders of skin, scalp and hair, hair and scalp treatments 200 clock hours

(4) Facial massage and treatment 40 clock hours

(5) Haircutting and styling 580 clock hours

(6) Chemical relaxing, soft curl perms, permanent waving 95 clock hours

(7) Hair coloring 150 clock hours

(8) Men's hairpieces, mustache, beard design and shaving 65 clock hours

(9) Board rules, regulations and statutes 40 clock hours

(10) Total hours 1500 hours

(c) **Public barber school.** The 1500 clock hour curriculum (1000 hours pure barber plus 500 hours of barber related high school subjects) is prescribed for public school, parochial school, private school or home schooled students in the following situations:

(1) Barber students that are currently attending high school, parochial, private school or ahome school.

(2) Persons that did not otherwise complete their barber training while registered as a barber student in high school, parochial school, or a home school .

(A) Students who shall qualify for training in this matter must complete 1000 clock hours in a Basic barber course and 500 hours of approved related subjects. The official parochial, private school or home school high school transcript shall serve as documentation for the 500 hours of related instruction. The transcript must show passing grades in related subjects and completion of at least the first semester of the twelfth (12th) grade. Related subjects shall run concurrently with and shall be in no instance older than three (3) years at time of enrollment in a barber school course. The curriculum as follows has a recommended completion time of two (2) school years.

(B) Adult students registered in a barber school are not eligible to train under the 1000 hours pure barber plus 500 hours of barber related high school subjects unless qualified under (c) (1) and (2) of this rule.

(d~~e~~) **Minimum barber student kit contents.**

(1) A Barber student kit minimum equipment is required as follows:

(A) one (1) approved text on theory of barbering

(B) one (1) razor-type hair shaper and shaper blades

(C) one (1) pair each hair cutting shears and thinning shears

(D) one (1) tweezer

(E) six (6) assorted hair brushes

(F) twelve (12) combs (including ~~rat tail~~ tail, ~~color~~, all purpose~~regular~~ and/or barber-type)

(H) one (1) shampoo cape

(I) one (1) kit or tray to contain student personal training equipment

(2) In addition to the list of equipment in (1) of this Section the school shall immediately have available for student training:

(A) permanent wave rods

(B) other hair restructuring supplies

(C) an adequate supply of applicator bottles

(D) an adequate supply of protective gloves (disposable)

(E) an adequate supply of neck strips

(F) an adequate supply of hair clippers

(G) an adequately supplied products dispensary to appropriately train students in classes

(H) visual aid equipment in addition to the chalk or marker board

PART 7. GENERAL OPERATIONS AND LICENSING REQUIREMENTS

175:10-3-54. Instructor/student ratio

(a) The (1) Instructor is required for the first fifteen (15) students and one (1) additional instructor is required for each group of fifteen (15) students or major fraction thereof as follows:

(1) One instructor for 15 to and including 22 students.

(2) Two instructors for 23 to and including 37 students.

(3) Three instructors for 38 to and including 52 students.

(4) Four instructors for 53 to and including 67 students.

(5) Five instructors for 68 to and including 82 students.

(6) Six instructors for 83 to and including 97 students, etc.

(b) One instructor student in training shall count as an instructor toward the required ratio of instructorto student provided the school has notified the Board in writing if the instructor student in training is to be counted toward the required ratio of instructor student. The written notification must indicate that the change in instructors is an instructor student in training.

(c) The instructor student in training shall be easily recognized by the Inspector.

175:10-3-79. Hybrid learning in all courses

(a) A school must submit a curriculum and schedule for students utilizing hybrid learning.

(b) School must show proof that hybrid learning activities are continuously monitored by theschool and the process must be formally approved by the Board.

(c) Credit for hybrid learning is limited to 10% of the theory related hours of training in any given course.

(d) A record of students actively participating in hybrid learning activities must be maintained in the school and available for inspection purposes.

(e) Equipment and materials necessary for participation in hybrid learning shall be made available to students or specified in school/student agreement.

SUBCHAPTER 5. LICENSURE OF COSMETOLOGY AND BARBER ESTABLISHMENTS

175:10-5-2. Minimum equipment; sanitation standards; rule posted

(a) Each Establishment shall have at least one (1) shampoo basin and shampoo chair and other equipment, implements and supplies adequate to provide services in a sanitary and safe manner to the public. Clothing worn by licensee while performing services to the public shall be clean and shall be designed to reduce risk of exposure to electrical and/or chemical burns/cuts to the skin and the potential for transmitting germs/bacteria.

(b) Each Establishment shall have in use at all times, at least one (1) dry and one (1) wet sanitizer for the purpose of disinfecting~~sanitizing~~ combs, brushes and other implements after each use.

(c) Each Establishment shall be required to be in compliance with rules established by the Board relating to the standards of sanitation and disinfection to be observed and practiced in each Establishment. A copy of the sanitary and disinfection rules will be provided to each Establishment by the Board. The rules are required to be posted in each Establishment~~salon~~.

(d) Each Establishment owner and manager is responsible for the general and sanitary condition of the Establishment. Each owner and manager is responsible for assuring that each person employed and/or under his supervision and control in the Establishment, shall appropriately post a current, valid Oklahoma license or work permit before performing services to the public in the Establishment.

SUBCHAPTER 7. SANITATION, DISINFECTION AND SAFETY STANDARDS FOR ~~COSMETOLOGY AND BARBER~~ ESTABLISHMENTS~~, SALONS~~ AND SCHOOLS

175:10-7-2. Cosmetologists and Barbers working in same Establishment; license

~~A cosmetologist may practice in a barber shop provided the Establishment has been~~

Cosmetologists and Barbers may practice in the same Establishment and the Establishment must be issued an appropriate license by the State Board of Cosmetology and Barbering.

175:10-7-5. Disinfectants~~Sanitizer(s)~~ required for use in schools and related establishments

(a) Every precaution shall be taken to prevent infection by disinfecting~~sanitizing~~ all tools.

(b) All items shall be cleaned and disinfected~~cleaned/sanitized~~ by removing all visible debris from an item or surface by using soap/water or a cleaning agent.

(c) Items shall be rinsed thoroughly in plain water.

(d) Items shall be placed in a wet sanitizer, which is a large, pan-type container which may be of plastic, enamel, stainless steel, or rubber and shall be fully immersed in an EPA approved disinfectant prepared according to manufacturers~~manufacture's~~ directions. The items must stay immersed for full contact time according to manufacturer's instructions in order that item or surface stays moist with disinfection for all pathogens listed on the label to be effectively destroyed.

(e) Combs may be disinfected in a cylinder jar by immersing in an EPA approved disinfectant prepared according to manufacturers~~manufacturer's~~ directions. The combs must stay immersed for full contact time according to manufacturers~~manufacturer's~~ directions. The combs must stay immersed for full contact time according to manufacturers~~manufacturer's~~ instruction in order that item or surface stays moist with disinfection for all pathogens listed on the label to be effectively destroyed.

(f) If an autoclave is used to sterilize items after disinfection, in order to destroy all microbial life (including spores), periodic testing and maintenance must be performed on system according to manufacturer's instructions.

(g) All disinfected ~~and/or sterilized~~ items must be stored in a dry/closed cabinet, drawer, or other closed/covered/light type container without fumes.

175:10-7-6. Disinfecting~~Sanitizing~~ agents for use in schools and related establishments

(a) Disinfectants for use by Establishments and schools shall be used only if registered with the Environmental Protection Agency (EPA) for use as a disinfectant to achieve its intended purpose in accordance with the product label.

(b) To disinfect~~sanitize~~ and minimize corrosion of metal instruments, immerse and wipe thoroughly with an EPA approved disinfectant or spray with approved oil base disinfectant ~~sanitizer~~ and store in a cabinet or closed container free from contamination between use and service for each patron.

(c) All disinfection immersion liquid must be changed daily or sooner if visibly contaminated.

(d) All customer contact items, including neck rests, arm rests and seats, must be cleaned and disinfected between customers.

175:10-7-11. Brushes and combs; rollers and clips; appropriate dispensers; product removal

(a) Rollers and clips shall be cleaned and disinfected after each use~~sanitized daily~~.

(b) Placing combs or other articles to be used in the pocket of the uniform is prohibited.

(c) An adequate daily supply of combs and brushes shall be available.

(d) Lotions, powder or water shall be dispensed from shaker or bottle.

(e) Creams and other semi-solid preparations shall be removed from containers with a spatula.

175:10-7-13. Work/styling station and shampoo area conditions~~sanitation~~ and safety

(a) Work/styling station and shampoo area shall be maintained in a neat and orderly manner at all times. Instruments, which have been used, shall not be placed on work station or on the floor. Loose/cut hair must be removed from styling/work station/chair and floor immediately after patron service is complete.

(b) Consuming of food and/or beverage shall not be permitted at work/styling station or in classroom.

(c) Student, instructor or other school personnel shall be not permitted to smoke in classroom or at work/styling station.

(d) Light fixtures shall be appropriately installed in order to provide adequate lighting in work areas.

175:10-7-14. Manicuring station and equipment; methyl methacrylate (MMA) prohibited

(a) Manicuring station and equipment shall be kept in a clean and disinfected~~sanitary~~ condition at all times.

(b) Manicuring bowls, brushes, and other washable items shall be cleaned and disinfected ~~sanitized~~ after each use and shall be kept in a closed area, free from contamination, when not in use.

(c) Manicuring instruments, tweezers, and other non-metal implements shall be cleaned and disinfected~~sanitized~~. Implements shall be sanitized using an EPA registered product. Disinfected~~Sanitized~~ implements shall be stored in a sealed plastic bag or must remain in a dry closed/covered/light ~~sanitizer (~~drawer, cabinet or box-type container~~)~~ until ready for use on next patron. At least two (2) sets of manicuring implements shall be maintained for each practicing manicurist in order that one set is appropriately disinfected~~sanitized~~ for use on each patron.

(d) Hot oil or lotion manicuring units shall be maintained in a safe, clean and disinfected~~sanitary~~ condition. A disposable type liner shall be used in unit cup to hold lotion. The used liner and oil or lotion shall be disposed of immediately after use and shall not be reused.

(e) Maximum precautionary, safe, disinfection~~sanitary~~ and appropriate preparation and application shall be observed in sculptured nails, tips, and other artificial nail procedures. Each licensee shall be knowledgeable and alert to nail diseases and potential health hazards which may be present before or after artificial nail application. If evidenced prior to service, the licensee shall not proceed with application. If infection or other condition of disease is evidenced after application, the patron shall be referred to a physician or health clinic for appropriate treatment. No further manicuring services shall be performed until hands, nails, and/or fingers are free and clear of the disease or infection.

(f) Each licensee shall be knowledgeable of product ingredients. If not listed on the product, the manufacturer should be contacted for content information. The use of methyl methacrylate (MMA) is prohibited.

175:10-7-15. Plumbing installation; electrical equipment; state and local code compliance

(a) Sufficient hot and cold water shall be supplied for disinfection~~sanitary~~ and safe conditions in all ~~cosmetology~~ Establishments~~establishments~~ and schools. All plumbing installation shall conform to state and local plumbing codes and be in good repair at all times.

(b) All electrical equipment shall be properly maintained and installed by a qualified electrician. All electrical equipment installation shall conform to state and local ~~plumbing~~ codes.

175:10-7-17. License and other posting requirements

(a) Licenses shall be posted in a place easily viewed by the public.

(1) Current 2" X 3" photo of licensee is required to be posted with each license or work permit.

(2) Student and apprentice registration receipts and student permits to work shall be posted conspicuously.

(3) Posting at individual work/styling station in an Establishment may be required for inspection and identification purposes.

(b) Board Sanitation and Disinfection Rules shall be posted in each Establishment.

(c) Code of Ethics shall be posted in each school.

(d) Current inspection reports shall be posted in a place easily viewed by the public.

175:10-7-18. Disinfection~~Sanitary~~ precautions before and after each patron service

(a) The hands of the licensee, student or apprentice shall be washed and the integrity of the skin carefully examined before and after performing a service for any person. If any abrasion, cut, scratch, open lesion or infection is evidenced, protective or disposable gloves shall be worn while performing services in order to reduce risk or transmission of infectious bacteria/virus/disease.

(b) Styptic pencils and lump alum are prohibited. Liquid or powdered astringent shall be used to check bleeding and shall be applied with separate, clean, sterile gauze or cotton which shall be disposed of immediately after use.

(c) Any licensee who can reasonably anticipate, as the result of performing any cosmetology or barbering service, contact with blood and other potentially infectious material, shall wear protective disposable gloves while performing the services.

Gloves shall not be re-used and shall be disposed of properly immediately after use.

(d) Implements and tools that cannot be disinfected~~sanitized~~ must be disposed of after one use.

175:10-7-28. Product knowledge and procedures

All licensees shall be held individually liable for product knowledge. Maximum precautionary, safe, disinfection~~sanitary~~ and appropriate preparation prior to service and application, as required by product label, shall be practiced at all times upon the public. For products that contain a requirement for a patch test, licensees may provide a consumer advisory that is clearly visible in the area of the application, or provide the client with a printed fact sheet with information that describes the label requirement for the patch test, or utilize a signed statement of release of liability regarding the patch test warning.

175:10-7-30. Pedicure equipment and procedures for cleaning and disinfecting after each client use

Pedicure equipment is a unit that holds water for a pedicure service, including whirlpool spas, 'pipe-less' units, footbaths, basins, tubs, sinks and bowls which shall be cleaned by scrubbing surface with a brush, using an enzymatic or surfactant detergent (soap) and water. After cleaning, pedicure equipment, tools and implements shall be disinfected by using an EPA-registered disinfectant as prescribed in Board rule 175:10-7-6. Board rules regarding the cleaning and disinfecting~~sanitizing~~ of cosmetology tools and implements apply to all tools and implements used for pedicures. The Board recommends the use of NIC approved "Cleaning and Disinfecting of Circulating and Non Circulating Tubs and Spa's For All Industry Modalities".

SUBCHAPTER 9. LICENSURE OF COSMETOLOGISTS, BARBERS AND RELATED OCCUPATIONS

PART 1. APPRENTICESHIP

175:10-9-1. Apprentice training

(a) An apprentice must train under the direct supervision of a currently licensed instructor or an instructor that is licensed in the particular field of practice. Only one (1) apprentice per Establishment shall be approved to be trained at any given time.

(b) A currently licensed instructor who wishes to train an apprentice shall make written application to the Board. The application shall include:

(1) Proof of need affidavit from the proposed apprentice. Proof of need is considered by the Board to be proof of dire financial circumstances of the apprenticeship applicant or proof of lack of training available within a reasonable distance of residence of apprentice applicant.

(2) Apprenticeship inspection fee of $20.00 (includes purchase of Rules, Regulations and Law book, apprentice registration and inspection fee) is required.

(c) An inspection will be made by the Board for approval of required equipment, textbooks, and theory tests.

(d) An interview will be conducted with the instructor and the proposed apprentice to assure that both parties fully understand the apprenticeship program.

(e) When all requirements are met, an equipment affidavit will be signed by the inspector and the instructor. Apprentice registration forms will be completed at time of inspection.

(f) Equipment required to train an apprentice is based on course of study as follows:

(1) One (1) facial chair (reclining styling or shampoo chairs are acceptable).

~~(2) One (1) therapeutic lamp with red lights or unit that provides multi-lamp or light heat treatment, installed for free use of both hands.~~

(2~~3~~) One (1) facial supply cabinet.

(3~~4~~) One (1) work/styling station.

(4~~5~~) One (1) mannequin.

(5~~6~~) Other Establishment equipment as shall be required for course of training.

(g) Textbooks must be approved by the Board that adequately cover the prescribed curricula and prepares students for State Board testing. Other textbooks and reference material may be used to enhance the apprentice course.

(h) Reference and other library equipment include:

(1) Standard Dictionary

(2) American Medical Dictionary

(3) Subscription to at least one (1) professional magazine

(i) Entrance requirements for apprentice training:

(1) Apprenticeship must be approved by the Board before apprentice attends class.

(2) Apprentice must be at least sixteen (16) years of age.

(3) Apprentice must show proof of at least 8th grade education or equivalency (8th grade diploma or transcript). The Board may accept a statement from a school official who states, upon interview with applicant, that applicant has the equivalency of at least 8th grade potential and ability to learn.

(4) Apprentice must be able to benefit from instruction.

(5) Apprentice must submit copy of birth certificate or other legal proof of age if under the age of 18 years of age.

(j) Minimum content requirements for an apprentice kit are the same as for students registered in a school.

(k) In addition to requirements of a kit, the apprentice shall have available for apprentice training:

(1) At least one set of appropriately disinfected~~sanitized~~ manicuring implements immediately available for use on each patron (not required for barber or esthetician apprentices)

(2) Adequately supplied dispensary to appropriately train apprentice in cosmetology, barber, esthetician, manicuring, hairbraiding practices depending on program; and

(3) Visual aid equipment in addition to the chalk or marker board.

(l) Apprentice training may be approved for all courses except Instructor. Apprentice training may be approved for courses of review when required for expired license.

(m) The instructor shall not charge the apprentice for training. The instructor may charge for services rendered by the apprentice while in apprentice training.

(n) If the apprentice performs extra-curricular work for the shop owner for compensation, the work shall in no way interfere with the eight (8) hours per day of training for an apprentice.

(o) The instructor shall instruct the apprentice in all subjects as outlined in the curricula prescribed by the Board to be taught in a school. The instructor shall give the apprentice weekly tests and a final examination in both the practical skills and theory work.

(p) Apprenticeship training shall be under the direct supervision of the approved licensed instructor at all times.

PART 3. STATE BOARD EXAMINATIONS

175:10-9-25. Examination form; administration and content of Board examination passing score; disability accommodations; grade release reports

(a) The examination application shall be completed to include the School Affidavit of completion of hours and the examination fee.

(b) The Board shall conduct examinations for license at such times as the Board shall consider necessary to reasonably accommodate applicants for the examination.

(c) Each applicant shall be required to take both written and practical portion of the State Board examination.

(d) The written exam will test general knowledge ~~of cosmetology~~. Textbooks approved by the Board will contain the subjects and examination questions and answers.

(e) The test for all instructor license examination candidates must include completion of ~~student attendance record form,~~ lesson plan preparation, class presentation and a written theory test and other cognate areas of teacher training. The instructor tests shall include questions pertaining to Oklahoma Cosmetology and Barber law and Board rules and regulations.

(f) When a live model is used, model must be sixteen (16) years of age.

(g) Minimum passing grades, on each portion of the examination, are as follows:

(1) Cosmetology - 75%
(2) Master Instructor - 75%~~85%~~
(3) Manicurist - 75%
(4) Esthetician - 75%
(5) Cosmetician - 75%
(6) Hairbraiding Technician - 75%
(7) Barber - 75%
(8) Manicurist/Nail Technician Instructor - 75%~~85%~~
(9) Facial/Esthetics Instructor - 75%~~85%~~
(10) Master Barber Instructor 75%~~85%~~

(h) A Cosmetologist, Manicurist, Esthetician, Cosmetician, Barber or Hairbraiding Technician, declaring a disability, defined by the American Disabilities Act (ADA) shall submit a written statement when requesting an oral examination or other special testing accommodation. Such needs identification and request for special accommodation must be made at time of student enrollment with the Board or at the earliest time possible during course of training.

(i) Validity of disability must be established by the submission of a statement from a licensed health care professional qualified to diagnose the disability.

(j) Instructor license examination candidate declaring a disability shall be provided a distraction free space, test schedule variation and/or extended time to complete the test.

(k) State Board examination grades/scores will be provided to schools at least twice a year. The reports will be provided more frequently only as time and staff allows.

PART 5. DEMONSTRATORS; COSMETIC STUDIOS; TRADE SHOWS; GUEST ARTISTS; WIG DRESSING; OTHER PRACTICES OF COSMETOLOGY AND BARBERING

175:10-9-50. Demonstrator and cosmetic studio license requirements

(a) Any person who is not a cosmetology or barber licensee in this state, and who demonstrates any cosmetic preparation for the public from open tester, sampler or other open container, is hereby declared to be a demonstrator and shall be required to obtain a license from the Board before making the demonstrations.

(b) While the Board does not interfere with door-to-door individual one-on-one type cosmetic retails sales, any person who establishes a cosmetology or barber business or represents himself to be providing facials or other cosmetology or barber services to the general public in a place other than an Establishment or school shall be required to obtain a license as is appropriate to the practice performed. Providing or performing a facial is a practice which shall require a Facialist, Cosmetologist, Barber, Facial/Esthetics Instructor, Barber, Master Barber Instructor or Master Instructor license.

(c) A person who provides a demonstration of the proper use and application of specific make-up and cosmetic technique and product information to students enrolled in modeling, charm or other self-improvement programs, shall be a licensed Cosmetologist, Cosmetician, Facial/Esthetics Instructor, Manicurist, Facialist, Barber, Master Barber Instructor, Master Instructor, Barber Instructor or Demonstrator as applies to a specific license held and demonstration performed by the person. Techniques and products demonstration shall be restricted to personal self-improvement and individual modeling students and shall not be training to provide services to others.

(d) A Cosmetic Studio is considered by the Board to be a place where licensed demonstrators give demonstrations for the sole purpose of advertising and selling cosmetics.

(e) Any Cosmetic Studio shall be required to be licensed by the Board and license shall expire and subject to renewal annually.
(f) Each Cosmetic Studio must prominently display an identifying sign in plain letters at least three (3) inches tall and one (1) inch wide. Failure to display such a sign will be considered as evidence of attempt to avoid inspection.
(g) A cosmetic counter or other Establishment where cosmetic preparations may be sold but where cosmetics are in sealed containers ad where no open containers (testers, samplers, applications etc.) are used to demonstrate, the cosmetics may be exempt from cosmetology licensing requirements.
(h) Requirements for the issuance of a Demonstrators license are:
(1) One (1) current, 2" X 3", full-face photo
(2) Notarized application and affidavit
(3) Fee of $20.00
(4) Register and pass the Board's sanitation and safety examination
(i) Demonstrator license requirements shall be met before the demonstrator begins a demonstration. These requirements are established and must be met to ensure the identification of persons, products and locations where demonstrations are performed to the consuming public.
(j) The demonstration of eye lash and brow tints, hair tints and color rinses, permanent waves and hair relaxants, facial preparations or other preparations considered by the Board to require extensive knowledge, skill and training to ensure safe and proper usage, is hereby prohibited.
(k) Applicators are single use items and are to be disposed of after each use.
(l) Disposable items must be stored in a closed container, drawer or cabinet except for those used for the days use.
(m) Brushes shall be disinfected after each client use.
(n) Disinfection and safety standards must be followed at all times.
(o) Disinfectants must be used only if registered with the Environmental Protection Agency (EPA) foruse as a disinfectant to achieve its intended purpose in accordance with the product label.
(p) All customer contact items and work area must be cleaned and disinfected between clients.
(q) Creams and other semi-solid preparations shall be removed from containers with a disposablespatula.
(r) The hands of the licensee shall be washed and the integrity of the skin carefully examined beforeand after a demonstration.
(s) Hand santizer must be available for use.

175:10-9-54. Cosmetology and barber related high fashion photography or similarEstablishment~~business/establishment~~ requirements

(a) Any high fashion photography and similar cosmetology/barber related business/Establishment providing any one or combination of services separately or in conjunction with photography or similar services to the public shall be appropriately licensed by the Board.
(b) Any employee or other person performing any one or combination of cosmetology or barber services in such Establishment shall be appropriately licensed by the Board.

175:10-9-55. Practices of cosmetology and barbering

(a) Only licensed Facialist/Estheticians, Cosmetologists or Barbers may perform threading.
(b) Only a licensed Facialist/Esthetician or Cosmetologist may perform eyelash extensions.
(c) Only licensed Facialist/Estheticians, Cosmetologists or Barbers may perform body sugaring.

SUBCHAPTER 11. LICENSE RENEWAL, FEES AND PENALTIES

175:10-11-2. Cosmetology and Barber license and penalty fees

(a) The Board is authorized the following license and penalty fees:
(1) Student/apprentice registration - $5.00
(2) Examination registration - $35.00~~$15.00~~
(3) Cosmetology and barber school license (initial) - $400.00
(4) Cosmetology and barber school license (renewal) - $125.00
(5) Master Cosmetology Instructor license - $50.00~~$30.00~~
(6) Master Barber Instructor license - $50.00
(7~~6~~) Facial/Esthetics Instructor license - $30.00
(8~~7~~) Manicurist/Nail Technician Instructor license - $30.00
(9~~8~~) ~~Basic~~ Cosmetology license - $25.00
(10) Barber license - $25.00
(11~~9~~) Manicurist license - $25.00
(12~~10~~) Esthetician license - $25.00
(13~~11~~) Cosmetician license - $25.00
(14~~12~~) Hairbraiding Technician license- $25.00
(15~~13~~) Demonstrator license - $20.00
(16~~14~~) Advanced Operator license (renewal only) - $25.00
(17~~15~~) Establishment license (initial) - $45.00
(18~~16~~) Establishment license (renewal) - $30.00
(19~~17~~) Cosmetic studio license (initial) - $50.00
(20~~18~~) Cosmetic studio license (renewal) - $30.00
(21~~19~~) Nail salon license (initial) - $45.00
(22~~20~~) Nail salon license (renewal) - $30.00
(23~~21~~) Reciprocity license - $30.00
(24~~22~~) Reciprocity transfer of hours processing fee from out-of-state - $30.00
(25~~23~~) Duplicate license (in case of loss or destruction of original license and/or renewal application) - $5.00
(26~~24~~) Notary Fee - $1.00
(27~~25~~) Certification of Records - $10.00
~~(b) The Board is authorized the following license and penalty fees for Barber-type licenses:~~
~~(1) Barber college - $200 per year~~

~~(2) Barber apprentice - $10 per year~~
~~(3) Barber examination fee - $35 per exam~~
~~(4) Barber Instructor license fee - $50 per year~~
~~(5) Barber Instructor examination fee - $50 per exam~~
~~(6) Barber license fee - $25 per year~~
~~(7) Barber license renewal after expiration - $50 per year~~
~~(8) Barber Instructor license renewal after expiration - $75 per year~~

(b~~c~~) The Board shall charge a penalty fee of ten dollars ($10.00) for the renewal of any ~~cosmetology~~ license delinquent after two (2) months of expiration. This sub section also applies to any delinquent initial license application.

(c~~d~~) All fees shall be submitted to the Board in the form of a cashiers check, money order or business check. Personal checks are not accepted by the Board.

SUBCHAPTER 13. RECIPROCAL AND CROSSOVER LICENSING

175:10-13-1. Reciprocal license requirements

The Board, in accordance with the Oklahoma Cosmetology and Barbering Statutes 59 O.S. Section 199.13, has ruled to accept any applicant for applicants from other states in accordance with the following requirements:~~on a license for comparable license basis from any state in which the applicant has met the license requirements.~~

(1) The applicant for license as a cosmetologist, manicurist, facialist, hairbraiding technician or barber:~~The Board may issue a reciprocity license for license without examination to any applicant who shall qualify and who shall submit the completed appropriate and required application and fees to the Board.~~

~~(A) The reciprocity license application shall be submitted on forms approved by the Board and shall include official certification of current license, training, testing, and educational records from the applicable State Board.~~

~~(B) The application shall also include the (first year) reciprocity license and processing fee of sixty dollars ($60.00) plus the cost of the Oklahoma Board's Rules, Regulations and Law book. (The $30.00 processing fee and book cost are non refundable.)~~

~~(C) The reciprocity application shall require that the applicant submit a current full face photograph of self with the license application, (photo must be approximately 2" X 3" in size and shall have the applicant's name printed on the back).~~

~~(2) Any non English speaking reciprocity licensee or transfer of hours applicant must contact the Board's office concerning requirements for licensing and transfer of hours. After all papers have been completed and necessary documents attached, the applicant for reciprocity license must make an appointment and appear personally in the Boards office for an interview before reciprocity license may be considered.~~

~~(3) The Board may retain the right to require that any applicant for the Oklahoma Instructor license shall register for the Oklahoma Boards Instructor examination and show proof of scoring no less than 85% (on each portion of the examination, written and practical) if at any time the applicant shall fail to show proof of at least equivalent of high school education or if other circumstance of irregular or unusual nature is reflected in Instructor reciprocity application.~~

~~(4) Reciprocity is granted only to a licensed cosmetologist, barber, nail technician, facialist, hairbraider, cosmetician, master cosmetology instructor, nail technician instructor or facialist instructor, master barber instructor from a state that issues a license.~~

~~(5) Reciprocity shall not be granted to an applicant from a state or foreign country that does not issue a license unless the following requirements are met:~~

~~(6) No temporary permit shall be issued to an out of state or foreign reciprocity applicant.~~

~~(A) Show proof of attending a cosmetology or barber school in state or country.~~

~~(B) Submit reciprocity application for license.~~

~~(C) Submit registration for examination form and show proof of scoring no less than 75% (on each portion of the examination, written and practical). If applicant should fail the examination, applicant must show proof of no less than 120 review hours in an Oklahoma school before being eligible to re-register and sit for the examination again. ($15.00 re-registration fee required). Applicant must then show proof of scoring no less than 75% (on each portion of the examination, written and practical) before being eligible for Oklahoma licensure by reciprocity.~~

~~(D) Submit fee of sixty dollars ($60) plus cost of Rules, Regulations and Law Book, plus examination fee of $15.00.~~

(A) must have met the requirements for the same licensure in another state

(B) must hold a current license from another state as verified by a valid certification

(C) must have successfully passed Oklahoma's state rules, regulations and law test administered by the Board

(2) If an applicant for a license as a cosmetologist, manicurist, facialist, hairbraiding technician or barber is from another territory, province, or foreign county that does not issue a license after required occupational training, but can provide sufficient proof that he or she has continuously engaged in the practices or occupation at issue in the reciprocity license application for at least three years immediately prior to such application, the Board may approve the reciprocity license if there is sufficient proof that applicant has at least an eighth grade education , and the applicant has passed Oklahoma's state rules, regulations and law test administered by the Board.

(3) If an applicant for a license as an instructor is from another territory, province, or foreign county, that does not issue a license after required occupational training, but can

provide sufficient proof that he or she has continuously engaged in the practices or occupation at issue in the reciprocity license application for at least three years immediately prior to such application, the Board may approve the reciprocity license if there is sufficient proof that applicant has at least a high school education, and the applicant has passed Oklahoma's state rules, regulations and law test administered by the Board.

(4) Any non-English speaking reciprocity licensee or transfer of hours applicant, and transfer of hours applicant must contact the Board's office concerning requirements for licensing andtransfer of hours.

(5) After the application is complete, all required documents are attached, and the application is filed, each applicant for reciprocity license must make an appointment and appear personally in the Board's office for an interview before the reciprocity license may be considered.

(6) The applicant from a foreign country, territory or providence may be required to provide evidence that documents have been certified as valid by a creditable agency as recognized by the Board. Validation of documents is at applicant's expense.

(7) No temporary permit shall be issued to an out-of-state or foreign reciprocity applicant.

175:10-13-2. Credit allowed for barber/cosmetology crossover training

(a) A barber who holds a current Oklahoma barber license in good standing, who shall apply to register for the Board's examination for a Basic Cosmetologist license, may be eligible to sit for the written examination upon showing proof of the completion of three hundred (300) hours of training in a cosmetology school. Training shall be in accordance with a curriculum and schedule approved by the Board and developed specific to Cosmetology techniques including manicuring, pedicuring and Cosmetology/Barber law. Training evaluation and curriculum is approved at time of enrollment in a cosmetology school.

(b) A cosmetologist who holds a current Oklahoma cosmetology license in good standing, who shall apply to register for the Boards examination for a Barber license, may be eligible to sit for the written examination upon showing proof of the completion of three hundred (300) hours of training in a barber school. Training shall be in accordance with a curriculum and schedule approved by the Board and developed specific to Barbering techniques including shaving and clipper cuts and Cosmetology/Barber law. Training evaluation and curriculum is approved at time of enrollment in a barber school.

SUBCHAPTER 17. EMERGENCY COSMETOLOGY AND BARBERING SERVICE

175:10-17-1. Emergency services; documentation required

(a) A licensed cosmetologist or barber may perform services for a person in the persons residence of the person in the event of an emergency. Emergency is considered to be serious injury or illness which causes the person to be residence bound.

(b) Appointment for emergency service must be booked from a licensed Establishment. A doctors statement must be kept in the Establishment verifying that the person is residence bound or otherwise incapacitated.

(c) The licensee shall have his license in his possession when performing services.

(d) ~~Mobile,portableor other~~Door-to-Door~~door to door~~ cosmetology or barbering service is prohibited unless provided as emergency service as described in this sub-section.

175:10-17-3. Mobile Establishments; limited provisions

A license for a mobile Establishment may be issued provided the unit meets the following requirements:

(1) Is an enclosed mobile unit that is self supporting and self-contained with the ability to operate without having to connect to any outside utilities

(2) Establishment does not provide chemical services

(3) Furniture is anchored to the mobile unit

(4) No part of the mobile unit can be used for living or sleeping quarters at any time

(5) Establishment has hot and cold running water and if the fresh water holding tank is depleted, establishment shall not operate.

(6) Establishment shall not operate while unit is in motion or moving

(7) Signage must be displayed on the exterior of both sides of the unit

(8) Records shall be maintained within the mobile unit regarding appointments, itineraries, and schedules and made available at time of inspection

(9) Board licensees shall post individual licenses as required in Board Rule 175:10-7-17

(10) Board established disinfection and safety standards shall be followed at all times the Establishment is providing services

(11) Owner shall provide to the Board a quarterly itinerary and schedule of places the mobile unit shall be operating no later than the 10th of the months of January, March, June, September and December. Itinerary and schedule shall include a list of licensees who shall be providing services in the unit.

[OAR Docket #15-582; filed 6-16-15]

TITLE 175. STATE BOARD OF COSMETOLOGY AND BARBERING CHAPTER 15. BARBERS [REVOKED]

[OAR Docket #15-583]

RULEMAKING ACTION:
PERMANENT final adoption

RULES:
Subchapter 1. General Provisions [REVOKED]
175:15-1-1 [REVOKED]

175:15-1-2 [REVOKED]
175:15-1-3 [REVOKED]
Subchapter 3. Examinations [REVOKED]
175:15-3-1 [REVOKED]
175:15-3-2 [REVOKED]
175:15-3-3 [REVOKED]
175:15-3-4 [REVOKED]
175:15-3-5 [REVOKED]
Subchapter 5. Licensing [REVOKED]
175:15-5-1 [REVOKED]
175:15-5-2 [REVOKED]
175:15-5-3 [REVOKED]
175:15-5-4 [REVOKED]
175:15-5-5 [REVOKED]
175:15-5-6 [REVOKED]
175:15-5-7 [REVOKED]
175:15-5-8 [REVOKED]
175:15-5-9 [REVOKED]
Subchapter 7. General Sanitation [REVOKED]
175:15-7-1 [REVOKED]
175:15-7-2 [REVOKED]
175:15-7-3 [REVOKED]
175:15-7-4 [REVOKED]
175:15-7-5 [REVOKED]
175:15-7-6 [REVOKED]
175:15-7-7 [REVOKED]
175:15-7-8 [REVOKED]
175:15-7-9 [REVOKED]
175:15-7-10 [REVOKED]
175:15-7-11 [REVOKED]
175:15-7-12 [REVOKED]
175:15-7-13 [REVOKED]
175:15-7-14 [REVOKED]
175:15-7-15 [REVOKED]
175:15-7-16 [REVOKED]
Subchapter 9. Barber School and College Requirements [REVOKED]
175:15-9-1 [REVOKED]
175:15-9-2 [REVOKED]
175:15-9-3 [REVOKED]
175:15-9-4 [REVOKED]
175:15-9-5 [REVOKED]
175:15-9-6 [REVOKED]
175:15-9-7 [REVOKED]
175:15-9-8 [REVOKED]
175:15-9-9 [REVOKED]
175:15-9-10 [REVOKED]
175:15-9-11 [REVOKED]
175:15-9-12 [REVOKED]
Subchapter 11. Barber School or College Management Requirements [REVOKED]
175:15-11-1 [REVOKED]
175:15-11-2 [REVOKED]
175:15-11-3 [REVOKED]
175:15-11-4 [REVOKED]
175:15-11-5 [REVOKED]
175:15-11-6 [REVOKED]
175:15-11-7 [REVOKED]
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175:15-11-10 [REVOKED]
175:15-11-11 [REVOKED]
175:15-11-12 [REVOKED]
175:15-11-13 [REVOKED]
175:15-11-14 [REVOKED]
Subchapter 13. Regulatory Enforcement [REVOKED]
175:15-13-1 [REVOKED]
175:26-13-2 [REVOKED]
Appendix A [REVOKED]
Appendix B [REVOKED]
Appendix C [REVOKED]

AUTHORITY:
59 O.S. § 199.3 (A); State Board of Cosmetology and Barbering

SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
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SUPERSEDED EMERCENCY ACTIONS:
n/a
INCORPORATIONS BY REFERENCE:
n/a
ANALYSIS:
The Board is revoking Chapter 15 as a requirement to House Bill 1467 that combined the Cosmetology and Barber Board. The specific rules have since been adopted and now are a part other Chapters 1 and 10 of Title 175.
CONTACT PERSON:
Jennifer McRee, Principal Assistant, Oklahoma State Board of Cosmetology and Barbering, 2401 NW 23rd Street, Oklahoma City, OK 73107, 405-522-7616, jmcree@cosmo.ok.gov

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 11, 2015:

SUBCHAPTER 1. GENERAL PROVISONS [REVOKED]

175:15-1-1. Purpose [REVOKED]

~~The rules in this Chapter implement the Barber Act.~~

175:15-1-2. Definitions [REVOKED]

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

~~**"Barber"** means any person who engages in the practice of barbering.~~

~~**"Barbering"** means any one or any combination of the following practice, when done upon the upper part of the human body for cosmetic purposes and when done for payment either directly or indirectly for the general public, the human body for cosmetic purposes and when done for payment either directly or indirectly for the general public, constitutes the practice of barbering, to wit: Shaving or trimming the beard or cutting the hair; giving facials or scalp massages or treatment with oils, crams, lotions or other preparations, either by hand or mechanical appliances; singeing, shampooing or dyeing the hair or apply hair tonics; applying cosmetic preparations, antiseptics, powders, oils, clays or lotions to scalp, face, neck or~~

~~upper part of the body; and removing superfluous hair from the face, neck, or upper part of the body."~~

~~**"Barber apprentice"** means any person sixteen (16) years of age or older whose principal occupation is the learning of the barber trade in the State of Oklahoma, under the direct supervision of an Oklahoma licensed barber who has at least two (2) years of practical experience as a licensed barber.~~

~~**"Barber Board"** means the State Barber Advisory Board.~~

~~**"Barber school or college"** means an establishment operated for the purpose of teaching barbering.~~

~~**"Barber shop"** means an establishment or place of business, including a mobile unit, where one (2) or more persons are engaged in the practice of barbering, but does not include barber schools or colleges.~~

~~**"Board"** means State Board of Health.~~

~~**"Commissioner"** means t he State Commissioner of Health.~~

~~**"Contagious communicable disease or condition"** means those infectious diseases which are transmitted from person to person by contact with blood or body secretions and my pose an occupational risk to barbers barber apprentices, graduate apprentices, or instructors.~~

~~**"Department"** means the State Department of Health.~~

~~**"Direct supervision"** means the supervision, by the actual presence in the shop, of a licensed barber while barber services is being performed by a barber apprentice or graduate apprentice.~~

~~**"Graduate apprentice"** means any person sixteen (16) years of age or older who has completed the barber curriculum at an Oklahoma licensed barber college, whose application to take the Oklahoma barber examination has been accepted, and who is under the direct supervision of an Oklahoma licensed barber who has at least two (2) years of practical experience as a licensed barber. A graduate apprentice is only valid for four (4) months from the date of the issuance or until the graduate apprentice successfully completes the barber examination if less than four (4) months from the date of issuance.~~

~~**"Instructor"** means a person licensed to teach barbering.~~

~~**"Instructor student"** means a licensed barber enrolled in a barber college or barber school who is learning the teaching of barbering.~~

~~**"Kiosk Style Barber Shop"** means a small temporary or semi-permanent structure generally not larger than 150 square feet, which is located within an enclosed building, such as a mall or airport lounge, for the purpose of barbering.~~

~~**"Mobile unit"** means a self contained, self supported, enclosed mobile unite not less than 24 feet in length, listed as a barber shop with the Department, used for the practice of "Barbering" and comply with OAC 310:1210-7.~~

~~**"Potentially infectious body fluids"** means blood or blood products; any fluids visibly contaminated with blood; and all body fluids.~~

~~**Sanitizers"** means a disinfectant which inhibits, neutralizes, or destroys all bacteria, virus, parasites and other organisms. It shall be a germicide, fungicide and virucide to comply with the disinfecting requirements of the barber rules.~~

175:15-1-3. State Barber Advisory Board duties [REVOKED]

~~The Barber Advisory Board shall:~~

~~(1) recommend to the Board rules which are necessary for the administration of the Barber law:~~

~~(2) recommend minimum barber school curriculum requirements;~~

~~(3) administer examinations;~~

~~(4) review and revise examinations as needed;~~

~~(5) comply with the Oklahoma Open Meeting Act; and assist with Department in the administration of the Act.~~

SUBCHAPTER 3. EXAMINATIONS [REVOKED]

175:15-3-1. Format [REVOKED]

~~(a) The Barber Board shall administer examinations for barber and instructor licenses at least four (4) times each year. The examination shall contain a written portion and a practical demonstration.~~

~~(b) An applicant shall make written application to the Department on the prescribed form. If the examination attempt is not successful, the applicant shall submit the reexamination fee to the scheduled reexamination.~~

~~(c) An application ore reexamination fee shall be received by the Department no later than ten (10) working days prior to the examination date.~~

~~(d) The examination applicant shall furnish two (2) live models who shall be at least sixteen (16) years of age. One (1) model shall be female with shoulder length hair and one (1) model shall be male with hair not less than one (1) inch in length.~~

~~(e) The examination applicant shall furnish all supplies and tools required to demonstrate the services evaluated during the examination.~~

~~(f) The applicant for examination shall have a valid driver's license or photo identification to be admitted to the examination.~~

~~(g) An applicant shall be able to read and write the English language without assistance.~~

175:15-3-2. Scoring [REVOKED]

~~The maximum grade value of each part of the examination for barber license shall be one hundred (100) points. An examinee shall make 70% or more on each part of the examination to pass. If an applicant fails any part of the examination, the applicant shall only retake the part of the examination failed. However, if the entire examination is not passed within two (2) years, the applicant shall repeat the entire examination.~~

175:15-3-3. Examination prerequisite [REVOKED]

~~(a) Applicants for the barber examination shall:~~

~~(1) Complete fifteen hundred (1,500) clock hours in no less than nine (9) months from an approved Oklahoma licensed barber school or college; or~~

~~(2) Complete eighteen (18) months, and not more than two (2) years, under an licensed barber who has engaged~~

~~in the practice of barbering for at least two (2) years. An applicant for examination shall not combine school and apprentice hours to meet the examination prerequisite. A barber apprentice who does not complete and file and examination application with five (5) years of completing the apprenticeship shall lose all accumulated apprenticeship hours;~~

~~(3) Hold a valid current license in good standing to practice barbering issued by another state or entity, which has been determined by the Department to not meet the eligibility requirements for reciprocal licensing. If the documents are not written in English, the person shall provide a certified English translation; or~~

~~(4) Hold a current Oklahoma cosmetologist license pursuant to the cosmetology rules and complete a seven hundred fifty (750) hour course of study consisting of barbering techniques in a barber school or college licensed pursuant to this Chapter; and~~

~~(5) Pay a fee established by the Board.~~

~~(b) Applicants for the barber instructor examination must possess a valid current barer license sand shall:~~

~~(1) Verify four (4) years experience s a licensed barber: or~~

~~(2) Complete a six hundred (600) clock hour instructor course in no less than four (4) months from an approved Oklahoma licensed barber school or college and verify one (1) year as a licensed barber. Applicants may enroll and begin the instructor course at a licensed barber school upon passing the barber examination; and~~

~~(3) Pay a fee established by the board.~~

175:15-3-4. Fee forfeiture [REVOKED]

~~Applicants failing to appear for the examination on the date scheduled shall forfeit the examination fee unless notification is received by the Department at least seventy-two (72) hours prior to the examination.~~

175:15-3-5. Standard [REVOKED]

~~The current issue of "Milady's Standard Professional Barbering" textbook shall be the reference utilized by the Board for examination purposes.~~

SUBCHAPTER 5. LICENSING [REVOKED]

175:15-5-1. License required [REVOKED]

~~A barber or instructor license shall only be issued to an individual who passes the required examination or meets the requirements for a reciprocal barber licensed as outlined in 310:210-5-9 of this chapter, and pays the appropriate licensing fee established by the Board. No person shall practice any phase of barbering for fee or otherwise who does not have a current valid barber, barber apprentice, graduate apprentice, or instructor license, and a photo ID in their possession. A duplicate license shall be issued if the licensee submits a notarized statement as to its loss, except that an instructor upon written request shall be issued a duplicate license as a barber without fee for use in a barber shop. The barber license number shall be the same as the instructor license.~~

175:15-5-2. Licensing fees [REVOKED]

~~(a) **Annual license fees.** Annual license fees under the Barber Law are:~~

~~(1) Barber - $25.00~~

~~(2) Instructor - $50.00~~

~~(3) Barber School or College - $200.00~~

~~(b) **Late renewal fees.** Late renewal fees under the Barber Law are:~~

~~(1) Barber - $50.00~~

~~(2) Instructor - $75.00~~

~~(3) Barber School or College - $400.00~~

~~(c) **Reciprocal license fee.** Initial license fee - $200.00~~

~~(d) **Non-renewable license fees.** Non-renewable license fees under the Barber Law are:~~

~~(1) Barber Apprentice - $50.00~~

~~(2) Graduate Apprentice - $10.00~~

~~(3) Hardship Apprentice - $25.00~~

~~(e) **Examination fees.** The barber examination and reexamination fees are $35.00. Instructor examination and reexamination fees are $50.00.~~

~~(f) **Payments.** All license fees, examination fees, and reexamination fees, shall be paid by cash, cashier's check, personal check, or money order.~~

175:15-5-3. Right of entry [REVOKED]

~~Any authorized representative of the State Department of Health shall have authority to enterupon and to inspect any barber shop, barber school or college, or similar establishment at any time during regular business hours.~~

175:15-5-4. License posting [REVOKED]

~~The license issued by the Commissioner shall be posted at the Barber, barber apprentice, instructor or graduate apprentice work station. The license shall not be valid unless it is posted in a conspicuous location visible to the client, and a photo ID is in the possession of the person performing barbering. The photo ID shall be presented to any authorized representative of the Oklahoma State Department of Health upon request.~~

175:15-5-5. Work station sanitation [REVOKED]

~~Each barber, barber apprentice, instructor, or graduate apprentice shall be responsible for the sanitation of his/her work station.~~

175:15-5-6. Expiration and renewal of license [REVOKED]

~~(a) **License expiration.** The expiration date for licenses are:~~

~~(1) Barber: June 30 each year;~~

~~(2) Barber Apprentice: Two (2) years from the date of issue;~~

~~(3) Barber School or College: June 30 of each year;~~

~~(4) Instructor: June 30 of each year:~~

~~(5) Graduate Apprentice: Four (4) months from the date of issue or upon successful completion of the Oklahoma barber examination if less than four (4) months from the date of license;~~

~~(6) Hardship apprentice: One (1) year from the date of issue; and~~

~~(7) Transfer apprentice: Two (2) years from the date of issue of the original apprentice license.~~

~~(b) **License renewal.** License renewal requirements are:~~

~~(1) A barber or barber instructor license shall be renewable without penalty until the date of expiration. A renewal delivered in person or postmarked after the expiration date shall not be renewed without payment of the late renewal fee and only upon Department approval. Any person that has a license that has expired more than five (5) years shall not be renewable. Any person that has a license that has expired more than five (5) years before a request for renewal shall obtain another license by examination only, unless the person was able to renew the barber or barber instructor license when beginning active military duty and provides verification of being on active military duty and having returned or been discharged within six (6) months of making application.~~

~~(2) A graduate apprentice, apprentice, or hardship apprentice license shall not be renewed.~~

~~(3) A barber school or college license shall be renewable without penalty until the date of expiration. A renewal delivered in person or postmarked after the expiration date shall not be renewed without payment of the late renewal fee and only upon Department approval.~~

~~(c) **Application form.** An application form to renew a license shall be mailed the address last reported in writing to the Department. Failure to receive the renewal application does not excuse the licensee from renewing the license prior to expiration.~~

175:15-5-7. New shop requirements [REVOKED]

~~Before any new, or under new management, barber shop is opened for business, the licensedbarber shall contact the County Health Department for an inspection to assure compliance with the Barber Licensing Act and Rules and Regulations.~~

175:15-5-8. Barber apprentice and graduate-apprentice employment [REVOKED]

~~(a) **Barber requirements for barber apprentice employment.** An Oklahoma licensed barber who employs a barber apprentice shall provide direct supervision over an apprentice for what constitutes a complete say unless the barber also employs another qualified, licensed barber, full time, for an apprentice working in the shop. The licensed supervision, barber shall keep an accurate record of the apprentice hours. The supervising barber shall submit to the Department reports of hours accumulated by the barber apprentice every three (3) months which shall be due by January 15, April 15, July 15, and October 15. Credit shall not be allowed for any hours received before the apprentice registers with the Department. Licensed barbers employing barber apprentices shall notify the Department, in writing, within fourteen (14) days of the date when a licensed barber apprentice leave the barber's employment.~~

~~(b) **Apprentice ratio.** No barber shall have more than (1) licensed barber apprentice and one (1) graduate apprentice or two (2) graduate apprentices, if no other apprentice is employed, in each shop. If a barber apprentice goes on active military duty and another apprentice is acquired during this time, there regulations will allow the apprentice returning from active military duty to resume apprenticeship and will allow two apprentices in the shop until each apprentice's two year registration period expires.~~

~~(c) **Barber apprentice requirements.**~~

~~(1) A barber apprentice accumulates hours based on the actual number of hours under direct supervision performing and training in the shop.~~

~~(2) A barber apprentice shall complete 3,000 hours in not less than 18 months or more than 24 months during the duration of a barber apprentice license except where the provisions of OAC 310:210-5-8(d) apply.~~

~~(2) A barber apprentice work station shall be located in the same room of the shop as the supervising barber's work station.~~

~~(4) A graduate apprentice shall not be eligible to apply for a barber apprentice license within twelve months following the expiration of the graduate apprentice license.~~

~~(d) **Hardship barber apprentice license.** A hardship apprentice license shall be issued only after review and approval by the Department. To qualify for a hardship apprentice license an apprentice must document circumstances beyond their control that have prevented them from obtaining the minimum required hours and months of experience while licensed for two (2) years as a barber apprentice. Upon completion and approval of the hardship barber apprentice license application, the license shall be issued.~~

~~(e) **Transfer barber apprentice license.** A transfer barber apprentice license shall be issued only after review and approval by the Department. To qualify for a transfer apprentice license an apprentice shall document the dissolution of the apprentice agreement by which the barber apprentice license was obtained. Upon completion and approval of the transfer barber apprentice license application, the license shall be issued.~~

~~(f) **Curriculum for barber apprentices.** The barber apprentice curriculum shall include each subject listed in OAC 310:210-9-10(b)(2). The minimum number of hours for each subject are listed in Appendix C of OAC 310:210.~~

~~(g) **Graduate apprentice requirements.** No person shall be issued a license as a graduate apprentice unless such person is at least sixteen (16) years of age and has completed the barber curriculum at an Oklahoma licensed barber school or college and whose application to take the Oklahoma barber examination has been accepted. A graduate apprentice shall not be eligible to apply for a barber apprentice license within twelve months following the expiration of the graduate apprentice license.~~

175:15-5-9. Reciprocal barber license [REVOKED]

~~The Department shall issue a barber license to any applicant who holds a current valid license from any other state or entity, which has been determined by the Department to have licensure requirements that are substantively equal to the requirements of this state. No license shall be issued unless the holder of an Oklahoma barber license would be issued a licensed by such other State or entity.~~

SUBCHAPTER 7. GENERAL SANITATION [REVOKED]

175:15-7-1. Patron contact equipment [REVOKED]

~~(a) After sanitation, equipment shall be stored in a manner to prevent contamination.~~

~~(b) The following precautions shall be followed when potentially infectious body fluids of an individual could come into contact with equipment:~~

~~(1) All visible signs of blood shall be removed with soap and hot water; and~~

~~(2) All contaminated surfaces shall be disinfected according to the manufacturer's directions with a product labeled "Virucidal".~~

175:15-7-2. Sanitizers [REVOKED]

~~All barber shops and barber schools shall have in use at all times at each chair a water base sanitizer and an oil base sanitizer. The water base sanitizer shall be used on all combs and other plastic equipment. The oil base sanitizer shall be used on the clipper blades, shears, and razors. All sanitizers, sanitizing containers, and all sanitizing agent shall be properly labeled. All equipment shall be stored in a clean, smooth, non-porous surface. Equipment not being used shall be stored away from the work area. Barber shops and schools shall use sanitizers which are registered with the Environmental Protection Agency (EPA) for use as a disinfectant to achieve its intended purpose in accordance with the product label.~~

175:15-7-3. Lighting and ventilation [REVOKED]

~~Barber shops, schools, and colleges shall have fifty (50) foot candles of light at sixty (6) inches from floor and be properly ventilated.~~

175:15-7-4. Walls, ceiling, floors and equipment [REVOKED]

~~The walls, ceiling, floors and equipment in every barber shop, school and college shall be kept clean and in good repair. Floors shall be covered with hardwood, linoleum, composition tile or other washable, non-porous material for an area of eight (8) feet in diameter centered on the barber chair.~~

175:15-7-5. Towels [REVOKED]

~~A separate, clean towel or neck band shall be used for each patron. All barber shops, schools, and colleges shall have sufficient closed sanitary towel cabinets for storage of clean towels and hampers for soiled towels. The head rest of each chair shall be provided with a clean towel or clean paper for each patron using said chair. A clean chair cloth shall be used each day.~~

175:15-7-6. Water supply [REVOKED]

~~A safe and adequate water supply of continuous hot and cold running portable water shall beprovided in each barber shop, school and college. Where a public water system is available, a connection shall be made thereto, otherwise, the water shall be obtained from a supply meeting the requirements set by the Oklahoma Department of Environmental Quality.~~

175:15-7-7. Toilets [REVOKED]

~~Toilet facilities in barber shops, schools, and colleges shall be provided and conveniently located, clean, adequately lighted, with mechanical ventilation, and in good repair. Approved lavatory facilities shall be provided to include a disinfectant soap, paper towels, and water.~~

175:15-7-8. Health of personnel [REVOKED]

~~No person affected with a contagious communicable disease or condition which has been diagnosed by a physician shall serve the patrons in any barbers shop, school, or college until no longer contagious. Any barber, instructor, barber apprentice or graduate apprentice who can reasonably anticipate contact with potentially infectious body fluids, shall wear protective or disposable gloves. Reusable protective gloves shall be sanitized before reuse. Disposable gloves shall not be reused sand shall be disposed of properly.~~

175:15-7-9. Cleanliness of personnel [REVOKED]

~~Each barber, barber apprentice, instructor, or graduate apprentice shall wear uniforms or clean clothes at all times. The barber, barber apprentice, graduate apprentice, and instructor shall cleanse his/her hands thoroughly with a disinfectant soap and clean water before attending each patron after visiting the toilet.~~

175:15-7-10. Food and drink restricted [REVOKED]

~~No barbering shall be performed in a room where either food or drink is served. Connecting doors shall be solid and self-closing.~~

175:15-7-11. Air for removal of hair from patron [REVOKED]

~~The use in barber shops, schools, and colleges of compressed air with pressure not to exceedthree (3) pounds per chair is permissible to remove loose hair from the patron. The use of vacuum type devices for the removal of loose hair is approved, provided the portion of the device coming in contact with the patron is easily removed and so constructed and of such material as to be easily cleaned and sanitized and shall be sanitized prior to use on each patron.~~

175:15-7-12. Objectionable establishment [REVOKED]

~~(a) Barbering may be performed in a place other than a duly authorized barber shop, provided that the intent of the sanitary requirements under the rules are fulfilled.~~

~~(b) A home shop shall provide a separate outside entrance directly into the shop. No room or part of a building occupied by a barber shop, school or college shall be used for sleeping purposes. Living quarters shall be separated from a barber shop or school by a solid and self-closing door. All establishments shall be maintained in an insect, rodent, and animal free condition. Animals used to aid sensory perceptions, such as seeing eye dogs and primates for helping hands are exempt.~~

175:15-7-13. Head lice [REVOKED]

~~If head lice is detected, the barber, barber instructor, barber apprentice, barber student, hardship apprentice, transfer apprentice or graduate apprentice shall not proceed with further services and shall wash and disinfect his/her hands. The barber or instructor shall recommend that the infected patron see a physician or other health care provider. All areas exposed to the head lice shall be cleaned with an approved germicidal solution. All tools and equipment exposed to head lice shall be disinfected.~~

175:15-7-14. Prohibited products [REVOKED]

~~Styptic pencils and lump alum are prohibited in any shop, barber college or school.~~

175:15-7-15. Kiosk Style Barber Shop [REVOKED]

~~A kiosk style barber shop shall be approved to operate within an enclosed building such as a mall or airport lounge. The shop shall be exempt from the requirement of toilet facilities only if toilet facilities, which are available for use, are located within 500 feet. A hand washing lavatory with hot and cold water under pressure through a mixing faucet shall be located within the shop. If a public water supply is not available to the shop a minimum supply of five gallons shall be provided in a sanitary manner with an automatic pressure activated mechanical pump. Additionally a water heater shall be furnished capable of supplying water with a minimum temperature of 110 degrees Fahrenheit. If a common drain for wastewater disposal is not available at the shop a wastewater holding tank with a minimum capacity of five gallons shall be provided. The shop shall not be located within fifty feet of a food preparation or a food service area.~~

175:15-7-16. Product safety and consumer advisory [REVOKED]

~~All licensed barbers, barber instructors, and barber apprentices shall be individually responsible for product knowledge. Maximum precautionary, safe, sanitary and appropriate preparation prior to service and application, as required by product label, shall be practiced at all times upon the public. Licensees who use a product(s) that requires a patch test before the use or application of the product are required to post an advisory, clearly visible to the client in the area where the product requiring the patch test is used or applied, that advises the client of the manufacturer's requirements to conduct a patch test before the product may be used or applied. The posting of an advisory shall not be required if the licensee provides the individual with a printed, legible fact sheet containing the manufacturer's requirement to conduct a patch test before the product is used or applied, or secures an informed written release of liability from the client receiving the application of the product requiring the patch test.~~

SUBCHAPTER 9. BARBER SCHOOL AND COLLEGE REQUIREMENTS [REVOKED]

175:15-9-1. License required [REVOKED]

~~No barbering school or college shall operate unless licensed by the Department.~~

175:15-9-2. School license application [REVOKED]

~~The applicant for a barber school license shall address a letter to the Oklahoma State Department of Health, Barber Division, 1000 Northeast 10th Street, Oklahoma City, Oklahoma, 73117-1299, requesting the necessary application blanks. The applicant shall state the communication, the name and address of the proposed owners. If a corporation, the names and addresses of the officers and the principal stock owners shall be listed.~~

175:15-9-3. Inspection of new barber schools or colleges [REVOKED]

~~Before any new, or under new management, barber school or college is licensed and opened for business, the school owner shall call the Department for an inspection to determine compliance with the Barber License Act and OAC 310:210.~~

175:15-9-4. Number instructors required [REVOKED]

~~Each barber school shall have not less than one (1) licensed instructor for one (1) to fifteen(15) students enrolled, two (2) instructors for sixteen (16) to thirty (30) students enrolled, three (3) instructors for thirty-one (31) to forty-five (45) students enrolled, four (4) instructors for forty-six (46) to sixty (60) students enrolled, five (5) instructors for sixty-one (61) to seventy-five (75) students enrolled, six (6) instructors for seventy-six (76) to ninety (90) students enrolled, or seven (7) instructors for ninety-one (91) to one hundred and five (105) students enrolled, with this fifteen (15) to one (1) ratio continuing as enrollment increases. Instructors shall be on the floor at all times.~~

175:15-9-5. Supervised practice [REVOKED]

~~(a) A school or college shall not allow a student, other than an instructor student, to teach other students.~~

~~(b) Practice teaching shall be supervised by a licensed instructor at all times.~~

175:15-9-6. Required chairs [REVOKED]

~~A proposed barber school shall have at least twenty (20) barber chairs.~~

175:15-9-7. Entrance requirements [REVOKED]

~~Entrance requirements to Barber Schools or Colleges are:~~

~~(1) Each student shall be at least sixteen (16) years of age.~~

~~(2) Each student shall have a kit completely equipped before commencing training unless this equipment is furnished by the school.~~

~~(3) Each student shall have a textbook for each course upon entering school.~~

~~(4) Each student shall sign a written contract that specifies, but shall not be limited to, rules of conduct, attendance requirements, rules for make-up work, cost of schooling and any fees associated with make-up work or additional training. The school or college shall retain the original of each student's contract and each student shall be provided a copy of his/her contract. Each contract is subject to review by the Department.~~

175:15-9-8. Law and rules available; services rendered [REVOKED]

~~(a) Copies of the State Barber Law and Rules and Regulations furnished by the Department to school or college owners for their libraries shall be made available to each student for study.~~

~~(b) All services rendered in a barber school on patrons shall be done by students only. Instructors shall be allowed to teach and aid the students by performing the various barber services; however, they shall not be permitted to finish up the patron after the students have completed their work.~~

175:15-9-9. Barber school equipment [REVOKED]

~~Barber School equipment shall consist of a minimum as follows:~~

~~(1) One (1) barber chair for each student enrolled.~~

~~(2) One (1) lavatory for each two (2) students to a maximum of fifteen (15) lavatories. When fifteen (15) lavatories are required, only fifteen (15) lavatories will be required for each 100 students or portion thereof enrolled.~~

~~(3) Back bar with cabinet storage, linens enclosed.~~

~~(4) One (1) immersion sanitizer for each student~~

~~(5) Equipment:~~

~~(A) One (1) vibrator~~

~~(B) Video Cassette Recorder and approved tape library~~

~~(C) Personal locker for each chair~~

~~(D) Infrared lamp~~

~~(E) Suitable microscope~~

~~(F) Chalkboard at least four (4) foot by six (6) foot in size in the lecture room~~

~~(G) Bulletin board, conspicuously located, for posting rules and regulations, notices, and other information~~

~~(H) One (1) set of record files for student history and activities~~

~~(I) Supply of standard tonics, lotions, shampoos, and other cosmetics~~

~~(J) One (1) time clock~~

~~(K) One set of anatomic charts showing nerves, muscles, blood vessels, bones of the head and neck and structure of the hair and skin~~

~~(6) A library of reference books on anatomy, physiology, diseases of the skin and a medical dictionary.~~

175:15-9-10. Chair requirements [REVOKED]

~~Each barber chair in a barber school or college shall be in good condition, mechanically sound, and with acceptable covering of a material easily sanitized. Barber chairs shall be placed at least four and one half (4 $\frac{1}{2}$) feet apart, center to center, and each chair shall have a minimum of thirty-five (35) square feet of floor space surrounding the chair.~~

175:15-9-11. Curriculum for students [REVOKED]

~~(a) **Approved curriculum.**~~

~~(1) Each barber school or college shall provide at least one thousand five hundred (1,500) clock hours of practical and technical instruction covering all practices which constitute barbering. The subjects shall be provided to the students through practical demonstrations, lectures and actual practice and students shall be awarded one (1) hour of credit for each clock hour of attendance. Theory shall be taught not less than one hour per day, except Saturday. Other lectures presented by experts or professionals may be part of the course of study provided an instructor is present.~~

~~(2) Instructors shall devote their entire time during school hours to instructing and supervising all student work, and shall not apply their time to the private or public practice of barbering for any reason.~~

~~(b) **Required demonstrations, lectures, and practicals.**~~

~~(1) The hours required for each subject are listed in Appendix A of this Chapter.~~

~~(2) The curriculum shall include the following subjects:~~

~~(A) **Practical knowledge.**~~

~~(i) Sterilization, sanitation and hygiene.~~

~~(ii) Honing, stropping and handling tools, razors, shears, clippers and accessories.~~

~~(iii) Process of shaving – strokes and posture, also the care of the face and face blemishes.~~

~~(iv) Haircutting and its various techniques, handling professional instruments, finger work, neck lines clipper "mark", different haircuts and styles for boys, girls, mean and women, beard trimming and mustache lines.~~

~~(v) Various shampoos and their effects~~

~~(vi) Hair tonics and proper methods of application, also singeing effects.~~

~~(vii) Cosmetics, massage cream, astringent and other creams as well as lotions;~~

~~(B) **Scientific professional knowledge.**~~

~~(i) Mental development and character.~~

~~(ii) Physiology and anatomy including histology of the hair, skin and cells.~~

~~(iii) Physiognomy including muscles, nerves and bones of the head and face.~~

~~(iv) Blood circulation including the blood supply of the head and face.~~

~~(v) Digestive, excretory, respiratory and circulatory systems.~~

~~(vi) Shedding and regrowth of hair.~~

~~(vii) Skin and its appendages; sweat and oil glands, hair and nails.~~

~~(C) **Diseases of the scalp and skin.**~~

~~(i) General symptomatology including disorders of the hair, scalp and skin.~~

~~(ii) Lymphatic system of the head and neck.~~

~~(iii) Bacteriology.~~

~~(iv) Essential chemistry.~~

~~(D) **Electricity.** Light therapy, ultra violet ray including quartz and carbon, infrared light, high frequency for cosmetic treatment.~~

~~(E) **Facial and scalp massage.**~~

~~(i) Facial manipulation for relaxation massage and stimulation massage.~~

~~(ii) Cosmetic treatments for wrinkles, acne and other skin disorders.~~

~~(iii) Scalp manipulation for scalp disorders and overshading of hair.~~

~~(iv) Application of electrical appliances in scalp and facial work.~~

~~(v) Dermatitis due to local application.~~

~~(vi) Psychology as a professional aid.~~

~~(F) **Economics and ethics.**~~

~~(i) Trade organizations.~~

~~(ii) Shop economics, bookkeeping, shop management and advertising.~~

~~(iii) professional ethics.~~

175:15-9-12. Instructor's course curriculum [REVOKED]

~~A barber school desiring to offer the instructor's course shall follow the curriculum listed inAppendix B. The instructor's course schedule must be following in the school. Any changes in the instructor's schedule or curriculum shall be submitted to the Department and approved before being put into operation.~~

SUBCHAPTER 11. BARBER SCHOOL OR COLLEGE MANAGEMENT REQUIREMENTS [REVOKED]

175:15-11-1. Approved nontransferable license [REVOKED]

~~A license to operate a barber school is valid only for the location and owner specified in theoriginal application. A new application shall be submitted when change of ownership or location occurs.~~

175:15-11-2. Instructors [REVOKED]

~~All instructors at the school shall have an Oklahoma Instructor's license.~~

175:15-11-3. School or college rules [REVOKED]

~~A copy of school or college rules shall be posted in a conspicuous place in each school or college. Each student shall be notified of revised rules and the effective date, not less than two (2) weeks prior to the planned effective date. School or college owners shall be strictly responsible for employees and their actions at the school or college to ensure compliance with the barber law and rules.~~

175:15-11-4. Local compliance [REVOKED]

~~Barber schools shall comply with city and state health laws, building codes, and fire ordinances.~~

175:15-11-5. Staff changes [REVOKED]

~~A barber school shall notify the Department in writing, within five (5) days of any change in the teaching staff, including temporary, part-time or substitute instructors, giving names and license numbers.~~

175:15-11-6. Instructors are not allowed to render services [REVOKED]

~~No instructor shall be allowed to render services for compensation to the school or himself in any barber school.~~

175:15-11-7. Reserve substitute instructors [REVOKED]

~~Barber schools shall have sufficient substitute instructors in the event of emergency, vacations, leaves, etc., to care for the number of students enrolled.~~

175:15-11-8. Substitute instructors license [REVOKED]

~~A substitute instructor in any barber school shall possess a valid instructor's license issued by the Department.~~

175:15-11-9. Premises [REVOKED]

~~If a barber school is conducted on premises where any other business is conducted, such school shall be completely separate entrance.~~

175:15-11-10. Credit hours [REVOKED]

~~Each student shall receive credit for only the hours the student is in attendance. No barber school or college owner or instructor shall ever penalize a student by deducting hours from the accumulated total. Hours of training credited to the student cannot be changed. No school owner or instructor shall ever refuse to submit hours accumulated. Hours shall not be given to a student for attendance or demonstrations, lectures and other activities outside the school.~~

175:15-11-11. Daily class records [REVOKED]

~~Each barber school or college shall keep daily class records of the curriculum hours obtained by each student, use a standardized grading system, and require satisfactory completion of regular examinations. Such records shall be available for inspection by the Department.~~

175:15-11-12. Records available from daily time clock [REVOKED]

~~(a) In addition to keeping the monthly report of student hours, a barber school or college shall keep a record of daily attendance. There shall be no handwritten time cards. Each student shall be responsible each class day for punching their own time card when entering or leaving class. Failure to clock in or out shall result in loss of credit for time attended that day. All records shall be available for inspection. No student shall be allowed to obtain more than eight (8) hours credit per day.~~

~~(b) Quarterly attendance report forms provided by the Department shall be completed and submitted by the school or college to the Department no later than the fifteenth (15th) of January, April, July, and October. This report shall include the student's name, the number of hours completed during the quarter, and the enrollment status. Each day that a report required under this rule remains delinquent shall constitute a separate violation.~~

~~(c) A school or college shall submit a report to the Department for each student terminated from the school or college within twenty (20) working days of termination. The report shall include the state of student's enrollment, the date of termination, the total number of student hours obtained by the student, and the reason for termination.~~

~~(d) Upon completion of the course of student and full payment of student's financial obligation to the school or college, the school or college shall provide each student with an affidavit showing the total number of hours completed, the date of enrollment in the course, and the date of completion of the course. This affidavit shall certify that the student meets the eligibility requirements for examination. The affidavit shall be certified by a licensed instructor or an employee responsible for daily attendance records.~~

175:15-11-13. School transfer [REVOKED]

~~No student shall transfer from one (1) barer school to another, within the same county, for a period of thirty (30) days from the date of withdrawal.~~

175:15-11-14. Out of state class hours not transferred [REVOKED]

~~No out-of-state student hours are accepted for transfer to a barber school or college in this state or to meet the examination prerequisite. No student shall receive credit for any time spent in any school or college prior to the license thereof by the Department.~~

SUBCHAPTER 13. REGULATORY ENFORCEMENT [REVOKED]

175:15-13-1. Grounds for suspension or revocation [REVOKED]

~~(a) The Department may, upon its own motion, and shall, upon written complaint filed by any person, investigate:~~

~~(1) The barbering and sanitary operating practices of any barber, barber apprentice, graduate apprentice, or instructor; and~~

~~(2) The unsanitary operating practices or unsanitary conditions of barber shops or barber schools or colleges.~~

~~(b) The Commissioner shall also suspend or revoke or may refuse to issue any license for any of the following:~~

~~(1) Making a material misstatement in the application for, or in the renewal of a license or in the records required by OAC 310:210 to be maintained by barber instructors or schools or colleges.~~

~~(2) Loaning or illegally using a licensing.~~

~~(3) Demonstrating incompetence to act as a barber, barber apprentice, graduate apprentice, or instructor.~~

~~(4) Violating any provisions of the Barber Act, or any rule of the Board.~~

~~(5) Hiring or employing any person to engage in barbering unless such person holds a current license issued by the Department.~~

175:15-13-2. Reapplication after suspension or revocation [REVOKED]

~~(a) A license that has been suspended by the Department is subject to expiration and shall be subject to the renewal requirements in OAC 310:210-5-6. A suspended license that is renewed shall remain suspended until the conditions of the final order of suspension have been met.~~

~~(b) Any license revoked by the Department shall not be renewed. An individual or school or college may reapply for a license one (1) year after the date of revocation. An individual shall be re-examined, pass the required exam and meet all the requirements for licensing prior to the license being issued. Schools or colleges shall meet all requirements for licensing prior to the license being issued.~~

APPENDIX A. BARBER STUDENT CURRICULUM AND HOURS [REVOKED]

SUBJECT	THEORY AND DEMO. ACTUAL PRACTICE HOURS	PRACTICE HOURS	TOTAL
Safe Work Practices & Infection Control	30	45	75
Licensing Laws	20		20
Salesmanship and Job Search	50	50	100
Shop Management	100		100
History of Barbering	35		35
Facial Massage and Treatment	15	25	40
Haircutting and Styling	80	475	555
Electricity and Light Therapy	15	10	25
Chemistry	15		15
Properties and Disorders of Skin, Scalp and Hair	10	25	35
Hair and Scalp Treatments	20	40	60
Chemical Hair Relaxing and Soft Curl Permanents	25	15	40
Men's Hairpieces	20	15	35
Shaving	5		5
Mustache and Beard Design	5	10	15
Bacteriology	15		15
Professional Image	25	25	50
Anatomy and Physiology	40		40
Implements, Tools and Equipment	20	50	70
Hair Coloring	80	70	150
Permanent Waving	15	5	20
Total Theory, Demonstration, Hours and Actual Practice			**1500**

APPENDIX B. BARBER INSTRUCTOR CURRICULUM AND HOURS [REVOKED]

	SUBJECT	MINIMUM HOURS OF INSTRUCTION
(1)	Barber Licensing Act and Rules	20
(2)	Preparatory theoretical instruction, including teaching techniques, lesson planning, methods of instruction, evaluation of instruction, student record-keeping, state record-keeping, and school operation;	70
(3)	Supervision of desk, booking appointments, and assigning students for clinic services;	30
(4)	Clinic floor supervision under direct supervision of licensed instructor;	50
(5)	The remaining three hundred sixty (360) hours shall be completed as scheduled by the school and shall include: (A) presentation of theoretical subject in a classroom situation; (B) presentation of practical subjects in a classroom situation; and (C) supervision of clinic floor.	 50 50 330
Total Hrs		**600**

APPENDIX C. BARBER APPRENTICE CURRICULUM AND HOURS [REVOKED]

SUBJECT	THEORY AND DEMO. ACTUAL PRACTICE HOURS	PRACTICE HOURS	TOTAL
Safe Work Practices & Infection Control	20	180	200
Licensing Laws	10		10
Salesmanship and Job Search	50	100	150
Shop Management	100		100
History of Barbering	25		25
Facial Massage and Treatment	25	50	75
Haircutting and Styling	200	1300	1500
Electricity and Light Therapy	10	10	20
Chemistry	15		15
Properties and Disorders of Skin, Scalp and Hair	45	80	125
Hair and Scalp Treatments	40	80	120
Chemical Hair Relaxing and Soft Curl Permanents	30	50	80
Men's Hairpieces	40		40
Shaving	10		10
Mustache and Beard Design	10	10	20
Bacteriology	15		15
Professional Image	10	25	35
Anatomy and Physiology	40		40
Implements, Tools and Equipment	40	100	140

Hair Coloring	40	100	140
Permanent Waving	40	100	140
Total Theory, Demonstration, Hours and Actual Practice			**3000**

[OAR Docket #15-583; filed 6-16-15]

TITLE 218. OFFICE OF EDUCATIONAL QUALITY AND ACCOUNTABILITY CHAPTER 1. ADMINISTRATIVE OPERATIONS

[OAR Docket #15-580]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
218:1-1-1. Purpose [NEW]
218:1-1-2. Definitions [NEW]
218:1-1-3. Official office [NEW]
218: 1-1-4. Commission meeting, quorum [NEW]
218:1-1-5. Executive sessions [NEW]
218: 1-1-6. Special meetings [NEW]
218:1-1-7. Notice of meetings [NEW]
218:1-1-8. Agenda items [NEW]
218:1-1-9. Legal counsel [NEW]
218:1-1-10. Personnel [NEW]
218:1-1-11. Powers and duties of the Executive Director [NEW]
218:1-1-12. Availability of records and manner of obtaining information [NEW]
AUTHORITY:
Office of Educational Quality and Accountability; 70 O.S. Supp. 2012, §3-116 et seq.

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ANALYSIS:
The rules outline the administrative duties and responsibilities of the Office of Educational Quality and Accountability and its Executive Director..
CONTACT PERSON:
Renée Launey-Rodolf, Director of Educational Quality, 840 Research Parkway, Suite 455, Oklahoma City, Ok 73104, 405-522-5399

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3 (5) AND 308 (E), WITH AN EFFECTIVE DATE OF SEPTEMBER 11, 2015:

218:1-1-1. Purpose

The purpose of this chapter is to outline the administrative rules for the Commission of Educational Quality and Accountability, hereinafter known as CEQA. The general purpose of the Office of Educational Quality and Accountability, hereinafter known as OEQA, is prescribed by the Legislature and OEQA acts as the agency in the exercise of the policy powers of the State of Oklahoma.

218:1-1-2. Definitions

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

"Commission" means the Commission of Educational Quality and Accountability.

"Executive Director" means the Executive Director of the Office of Educational Quality and Accountability.

218:1-1-3. Official office

The OEQA is located at 840 Research Parkway, Suite 455, Oklahoma City, Oklahoma, 73104. The phone number is 405-522-5399. The office hours are from 8:00a.m. to 4:30 p.m. Central Time, Monday through Friday, except legal holidays.

218:1-1-4. Commission meeting, quorum

The Commission shall hold at least six (6) regular monthly meetings each calendar year at a time and place as shall be designated by the Commission. Four of the voting members of the Commission shall be present at the meeting to constitute a quorum.

218:1-1-5. Executive sessions

The Commission may hold executive sessions at such sessions as is permitted by the Oklahoma Open Meeting Act.

218:1-1-6. Special meetings

Special meetings may be called by the Commission Chair and/or Executive Director by delivery of written notice to each member of the Commission with not less than forty-eight (48) hours notice. A majority of voting members shall be present at the meeting to constitute a quorum of the Commission.

218:1-1-7. Notice of meetings

Notice of regular and special meetings will be given in accordance with the provisions of the Oklahoma Open Meetings Act.

218:1-1-8. Agenda items

The Executive Director, in conjunction with the Commission Chair shall prepare an agenda for each meeting of the Commission. The agenda is filed and posted in accordance with the Oklahoma Open Meeting Act.

218:1-1-9. Legal counsel

The Attorney General of the State of Oklahoma shall serve as legal counsel for the CEQA and shall assist the Commission in its performance of the powers and duties delineated to it by statutory authority.

218:1-1-10. Personnel

(a) Executive Director. The Commission shall select an Executive Director, according to procedures established by the Office of Management and Enterprise Services, to assist the Commission in carrying out its duties and responsibilities established by the Legislature.

(b) OEQA Staff. The Executive Director will employ necessary personnel. according to procedures established by the Office of Management and Enterprise Services, to assist the Commission in the performance of its duties.

218:1-1-11. Powers and duties of the Executive Director

The Executive Director of the OEQA shall have the following powers and duties, which shall include, but not necessarily be limited to:

(1) Acting as the chief administrative officer for purposes of carrying out the Commission's statutory authority:

(2) Establishing and maintaining a central repository on information regarding availability, acquisition and disposition of all federal funds, state appropriations, and

other grants related to the assessment of teachers and administrators and approval of teacher education programs;

(3) Establishing and maintaining a central repository for all duly adopted rules and regulations, minutes, and reports;

(4) Acting as an agent for the Commission in all matters relating to educational quality and accountability as delineated by the commission's statutory authority;

(5) Employing, demoting, or dismissing personnel and making specific assignments of duties for positions and at rates of compensation approved by the Commission to the extent that funds are available.

218:1-1-12. Availability of records and manner of obtaining information

All files, records, minutes, proceedings, rules, documents, decisions, opinions, written statements of policy, and written materials of any other nature required by law to be maintained by the Commission are available for public inspection in the office of the Executive Director of the OEQA. Any persons desiring any information concerning the Commission, its policies and procedures or any pertinent information concerning said organization may make submissions or request the Commission, either in person or by mail by directing such submission or request to the office the Executive Director of the OEQA.

[OAR Docket #15-580; filed 6-16-15]

TITLE 218. OFFICE OF EDUCATIONAL QUALITY AND ACCOUNTABILITY CHAPTER 10. EDUCATIONAL QUALITY

[OAR Docket #15-579]

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RULES:
Subchapter 1. [RESERVED]
Subchapter 3. [RESERVED]
Subchapter 5. Educator Preparation Program Accreditation [NEW]
218:10-5-1 [NEW]
218:10-5-2 [NEW]
218:10-5-3 [NEW]
218:10-5-4 [NEW]
Subchapter 7. Educator Assessment [NEW]
218:10-7-1 [NEW]
218:10-7-3 [NEW]
Subchapter 9. Education Leadership Oklahoma [NEW]
218:10-9-1 [NEW]
Appendix A. Competency Exam Requirements by Certification Areas [NEW]
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INCORPORATIONS BY REFERENCE:
N/A
ANALYSIS:
The rules reflect the Commission for Educational Quality and Accountability statutory responsibilities for accrediting educator preparation programs, assessing educator candidates, and Education Leadership Oklahoma.
CONTACT PERSON:
Renée Launey-Rodolf, Director of Educational Quality, 840 Research Parkway, Suite 455, Oklahoma City, Ok 73104, 405-522-5399

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 11, 2015:

SUBCHAPTER 1. [RESERVED]

SUBCHAPTER 3. [RESERVED]

SUBCHAPTER 5. EDUCATOR PREPARATION PROGRAM ACCREDITATION

218:10-5-1. Educator preparation program accreditation and review process

(a) Oklahoma educator preparation institutions function under an 'accreditation program' system which requires the evaluation of teacher education units and programs on a periodic basis.

(b) Effective July 1, 2014 the Commission of Educational Quality and Accountability, hereafter referred to as the CEQA, shall assume responsibility for accrediting educator preparation programs in Oklahoma's public and private institutions of higher education.

(c) The program accreditation system shall be a multifaceted system based on:

(1) A competency-based educator preparation program built around the standards for Oklahoma educator preparation programs (See 218:10-5-3 and 218:10-5-4);

(2) Institution plans as outlined in the standards for state accreditation;

(3) On-site accreditation review team visits to the campuses of the institutions of higher education;

(4) Analysis of data related to student success rates on the general education, professional education, and subject matter assessments;

(5) Analysis of student satisfaction data;

(6) Analysis of student/teacher candidate portfolios.

(d) Prior to being accredited each institution must meet the Council for Accreditation of Educator Preparation, herein referred to as CAEP, preconditions for accreditation and all requirements of the CEQA, and/or receive the approval of the OSRHE when applicable, and provide required documentation for each precondition.

(1) All initial plans will be reviewed by the Office of Educational Quality and Accountability, hereafter referred to as OEQA, who will determine accreditation for seven years, accreditation for two years with a focused visit, accreditation for two years with a full visit, defer decision or denial of accreditation.

(2) Performance-based training will be conducted by the CAEP and/or their designee.

(3) Any OEQA member or OEQA appointee who is involved in any evaluation and/or accreditation decision related to any educator preparation unit and/or program must complete the performance-based training related to the review and accreditation of educator preparation units and/or programs prior to voting and/or participating on any accreditation decisions.

(e) The CEQA is a performance-based partner with the Oklahoma State Regents for Higher Education (State Regents) and CAEP. All educator preparation programs shall be expected to meet all CAEP unit and program standards, SDE competencies, as well as all additional standards established by the CEQA.

(1) Application form. The application form containing the required information will be completed by the director of educator preparation at the institution seeking CEQA accreditation for the educator preparation certificate programs.

(2) Institutional plan. The institutional plan shall be utilized by the CEQA for state accreditation, State Regents program review, and CAEP accreditation as stipulated in OS 70 sections 6-180.

(3) Records to be kept on file at the institution. The following items and records shall be kept on file at the institution with the director/dean of teacher education.

(A) Copy of the institution plan;

(B) Copy of annual report to the CEQA;

(C) Syllabi for courses in the areas of specialization, general education, and professional education will be kept on file with the institution; and

(D) Full faculty resumes will be on file for review. All levels of teaching personnel will be indicated.

(E) Copies of program review reports.

(F) Candidate CEOE scores.

(4) OEQA personnel will establish an accreditation visit schedule that will adhere to CAEP accreditation timelines.

(5) Selection of accreditation review team Selection of the accreditation review team will be coordinated by the OEQA staff after the visitation dates are set. Selection of the accreditation review team shall be based on the following:

(A) All team members must have been trained by CAEP staff and/or their designee in the application of CAEP standards and on the process for evaluating programs for the CEQA.

(B) Accreditation team for first accreditation. The membership of a first accreditation review team shall be as follows:

(i) Three to six representatives from the CAEP Board of Examiners (for CAEP accredited institutions).

(ii) State representatives appointed by the OEQA including:

(iii) P-12 representative;

(iv) One representative from higher education who is a member of a educator preparation unit. For accreditation of private institutions the representative shall be from a private institution; for public institutions this representative shall be from a public institution;

(v) One representative from the OEQA serving as State Consultant;

(vi) One additional at-large member;

(I) For any institution requesting accreditation of a career technology program(s) an additional accreditation review team member may be recommended by the State Director of Career and Technology Education.

(II) The OEQA will determine observers from representatives of the Oklahoma State Regents for Higher Education, Oklahoma State Department of Education, Oklahoma Department for Career and Technology Education, professional organizations, and the community-at-large.

(III) Observers shall be actively involved in the data collection process, participate in the accreditation review team meetings, and assist the accreditation review team to understand state nuances. They may assist, but shall not be required to write any sections of the team report. They shall not be a voting member of the team.

(IV) Observers are expected to participate in the entire visit and all assigned meetings and activities.

(V) The chair of the accreditation review team has the authority to dismiss any observer from the accreditation visit who does not participate in the entire site review and assigned activities.

(VI) The OEQA shall collaborate with the director of educator preparation at the institution requesting state accreditation to determine the team representation.

(C) Accreditation team for continuing accreditation. The membership of a continuing accreditation review team shall be as follows:

(i) CAEP representatives as determined by CAEP (for CAEP accredited institutions);

(ii) State representatives which will number one less than the CAEP representatives;

(iii) The OEQA shall collaborate with the director of educator preparation at the institution being reviewed to determine the state committee representation;

(iv) The OEQA will determine observers from representatives of the Oklahoma State Regents for Higher Education, State Department of Education, and the community-at-large. If a Career and Technology program is offered at the institution the State Director of Career and Technology Education may nominate a team member for any institution requesting accreditation of career and technology program(s);

(v) Observers shall be actively involved in the data collection process, participate in the accreditation review team meetings, and assist the accreditation review team with understanding state nuances. They may assist but shall not be required to write any sections of the team report. They shall not be a voting member of the team.

(vi) Observers are expected to participate in the entire visit and all assigned meetings and activities.

(vii) The chair of the accreditation review team has the authority to dismiss any observer from the accreditation visit who does not participate in the entire site review and assigned activities.

(D) Accreditation teams for non-CAEP accredited institutions shall be composed of state representatives.

(6) Logistics for CAEP/State accreditation visits shall adhere to the CAEP and State guidelines.

(A) The completed accreditation review team report will be presented to the CEQA and CAEP (as applicable).

(B) Visiting team members will be reimbursed for expenses incurred according to state guidelines. Reimbursement forms must be completed by team members on the last day of the visit.

(7) Preparation of the team report. The accreditation review team work will culminate in preparation of a report outlining the findings of the team following CAEP guidelines. The report will reflect the team consensus on the review.

(A) At the exit report, representatives of the accreditation review team will present a summary of its evaluation of the program. The summary will include findings for each standard and state requirement including areas for improvement.

(B) The completed CAEP and OEQA reports will follow the CAEP timelines for submission; and

(C) The recommendation of the accreditation review team regarding the program will be made to the CEQA. For CAEP accredited institutions, final accreditation decisions will be made after the CAEP Commission has forwarded its accreditation decision to the CEQA.

(8) The rejoinder process will adhere to the CAEP requirements regarding institutional rejoinders.

(A) Final action on the reports and institutional accreditation will proceed according to CAEP Guidelines.

(B) Final action by the CEQA may include the following actions:

(i) **First and Continuing Accreditation for seven years.** First Accreditation or Continuing Accreditation for seven years is granted to the education unit and program(s) if the CEQA finds that standards have been adequately addressed to merit accreditation. This accreditation decision indicates that the unit meets each of the CAEP standards for unit accreditation. Areas for improvement may be cited, indicating problems warranting the institution's attention. In its annual report the institution will be expected to address progress on the areas for improvement cited in the accreditation report. When the CEQA has determined that an education unit is not making progress toward the removal of the areas for improvements cited during their visit, the institution will be notified that the unit will be required to submit a plan and timeline for addressing the areas for improvement. If at the end of six (6) months the CEQA determines the education unit has not submitted sufficient data documenting adequate progress toward the removal of the areas for improvement, a state-level Focus Visit will be warranted within 18 months. After such Focus Visit the CEQA will have the option of granting continuing accreditation or revoking accreditation. This progress will be reviewed, annually, by the OEQA. First accreditation is retroactive to the semester in which the accreditation visit occurred.

(ii) **Accreditation for two years with a focused visit.**

(I) This accreditation decision indicates that the unit has not met one or more of the standards. When the CEQA renders this decision, the unit has or maintains its accredited status; but must satisfy provisions by meeting previously unmet standard(s) within an established time period.

(II) If Accreditation for two years with a focused visit is granted, the CEQA will require a focused visit on the unmet standard(s) within two years of the semester of the accreditation decision. After a focused visit, the CEQA will (1) grant accreditation or (2) revoke accreditation.

(III) If accreditation is granted, the next on-site visit is scheduled for seven years following the semester in which the accreditation visit preceding the focused visit occurred.

(iii) **Accreditation for two years with a full visit.**

(I) This accreditation decision indicates that the unit has not met one or more of the CAEP standards, and serious problems exist across standards. When the CEQA renders this decision, the unit has or maintains its accredited status, but must satisfy conditions by meeting the previously unmet standard(s) within an established time period.

(II) If accreditation for two years with a full visit is granted, the CEQA will require a full visit on the unmet standard(s) within two years of the accreditation decision. After a full visit, the CEQA will (1) continue accreditation or (2) revoke accreditation.

(III) If accreditation is granted, the next on-site visit is scheduled for seven years following the semester in which the continuing accreditation visit occurred.

(iv) **Defer Decision.**

(I) The CAEP Commission or CEQA will make this decision if the BOE team recommended that any standard(s) was met for which the CAEP Commission or CEQA did not accept the team's recommendation.

(II) A supplemental rejoinder related to the new unmet standard(s) may be submitted for review by the CAEP Commission or CEQA. The supplemental rejoinder must be based on evidence available at the time of the visit. The institution will be required to submit said documentation to the CAEP Commission or CEQA as applicable.

(III) For CAEP/State institutions, the CEQA will defer decision until the next CAEP Commission meeting. For State only institutions, the CEQA will defer decision for no more than sixty (60) days.

(IV) If the standard(s) continues to be unmet after the supplemental rejoinder, accreditation will be granted for 18 months with either a focused or full visit.

(v) **Denial of accreditation (First).**

(I) Denial of accreditation is rendered when the CEQA finds that the professional education unit and/or programs have severe and/or numerous areas for improvement that limits its capacity to offer quality programs.

(II) All students who have been admitted to the program must be notified by mail, within 30 days of receipt of the CEQA decision, as to the denial of program accreditation of the unit and programs.

(III) Institutions that are denied accreditation may recommend candidates for certification for one year from the end of the semester in which accreditation is denied.

(vi) **Revocation of accreditation (Continuing).**

(I) Revocation of accreditation terminates current accreditation after a two-year visit if the CEQA finds that critical areas for improvement are not corrected. Accreditation will be terminated at the end of the semester in which the CEQA revokes accreditation.

(II) All students who have been admitted to the program must be notified by mail, within 30 days of receipt of the CEQA decision, as to the revocation of accreditation of the unit and programs.

(III) Institutions that lose their accreditation may recommend candidates for certification for one year from the end of the semester in which accreditation is revoked.

(IV) An on-site interim accreditation visit may be requested by the Appeals Board, hereinafter referred to as AB, acting on behalf of the CEQA. This visit would result from the committee's determination that compelling reasons exist to authorize reexamination of the accreditation of an institution's professional education unit and/or programs. If the AB determines that a complaint received by the committee needs to be investigated, the committee will authorize an interim accreditation review team visit to the campus. The interim accreditation review team will consist of one member from the first or continuing accreditation review team and the remainder of the members will be appointed by the CEQA.

(V) The interim accreditation review team will prepare a report for the CEQA. At the next CEQA meeting following such a visit, the interim review team will recommend the institution's accreditation status to the CEQA.

(VI) The CEQA may revoke accreditation if the unit and/or program(s) (a) no longer meets the state accreditation standards, (b) fails to submit annual reports and other documents required for accreditation; (c) misrepresents its accreditation status to the public; (d) fails to meet timelines of conditional or probationary accreditation or (e) fails over a three-year period to meet and maintain teacher candidate performance standards on the competency-based assessments as established by the CEQA.

(VII) All accreditation decisions shall be reported annually in the CEQA annual report.

(VIII) In the event that accreditation is denied or revoked, an institution may reapply for first accreditation following a three-year waiting period. Before a first visit may occur, a minimum of three years must have lapsed since accreditation was denied. Reapplication shall occur based on the state accreditation standards. All

procedures for first accreditation will be followed during the reapplication process.

(9) Appeals Board.

(A) For CAEP accredited units the AB shall consider the recommendations of the CAEP appeals board for unit accreditation;

(B) For appeals related to program(s) and non-CAEP accredited institutions the following procedures shall be followed.

(C) Membership of CEQA Appeals Board shall be:

(i) CEQA chair. The CEQA Chair shall be the Chair of the Appeals Board;

(ii) Representative from OEQA with State Consultant experience;

(iii) Program subject matter and/or standards expert(s). If the appeal is related to a specific program, the program expert shall be in the area(s) being appealed;

(iv) One P-12 school classroom teacher;

(v) One member trained as a site visitor (when applicable);

(vi) One teacher educator; and

(vii) One representative from the arts and sciences faculty or from school administration.

(10) Conditions for appeals.

(A) Any institution that is the object of an adverse decision, as determined by the CEQA, may appeal that decision to the CEQA Appeals Board.

(B) An adverse decision is defined as the denial or revocation of program(s) or unit accreditation.

(C) An institution may also appeal, in writing, accreditation for two years with a focused visit, accreditation for two years with a full visit, and defer decision accreditation decisions. An adverse decision may be appealed only on the following grounds:

(i) Stated procedures were not followed;

(ii) Evidence favorable to the institution was provided to the accreditation review team but was not considered;

(iii) Evidence was presented to the appropriate board in the form of a rejoinder or stipulation response but was not considered;

(iv) If a college or university believes that one or more of these conditions was a factor in its accreditation, the only available means of redress is through the appeals process; or

(v) There was a lack of the full number of team members due to last minute emergencies; however, that factor alone is not sufficient to uphold an appeal.

(I) The institution must convincingly demonstrate that this fact made a difference in the accreditation decision.

(II) The institution shall prove actual prejudice to it and that the prejudice changed the accreditation decision.

(III) The fact that the institution did not recommend canceling the visit would be evidence that it, at least before the visit, believed that the assembled team would be sufficient to conduct a fair and complete visit.

(D) The findings and recommendations of the AB are received by the CEQA at its first meeting following the meeting of the AB.

(E) Subsequent actions shall be based on grounds upheld by the CEQA and may include, but are not limited to:

(i) Assigning another accreditation review team to revisit an institution;

(ii) Reinstating accreditation or

(iii) Upholding the initial recommendation for denial or revocation of accreditation.

(F) The status of the appellant at the time of the visit remains unchanged until the appeals process has been exhausted.

(11) Process for appeal. The following provisions govern the appellate process:

(A) Within 15 days of receiving notice of the adverse decision, an institution electing to appeal an adverse decision of the CEQA must present the OEQA Executive Director and the CEQA written notification of its intention to appeal.

(B) No later than 30 days from the date that it submits its notification, the institution must submit a brief to the Executive Director which sets forth the specifics of its appeal and includes full documentation.

(C) The CEQA Chair shall convene the AB within 60 days after an appeal brief has been filed. The AB will hear and act on the appeal within this time frame.

(D) The appellant shall have the right to present a 30-minute oral argument on its brief. The appellant shall also have the right to be represented by counsel during the appeal, but may not call witnesses or introduce new evidence on its own behalf.

(E) If the decision appealed is accreditation for two years with a focus visit, accreditation for two years with a full visit or defer decision the appellant's right to appeal is limited to the submission of written documentation.

(F) In the case of an accreditation decision review, the AB has the right to seek clarification of the accreditation review team report from the state team chair, and clarification of the CEQA deliberations from the chair of the CEQA.

(G) In the case of an accreditation decision review, all evidence presented in the appellant's brief and considered by the AB must be confined to conditions existing at the time of the accreditation review team visit as cited in the final report, or in the case of a petition for stipulation removal, to conditions existing at the time the petition for stipulation removal was submitted.

(12) Cost of review.

(A) If the appeal leads to an affirmation of the CEQA's original decision, the appellant will be liable

for the expenses of the AB, the second accreditation review team visit, and all expenses related to the review. All expenses will be reimbursed according to state travel reimbursement guidelines.

(B) If the AB finds in favor of the institution, the CEQA will be liable for expenses of the AB and second accreditation review team. All expenses will be reimbursed according to state travel reimbursement guidelines.

218:10-5-2. Program Review Advisory Board

The Program Review Advisory Board (PRAB) shall provide consultation related to program reviews. The PRAB shall make final reviews on all program reports and make recommendations on program status for all non CAEP institutions and for program areas not associated with a CAEP-recognized learned society. Program reviews will take place in conjunction with the college's/university's accreditation cycle, occurring according to the established CAEP/or OEQA timeline as applicable.

(1) Members of the Program Review Advisory Board (PRAB) shall be approved by the CEQA.

(2) The Program Review Advisory Board (PRAB) members shall serve an initial term of two years.

(3) Two or more of the Program Review Advisory Board (PRAB) members may be reappointed to additional terms to allow for continuity.

(4) Members shall have completed training on the program review process.

(5) Discretion and ethical judgment shall be used in making recommendations.

(6) The Program Review Advisory Board (PRAB) may be comprised of trained reviewers in specific subject areas from the following groups:

(A) Practicing P-12 classroom teachers

(B) Practicing P-12 administrators

(C) Higher education faculty members

(7) The Director of Educational Quality or designee may chair the Program Review Advisory Board (PRAB) committee.

218:10-5-3. Specific state standards for program accreditation

(a) The following standards apply to both undergraduate and graduate programs. The governance and administration of the total educator preparation program standard is based on the premise that there must be a recognizable and functioning governance entity within the institution's administrative structure which has responsibility for designing, approving and continuously evaluating and developing educator preparation programs. This governing unit may be a council, committee, department, school, college, or any other recognizable entity, which includes the administration of educator preparation as one of its functions. The governing unit membership and responsibilities include the following:

(1) Membership on the educator preparation governing unit shall be defined by written policy to include:

(A) A majority of the members who have a minimum of three years teaching experience in public schools;

(B) A majority of the members in the governance unit who are currently teacher education faculty members;

(C) Some faculty members who shall represent the arts and sciences;

(D) A designated director of educator preparation defined as the institution's official representative for educator preparation. The authority and responsibilities of this individual shall be clearly defined in written policies; and

(E) A clearly defined process whereby faculty members and administrators become members and the terms of office.

(2) The responsibilities of the educator preparation governing unit shall be defined by written policy to include:

(A) Responsibilities of the officers of the unit;

(B) Responsibilities of the unit's standing committees; and

(C) Responsibilities in the following areas as they are related to educator preparation:

(i) Admission/retention in educator preparation;

(ii) Field experience and student teaching (admission and placement);

(iii) Development of courses and program curricula; and program review, evaluation and planning.

(3) Program review, evaluation and revision responsibilities include:

(A) The governance unit shall conduct at least one systematic review, evaluation, and when appropriate, revision of all educator preparation programs within each accreditation period;

(B) Periodic program reviews and revisions shall be based on, but not limited to, stated goals and objectives; and

(C) The process for conducting program review, evaluation, and revision shall include, but not be limited to, participation by the following:

(i) Educator preparation faculty and arts and science faculty;

(ii) Graduates of the programs;

(iii) Students currently in the program;

(iv) Teachers and administrators from the public schools;

(v) Parents of P-12 students and business and community leaders who are actively involved in assisting P-12 schools.

(4) Documentation related to the budget-making process and level of financial support shall include the following:

(A) A clearly defined budget-making process for all teacher education programs; and

(B) An analysis showing that the institution's financial support for programs in educator preparation are maintained at a level appropriate for a professional preparation program.

(b) Educator preparation faculty standards are to be consistent with accreditation standards.

(c) Candidate-related standards are to be consistent with accreditation standards.

(d) Program decisions of the professional education unit are to be guided by a conceptual framework, which establishes the shared vision for the preparation of teacher candidates.

(1) The conceptual framework must include the following structural elements: The mission of the institution and the educator preparation program;

(A) The program's philosophy, purposes, professional commitments and dispositions;

(B) A knowledge base that provides the foundation for the framework;

(C) Performance expectations for candidates that align with professional, state and institutional standards; and

(D) A system by which candidate performance is regularly assessed.

(2) A description of the conceptual framework shall be submitted along with the institution's preconditions report by any institution seeking first accreditation.

(3) A description of the conceptual framework shall be included in all institutional reports submitted prior to first and continuing accreditation visits.

(e) The following guidelines are to be used to collect and maintain data on each institution's educator preparation program:

(1) The institution shall establish a process which seeks information and program input from educator preparation faculty; faculty from arts and sciences and other programs and disciplines which are appropriate; candidates within the educator preparation program; teachers, administrators, parents, guardians or custodians of students; and business and community leaders.

(2) The institution shall establish procedures to inform the public regarding the educator preparation program and to solicit and receive public input.

(3) The institutional plan shall be accessible to any interested party under the Oklahoma Open Records Act.

(4) The submitted institutional plan must be approved by the institution's governing board.

(5) Annual reviews and reports indicating program changes.

(f) The following policies, procedures and guidelines are used to direct the content and candidates' experiences of each institution's teacher preparation program.

(1) Programs require teacher candidates to have speaking and listening skills at a novice high level in a language other than English.

(2) General studies requirements for candidates include the arts, communication, history, literature, mathematics, philosophy, sciences, English, government, and the social sciences.

(3) Programs establish cohort or colleague groups within the institution to assist teacher candidates in achieving competencies, better adapting to the school environment and furthering professional growth.

(4) Candidates complete a well-planned sequence of courses and/or experiences in pedagogical studies that ensures student competency in the Oklahoma State Department of Education Full Subject Matter Competencies for Teacher Licensure and Certification.

(5) The guidelines and standards for program reviews representing specialty organizations and national learned society standards are used in developing programs in each content area.

(6) Secondary and elementary/secondary teacher candidates have undergraduate majors or their equivalents, in a subject area.

(7) Teacher candidates in early childhood, elementary, and special education have subject area concentrations, which allow qualification as a generalist. To qualify as a generalist, candidates must document competency in mathematics, science, language arts, and social studies as identified in the CAEP professional learned societies' standards and State Department of Education Full Subject Matter Competencies for early childhood, elementary and special education.

(8) Teacher candidate coursework includes the study of substance abuse symptoms identification and prevention; mental illness symptoms identification and mental health issues; classroom management skills; and classroom safety and discipline issues.

(9) Effective September 1, 2015 teacher candidates must have a minimum of 60 hours of diverse field experiences prior to their student teaching experience.

(10) Teacher candidates are provided with advisement services to assist them in taking course work designed to maximize their opportunities for certification and employment. At a minimum, teacher candidates are provided information on the latest supply and demand information concerning teacher employment, state salary structure, and teaching shortage areas.

(11) Substantive collaboration and classroom interaction with students accompanies theoretical curriculum, thus allowing teacher candidates the opportunity to apply theory to actual classroom situations.

(12) Instruction integrates pedagogical competencies or skills with experiences in the school setting.

(13) Teacher candidates are provided with opportunities to have parental, family and community involvement within their pre-service programs.

(14) The unit establishes and publishes a set of criteria/competencies for exit from each professional education program. These criteria/competencies reflect the Oklahoma Department of Education General Teacher Competencies and/or subject matter competencies outlined in the CAEP national (professional) learned societies' standards.

(15) The unit establishes and publishes the criteria/competencies for exit and satisfactory completion adhering

to all rules and regulations established by the Oklahoma State Department of Education.

(16) A candidate's mastery of a program's stated exit criteria or competencies is assessed through the use of multiple sources of data such as culminating experience, portfolios, interviews, videotaped and observed performance in schools, standardized tests and course grades.

(17) Effective September 1, 2015 mentor teachers are required to have minimum of three years of teaching experience in the area in which they are certified.

(g) The following guidelines are to be used to facilitate the professional learning of faculty: Teacher education faculty continue their professional learning during their tenure at an institution of higher education to ensure that the future teachers of Oklahoma are taught by professional educators fully trained in their areas of expertise. Professional development for teacher educators and arts and sciences faculty should be focused on the faculty members' ability to model such effective teaching strategies as inquiry, group discussions and collaborative learning.

(h) The following policies are to be used to evaluate individual program areas at each institution:

(1) The institution shall submit program reviews for each required program area based upon the CAEP/State guidelines and accreditation schedule.

(2) Following the completion of each program evaluation, the institution will receive written notification of each program's status. Recognition decisions will include the following categories: recognized, recognized with conditions, recognized with probation, further development required, and not recognized.

(3) If the program is recognized, it will retain its status through the semester and year of the institution's next accreditation visit. To retain recognition, another program report must be submitted before that review.

(4) If the program is recognized with conditions, a report addressing the conditions to recognition must be submitted within 18 months of the date of the status report. The report must address the conditions specified by the reviewers. Once acceptable data has been submitted, the condition(s) will be removed. If the program does not submit acceptable information within the designated timeframe, the decision reverts to "not recognized."

(5) If the program decision is recognized with probation or further development required, a revised report addressing the issues identified by the reviewers must be submitted within 12 months, or the unit may submit a new program report for recognition within 12 months. If the revised report adequately addresses the concerns cited by reviewers, the program decision will be changed to "recognized" or "recognized with conditions." If the program is unsuccessful after two attempts, the program status will be changed to "not recognized."

(6) A program can receive a decision of "not recognized" only after two submissions are unsuccessful in reaching either "recognized" or "recognized with conditions." If the program is not recognized, a revised report addressing unmet standards may be submitted within 12 months of the date of the recognition report. [This report will be sent to the original team if possible.] If the program does not receive a recognized decision within 12 months, admission of new candidates will not be allowed. The unit may elect to submit a new program report for recognition within 12 months. [This report will be sent to a new team of reviewers].

(7) Programs which are required to submit through CAEP and receive an initial decision of "recognized with probation" or "further development required" may apply to OEQA for state recognition and thus recommend teacher candidates for certification under the following conditions:

(A) The program must have an aggregated pass rate of all candidates on the Oklahoma Subject Area Test (OSAT) of 80% or more over a three-year period. An application for program recognition must be submitted to OEQA containing basic program information as well as current recognition status and future submission deadlines; however an additional review will not be required.

(B) Institutions must submit a revised program report according to applicable CAEP/SPA or OEQA guidelines as appropriate addressing concerns cited in the review. If the revised report is not recognized, the unit must submit additional revised reports according to guidelines. The unit must exhaust all available CAEP options for revision.

(C) Programs which do not meet the required 80% pass rate on the OSAT may apply to OEQA for state recognition only after the unit has exhausted all available CAEP options for revision. The application for state recognition must address concerns cited by reviewers in the final report.

(D) Programs receiving state recognition under these conditions will maintain recognition until the submission period prior to the unit's next scheduled accreditation visit, at which time the unit will be expected to submit a program review to CAEP or OEQA, as appropriate.

(8) Units may receive conditional approval for new programs. These programs must undergo reviews as outlined in the New Certification Program Procedures for Established Units guidelines before receiving full recognition. Recognition will be retained through the semester and year of the unit's next accreditation visit.

(9) Programs that do not comply with the procedures detailed in items (h) 3-7 will no longer be eligible to recommend candidates for licensure and certification.

(10) An institution with a non-compliant program may apply to the CEQA for a waiver if there is evidence that the non-compliant status of a program is due to transitioning national standards.

218:10-5-4. Standards for Oklahoma educator preparation programs

(a) The following standards as defined by the National Council for Accreditation of Teacher Education shall apply

to undergraduate and graduate programs through August 31, 2016.

(1) **Standard One: Candidate Knowledge, Skills and Dispositions.**

(A) Candidates preparing to work in schools as teachers or other professional school personnel know and demonstrate the content, pedagogical, and professional knowledge, skills, and dispositions necessary to help all students learn. Assessments indicate that candidates meet professional, state, and institutional standards.

(B) Elements for Standard One include content, pedagogical and professional knowledge; dispositions for all candidates; and student learning for all candidates.

(2) **Standard Two: Assessment System and Unit Evaluation.**

(A) The unit has an assessment system that collects and analyzes data on the qualifications of applicants, the performance of candidates and graduates, and unit operations to evaluate and improve the unit and its programs.

(B) Elements of Standard Two include data collection, analysis, and evaluation; and use of data for program improvement.

(3) **Standard Three: Field Experiences and Clinical Practice.**

(A) The unit and its school partners design, implement, and evaluate field experiences and clinical practice so that teacher candidates and other school personnel develop and demonstrate the knowledge, skills, and dispositions necessary to help all students learn.

(B) Elements of Standard Three include collaboration between the unit and school partner; design, implementation, and evaluation of field experiences and clinical practice; and candidates' demonstrations of the knowledge, skills and dispositions necessary for student learning.

(4) **Standard Four: Diversity.**

(A) The unit designs, implements, and evaluates curriculum and experiences for candidates to acquire and apply the knowledge, skills and dispositions necessary to help all students learn. These experiences include working with diverse higher education and school faculty, diverse candidates, and diverse students in P-12 schools.

(B) Elements of Standard Four include design, implementation, and evaluation of candidate experiences relevant to diversity.

(5) **Standard Five: Faculty Qualifications, Performance, and Development.**

(A) Faculty are qualified and model best professional practices in scholarship, service and teaching, including the assessment of their own effectiveness as related to candidate performance; they also collaborate with colleagues in the disciplines and schools. The unit systematically evaluates faculty performance and facilitates professional development.

(B) Elements of Standard Five include hiring of qualified faculty, modeling of best professional practices, ongoing evaluation and professional development and collaboration.

(6) **Standard Six: Unit Governance and Resources.**

(A) The unit has the leadership, authority, budget, personnel, facilities, and resources, including information technology resources, for the preparation of candidates to meet professional, state and institutional standards.

(B) Elements of Standard Six include evidence of leadership within the unit and across the institution, the unit budget, personnel and other resources.

(b) Effective September 1, 2016 standards as defined by CAEP shall apply to undergraduate and graduate programs.

(c) Teacher candidate portfolios.

(1) Institutions shall require all initial and advanced certification program(s) students to develop a portfolio following the guidelines outlined in this section.

(2) A portfolio is a documented profile of an individual's accomplishments, learning, and strengths related to the competencies, state and national standards, and outcomes established by the CEQA, State Regents, SDE and institution.

(3) The portfolio, for purposes related to institutional accreditation is a unit of measure which presents evidence that the institution is providing initial, on-going, and focused opportunities and avenues which lead to student achievement of competencies, state and national standards and outcomes determined by the CEQA, Regents, SDE and institution.

(4) Institutions will provide for review during each regularly scheduled accreditation visit:

(A) The unit's portfolio handbook containing a written philosophy related to portfolio development and assessment which is consistent with the institution's and unit's mission and conceptual framework, as well as written policies, criteria, and institutional rubric(s) related to the assessment of the portfolio as a whole or individual artifacts contained in the portfolios for all individuals enrolled in initial and advanced programs.

(B) Two representative candidate portfolios for each program offered. OEQA will randomly select one candidate portfolio in each program area and the second will be selected by the unit. Portfolios should represent candidates at the final transition point.

(C) In addition, annual reports must include any revision in the institution's portfolio process.

(5) Institution's pre-service and/or advanced portfolio process. The teacher education unit and programs shall:

(A) Require the portfolio development process to begin with enrollment into the professional education course work;

(B) Have a written portfolio handbook(s) containing a written philosophy related to portfolio development and assessment which is consistent with the institutions and unit's mission and conceptual framework(s);

(C) Have written policies, criteria, and institutional rubrics related to the portfolio assessment(s) of individual(s) enrolled in initial and advanced certification programs.

(d) Annual report. Each Oklahoma educator preparation unit shall submit an annual report to the OEQA. This report will satisfy the requirements for the CEQA, State Regents for Higher Education, State Department of Education, and CAEP/AACTE. The following information will be included in the report:

(1) Changes that occurred in implementation of the standards outlined in the Institution Plan as a result of local and statewide evaluations/assessments, public hearings or other reasons;

(2) Progress made in addressing the areas for improvement, if any, identified by the most recent on-site visit by the on-site accreditation review team;

(3) Quantitative data related to the unit's programs as required in the AACTE/CAEP Annual Report. These data shall reflect information pertaining to supply and demand for teacher candidates;

(4) Program changes being implemented for OEQA and CAEP continued accreditation;

(5) Report on resources devoted to technology;

(6) Report on professional development activities of faculty;

(7) Report on the number of hours each faculty member taught or were in direct contact with students in public schools;

(8) Report on the number of graduate students admitted conditionally and the success rates.

(9) Report on the results of the assessment of teaching skills in the area of reading instruction as administered to candidates in elementary, early childhood education, and special education.

(10) Report on the participation in the alternative placement programs offered by the institution.

(11) Report on the procedures used to inform the public regarding the institution's teacher education program and the manner through which public input is solicited and received.

(12) Annually, the OEQA shall provide feedback to any institution if their annual report indicates that progress is not being made in addressing areas for improvement.

(13) Complete copies of the annual reports for public institutions will be distributed to OSRHE and summary data for all institutions will be distributed to constituents based on reporting requirements outlined in 70 O.S., Section 6-186.

(14) The OEQA will produce a report describing the accreditation status of each institution. This report will devote a section to each institution separately and include a summary of CAEP and OEQA review findings.

SUBCHAPTER 7. EDUCATOR ASSESSMENT

218:10-7-1. Educator assessment regulations

(a) **Examinees-initial licensure and certification.**

(1) Any individual who applies for a teaching license/certification must successfully complete the competency examination as defined by the OEQA. The competency examination is made up of three components: The Oklahoma General Education Test (OGET) , the Oklahoma Subject Area Test (OSAT) and the Oklahoma Professional Teaching Exam (OPTE).

(2) See Appendix A for competency exam requirements by certification area and test codes.

(b) **Examinees - additional certification.**

(1) Individuals wishing to add a certification area to an existing teaching credential must successfully complete the Oklahoma Subject Area Test for the field of the desired certification.

(2) Individuals wishing to add a teaching certification area to an existing license or standard certificate in Speech Language Pathologist, School Nurse, School Psychometrist and/or School Psychologist must successfully complete the Oklahoma Subject Area Test and the Oklahoma Professional Teaching Exam for the field of the desired certification.

(3) See Appendix A for competency exam requirements by certification area and test codes

(c) **Examinees - alternative placement program.**

(1) Individuals seeking a teaching license via the Alternative Placement Program must successfully complete the Oklahoma General Education Test and the Oklahoma Subject Area Test. A licensed teacher via the Alternative Placement Program seeking a standard certificate must successfully complete the Oklahoma Professional Teaching Exam.

(2) See Appendix A for competency exam requirements by certification area and test codes.

(d) **Examinees-out of state certification.** Individuals seeking an Oklahoma license/certification who are certified educators in another state (s) shall meet the same assessment requirements as all other individuals seeking initial licensure/certification. Individuals having successfully completed comparable examination(s) , as determined by OEQA, shall be exempt from the corresponding part(s) of Oklahoma's assessment requirement. Certified out-of-state educators who have taught a minimum of five (5) years in an accredited P-12 school may be exempt from the OGET requirement.

(e) **Examinees - testing conditions and requirements compliance.**

(1) If an examinee fails to comply with the conditions and requirements specified or referenced on the *Certification Examinations for Oklahoma Educators Test* website, including the *Conditions of Test Participation*, or take any prohibited actions, the test results may be voided, no refund will be issued, no portion of the testing fee can be applied toward the cost of any future test administrations and/or the examinee's registration may be cancelled.

(2) If an examinee's test score is found to be unverifiable by either the testing company or the OEQA, the examinee will be allowed one (1) retake under controlled conditions at no cost to the examinee.

218:10-7-3. Alternative testing arrangements

(a) **Alternative testing arrangements - religious practices.**

(1) Alternative test dates may be arranged for individuals whose religious practices do not allow them to take tests on Saturday.

(2) Alternative test dates will be available at a minimum of two test sites per test administration.

(3) Individuals wishing to request an alternative test date due to religious convictions must submit the following to National Evaluation Systems no later than the regular registration deadline for the test administration desired:

(A) A completed registration with proper payment

(B) A completed form requesting an alternative test date

(C) A letter from a member of the clergy, on that individual's professional letterhead, attesting to the religious convictions of the examinee requesting accommodation.

(b) **Alternative testing arrangements - accommodation of the basis of disability.**

(1) Alternative testing arrangements may be made for individuals with either temporary or permanent physical disability, illness, or injury.

(2) Standard accommodations may be requested by individuals with a disability and can be accommodated at all test sites. Standard accommodations include the following:

(A) Special seating

(B) Allowance of a medical device in the testing room

(C) Frequent breaks

(D) Use of a magnifying glass, colored overlays, or a straight edge

(E) Use of a pen for written assignment

(F) Use of a trackball mouse

(G) Adjustable table

(3) Standard accommodations may be requested by submitting the following to Evaluation Systems Group of Pearson no later than the regular registration deadline for the test administration desired:

(A) A completed registration with proper payment.

(B) A completed form requesting alternative testing arrangements indicating the nature of the request.

(c) **Alternative testing arrangements - non-standard accommodation on the basis of a physical disability.**

(1) Non-standard alternative testing arrangements may be made for individuals with a temporary or permanent disability, illness, or injury.

(2) Individuals requesting alternative testing arrangements on the basis of a physical disability must submit the following to National Evaluation Systems no later than the regular registration deadline for the test administration desired:

(A) A completed registration form with proper payment

(B) A completed form requesting alternative testing arrangements identifying the disability and the specific arrangements requested.

(C) A statement by a licensed professional, on that person's professional letterhead, whose credentials are appropriate to diagnose the disability. Statements must include the disability for which accommodation is being sought as well as recommended administration modifications.

(d) **Alternative testing arrangements - non-standard accommodation on the basis of cognitive or emotional disability.**

(1) Non-standard alternative testing arrangements may be made for individuals with temporary or permanent cognitive or emotional disability, illness, or injury.

(2) Individuals requesting non-standard alternative testing arrangements on the basis of cognitive or emotional disability must submit the following to Evaluation Systems Group of Pearson no later than the regular registration deadline for the test administration desired:

(A) A completed registration form with proper payment

(B) A completed form requesting alternative testing arrangements identifying the disability and the alternative arrangements requested.

(C) A statement by a licensed professional, on that person's professional letterhead, whose license or credentials are appropriate to diagnose the disability. The statement must include the disability for which accommodations are being requested, along with supporting documentation, and recommended test administration modifications.

SUBCHAPTER 9. EDUCATION LEADERSHIP OKLAHOMA

218:10-9-1. Education Leadership Oklahoma regulations

(a) **Selection of scholarship recipients.**

(1) Applicant can be funded for only one Education Leadership Oklahoma (ELO) scholarship to attain National Board Certification.

(2) Applicant must currently be a, full-time, Oklahoma public school classroom teacher with special consideration given to teachers who work in inner city schools as defined by law.

(3) OEQA shall develop the ELO application and any associated deadlines. The application will seek information in the form of short answer questions and essay.

(4) OEQA shall designate the place and time for ELO applications to be read and scored by the Application Review Committee if necessary.

(5) The Application Review Committee shall review and score applications to award scholarships

(A) The Application Review Committee will consist of thirteen National Board Certified Teachers.

(B) Each Application Review Committee member may choose National Board Certified Teachers, as needed, to assist in reading and scoring ELO applications.

(C) Each Application Review Committee member including National Board Certified Teachers will be trained to read and score applications.

(D) The Application Review Committee members shall serve a term of no more than five years.

(E) If an Application Review Committee member resigns before the end of his/her term, the agency responsible for that nomination will submit a nomination of a person to replace that member.

(F) The Application Review Committee may consider one or more of the following:

(i) Knowledge of NBPTS process

(ii) Inclusion of the five core propositions within the essay question

(iii) Degree to which the applicant's essay conveys his/her application of the five core propositions

(iv) Conveyance of commitment to rigorous process

(v) Provision of quality writing which is clear and sufficiently elaborated

(vi) Demonstration of knowledge, ability, and leadership

(vii) Verification of percentage of free/reduced lunch

(G) ELO candidates shall be selected based on scores determined within the application process.

(i) Applicants will be ranked from highest to lowest based on the application scores.

(ii) Special consideration will be given to teachers who work in inner-city schools (as defined by law).

(iii) In case of a tie score, the locale (under-represented areas of the state) may be considered for candidate selection.

(iv) Candidates must attend required Professional Development

(b) **Payment and reimbursement of assessment fees.**

(1) OEQA shall make assessment fee payments to NBPTS for each scholarship candidate, upon signing a contract.

(2) Should a candidate be unable to complete the process by the National Board deadline, the following shall apply:

(A) If the candidate withdraws by the National Board deadline and OEQA can recover partial amount of the application fee, the candidate may pay the amount not recovered and will then be considered in the next applicant pool.

(B) If the candidate does not withdraw or submit by the National Board deadlines, he/she will be responsible to OEQA for the reimbursement of the assessment fee

(3) OEQA shall reimburse candidates who pay the National Board assessment fee if they are a full-time public school classroom teacher in the year they certify.

(4) OEQA will fund a maximum of two retakes to candidates that bank scores with the NBPTS provided funding is available.

APPENDIX A. COMPETENCY EXAM REQUIREMENTS BY CERTIFICATION AREAS [NEW]

	Test Codes		
Subject Area and Grade Level	**OGET**	**OSAT**	**OPTE**
Advanced Mathematics			
6-12	74	11	72 or 76
Agricultural Education			
6-12	74	42	72 or 76
Art			
PK-3	74	2	70
1-8	74	2	71
6-12	74	2	72
PK-12	74	2	73 or 75 or 76
Biological Sciences			
6-12	74	10	72 or 76
Blind/Visual Impairment			
PK-3	74	28	70
1-8	74	28	71
6-12	74	28	72
PK-12	74	28	73 or 75 or 76
Business Education			

6-12	74	40	72 or 76
Chemistry			
6-12	74	4	72 or 76
Cherokee			
PK-12	74	79	73 or 75 or 76
Chinese			
PK-12	74	80	73 or 75 or 76
Computer Science			
PK-12	74	81	73 or 75 or 76
Dance			
PK-12	74	78	73 or 75 or 76
Deaf/Hard of Hearing			
PK-3	74	28	70
1-8	74	28	71
6-12	74	28	72
PK-12	74	28	73 or 75 or 76
Driver/Safety Education			
6-12	74	36	72 or 76
Early Childhood Education			
PK-3	74	05	70 or 75
Earth Science			
6-12	74	08	72 or 76
Elementary Math Specialist	74	082 050 & 051 (or 006)	72 or 75

		or 005	
Elementary Education			
1-8	74	06 or 50 & 51	71 or 75
English			
6-12	74	07	72 or 76
English as a Second Language			
PK-12	74	77	73 or 75 or 76
Family/Consumer Science			
6-12	74	09	72 or 76
French			
PK-3	74	20	70
1-8	74	20	71
6-12	74	20	72
PK-12	74	20	73 or 75 or 76
German			
PK-3	74	21	70
1-8	74	21	71
6-12	74	21	72
PK-12	74	21	73 or 75 or 76
Instrumental Music			
PK-3	74	01	70
1-8	74	01	71

6-12	74	01	72
PK-12	74	01	73 or 75 or 76
Intermediate Mathematics			
6-12	74	25	72 or 76
Journalism			
6-12	74	37	72 or 76
Latin			
PK-3	74	23	70
1-8	74	23	71
6-12	74	23	72
PK-12	74	23	73 or 75 or 76
Marketing Education			
6-12	74	41	72 or 76
Middle Level English			
5-8	74	24	71 or 72 or 75 or 76
Middle Level Math			
5-8	74	25	71 or 72 or 75 or 76
Middle Level Science			
5-8	74	26	71 or 72 or 75 or 76
Middle Level Social Studies			
5-8	74	27	71 or 72 or

			75 or 76
Mild-Moderate Disabilities			
PK-3	74	29	70
1-8	74	29	71
6-12	74	29	72
PK-12	74	29	73 or 75 or 76
Physical Education/Health/Safety			
PK-3	74	12	70
1-8	74	12	71
6-12	74	12	72
PK-12	74	12	73 or 75 or 76
Physical Science			
6-12	74	13	72 or 76
Physics			
6-12	74	14	72 or 76
Psychology/Sociology			
6-12	74	32	72 or 76
Russian			
PK-3	74	22	70
1-8	74	22	71
6-12	74	22	72
PK-12	74	22	73 or 75 or 76
Severe-Profound/Multiple Disabilities			
PK-3	74	31	70

1-8	74	31	71
6-12	74	31	72
PK-12	74	31	73 or 75 or 76
Spanish			
PK-3	74	19	70
1-8	74	19	71
6-12	74	19	72
PK-12	74	19	73 or 75 or 76
Speech/Drama/Debate			
6-12	74	16	72 or 76
Technology Education			
6-12	74	43	72 or 76
US History/US Govt/OK Hist/Econ			
6-12	74	17	72 or 76
Vocal Music			
PK-3	74	03	70
1-8	74	03	71
6-12	74	03	72
PK-12	74	03	73 or 75 or 76
Vocational Business Education			
6-12	74	40	72 or 76
Vocational Family and Consumer Sciences			
6-12	74	09	72 or 76
World History/Geography			

6-12	74	17	72 or 76
Advanced Certification Areas (without a current teacher certificate)	**OGET**	**OSAT**	**OPTE**
Library-Media Specialist	74	38	73 or 75 or 76
Psychometrist	74	34	73 or 75 or 76
Reading Specialist	74	15	73 or 75 or 76
School Counselor***	74	39	73 or 75 or 76
School Psychologist**	74	33	73 or 75 or 76
Speech-Language Pathologist*		35	
Advanced Certification Areas (with a current teacher certificate)			
Library-Media Specialist		38	
Psychometrist		34	
Reading Specialist		15	
School Counselor***		39	
School Psychologist**		33	
Speech-Language Pathologist*		35	
Administrator Certification Areas			
Elementary Principal		44 and 45	
Middle Level Principal		44 and 46	
Secondary Principal		44 and 47	
Superintendent		48	

*Candidates seeking a Certificate of Clinical Competence (CCC) who have successfully completed the Praxis exam for Speech Pathology are exempt from Oklahoma assessment requirements.

**Candidates seeking National School Psychologists Certification (NSPC) who have successfully completed the Praxis exam for School Psychologist are exempt from Oklahoma assessment requirements.

***Candidates with the Nationally Certified School Counselor (NCSC) credential are exempt from Oklahoma assessment requirements.

TEST CODES

Test (OSAT)	*Test Code*
Advanced Mathematics	11
Agricultural Education	42
Art	02
Biological Sciences	10
Blind/Visual Impairment	28
Business Education	40
Chemistry	04

Cherokee	79
Chinese	80
Computer Science	81
Dance	78
Deaf/Hard of Hearing	30
Driver/Safety Education	36
Early Childhood Education	05
Earth Science	08
Elementary Education Subtest – Reading/Lang Arts/Soc Studies (50) Subtest – Math/Science/Health/Fine Arts (51)	06 or 50 & 51
Elementary Math Specialist	82
English	07
English as a Second Language	77
Family and Consumer Sciences	09
French	20
German	21
Instrumental/General Music	01
Journalism	37
Latin	23
Marketing Education	41
Middle Level English	24
Middle Level/Intermediate Mathematics	25
Middle Level Science	26

Middle Level Social Studies	27
Mild-Moderate Disabilities	29
Physical Education/Health/Safety	12
Physical Science	13
Physics	14
Psychology/Sociology	32
Russian	22
Severe-Profound/Multiple Disabilities	31
Spanish	19
Speech/Drama/Debate	16
Superintendent	48
Technology Education	43
US History/OK History/Government/Economics	17
Vocal/General Music	03
Vocational Business Education	40
Vocational Family and Consumer Sciences	09
World History/Geography	18
Test (OSAT – Advanced Programs)	***Test Code***
Library-Media Specialist	38
Psychometrist	34
Reading Specialist	*15*
School Counselor	*39*
School Psychologist	33

Speech-Language Pathologist	*35*
Test (OSAT-Administrator)	***Test Code***
Principal Common Core	44
Elementary Principal Specialty Test	*45*
Middle Level Principal Specialty Test	*46*
Secondary Principal Specialty Test	47
Superintendent	48
Test (OGET)	***Test Code***
Oklahoma General Education Test	74
Test (OPTE)	**Test Code**
OPTE: Early Childhood (PK-3)	70
OPTE: Elementary/Middle Level (1-8 or 5-8)	71
OPTE: Middle Level/Secondary (6-12 or 5-8)	72
OPTE: PK-12	73
OPTE: PK-8	75
OPTE: 6-12	76

[OAR Docket #15-579; filed 6-16-15]

TITLE 230. STATE ELECTION BOARD CHAPTER 10. THE COUNTY ELECTION BOARD

[OAR Docket #15-621]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 7. General Administration of the County Election Board
Part 7. Public Records
230:10-7-66.1. Voter registration records available on electronic media from State Election Board [AMENDED]
AUTHORITY:
Title 26 O.S., Section 2-107; Secretary of the State Election Board
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
January 23, 2015
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Approved by Governor's Declaration on June 8, 2015
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EFFECTIVE:
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n/a
INCORPORATIONS BY REFERENCE:
n/a
ANALYSIS:
The Secretary of the State Election Board, upon the advice of the Attorney General's office, has stopped charging any fee for voter registration data. The amendment revokes the fees for such data. The State Election Board still makes voter registration data available upon request.
CONTACT PERSON:
Suzanne Cox, Director of Support Services Division, State Election Board. Telephone: (405) 521-2391. Email: suzanne.cox@elections.ok.gov

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 11, 2015:

SUBCHAPTER 7. GENERAL ADMINISTRATION OF THE COUNTY ELECTION BOARD

PART 7. PUBLIC RECORDS

230:10-7-66.1. Voter registration records available on electronic media from State Election Board

~~(a)~~ ~~**Records available.**~~ Certain voter registration records are available ~~on~~ in an electronic ~~media~~ format from the State Election Board. Information about the available records and instructions for obtaining them are available by contacting or visiting the State Election Board office and on the State Election Board website: www.elections.ok.gov. ~~The following records are available.~~

~~(1)~~ ~~**Voter registration records.**~~ ~~Voter registration records include the following information: the voter's precinct number, the voter's name, the voter's ID number, political affiliation, status, registration address, date of birth, date of registration and mailing address if it differs from the registration address.~~

~~(2)~~ ~~**Voter history records.**~~ ~~Voter history records include the following information: the voter's ID number, the date of the election and the voting method (in person at polling place or absentee ballot).~~

~~(3)~~ ~~**Precinct/District information.**~~ ~~Precinct/District information includes the precinct number, Congressional District number, State Senate District number, State House District number, County Commissioner District number and the name of the polling place.~~

~~(b)~~ ~~**Format and media type.**~~ ~~All records described in (a) of this Section are written in ASCII format on compact disks (cds).~~

~~(c)~~ ~~**Fees for records.**~~ ~~Fees for all three types of records are charged according to the following schedule.~~

~~(1)~~ ~~**Statewide.**~~ ~~All voter registration records in the state shall be available at a cost of $150.~~

~~(2)~~ ~~**United States Congressional District.**~~ ~~All voter registration records in a United States Congressional District shall be available at a cost of $50.~~

~~(3)~~ ~~**State Senate District.**~~ ~~All voter registration records in a State Senate District shall be available at a cost of $35.~~

~~(4)~~ ~~**State Representative District.**~~ ~~All voter registration records in a State Representative District shall be available at a cost of $20.~~

~~(5)~~ ~~**County.**~~ ~~All voter registration records in a county shall be available at the cost indicated in the following schedule.~~

~~(A)~~ ~~Voter registration records for the following counties shall be available at a cost of $75: Oklahoma and Tulsa.~~

~~(B)~~ ~~Voter registration records for the following counties shall be available at a cost of $50: Cleveland, Comanche, Payne.~~

~~(C)~~ ~~Voter registration records for the following counties shall be available at a cost of $35: Bryan, Caddo, Canadian, Carter, Cherokee, Creek, Custer, Delaware, Garfield, Garvin, Grady, Kay, LeFlore, Lincoln, Logan, McCurtain, Mayes, Muskogee, Okmulgee, Osage, Pittsburg, Pontotoc, Pottawatomie, Rogers, Sequoyah, Stephens, Wagoner, Washington.~~

~~(D)~~ ~~Voter registration records for the following counties shall be available at a cost of $20: Adair, Alfalfa, Atoka, Beaver, Beckham, Blaine, Choctaw, Cimarron, Coal, Cotton, Craig, Dewey, Ellis, Grant, Greer, Harmon, Harper, Haskell, Hughes, Jackson, Jefferson, Johnston, Kingfisher, Kiowa, Latimer, Love, McClain, McIntosh, Major, Marshall, Murray, Noble, Nowata, Okfuskee, Ottawa, Pawnee,~~

~~Pushmataha, Roger Mills, Seminole, Texas, Tillman, Washita, Woods, Woodward.~~

~~(6) **Precinct.** Voter registration records for a single precinct shall be available at a cost of $10.~~

~~(7) **School District.** Voter registration records for a single school district shall be available at a cost of $35.~~

~~(8) **Municipality.** Voter registration records for a single municipality shall be available at a cost of $35.~~

~~(d) **Method of payment.** Cashier's checks and certified checks will be accepted. Personal checks will be accepted but must clear before data will be released.~~

~~(e) **Time for filling orders.** Orders for voter registration data will be filled as soon as possible. However, orders received within 20 days of a statewide election may not be filled until after the election.~~

~~(f) **Limitations of data.** Information contained in individual voter records may include a registration address and/or a mailing address or no address. Some addresses may not be sufficient for mailing. Some information may be incomplete or missing. The data provided on electronic media must be manipulated by user's software before it can be sorted by ZIP Code, name or household. Lists and/or labels cannot be produced directly from these media.~~

~~(g) **Printouts.** Computer printouts are available only from County Election Boards as outlined in 230:10-7-66.~~

[OAR Docket #15-621; filed 6-19-15]

TITLE 230. STATE ELECTION BOARD CHAPTER 15. VOTER REGISTRATION

[OAR Docket #15-622]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 3. Voter Outreach
Part 3. Distribution of Voter Registration Application Forms
230:15-3-23. Voter registration application forms available to individuals [AMENDED]
Subchapter 5. Application for Voter Registration
Part 21. Voter Registration Application by Mail
230:15-5-84. Information required on voter registration application [AMENDED]
AUTHORITY:
Title 26 O.S., Section 2-107; Secretary of the State Election Board
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
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INCORPORATION BY REFERENCE:
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ANALYSIS:

In 2014, an organization promoting voter registration and participation provided an online voter registration application that a user could sign electronically using remote pen technology. Remote pen technology allows an applicant to "sign" a document by making the motions of a signature with a finger or a stylus on the screen of an electronic device such as a tablet or smart phone. The signature motions are transmitted to a machine that imitates the motions with an actual pen and wet ink to reproduce the signature on a printed copy of the document.

When the use of remote pen technology came to light, the Secretary of the State Election Board requested an opinion from the Oklahoma Attorney General to determine whether remote pen technology complies with provisions of Title 26 O.S. 2011, Section 4-112(A) requiring that the applicant's signature on a voter registration application "must be the original, handwritten signature, autograph or mark of the applicant." The law further states that "No facsimile, reproduction, typewritten or other substitute signature, autograph or mark will be valid."

The Attorney General's official opinion (2014-10) stated that remote pen technology does not produce an "original, handwritten signature," and therefore is not a valid means of signing a voter registration application in Oklahoma. The proposed amendments in Chapter 15 are intended to emphasize the requirements in the statutes.

CONTACT PERSON:
Suzanne Cox, Director of Support Services Division, State Election Board. Telephone: (405) 521-2391. Email: suzanne.cox@elections.ok.gov.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 11, 2015:

SUBCHAPTER 3. VOTER OUTREACH

PART 3. DISTRIBUTION OF VOTER REGISTRATION APPLICATION FORMS

230:15-3-23. Voter registration application forms available to individuals

(a) The printed Oklahoma Voter Registration Application form generally shall be available to any individual applicant for voter registration or for change of voter registration in the following locations.

(1) **Motor license agencies.** Any individual applicant for voter registration or for change of voter registration may obtain an Oklahoma Voter Registration Application form at any motor license agency in Oklahoma. See 230:15-5-100 and 230:15-5-103.

(2) **Voter registration agencies.** Any individual applicant for voter registration or for change of voter registration may obtain an Oklahoma Voter Registration Application form at any voter registration agency identified in 230:15-5-122 and 230:15-5-123. See 230:15-5-124.

(3) **Public libraries.** Any individual applicant for voter registration or for change of voter registration may obtain an Oklahoma Voter Registration Application in any public library in Oklahoma. Public library personnel shall have no responsibility either to offer applications to library

patrons or to collect completed applications. Applications obtained at a public library shall be mailed to the State Election Board by the applicant.

(4) **United States Post Offices.** Any individual applicant for voter registration or for change of voter registration may obtain an Oklahoma Voter Registration Application form at any United States Post Office in Oklahoma. United States Postal Service employees shall have no responsibility either to offer applications to post office patrons or to collect completed applications. Applications obtained in a United States Post Office shall be mailed to the State Election Board by the applicant.

(b) The ~~printed~~ federal voter registration application form ~~shall be available from the State Election Board and from any County Election Board in Oklahoma to any individual applicant for voter registration who specifically requests the federal form~~ is widely available online. State Election Board and County Election Board personnel shall refer persons who want a copy of the federal voter registration application form to the United States Election Assistance Commission's website, although they may print a copy upon request. The federal voter registration application form is available online at www.eac.gov. It may be filled out online, but it must be downloaded, printed, signed personally by the applicant as described in 230:15-5-84(c), and mailed or delivered to the State Election Board, to a County Election Board, or to a motor license agency or designated voter registration agency to be processed. A federal voter registration application form cannot be submitted online, by electronic mail, by fax, or by any other electronic means in Oklahoma.

(c) The Oklahoma Voter Registration Application form is available online at www.elections.ok.gov. The voter registration application form may be filled out online but must be downloaded, printed, signed personally by the applicant as described in 230:15-5-84(c), and mailed or delivered to the State Election Board or to a County Election Board office to be processed. ~~It~~ The Oklahoma Voter Registration Application cannot be submitted online~~, or~~ by electronic mail, by fax, or by any other electronic means unless specifically authorized by federal or state law. ~~The federal voter registration application form also is available online at www.eac.gov. The federal form also may be filled out online, but must be downloaded, printed, signed and mailed. It cannot be submitted online or by electronic mail.~~

SUBCHAPTER 5. APPLICATION FOR VOTER REGISTRATION

PART 21. VOTER REGISTRATION APPLICATION BY MAIL

230:15-5-84. Information required on voter registration application

(a) A person who is eligible to register to vote and who applies for voter registration shall be required to provide the information listed in (b) of this Section on a voter registration application form. Voter registration applications that contain all the required information shall be valid applications and shall be approved by the Secretary of the County Election Board and the applicant shall become a registered voter in the county. An application that does not contain the required information, except as provided in (c) and (d) of this Section, shall not be a valid application and shall be rejected.

(b) A valid voter registration application shall contain the following information.

(1) Applicant's full name.

(2) Applicant's date of birth.

(3) Applicant's county of residence. (See exception provided in (d) of this Section.)

(4) Applicant's residence address. (See (e) of this Section.)

(5) Applicant's mailing address. (See (f) of this Section.)

(6) Applicant's political affiliation. (See exception provided in (c) of this Section.)

(7) Applicant's Oklahoma driver license number, state identification card number, or the last four digits of applicant's Social Security number, or a check mark in the appropriate box to indicate that the applicant does not have an Oklahoma driver license, state identification card, or Social Security number. If the applicant submitted an older version of the Oklahoma Voter Registration Application form that does not include the check box to indicate that he or she does not have these identification numbers, the application shall not be considered valid if one of these numbers is not included. See 230:15-9-18.

(8) Applicant's original signature or applicant's original mark, as defined in subsection (c) of this Section.

(9) Name and address of person who helped applicant complete application if applicant is unable to complete it unassisted.

(10) Check marks in the "yes" boxes that accompany questions concerning applicant's age and citizenship status as required by federal law. [42 USC 15483(b)(4)(A)] If an applicant has checked the "no" boxes that accompany these questions, the application shall not be considered valid. (On older versions of the Oklahoma Voter Registration Application form, these questions appeared in the information and instruction portion of the form.) If an applicant did not answer these two questions but did sign and date the oath, the application shall be accepted if it is otherwise valid.

(11) An oath requiring the applicant to swear or affirm his or her eligibility for voter registration.

(c) *A voter registration application shall be signed by the applicant in writing.* [26:4-112(A)] *The applicant shall personally subscribe his or her name to or make his or her mark on the application, and no agent, representative or employee of the applicant may sign or mark on the applicant's behalf.* [26:4-112(A)] *The signature or mark must be the original, handwritten signature, autograph or mark of the applicant.* [26:4-112(A)] *No facsimile, reproduction, typewritten or other substitute signature, autograph or mark will be valid.* [26:4-112(A)] A signature created electronically and applied to a

voter registration application by remote pen technology or by any other electronic means shall not be a valid signature on a voter registration application form unless otherwise provided by federal or state law. The signature requirements described in this subsection are applicable to both the Oklahoma Voter Registration Application form and to the federal voter registration application form.

(d) An application for new voter registration that is valid in all other respects shall not be rejected because the applicant has made one of the errors listed below when indicating a political affiliation. County Election Board personnel shall be authorized to designate an applicant as an Independent if one of the errors listed below appears on an otherwise valid voter registration application form. A voter designated Independent by County Election Board personnel for one of the following reasons shall be entitled to declare a political affiliation at any time, even during the period beginning April 1 and ending August 31, inclusive, in even-numbered years when changes of political affiliation otherwise are prohibited. Such declarations of political affiliation shall be subject to the voter registration application deadline preceding an election. See 230:15-5-86.

(1) The applicant left the space on the application form for political affiliation blank.

(2) The applicant indicated more than one political affiliation and the applicant's intention cannot be determined.

(3) The applicant wrote the name of a political party or political organization not currently recognized in Oklahoma. See 230:15-5-77 and 230:15-5-79.

(~~d~~e) An applicant for voter registration shall indicate the name of the county in which he or she resides on the application form. However, if an applicant fails to indicate his or her county of residence, the Secretary of the County Election Board shall not reject the application solely for this reason if the residence address provided by the applicant in fact is located within the county.

(~~e~~f) An applicant for voter registration must provide his or her address of residence. If the applicant has a street address (a street name and number, an apartment or suite number, if applicable, and zip code), that is the applicant's address of residence. [26:4-112] If the applicant does not have a street address, a physical description of the location of the residence that can be used to pinpoint the residence on a map must be provided. The applicant may provide a 911 address or may provide the legal description (a Section-Township-Range description, including the appropriate quarter section or quarter-quarter section designation). Neither a rural route address nor a post office box address is acceptable as an address of residence for voter registration purposes. A voter registration application that does not include an address of residence sufficient to locate the residence on a map shall be rejected by the Secretary of the County Election Board.

(~~f~~g) A mailing address must include the city and zip code. An emergency notification address, or 911 address, a rural route and box number, a post office box, or a street address all constitute valid mailing addresses for voter registration purposes. [26:4-112] If an applicant's mailing address is the same as the applicant's residence address, the space for mailing address may be left blank.

[OAR Docket #15-622; filed 6-19-15]

TITLE 230. STATE ELECTION BOARD
CHAPTER 30. ABSENTEE VOTING

[OAR Docket #15-623]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 5. Applications for Absentee Ballots
230:30-5-13. Application for absentee ballots may be submitted electronically [NEW]
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Title 26 O.S., Section 2-107; Secretary of the State Election Board
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n/a
ANALYSIS:
An amendment is proposed to Subchapter 5. The Section to be amended concerns the application process for absentee ballots. The Secretary of the State Election Board plans to provide a secure, online absentee ballot application tool, accessible from the State Election Board website by any registered voter, that will enable voters to complete and submit timely and valid applications for absentee ballots and that also ensures such applications are received and processed by the appropriate County Election Boards.
CONTACT PERSON:
Suzanne Cox, Director of Support Services Division, State Election Board. Telephone: (405) 521-2391. Email: suzanne.cox@elections.ok.gov.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 11, 2015:

SUBCHAPTER 5. APPLICATIONS FOR ABSENTEE BALLOTS

230:30-5-13. Application for absentee ballots may be submitted electronically

(a) Any registered voter may apply for absentee ballots for any election for which he or she is eligible and may submit the application to the County Election Board in the county of his or her residence by United States mail, by electronic mail, by fax, or by other means of electronic communication designated by the Secretary of the State Election Board as provided by Title 26 O.S. 2014 Supp., Section 14-105.

(b) The Secretary of the State Election Board may establish an online absentee ballot application tool for the purpose of applying for and submitting applications for absentee ballots. Such an online application tool shall meet the following criteria.

(1) The online absentee ballot application tool shall require the applicant to provide the following information, which is necessary to confirm an applicant's status as a registered voter and to determine that the voter is eligible to receive ballots for an election, and to determine where the absentee ballots should be sent.

(A) Voter's name

(B) Date of birth

(C) Address of voter registration

(D) Address ballots should be sent

(E) Other information deemed necessary by the Secretary

(2) The application tool should allow the voter to designate whether the application is for a single election or for all elections in which the voter may be eligible in a calendar year or for any other term permitted by law.

(3) The application tool should allow an applicant to specify, if applicable, that he or she is physically incapacitated or confined to a nursing home.

(4) The application tool should allow an applicant to specify, if applicable, that he or she is a member of one of the uniformed services of the United States or an overseas citizen and therefore covered by the federal Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA).

(5) The online absentee ballot application tool should prepare a letter or form containing all the required information and specifications named in (1) through (3) of this subsection.

(6) The online absentee ballot application tool shall allow the applicant to print, sign, and mail, email, fax, or personally deliver the application to the State Election Board or to the appropriate County Election Board.

(7) The online absentee ballot application tool may allow the applicant to sign the application and submit it electronically. The completed application must be transmitted directly to the State Election Board or to the appropriate County Election Board by mail, email, or fax.

(8) The online absentee ballot application tool shall display the statutory deadline for absentee applications preceding an election. The application tool must clearly state that the application must be received at the State Election Board or the appropriate County Election Board by the statutory deadline for an election in order for it to be processed and ballots issued for that election.

(9) Other criteria deemed necessary by the Secretary to ensure security, privacy of voter information, or to prevent fraudulent use.

(c) Any organization, entity, or individual interested in promoting voter participation through absentee voting will be able link to the online absentee ballot application tool on the State Election Board's website.

[OAR Docket #15-623; filed 6-19-15]

TITLE 240. OKLAHOMA EMPLOYMENT SECURITY COMMISSION
CHAPTER 1. GENERAL PROVISIONS

[OAR Docket #15-608]

RULEMAKING ACTION:
PERMANENT final adoption

RULES:
Subchapter 3. Records and Inspections
240:1-3-3. Confidential records [AMENDED]
240:1-3-5. Copying and reproduction fees [AMENDED]
240:1-3-9. Release of confidential information to specific government agencies [AMENDED]

AUTHORITY:
40 O.S. §§4-302, 4-508; Oklahoma Employment Security Commission.

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n/a

ANALYSIS:
The amendments to the rules in this chapter will conform the confidential records rule to the requirement passed in the confidential records statute in the last legislative session that allows a maximum of 90 days for a person to receive confidential information based upon an administrative subpoena, court order or notarized waiver. The amendments will also allow for records to be provided on flash drives and other electronic storage devices. The amendments will change the rule on release of information to government agencies to incorporate changes made in the confidentiality statute in the last legislative session.

CONTACT PERSON:
Gina Antipov, OESC, P. O. Box 53039, Oklahoma City, OK 73152-3039, 405-557-7146, Gina.Antipov@oesc.state.ok.us

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 11, 2015:

SUBCHAPTER 3. RECORDS AND INSPECTIONS

240:1-3-3. Confidential records

(a) Employer and unemployment insurance claimant records made confidential under Title 40 O.S., Section 4-508, may be released upon receipt of an administrative subpoena, court order or a notarized waiver of confidentiality signed by the person with the authority to waive the confidentiality of the records. No records shall be released unless the administrative subpoena, court order, or notarized waiver of confidentiality is dated within ~~two years~~ninety days of the request for retrieval or reproduction of the requested records.

(b) The administrative subpoena, court order or wavier of confidentiality form shall be served on the Commission's legal division or the custodian of records twenty (20) days prior to the date on which the records are to be produced. The records requested shall be described as specifically as possible and the administrative subpoena, court order or waiver of confidentiality form shall set out the employer account number or social security number of the employer or claimant whose records are being requested.

(c) An employer or unemployment insurance claimant with proper identification can request a copy of his or her records at the Commission's local office or at the administrative office located in the Will Rogers Memorial Office Building in Oklahoma City.

240:1-3-5. Copying and reproduction fees

(a) The Commission shall charge for copies of records, as set out in this rule, and a search fee for staff time spent in obtaining the records, pursuant to 240:1-3-6, except no charge will be made for requests in furtherance of a claim for unemployment benefits or if disallowed by the provisions of 51 O.S. §24A.5.

(b) The document copying fee is twenty-five cents ($0.25) per page or One Dollar ($1.00) per page for a certified copy. This fee is to be paid prior to the release of the requested records.

(c) The reproduction fee for copying any electronic file to a CD~~or~~,DVD, flash drive, or other portable electronic storage device provided by the requester shall be Ten Dollars ($10.00) for each ~~CD or DVD~~portable electronic storage device used.

(d) The reproduction fee for an audio recording of a hearing shall be Ten Dollars ($10.00).

240:1-3-9. Release of confidential information to specific government agencies

(a) Pursuant to 40 O.S.§ 4-508(C), the government agencies, public entities and political subdivisions specified in part (b) of this rule may obtain confidential information maintained by the Oklahoma Employment Security Commission after entering into an agreement with the Oklahoma Employment Security Commission that sets out the purpose the information will be used for, how the information will be transmitted, and how the information will be safe guarded. All costs involved in providing information to government agencies, public entities, or political subdivisions will be set out in the agreement. The information shall be held confidential by the receiving government agency, public entity or political subdivision at all times and shall not be disclosed or open to public inspection. It shall be allowable for the receiving government agency, public entity or political subdivision to release aggregated data.

(b) Government agencies authorized to obtain confidential information from the Oklahoma Employment Security are:

(1) The Oklahoma Department of Commerce, to accomplish specific goals, missions or tasks of the agency as determined by the Oklahoma Legislature;

(2) The Oklahoma Department of Transportation for use in federally mandated regional transportation planning, which is performed as a part of its official duties;

(3) The Oklahoma State Treasurer's office to verify or evaluate the effectiveness of the Oklahoma Small Business Linked Deposit Program on job creation;

(4) The Oklahoma Attorney General for use in investigation of workers' compensation fraud, insurance fraud and health care fraud;

(5) Compsource Oklahoma for use in investigation of workers' compensation fraud;

(6) The Oklahoma Department of Labor for use in investigation of workers' compensation fraud;

(7) The Oklahoma Workers' Compensation ~~Court~~Commission for use in investigation of workers' compensation fraud;

(8) The Oklahoma Insurance Department for use in investigation of workers' compensation fraud, insurance fraud and health care fraud;

(9) The Oklahoma State Bureau of Investigation for use in ~~criminal investigations, the location of missing persons or fugitives from justice, and~~ the investigation of insurance fraud and health care fraud;

(10) ~~The Oklahoma State Bureau of Narcotics and Dangerous Drugs Control~~Any Oklahoma state, Oklahoma county or Oklahoma municipal law enforcement agency for use in criminal investigations and the location of missing persons or fugitives from justice;

(11) The Center of International Trade of Oklahoma State University for the development of international trade for employers doing business in the State of Oklahoma;

(12) The Oklahoma State Regents for Higher Education for use in the default prevention efforts and/or collection of defaulted student loans guaranteed by the Oklahoma Guaranteed Student Loan Program;

(13) The Center for Economic and Management Research of the University of Oklahoma to identify economic trends;

(14) The Center for Economic and Business Development at Southwestern Oklahoma State University to identify economic trends;

(15) The Oklahoma Office of State Finance to identify economic trends;

(16) The Department of Mental Health and Substance Abuse Services to evaluate the effectiveness of mental health and substance abuse treatment and state or local programs utilized to divert persons from inpatient treatment;

(17) Public housing agencies for purposes of determining eligibility pursuant to 42 U.S.C., Section 503(i);
(18) An agency of this state or its political subdivisions, or any nonprofit corporation that operates a program or activity designated as a partner in the Workforce Investment Act One-Stop delivery system pursuant to 29 U.S.C.A., Section 2841 (b)(1), based on a showing of need made to the Commission;
(19) The national Wage Record Interchange System, at the discretion of the Commission;
(20) The Bureau of the Census of the U.S. Department of Commerce for the purpose of economic and statistical research;
(21) The Oklahoma Health Care Authority for use in determining eligibility for subsidies for health insurance premiums for qualified employers, employees, self-employed persons, and unemployed persons; or
(22) The Oklahoma State Department of Rehabilitation Services for use in assessing results and outcomes of clients served.
(23) The Office of Juvenile Affairs for use in assessing results and outcomes of clients served as well as the effectiveness of state and local juvenile and justice programs including prevention and treatment programs.

[OAR Docket #15-608; filed 6-18-15]

TITLE 240. OKLAHOMA EMPLOYMENT SECURITY COMMISSION CHAPTER 10. UNEMPLOYMENT INSURANCE PROGRAM

[OAR Docket #15-609]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 1. General Provisions
240:10-1-2. Definitions [AMENDED]
Subchapter 3. Benefits
Part 5. Eligibility
240:10-3-20. Instructions to secure work [AMENDED]
240:10-3-28. Application of payments made to repay an overpayment of benefits [AMENDED]
Part 11. Filing Claims - Notice
240:10-3-53. High volume employers and third party administrators - filing requirement [AMENDED]
Subchapter 5. Contributions
Part 19. Maintenance and Production of Work Records
240:10-5-97. Professional Employer Organization - quarterly client list report [NEW]
Subchapter 13. Appeal Tribunal Procedure
Part 1. General Provisions
240:10-13-10. Case review study [NEW]
AUTHORITY:
40 O. S. §§2-406.2, 2-417, 2-418, 2-507, 3-120, 4-302; Oklahoma Employment Security Commission.
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
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APPROVED BY GOVERNOR'S DECLARATION:
Approved by Governor's declaration on June 8, 2015
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SUPERSEDED EMERGENCY ACTIONS:
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INCOPORATIONS BY REFERENCE:
n/a
ANALYSIS:
The amendments to these rules will add a citation to 40 O.S. §2-507 to the definition of "interested party", provide detailed instructions on work search requirements, set out how payments made to repay an overpayment of unemployment benefits will be applied to multiple overpayment debts, set out that high volume employers and third party administrators shall be able to file protest to claims by fax or by using the State Information Data Exchange System (SIDES), set out the requirements for professional employer organizations to file client lists as required by legislation passed in the last session, and set out how the case review study required by 40 O.S. §2-406.2 will be conducted by the Appellate Division.
CONTACT PERSON:
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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 11, 2015:

SUBCHAPTER 1. GENERAL PROVISIONS

240:10-1-2. Definitions

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

"Commuting distance" means an automobile driving distance of fifty (50) miles from a claimant's place of residence.

"Full-time work" means employment in thirty-two (32) or more hours of work per week.

"Good cause" means reasons beyond the control of the party seeking relief.

"Independent contractor" means:

(A) Any person who performs services according to their own methods and without control except as to results is an independent contractor, if they are:
(i) Customarily engaged in an independently-established business; or
(ii) Performing service outside the usual course of the contractor's business and outside the places of such business.
(B) In order to be considered "without control" the individual providing the service shall:
(i) Provide their own tools and equipment;
(ii) Pay their own ordinary and customary business expenses;

(iii) Risk losing money from the contract;

(iv) Be free to hire their own assistants; and

(v) Be responsible for obtaining and maintaining all business, tax registrations and all business occupational licenses required by federal, state, or local laws or ordinances.

(C) A written contract relating to such services shall be considered under 40 O.S. Section 1-210 (14), along with all other pertinent evidence in determining employment status and shall not be accorded any greater weight than any other evidence.

(D) This definition shall not be interpreted or construed as conflicting with Section 3304 (a) (6) (a) of the Federal Unemployment Tax Act.

"Interested Party" means:

(A) In an unemployment claim appeal - the Commission, a claimant who files a claim for unemployment benefits with the Commission, and any employer who properly files a written objection to the claim pursuant to 40 O.S. §§2-503 (E) and 2-507.

(B) In an unemployment tax protest - the Commission and the employer with an account that is directly affected by a decision made by the Commission or its representative.

(C) In a supplemental unemployment benefit plan appeal - the Commission, the employer that made application for approval of the plan, and the collective bargaining agent of the employees, if any exists.

"Leases" and **"Rents"** [40:1-210(15)] mean a contract between an owner of a business, building, or property and a leasee, in which:

(A) Space is leased, sublet, or rented for the purpose of operating or conducting a trade or business by the leasee;

(B) The lease or rental fee is set at a fixed amount per month, that remains constant for the term of the lease, sublease, or rental contract; and

(C) Is not based upon a percentage of income or revenue earned in the trade or business.

"Mail", "Mailed", and **"Mailing"**, as used in 40 O.S. §1-224, shall mean the mailing of a document through the United States Postal Service or a private delivery service designated by the United States Secretary of the Treasury pursuant to 26 U.S.C. §7520(f), as a delivery service that may deliver returns, claims, statements, or other documents to the Internal Revenue Service.

"Part-time work" means employment of less than thirty-two (32) hours of work in a week.

"Profiling" means:

(A) A systematic computer generated process that:

(i) Identifies those claimants most likely to exhaust regular compensation and will need job search assistance services to make a successful transition to new employment;

(ii) Refers identified claimants to reemployment services; and

(iii) Collects follow-up information relating to the services received.

(B) Data elements which may be used in the identification process for profiling are:

(i) Recall status;

(ii) Union hiring hall agreement;

(iii) Education;

(iv) Job tenure;

(v) Industry;

(vi) Occupation;

(vii) Unemployment rate;

(viii) Number of prior UI claims; and

(ix) Maximum weekly benefit amount.

(C) Data elements prohibited for usage in profiling are:

(i) Age;

(ii) Race or ethnic group;

(iii) Sex;

(iv) Color;

(v) National origin;

(vi) Disability;

(vii) Religion;

(viii) Political affiliation; and

(ix) Citizenship.

"Reasonable cash value" [40:1-218] means an amount estimated and determined by consideration of the position held, type of work performed, duration of the work, and customary compensation of like providers in like industries.

"Reemployment Services" means those services which provide job search assistance and job placement services, which are counseling, testing, and providing occupational and labor market information, assessment, job search workshops, job clubs and referrals to employers, and other similar services.

"Temporary Layoff" means a short term cessation of work or employment in which the employer maintains an attachment to an employee by means of a recall date or, in cases involving a federal agency or federal contractor with employees who have agreed to refrain from seeking employment elsewhere as part of their terms of employment when work is ceased due to the needs of the federal government, and the federal employer or federal contractor maintains an attachment to an employee by means of its contract of employment, then a recall date will not be required.

"Wages"

(A) **"Gratuities or Tips"** The employer shall include as wages all monies paid as gratuities or tips received by an individual in the course of his or her work pursuant to 40 O.S. Section 1-218 or, if actual information is not available, gratuities and tips shall be allocated to the employer in the amount of 8% of gross receipts.

(B) **"Noncash remuneration"** Noncash remuneration means meals, lodging or any other payment in kind received by a worker from the employing unit in addition to or in lieu of cash payments for services except for meals and lodging that are furnished on the business premises of the employer for the convenience of the employer pursuant to 40 O.S. Section 1-218(6).

"Wages paid"

(A) The term "wages paid", as defined in 40 O.S. Section 1-219, shall include both wages actually received by the worker and wages constructively paid. Wages shall be considered constructively paid when they are credited to the account of or set apart for a worker so that they may be drawn upon by the worker at any time although not then actually in the worker's possession. A mere crediting of the wages to the worker's account, without actually making them available to the worker so that they may be drawn upon by him/her at any time, does not constitute constructive payment.

(B) In the case of an employer who terminates his/her coverage as of January 1st of some year, the term "wages paid" shall include all wages earned for all pay periods up to and including the last payroll period ending in that year, at the end of which, the employer's coverage is terminated.

(C) "Wages paid" to the worker are to be reported in the calendar quarter in which they were actually paid.

"Week" For the purpose of paying benefits and for the purpose of this Chapter, a "week" as defined in 40 O.S. §1-220 shall consist of a calendar week which begins at 12:01 A.M. Sunday and ends at midnight the following Saturday.

"Working day" means:

(A) For employers, any day the employer was open and conducting its regular business activities.

(B) For claimants, any day the claimant's employer or former employer scheduled the claimant to work and the claimant was present and working at his or her assigned activities for part or all of the scheduled work hours for that day.

SUBCHAPTER 3. BENEFITS

PART 5. ELIGIBILITY

240:10-3-20. Instructions to secure work

(a) **Able and available to accept employment.** When a claimant files an initial claim for benefits, the Commission shall instruct the claimant that, in addition to registering for work in the Oklahoma labor exchange system or the system in the state in which the claimant resides, the claimant must diligently search for suitable employment. ~~[40:2-408(2)]~~

(b) **Seek and accept work.** The Commission shall direct and require that in diligently searching for work the claimant must do those things that a reasonably prudent individual would be expected to do to secure work using any means that are appropriate and customary each week. ~~Special circumstances~~A diligent work search consists of some combination of the following elements:

(1) Union members must be registered with the hiring hall or placement facility of their labor union and be a member in good standing.

(2) ~~A claimant must participate~~Participation in all reemployment services offered to the claimant by the Commission ~~if selected by a profiling program established by the Oklahoma Employment Security Commission~~ or any other State Employment Service. ~~[40:2-417(4)]~~

(3) Submit applications for work with employers.

(4) Present oneself in a manner designed to encourage favorable employment consideration.

(5) Register with the placement service of any professional organization the claimant is a member of.

(6) Register with the placement service of any school, college, university, or training institution from which the claimant graduated.

(7) Take examinations for work with governmental agencies.

(8) Search print media, on-line media, and social networks for employers seeking workers.

(9) Seek to expand your work search by a self-assessment of skills and abilities that may not have been utilized in the claimant's last employment.

(c) If an employee is involved in a temporary layoff~~,~~or is receiving supplemental unemployment benefit payments through an approved plan, ~~or is receiving benefits through an approved shared work plan,~~ the work search requirement is met if the employee maintains an attachment to the employer and remains available to return to work for the employer.

(d) **Waiver of work search requirement.** The work search requirement may be waived by the Executive Director in consultation with the Deputy Director, the General Counsel, and a designated Division Director if it is found that claimants in a specific geographic area or region of the state are prevented from making a reasonable work search as a direct result of natural disaster, fire, flood, or explosion.

240:10-3-28. Application of payments made to repay an overpayment of benefits

(a) Offset or recoupment of current unemployment benefit payments - If the current benefit payments of a claimant are offset or recouped to repay a benefit overpayment, the funds from the offset or recoupment shall be applied to the principal amount of the indebtedness in the following order:

(1) First, to the earliest administrative overpayment established pursuant to 40 O.S. §2-613 (3) until the principal amount of the overpayment is paid in full.

(2) Second, to the administrative overpayment established next in time and all subsequent administrative overpayments established in chronological order until the principal amount of all administrative overpayments are paid in full.

(3) Third, to the earliest fraud or claimant error overpayment established pursuant to 40 O.S. §2-613 (1) or (2) until the principal amount of the overpayment is paid in full.

(4) Fourth, to the fraud or claimant error overpayment established next in time and all subsequent fraud or claimant error overpayments established in chronological order until the principal amount of all fraud or claimant error overpayments are paid in full.

(b) All payments or amounts collected in processes other than offset or recoupment of current unemployment benefit

payments - When a ~~person makes a~~ payment is made or a collection of funds is accomplished~~to the Commission~~ to repay an indebtedness created by a previous overpayment of unemployment benefits established pursuant to 40 O.S.§2-613 (1) or (2), the payment or the amount collected shall be applied in the following manner:

(1) First, to ~~any~~the fees that have been charged to the debtor in the earliest established overpayment until all fees for that overpayment are paid.

(2) Second, to accrued penalties in the earliest established overpayment until all penalties for that overpayment are paid.

(3) Third, to the accrued interest in the earliest established overpayment until all interest for that overpayment is paid.

(4) Fourth, to the principal amount in the earliest established overpayment~~of the overpayment~~until the principal amount is paid in full.

(5) After the payment or amount collected has been applied in the manner described in paragraphs 1 through 4 of this subsection and the earliest established overpayment is paid in full, any money left over, and all future payments or amounts collected, shall be applied in the same manner to the overpayment established next in time, and this procedure shall be repeated until all overpayments are repaid.

PART 11. FILING CLAIMS - NOTICE

240:10-3-53. High volume employers and third party administrators - filing requirement

(a) Any employer or third party administrator that files more than 30 protests in any month during the previous calendar year in response to benefit claim notices, on behalf of ~~its~~itself or client employers, shall file the protests through the State Information Data Exchange System (SIDES) or by telefax ~~only~~ to the telefax number set out on the Notice of Benefit Claim form, and shall file any appeal by telefax only to the telefax number set out on the Notice of Determination. The Oklahoma Employment Security Commission shall not accept hand delivery, postal mailing, or e-mailing of protests or appeals by employers or third party administrators meeting the volume of filings set forth above.

(b) The Oklahoma Employment Security Commission may review the protests filed by employers and third party administrators and shall issue written determinations to employers or third party administrators that are determined to meet the filing volume set out in subsection (a) above. Appeal of this determination shall be made pursuant to the procedures set out in 40 O.S. §3-115.

SUBCHAPTER 5. CONTRIBUTION

PART 19. MAINTENANCE AND PRODUCTION OF WORK RECORDS

240:10-5-97. Professional Employer Organization - quarterly client list report

Within thirty days after the end of each calendar quarter, each Professional Employer Organization is required to file a report listing all of its clients in the last quarter. The report shall be submitted on an Excel spreadsheet. It must contain the name and account number of the Professional Employer Organization and its registration license number issued by the Oklahoma Insurance Department. For each client listed, a PEO shall state the client's federal employer identification number, its name, and its address.

SUBCHAPTER 13. APPEAL TRIBUNAL PROCEDURE

PART 1. GENERAL PROVISIONS

240:10-13-10. Case review study

(a) Pursuant to 40 O.S. §2-406.2, the Appellate Division of the Oklahoma Employment Security Commission shall review 5% of the unemployment benefit cases the Appellate Division decides each month in which misconduct was alleged and which was not appealed to the Board of Review.

(b) The case review will be conducted by the Director of the Appellate Division or designee and two designated hearing officers.

(c) This review will not be considered a reconsideration, rehearing, or appeal of the original determination. No changes of the original order or the outcome of the case shall be made as a result of this review.

(d) The results of all case reviews shall be summarized in an annual report that will be delivered to the President Pro Tempore of the Senate, the Speaker of the House of Representatives, and the Chairs of the Senate Committee on Business and Commerce and the House Committee on Economic Development and Financial Services.

[OAR Docket #15-609; filed 6-18-15]

TITLE 240. OKLAHOMA EMPLOYMENT SECURITY COMMISSION
CHAPTER 15. BOARD OF REVIEW PROCEDURES

[OAR Docket #15-610]

RULEMAKING ACTION:
PERMANENT final adoption
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Subchapter 3. Appeals to the Board of Review
240:15-3-2. Correspondence with Board of Review; address [AMENDED]
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Approved by Governor's declaration on June 8, 2015
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SUPERSEDED EMERGENCY ACTIONS:
n/a
INCOPORATIONS BY REFERENCE:
n/a
ANALYSIS:
The amendment to the Board of Review rule will correct the telephone number and fax number for the Board of Review.
CONTACT PERSON:
Gina Antipov, OESC, P. O. Box 53039, Oklahoma City, OK 73152-3039, 405-557-7146, Gina.Antipov@oesc.state.ok.us

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 11, 2015:

SUBCHAPTER 3. APPEALS TO THE BOARD OF REVIEW

240:15-3-2. Correspondence with Board of Review; address

(a) An appeal from the Appeal Tribunal decision and all instruments and correspondence regarding any matter before the Board of Review shall be sent to Board of Review, Oklahoma Employment Security Commission, P.O. Box 53345, Oklahoma City, Oklahoma 73152. The Board of Review's telephone number is ~~(405)522-5363~~(405) 962-7570, and the telefax number is ~~(405) 522-5371~~ (405) 962-7540.

(b) Correspondence pertaining to an appeal shall bear the name of the case and the Appeal Tribunal docket number. Copies of all documents and correspondence sent to the Board by any party to an appeal shall be sent to the other interested parties by the Clerk. A brief or Memorandum of Law may be filed by the appealing party at the time the appeal is filed. If the non-appealing party desires to respond, a brief or Memorandum of Law shall be filed within ten (10) days from the date the appeal was filed.

[OAR Docket #15-610; filed 6-18-15]

TITLE 258. ETHICS COMMISSION CHAPTER 1. STATUTORY ADMINISTRATIVE OPERATIONS [REVOKED]

[OAR Docket #15-710]

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RULES:
258:1-1-1 [REVOKED]
258:1-1-2 [REVOKED]
258:1-1-3 [REVOKED]
258:1-1-8 [REVOKED]
258:1-1-9 [REVOKED]
258:1-1-10 [REVOKED]
258:1-1-14 [REVOKED]
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Ethics Commission; Okla.Const.art. 29 §§ 1-7
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n/a
INCORPORATIONS BY REFERENCE:
n/a
ANALYSIS:
APA rules governing Statutory Administrative Operations are no longer necessary. Statutes granting authority to promulgate APA rules were repealed. All necessary information for administrative operations of the Ethics Commission is contained in the Constitutional Ethics Rules adopted by the Ethics Commission. This rulemaking action revokes these unnecessary administrative rules.
CONTACT PERSON:
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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 11, 2015:

258:1-1-1. General purpose and authority [REVOKED]

~~(a) **Intent.** The Ethics Commission is the statutory administrator of the Ethics Commission Act, Section 4200 et seq. of Title 74 of the Oklahoma Statutes. It is the intent of the Commission that the rules of this Chapter establish a procedure by~~

~~which, upon written request, an employee of or person contracting with the Commission shall conduct a hearing regarding any late filing fee imposed.~~

~~(b) **Powers and duties.** The authority of the Ethics Commission to adopt these rules is set forth in the Ethics Commission Act, Sections 4206(A) (9) and 4206.2 of Title 74 and the Administrative Procedures Act, Section 302(A) and 307 of Title 75 of the Oklahoma Statutes.~~

~~(c) Rules. In keeping with its statutory authority and purpose, the Ethics Commission has promulgated the rules of this Chapter to implement these statutes.~~

258:1-1-2. Definitions [REVOKED]

~~Masculine words, whenever used in this chapter, shall include the feminine and neuter, and the singular includes the plural, unless otherwise specified. In addition, the following words or terms, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise:~~

~~**"Act"** means the Ethics Commission Act, Section 4200 et seq. of Title 74 of the Oklahoma Statutes.~~

~~**"Address"** means mailing address unless otherwise specified in the text.~~

~~**"Affiliated"** or **"Connected entity"** means any organization which directly or indirectly establishes, administers or financially supports a political entity.~~

~~**"Business day"** means any day except a Saturday, Sunday or a legal holiday designated in Section 82.1 of Title 25 of the Oklahoma Statutes.~~

~~*"**Commission**" means the Ethics Commission.* [74:4202 (12)]~~

~~*"**Compensation**" means money, service, facility or thing of value or financial benefit which is received or is to be received in return for or in connection with services rendered or to be rendered.* [74:4202 (8)]~~

~~**"Day"** means calendar day, except that in instances where a report or other document is required to be filed with the Commission and the calendar day upon which such a report or document must be filed falls on a day other than a regular business day, any such report or document may be filed on the immediate next regular business day.~~

~~*"**Governmental entity**" means any department, commission, authority, council, board, bureau, committee, legislative body, agency, public trust, or other establishment of the executive, legislative or judicial branch of the State of Oklahoma or political subdivision thereof.* [74:4202 (17)]~~

~~*"**Official action**" means any judicial, executive, legislative or administrative action which shall include, but is not limited to, the promulgation of rules and regulations and the setting of rates.* [74:4202 (23)]~~

258:1-1-3. Office and hours [REVOKED]

~~The principal office of the Ethics Commission is in B-5 State Capitol, Oklahoma City, Oklahoma. The Office is open 8:00 a.m. to 5:00 p.m. each business day.~~

258:1-1-8. Availability of documents; photocopies [REVOKED]

~~(a) Documents will be available to the public for inspection between 8:00 a.m. to 5:00 o'clock p.m. on business days.~~

~~(b) Persons wishing to photocopy documents in the custody of the Ethics Commission may do so in accordance with provisions of the Open Records Act. Photocopies of documents may be made upon payment of 25 cents per page for each page of a document requested. The executive director may, in his or her discretion, require additional fee payments, as provided in the Open Records Act, to recover and photocopy documents requested.~~

258:1-1-9. Request for ethics interpretation [REVOKED]

~~Any person who may be affected by the existence or application of any of the provisions of the Rules of the Commission may request in writing an interpretation regarding the application of such rule or provision to the facts or hypothetical set of facts furnished with the inquiry. Such request may be in the form of a petition for ethics interpretation. The petition shall state fully the facts of the situation of the requesting party as are or may be pertinent to the rule or provision. The request or inquiry shall be assigned to administrative staff for review. Thereafter, the Commission shall make a final determination of the interpretation. The interpretation of the rule or provision of the Act will be furnished in writing to the person making the request within a reasonable time thereafter. The petition shall be in substantially the following form:~~

~~**BEFORE THE ETHICS COMMISSION**~~

~~In the matter of the petition for Ethics Interpretation of_____~~

~~No. (to be assigned by staff)~~

~~**PETITIONER DATE: PETITION FOR ETHICS INTERPRETATION**~~

~~_____a person who may be affected by the existence or application of_____~~

~~(Name of Petitioner)~~

~~_____states:~~

~~(set out provision of the Act or rule about which petition is asserted)~~

~~The facts upon which this petition is based are as follows:~~

_____

~~(state facts in general terms and explain why question exists.)~~

_____

_____

~~WHEREFORE, petitioner requests that the Commission review this petition and make a final determination of the interpretation requested and provide the interpretation in writing to petitioner.~~

_____

~~PETITIONER~~

~~DATE:~~ _____

258:1-1-10. Request for rule adoption, amendment or repeal [REVOKED]

~~All interested persons may ask the Commission to adopt, amend or repeal a rule. Such request shall be in writing and filed with the Commission. The request shall set forth fully the reasons for its submission; the alleged need or necessity therefor, whether or not the proposal conflicts with any existing rule, and what, if any, statutory provisions are involved. Such persons may request the assistance of the Commission's staff in complying with the requirements of this section. Such request shall be considered by the Commission and, if approved, notice shall be given that such proposal will be formally considered for adoption. If, however, it is initially determined that the proposal or request is not a necessary adoption, amendment or repeal, the same shall be refused and the decision reflected in the records of the Commission. A copy shall be sent to the interested person who submitted the request.~~

~~BEFORE THE ETHICS COMMISSION~~

~~In the matter of the petition for Rule~~_____ ~~No. (to be assigned by staff)~~

~~(Adoption, Amendment or Repeal)~~

~~of~~_____

~~PETITION FOR RULE (ADOPTION, AMENDMENT OR REPEAL)~~

_____~~, an interested person, requests that the Commission~~_____

~~(Name of Petitioner)~~

~~_____ the following:~~

~~(adopt, amend or repeal)~~

~~_____~~

~~(if a request to adopt, amend or repeal, set out Rule in question)~~

~~_____~~

~~_____~~

~~_____~~

~~WHEREFORE, petitioner requests that the Commission consider this petition and approve the proposal submitted.~~

~~_____~~

~~PETITIONER~~

~~DATE: _____~~

258:1-1-14. Applicability of rules [REVOKED]

~~The rules of this Chapter are adopted pursuant to Sections 4206(A)(9) and 4206.2(A) of Title 74 of the Oklahoma Statutes, from the Ethics Commission Act, and Sections 302(A) and 307 of Title 75, from the Administrative Procedures Act. The partial or total invalidity of any section or sections of these rules, found by a court of competent jurisdiction, shall not affect the valid sections.~~

[OAR Docket #15-710; filed 7-6-15]

TITLE 258. ETHICS COMMISSION CHAPTER 20. ETHICS AND CONFLICTS OF INTEREST FOR COUNTY OFFICIALS AND EMPLOYEES [REVOKED]

[OAR Docket #15-711]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
258:20-1-1 [REVOKED]
258:20-1-2 [REVOKED]
258:20-1-6 [REVOKED]
258:20-1-14 [REVOKED]
AUTHORITY:
Ethics Commission; Okla.Const.art. 29 §§ 1-7
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
October 23, 2014
COMMENT PERIOD:
November 17, 2014 through December 19, 2014
PUBLIC HEARING:
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ADOPTION:
January 9, 2015
SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:
January 14, 2015
APPROVED BY GOVERNOR'S DECLARATION:
Approved by Governor's declaration on June 8, 2015
FINAL ADOPTION:
June 8, 2015
EFFECTIVE:
September 11, 2015
SUPERSEDED EMERGENCY ACTIONS:
n/a
INCORPORATIONS BY REFERENCE:
n/a
ANALYSIS:
APA rules governing Ethics and Conflicts of Interest for County Officials and Employees are no longer necessary. Statutes granting authority to promulgate APA rules were repealed. All necessary information for county officials and employees is contained in the Constitutional Ethics Rules adopted by the Ethics Commission and other statutory provisions that do not require administrative rules. This rulemaking action revokes these unnecessary administrative rules.
CONTACT PERSON:
Geoffrey Long, General Counsel, Oklahoma Ethics Commission, 2300 N. Lincoln Blvd., Room B-5, Oklahoma City, OK 73105, 405-521-3451, Geoffrey.Long@ethics.ok.gov

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 11, 2015:

258:20-1-1. General purpose and authority [REVOKED]

~~The rules of this chapter have been adopted for the purpose of complying with the provisions of the Section 4206.2(A) of the Title 74 of the Oklahoma Statutes. The purpose of this chapter is adopt rules for carrying out the Commission's statutory duties, specified in Section 4206.2(A) of Title 74 of the Oklahoma Statutes, with respect to county officers and employees.~~

258:20-1-2. Definitions [REVOKED]

~~Masculine words, whenever used in this chapter, shall include the feminine and neuter, and the singular includes the plural, unless otherwise specified. In addition, the following words or terms, when used in this chapter, shall have the following meaning, unless the context clearly indicates otherwise:~~

~~*"**Commission**" means the Ethics Commission.* [74:4202(12)]~~

~~*"**Compensation**" means money, service facility or thing of value of financial benefit which is received or is to be received in return for or in connection with services rendered or to be rendered.* [74:4202(8)]~~

~~*"**Government entity**" means any department, commission, authority, council, board, bureau, committee, legislative body, agency, public trust, or other establishment of the executive, legislative or judicial branch of the State of Oklahoma or political subdivision thereof.* [74:4202(17)]~~

~~*"**Official action**" means any judicial, executive, legislative or administrative action which shall include, but is not limited to, the promulgation of rules and regulations and the setting of rates.* [74:4202(23)]~~

258:20-1-6. Representation by county officers and county employees - Disqualification [REVOKED]

~~(a) *No…county officer or…county employee shall:*~~

~~(1) represent another person as an attorney in any matter before the Commission; or~~

~~(2) *represent another person before the government entity the officer or employee serves.*~~

~~(b) *The restrictions in [Subsection (a)] shall not apply to:*~~

~~(1) *purely ministerial matters which do not require discretion on the part of the entity;*~~

~~(2) *representation of the officer or employee in the course of the officer's or employee's official duties;*~~

~~(3) *representation by the officer or employee in the officer's or employee's personal capacity; or*~~

~~(4) *representation of the officer or employee in matters arising out of or rules promulgated pursuant to the Oklahoma Personnel Act.*~~

~~(c) *A…county officer or…county employee shall promptly disqualify himself prior to recommending or taking any official action in a manner affecting a person with whom the officer or employee is negotiating for employment.*~~

~~(d) *The restrictions set forth in this section do not apply if the officer or employee is testifying under oath to facts that are within the individual's knowledge, or as an expert witness who does not accept compensation other than regularly provided for by law or rule for subpoenaed witnesses.* [74:4246.2]~~

258:20-1-14. Applicability of rules [REVOKED]

~~The rules of this chapter are adopted pursuant to Section 4206.2(A) of Title 74 of the Oklahoma Statutes. The partial or total invalidity of any section or sections of this chapter, found by a court of competent jurisdiction shall not affect the valid sections.~~

[OAR Docket #15-711; filed 7-6-15]

TITLE 258. ETHICS COMMISSION CHAPTER 25. PROCEDURE FOR ASSESSING LATE FILING FEES [REVOKED]

[OAR Docket #15-712]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
258:25-1-1 [REVOKED]
258:25-1-2 [REVOKED]
258:25-1-4 [REVOKED]
258:25-1-5 [REVOKED]
AUTHORITY:
Ethics Commission; Okla.Const.art. 29 §§ 1-7
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
October 23, 2014
COMMENT PERIOD:
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APPROVED BY GOVERNOR'S DECLARATION:
Approved by Governor's declaration on June 8, 2015
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June 8, 2015
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SUPERSEDED EMERGENCY ACTIONS:
n/a
INCORPORATIONS BY REFERENCE:
n/a
ANALYSIS:
APA rules governing Procedure for Assessing Late Filing Fees are no longer necessary. Statutes granting authority to promulgate APA rules were repealed. All necessary information for assessing late filing fees of the Ethics Commission is contained in the Constitutional Ethics Rules adopted by the Ethics Commission. This rulemaking action revokes these unnecessary administrative rules.

CONTACT PERSON:
Geoffrey Long, General Counsel, Oklahoma Ethics Commission, 2300 N. Lincoln Blvd., Room B-5, Oklahoma City, OK 73105, 405-521-3451, Geoffrey.Long@ethics.ok.gov

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 11, 2015:

258:25-1-1. General purpose and authority [REVOKED]

~~The rules of this Chapter have been adopted for the purpose of complying with the provisions of the Oklahoma Ethics Commission Act, Section 4206(A)(9) of Title 74 of the Oklahoma Statutes. The purpose of this chapter is to establish a hearing procedure for persons under the jurisdiction of the Commission who have been assessed late fees for failing to file or filing late designations, registrations, reports or statements.~~

258:25-1-2. Definitions [REVOKED]

~~Masculine words, whenever used in this chapter, shall include the feminine and neuter, and the singular includes the plural, unless otherwise specified. In addition, the following words or terms, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise:~~

~~**"Act"** means the Ethics Commission Act, Section 4200 et seq. of Title 74 of the Oklahoma Statutes.~~

~~**"Address"** means mailing address unless otherwise specified in the text.~~

~~**"Affiliated"** or **"Connected entity"** means any organization which directly or indirectly establishes, administers or financially supports a political entity.~~

~~**"Business day"** means any day except a Saturday, Sunday or a legal holiday designated in Section 82.1 of Title 25 of the Oklahoma Statutes.~~

~~**"Day"** means calendar day, except that in instances where a report or other document is required to be filed with the Commission and the calendar day upon which such a report or document must be filed falls on a day other than a regular business day, any such report or document may be filed on the immediate next regular business day.~~

258:25-1-4. Later filing fees [REVOKED]

~~(a) **Publication and notice.** The Commission shall post in public view in its office a list of those delinquent in filing any designations, registrations, statements or reports required by the Act. The Commission shall send a delinquency notice to the appropriate person within twenty-four (24) hours after the filing deadline by registered or certified mail and may impose late filing fees as provided in the Act.~~

~~(b) **Assessment hearing proceedings.** All proceedings held for appealing an assessment of late filing fees shall be conducted pursuant to the agency notice and hearing requirements for individual proceedings contained in the Administrative Procedures Act and found in Sections 309 through 323 of Title 75 of the Oklahoma Statutes.~~

~~(c) **Initiation of assessment appeal hearing.**~~

~~(1) **Assessment.** The Commission shall assess late fees whenever an investigation reveals facts which the Commission has reason to believe are a material violation of the filing provisions of the Act. A hearing is not required prior to the imposition of a late filing fee imposed under this section. The Respondent shall be notified of the assessment by certified mail. The Respondent shall have 30 days from receipt of the notice of assessment to request in writing a hearing on the assessment. The hearing shall be conducted within 30 days of the request.~~

~~(2) **Notification.** The Respondent shall be notified of the date of the hearing no later than twenty (20) days before that date pursuant to Section 309 of Title 75 of the Oklahoma Statutes.~~

~~(3) **Discovery.** The Commission's staff shall provide the Respondent, at his or her request, with copies of all materials to be presented by the staff at the hearing.~~

~~(4) **Records confidential.** All records generated or collected as a result of that investigation are exempt from public inspection and copying under Section 4206(A)(4) of Title 74 of the Oklahoma Statutes.~~

~~(d) **Facts resolvable by stipulation.**~~

~~(1) **Stipulated statement of fact.** When the Executive Director and Respondent agree that some or all of the facts are uncontested, the Executive Director and Respondent shall prepare a stipulated statement of fact for presentation to the Commission or Hearing Officer.~~

~~(2) **Additional facts.** The Commission or Hearing Officer may ask that additional facts be presented if he or she deems any stipulation to be inadequate.~~

~~(3) **Not approved.** The Commission or the Hearing Officer shall refer the matter to the Executive Director for further investigation or other action consistent with the Commission's or Hearing Officer's deliberations if the stipulated statement of fact is not approved.~~

~~(e) **Conduct of assessment hearing.**~~

~~(1) **Hearing officers.** An assessment hearing shall be heard either by an employee of the Commission or by a person contracting with the Commission.~~

~~(2) **Consolidation and joinder.** The Hearing Officer may order the consolidation or joinder of hearings or appeals if to do so would expedite the processing of the assessments and not adversely affect the interests of the parties.~~

~~(3) **Record of hearing.** All hearings before the Hearing Officer or the Commission shall be held in Executive Session and shall be recorded. That portion of a hearing constituting deliberations in Executive Session need not be recorded. A written transcript or a copy of the tape recording of the hearing, other than that portion of a hearing constituting deliberations in Executive Session, shall be made available to any person alleged to have filed late designation(s), registration(s), report(s) or statement(s) upon written request and payment of appropriate reimbursement cost(s) for reproduction. The Respondent may have the~~

~~proceedings transcribed by a court reporter at the Respondent's own expense. A copy of the assessment, a copy of all sworn statements by persons other than the Respondent, and any and all exculpatory evidence shall also be made available to the Respondent or an attorney for the Respondent upon written request and payment of appropriate reimbursement cost(s) for reproduction.~~

~~(4) **Findings of fact, conclusions of law and proposed order.** Upon conclusion of an assessment hearing, the Hearing Officer shall prepare and present to the Commission findings of fact, conclusions of law, and a proposed order of assessment. A copy of the findings of fact, conclusions of law and the proposed order shall be served upon the Executive Director and the Respondent.~~

~~(f) **Appeal to Commission.** The proposed order of the Hearing Officer may be appealed to the Commission upon written request of the Respondent received by the Commission within 30 days of Respondent's receipt of notification of the proposed order. Both the Respondent and the Executive Director shall be afforded an opportunity to file exceptions and present briefs and oral argument to the Commission at its next regular meeting or at a special meeting called for that purpose. The Commission shall consider the whole record or such portions as shall be cited by the parties.~~

~~(1) **Commission's findings.** After either a hearing by the Commission or a review by the Commission of the proposed order of the Hearing Officer, the Commission may find that:~~

~~(A) Respondent did not violate the Act, as alleged, and rescind the assessment;~~

~~(B) Respondent violated the Act, as alleged, and confirm the assessment imposed; or~~

~~(C) Respondent violated the Act, as alleged, and may modify the assessment imposed; provided, that before an assessment may be modified other than by lowering the assessment, the Respondent shall be given notice and an opportunity to be heard by the Commission.~~

~~(2) **Conclusion of hearing.** Upon the conclusion of an assessment appeal hearing, the Commission:~~

~~(A) shall issue a final order setting forth in writing its findings of fact, conclusions of law and decision on the merits of the case; and~~

~~(B) shall deliver, either in person or by mail, to each Respondent and their representative a copy of the findings of fact, conclusions of law and final order.~~

~~(g) **Order of referral.** When the Commission finds an apparent violation and assesses late filing fees which are not appealed within 30 days or when the Commission issues a final order to an appeal confirming assessed late filing fees, and Respondent does not pay to the Commission the late filing fees assessed within thirty (30) days of the time for filing an appeal or the entry of the order, the Commission shall refer the matter to the appropriate authority and shall give to the Respondent written notice of such order of referral.~~

~~(h) **Partial assessments.** For good cause shown, any candidate, public official, state employee or other person failing to file designations, registrations, reports or statements as provided for in the Act, may request that the Commission set aside all or part of the late filing fees assessed under the Act.~~

~~(i) **Good cause for partial assessments.** The Commission or Hearing Officer, in their discretion, and for good cause shown, may set aside or assess all or part of any late filing fees imposed under the terms of the Act.~~

~~(1) Good cause for setting aside such late filing fees or assessing less than the maximum late filing fees imposed under the terms of the Act shall include, but not be limited to:~~

~~(A) Omissions or errors of third persons not under the control of the person or entity against whom the late filing fee has been assessed, or~~

~~(B) The failure of the United States mail or of common carriers to timely deliver documents which have been timely transmitted and properly addressed for delivery to the Commission.~~

~~(2) Such good cause shall be included in the Findings of Fact and shall be based exclusively on the evidence and on matters officially noticed at the assessment hearing.~~

~~(j) **Reconsideration and renew of final orders.**~~

~~(1) **Request.** A final order may be reconsidered only upon:~~

~~(A) The written request of the Respondent, or~~

~~(B) The motion or written request of a Commission member who voted for the assessment when the final order was made.~~

~~(2) **Time limitation.** Such a request for reconsideration shall be served, or motion made, within ten (10) days after entry of the final order of which reconsideration is sought.~~

~~(3) **Grounds therefor.** A request or motion for reconsideration shall specify the grounds therefore which are limited to those grounds specified in Section 317 of Title 75 of the Oklahoma Statutes.~~

~~(4) **Judicial review.** Upon being notified of a final order as provided in Section 312 of Title 75 of the Oklahoma Statutes, the Respondent may treat the final order as final for the purpose of petitioning for judicial review under Section 318 of Title 75 of the Oklahoma Statutes. The Commission may not reconsider any decision after being served with a petition for judicial review.~~

~~(5) **Enforcement stayed.** When a request for reconsideration is served or motion made, enforcement of the final order of which reconsideration is sought shall be stayed and the decision shall not be final until the Commission has acted on the reconsideration.~~

~~(6) **Action by Commission.** The Commission shall act on the reconsideration at the next meeting at which it practicably may do so by:~~

~~(A) deciding whether to reconsider its final order, and~~

~~(B) if it decides to do so, either affirming or amending its final order; provided, that before a final order~~

~~may be amended other than by lowering an assessment, the Respondent shall be given notice and an opportunity to be heard if, and in the same manner as, required for the final order.~~

~~(k) **Subpoenas.** The Commission, upon request by its staff or the Respondent, may subpoena persons to appear and give testimony and may require the production of any books, papers, correspondence, memorandums or other records which the Commission deems relevant or material. Such subpoena will issue and may be enforced in the form and manner set forth in Section 315 of Title 75 of the Oklahoma Statutes.~~

258:25-1-5. Applicability of rules [REVOKED]

~~The rules of this chapter are adopted pursuant to Section 4206(A)(9) of Title 74 of the Oklahoma Statutes. The partial or total invalidity of any section or sections of this chapter, found by a court of competent jurisdiction shall not affect the valid sections.~~

[OAR Docket #15-712; filed 7-6-15]

TITLE 260. OFFICE OF MANAGEMENT AND ENTERPRISE SERVICES CHAPTER 15. ACCESSIBILITY OF INFORMATION TECHNOLOGY

[OAR Docket #15-658]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
260:15-1-2. Definitions [AMENDED]
260:15-1-3. Information technology accessibility standards [AMENDED]
260:15-1-4. Evaluation of proposed custom-designed information technology systems [AMENDED]
260:15-1-5. Accessibility compliance representative [AMENDED]
260:15-1-6. Filing a formal complaint [AMENDED]
260:15-1-7. Processing a complaint [AMENDED]
260:15-1-8. Disagreement with final complaint response [AMENDED]
260:15-1-9. Annual complaint report [AMENDED]
AUTHORITY:
The Director of the Office of Management and Enterprise Services; 62. O.S. §34.28; 62 O.S. §34.3.1.
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
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SUPERSEDED EMERGENCY ACTIONS:
n/a
INCORPORATIONS BY REFERENCE:
n/a
ANALYSIS:
Clarify language, eliminate obsolete language, correct omissions and streamline to promote and enhance operations, through removal of inaccurate or redundant verbiage, and to simplify language.
CONTACT PERSON:
Gary Goff, Deputy General Counsel, (405) 717-8744

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 11, 2015:

260:15-1-2. Definitions

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

"Accessibility" means compliance with nationally accepted accessibility and usability standards, such as those established in Section 508 of the Rehabilitation Act (29 U.S.C. 794d), as amended by the Workforce Investment Act of 1998 (P.L. 105-220), August 7, 1998;

"Appointing authority" means the chief administrative officer of an agency. As the term is used in this chapter, the term includes employees of an agency to whom the Appointing Authority has lawfully delegated authority to act on his or her behalf.

"Director" means the Director of the agency.~~Office of Management and Enterprise Services.~~

"Individual with Disabilities" means any individual who is considered to have a disability or handicap for the purposes of any Federal or Oklahoma law.

"Information Technology" or **"IT"** means equipment or interconnected system or subsystem of equipment that is used in the acquisition, storage, manipulation, management, movement, control, display, switching, interchange, transmission, telecommunications, or reception of data or information. The term shall include computers, ancillary equipment, software, firmware, and similar procedures, services, including support services and consulting services, software development, and related resources.

"Oklahoma Information Technology Accessibility Standards" or **"IT Accessibility Standards"** or **"Standards"** means the accessibility standards adopted by the Office of Management and Enterprise Services (OMES)~~together with the Division of Capital Assets Management,~~ to address all technical standard categories based on the provisions of Section 508 of the Workforce Investment Act of 1998, which are to be used by each state agency in the procurement of information technology, and in the development and implementation of custom-designed information technology systems, ~~web sites~~websites, and other emerging information technology systems.

"Section 508" means Section 508 of the Rehabilitation Act (29 U.S.C. 794d), as amended by the Workforce Investment Act of 1998 (P.L. 105-220), August 7, 1998.

"State agency" means any office, officer, bureau, board, counsel, court, commission, institution, unit, division, body

or house of the executive or judicial branches of the state government, whether elected or appointed, excluding political subdivisions of the state. State agency shall include the Oklahoma State Regents for Higher Education, the institutions, centers, or other constituent agencies of The Oklahoma State System of Higher Education, the State Board of Career and Technology Education and Technology Center school districts. [62 O.S., Section 34.28]

260:15-1-3. Information technology accessibility standards

(a) ~~The Office of Management and Enterprise Services~~OMES shall prescribe Information Technology Accessibility Standards to address all technical standard categories of Section 508 in accordance with 62 O.S. §34.28. Information technology products covered by these standards shall comply with all applicable provisions. When developing, procuring, maintaining or using information technology products (either directly or through administration of contracts or grants), each state agency, as defined in this Chapter, shall ensure that the products comply with these all applicable standards, unless an undue burden would be imposed on the agency.

(b) These standards are effective September 1, 2005 and apply to all information technology procured, developed and/or substantially modified or substantially enhanced after the effective date of these standards, providing the procurement and/or development process was not initiated prior to the effective date.

(c) The Information Services Division of OMES shall maintain the IT Accessibility Standards.

(d) The Standards will be made available to the public at the principal office of OMES ~~the Office of Management and Enterprise Services and the Division of Capital Assets Management~~ and shall be published on ~~their~~its respective ~~websites~~website.

(e) When compliance with these standards imposes an undue burden, agencies shall provide individuals with disabilities the information and data involved by an alternative means of access that allows the individual to use the information and data in accordance with other applicable State and Federal laws such as Title I and Title II of the Americans with Disabilities Act and Section 504 of the Rehabilitation Act.

260:15-1-4. Evaluation of proposed custom-designed information technology systems

(a) A state agency shall evaluate the accessibility of any proposed custom-designed information technology system prior to the expenditure of state funds in accordance with review procedures prescribed by the Director, or a designee.

(b) The Appointing Authority of the agency shall certify the results of the review in writing on a form prescribed by the Director, or a designee. If applicable, the form shall include a declaration that the agency has determined that an undue burden or exception exists.

260:15-1-5. Accessibility compliance representative

(a) The Appointing ~~authority~~Authority in each state agency shall designate an Accessibility Compliance Representative(s) to:

(1) Ensure all electronic and information technology produced, procured, or developed by the agency is accessible to the disabled;

(2) Receive, investigate and process formal complaints alleging the agency's failure to comply with electronic and information technology accessibility laws, rules and/or standards;

(3) Assist complainants to ensure a complaint is clear and complies with this Chapter;

(4) Upon receipt of a formal complaint, thoroughly investigate other instances of similar accessibility issues in related systems within the agency.

(5) Annually execute a certified statement assuring compliance with ~~state~~ the IT Accessibility Standards and submit the name and contact information for the Accessibility Compliance Representative to the State CIO by October 1 each year.~~to the Information Services Division with the long range plan prescribed by the Office of Management and Enterprise Services in accordance with 62 O.S. Section 34.16.~~

(b) The name and contact information of the designated Accessibility Compliance Representative shall be filed and updated, whenever necessary, with ~~the Office of Management and Enterprise Services, Division of Capital Assets Management~~OMES and Oklahoma ABLE Tech.

(c) The ~~name and~~ contact information ~~of~~ for the Accessibility Compliance Representative shall be published on the agency website.

260:15-1-6. Filing a formal complaint

(a) ~~Effective one (1) year after the effective date of this Chapter, any~~ Any individual may file a complaint alleging that a state agency or its authorized agent does not comply with electronic and information technology accessibility laws or the Information Technology Accessibility Standards.

(b) The written complaint shall be filed with the agency responsible for the information technology in question.

(c) The written complaint must:

(1) State the name, contact address and telephone number of the complainant;

(2) Identify the information technology in question; and,

(3) Describe the non-conformance with the IT Accessibility Standards in sufficient detail as to allow a thorough investigation.

(d) The agency Accessibility Compliance Representative will review the complaint, and when necessary, work with the complainant to ensure the complaint is clear and is addressed by the IT Accessibility Standards.

260:15-1-7. Processing a complaint

(a) Upon receipt, the agency Accessibility Compliance Representative will review the complaint to determine whether the

technology listed in the complaint is subject to the IT Accessibility Standards.

(b) The Accessibility Compliance Representative will send a written notice to the complainant within ten (10) business days, excluding holidays, from the receipt of the written complaint, which will include:

(1) a statement indicating whether the technology in question is or is not subject to the IT Accessibility Standards;

(2) a statement that the agency will conduct a review to confirm whether the technology in question is non-compliant, if the technology in question has been determined to be subject to the IT Accessibility Standards; and

(3) a copy of these complaint procedures.

(c) The Accessibility Compliance Representative will conduct a review within thirty (30) days from the receipt of the written complaint to determine whether the technology in question is non-compliant. ~~The Information Services Director, the Office of Management and Enterprise Services~~ The State Chief Information Officer (CIO) or a designee may assist with the review, if necessary.

(d) Upon completion of the review, the agency shall provide written notice of the results of the review to the complainant and OMES,~~the Office of Management and Enterprise Services,~~ which shall include one of the following:

(1) Documentation that the technology conforms to all applicable Standards;

(2) A documented explanation that any non conformance with the Standards was exempted due to an exception or undue burden; or

(3) An agreement in part or in whole with the written complaint that includes a plan with reasonable timelines for conforming to applicable IT Accessibility Standards.

260:15-1-8. Disagreement with final complaint response

(a) If a complainant is not satisfied with the final complaint response issued by an agency, a complaint may be refiled with the agency or with the State CIO.~~Information Services Director of the Office of Management and Enterprise Services (OMES).~~

(b) Whenever a complaint is filed with the State CIO ~~OMES and the EITA Advisory Council~~ pursuant to this section, a review team will convene to review the complaint and the agency response. Members of this team shall include a representative of the ~~IT~~ Information Services Division of OMES or a designee;~~,~~ a representative of Oklahoma ABLE Tech and may include additional members with technical expertise needed to determine conformance with the Standards.

(c) Written notice of receipt of a complaint pursuant to this section shall be sent to the complainant, within ten (10) business days, excluding holidays, from the date the complaint is filed.

(d) The review team shall evaluate the complaint and the agency response and may gather additional information as necessary to render an independent decision.

(1) If the review team determines the technology does not comply with IT Accessibility Standards, the team shall send written notice to the agency of such findings and request a plan of resolution including timelines.

(2) The team shall also send written notice of their findings to the complainant and the agency indicating an agreement or disagreement with the agency's initial complaint response. If the technology in question is out of compliance, the written notice shall also include a copy of the agency's plan for resolution.

(e) The review team must conclude this review and send the final written notice to the complainant and the agency no later than sixty (60) calendar days from the receipt of the written complaint with OMES.~~the Office of Management and Enterprise Services.~~

(f) Any actions, decisions or individual proceedings that may occur as a result of a formal complaint shall be in accordance with 75 O.S. §250 et seq.

260:15-1-9. Annual complaint report

The Appointing Authority~~appointing authority~~ shall maintain summary and statistical information about the number, nature and outcome of all formal complaints filed. A complaint report for the prior state fiscal year containing such information shall be provided to the State CIO~~Office of Management and Enterprise Services~~ on October 1 each year.

[OAR Docket #15-658; filed 6-29-15]

TITLE 260. OFFICE OF MANAGEMENT AND ENTERPRISE SERVICES CHAPTER 25. MERIT SYSTEM OF PERSONNEL ADMINISTRATION RULES

[OAR Docket #15-659]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 3. Diversity and Equal Employment Opportunity
Part 7. Civil Rights Personnel
260:25-3-75. Qualifications of civil rights personnel [REVOKED]
Subchapter 5. Position Allocation and Employee Classification System
Part 1. General Provisions
260:25-5-3. Authority and responsibility of Appointing Authorities [AMENDED]
Part 5. Audits of Positions
260:25-5-55. Forms used to describe positions [AMENDED]
Subchapter 7. Salary and Payroll
Part 1. Salary and Rate of Pay
260:25-7-1.1. Salary administration plan [AMENDED]
260:25-7-2. Salary schedule [AMENDED]
260:25-7-10. Base~~Rate~~rate of pay higher than maximum [AMENDED]
260:25-7-11. Continuous Service Incentive Plan [AMENDED]
260:25-7-14. Rate of pay upon reclassification, promotion, career progression, demotion, and transfer [AMENDED]
260:25-7-20. Market adjustments [AMENDED]
260:25-7-26. Equity-based pay adjustments [AMENDED]
260:25-7-27. Performance-based adjustments [AMENDED]
Subchapter 9. Recruitment and Selection
Part 1. General Provisions
260:25-9-6. Establishment of minimum qualifications [AMENDED]
260:25-9-9. Disqualifications [AMENDED]
260:25-9-10. Required certification of qualifications before promotions, demotions, transfers, and reinstatements [AMENDED]

Part 7. Certification
260:25-9-71. Certification methods [AMENDED]
Part 9. Classified Appointments
260:25-9-95. Appointments to noncompetitive classes [AMENDED]
260:25-9-99. Fair employment practices appointments [REVOKED]
Part 11. Direct Hire Authority
260:25-9-115 Duration of direct hire authority [AMENDED]
Part 13. Veterans Preference
260:25-9-131. Pass for cause of an absolute preference veteran [AMENDED]
Subchapter 11. Employee Actions
Part 5. Promotions
260:25-11-55. Trial period and probationary period for promoted employees [AMENDED]
Part 13. Resignations
260:25-11-132. Method of resignation [AMENDED]
Subchapter 13. Reduction-In-Force
Part 7. Priority Consideration for Reemployment
260:25-13-71. Agency priority reemployment consideration requirements [AMENDED]
Subchapter 15. Time and Leave
Part 5. Miscellaneous Types of Leave
260:25-15-43. Holidays [AMENDED]
Subchapter 17. Performance Evaluation and Career Enhancement Programs
Part 3. Employee Performance Management System
260:25-17-31. Employee performance management system [AMENDED]
Part 7. Carl Albert Public Internship Program
260:25-17-74. Undergraduate internship program [AMENDED]
260:25-17-75. Executive Fellows program [AMENDED]
260:25-17-77. Application form and procedure [AMENDED]
260:25-17-82. Carl Albert Public Internship Program; termination of internship [AMENDED]
260:25-17-84. Executive Fellows, Senior Undergraduate, Undergraduate program; conversion [AMENDED]
Subchapter 25. Oklahoma State Employees' Direct Deposit Rules
Part 3. HCM Administrative Policies and Procedures
260:25-25-35. Communication with HCM [AMENDED]
260:25-25-37. Confidential records; inspection and release of open records [AMENDED]
260:25-25-40. Complaints [AMENDED]
Subchapter 27. State Employee Child Day Care Program Rules
Part 1. General Provisions
260:25-27-9. Communications with HCM [AMENDED]
Appendix A. Pay Band Schedule [REVOKED]
Appendix B. Schedule of Annual and Sick Leave Accumulation Limits and Yearly Accruals [NEW]

AUTHORITY:
Office of Management and Enterprise Services Human Capital Management Division. 74 O.S. Section 840-1.6A; 74 O.S. Section 840-2.17; 74 O.S. Section 840-2.9; 74 O.S. Section 840-2.20; 74 O.S. Section 840-3.2; 74 O.S. Section 840-3.5; 74 O.S. 840-4.3; 74 O.S. Section 840-4.6; 74 O.S. Section 840-4.12; 740 O.S. Section 840-4.13; 74 O.S. Section 840-4.17; The Director of the Office of Management and Enterprise Services: 62 O.S. §34.28; 62 O.S. §34.3.1; 62 O.S. §34.6(8).

SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
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APPROVED BY GOVERNOR'S DECLARATION:
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n/a

INCORPORATIONS BY REFERENCE:
n/a

ANALYSIS:
The effect of the amended rules is to comply with repealed or amended statutes; add a more comprehensive and user friendly Appendix B- Schedule of Annual and Sick Leave Accumulation Limits and Yearly Accruals; allow State agencies more flexibility concerning personnel policies, practice and procedures, including greater flexibility in hiring practices and how pay adjustments are implemented; remove burdensome and unnecessary reporting requirements; simplify and eliminate unnecessary language; remove references to the Office of Personnel Management; and remove references to Title 530.

CONTACT PERSON:
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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 11, 2015:

SUBCHAPTER 3. DIVERSITY AND EQUAL EMPLOYMENT OPPORTUNITY

PART 7. CIVIL RIGHTS PERSONNEL

260:25-3-75. Qualifications of civil rights personnel [REVOKED]

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

SUBCHAPTER 5. POSITION ALLOCATION AND EMPLOYEE CLASSIFICATION SYSTEM

PART 1. GENERAL PROVISIONS

260:25-5-3. Authority and responsibility of Appointing Authorities

(a) Appointing Authorities have control of positions within their agency and have the authority to organize their agencies, to create positions, to abolish positions and to prescribe or change the duties and responsibilities assigned to any position or employee at any time. Appointing Authorities shall determine the level within a job family at which duties and responsibilities are assigned [74:840-4.3]. Appointing Authorities have the authority to reclassify employees in accordance with other provisions of the Merit Rules.

(b) Appointing Authorities are responsible for ensuring that:

~~(1) job family descriptors are reviewed at least annually and the Human Capital Management Division is notified of any recommended changes in job family descriptors;~~

(~~2~~1) managers and supervisors assign work to employees on a regular and consistent basis that conforms with the employee's classification;

(~~3~~2) employees are classified in accordance with the work they are assigned on a regular and consistent basis as an integral part of their normal job [74:840-4.3];

~~(4) managers and supervisors cooperate in position allocation audits and classification grievance audits by supplying timely and accurate information about positions being audited;~~

(~~5~~3) all records relied on by the Appointing Authority in making changes to the job family level are maintained.~~; and~~.

~~(6) each employee is given a copy of the:~~

~~(A) job family descriptor for the job family to which the position occupied by the employee is allocated if the employee requests a copy;~~

~~(B) list of accountabilities to be used in evaluating the employee's performance, as required in 260:25-17-31; and~~

~~(C) Position Description Questionnaire for the position if one exists and the employee requests a copy.~~

PART 5. AUDITS OF POSITIONS

260:25-5-55. Forms used to describe positions

(a) **Position Description Questionnaire.** The basic document for the collection of information about positions is the Position Description Questionnaire ~~(HCM—39)~~, a form prescribed by the Human Capital Management Division. This form shall be completed by the Appointing Authority or a person designated by the Appointing Authority who is familiar with the duties and responsibilities the Appointing Authority has assigned to the position to be audited. The completed form and organizational chart shall be submitted to the Human Capital Management Division according to this Section. The purpose of the Position Description Questionnaire is to help the person completing the form supply the information about a position that is needed to properly allocate the position.

~~(1) The form contains instructions for its completion and for it to be accompanied by an organization chart showing the relationship of the position to other positions.~~

~~(2) The form contains spaces for the Appointing Authority or the Appointing Authority's designee to:~~

~~(A) identify himself or herself, the position described, any employee who occupies the position, and the agency where the position is located;~~

~~(B) indicate the reasons for completion of the form;~~

~~(C) describe the position, including but not limited to duties, supervision exercised and received, decision making, work guidelines, equipment operated, personal contacts, fiscal impact of work, travel and other special requirements; and~~

~~(D) sign and date the form.~~

~~(3) The form contains spaces for any employee occupying the position to indicate having read the completed form.~~

~~(4) The form contains spaces for the Human Capital Management Division to record the:~~

~~(A) allocation of the position;~~

~~(B) staff member making the allocation; and~~

~~(C) date of the allocation.~~

(b) **Classification Dispute Review Request form.** A completed Classification Dispute Review Request form ~~(HCM 70)~~ shall be used as the basis for the allocation and assignment of a position instead of a Position Description Questionnaire if the audit is initiated as a result of a classification dispute according to 260:25-5-51. This form shall be completed by the employee who occupies the position and is the only form authorized for use in completing an audit or review of a position as a result of a classification grievance. The completed form and organizational chart shall be submitted to the Human Capital Management Division according to this Section. The purposes of the Classification Dispute Review Request form are to help the employee completing the form supply the information about his or her duties and responsibilities, to help the Appointing Authority in comparing what the employee does or has done with what the Appointing Authority wants done, and to help persons who are allocating the position or reviewing the classification of the employee to make the correct decision.

~~(1) The form contains instructions for completing the form which require it to be accompanied by an organization chart showing the relationship of the position to other positions.~~

~~(2) The form contains spaces for the incumbent employee to:~~

~~(A) identify himself or herself, the position occupied, and the agency where the position is located;~~

~~(B) indicate the reasons for completion of the form;~~

~~(C) describe his or her position, including but not limited to duties, supervision exercised and received, decision making, work guidelines, equipment operated, personal contacts, fiscal impact of work, travel and other special requirements; and~~

~~(D) sign and date the form.~~

~~(3) The form contains spaces for the Appointing Authority or a person designated by the Appointing Authority to respond to the employee's statements.~~

~~(4) The form contains spaces for the Human Capital Management Division to record the:~~

~~(A) allocation of the position or the classification of the duties and responsibilities;~~

~~(B) staff member making the decision; and~~

~~(C) date of the decision.~~

(c) **Supplemental Position Description Questionnaire.** An additional document for the collection of information about positions is the Supplemental Position Description Questionnaire ~~(HCM—39A)~~. This form is designed primarily for the collection of information concerning significant changes in the duties and responsibilities assigned to a position since it was last audited and may be used by agencies in conducting reviews related to the job family level to which a position is assigned to determine whether assignment to another level is appropriate. This form will be completed by the Appointing Authority or a person designated by the Appointing Authority who is familiar

with the duties and responsibilities the Appointing Authority has assigned or wishes to be assigned to the position. Agencies may also use other forms or methods for collecting the information needed, if desired.

SUBCHAPTER 7. SALARY AND PAYROLL

PART 1. SALARY AND RATE OF PAY

260:25-7-1.1. Salary administration plan

An Appointing Authority shall adopt a salary administration plan for the agency's classified positions and submit the plan for the approval of the Administrator. ~~The salary administration plan shall establish a hiring rate or range for each job family level within the agency's classification plan.~~ In the salary administration plan, the Appointing Authority may establish conditions under which the Appointing Authority may establish ~~a hiring rate above the midpoint of the pay band,~~ skill-based pay programs~~,~~ and other pay movement mechanisms authorized by 74:840-2.17 except performance-based adjustments. Proposed amendments to the salary administration plan may be submitted to the Administrator for approval at any time.

260:25-7-2. Salary schedule

~~(a)~~ The rate of pay of employees shall be maintained within ~~the~~ pay band structures established by the Human Capital Management Division of the Office of Management and Enterprise Services [74:840-4.6] for the job family level and kept within the established minimum and maximum rates of pay, except as provided by law or Merit Rule.

~~(b) The table in Appendix A of this Chapter lists the minimum, midpoint, and maximum annual rates of pay for each established pay band, which shall be used by Appointing Authorities in establishing hiring rates and making other decisions concerning rates of pay and individual pay adjustments~~.

260:25-7-10. Base ~~Rate~~rate of pay higher than maximum

Where the base rate of pay of an employee is higher than the maximum rate of pay for the pay band to which the job is assigned, the base rate will remain the same as long as the employee retains the present classification, but no further increases will be approved unless provided by statute.

260:25-7-11. Continuous Service Incentive Plan

(a) Appointing Authorities may implement a pay incentive plan [74:840-1.6A(11)] intended topromote continuous service within the first two years of state employment. The plan shall be limited to job families for which there are critical recruitment and retention problems as identified by the Appointing Authority.

(b) The pay incentive shall consist of scheduled periodic payments over the employee's first two years of continuous service in the targeted job families, not to exceed a total of $2,500 in any 12-month period. Payments may not be made prospectively or prorated. No payment shall be made under the plan until the employee has completed at least six months of continuous service in the targeted job family.

(c) At the discretion of the Appointing Authority, the following persons filling positions in the targeted job families may be included in the plan:

(1) Persons not currently employed in state government;

(2) Current state employees during their first two years of continuous state employment in the targeted job family; and

(3) Former state employees following a break in service of at least 30 days.

(d) Appointing Authorities who choose to implement the pay incentive shall submit a written plan to the Administrator of the ~~Office of Personnel Management~~ Human Capital Management Division and the Director of the Office of Management and Enterprise Services prior to implementation. The plan shall identify the job families to which the pay incentive will be applicable and shall document the critical recruitment and retention problems and the agency's rationale for the plan. The plan may provide for different pay incentives for different job families at the discretion of the Appointing Authority. The plan shall also identify the criteria for eligibility and shall include information concerning the funding of the pay incentive from the agency's existing budget. The plan shall be signed by the Appointing Authority, and this signature requirement may not be delegated. No payment shall be made under this Section until the plan has been reviewed and accepted by the Administrator.

260:25-7-14. Rate of pay upon reclassification, promotion, career progression, demotion, and transfer

(a) **Rate of pay when incumbent is reclassified directly.** When an employee is reclassified directly under 260:25-5-90, the rate of pay shall be fixed in accordance with 260:25-7-13.

(b) **Rate of pay upon promotion or career progression.**

(1) An Appointing Authority shall adopt objective written criteria for the amount of salary advancements on promotion or career progression. These criteria shall be a part of the agency salary administration plan established under 260:25-7-1.1 and shall be consistent with state and federal statutes prohibiting discrimination.

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

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

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

~~the employee's salary shall be raised to the minimum of the new pay band.~~

~~(C) The Appointing Authority may set the employee's salary on promotion or career progression at more than 20% of the employee's salary before promotion or career progression as long as the rate is within the hiring range established for the position in an approved salary administration plan.~~

(~~D~~3) The Appointing Authority shall not lower the salary of an employee on promotion or career progression. If the employee's salary before promotion or career progression exceeds the maximum of the new pay band, the employee's salary shall remain the same.

(c) **Rate of pay when demoted.** The rate of pay of an employee who is demoted shall be set by the Appointing Authority at any rate of pay within the pay band for the job to which demoted, which does not exceed that employee's last rate of pay. An Appointing Authority may delay setting the rate of pay upon demotion for up to **1** year when the demotion is due to an agency reorganization. For the purposes of this subsection, "agency reorganization" means the reclassification of employees in lieu of reduction-in-force.

(d) **Rate of pay upon intra-agency lateral transfer.** An Appointing Authority may provide up to a 5% increase in salary, not to exceed the maximum rate of pay for the pay band, for an employee upon intra-agency lateral transfer to a position in the same job family and level or another job family and level with the same pay band assignment, based on the needs of the agency. [74:840-2.17]

260:25-7-20. Market adjustments

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

260:25-7-26. Equity-based pay adjustments

An Appointing Authority may provide equity-based pay adjustments when employees are significantly underpaid relative to other employees performing the same or similar duties, or employees with the same role or accountabilities, in the same job family and level within the same agency. ~~Adjustments above the midpoint of the pay band require approval of the Administrator. Adjustments below the midpoint of the pay band and which are consistent with the requirements of this section may be made at the Appointing Authority's discretion.~~ An Appointing Authority may limit equity-based pay adjustments to employees rated at least "Meets Standards" on the most recent performance evaluation. ~~Such limitation must be included in the agency's approved Salary Administration Plan.~~ All eligible employees of an agency in jobs affected by an equity-based adjustment shall be given uniform treatment. No employee may receive more than one equity-based adjustment in the same job family and level in a twelve-month period.

260:25-7-27. Performance-based adjustments

(a) Performance-based adjustments enable Appointing Authorities to award a salary increase or lump sum payment to employees who have achieved an overall rating of "meets standards" or better on their most recent performance evaluation. This performance evaluation shall be conducted with the standard performance management system provided by 260:25-17-31.

(b) Appointing Authorities may adopt a performance-based adjustment program for permanent classified full-time and part-time employees pursuant to this Section. The program may allow performance-based adjustments for part-time employees on a prorated basis.

(c) In order to adopt a performance-based adjustment program, an Appointing Authority must submit a written performance-based adjustment plan to the Administrator for approval. The plan must:

(1) Indicate the manner in which the Appointing Authority intends to award performance-based adjustments, including a determination that performance-based adjustments will be awarded for overall ratings of "meets standards" and "exceeds standards," or "exceeds standards" only. ~~Performance-based adjustments shall not exceed 5% of an employee's annual salary for "meets standards" or 10% of an employee's annual salary for "exceeds standards."~~ The plan shall include~~:~~ the amount or percentage that the Appointing Authority will award to qualifying employees;

~~(A) The amount or percentage that the Appointing Authority will award to qualifying employees; or~~

~~(B) The total dollar figure the Appointing Authority intends to set aside for performance-based adjustments to be divided among qualifying employees;~~

~~(2) Identify and define the 12-month evaluation cycle to be used within the agency, such as a calendar year or fiscal year. The plan may not be amended within the evaluation cycle but may be discontinued according to paragraph (5) of this subsection;~~

(~~3~~2) Indicate whether the Appointing Authority will award performance-based adjustments as an increase to the employee's salary, a lump sum payment, or a combination thereof;

(~~4~~3) Include certification by the Appointing Authority that the agency can fund the performance-based adjustment program for the current and subsequent fiscal year without the need for additional funding; and~~and that the~~

~~plan provides for uniform treatment of all permanent classified employees of the agency who achieve a "meets standards" or "exceeds standards" except as provided in subsection (e). The Appointing Authority shall not delegate authority to sign the certification; and~~

(~~5~~4) Include a statement that the Appointing Authority may discontinue performance-based adjustments at any time should it be necessary to prevent a budget shortfall. The Appointing Authority shall notify employees of the discontinuation of the plan and the reason therefore.

(d) The performance-based adjustment plan must be approved by the Administrator before the Appointing Authority may grant performance-based adjustments to any permanent classified employee.

(e) An Appointing Authority shall not grant performance-based salary increases which cause an employee's base salary to exceed the maximum of the pay band to which the employee is assigned. [260:25-7-10] Such employees may be given performance-based salary increases up to the maximum of the pay band to which assigned and may also receive the remainder of the increase as a lump sum payment.

(f) An Appointing Authority may grant only one performance-based adjustment to any employee for any 12-month evaluation cycle. An Appointing Authority shall not award a performance-based adjustment to any employee based upon a performance evaluation which is more than one year old.

SUBCHAPTER 9. RECRUITMENT AND SELECTION

PART 1. GENERAL PROVISIONS

260:25-9-6. Establishment of minimum qualifications

The minimum qualifications established for each job family level shall constitute the entrance requirements ~~for admission to examinations~~ for classified positions. ~~If an academic requirement will be met within **1** semester or term, an applicant may be admitted to an examination and certified for employment with the condition that the applicant shall meet all requirements for the job at the time he or she reports for duty with an agency.~~

260:25-9-9. Disqualifications

(a) Except as provided in 260:25-9-131, an Appointing Authority or the Administrator may permanently or temporarily refuse to certify, disqualify or remove a person's name from a register, and additionally an Appointing Authority may request that the Administrator remove a person's name from all registers for a period of two years from the date of an incident as described in (a)(4), (a)(5) (a)(8),(a)(11), and (a)14, if:

(1) the person lacks any of the education, experience, or certification requirements for the job.

(2) the person lacks any other requirement established by Oklahoma statute or federal law for the job.

(3) the person fails any part of an Appointing Authority's background investigation.

(4) the person made a false statement of material fact in an application for employment or otherwise misrepresented himself or herself during the application process.

(5) the person has used or attempted to use political pressure or bribery to secure an advantage in the examination or appointment process.

(6) even with reasonable accommodation, the person is unable to perform the duties of the job or position(s) or is unable to do so without risk to himself or herself, the agency, or others, beyond that risk normally associated with such duties.

(7) the person has obtained information regarding examinations to which an applicant is not entitled, or the person has taken part in the development, administration, or correction of the examinations.

(8) the person is in possession of unauthorized materials or electronic device during an examination.

(9) the person has failed to submit an application correctly or within the prescribed time limits.

(10) the person has failed to maintain a record of current address at the Human Capital Management Division evidenced by the return of a letter by the U.S. Post Office, if properly addressed to the last address of record.

(11) the person has, within 2 years prior to the date of certification, been discharged for delinquency, misconduct, absenteeism, inability to perform the same type job for which applying or other disciplinary reason or has resigned in lieu of such dismissal from any public or private employer. The Appointing Authority may extend the 2-year restriction for good cause.

(12) the agency has exercised a selective qualification as established in 260:25-9-74.

(13) an individual is ineligible for employment due to citizenship or residence requirements as prescribed in 260:25-9-75.

(14) the person fails to reply to a request for an interview or fails to appear for a scheduled interview.

(b) Action initiated by an Appointing Authority under (a)(1), (a) (7), and (a) (9) of this Section shall be subject to the approval of the Administrator. Any person who is disqualified shall be notified ~~in writing~~ electronically. Applicants who have not provided an e-mail address shall be notified in writing of this action and the reason for it. At the appropriate time, the Administrator shall notify an individual of the right to appeal. The party initiating the action, whether the Administrator or an Appointing Authority, shall be independently responsible for justifying the action, for both the nature and accuracy of the supporting information, and for the retention of that information pending appeal of the action.

260:25-9-10. Required certification of qualifications before promotions, demotions, transfers, and reinstatements

(a) The Administrator shall certify that a candidate meets the necessary job qualifications of a job family level in the classified service for the purpose of allowing the candidate to be appointed. Subsections (b), (c), and (d) of this Section describe exceptions to these requirements. The Appointing

Authority shall use ~~a~~ the electronic form made available online by, or accepted by, the Administrator to request certification of qualifications. The form solicits information about the candidate's qualifications.

(b) An employee who is demoted shall meet the minimum qualifications of the lower job to which he or she is demoted unless the demotion is to a job:

(1) within the same job family, or

(2) in which the employee previously has had permanent status, or

(3) in the same job family as and below one in which he or she previously has had permanent status.

(c) Career progression promotions shall be exempt from subsection (a). The exception shall apply only after an employee has been in a lower level of the job family for an amount of time equal to the difference in the lengths of the experience requirements of the two levels. This exception shall not apply in any case to entry into a job family or where the next higher level is a supervisory position.

(d) The Administrator may delegate certification of qualifications to an Appointing Authority according to a written agreement made under Section 840-1.15 of the Act and the rules in Part 3 of Subchapter 1 regarding delegation of human resources functions.

PART 7. CERTIFICATION

260:25-9-71. Certification methods

(a) **Availability.** The Administrator shall issue certificates which include the names of eligibles whose statements of availability and qualifications match the conditions of employment specified by the Appointing Authority on the request for certification.

(b) **Work location.**

~~(1) If the work location is in the central state offices of an agency, the Administrator shall certify available eligibles on the basis of register rank only.~~

(~~2~~1) The Administrator may certify all eligibles on a register, regardless of availability, if the conditions of employment are the same for all positions in that job family within the agency.

(~~3~~2) When filling vacancies ~~outside the agency's central state office~~, an Appointing Authority may request that the Administrator issue a local certificate or certify available eligibles on the basis of score rank only. A "local certificate" is a subset of eligible applicants on a register who are residents of the locality, i.e., the county where the local office is located or said county and adjacent counties or a group of contiguous counties comprising a service area of an agency [74:840-4.13], and whose conditions of availability for a job correspond to those of the vacant position. On a local certificate, eligible applicants from the locality are ranked by examination score, including any awards of veterans preference, and are certified ahead of other available applicants who live outside the locality.

(c) **Number of names.** After receiving a request, the Administrator shall issue a certificate to the Appointing Authority. The certificate shall include the names of the top 10 available eligibles on the register for a job, plus anyone who is tied with the lowest ranked eligible within the hiring rule [74:840- 4.13]. At the request of the Appointing Authority, the Administrator may also issue additional names to be considered in accordance with 260:25-9-92.

PART 9. CLASSIFIED APPOINTMENTS

260:25-9-95. Appointments to noncompetitive classes

(a) An Appointing Authority of an agency having unskilled, semi-skilled, or similar jobs designated by the Administrator as noncompetitive, may appoint qualified veterans or non-veterans to such jobs in accordance with 260:25-9-71 and 260:25-9-92.

(b) On certificates issued for noncompetitive jobs, an Appointing Authority may appoint persons not certified by the Human Capital Management Division if the scores of such persons would place them within the hiring rule among those certified. An Appointing Authority shall not deny employment to, and pass over, an Absolute Preference Veteran except as provided in the Act, 260:25-9-92, and 260:25-9-131.

(c) Applicants for such positions may apply directly to agencies having such positions. Records of applicants shall be maintained by the Appointing Authority in accordance with U.S. Equal Employment Opportunity Commission's guidelines. The Appointing Authority shall notify the Human Capital Management Division of a noncompetitive appointment and enclose a completed application within **30** calendar days after the appointment, except for agencies with delegation authority to certify candidates for promotion, demotion, transfer or reinstatement within their agency.

260:25-9-99. Fair employment practices appointments [REVOKED]

~~(a) This Section establishes procedures for the application of the optional hiring procedure authorized by the Fair Employment Practices Act (FEPA), Section 840-4.12 (H) of the Oklahoma Personnel Act, *to employ females, blacks, Hispanics, Asian/Pacific Islanders and American Indians/Alaskan natives* [74:840-4.12(H)(2)].~~

~~(b) An Appointing Authority intending to use the optional FEPA hiring procedure shall indicate that intention on a request for certification along with the targeted group, i.e., gender or race/ethnic category. An FEPA certification shall include a regular certificate with the availability of eligibles and ranking of names determined in accordance with the regular methods described in 260:25-9-71,**Certification methods.** An FEPA certification shall also include a separate list of the names of the top**10** available members of the targeted group. The Administrator may also include additional names as alternates. The names on this separate list shall be a subset of the regular certificate, and the names on it shall be ranked in the same order as on the regular certificate. If an Appointing Authority has targeted more than one group, a separate list shall be included for each group.~~

~~(c) If the Appointing Authority makes one or more appointments using an FEPA certification, each appointment shall be in accordance with either 260:25-9-92 or the optional FEPA hiring procedure authorized by Section 840-4.12 (H) of the Oklahoma Personnel Act.~~

PART 11. DIRECT HIRE AUTHORITY

260:25-9-115. Duration of direct hire authority

(a) **Professional practice licensure positions.** An Appointing Authority who has been authorized direct hire authority for professional practice licensure positions may retain the authority indefinitely, provided:

(1) the job family or job families to which the positions have been allocated remain authorized for the agency's use by the Human Capital Management Division;

(2) the professional practice licensure requirement for the positions is not removed; and

(3) the authority is not terminated by the Administrator as provided in 260:25-9-121.

(b) **Hard-to-fill positions.** An Appointing Authority who has been authorized direct hire authority for hard-to-fill positions may retain the authority indefinitely ~~for **12** months from the date of approval by the Administrator~~ unless the authority is terminated by the Administrator as provided in 260:25-9-121. The Appointing Authority may reapply to continue direct hire authority ~~for additional **12** month periods~~ in the same manner as in the initial request.

PART 13. VETERANS PREFERENCE

260:25-9-131. Pass for cause of an absolute preference veteran

(a) An Appointing Authority who finds it necessary to pass over an Absolute Preference Veteran for cause must receive written approval from the Administrator before taking such action. Any Appointing Authority who, without prior approval, passes an Absolute Preference Veteran for cause on any certificate returned to ~~the Office of Personnel Management~~ Human Capital Management shall be required to hire the preferenced applicant, if such pass for cause is subsequently rejected by the Administrator. No offer of initial employment may be made to any applicant ranked below such veterans in the absence of this approval; such offers and any subsequent initial appointments shall be void. [74:840-4.14(A)(3)]

(b) Nothing in this Section prohibits or limits passing an Absolute Preference Veteran to hire another Absolute Preference Veteran within the hiring rule, or hiring any other eligible through means other than an initial appointment.

(c) A request to pass over or disqualify an Absolute Preference Veteran shall include a detailed written explanation and justification provided by the Appointing Authority documenting why the Appointing Authority believes:

(1) the applicant cannot be reasonably expected to satisfactorily perform at the required level of the position [74:840-4.14(A)(3)]; or

(2) it is necessary to disqualify the applicant because of 1 or more of the causes for disqualification listed in 260:25-9-9, Disqualifications.

(d) Any person who is so disqualified shall be notified in writing by the Administrator of the right to appeal.

SUBCHAPTER 11. EMPLOYEE ACTIONS

PART 5. PROMOTIONS

260:25-11-55. Trial period and probationary period for promoted employees

(a) **Trial period after intra-agency promotions.**

(1) When a classified employee is promoted intra-agency, the employee shall serve a 6 month trial period in the job to which the employee has been promoted unless the Appointing Authority waives the trial period according to the provisions of this Section. The Appointing Authority may waive the trial period at any time by giving the employee written notice of the cancellation. Waiver of the trial period makes the promotion final.

(2) If an employee does not prove to be satisfactory in the new job during the trial period, the employee shall be reinstated to the former position or another in the same job family level, at the salary the employee would have received if the promotion had not taken place. However, the reasons for denying the employee permanent status in the promotional position shall be submitted in writing to the individual before the end of the trial period and a copy filed with the Human Capital Management Division. [T]he employee shall not have the right to appeal [74:840-4.12].

(3) The promotion shall automatically become permanent at the end of the final working day of the trial period.

(4) The Appointing Authority may establish a written policy describing any agency standard for waiving the trial period and the reasons for the standard.

(b) **Trial period after interagency promotion.**

(1) An employee who is promoted interagency may, at the discretion of the receiving Appointing Authority, be required to serve a **6** month trial period in the new job only if the receiving agency has the job family from which the employee was promoted in its classification plan.

(2) The trial period may be canceled at any time, making the promotion final. Before the effective date of the promotion, the employee shall be informed in writing by the Appointing Authority whether the employee will be required to serve a trial period before such promotion becomes final. ~~The Human Capital Management Division shall be sent written notice when a trial period is required for a promoted employee.~~ The promotion shall be permanent if the Appointing Authority fails to notify the employee in writing before the effective date of the promotion that a trial period is required under this paragraph. If an employee does not prove to be satisfactory in the new job during the trial period, the employee shall be

reinstated to a position in the former job family in the same pay band for which the employee is qualified with the receiving agency, at the salary the employee would have received if the promotion had not taken place. However, the reasons for denying the employee permanent status in the promotional position shall be submitted in writing to the individual before the end of the trial period and a copy filed with the Human Capital Management Division. The promotion shall automatically become permanent at the end of the final working day of the trial period.

(c) **Statutory probationary period after intra-agency promotion.** An employee who is promoted to a job for which a probationary period is either permitted or required by Oklahoma Statutes shall be notified by the Appointing Authority of the probationary period before the effective date of the promotion. An employee shall not be required to serve a trial period after the promotion if a statutory probationary period is required.

PART 13. RESIGNATIONS

260:25-11-132. Method of resignation

To resign in good standing, an employee must give the Appointing Authority at least **14** calendar days prior notice unless the Appointing Authority agrees in writing to permit a shorter period of notice. ~~A written resignation shall be supplied by the employee to the Appointing Authority.~~ The Appointing Authority will supply the employee written confirmation of any shorter period of notice that is allowed.

SUBCHAPTER 13. REDUCTION-IN-FORCE

PART 7. PRIORITY CONSIDERATION FOR REEMPLOYMENT

260:25-13-71. Agency priority reemployment consideration requirements

(a) Before any vacant position in the classified service is filled by the initial appointment of any person from an employment register, an Appointing Authority shall request a list of the names of persons appearing on the Priority Reemployment Consideration Roster for the appropriate job family level [74:840-2.27C]. The Appointing Authority shall give such persons priority consideration for reemployment and may appoint any person whose name appears on such list regardless of rank [74:840-2.27C]. ~~Additionally, an Appointing Authority shall consider its Affirmative Action Plan in accordance with Section 840-2.1 of the Oklahoma Personnel Act and 260:25-3-31.~~

(b) An Appointing Authority may make an initial appointment from a certificate of eligibles as provided in 260:25-9-92, only after certifying in writing to the Administrator that any and all persons whose names appear on the Priority Reemployment Consideration Roster for the job family level were first given priority consideration for reemployment. This requirement does not mandate the appointment of a person from a Priority Reemployment Consideration Roster and does not apply to internal appointments and actions, such as, promotions and reinstatements.

SUBCHAPTER 15. TIME AND LEAVE

PART 5. MISCELLANEOUS TYPES OF LEAVE

260:25-15-43. Holidays

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

(b) To be eligible to receive holiday pay, an employee shall be in pay status or on furlough for the entire regularly-scheduled workday either the workday before or the workday after the holiday. An employee shall not be eligible to be paid for holidays which occur either before the employee's entry on duty date or after the last day the employee works. At the discretion of the Appointing Authority, an employee who is on unauthorized leave without pay either the day before or the day after the holiday may not be eligible for holiday pay. The receiving Appointing Authority shall pay an employee who transfers from another agency for any holidays occurring after the last day worked in the sending agency. An employee who is recalled, reemployed, or reinstated shall not be paid for any holiday occurring after the last day worked while previously employed and before entry on duty.

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

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

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

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

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

(1) Work additional hours during the same workweek;

(2) Charge to accumulated annual leave; or

(3) Record as leave without pay under 260:25-15-47.

(f) If an employee's scheduled hours worked plus holiday hours are more than 40 hours in a workweek, the Fair Labor Standards Act requires that only hours actually worked be counted as hours worked in accordance with the Fair Labor Standards Act and 260:25-7-12.

(g) For employees who are required to work in fire suppression duties on a holiday, the Appointing Authority shall pay the

employee for the holiday based on an 8-hour workday times the employee's base rate of pay at the time of payment. For employees who are required to work on a holiday in duties other than fire suppression and for employees whose day off falls on a holiday, the Appointing Authority shall either:

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

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

(h) If a holiday is rescheduled, the employee must take the rescheduled holiday after occurrence of the holiday. A rescheduled holiday may not be used to substitute for absences occurring prior to the actual holiday.

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

SUBCHAPTER 17. PERFORMANCE EVALUATION AND CAREER ENHANCEMENT PROGRAMS

PART 3. EMPLOYEE PERFORMANCE MANAGEMENT SYSTEM

260:25-17-31. Employee performance management system

(a) The Office of Management and Enterprise Services shall make available one standard performance management system that shall be used by all agencies for completing employee performance evaluations. The purpose of this employee performance management system is to evaluate the performance of each ~~classified, unclassified and exempt~~ employee in the executive branch of state government except those in the exempt unclassified service as specified in paragraphs 1 and 2 of subsection A of Section 840-5.5 and those employees employed by the institutions under the administrative authority of The Oklahoma State System of Higher Education ~~[74:840-4.17(A)]~~.

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

(1) An objective evaluation by the immediate supervisor of the performance of the employee within the assigned duties of the job. The evaluation shall contain the agency number, date of review, and employee identification number;

(2) The identification by the immediate supervisor of accountabilities and behaviors upon which the employee will be evaluated;

(3) A mid-term interview with the immediate supervisor for the purpose of discussing the progress of the employee in meeting the accountabilities and behaviors upon which the employee will be evaluated;

(4) Identification of performance strengths and performance areas for development;

(5) A final interview with the employee by the immediate supervisor who shall provide the employee with a copy of the performance evaluation; and

(6) The opportunity for the employee to submit written comments regarding the performance evaluation. ~~[74:840-4.17].~~

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

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

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

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

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

(e) The agency shall use the performance evaluations of current or former state employees in decisions regarding promotions, appointments, demotions, performance pay increases, and discharges. Reductions-in-force shall not be considered discharges ~~[74-840-4.17(F)]~~. With or without the performance evaluations the Appointing Authority can make decisions regarding demotions and discharges on current state employees if determined necessary.

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

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

~~(h) On or before each March 31st, Appointing Authorities shall report their agency's compliance withthe requirements of 74:840-4.17 to the Administrator. The report shall be conveyed~~

~~on a form prescribed by the Administrator and shall include information from the most recent annual review period used by that agency.~~

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

PART 7. CARL ALBERT PUBLIC INTERNSHIP PROGRAM

260:25-17-74. Undergraduate internship program

(a) **Eligibility.** The undergraduate internship program consists of temporary positions for students enrolled in institutions of higher education and working toward an undergraduate degree which shall include associate's degrees or certifications by the Oklahoma Department of Career and Technology Education; [74:840-3.4(A)(1)]. To be considered for eligibility determination, applicants shall have ~~completed at least 24 semester hours of coursework with~~ at least a 2.5 cumulative grade point average on a 4.0 scale. Applicants shall follow the procedures in 260:25-17-77 for eligibility determination.

(b) Conditions of employment. Participants in the Undergraduate Internship Program who receive internship appointments shall:

(1) be employed in accordance with paragraph 8 of Section 840-5.5 of Title 74 of the Oklahoma Statutes, for not more than 2 semesters or 999 hours,

(2) continue making progress toward an undergraduate degree,

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

(4) complete the training requirements described in (d)(3) of this Section.

(c) Benefits. Undergraduate interns shall not be eligible for paid leave, or health and retirement benefits.

(d) Responsibilities of appointing authorities.

(1) The Appointing Authority or designee shall ensure that the intern provides ~~written~~ verification to the Human Capital Management Division that the intern is:

(A) continuing to make progress toward an undergraduate degree during each semester employed, and

(B) maintaining the grade point average set out in (a) of this Section.

(2) If this information is not transmitted to the Human Capital Management Division within 30 days after the end of the previous semester, the Administrator shall notify and the Appointing Authority of the termination of the internship agreement in accordance with Section 260:25-17-82(a).

(3) Each Appointing Authority shall provide a minimum of 4 clock hours of job-related training for undergraduate interns during the internship~~, in addition to the training coordinated by the Administrator, and shall provide verification to the Human Capital Management Division of the completion of the training requirements~~.

260:25-17-75. Executive Fellows program

(a) **Eligibility.** An Executive Fellows Program consists of six-month to two-year placements in professional or managerial level positions for students [74:840-3.4(A)(3)]. No person is eligible to participate in the Executive Fellows program for more than 2 years. To be considered for eligibility determination, applicants shall have completed a baccalaureate degree and at least 6 semester hours of graduate level coursework with at least a 3.0 grade point average on a 4.0 scale [74:840-3.4(A)(3)] ~~or a 7.0 on a 12.0 scale in all graduate level coursework~~. Applicants shall follow the procedures in 260:25-17-77 for eligibility determination.

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

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

(A) completed an undergraduate degree, and

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

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

(c) The appointment of an Executive Fellow in accordance with subsection (b) is not effective until the Administrator or designee approves~~:~~ the waiver of the 6 semester hours of graduate level course work.

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

~~(2) an Executive Fellow agreement form prepared by the Appointing Authority in accordance with 260:25-17-77(f).~~

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

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

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

(2) be granted leave benefits commensurate with regular state employees [74:840-3.5(5)],

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

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

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

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

(f) **Responsibilities of appointing authorities.**

(1) The Appointing Authority or designee shall ensure that the intern provides ~~written~~ verification to the Human Capital Management Division that the intern is:

(A) continuing to make scholastic progress toward a graduate degree, until completion of all graduate degree requirements, and

(B) maintaining the grade point average set out in (a) of this Section.

(2) If this information is not transmitted to the Human Capital Management Division within 30 days after the end of the previous semester, the Administrator shall notify the Appointing Authority of the termination of the internship agreement in accordance with Section 260:25-17-82(a).

(3) Each Appointing Authority shall provide a minimum of 8 clock hours of job related training for Executive Fellows during each 6-month period~~, in addition to the training coordinated by the Administrator, and shall provide verification to the Human Capital Management Division of the completion of the training requirements~~.

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

260:25-17-77. Application form and procedure

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

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

(2) Applicants may apply at any time.

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

(b) **Communication with the Human Capital Management ~~Division~~.** Interested persons may direct communications to the attention of the Carl Albert Public Internship Program in accordance with 260:25-29-12.

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

(1) A completed on-line application form as prescribed by Human Capital Management ~~the Administrator~~;

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

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

(4) A Resume

(5) Verification of current enrollment.

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

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

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

(g) **State employees.** State employees may apply to participate in the Carl Albert Public Internship Program. Permanent classified and regular unclassified employees who receive internship appointments may request leave without pay from their permanent or regular employment in accordance with 260:25-15-47, Leave of absence without pay. Probationary employees and regular unclassified employees with less than 12 months continuous service shall resign before entry-on-duty as an intern.

260:25-17-82. Carl Albert Public Internship Program; termination of internship

(a) **Termination of internship agreement and separation.** An agency may continue to employ a person as an intern only during the period of the internship agreement as provided by the rules in this Part. The agency, the intern, or the Administrator may terminate the internship agreement at any time without notice. The agency may separate the intern with or without cause.

~~(b) **Voluntary exit evaluation.** Carl Albert interns may complete a confidential voluntary exit survey at the end of the internship. Survey forms provided by the Administrator shall solicit information such as program strengths and weaknesses, and recommendations for improvement.~~

(b~~c~~) **State employees; right of return and recall to previous position.**

(1) State employees leaving classified or exempt positions in state government in order to take an internship shall have the right to return to the previous position at any time during the internship or upon completion of the internship [74:840-3.5(2)].

(2) The Appointing Authority may require a state employee participant to return to the original state agency position before the internship termination date stated on the agreement form. The employee shall be notified by certified mail and given 7 calendar days to return to work. The notification shall include reasons for requiring the employee to return to work. If the employee fails to return as directed, the Appointing Authority may discipline the employee.

260:25-17-84. Executive Fellows, Senior Undergraduate, Undergraduate program; conversion

(a) **Eligibility.** An Executive Fellow, Senior Undergraduate, and Undergraduate shall be eligible for appointment to a position in the classified or unclassified service of the state and shall be deemed as meeting all other statutory requirements if the participant has:

(1) Been certified by the Appointing Authority as having successfully completed an~~2 year~~ internship ~~within a 3 year period~~; and

(2) Upon successful completion of an internship in the Undergraduate or Senior Undergraduate Internship Program or Executive Fellows Program, a participant who has met all requirements of education and experience shall be eligible for appointment to a position in the classified or unclassified service of the state and shall be deemed as meeting all other statutory requirements; ~~Met all requirements of education and experience [74:840-3.5]~~.

(b) **Direct conversion.** If there is no break in service after successful completion of an~~2 year~~ internship, the conversion to a position in the classified service shall be exempt from the:

~~(1) application and certification procedures described in 260:25-9~~,

~~(2) probationary period described in Part 3 of 260:25-11, and~~

~~(3)~~ posting requirements in Part 5 of 260:25-11,if the conversion is to a job which is consistent with the duties and responsibilities of the Executive Fellow, Senior Undergraduate, or Undergraduate internship.

(c) **Salary upon direct conversion.** If there is no break in service, the salary shall be determined in accordance with 260:25-7-3.

(d) **Probation period upon direct conversion.** If there is no break in service, the probation period may be waived by the Appointing Authority.

(~~d~~e) **Conversion following a break in service.** If the Executive Fellow, Senior Undergraduate, or Undergraduate is separated after successful completion of an~~2 year~~ internship and before being converted to the classified service, the agency shall meet the internal posting requirements of Part 5 of 260:25-11 before the person is reinstated and converted to the classified service, and may require a probationary period in accordance with 260:25-9-102.

~~(e) **Roster.** The Administrator shall maintain a roster of Executive Fellows who have submitted a written request for eligibility for appointment to a position in the classified or unclassified service of the state upon successful completion of a 2-year Executive Fellows internship. Appointing authorities or their designees may request this roster from the Office of Personnel Management. Additionally, Executive Fellows, may make application for employment directly with state agencies. The following requirements must be met before an agency may hire an Executive Fellow from the roster:~~

~~(1) The Administrator must certify that the person meets the current minimum qualifications for the job;~~

~~(2) The Administrator may require the person to pass a qualifying examination before approving a reinstatement;~~

~~(3) The date the person enters on duty in probationary status must be within 2 years after the completion of the Executive Fellows internship;~~

~~(4) The person's salary must be set in accordance with 260:25-7-3;~~

~~(5) The probationary period must be in accordance with 260:25-11-30; and~~

~~(6) The agency must meet internal posting requirements.~~

SUBCHAPTER 25. OKLAHOMA STATE EMPLOYEES' DIRECT DEPOSIT RULES

PART 3. HCM ADMINISTRATIVE POLICIES AND PROCEDURES

260:25-25-35. Communication with HCM

Section ~~530:1-1-12~~260:25-29-12 describes how to communicate with HCM about the direct deposit program. People should direct communications to the attention of the Oklahoma State Employees' Direct Deposit program according to ~~530:1-1-12~~260:25-29-12.

260:25-25-37. Confidential records; inspection and release of open records

(a) State employees supply personal information to ~~the~~ HCM or other state employers to facilitate their personal banking needs under the Act. Public disclosure of this information would be a clearly unwarranted invasion of the employees' personal privacy under Section 24A.7 (A)(2) of Title 51 of the Oklahoma Statutes. Therefore, the Administrator shall not release that information for public inspection.

(b) State employee home addresses, state employee home telephone numbers, and state employee social security numbers shall not be open to public inspection or disclosure [74:841.6A].

(c) Section ~~530:1-1-14~~260:25-29-14 contains other general standards and procedures for inspecting and copying ~~Office of Personnel Management~~ HCM records.

260:25-25-40. Complaints

Anyone may complain to the Administrator about the direct deposit system according to ~~530:1-3-5~~260:25-29-35.

However, a person shall first exhaust other procedural remedies, including those described on the automatic deposit transmittal form.

SUBCHAPTER 27. STATE EMPLOYEE CHILD DAY CARE PROGRAM RULES

PART 1. GENERAL PROVISIONS

260:25-27-9. Communications with HCM [AMENDED]

Section ~~530:1-1-12~~260:25-29-12 describes how to request information from HCM and submit information to HCM. People should direct communications about the program to the attention of the State Employee Child Day Care Program according to ~~530:1-1-12~~260:25-29-12.

APPENDIX A. PAY BAND SCHEDULE [REVOKED]

Pay Band	Minimum	Midpoint	Maximum
A*	$19,790	$18,859	$23,574
B*	$19,790	$19,108	$23,884
C*	$19,790	$20,215	$25,268
D*	$19,790	$21,793	$27,241
E*	$19,790	$23,973	$29,967
F*	$19,790	$26,370	$32,963
G	$21,756	$29,008	$36,260
H	$23,931	$31,908	$39,885
I	$26,502	$35,336	$44,170
J	$29,136	$38,849	$48,561
K	$31,848	$42,464	$53,080
L	$35,032	$46,709	$58,387
M	$38,885	$51,846	$64,808
N	$43,163	$57,550	$71,938
O	$48,342	$64,455	$80,569
P	$54,627	$72,835	$91,044
Q	$61,728	$82,304	$102,880
R	$69,753	$93,004	$116,255

*Minimum revised to reflect State employee minimum wage rate. (see 74 O.S. 840-2.16)

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

Annual and Sick Leave Accumulation Limits and Yearly Accruals [74:840-2.20(2)] Note: "Days" refers to 8-hour working days.						
	Annual Leave			Sick Leave		
Years of Cumulative Service	Yearly Accrual (days)	Yearly Accrual (Hours)	Accumulation Limit (days/hours)	Yearly Accrual (days)	Yearly Accrual (Hours)	Accumulation Limit (days/hours)
Less than 5 years	15 days/year	120 hours	30 days/240 hours	15 days/year	120 hours	No Limit
more than 5 but less than 10 years	18 days/year	144 hours	60 days/480 hours*	15 days/year	120 hours	No Limit
10 to 20 years	20 days/year	160 hours	60 days/480 hours*	15 days/year	120 hours	No Limit
Over 20 years	25 days/year	200 hours	60 days/480 hours*	15 days/year	120 hours	No Limit
*Except as provided in 260:25-15-11(b)(5) Note: Accrual rate is an hourly rate equal to the annual accrual divided by the number of work hours in the current year.						

[OAR Docket #15-659; filed 6-29-15]

TITLE 260. OFFICE OF MANAGEMENT AND ENTERPRISE SERVICES CHAPTER 45. EMPLOYEES GROUP INSURANCE DIVISION - ADMINISTRATIVE AND GENERAL PROVISIONS

[OAR Docket #15-660]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 5. Grievance Panel Authority and Hearing Procedures
260:45-5-2. Notice of hearing [AMENDED]
AUTHORITY:
The Director of the Office of Management and Enterprise Services: 62. O.S. §34.28; 62 O.S. §34.3.1
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INCORPORATIONS BY REFERENCE:
n/a
ANALYSIS:
Clarify language, eliminate obsolete language, correct omissions and streamline to promote and enhance operations , through removal of inaccurate or redundant verbiage, and to simplify language.
CONTACT PERSON:
Gary Goff, Deputy General Counsel, (405) 717-8744

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF JANUARY 1, 2016:

SUBCHAPTER 5. GRIEVANCE PANEL AUTHORITY AND HEARING PROCEDURES

260:45-5-2. Notice of hearing

Upon receipt of a Request for Hearing form, a hearing number shall be assigned thereto and notice shall be forwarded to the claims administration contractor by mail at its closest office. The employee shall be notified of the hearing date by mail with delivery confirmation. ~~by certified mail, return receipt requested.~~ A copy of all rules pertinent to the hearing shall be forwarded with the Notice, along with a statement of claimant's rights.

[OAR Docket #15-660; filed 6-29-15]

TITLE 260. OFFICE OF MANAGEMENT AND ENTERPRISE SERVICES CHAPTER 50. EMPLOYEES GROUP INSURANCE DIVISION - HEALTH, DENTAL, VISION AND LIFE PLANS

[OAR Docket #15-661]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 3. Administration of Plans
260:50-3-17. Dependents [AMENDED]
Subchapter 5. Coverage and Limitations
Part 3. The Plans
260:50-5-12. Health plan limitations and exclusions [AMENDED]
Part 5. Life Benefits
260:50-5-23. Rights of retired and vested employees to continue life insurance coverage [AMENDED]
Subchapter 7. Termination of Benefits
260:50-7-1. Termination of benefits [AMENDED]
AUTHORITY:
The Director of the Office of Management and Enterprise Services; 62 O.S. §34.3.1; 62 O.S. Section 34.6(8)
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INCORPORATIONS BY REFERENCE:
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ANALYSIS:
Clarify language, eliminate obsolete language, correct omissions and streamline to promote and enhance operations, through removal of inaccurate or redundant verbiage, and to simplify language
CONTACT PERSON:
Gary Goff, Deputy General Counsel, (405) 717-8744

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF JANUARY 1, 2016:

SUBCHAPTER 3. ADMINISTRATION OF PLANS

260:50-3-17. Dependents

Eligible dependents may be enrolled by new employees with their coverage effective concurrently with the employee's coverage if the member has signed the insurance change form requesting such coverage within the member's initial thirty [30] day enrollment period. Dependent coverage not elected at that time shall not become available until the next enrollment period. Dependents are not eligible for any coverage in which the member is not enrolled. When one eligible dependent is covered, all eligible dependents must be covered for all elected coverage. The spouse or dependent may elect not to be covered when the spouse or dependent is covered by other verifiable group health, dental or vision coverage. The member can elect not to cover dependents who do not reside with the member, are married, are not financially dependent on the member for support, have other group coverage or are eligible for Indian or military health benefits. The spouse may elect not to be covered provided a statement signed by the employee and the spouse is submitted to the Insurance/Benefits Coordinator. Dependent's benefits shall only be covered under one primary insured except in the case of dependent life.

(1) When the parent is covered by health insurance, in order for an employee to retain coverage after the first forty-eight [48] hours (vaginal delivery) or ninety-six [96] hours (caesarian delivery) for his or her own newborn child, a completed insurance change form and any appropriate premium for the month of birth must be furnished to the Insurance/Benefits Coordinator within thirty [30] days after the date of birth of the newborn. Claims incurred for inpatient hospital treatment beyond the first forty-eight [48] or ninety-six [96] hours may not be processed or paid for the newborn until the newborn has been properly enrolled in the Plan. HealthChoice newborn limited benefit: a newborn has limited coverage for a birth for the first forty-eight [48] hours following a vaginal delivery or for the first ninety-six [96] hours following a C-section delivery without an additional premium. There are no benefits for services in addition to the routine hospital stay if the newborn is not enrolled for the month of the birth and premiums are not paid for that month. A Newborn Benefit Waiver must be completed to exclude a newborn from the Newborn Benefit.

(2) Newborns must be added the first of the month of the child's birth by filling out an Insurance Change Form within thirty [30] days after birth of the newborn.

(3) When one or more eligible dependents are currently covered, the newborn must be added to the same coverage.

(4) Where a newborn is added to coverage, all other eligible dependents must be enrolled in coverage if they are not currently enrolled. A member can waive health or dental coverage for their spouse.

(5) If a member accepts newborn benefits for the birth of his or her child but does not retain coverage after the first forty-eight [48] hours (vaginal delivery) or ninety-six [96] hours (caesarian delivery) as a result of the member's failure to furnish his or her Insurance/Benefits Coordinator with a completed insurance change form and any appropriate premium for the month of the newborn's birth within thirty [30] days after the birth of the newborn:

(A) There is no additional premium for the newborn benefit.

(B) Enrollment of other eligible dependents is not required.

(6) If optional coverage is not selected until after the employee's effective date, but within the member's initial thirty [30] day enrollment period, the optional coverage will be effective the first [1st] day of the month following the date the optional coverage was selected.

(7) In the event a dependent is hospital confined on the day his health coverage would otherwise become effective, health coverage for that dependent is not effective until the day following his or her final discharge from the hospital.

(8) Eligible dependents who lose other group health, dental or vision insurance coverage may be added to the equivalent health, dental or vision coverage offered through EGID within thirty [30] days after the loss of other group insurance coverage ~~without penalty for orthodontics~~ if those dependents have been continuously covered by other group dental insurance, or have been eligible for treatment at military or Indian health facilities. Notice and proof of the loss of other coverage and termination date of other coverage must be submitted within thirty [30] days after the loss of the other coverage. At the insured's option, in order to avoid a break in coverage ~~and the application of the orthodontic limitations, coverage under~~ this Plan shall become effective on the first [1st] day of the month during which the insured actually lost previous coverage, provided the insured pays the full premium for that month. Otherwise, coverage shall become effective under this Plan on the first [1st] day of the month following notice of the loss of other coverage. ~~and any break in coverage will result in the application of the orthodontic limitations.~~

(9) Newly acquired dependents may be added if the election is made within thirty [30] days after the qualifying event, or during the annual enrollment period as established by EGID. Documentation proving the qualifying event may be required. The effective date of coverage will be the first [1st] day of the month following notification to EGID of the qualified event except for newborn or adopted dependent children.

(10) Provided all other eligibility requirements are satisfied, adopted eligible dependent children, eligible children for which guardianship has been newly granted to the insured or the insured's spouse, or eligible children of which the insured has been newly granted physical custody pending adoption, guardianship, or other legal custody, may be covered from the first [1st] day they are placed in the insured's physical custody, only upon payment of the full monthly premium for that individual, not prorated, and only after written notice has been given to EGID within thirty [30] days after obtaining physical custody. Copies of all documents relating to the matter are also required.

(11) At the insured's option, coverage for eligible dependent children newly placed in the insured's physical custody may become effective on the first [1st] day of the

second month following placement, if written notice is provided within thirty [30] days after the date of placement, or at the next option period as established by EGID.

(12) In the absence of a court order indicating adoption, guardianship, legal separation or divorce, an insured may apply for coverage on other unmarried children living with the insured provided: (1) the insured submits a copy of his most recent federal income tax return showing the child was listed as the insured's dependent for income tax deduction purposes; and (2) if the last federal income tax form requested above does not list the child, the insured shall be required to provide an Application for Coverage for Other Dependent Children form prescribed by the Plan; and (3) coverage, if approved, shall begin on the first [1st] day of the month following approval, and will never apply retroactively; and (4) all other applicable eligibility requirements must be satisfied; and (5) all necessary premiums have been paid. EGID shall have the right to verify the dependent's status, to request copies of the insured's federal income tax returns from time to time, and to discontinue coverage for such dependents if they are found to be ineligible for any reason.

SUBCHAPTER 5. COVERAGE AND LIMITATIONS

PART 3. THE PLANS

260:50-5-12. Health plan limitations and exclusions

For the health plans provided by EGID, there is no coverage for expenses incurred for or in connection with any of the items listed below:

(1) Expenses incurred prior to the effective date of an individual's coverage, or for expenses incurred during a period of confinement which had its inception prior to the effective date of an individual's coverage hereunder.

(2) Injury or any sickness which is covered under an "extended benefits" provision of the previous group health coverage, until such time as such individual has exhausted all extended benefits available thereunder.

(3) Hospitalization or other medical treatment furnished to the insured or dependent after coverage has terminated.

(4) Confinement to a facility unless approved by EGID or its designee.

(5) Medical and surgical services and supplies which are in excess of the fee schedule for such service and supply.

(6) Expenses to the extent that the insured person is reimbursed or is entitled to reimbursement; or is in any way indemnified for such expenses by or through any public program, State or Federal, or any such program of medical benefits sponsored and paid for by the Federal Government or any agency or subdivision thereof.

(7) Bodily injury or illness arising out of or in the course of any employment not specifically excluded by 85A O.S. §2 (2014)~~85 O.S. §2.1 or 2.6~~ (of the Workers' Compensation Code~~Act~~).

(8) Any treatment or procedure considered experimental or investigational. This restriction will also apply to any facility, appliance, device, equipment or medication. Clinical Trials may be eligible when certification and other criteria are met.

(9) Medical and/or mental health treatment of any kind, including hospital care, medications, or any medical care or medical equipment which is excessive or where medical necessity has not been proven.

(10) Medications available for purchase without a written prescription.

(11) Medical care and supplies for which no charge is made or no payment would be requested if the insured individual did not have this coverage.

(12) Complications from any non-covered or excluded treatments, items or procedures.

(13) Any medication, device, or procedure, not FDA approved for general use or sale in the United States.

(14) Surgical procedures or treatment performed for cosmetic or elective reasons unless such procedure is specifically included as a covered charge or is necessary as a result of an accident. Coverage must have been continuous from the date of the accident to the date of corrective surgery.

(15) Dental expenses unless incurred as the result of an accidental bodily injury to natural teeth or gums while the coverage is in effect. Coverage must have been continuous from the date of the accident to the date of corrective surgery. Broken or lost artificial teeth, bridges or dentures, are not covered.

(16) Illness, injury, or death as a result of committing or attempting to commit an assault or felony, including participation in a riot or insurrection as an aggressor.

(17) Intentionally self-inflicted injury, or for attempted suicide whether sane or insane except when the injury results from a physical or mental medical condition covered under the health plan.

(18) Wrongful act or negligence of another when an employee or dependent has released the responsible party, unless subrogation has been waived or reduced in writing in an individual case, solely at EGID's option, and only for good cause.

(19) All other conditions, services, procedures, treatments, expenses, items, and supplies excluded by EGID's benefit guidelines.

PART 5. LIFE BENEFITS

260:50-5-23. Rights of retired and vested employees to continue life insurance coverage

(a) Continuation of coverage. Any person who retires or who has elected to receive a vested benefit under the provisions of the Oklahoma Public Employees Retirement System, the Oklahoma Teachers Retirement System, the Uniform Retirement System for Justices and Judges, or the Oklahoma Law

Enforcement Retirement system or is eligible to continue in force the life insurance coverage following retirement or termination of employment with the required minimum years of service with a participating employer, or who meets each and every requirement of the State Employees Disability Plan, or the spouse or dependent of any such employee, may continue in force life benefits purchased prior to severance in a face amount of no less than one-fourth [1/4] of the basic life coverage amount in five thousand dollar [$5,000.00] increments, and the full amount of any additional life insurance that was in effect prior to the date of retirement. Said individual shall pay actuarially determined cost of such coverage and shall make such election within thirty [30] days following the date of severance. Said election to continue coverage becomes effective on the first [1st] day of the month following termination of current employment. Eligible employees may continue in force the dependent life coverage in effect at time of termination of employment in five hundred dollar [$500] increments per dependent if the member is enrolled in basic life coverage.

(b) **Decrease or termination of coverage.** Coverage may be decreased or terminated after severance from current employment, but shall not be increased or reinstated after severance, except as permitted by rule or statute.

(c) **Unavailability to retirees, vested or eligible non-vested members or dependents.** ~~accidental~~Accidental death and dismemberment and loss of sight benefits are not available to retired, vested, or eligible non-vested members or dependents.

(d) **Retirees returning to active employment.** When an individual has retired and then returns to active employment, that individual may not retain any more life insurance upon termination of active employment than the amount that was retained when the individual initially retired, unless the period of active employment is for at least three [3] years.

SUBCHAPTER 7. TERMINATION OF BENEFITS

260:50-7-1. Termination of benefits

(a) **Termination of coverage.** The coverage under this plan will terminate at the earliest time stated below:

(1) On the last day of the calendar month in which employment terminates.

(2) When the plan is discontinued.

(3) When any required premiums cease to be paid.

(4) The individual does not begin or continue coverage as an eligible participating former employee and/or dependent.

(5) For a dependent when said dependent becomes ineligible for coverage.

(6) A participating entity ceases to participate in this plan.

(b) **Representation of eligibility.** Individuals who enroll a family member in the plan are representing that the individual is eligible under the terms of the plan and must provide evidence of eligibility upon request. The plan relies upon the member's representation of eligibility in accepting the enrollment of the family member, and the intentional provision of false evidence or the failure to provide required evidence of eligibility is evidence of fraud and material misrepresentation. The intentional provision of false evidence or the failure to provide evidence of eligibility will result in disenrollment of the individual, which may be retroactive to the date as of which the individual became ineligible for plan coverage, as determined by the plan.

(c) **Rescission of coverage obtained through false information.** If material facts are submitted as a result of fraud, substantive error, inaccuracy, omission, misrepresentation, or any illegal or unauthorized activity, on any form or application for insurance coverage by or on behalf of a member or dependent, the coverage will be rescinded retroactively to the effective date. Written notice shall be sent by first class mail by EGID to the member's last known address of record no less than thirty [30] days prior to retroactive rescission of coverage. EGID reserves the right to recover the costs of any and all claims paid through such falsely obtained coverage from the ineligible member and/or dependent through all available means, at the discretion of EGID.

(d) **Dependent termination of coverage.** In addition to (a), (b), (c) and (e) of this section, the coverage terminates with respect to an individual dependent on the last day of the calendar month in which such person ceases to be an eligible dependent. ~~If a covered individual is found to be ineligible, coverage will be terminated effective on the first [1st] day of the month the coverage of the ineligible person was discovered by EGID.~~

(e) **Unlimited contestability period.** There shall be no time limitation imposed upon EGID during which coverage based on materially false information submitted to EGID can be rescinded, if it is found that information as listed above in paragraph (c) was provided in order to obtain coverage, and that such information was material to EGID providing such coverage.

[OAR Docket #15-661; filed 6-29-15]

TITLE 260. OFFICE OF MANAGEMENT AND ENTERPRISE SERVICES CHAPTER 55. EMPLOYEES GROUP INSURANCE DIVISION - THE DISABILITY PLAN

[OAR Docket #15-662]

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RULES:
260:55-1-9. Preexisting conditions [AMENDED]
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The Director of the Office of Management and Enterprise Services; 62 O.S. §34.3.1; 62 O.S. Section 34.6(8)
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ANALYSIS:
Clarify language, eliminate obsolete language, correct omissions and streamline to promote and enhance operations, through removal of inaccurate or redundant verbiage, and to simplify language.
CONTACT PERSON:
Gary Goff, Deputy General Counsel, (405) 717-8744

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF JANUARY 1, 2016:

260:55-1-9. Preexisting conditions

(a) **Unavailability of benefits due to preexisting conditions.** No benefits are payable for any disability caused by a preexisting condition.

(b) **Non-applicability of preexisting conditions.** A condition will no longer be considered preexisting after the disabled person has been actively at work at his usual job for five [5] consecutive days following the expiration of:

(1) A one hundred eighty [180] day period following the EOD date during which the employee has not received medical care, diagnosis, consultation or treatment, or taken prescribed drugs or medicines for the preexisting condition, or

(2) A three hundred sixty [~~26~~360] day period following the EOD date.

[OAR Docket #15-662; filed 6-29-15]

TITLE 260. OFFICE OF MANAGEMENT AND ENTERPRISE SERVICES CHAPTER 60. FACILITIES MANAGEMENT

[OAR Docket #15-663]

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RULES:
Subchapter 3. Use of Public Areas of Capitol and Plazas
260:60-3-2. Capitol access, operating hours and access requirements [AMENDED]
AUTHORITY:
62 O.S. §34.6; Director of the Office of Management and Enterprise Services.
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Subchapter 3. Use of Public Areas of Capitol and Plazas
260:60-3-2. Capitol access, operating hours and access requirements [AMENDED]
Gubernatorial approval:
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Register publication:
32 Ok Reg 455
Docket number:
15-10
INCORPORATIONS BY REFERENCE:
n/a
ANALYSIS:
The purpose of this proposed rulemaking action is to enhance safety and security with the State Capitol Building by prohibiting the wearing of masks or hoods that conceal the identify of the wearer. Other changes may be made to correct citations and scrivener's errors, to improve the clarity of the rules, to modernize language, and to remove redundancies.
CONTACT PERSON:
Kimberlee Williams, Deputy General Counsel, OMES, (405) 522-3615 or Kimberlee.Williams@omes.ok.gov.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 11, 2015:

SUBCHAPTER 3. USE OF PUBLIC AREAS OF CAPITOL AND PLAZAS

260:60-3-2. Capitol access, operating hours and access requirements

(a) Capitol operating hours are from 6:00 a.m. to 7:00 p.m., Monday through Friday, excluding state holidays and 9:00 a.m. to 4:00 p.m., Saturdays, Sundays and state holidays.

(b) During operating hours, the Capitol may be accessed by the public through the west entrance, the east entrance, the southeast entrance on the ground level, and the tunnel entrance on the southeast side of the Capitol.

(c) Capitol entrances are open from 6:00 a.m. to 7:00 p.m. or until one hour following adjournment of legislative session, Monday through Friday.

(d) All persons entering the Capitol shall submit to security screening requirements, including but not limited to magnetometer screening devices. Packages, briefcases, purses, and other container in the immediate possession of all persons shall be subject to inspection. For security purposes, persons may not wear masks or hoods which conceal the identity of the

wearer while in the Capitol, with the exception of minor children celebrating Halloween.

(e) After 7:00 p.m. or one hour following adjournment of the legislative session, Monday through Friday, and on Saturdays, Sundays and state holidays, persons may enter the Capitol through the west entrance only.

(1) Persons entering the west entrance of the Capitol after 7:00 p.m., Monday through Friday, and on Saturdays, Sundays and state holidays shall check in with a Capitol Patrol Officer, produce a valid form of picture identification and state their intended destination inside the Capitol.

(2) Persons shall check out with a Capitol Patrol Officer at the west entrance when exiting the Capitol.

(f) All state agencies located in the Capitol shall compile and file a list of employees who are authorized by the chief administrative officer of the agency to access the building during time periods outside of the standard hours of operation established in this subchapter with the Capitol Patrol security personnel.

(1) The list shall state the name, established location of employment in the Capitol and office telephone number for each employee on the list; and, the name and telephone number of an administrative employee of the agency for emergency contact purposes outside of the Capitol.

(2) The list shall be filed and maintained by Capitol Patrol security personnel.

(3) Information provided on the list shall be reviewed regularly and revisions filed with Capitol Patrol security personnel immediately.

(g) Persons in the Capitol and on the Capitol Complex shall at all times comply with official signs of prohibitory, regulatory, or directory nature and with the lawful direction of law enforcement and other authorized individuals.

(h) Public entrances, operating hours and access requirements for the Capitol are subject to change to ensure the health and safety of visitors and employees in the event of an emergency, disaster or other circumstances as determined by the Director.

[OAR Docket #15-663; filed 6-29-15]

TITLE 260. OFFICE OF MANAGEMENT AND ENTERPRISE SERVICES CHAPTER 75. FLEET MANAGEMENT DEPARTMENT

[OAR Docket #15-664]

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PERMANENT final adoption

RULES:
260:75-1-1. General Provisions [AMENDED]
260:75-1-2. Vehicle inventory control [AMENDED]
260:75-1-4. Use of state owned and leased vehicles [AMENDED]
260:75-1-5. ~~Service, lease and rental rates~~Rates [AMENDED]
260:75-1-6. Daily rental reservations and monthly lease assignments [AMENDED]
260:75-1-7. Fuel~~Gasoline and oil~~ purchases [AMENDED]
260:75-1-8. Wrecker service, on-the-road breakdown and repairs [AMENDED]
260:75-1-9. Other credit and cash purchases [AMENDED]
260:75-1-10. Care and maintenance of vehicles [AMENDED]

AUTHORITY:
74 O.S. Section §78; Director of the Office of Management and Enterprise Services.

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n/a

ANALYSIS:
The purpose of this rulemaking action is to streamline processes, to correct citations and scrivener's errors, and to improve the clarity of the rules. Changes were also made to reduce administrative burdens on state agencies where possible.

CONTACT PERSON:
Kimberlee Williams, Deputy General Counsel, OMES, (405) 522-3615 or Kimberlee.Williams@omes.ok.gov.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 11, 2015:

260:75-1-1. General Provisions

(a) **Definitions.** The following words or terms, when used in this Subchapter, shall have the following meaning unless the context clearly indicates otherwise:

(1) **"Administrator"** means the chief executive officer of the Division of Capital Assets Management of the Office of Management and Enterprise Services.

(2) **"Chief administrative officer"** means an individual responsible for directing the administration of a state agency. The term does not mean one or all of the individuals that make policy for a state agency.

(3) **"Class"** means compact car, medium size car, full size car, medium size station wagon, full size station wagon, police car, pickup, truck, SUV, van, bus, aircraft or motorcycle.

(4) **"Department"** means the Fleet Management Department within the Office of Management and Enterprise Services.

(5) **"Director"** means the Director of the Office of Management and Enterprise Services or his designee.

(6) **"Fleet Card"** means the card assigned to vehicles under the leasing or ownership authority of the Department for the purchase of fuel, ancillary accessories and services, and general service maintenance.

(7) **"Fleet Manager"** means the administrative head of the Fleet Management Department appointed by the Director.

(8) **"Office"** means the Office of Management and Enterprise Services.

(9) **"State agency"** means any state board, bureau, commission, department, state institution of higher education, authority, public trust, interstate commission, the Judiciary, the Legislature, and the Office of the Governor.

(10) **"VIN"** means vehicle identification number.

(11) **"Written"** or **"In writing"** means a tangible or electronic record of a document, communication or representation, including handwriting, typewriting, printing, photostating, photography, e-mail or other electronic format or record. A "signed" writing includes an electronic sound, symbol or process attached to or logically associated with a writing and executed or adopted by a person with the intent to sign the writing.

(b) **Agency authorized signatures.** A chief administrative officer shall designate in writing to the Department, the name of any person authorized to sign on behalf of the agency for the purposes of this chapter.

(c) **Waivers.** The Director may waive any requirement of this chapter unless statutes mandate the requirement.

(1) All requests for waivers shall be in writing and must include justification for the waiver request.

(2) The Office shall respond in writing as to the approval, conditional approval, or denial of a waiver request within fifteen (15) working days of receipt of the request.

260:75-1-2. Vehicle inventory control

(a) **Fleet inventory.** The Department shall maintain a current and complete inventory of all state vehicles compiled from the following:

(1) Each state agency shall maintain a current and complete inventory of the motor vehicles it owns or leases which includes the following information for each vehicle:

(A) Current agency vehicle number.

(i) Agencies that do not have a vehicle numbering system shall develop one for the purposes of this Chapter.

(ii) A state agency shall not change an established vehicle number without prior written authorization of the Fleet Manager.

(iii) Vehicle numbers shall not be reused.

(B) Make, model, class and year of all vehicles;

(C) VIN;

(D) License tag number;

(i) State assigned tag;

(ii) Confidential tag assigned, if applicable;

(E) Vehicle location; If the operator is authorized to take the vehicle home [Reference 47 O.S., Section 156.1]:

(i) the unit number of the vehicle, and the city and county where the vehicle is located must be on file; and

(ii) the operator's legal name, residence street address and telephone number shall be made available to the Department upon request;

(F) Designation of "owned", "loaned" or "leased" and the legal name and address of the vendor; and,

(G) Type of fuel used in the vehicle

(i) Original factory fuel type;

(ii) Converted fuel type, if applicable.

(2) State agencies shall also include the following information on the inventory for each motor vehicle it owns:

(A) Purchase date;

(B) Odometer reading at time of purchase; and

(C) Original cost.

(3) Each state agency shall submit written notice of the acquisition or disposal of a motor vehicle to the Department no later than fifteen (15) days after said transaction takes place. Notice of the acquisition of a vehicle shall include the information required in (1) of this subsection.

(b) **Vehicle acquisition by a state agency.** All state agencies with authority to own motor vehicles shall submit to the Department a vehicle acquisition request for approval by the Director, or delegate, not less than thirty (30) calendar days prior to the proposed purchase of any vehicle, whether or not exempt from the Oklahoma Central Purchasing Act.

(1) **Vehicle acquisition request.** The request for approval shall include a copy of the purchase order or requisition and state the following:

(A) The intended use and justification for the vehicle;

(B) Whether the vehicle is a replacement, addition, etc~~.~~;

(C) Whether the purpose of the vehicle has changed since the last replacement;

(D) Any options selected over the standard equipped vehicle with justification for the options~~.~~;

(E) The supplier of the vehicle;

(F) The agency has sufficient funds to acquire and maintain the vehicle;

(G) The statutory authority of the agency to acquire a vehicle~~.~~;

(H) Attestation of compliance with applicable alternative fuels mandates;

(I) Attestation of compliance with utilization mandate.

(2) **Director consideration.** Within fifteen (15) calendar days of receipt of a state agency request, the Director, or delegate, will review the information and send notice to the agency of the approval or denial of the acquisition.

(3) **Fleet Manager consideration.** The Director, or delegate, may request the Fleet Manager to review and verify information provided in a state agency acquisition request.

(4) **Director notification.** The Director shall provide the state agency written notice of the approval or denial of the acquisition request in the following manner:

(A) Issue a notice of approval indicating the proposed purchase is appropriate; or,

(B) Issue a notice of denial of the proposed purchase; or

(C) Issue a notice of an alternative acquisition recommendation.

(c) **Vehicle disposal.** A vehicle owned by a state agency may be sold or disposed of in the manner authorized by OAC ~~580:65~~260:105 and the Surplus Property Act, if:

(1) the vehicle has been in use for sixty thousand (60,000) miles; or

(2) at least twenty-four (24) months have elapsed since the day the purchase claim was approved for payment thereof; or

(3) the vehicle has damage of Two Thousand Five Hundred Dollars ($2,500.00) or more; or

(4) the Fleet Manager has provided written authorization to dispose of the vehicle.

(d) **Vehicle disposal procedure.** All agencies shall notify the Fleet Management Department not less than thirty (30) calendar days prior to the proposed disposal of any state-owned vehicle. The notice shall be in writing and include the following:

(1) Agency vehicle number;

(2) Reason for selling, (age, mileage, or other);

(3) Estimated value of vehicle;

(4) Type of sale (public auction, sealed bid, etc.); and

(5) Proposed date of sale.

(e) **Notification of final disposition.** All agencies shall provide written notice to the Department of the final outcome of sale within fourteen (14) calendar days after disposition, which shall include:

(1) Agency vehicle number;

(2) Selling price of vehicle;

(3) Any changes in the method of disposal;

(4) A list of any vehicle(s) not disposed of;

(5) A completed copy of the inventory report information required by (a)(1) of this section; and

(6) Any other information the Department may request to maintain accurate inventory of state vehicles.

260:75-1-4. Use of state owned and leased vehicles

(a) **State vehicle driving conditions.** Every driver of a state owned vehicle shall comply with the following conditions:

(1) A state owned or leased vehicle shall not be used for personal transportation, e.g. to stores, shopping centers, lakes, parks, golf courses, athletic events, etc.

(2) A state owned or leased vehicle shall not be used for hauling a trailer other than a trailer that is state owned or that is rented or leased for official business,; trailer's specifications cannot exceed vehicle's capabilities.

(3) All state traffic statutes, ~~traffic~~ rules and regulations shall be observed.

(4) All city ordinances related to traffic, parking, etc. shall be observed.

(5) Safe and courteous driving habits shall be used at all times.

(6) Tobacco use in state owned or leased vehicles is prohibited.

(7) Driving under the influence in state owned or leased vehicles is prohibited.

(8) Except for communication radios, use of hand-held devices while driving in state owned or leased vehicles is prohibited.

(9) Agencies will be billed for any and all repairs to, loss of value, or additional maintenance of Fleet Management vehicles occurring as a result of driver abuse, negligence, fault or undesignated vehicle use.

(10) Agencies may choose to recover the expense from the employee for any and all repairs, loss of value, or additional maintenance of state owned or leased vehicles occurring as a result of driver abuse, negligence, fault or undesignated vehicle use.

(11) Carrying alcohol, illegal drugs or weapons in state owned or leased vehicles is prohibited unless it is related to the mission of an agency.

(12) Transporting animals in state owned or leased vehicles is prohibited unless it is related to the mission of an agency.

(b) **Prohibited drivers and passengers.**

(1) Persons other than state employees shall not be permitted to drive or ride in state owned or leased vehicles, unless authorized by the using agency and then only on official state business;~~.~~

(2) State employees whose driving license has expired, or been revoked;

(3) State employees whom Risk Management Department determined as uninsurable due to non-compliance with Risk Management Rules and Statutes.

(c) **Traffic and parking violations.** ~~State owned or leased vehicles shall not be driven in excess of the speed limit posted by states and municipalities.~~ All traffic and parking violations, fines and citations shall be the sole responsibility of the driver involved.

260:75-1-5. ~~Service, lease and rental rates~~Rates

(a) **Fleet operation funding.** The Department shall fund all operation, repair, insurance, and maintenance expenses for vehicles issued.

(b) **~~Service rates~~Rates.** A lease or rental, service, and system maintenance, rates shall be set by the Department and charged to each agency to recover the costs listed in (a) of this section. A copy of these rates shall be furnished to all agencies upon request.

(c) **Notice of rate change.** If the Fleet Manager determines it is in the best interest of the State to change the lease or rental rate to ensure the recovery of expenses listed in (a) of this section, the Administrator will send written notice to the chief administrative officer of each agency or department of the new rate at least thirty (30) days prior to its effective date.

(d) **Payment due date.** Payment for Department services as authorized by 74 O.S., Section 78c. shall be paid no less than monthly to the Office.

(e) **Delinquent accounts.** State agencies that are delinquent thirty (30) calendar days or more with payment to the Office

shall be considered in arrears. Written notice of the delinquency and outstanding balance may be sent to the agency.

(1) Accounts delinquent for more than forty five (45) calendar days shall be subject to suspension by the Fleet Manager. Suspension of an account bars the agency from use of Department services until payment is received and the account is no longer in arrears.

(2) The Administrator may waive suspension if it is determined that the suspension will disrupt vital services to the public, cause undue hardship, or is otherwise in the best interest of the agency and/or the state.

(f) **Other agency expenses.** An agency that leases or rents Department vehicles is responsible for and shall pay the Department for any expenses related to the replacement, recondition, repair, or loss of value at the time of sale, of a leased or rented vehicle due to an accident or incident when the agency is found to be at fault.

(1) Unless a third party is determined to be responsible for the damage, an agency shall be responsible for up to the Department's deductible ~~of $2,500.00~~ under the Physical Damage Insurance Policy through the state Risk Management Department. If the loss is not recoverable from the third party, the leasing or renting agency shall be responsible for the Department's deductible.

(2) An agency shall be considered "at fault" and responsible for full cost of replacement, recondition, repair, or the loss of value at the time of sale, of a leased or rented vehicle, if it is determined that certain conditions contributed to the replacement or repair which include, but are not limited to, the following:

(A) failure to comply with ~~Department~~Department's care and preventative maintenance standards established in 260:75-1-10;

(B) operation of a vehicle in unsafe conditions such as continuing to operate a vehicle after serious warnings were indicated, e.g. caution light has engaged, smoke coming from under the hood, blown tire, etc.;

(C) use of a vehicle inconsistent with the performance of work related activities~~.~~;

(D) failure to comply with state traffic statutes, and regulations.

260:75-1-6. Daily rental reservations and monthly lease assignments

(a) **~~Advance~~Rental reservations.** All reservations require prior approval of the Department.

(1) An agency shall submit a written request for reservation to the Department prior to the beginning date of the reservation. An agency shall provide sufficient advance notice to ensure vehicle availability. The reservation must be submitted during the Department's business hours, Monday through Friday, excluding state holidays.

(2) The reservation shall specify the desired class of vehicle and desired date and time period for use of the vehicle. The Department may request additional information as determined necessary to facilitate the reservation.

(3) The Department may impose conditions and time limitations pursuant to the rules of this subchapter and state law.

(b) **Prioritization of reservations.** Except as otherwise provided, the Department shall issue approved reservations on a first-come, first-served basis.

(c) ~~**Fleet Management requisition.** A Fleet Management requisition form, signed by the chief administrative officer or designee shall be presented to the Department each time a vehicle is picked up for use by a state agency.~~

~~(d)~~ **Cancellations of reservation.** Written notice of cancellation shall be submitted to the Department no less than one (1) working day prior to the reservation date. An agency shall be charged the minimum daily rate for the applicable vehicle class for failure to cancel a reservation prior to the scheduled pick up time.

(~~e~~d) **Monthly lease assignments.** A written request for a vehicle to be assigned to an agency on a monthly basis shall be signed by the appointing authority of the agency or designee and include the following information:

(1) Legal name of employee assigned to the vehicle

(2) ~~Address of employee~~ Employee's state identification number

(3) Employee's work telephone number and email

(4) Official duty station of employee

(5) Type of work performed by employee

(6) Territory to be covered, and

(7) Approximate miles to be driven per month.

~~(A) The requesting agency will be advised of the approval or denial for each request.~~

~~(B) A new, signed request shall be submitted monthly to the Department between the 25th and the last working day of each month. The request shall include the name of the driver and current mileage of the vehicle.~~

(e) **New request and current lease review.**

(1) The Department may approve or deny a request based on information presented, available vehicles and funding.

(2) The Department may impose conditions and time limitations pursuant to the rules of this subchapter and state law.

260:75-1-7. Fuel~~Gasoline and oil~~ purchases

(a) **Fleet card purchases.** Fuel~~Gasoline and oil~~ for Department vehicles shall be purchased from authorized fueling locations with the state issued fleet card furnished with each vehicle.

(1) The current vendor of the state fleet card is determined by award of applicable contract.

(2) Access to a list of available fueling locations is provided by the Department.

(3) Agencies shall adhere to fleet card policies established by the ~~Director~~ Fleet Manager.

(b) **Required fuel for Department vehicles.**

(1) Unless otherwise specified in this subsection, use only regular unleaded fuel in Department vehicles. Regular unleaded fuel may be blended to contain ethanol at

levels approved by the federal Environmental Protection Agency (EPA).

(2) Department vehicles identified by marking or decal as:

(~~1~~A) "Flex-fuel" may use blended fuel up to and including eighty-five percent (85%) ethanol;

(~~2~~B) "CNG" may use compressed natural gas;

(~~3~~C) "LPG" may use liquefied petroleum gas;

(~~4~~D) "LNG" may use liquefied natural gas;

(~~5~~E) "Biodiesel" may use fuel that contains a blend of diesel fuel and biological products at a level approved by the EPA.

(~~6~~F) "Plug-in hybrid (PHEV)", "electric vehicle (EV)", "neighborhood electric vehicle (NEV)", or "low-speed vehicle (LSV)" may use electricity.

(~~7~~G) "Dual-fuel" or "bi-fuel" may use a combination of the fuel types specified in this subsection.

(3) Providing that vehicle specifications and circumstances allow, a vehicle shall be fueled with alternative fuel.

260:75-1-8. Wrecker service, on-the-road breakdown and repairs

(a) **Department fleet policies.** Agencies utilizing Department vehicles shall adhere to ~~maintenance/repair, fleet card, road assistance and accident~~ policies established by the ~~Director~~ Fleet Manager.

(b) **Agency fleet policies.** Agencies utilizing their own vehicles shall adhere to an~~y~~ agency fleet policies.

(c) **Department wrecker service.** An owning agency may contact the Department whenever towing or a service call is required in or near the Oklahoma City metro area and during the Department's working hours~~between the hours of 7:30 a.m. and 4:30 p.m., Monday through Friday, excluding holidays~~.

(d) **Private wrecker service.** In accordance with policies established by the Director, an agency utilizing Department vehicles may contact a private wrecker service whenever towing or a service call is required outside the Oklahoma City metro area, and/or after the Department's working hours~~4:30 p.m. on Monday through Friday, on weekends or holidays~~. Agencies utilizing their own vehicles may contact a private wrecker service in accordance with an~~y~~ agency fleet policies.

(e) **Driver negligence.** Agencies may be billed for any towing, impound and/or service call expenses incurred as a result of driver negligence or fault as stated in section 260:75-1-5 for agency leased and owned vehicles.

260:75-1-9. Other credit and cash purchases

(a) **Invoices.** All invoices or sales slips for expenses, for Department owned vehicles, approved by the Department shall be billed to the Department. An invoice must contain the following:

(1) Vendor's legal name, street and mailing address and telephone number;

(2) Date of purchase;

(3) Vehicle number;

(4) Quantity and cost of each item used, labor time and charge;

(5) Driver's signature; and

(6) No state sales tax shall be charged.

(b) **Cash purchases and payments.** The Department does not provide reimbursements for cash purchases. A state agency must make all authorized vehicle-related purchases in accordance with the Fleet Card procedures established by the Fleet Manager and the Director.

(c) **Invoices to other agencies.** The Department is not responsible for payment of invoices charged to any other agency.

260:75-1-10. Care and maintenance of vehicles

(a) A state agency and each driver employed by said agency shall assume the responsibility for:

(1) proper maintenance of any Department owned vehicle in its use, according to the maintenance schedule established by the ~~Director~~ Fleet Manager.

(2) proper care and repair of any Department owned vehicle in its use.

(b) A state agency and each driver employed by said agency shall assume the responsibility for proper maintenance of any agency-owned vehicle in its possession, according to the maintenance scheduled established by an agency.

[OAR Docket #15-664; filed 6-29-15]

TITLE 260. OFFICE OF MANAGEMENT AND ENTERPRISE SERVICES CHAPTER 115. PROCUREMENT

[OAR Docket #15-665]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 1. General Provisions
260:115-1-2. Definitions [AMENDED]
Subchapter 3. Supplier Provisions
260:115-3-3. Supplier registration [AMENDED]
260:115-3-17. Contract award [AMENDED]
Subchapter 5. State Agency Provisions
260:115-5-11. State agency acquisitions [AMENDED]
Subchapter 7. Procurement
Part 1. General Procurement
260:115-7-3. Methods state agencies use to make acquisitions [AMENDED]
Part 3. Requirements for Acquisitions
260:115-7-13. Acquisitions over $5,000.00 and not exceeding $25,000.00 [AMENDED]
260:115-7-15. Acquisitions over $25,000.00 and not exceeding $50,000.00 [AMENDED]
260:115-7-21. Acquisitions pursuant to a waiver
Part 7. Additional Procurement Information
260:115-7-41. Acquiring utility services [NEW]
260:115-7-46. State travel [AMENDED]
Part 9. Information Technology Acquisitions
260:115-7-54. Accessible information technology (IT) acquisitions [AMENDED]
Subchapter 9. Contract Management
260:115-9-7. State agency and supplier disputes [AMENDED]

AUTHORITY:

74 O.S. Section §85.5; Director of the Office of Management and Enterprise Services.

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ANALYSIS:
The purpose of this rulemaking action is to streamline processes, to correct citations and scrivener's errors, and to improve the clarity of the rules. Changes were also made to reduce administrative burdens on state agencies where possible.
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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 11, 2015:

SUBCHAPTER 1. GENERAL PROVISIONS

260:115-1-2. Definitions

In addition to terms defined in 74 O.S., §85.2, the following words or terms, when used in this Chapter shall have the following meaning, unless the context clearly indicates otherwise:

"Acceptable Electronic Signature Technology" means technology that is capable of creating a signature that is unique to the person using it; is capable of verification, is under the sole control of the person using it, and is linked to the data in such a manner that if the data is changed, the electronic signature is invalidated.

"Acquisition authority" means the dollar amount within which a state agency is approved to make acquisitions without submitting a requisition to the State Purchasing Director.

"Addendum" means a written modification to a contract.

"All or none bid" means a bid in which the bidder states only an award for all items or services included in the solicitation will be accepted.

"All or none solicitation" "performance bond" means a solicitation in which the state indicates it will award a contract to a single supplier for all items or service included in the solicitation.

"Alteration" means a modification a bidder makes to a solicitation response prior to the response due date.

"Alternate bid" or **"alternative bid"** means a bid or proposal, which contains an intentional substantive variation to a basic provision, specification, term or condition of the solicitation.

"Amendment" means a written change, addition, correction, or revision to a solicitation made by the state agency responsible for making the acquisition.

"Authorized signature" means a manual, electronic or digital signature or other identifier uniquely linked to a person authorized to sign documents the supplier submits to the State Purchasing Director.

"Bid bond", or **"surety"** means a form of surety or guaranty that the State Purchasing Director may require bidders to submit with a bid.

"Bidder" means an individual or business entity that submits a bid or proposal in response to an invitation to bid or a request for proposal. [74 O.S. §85.2] When used in this Chapter, bidder is synonymous with a "supplier" or "vendor" responding to a solicitation.

"Business days" means Monday through Friday and is exclusive of weekends and Oklahoma state holidays.

"Central Purchasing Division" means the Central Purchasing Division of the Office of Management and Enterprise Services.

"Certified Procurement Officer" or **"CPO"** means a state agency procurement official certified as a procurement officer or analyst by the State Purchasing Director under the provisions of the Oklahoma Central Purchasing Act.

"Chief Information Officer" means the chief administrative officer of the Information Services Division of the Office of Management and Enterprise Services.

"Clarification" means a bidder's explanation of all or part of a bid that does not change, alter or supplement the bid.

"Closing date/time" means the date and Central ~~Standard time~~Time a solicitation specifies responses are due.

"Commodity classification" means numeric designations the State Purchasing Director assigns to classify goods and services into similar categories.

"Competitive solicitation" means a process for acquiring goods or services wherein bidders submit bids to the Central Purchasing Division or a state agency pursuant to terms, conditions and other requirements of a solicitation. The competitive solicitation process may be electronic when the terms of the solicitation expressly permit electronic submission and the requirements of applicable statutes and rules are met.

"Days" means calendar days unless otherwise specified.

"Debar" or **"debarment"** means action taken by the State Purchasing Director to exclude any business entity from inclusion on the Supplier List, bidding, offering to bid, receiving an award of contract with the State of Oklahoma for acquisitions by state agencies or a contract the Office of Management and Enterprise Services awards or administers and may also result in cancellation of existing contracts with the State of Oklahoma.

"Director" or **"OMES Director"** means the Director of the Office of Management and Enterprise Services or his designee.

"Electronic Signature" means an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record. Unless otherwise provided by this Chapter or law, an electronic signature may be used to sign a document and shall have the same force and effect as a written signature.

"Emergency acquisition" means an acquisition made by the State Purchasing Director or a state agency without seeking competitive bids to relieve an unforeseen condition believed to place human life or safety in imminent danger or threaten significant property interests with imminent destruction; or, is a condition certified by the Governor as a serious environmental situation. [Reference 74 O.S. §85.7]

"Firm bid" means an offer by a bidder which contains no conditions which may prevent acceptance and which, by its terms, remains open and binding until the State Purchasing Director accepts or rejects the bid.

"Fiscal year" means the period of time from July 1 of a calendar year through June 30 of the succeeding calendar year.

"Forms" means documents the OMES Director prescribes and requires suppliers and state agencies to use to provide information to OMES.

"Indefinite quantity contract" means a contract the State Purchasing Director, CIO, or a state agency establishes based on historical usage of a service or product rather than a specified quantity of said service or product and which does not obligate the State to purchase any certain amount.

"Information Services Division" means the Information Services Division of the Office of Management and Enterprise Services.

"Information technology" or **"IT"** means any electronic information equipment or interconnected system that is used in the acquisition, storage, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of data or information, including audio, graphic, and text. [62 O.S. §34.29]

"Invitation to bid" or **"ITB"** means a type of solicitation a state agency or the State Purchasing Director sends to suppliers to request submission of bids by suppliers for acquisitions.

"Material deficiency" or **"material deviation"** means a supplier's failure to provide information necessary to evaluate a solicitation.

"Minor deficiency" or **"minor informality"** means an immaterial defect in a bid or variation in a bid from the exact requirements of a solicitation that may be corrected or waived without prejudice to other bidders. A minor deficiency or informality does not affect the price, quantity, quality, delivery or conformance to specifications and is negligible in comparison to the total cost or scope of the acquisition.

"Non-collusion certification" means a certification submitted by a supplier with any competitive bid or contract executed by the state for goods or services in accordance with 74 O.S. §85.22.

"Non-responsive" means a bid or proposal that has been determined not to conform to essential requirements of a solicitation.

"Oklahoma Central Purchasing Act" means 74 O.S. §§85.1 et seq.

"Oklahoma Correctional Industries" or **"OCI"** means a program of the State Department of Corrections for utilization of inmate labor for the manufacture or production of items or products for use by state agencies.

"Oklahoma Information Technology Accessibility Standards" or **"IT Accessibility Standards"** means the accessibility standards adopted by the Office of Management and Enterprise Services, to address all technical standard categories of Section 508 of the Rehabilitation Act (29 U.S.C. 794d), as amended by the Workforce Investment Act of 1998 (P.L. 105-220, August 7, 1998) to be used by each state agency in the procurement of information technology, and in the development and implementation of custom-designed information technology systems, web sites, and other emerging information technology systems.

"Office of Management and Enterprise Services" or **"Office"** or **"OMES"** means the Oklahoma Office of Management and Enterprise Services.

"Online Bidding" means an electronic procurement process in which state agencies receive bids from vendors for goods, services, construction, or information services over the Internet or other electronic medium in a real-time, competitive bidding event.

"Procurement" means buying, purchasing, renting, leasing, or otherwise acquiring any goods or services. The term also means all functions that pertain to the obtaining of any goods or services, including, but not limited to, the description of requirements, selection, and solicitation of sources, preparation and award of contracts, and all phases of contract administration.

"Ratification of an unauthorized commitment" means the act of approving an unauthorized commitment made by a state agency and the written agreement documenting the approval.

"Reciprocity" means a preference, which the State Purchasing Director or state agency shall apply against the price submitted for an acquisition by an out-of-state bidder whose home state applies a similar preference against Oklahoma bidders.

"Registered supplier" means a supplier that registers with the Central Purchasing Division pursuant to 74 O.S. §85.33.

"Remedy" means to cure, alter, correct or change.

"Request for information" or **"RFI"** means a non-binding procurement practice used to obtain information, comments, and feedback from interested parties or potential suppliers prior to issuing a solicitation.

"Request for proposal" or **"RFP"** means a type of solicitation a state agency or the State Purchasing Director provides to suppliers requesting submission of proposals for acquisitions.

"Request for quotation" or **"RFQ"** means a simplified written or oral solicitation a state agency or the State Purchasing Director provides to suppliers requesting submission of a quote for acquisitions.

"Requisition number" means an identifier the state agency or OMES assigns to a requisition.

"Requisitioning unit" means the unit in a state agency responsible for making acquisitions.

"Responsible supplier" means a supplier who demonstrates capabilities in all respects to fully perform the requirements of a contract that may include, but may not be limited to, finances, credit history, experience, integrity, perseverance, reliability, capacity, facilities and equipment, which will ensure good faith performance.

"Responsive" means a bid or proposal that has been determined to conform to the essential requirements of a solicitation.

"Reverse Auctioning" means a procurement method wherein pre-qualified bidders are invited to bid on specified goods or services through real-time electronic bidding, with the award being made to the lowest responsive and responsible bidder. During the bidding process, bidders' price positions are revealed and bidders shall have the opportunity to modify their bid prices for the duration of the time period established by the solicitation.

"Scheduled acquisition" means a recurring acquisition that consolidates multiple state agency requirements for a given commodity or group of commodities.

"State official" means a person that works for a department, state agency, trusteeship, authority, school district, fair board, advisory group, task force or study group supported in whole or in part by public funds or administering or operating public property.

"State Purchasing Director" means the director of the Central Purchasing Division of the Office of Management and Enterprise Services appointed by the OMES Director; and, includes any employee or agent of the State Purchasing Director, acting within the scope of delegated authority. [74O.S. §85.2] Unless otherwise stated, the term includes employees of the Central Purchasing Division and state agency purchasing officials certified by the State Purchasing Director to which the State Purchasing Director has lawfully delegated authority to act on his or her behalf. In regards to the procurement of information technology or telecommunications, the term means the Chief Information Officer of the Office of Management and Enterprise Services.

"State Use Committee" means the statutory Committee that certifies severely disabled individuals and sheltered workshops as qualified organizations to contract with the state to provide products and services, which are designated in the State Use Committee procurement schedule for state agency acquisitions pursuant to 74 O.S. §§ 3001 et seq.

"Statement of Work" means a detailed description of the work which a state agency requires a contractor or supplier to perform or accomplish.

"Supplier" or **"vendor"** means an individual or business entity that sells or desires to sell acquisitions to state agencies [74 O.S. §85.2].

"Supplier ~~complaint" or "~~performance evaluation" means information a state agency or ~~the~~ OMES Procurement provides to the State Purchasing Director, in a manner the OMES Director prescribes, that documents the quality of service or products provided by a supplier.

"Supplier registration" means a process a supplier uses to register with the Central Purchasing Division to automatically receive solicitations based on a commodity class for a specified period of time.

"Supplier List" means a list of individuals or business entities that have registered with the Central Purchasing Division in order to receive notification of solicitations for commodities specified in their registration application.

"Suspension" means an action by the State Purchasing Director to suspend a supplier's authority to be included on the Supplier List, be eligible to submit bids to state agencies and be awarded a contract by a state agency subject to the Central Purchasing Act.

"Utility service" or **"utilities"** means a public service furnishing electricity, natural gas, water, or sewage.

SUBCHAPTER 3. SUPPLIER PROVISIONS

260:115-3-3. Supplier registration

(a) **Purpose.** Unless otherwise specified, supplier registration pursuant to this section provides a supplier with automatic notification of bid opportunities but is not required for a supplier to respond to a solicitation. Supplier registration is required for any supplier selected for award or renewal of a contract pursuant to the Central Purchasing Act and these rules. For the purposes of this section, "State Purchasing Director" does not include personnel of state agencies to whom the State Purchasing Director has delegated authority.

(1) Suppliers may be required to prequalify for the purpose of responding to online solicitations.

(2) Suppliers shall prequalify in accordance with procedures established by the State Purchasing Director.

(b) **Registration.** A supplier may apply for registration online ~~and pay a registration fee,~~ as established by 74 O.S. 85.33, for each commodity class listed in the registration application, to be placed on the Supplier List for a one-year period. Registered suppliers ~~shall~~are to be notified by the Central Purchasing Division or by non-exempt state agencies pursuant to applicable laws and rules, of solicitations for each commodity class for which a supplier registers. The State Purchasing Director shall not place a supplier on the Supplier List if the supplier provides incomplete registration information or if the State Purchasing Director, in his or her sole discretion, determines the supplier is not a responsible supplier.

(c) **Registration fee.** A registered supplier may renew a registration ~~and pay an annual registration fee~~ prior to the expiration date of the supplier's current registration in order to remain on the Supplier List. The Office of Management and Enterprise Services shall not refund supplier registration fees.

(d) **Voluntary removal from Supplier List.** A supplier may submit a written request to the Central Purchasing Division to request to be removed from the Supplier List for a commodity.

260:115-3-17. Contract award

(a) **Time of award.** The contract award shall be made upon completion of bid evaluation and associated administrative tasks necessary to complete the acquisition. State agency personnel shall not announce or reveal their decision regarding supplier evaluation or recommendation for award in any public manner or forum, until the State Purchasing Director has issued the award of contract.

(b) **Reasons for bid rejection.** The State Purchasing Director may reject a bid when the bid is determined to be non-responsive or the bid is from a supplier who is not responsible, for reasons included, but not limited to, those listed in Section ~~16-7-32~~260:115-7-32.

(c) **Notification of successful bidder.** The State Purchasing Director shall notify the successful bidder within five (5) business days of the contract award.

(d) **Public inspection.** The evaluation documentation shall be open for public inspection, upon request, following contract award.

SUBCHAPTER 5. STATE AGENCY PROVISIONS

260:115-5-11. State agency acquisitions

(a) A state agency shall submit a requisition to the State Purchasing Director for each of its acquisitions, whenever:

(1) the agency does not have a CPO and/or approved internal purchasing procedures pursuant to the requirements of ~~260:16-5-3~~260:115-5-3 and ~~260:16-5-7~~260:115-5-7 and an acquisition exceeds Five Thousand Dollars ($5,000.00);

(2) the agency's acquisition authority has been reduced by the OMES Director and the acquisition exceeds the dollar amount of the reduced acquisition authority; or,

(3) an acquisition exceeds the state agency's acquisition authority.

(b) OMES may contract with a state agency for the services of qualified personnel to assist or conduct purchasing activities for the agency upon written request by the agency or in the event the State Purchasing Director determines the needs of the agency are such to require qualified procurement personnel. [Reference 74 O.S. §85.3] The state agency shall reimburse administrative costs to OMES for the services of employees necessary to provide procurement services pursuant to this subsection.

SUBCHAPTER 7. PROCUREMENT

PART 1. GENERAL PROCUREMENT

260:115-7-3. Methods state agencies use to make acquisitions

State agencies shall make acquisitions using a method of acquisition in this section.

(1) **State Use Committee.** State agencies shall make acquisitions from suppliers on the State Use Committee procurement schedule regardless of the acquisition purchase price if the supplier's delivery date meets state agency requirements. State Use Committee contracts are mandatory contracts to the extent a fair market value has been established. State agencies shall utilize the State Use Committee procurement schedule to ensure all acquisitions are made pursuant to 74 O.S. §§ 3001 et seq. If an acquisition is available from both the State Use Committee procurement schedule and the Oklahoma Correctional Industries, the state agency shall make the acquisition from the State Use Committee procurement schedule.

(2) **Statewide Contracts.** The State Purchasing Director shall designate statewide contracts as mandatory or non-mandatory.

(A) **Mandatory statewide contract.** The State Purchasing Director may designate a statewide contract for mandatory use. State agencies shall make acquisitions from mandatory statewide contracts regardless of the acquisition purchase price. A state agency may submit a written request to the State Purchasing Director to waive requirements for a state agency's use of a mandatory statewide contract for acquisitions. The State Purchasing Director shall grant exceptions prior to a state agency making the acquisition from another supplier.

(B) **Non-mandatory statewide contracts.** State agencies are encouraged to use non- mandatory statewide contracts. Whenever a state agency acquires a product or service from an alternate source, the acquisition shall be made in accordance with the Central Purchasing Act, the rules of this chapter and any other laws and rules applicable to the acquisition.

(3) **Oklahoma Correctional Industries.** If an acquisition is not available from the State Use Committee within the time period required by the purchasing state agency or if it does not have an established fair market value, state agencies shall make acquisitions from the Oklahoma Correctional Industries pursuant to 57 O.S. §549.1 or statewide contracts as follows:

(A) If a state agency determines in the acquisition of a product or service within the agency's acquisition authority, the product or service is available from OCI and is the lowest and best offer, the agency may place a direct order with OCI without competitive bidding. If an acquisition is competitively bid, the award shall be made to OCI upon determination that OCI is lowest and best.

(B) For an acquisition exceeding an agency's procurement authority, the agency may place a direct order with OCI or submit a requisition to OMES for issuance of a solicitation to include OCI as a vendor. The award shall be made to OCI if such product or service is the lowest and best bid.

(C) If Oklahoma Correctional Industries is unable to meet state agency requirements for an acquisition, Oklahoma Correctional Industries shall certify to the

State Purchasing Director that it is not able to provide products.

(D) If the State Purchasing Director determines that a product or service the Oklahoma Correctional Industries produces does not meet the reasonable state agency requirements, the State Purchasing Director shall notify Oklahoma Correctional Industries.

(E) If Oklahoma Correctional Industries disagrees with the State Purchasing Director, the OMES Director shall resolve the issue.

(4) **Standard contracts.** State agencies may make acquisitions within their approved acquisition authority limit, pursuant to provisions of the Oklahoma Central Purchasing Act, rules of this Chapter, any other applicable laws or rules, and the agency's approved internal purchasing procedures. The most common types of acquisitions include:

(A) **Contract for definite quantity.** If a state agency is able to establish a definite quantity of items or services for an acquisition, the State Purchasing Director or the state agency may establish a contract for acquisition by the state agency.

(B) **Contract for indefinite quantities.** If an agency is unable to establish a definite quantity of items or services for an acquisition, the State Purchasing Director or the state agency may establish a contract for an indefinite quantity of items or services.

(C) **Contract for scheduled acquisitions.** When a state agency's needs for certain items are compiled (aggregated) and purchased in bulk at predetermined intervals, the State Purchasing Director or the state agency may establish a contract for scheduled acquisitions. The intervals shall be established in accordance with market characteristics or using agency consumption patterns, with consideration of seasonal factors and warehousing facilities. A schedule shall be developed for particular commodities monthly, quarterly, or annually. If a contract for scheduled acquisitions is established for a state agency, the state agency shall not make open market purchases for the same commodity or group of commodities.

(5) **Sole source and sole brand acquisitions.**

(A) State agencies with a CPO and approved internal purchasing procedures meeting the requirements of 260:115-5-3 and 260:115-5-7, may make a sole source or sole brand acquisition within the agency's acquisition authority. [Reference: 74 O.S. §85.45j]

(B) The chief administrative officer of any state agency not utilizing the State's financial and information system for acquisitions shall submit to the State Purchasing Director a monthly listing of all sole source and sole brand acquisitions exceeding Five Thousand Dollars ($5,000.00) executed by the state agency in the preceding month pursuant to the Oklahoma Central Purchasing Act. The monthly list shall be submitted on a form prescribed and approved by the State Purchasing Director.

(C) If the sole source or sole brand acquisition amount exceeds the agency's acquisition authority, the agency shall submit the requisition to the State Purchasing Director.

(6) **Emergency acquisition.** State agencies with a CPO and approved internal purchasing procedures meeting the requirements of 260:115-5-3 and 260:115-5-7, may make an emergency acquisition in accordance with 74 O.S. §85.7.

(7) **Acquisitions from other governmental agencies.** A state agency may contract with any other department of state government or institution pursuant to 74 O.S. §581 or §1001 through §1008. A state agency may contract with any "public agency" pursuant to 74 O.S.§1001 through §1008, which includes a political subdivision of this state or another state, and any agency of this state or of the United States. Acquisitions shall not be made for the purpose of evading competitive bidding requirements, provisions of the Oklahoma Central Purchasing Act, rules of the Purchasing Division or provisions related to the State Use Committee.

(8) **Acquisition pursuant to waiver.** If the OMES Director approves a state agency's request for a waiver pursuant to ~~260:16-1-12~~260:115-1-6, a state agency with a CPO and approved internal purchasing procedures meeting the requirements of 260:115-5-3 and 260:115-5-7 may make the acquisition for which the waiver was approved, within their approved purchasing authority limit.

PART 3. REQUIREMENTS FOR ACQUISITIONS

260:115-7-13. Acquisitions over $5,000.00 and not exceeding $25,000.00

(a) **Basic Requirements.** State agencies that have an internal CPO or a designated CPO through an interagency agreement and approved internal purchasing procedures pursuant to the requirements of 260:115-5-3 and 260:115-5-7 shall make acquisitions over $5,000.00 and not exceeding $25,000.00 pursuant to this section.

(b) **Acquisition Preparation.** The state agency shall prepare and document the state agency's specifications and all information required from the supplier for an acquisition. An agency shall choose an appropriate solicitation methodology, i.e. formal or informal competitive solicitation, based on the complexity of an acquisition.

(c) **Supplier selection.**

(1) The state agency shall solicit from a minimum of three (3) registered suppliers (if available) for acquisitions over $5,000.00 and not exceeding $10,000.00 and ten (10) registered suppliers for acquisitions over $10,000.00 and not exceeding $25,000.00, from the Supplier List in the appropriate commodity classification. Selection of suppliers shall be rotated whenever more than ten (10) suppliers are registered.

(2) State agencies shall solicit prices and delivery dates by mail, telephone, facsimile or by means of electronic commerce.

(3) The state agency shall make a written evaluation of criteria considered in selection of the supplier for the acquisition. Documentation of prices, delivery dates and the evaluation shall be placed in the acquisition file.

(4) All awards shall be based on lowest and best or best value criteria.

(5) Certifications, verifications and other required documents.

(A) **Non-collusion certification.** Pursuant to requirements in 74 O.S. §85.22, a non- collusion certification shall be included with any competitive bid and/or contract submitted to the State for goods or services. The certification shall have an authorized signature of the supplier certifying the non-collusion statement with full knowledge and acceptance of all its provisions.

(B) **Sales Tax Permit Verification.** Prior to the award of a contract, the state agency must verify that the supplier has obtained a current sales tax permit in accordance with the laws of Oklahoma. Documentation of verification of a current sales tax permit, which must be a copy of the sales tax permit, the vendor's explanation of exemption, or confirmation of the permit's status obtained from the Oklahoma Tax Commission, must be filed in the acquisition file.

(C) **Certifications for services contracts.** Additional documents required to be included in contracts for professional or nonprofessional services include:

(i) If the final product of a professional services contract is a written proposal, report or study, the supplier shall include a statement certifying that the supplier has not previously provided a substantial duplication of the final product to the state agency or another state agency. [Reference 74 O.S. §85.41]

(ii) An acquisition for professional or nonprofessional services must include statutory language required by the Oklahoma Central Purchasing Act as a term of the requisition or contract and must be signed by the chief administrative officer of the agency or the chief administrative officer of the requisitioning unit certifying compliance with the Act. [Reference 74 O.S. § 85.4]

(iii) Each contract for services shall include a statement certifying that no person who has been involved in any manner in the development of that contract while employed by the State of Oklahoma shall be employed to fulfill any of the services provided for under said contract. [Reference 74 O.S. §85.42]

(D) **Bonds and sureties.** The solicitation may require bidders to submit a bid bond, performance bond, or other type of approved surety with the bid.

(i) **Form of bond.** The bid bond, performance bond or other type of surety shall be subject to the approval of the State Purchasing Director. For bonds requiring a cash deposit, the amount specified by the State Purchasing Director shall be paid by certified check or cashiers check.

(ii) **Irrevocable letter of credit.** In lieu of bonds specified in this subsection, the State Purchasing Director may approve submission of an irrevocable letter of credit.

(iii) **Bond or surety return.** When the State Purchasing Director specifies a bid contain a bid bond, performance bond, or other type of surety, the State Purchasing Director shall retain the bond or surety until the successful completion of the purpose for which the bond or surety was drawn.

260:115-7-15. Acquisitions over $25,000.00 and not exceeding $50,000.00

(a) **Basic requirements.** State agencies that have an internal CPO or a designated CPO through an interagency agreement and approved internal purchasing procedures pursuant to the requirements of 260:115-5-3 and 260:115-5-7 shall make acquisitions exceeding $25,000.00 but not exceeding $50,000.00 in accordance with this section, by means of a formal method of competitive solicitation, i.e. sealed bid solicitations.

(b) **Acquisition preparation.** The state agency shall prepare and document the state agency's specifications for an acquisition. The state agency shall provide the specifications, terms and conditions for the acquisition to each supplier selected for notification. Whenever the state agency issues a solicitation for acquisition by invitation to bid or request for proposal, the ~~solicitation~~agency shall ~~also include~~develop evaluation criteria for the acquisition prior to bid opening.

(c) **Supplier selection.**

(1) The state agency shall solicit all registered suppliers in the appropriate commodity classification from the Supplier List along with any other suppliers identified by the state agency. Suppliers that have been suspended or debarred by the State Purchasing Director or the Federal government shall not be awarded a contract.

(2) State agencies shall solicit prices and delivery dates by means of sealed bid using mail or electronic commerce. The suppliers shall provide pricing and delivery dates in accordance with the requirements of the solicitation.

(3) The state agency shall make a written evaluation of criteria considered in selection of the supplier for the acquisition. The written evaluation shall be placed in the acquisition file. When a selection has been made, the state agency shall notify the supplier of the award.

(4) All awards shall be based on lowest and best or best value criteria.

(5) Certifications, verifications and other required documents.

(A) **Non-collusion certification.** Pursuant to requirements in 74 O.S. §85.22, a non-collusion certification shall be included with any competitive bid and/or contract submitted to the State for goods or services. The certification shall have an authorized signature of the supplier certifying the non-collusion

statement with full knowledge and acceptance of all its provisions.

(B) **Sales Tax Permit Verification.** Prior to the award of a contract, the state agency must verify that the supplier has obtained a current sales tax permit in accordance with the laws of Oklahoma. Documentation of verification of a current sales tax permit, which must be a copy of the sales tax permit, the vendor's explanation of exemption, or confirmation of the permit's status obtained from the Oklahoma Tax Commission, must be filed in the acquisition file.

(C) **Certifications for services contracts.** Additional documents required to be included in contracts for professional or nonprofessional services include:

(i) If the final product of a professional services contract is a written proposal, report or study, the supplier shall include a statement certifying that the supplier has not previously provided a substantial duplication of the final product to the state agency or another state agency. [Reference 74 O.S. §85.41]

(ii) An acquisition for professional or nonprofessional services must include statutory language required by the Oklahoma Central Purchasing Act as a term of the requisition or contract and must be signed by the chief administrative officer of the agency or the chief administrative officer of the requisitioning unit certifying compliance with the Act. [Reference 74 O.S. §85.4]

(iii) Each contract for services shall include a statement certifying that no person who has been involved in any manner in the development of that contract while employed by the State of Oklahoma shall be employed to fulfill any of the services provided for under said contract. [Reference 74 O.S. §85.42]

(D) **Bonds and sureties.** The solicitation may require bidders to submit a bid bond, performance bond, or other type of approved surety with the bid.

(i) **Form of bond.** The bid bond, performance bond or other type of surety shall be subject to the approval of the acquiring state agency. For bonds requiring a cash deposit, the amount specified by the acquiring state agency shall be paid by certified check or cashiers check.

(ii) **Irrevocable letter of credit.** In lieu of bonds specified in this subsection, the acquiring state agency may approve submission of an irrevocable letter of credit. (iii)Bond or surety return. When the acquiring state agency specifies a bid contain a bid bond, performance bond, or other type of surety, the state agency shall retain the bond or surety until the successful completion of the purpose for which the bond or surety was drawn.

(E) **Verification of registration and status with Secretary of State.** Prior to the award of a contract, the acquiring state agency must verify, pursuant to applicable provisions of law, that the supplier is registered with the Secretary of State and franchise tax payment status pursuant to 68 O.S. §1203 and §1204.

260:115-7-21. Acquisition pursuant to a waiver

If the OMES Director approves a state agency's request for a waiver [Reference ~~260:115-1-12~~260:115-1-6], a state agency with a CPO and approved internal purchasing procedures as required by 260:115-5-3 and 260:115-5-7, may make the acquisition for which the waiver was approved, within their approved purchasing authority limit. When an acquisition is made pursuant to a waiver, the State Purchasing Director:

(1) may select a supplier or group of suppliers to notify using telephone, facsimile or electronic commerce;

(2) shall obtain the following certifications, verifications and other required documents, as applicable, from the supplier selected for contract award:

(A) **Non-collusion certification.** Pursuant to requirements in 74 O.S. §85.22, a non-collusion certification shall be included with any competitive bid and/or contract submitted to the State for goods or services. The certification shall have an authorized signature of the supplier certifying the non-collusion statement with full knowledge and acceptance of all its provisions.

(B) **Sales Tax Permit Verification.** Prior to the award of a contract, the state agency must verify that the supplier has obtained a current sales tax permit in accordance with the laws of Oklahoma. Documentation of verification of a current sales tax permit, which must be a copy of the sales tax permit, the vendor's explanation of exemption, or confirmation of the permit's status obtained from the Oklahoma Tax Commission, must be filed in the acquisition file.

(C) **Certifications for services contracts.** Additional documents required to be included in contracts for professional or nonprofessional services include:

(i) If the final product of a professional services contract is a written proposal, report or study, the supplier shall include a statement certifying that the supplier has not previously provided a substantial duplication of the final product to the state agency or another state agency. [Reference 74 O.S. §85.41]

(ii) An acquisition for professional or nonprofessional services must include statutory language required by the Oklahoma Central Purchasing Act as a term of the requisition or contract and must be signed by the chief administrative officer of the agency or the chief administrative officer of the requisitioning unit certifying compliance with the Act. [Reference 74 O.S. § 85.4]

(iii) Each contract for services shall include a statement certifying that no person who has been involved in any manner in the development of that contract while employed by the State of Oklahoma

shall be employed to fulfill any of the services provided for under said contract. [Reference 74 O.S. §85.42]

PART 7. ADDITIONAL PROCUREMENT INFORMATION

260:115-7-41. Acquiring utility services

State agencies may obtain required electrical, gas, water or sewer utility services from sources of supply which are most advantageous to the agency if competition is not present or practical.

260:115-7-46. State travel

The State Travel Office is within the Central Purchasing Division and awards contracts for travel and travel services. State agencies shall make travel arrangements through the statewide ~~contract~~contracted travel ~~agencies~~supplier for commercial air travel for state employees in the course of official duties or for persons traveling at state expense.

(1) **State agency travel coordinator.** The State Purchasing Director encourages state agencies to appoint one or more travel coordinators. The coordinators shall book air travel for the state agency except in case of an emergency. If the state agency appoints a travel coordinator, the state agency shall notify the Travel Office and provide the coordinator's name, mailing address, telephone number, and facsimile number.

(2) ~~**State travel zones.** The Travel Office shall divide the state into geographic zones. The zone served by the travel agency shall be indicated in the statewide contract.~~

~~(3) **Airline ticket purchases.** State agencies shall purchase airline tickets from contract travel agencies within the zone of the state agency location.~~

~~(4)~~ **Airline ticket purchases exceptions.** The state agency shall determine when an exception to airline ticket purchase shall apply. The state agency shall retain documents ~~the state agency uses~~used in exception determination as required by internal purchasing procedures established pursuant to 260:115-5-7. Exception documentation shall be made available per the State Travel Policy.

(A) If the state agency can acquire air travel at less cost than the contract travel agency, the state agency may use this exception.

(B) If air travel originates outside the state and it is impractical for the state agency, the state agency may use this exception.

(C) If air travel is due to an emergency and time does not permit use of the contract travel agency, the state agency may use this exception.

(D) If air travel is part of a package arrangement by an organization that schedules a meeting or conference, the state agency may use this exception.

(5) **State agency ~~credit~~purchase card for ~~airline~~ travel.** A state agency that acquires a ~~state travel credit~~purchase card to book and pay for official ~~airline~~agency travel shall complete mandatory training as required by the Office of Management and Enterprise Services and comply with all State Purchase Card procedures issued by OMES.

PART 9. INFORMATION TECHNOLOGY ACQUISITIONS

260:115-7-54. Accessible information technology (IT) acquisitions

(a) **Procurement.**

(1) To ensure accessibility of information technology for individuals with disabilities pursuant to 62 O.S. §34.28, procurement of information technology shall be subject to the Oklahoma Information Technology Accessibility Standards prescribed by the Office of Management and Enterprise Services and maintained by the Information Services Division. These standards apply to all information technology purchased after the effective date of these rules, providing the solicitation process was not initiated prior to the effective date.

(2) When developing, procuring, maintaining or using information technology, or when administering contracts or grants that include the procurement, development upgrading, or replacement of information technology each state agency shall ensure, unless an undue burden would be imposed on the agency, that the information technology allows employees, program participants, and members of the general public access to use of information and data that is comparable to the access by individuals without disabilities. [62 O.S. §34.28(B)] When used in this section, "state agency" includes all agencies defined in 62 O.S. §34.29.

(3) Unless an exception applies, an agency must procure a product or service that best meets the business needs of the agency and the applicable IT Accessibility Standards.

(A) Accessibility determination must be conducted as part of the acquisition evaluation.

(B) Accessibility must be considered among the general, technical and functional requirements of the procurement specifications. At a minimum, it must be accomplished through review of vendor provided information submitted in the form of a Voluntary Product Accessibility Template (VPAT) or comparable document with judgments made regarding degree of conformance to the IT Accessibility Standards.

(C) The relative accessibility ~~weighing~~weighting may be adjusted for due cause based on the specific procurement.

(D) When acquiring a product, an agency shall acquire products that comply with applicable IT Accessibility Standards when such products are available in the commercial marketplace or when such products are developed in response to an agency solicitation. Agencies cannot claim a product, as a

whole is not commercially available by stating no product in the marketplace meets all of the IT Accessibility Standards. Instead, an agency must identify commercial, off-the-shelf products that best meet the general, technical and functional requirements as defined by the agency. Once those products have been identified, the agency should purchase the product that is the most accessibility compliant.

(b) **Contract clauses.**

(1) All solicitations and contracts for information technology shall include the accessibility clause adopted by the Information Services Division pursuant to 62 O.S. §34.28.

(2) The IT Accessibility Standards shall be published on the OMES website.

(3) A supplier shall provide a written certification, signed by an authorized officer of the supplier, describing the extent to which the product or service complies with applicable IT Accessibility standards required by such contracts or solicitations prior to the expenditure of state funds. An agency may also utilize a VPAT published on a supplier's primary website. A VPAT obtained from a supplier website shall be good for a one-year period.

(c) **Exceptions.** Exceptions to compliance with IT Accessibility Standards include:

(1) information technology operated by state departments or agencies, the function, operation or use of which involves intelligence activities, crypto logic activities related to public safety, command and control of law enforcement, equipment that is an integral part of a weapon or weapons system or systems which are critical to the direct fulfillment of public safety or intelligence missions. Systems which are critical to the direct fulfillment of public safety or intelligence missions do not include a system that is to be used for routine administrative and business applications (including payroll, finance, logistics and personnel management applications);

(2) information technology acquired by a contractor or grantee incidental to a contract or grant, provided the technology does not become State property upon the completion of the contract;

(3) information technology located in spaces frequented only by service personnel for maintenance, repair or occasional monitoring of equipment;

(4) information technology requiring a fundamental alteration in the nature of a product or its components to achieve accessibility;

(5) Except as required to comply with the IT Accessibility Standards, state departments and agencies are not required to install specific accessibility-related software or attach an assistive technology device to information technology products unless required by other applicable State or Federal laws;

(6) When state agencies provide public access to information or data through information technology, agencies are not required to make products owned by the agency available for access and use by individuals with disabilities at a location other than where the information technology is provided to the public, or to purchase products for access and use by individuals with disabilities at a location other than where the information technology is provided to the public;

(7) information technology that would impose an undue burden on the agency.

(d) **Documentation of exceptions.** Whenever an agency determines that an acquisition exceeding $5,000.00 meets the criteria of a general exception or undue burden, the agency shall document the explanation of why, and to what extent, compliance with applicable IT Accessibility Standards meets an exception or creates an undue burden on the agency. Agencies are encouraged but not required to maintain documentation for commercial off-the-shelf acquisitions of $5,000.00 or less unless the purchase is part of an existing contract or affects a larger EIT system where accessibility is critical.

(1) The explanation shall be documented on a form prescribed by the Information Services Division and signed by the chief administrative officer of the agency or an employee of the agency to which responsibility for accessibility compliance has been delegated.

(2) The documentation shall be retained in the acquisition file to support the procurement.

(e) **Alternative means of access.** When compliance with IT Accessibility Standards imposes an undue burden, agencies shall provide individuals with disabilities the information and data involved by an alternative means of access that allows an individual to use the information and data in accordance with other applicable State and Federal laws such as Title I and Title II of the Americans with Disabilities Act and Section 504 of the Rehabilitation Act.

SUBCHAPTER 9. CONTRACT MANAGEMENT

260:115-9-7. State agency and supplier disputes

(a) **Quality assurance inspections by state agencies.** A state agency must establish quality assurance procedures that ensure timely and thorough inspection of acquisitions delivered to the agency. It is critical that problems with delivery or the quality of the acquisition delivered be promptly communicated to the agency's primary procurement official and the State Purchasing Director.

(b) **Resolution of dispute between a state agency and supplier.** Whenever a supplier provides a state agency with defective products or fails to perform in accordance with contract requirements, a state agency shall notify the supplier in writing of the deficiency and include information necessary for the supplier to resolve the problem. If the state agency and supplier are unable to resolve the dispute, the state agency shall submit a written request for dispute resolution to the State Purchasing Director.

(c) **State agency submission of supplier ~~complaint~~performance evaluation form.** A state agency shall request the State Purchasing Director seek dispute resolution by submitting a ~~Vendor~~ Supplier Performance Quality Report, whenever a supplier:

(1) fails to timely retrieve and replace an acquisition that does not meet or exceed contract specifications;

(2) does not refund payment for an acquisition that does not meet or exceed contract specifications; or,

(3) fails to resolve any other problem that conflicts with the contract specifications in a timely manner.

(d) **State Purchasing Director dispute resolution action.**

(1) **State Purchasing Director resolves dispute.** If the State Purchasing Director resolves the dispute, the supplier and state agency shall be notified of the dispute resolution terms and conditions.

(A) **Supplier fails to meet terms or conditions.** If the supplier fails to meet terms or conditions of the dispute resolution, the State Purchasing Director shall terminate the contract between the supplier and the state agency, and may suspend the supplier.

(B) State agency fails to meet conditions. If the state agency fails to meet conditions of the dispute resolution, the State Purchasing Director may order an audit of the state agency's acquisitions pursuant to 260:115-5-19.

(2) **State Purchasing Director fails to resolve the dispute.** If the State Purchasing Director fails to resolve the dispute between the state agency and the supplier, the State Purchasing Director shall take an action in this subparagraph.

(A) **Supplier fails to meet terms and conditions.** If the State Purchasing Director determines that the supplier fails to meet terms and conditions of the contract, the State Purchasing Director shall terminate the contract between the supplier and the state agency, and may suspend the supplier.

(B) **State agency fails to meet contract terms and conditions.** If the State Purchasing Director determines that actions of the state agency fail to meet terms of the contract, the State Purchasing Director may order an audit of the state agency's acquisitions pursuant to 260:115-5-19.

[OAR Docket #15-665; filed 6-29-15]

TITLE 260. OFFICE OF MANAGEMENT AND ENTERPRISE SERVICES CHAPTER 120. STATE USE COMMITTEE OPERATIONAL PROCEDURES

[OAR Docket #15-666]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
260:120-1-2. Definitions [AMENDED]
260:120-1-4. Determination of fair market price [AMENDED]
AUTHORITY:
62 O.S. §34.6; Director of the Office of Management and Enterprise Services
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INCORPORATIONS BY REFERENCE:
n/a
ANALYSIS:
The purpose of this rulemaking action is to correct citations and scrivener's errors, to improve the clarity of the rules, to modernize language, and to remove redundancies.
CONTACT PERSON:
Kimberlee Williams, Deputy General Counsel, OMES, (405) 522-3615 or Kimberlee.Williams@omes.ok.gov.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 11, 2015:

260:120-1-2. Definitions

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

"Committee" means the Oklahoma State Use Committee.

"Contracting officer" means the person employed by the Department of Central Services as a contracting officer in the Purchasing Division, appointed by the State Purchasing Director with the advice of the Committee and designated specifically to solicit, develop, and negotiate contracts with agencies and individuals.

"FEI" means Federal Employer Identification.

"Individual" means a severely disabled person that is self-employed and has been certified by the Committee to supply products and services, seventy-five percent (75%) of which, is actually manufactured, produced, processed, assembled, performed or offered by the severely disabled person.

"IRS" means the Internal Revenue Service.

"Severely disabled person" means an individual who has a physical or mental disability constituting a substantial handicap to employment and preventing the person from engaging in normal competitive employment and includes any blind person. [~~75~~74 O.S., Section 3003(4)]

"Substantial handicap to employment" means a residual, limiting physical or mental condition resulting from an injury, disease, or congenital defect which so limits the person's mobility, communication, self-care, self-direction, work tolerance, or work skills that the person is unable to engage in

normal competitive employment over an extended period of time.

"The Act" means the provisions of 74 O.S., Section 3001 et seq. which relate to the purchase of products and services from qualified organizations.

"Qualified nonprofit agency for the severely handicapped" means a nonprofit agency which is certified as a sheltered workshop by the wage and hour division of the U.S. Department of Labor and employing severely disabled persons who constitute at least seventy-five percent (75%) of the personnel engaged in direct production of products or services offered by the agency for procurement by this state. [~~75~~74 O.S., Section 3003(3)]

"Qualified organization" means a blind person, qualified nonprofit agency for the severely handicapped or severely disabled person contracting to supply goods or services. [~~75~~74 O.S., Section 3003(5)]

260:120-1-4. Determination of fair market price

The contracting officer shall recommend a fair market price for products and services in accordance with the State Use Committee's approved Fair Market Price Policy and in the manner described in this section.

(1) The contracting officer shall prepare a current market analysis to determine the fair price for the products or services requisitioned or used by state agencies utilizing internal as well as external sources and established pertinent criteria. When appropriate, the criteria may include, but not be limited to:

(A) A survey of comparable private contracts for like products and services;

(B) Research of other governmental entities within and outside the State of Oklahoma;

(C) Comparison, when appropriate, of wholesale and retail pricing of like commodities.

(2) Based on the data described in OAC ~~304:10-1-4(1)~~260:120-1-4(1), the contracting officer or designee shall recommend a fair market price with supporting documentation to the Committee for consideration.

(3) The Committee shall, by majority vote, approve, modify, amend or disapprove the recommended fair market price.

(4) Whenever the Committee establishes a price, the price shall become the fair market price.

(5) If the product or service is one for which the pricing does not vary by state agency or location, the fair market price as approved, modified, or amended, shall remain in effect until the Committee establishes a new fair market price.

(6) If the product or service is one for which the price does vary depending on the state agency, location, or specifications, the Committee shall approve, each contract for the product or service.

(7) If the product or service is one for which fair market has not been established, either because the fair market for the type of product or service has been determined to vary depending on the state agency, location or specifications, the Contracting Officer, with the approval of the State Purchasing Director, is authorized to award a contract in accordance with the State Use Fair Market Price Policy to a qualified individual or organizations, thereby establishing fair market price, which establishment shall be subject to ratification by the Committee at the next regular Committee meeting.

(8) In the event of an emergency, with approval of the State Purchasing Director, the contracting officer may award a contract to an individual or agency for a maximum period of three (3) months without prior Committee approval, but subject to Committee approval at the next regular Committee meeting. If the Committee approves the contract, the contract shall terminate at the end of the contract period.

[OAR Docket #15-666; filed 6-29-15]

TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH
CHAPTER 265. HEARING AID DEALERS AND FITTERS

[OAR Docket #15-713]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 3. Examinations
310:265-3-1. Qualifications [AMENDED]
310:265-3-2. Contents of examination [AMENDED]
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Oklahoma State Board of Health, Title 63 O.S. Section 1-104; and Title 63 O.S. Section 1-1750.
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310:265-3-2. Contents of examination [AMENDED]
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Register publication:
32 Ok Reg 543
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INCORPORATIONS BY REFERENCE:
n/a
ANALYSIS:
310:265-3-1. The former rule identified a particular third party examiner to be solely responsible for the written examination scores. The amended rule

removes mention of any specific third party examiner. The effect of this rule change allows the Department to identify an adequate examination without increasing the examination fee for applicants.

310:265-3-2. The former rule specified the state written examination shall follow National Hearing Aid Society guidelines and other similar examinations given by surrounding states. The amended rule removes reference to the national examining body.

CONTACT PERSON:

Donald D. Maisch, General Counsel, Oklahoma State Department of Health, 1000 N.E. 10th Street, Oklahoma City, OK 73117-1207; phone (405) 271-6017, e-mail: DonM@health.ok.gov.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 11, 2015:

SUBCHAPTER 3. EXAMINATIONS

310:265-3-1. Qualifications

(a) Applicants may obtain a hearing aid dealer or fitter license by successfully passing qualifying examinations, provided the applicant:

(1) Is at least eighteen (18) years of age;

(2) Is of good moral character. A criminal record shall not in itself bar an applicant from licensing, but evidence of such record may be considered along with other information in determining whether or not the applicant is of good moral character.

(3) Has an education equivalent to a four-year course in an accredited high school; and

(4) Has filed with the Commissioner an application for examination and paid the examination fee of Ninety-five Dollars ($95.00).

(b) An applicant for license by examination shall appear at a time, place and before such persons as the Commissioner may designate to be examined to demonstrate that he/she is qualified to practice the fitting and sale of hearing aids. Nothing in this examination shall imply that the applicant shall possess the degree of medical competence normally expected of physicians.

(c) The Commissioner shall give examination as required to permit applicants to be examined within six (6) months following the submission of the official application form.

(d) Successfully passing the examination means passing each of the sections based on the following criteria. When a passing score is obtained for any section, that section will not have to be taken again.

(1) Passing score for the written examination is established by the examination provider~~, International Institute for Hearing Instrument Studies~~.

(2) Passing score for the Oklahoma Audiometric Practical examination is 70% or above.

(3) Passing score for the Oklahoma Hearing Aid Rules examination is 70% or above.

(4) Passing score for the Oklahoma Ear Impression practical examination is 70% or above.

(5) Passing score for the Hearing Aid Trouble Shooting Practical Examination is 70% or above.

(e) No person may take any portion of the state examination more than three (3) times. Any person failing the state licensing examination three times shall not be allowed to apply for an Oklahoma Hearing Aid Dealers and Fitters License for five (5) years from their application date. If a person fails any portion of the state licensing examination three (3) times, the Department shall summarily suspend and seek permanent revocation of the person's current temporary hearing aid dealers and fitters permit.

310:265-3-2. Contents of examination

The hearing aid dealer or fitter examination shall consist of an examination as compiled at the discretion of the Commissioner~~. It shall follow~~, taking into consideration the guidelines ~~of the National Hearing Aid Society~~ if available for a national examination and ~~shall follow~~ guidelines ~~of~~ if available for similar examinations given by surrounding states. The tests under this section shall not require a higher education in the fields of medicine, audiology or communication disorders. The examination shall consist of tests of knowledge as it pertains to the sale and fitting of hearing aids as follows:

(1) Function of a hearing aid;

(2) Pure tone audiometry, including air conduction testing and bone conduction testing (continuous-pulsing audiomiter setting not accepted);

(3) Recorded voice speech audiometry;

(4) Masking when indicated;

(5) Recording and evaluation of audiograms and speech audiometry to determine proper selection and adaptation of a hearing aid;

(6) Taking earmold impressions;

(7) Rules and regulations pertaining to the sale and fitting of hearing aids; and

(8) Trouble Shooting pertaining to the identification of visable physical defects or damage to hearing aids.

[OAR Docket #15-713; filed 7-6-15]

TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH CHAPTER 406. LICENSED GENETIC COUNSELORS

[OAR Docket #15-714]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 1. General Provisions
310:406-1-2 [AMENDED]
Subchapter 3. Advisory Committee Operations [REVOKED]
310:406-3-1 [REVOKED]
310:406-3-2 [REVOKED]
310:406-3-3 [REVOKED]
310:406-3-4 [REVOKED]
310:406-3-5 [REVOKED]
Subchapter 23. Enforcement
310:406-23-2 [AMENDED]

310:406-23-5 [AMENDED]

AUTHORITY:

Oklahoma State Board of Health, Title 63 O.S. Section 1-104; and Title 63 O.S. Section 1-561 and Title 63 O.S. Section 1-103.a.1.

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"n/a"

INCORPORATIONS BY REFERENCE:

"n/a"

ANALYSIS:

310:406-1-2 The former rule defined the advisory entity as the Genetic Counseling Advisory Committee. The new rule removes the definition. The new advisory council is outlined in the Oklahoma Public Health Advisory Council Modernization Act. This change is necessary to be in compliance with the changes established in the Oklahoma Public Health Advisory Council Modernization Act. The effect of the Rule change is to clarify the legal advisory entity as the Infant and Children's Health Advisory Council.

310:406 Subchapter 3 [REVOKED] - The former subchapter defined the title and role of the Genetic Counseling Advisory Committee. The new rule revokes the subchapter. This change is needed to be in compliance with the changes established in the Oklahoma Public Health Advisory Council Modernization Act which created the new Infant and Children's Health Advisory Council with advisory responsibilities for licensed genetic counseling. The effect of the Rule change is to clarify the legal advisory entity as a council.

310:406-23-2 The former rule stated the "committee" may be consulted in regards to complaints present to the Department. The new rule removes this language. This change is needed to be in compliance with the changes established in the Oklahoma Public Health Advisory Council Modernization Act and ensure the council's duties are in line with the Oklahoma Public Health Advisory Council Modernization Act. The effect of the Rule change is to clarify the duties of the newly established council.

310:406-23-5 The former rule stated the Department may consult the "committee" in regards to hearings conducted by the Department. The new rule removes this language. This change is needed to be in compliance with the changes established in the Oklahoma Public Health Advisory Council Modernization Act and ensure the council's duties are in line with the Oklahoma Public Health Advisory Council Modernization Act. The effect of the Rule change is to clarify the duties of the newly established council.

CONTACT PERSON:

Information regarding this rule may be obtained by contacting Lynnette Jordan, Administrative Programs Manager, Occupational & Consumer Protection Licensing, Oklahoma State Department of Health, 1000 N.E. 10th Street, Oklahoma City, OK 73117-1207, phone (405) 271-5779, or by e-mail to lynnette@health.ok.gov.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 11, 2015:

SUBCHAPTER 1. GENERAL PROVISIONS

310:406-1-2. Definitions

When used in this Chapter, the following words or terms shall have the following meaning unless the context of the sentence requires another meaning:

"ABGC" *means the American Board of Genetic Counseling* [63:1-562(1)].

"ABMG" *means the American Board of Medical Genetics* [63:1-562(2)].

"Act" means Title 63, Sections 1-561 et seq., of the Oklahoma Statutes.

"Active candidate status" means an individual who has been approved by the American Board of Genetic Counseling (ABGC) to sit for the certification exam in genetic counseling.

~~**"Advisory Committee"** means the Genetic Counseling Advisory Committee appointed by the Commissioner.~~

"Board" means the State Board of Health.

"Patient" means a person receiving genetic counseling from a genetic counselor.

"Commissioner" means the State Commissioner of Health.

"Department" means the State Department of Health.

"Dual relationships" means a familial, social, financial, business, professional, close personal, sexual or other non-counseling relationship with a patient, or engaging in any activity with another person that interferes or conflicts with the LGC's professional obligation to a patient.

"Licensed genetic counselor" or **"LGC"** means any person who is licensed pursuant to the provisions of the Genetic Counseling Licensure Act or offers to or engages in genetic counseling. The term shall not include those professions exempted by Section 1-566 of the Act.

SUBCHAPTER 3. ADVISORY COMMITTEE OPERATIONS [REVOKED]

310:406-3-1. Purpose [REVOKED]

~~This Subchapter creates the Genetic Counseling Advisory Committee, whose duty shall be to advise the Department regarding provisions of the Act, except as otherwise provided by law.~~

310:406-3-2. Advisory committee membership [REVOKED]

~~(a) The advisory committee shall consist of five (5) members who shall be appointed by the Commissioner.~~

~~(b) Two members shall be licensed genetic counselors; provided, initial genetic counselor appointees shall not be required to be licensed under the Act before the end of the first year that the license is available. One member shall be an ethicist or a geneticist currently licensed by the State Board of Examiners for Medical Licensure and Supervision or the Board of Osteopathic Examiners. One member shall be a representative of the Oklahoma Genetics Advisory Council. One member shall be a lay person who is not affiliated with any practice of genetic counseling.~~

~~(c) The first advisory committee shall serve the following terms: one member for one (1) year, two members for two (2) years, and two members for three (3) years. Thereafter, at the expiration of the term of each member, the Commissioner shall appoint a successor for a four (4) year term.~~
~~(d) Vacancies occurring in the advisory committee shall be filled for the unexpired term by appointment by the Commissioner.~~
~~(e) Any advisory committee member may be removed by the Commissioner, after written notice, for incapacity, incompetence, neglect of duty, or misfeasance or malfeasance in office.~~
~~(f) Members of the advisory committee shall serve without compensation, but shall be reimbursed their actual and necessary travel expenses as provided in the State Travel Reimbursement Act.~~
~~(g) Advisory committee members may be reappointed at the completion of their term.~~
~~(h) The advisory committee may hold four regularly scheduled meetings each year and special meetings as needed. Meetings shall be held at such time and place as the advisory committee may provide. The advisory committee shall elect annually the following officers: A chair, a vice chair, and a secretary. Three members of the advisory committee shall constitute a quorum.~~

310:406-3-3. Officers [REVOKED]
~~(a) **Chair.** The chair shall preside at all meetings at which he or she is in attendance and perform all duties prescribed by law or rule. The chair is authorized to make day to day decisions regarding advisory committee activities in order to facilitate the responsiveness and effectiveness of the advisory committee.~~
~~(b) **Vice chair.** The vice chair shall perform the duties of the chair in the absence or disability of the chair.~~
~~(c) **Secretary.** In the absence of the chair and vice chair, the secretary will preside until the chair or vice chair is present.~~

310:406-3-4. Rules of Order [REVOKED]
~~Robert's Rules of Order Newly Revised, 10th ed. (Cambridge, Mass.: Perseus Publishing, 2000) shall be the basis of parliamentary decisions except as otherwise provided by the advisory committee.~~

310:406-3-5. Subcommittees [REVOKED]
~~(a) The chair with the approval of the advisory committee may establish subcommittees deemed necessary to carry out advisory committee responsibilities.~~
~~(b) The chair shall appoint the members of the advisory committee to serve on subcommittees.~~
~~(c) The chair may appoint non advisory committee members to serve as subcommittee members on a consultant or voluntary basis subject to advisory committee approval.~~
~~(d) The subcommittee chair shall make regular reports to the advisory committee in interim written reports and/or at regular meetings.~~
~~(e) Subcommittees shall direct all reports or other materials to the Department for distribution.~~
~~(f) Subcommittees shall meet when called by the chair or when so directed by the advisory committee.~~

SUBCHAPTER 23. ENFORCEMENT

310:406-23-2. Complaints
(a) Any person may file a complaint against a LGC or a person practicing genetic counseling who is not otherwise exempt from the LGC Act. A person wishing to report a complaint or alleged violation against a licensee or person practicing genetic counseling may notify the Department in writing, by telephone, or by a personal visit. The Department will determine whether the complaint alleges a possible violation of the Act or this Chapter. ~~The Department may present the complaint to the advisory committee for consultation.~~
(b) The complaint and the identity of the complainant shall be confidential and shall not be available for public inspection.

310:406-23-5. Hearing
Hearings shall be conducted by the Commissioner or ~~his~~the Commissioner's designee as specified in Chapter 2 of this Title. The Department shall recommend the most appropriate penalty at the conclusion of the evidence. ~~In making its recommendation, the Department may seek the counsel of the advisory committee.~~

[OAR Docket #15-714; filed 7-6-15]

TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH
CHAPTER 526. DENTAL SERVICES

[OAR Docket #15-715]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 3. Oklahoma Dental Loan Repayment Program
310:526-3-2 [AMENDED]
310:526-3-3 [AMENDED]
310:526-3-4 [AMENDED]
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Oklahoma State Board of Health, Title 63 O.S. Sections 1-104 and 1-2710 et seq. as amended by Senate Bill 1664, effective November 1, 2014.
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ANALYSIS:
310:526-3-2 This rule provides the description and general operation of the Oklahoma Dental Loan Repayment Program (Program). The amended rule expands the locations of practice sites and increases the maximum amount allowed of individual awards from $25,000 to $50,000. The circumstance for the rule change is compelled by legislation in SB 1664, effective November 1, 2014. The effect is to increase Program participation, allow a more competitive compensation, and better utilize available funding.

310:526-3-3 This rule describes eligibility requirements to participate in the Program. The amended rule allows an exemption from the requirement to practice in a designated dental health professional shortage area for Pediatric Dentistry Specialists or any dentist practicing in a Federally Qualified Health Center (FQHC), FQHC look-alike, County health department, or City-County health department. The effect is to include participation by specialists trained to treat the younger Medicaid population and those practicing in specific public health facilities regardless of the practice site location.

310:526-3-4 This rule describes the procedures for administering the Program. The amended rule describes what is monitored to determine the dental health professional shortage areas for purposes of the Oklahoma Dental Loan Repayment Program instead of how the determination is calculated. This change was needed to resolve complicated, technical, and outdated language. The purpose is to improve the understanding of shortage area determinations while upholding the intent of the law. The description of annual shortage area calculations will be maintained in agency files to ensure consistency with the use of current available data, current advisory entities, and topical circumstances associated with Medicaid dental providers and enrollees.
CONTACT PERSON:
Mary DeLeon, Dental Health Service, Oklahoma State Department of Health, 1000 NE 10th Street, Oklahoma City, OK 73117-1207, phone (405) 271-5502, email MaryJD@health.ok.gov.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 11, 2015:

SUBCHAPTER 3. OKLAHOMA DENTAL LOAN REPAYMENT PROGRAM

310:526-3-2. Description and operation of the Program

(a) **Department's equal opportunity policies applicable.** The Department's Dental Service will administer the Oklahoma Dental Loan Repayment Program in accordance with the Department's policies governing equal opportunity and access to programs, services and activities.

(b) **General operation of the Program.** The Program will provide educational loan repayment assistance for a number not to exceed twenty-five (25) full time (or full time equivalent, or as designated by Advisory Committee or Department) dentists licensed to practice in Oklahoma. The Program will provide prorated educational loan repayment assistance based upon the percentage of time worked. Dentists entering the Program agree to teach at the University of Oklahoma College of Dentistry if applicable faculty positions are available, or provide dental care and services to Medicaid recipients in a designated dental health professional shortage area (DHPSA) or exempted facility according to state law.

(c) **Determining individual awards.** The amount of award, not to exceed $~~25,000~~50,000 per year for each participating full time equivalent dentist, shall be determined by the Department annually based upon the amount of funds appropriated to the Department. If the participating dentist's eligible loans are less than the cumulative repayment assistance total available over 5 years, that participating dentist shall be in the Program no longer than required to pay off the total eligible loans and shall not receive more funding assistance than the total eligible indebtedness.

(d) **Distributing the awards.** Each award shall be distributed in accordance with state law.

(e) **Default.** If the participating dentist does not fulfill the terms of the service obligation, the Department may collect from the participant the entire amount of loan repayment assistance extended to the participant under the Program, plus interest.

310:526-3-3. Eligibility to participate in the Program

(a) **Eligibility requirements common to both non-faculty and faculty participants.** Eligibility for repayment assistance for non-faculty and faculty participants requires compliance with the following requirements:

(1) receipt or award of a dental degree from an accredited United States dental school within the previous five (5) years;

(2) completion of all requirements to receive or be awarded an active unrestricted license to practice dentistry in the State of Oklahoma at the time the service obligation begins; and,

(3) a financial need with outstanding eligible dental school loans.

(b) **Additional eligibility requirements for non-faculty participants.** Eligibility for repayment assistance for non-faculty participants requires compliance with the following additional requirements:

(1) an established general or pediatric dental practice, or the commitment to establish such a practice, located in an Oklahoma DHPSA with the exception that any dentist licensed to practice as a pediatric dentistry specialist as defined by the State Dental Act or any dentist practicing in a Federally Qualified Health Center (FQHC), FQHC look-alike, county health department, or city-county health department may be exempt from the requirement to practice in a DHPSA;

(2) fulfillment of all applicable requirements of the Oklahoma Health Care Authority to qualify as a Medicaid Dental Provider at the time the service obligation begins; and,

(3) agree that during the service obligation/contract period, a minimum 30% of patient visits are by Medicaid recipients.

(c) **Additional eligibility requirements for faculty participants.** Eligibility for repayment assistance for faculty participants requires compliance with the additional requirement of abiding by the rules and regulations for a faculty

member, and the job duties assigned by the Dean of the University of Oklahoma College of Dentistry.

(d) **Limitations upon eligibility common to both non-faculty and faculty participants.** A non-faculty or faculty participant's eligibility may be rescinded or terminated if any of the following conditions occur:

(1) a breach of an obligation for service to a federal, state, or local government entity;

(2) an obligation for service to a federal, state, or local government entity that will interfere with the fulfillment of the requirements of the Program that remains unsatisfied; or,

(3) default or material breach of an agreement to repay a higher education loan or borrowing agreement.

(e) **Additional considerations.**

(1) Preference will be given to graduates of the University of Oklahoma College of Dentistry.

(2) Preference will be given to eligible practice sites that are not Medicaid/SoonerCare specific.

(3) Geographic diversity of the participants is an objective of the Program.

(4) An eligible practice site is a solo, group, or incorporated private practice, and any federal, state, local, or private for-profit or nonprofit dental facility.

(5) To qualify for the 30% minimum Medicaid recipient requirement the participant must use a count of patient visits during the service obligation. The 30% requirement will be monitored monthly, but the participant will be deemed to be compliant if the yearly average is 30% or greater.

(f) **Eligible loans.** Loans eligible for repayment assistance are any loans for educational expenses while attending dental school from a college, university, government, commercial source, or an organization, institution, association, society, or corporation that is exempt from taxation under 501(c)(3) or (4) of the Internal Revenue Code of 1986. The ODLRP participant must be able to provide, upon request, documentation that commercial loans were used for payment of educational expenses.

310:526-3-4. Procedures for administering the Program

The Program shall develop dental loan repayment procedures as may be necessary to carry out the administration of the Program. The Program shall delineate the following procedures:

(1) **Dental Health Professional Shortage Areas (DHPSA).** Dental health professional shortage areas for Oklahoma shall be established by the Commissioner using the following criteria.

(A) ~~Those counties with less than the federally recommended target for the~~The percentage of Medicaid enrollees~~ who should receive~~receiving dental services each year.

(B) ~~Those counties for which~~The ratio of the number of Medicaid enrollees under the age of 21 per Medicaid dental provider~~ multiplied by the federally recommended target is equal to or greater than 30% of the average number of unduplicated patients in a general dentistry practice~~.

(C) ~~Effective January 1, 2008, those counties for which~~The ratio of the number of Oklahoma residents in the general population under age 21 per Oklahoma licensed general practice or pediatric dentist~~, multiplied by the federally recommended target, is equal to or greater than the number of patients under age 21 in an average dental practice~~.

(2) **Applications.** All interested new dental school graduates shall file an application with the Department. This application can be submitted at any time during the year. Applications may be printed from the internet or are available in the Dental Service office of the Oklahoma State Department of Health.

(3) **Approval by the Department.** Applications shall be reviewed by the Advisory Committee. Following this review, the Advisory Committee will forward their recommendations to the Department. Applications will be approved or declined as determined by the Department.

(4) **Renewal of loan repayment contracts.** The original loan repayment contract may be renewed for up to a total participation in the Program of five (5) years, contingent upon funding from the Legislature and continued approval of the Department based upon the dentist's performance and recommendations of the Advisory Committee if requested.

(5) **Advisory Committee.** The Department will appoint and convene an Advisory Committee to assist in the dental loan repayment process. The Advisory Committee shall include five (5) members with representation from the Oklahoma Dental Association, the University of Oklahoma College of Dentistry, the Oklahoma Health Care Authority, the Oklahoma Board of Dentistry, and the Oklahoma ~~Children's Oral Health Coalition~~oral health coalition. The Advisory Committee is responsible for reviewing the eligible applicants, as determined by the Department, and making recommendations to the Department. The Department makes the final selection of Program participants.

[OAR Docket #15-715; filed 7-6-15]

TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH CHAPTER 667. HOSPITAL STANDARDS

[OAR Docket #15-716]

RULEMAKING ACTION:
PERMANENT final adoption

RULES:
Subchapter 59. Classification of Hospital Emergency Services
310:667-59-20 [AMENDED]

AUTHORITY:
Oklahoma State Board of Health, Title 63 O.S. Section 1-104; Title 63 O.S. Section 1-270; and Title 63 O.S. Section 1-705.

SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
September 8, 2014

COMMENT PERIOD:
October 1, 2014 through November 5, 2014
PUBLIC HEARING:
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ADOPTION:
December 9, 2014
SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:
December 17, 2014
APPROVED BY GOVERNOR'S DECLARATION:
Approved by Governor's declaration on June 8, 2015
FINAL ADOPTION:
June 8, 2015
EFFECTIVE:
September 11, 2015
SUPERSEDED EMERGENCY ACTIONS:
n/a
INCORPORATIONS BY REFERENCE:
n/a
ANALYSIS:
The amendments revise sections of rule within Subchapter 59, Classification of Hospital Emergency Services, to update classification standards for stroke centers. These standards are intended to stratify hospitals into those hospitals capable of providing comprehensive care for all stroke patients from those with limited or no capability to care for the acutely ill, time sensitive stroke patient. The amended rules allow the Oklahoma State Department of Health (OSDH) to recognize four levels of hospital based stroke care. The Level I stroke center is a comprehensive center capable of care for all stroke patients. The Level II stroke center is the most current standard required to be a primary stroke center. The Level III stroke center is mainly focused on the acute care of a patient presenting to the emergency room who is likely to benefit from stabilization and quick thrombolytic therapy prior to transfer to a higher level of care. The Level IV stroke center reflects a facility without the resources to provide acute care for the time sensitive needs of the stroke patient.
CONTACT PERSON:
Information regarding this rule may be obtained by contacting Timothy Cathey, M.D., Medical Director, Protective Health Services, Oklahoma State Department of Health, 1000 N.E. 10th Street, Oklahoma City, OK 73117-1207, or by e-mail to TimC@health.ok.gov.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 11, 2015:

SUBCHAPTER 59. CLASSIFICATION OF HOSPITAL EMERGENCY SERVICES

310:667-59-20. Classification of emergency stroke services

(a) ~~**Secondary Stroke Facility.** A Secondary Stroke Facility shall provide services with at least a licensed independent practitioner, registered nurse, licensed practical nurse, or intermediate or paramedic level emergency medical technician on site twenty-four (24) hours a day. A hospital shall be classified as a Secondary Stroke Facility if it meets the following requirements~~**Level I Stroke Center.** A Level I Stroke Center shall be deemed to adhere to primary and secondary stroke recognition and prevention guidelines as required by state law and serve as a resource center for other hospitals in the region and be a comprehensive receiving facility staffed and equipped to provide total care for all major needs of the stroke patient as determined by:

(1) ~~**Clinical services and resources.** No diagnostic, surgical, or medical specialty services are required.~~An up-to-date certification as a Comprehensive Stroke Center from a Centers for Medicare and Medicaid Services deemed accrediting agency or a Department approved organization that uses a nationally recognized set of guidelines; and

(2) ~~**Personnel.** A physician, licensed independent practitioner, registered nurse, licensed practical nurse, or intermediate or paramedic level emergency medical technician shall be on site twenty-four (24) hours a day. In the absence of a physician, licensed independent practitioner, registered nurse, or paramedic level emergency medical technician, at least one of the practitioners on duty shall have received training in advanced life support techniques and be deemed competent to initiate treatment of the emergency stroke patient~~Providing quality assurance information, including benchmark tracking and other data to the department upon request.

~~(A) If the facility is licensed as a General Medical Surgical Hospital it shall also meet the personnel and staffing requirements at OAC 310:667-29-1 (relating to emergency service or department) and any other applicable parts of this Chapter.~~

~~(B) If the facility provides emergency medical services and is licensed as a Specialized Hospital: Psychiatric, it shall also meet the personnel and staffing requirements at OAC 310:667-33-2 (relating to services) and any other applicable parts of this Chapter.~~

~~(C) If the facility provides emergency medical services and is licensed as a Specialized Hospital: Rehabilitation, it shall also meet the personnel and staffing requirements at OAC 310:667-35-3 (relating to specialized requirements - policy and personnel) and any other applicable parts of this Chapter.~~

~~(D) If the facility provides emergency medical services and is licensed as a Critical Access Hospital, it shall also meet the personnel and staffing requirements at OAC 310:667-39-14 (relating to emergency services) and any other applicable parts of this Chapter.~~

~~(3) **Supplies and equipment.** The hospital shall also have the equipment and supplies required at OAC 310:667-59-9(a)(3) (relating to classification of trauma and emergency operative services at Level IV), on site, functional, and immediately available.~~

~~(4) **Agreements and policies on transfers.**~~

~~(A) The hospital shall have written policies defining the medical conditions and circumstances for those emergency patients which may be retained for treatment in house, and for those who require stabilizing treatment and transfer to another facility.~~

~~(B) The facility shall have a written agreement with a hospital classified as a Primary Stroke Center, or with a board certified, board eligible, or residency trained neurologist, or group of neurologists to provide immediate consultative services for stroke patients twenty-four (24) hours a day. Such services~~

~~shall include providing instructions for the initiation of appropriate therapy and/or patient transfer.~~

(b) ~~**Primary Stroke Center.** A Primary Stroke Center shall provide emergency medical services with an organized emergency department. A physician shall be on call and immediately available to respond to the emergency department and nursing staff with special capability in emergent stroke care shall be on site twenty-four (24) hours a day. A hospital shall be classified as a Primary Stroke Center if it meets the following requirements~~ **Level II Stroke Center.** A Level II Stroke Center shall be deemed to adhere to primary and secondary stroke recognition and prevention guidelines as required by state law and be a receiving center staffed by in-patient stroke services staff and be equipped to provide definitive care for a major proportion of stroke patients within the region as determined by:

(1) ~~**Clinical services and resources.**~~ An up-to-date certification as a Primary Stroke Center from a Centers for Medicare and Medicaid Services deemed accrediting agency or a Department approved organization that uses a nationally recognized set of guidelines; and

~~(A) **Emergency services.** A physician deemed competent in the care of the emergent stroke patient and credentialed by the hospital to provide emergency medical services shall be on call and immediately available to respond to the emergency department. Nursing personnel with special capability in emergent stroke care shall be on site twenty-four (24) hours a day.~~

~~(i) For a hospital licensed as a general medical surgical hospital or specialty hospital, emergency services shall also comply with the requirements of OAC 310:667-29-1 through OAC 310:667-29-2 (relating to emergency service or department and patient transfers.)~~

~~(ii) For a hospital licensed as a critical access hospital, emergency services shall also comply with OAC 310:667-39-14 (relating to emergency services.)~~

~~(B) **Stroke Team.** A stroke team shall be identified in writing and shall be on site or immediately available to respond to the emergency department:~~

~~(i) Stroke team members shall have at least annual training in the care of the stroke patient;~~

~~(ii) Response time standards for the stroke team shall be established and monitored;~~

~~(iii) Standard practice protocols for the care of the stroke patient shall be in place, including appropriate administration of an FDA approved thrombolytic agent within sixty (60) minutes of the arrival of the patient at the emergency department.~~

~~(C) **Diagnostic imaging.** The hospital shall have diagnostic x-ray and computerized tomography services available twenty-four (24) hours a day. A radiologic technologist and computerized tomography technologist shall be on duty or on call and immediately available twenty-four (24) hours a day. A single technologist designated as qualified in both diagnostic x-ray and computerized tomography procedures by the radiologist may be used to meet this requirement if an on-call schedule of additional diagnostic imaging personnel is maintained.~~

~~(i) For a hospital licensed as a general medical surgical hospital or specialty hospital, diagnostic imaging services shall also comply with the applicable requirements in Subchapter 23 of this Chapter (relating to diagnostic and treatment services.)~~

~~(ii) For a hospital licensed as a critical access hospital, diagnostic imaging services shall also comply with the applicable requirements in Subchapter 39 of this Chapter (relating to critical access hospitals.)~~

~~(D) **Clinical laboratory service.** The hospital shall have clinical laboratory services available twenty-four (24) hours a day. All or part of these services may be provided by arrangements with certified reference laboratories provided these services are available on an emergency basis twenty-four (24) hours a day. At least the following shall be available:~~

~~(i) Standard analysis of blood, urine, and other body fluids to include routine chemistry and hematology testing;~~

~~(ii) Coagulation studies;~~

~~(iii) Blood gas/pH analysis; and~~

~~(iv) Drug and alcohol screening.~~

~~(v) For a hospital licensed as a general medical surgical hospital or specialty hospital, clinical laboratory services shall also comply with the applicable requirements in Subchapter 23 of this Chapter (relating to diagnostic and treatment services.)~~

~~(vi) For a hospital licensed as a critical access hospital, clinical laboratory services shall also comply with the applicable requirements in Subchapter 39 of this Chapter (relating to critical access hospitals.)~~

(2) ~~**Personnel**~~Providing quality assurance information, including benchmark tracking and other data to the department upon request.

~~(A) **Emergency services director.** The medical staff shall designate a physician credentialed to provide emergency medical care as emergency services director.~~

~~(B) **Neurologist.** A physician board certified, board eligible, or residency trained, in neurology shall be available for consultation on site or immediately available by telephone or other electronic means twenty-four (24) hours a day.~~

~~(3) **Supplies and equipment.** In addition to the requirements at OAC 310:667-59-9(a)(3) (relating to classification of trauma and emergency operative services at Level IV), the hospital shall have an FDA approved thrombolytic agent on site and immediately available for treatment of acute nonhemorrhagic stroke.~~

~~(4) **Agreements and policies on transfers.**~~

~~(A) The hospital shall have written policies defining the medical conditions and circumstances for those emergency patients, which may be retained for treatment in house, and for those who require stabilizing treatment and transfer to another facility.~~

~~(B) If the facility does not have a neurologist, either board-certified, board-eligible, or residency trained, or group of neurologists similarly qualified, on staff to provide immediate consultative services for emergent stroke patients twenty-four (24) hours a day, the facility shall have a written agreement with a hospital, or a neurologist, either board certified, board eligible, or residency trained, or group of neurologists similarly qualified, to provide such services for emergent stroke patients on a twenty-four (24) hour basis. Such services shall include providing instructions for the initiation of appropriate therapy and/or patient transfer.~~

~~(5) **Quality Improvement.** The hospital shall ensure an appropriate quality improvement process is in place to monitor and evaluate the care provided to the critically ill stroke patient, and to provide regular feedback to emergency medical service agencies and referring hospitals on the optimal care of the critically ill stroke patient.~~

(c) **Level III Stroke Center.** A Level III Stroke Center shall be deemed to adhere to secondary stroke recognition and prevention guidelines as required by state law and be staffed and equipped to provide initial diagnostic services, stabilization, thrombolytic therapy, emergency care to patients who have suffered an acute stroke (which is a stroke wherein symptoms have on-set within the immediately preceding twelve (12) hours). They shall have an up-to-date certification as an Acute Stroke Ready Hospital from a Centers for Medicare and Medicaid Services deemed accrediting agency or from a department approved organization that uses a nationally recognized set of guidelines or from the department for a period not to exceed three years and meet the following requirements:

(1) **Stroke Team:**

(A) Having a stroke team available twenty-four (24) hours a day, seven (7) days a week;

(B) Having a licensed physician trained in the care of the emergent stroke patient and credentialed by the hospital to provide emergency medical service for stroke patients, including the ability to administer thrombolytic agents;

(C) Having designated stroke team(s) that are identified in writing, which is either on-site or each member is able to respond to the hospital within twenty (20) minutes to the emergency department of the Stroke Center;

(D) Having members trained in the care of a stroke patient, with said training updated annually;

(E) Having response times of the stroke team established and tracked in writing;

(F) Adoption of standard practice protocols for the care of a stoke patient in writing, which shall include the appropriate administration of an FDA-approved thrombolytic agent within sixty (60) minutes following the arrival of a patient who has suffered a stroke at the emergency department at least fifty percent (50%) of the time;

(G) Written emergency stroke care protocols adopted; and

(H) A licensed nurse or other health professional designated as the stroke coordinator.

(2) **Emergency Department:**

(A) A licensed independent practitioner able to recognize, assess and if indicated administer thrombolytic therapy to stroke patients;

(B) A licensed independent practitioner will assess potential stroke patients within 15 minutes of arrival;

(C) Having nursing personnel available on-site twenty-four (24) hours a day, seven (7) days a week who are trained in emergent stroke care, which is demonstrated at least every two (2) years through evidence of competency;

(D) For a hospital, licensed as a general medical surgical hospital or a specialty hospital, all emergency services shall meet the requirements of Oklahoma Administrative Code (OAC) 310:667-29-1 and 310:667-29-2;

(E) For a hospital, licensed as critical access hospital, all emergency services shall meet the requirements of OAC 310:667-39-14;

(F) Adopt written comprehensive stroke protocols for the treatment and stabilization of a stroke patient, which shall include, but not be limited to:

(i) Detailed instructions on IV thrombolytic use;

(ii) Reversal of anticoagulation in patients with hemorrhagic stroke;

(iii) A standardized stroke assessment scale;

(iv) Protocols for the control of seizures;

(v) Blood pressure management; and

(vi) Care for patients, who have suffered a stroke, but are not eligible to receive thrombolytic agents.

(G) Collaborate with emergency medical service agencies to develop inter-facility transfer protocols for stroke patients and will only use those emergency medical service agencies that have a Department approved protocol for the inter-facility transfer of stroke patients.

(3) **Supplies and equipment:**

(A) All equipment and supplies shall meet the requirements of OAC 310:667-59-9 (a);

(B) Have available on-site, twenty-four (24) hours a day, seven (7) days a week, thrombolytic agents, which are FDA approved for the treatment of acute non-hemorrhagic stroke;

(C) Have available on-site, twenty-four (24) hours a day, seven (7) days a week, seizure control agents; and

(D) Have available on-site, twenty-four (24) hours a day, seven (7) days a week, thiamine and glucose for intravenous administration.

(4) **Neuroimaging services:**

(A) Have available on-site, twenty-four (24) hours a day, seven (7) days a week diagnostic x-ray and computerized tomography (CT) services;

(B) Have on duty or on call with a twenty (20) minute response time, twenty-four (24) hours a day, seven (7) days a week radiologic technologist and CT technologist. A single technologist designated as qualified in both diagnostic x-ray and CT procedures by the radiologist may be used to meet this requirement if an on-call schedule of additional diagnostic imaging personnel is maintained;

(C) For a hospital licensed as a general medical surgical hospital or specialty hospital, diagnostic imaging services shall also comply with the applicable requirements in OAC 310:667-23 of this Chapter; and

(D) For a hospital licensed as a critical access hospital, diagnostic imaging services shall also comply with the applicable requirements in OAC 310:667-39.

(5) **Laboratory services:**

(A) Laboratory services shall be provided on-site and available twenty-four (24) hours a day, seven (7) days a week, and at a minimum provide the following:

(i) A complete blood count;

(ii) Metabolic profile;

(iii) Coagulation studies (prothrombin time, international normalized ratio);

(iv) Pregnancy testing; and

(v) Troponin I.

(B) For a hospital licensed as a general medical surgical hospital or specialty hospital, clinical laboratory services shall also comply with the applicable requirements in OAC 310:667-23; and

(C) For a hospital licensed as a critical access hospital, clinical laboratory services shall also comply with the applicable requirements in OAC 301:667-39.

(6) **Outcome and quality improvement:** Outcome and quality improvement activities shall include the tracking of all stroke patients, appropriate use of thrombolytic therapy, performance measures and at a minimum the following steps shall be accomplished, which shall be verifiable and made available upon request by the Department:

(A) The facility will track the number of stroke and acute stroke patients, the number treated with thrombolytic therapy, including how soon after hospital presentation (arrival to needle time), the number of acute stroke patients not treated and indications for why they were not treated;

(B) There will be an official policy to review the care of all acute stroke patients that were eligible for thrombolytics and did not receive them;

(C) There will be a policy for and review of all patients who received thrombolytics more than 60 minutes after hospital presentation;

(D) If a facility fails to provide thrombolytics within 60 minutes to at least 50% of eligible patients for two consecutive quarters, they will develop and implement an internal plan of corrections;

(E) Provide no less than quarterly feedback to:

(i) Hospital physicians and other health professionals;

(ii) Emergency medical service agencies; and

(iii) Referring hospitals;

(F) There will be a review of all acute stroke patients who require more than 2 hours to be transferred (arrival-to-departure time);

(G) The time from ordering to interpretation of a head CT or MRI will be tracked; and

(H) Door-to-computer link time for cases where a tele-technology is used.

(7) **Agreements and policies:**

(A) The stroke center shall develop and implement a written plan for transfer of patients to a Level I or Level II stroke facility as appropriate, defining medical conditions and circumstances for those emergency patients who:

(i) May be retained for treatment in-house;

(ii) Require stabilizing treatment; and

(iii) Require transfer to another facility.

(B) If a stroke telemedicine program is utilized, there will be a written, contractual agreement addressing, at a minimum, performance standards, legal issues and reimbursement.

(d) **Level IV Stroke Referral Center.** A Level IV Stroke referral center shall be deemed to adhere to secondary stroke recognition and prevention guidelines as required by state law and is a referral center lacking sufficient resources to provide definitive care for stroke patients. A Level IV Stroke referral Center shall provide prompt assessment, indicated resuscitation and appropriate emergency intervention. The Level IV Stroke referral Center shall arrange and expedite transfer to a higher level stroke center as appropriate. A hospital shall receive a Level IV Stroke referral Center designation by the Department, which shall be renewed in three (3) year intervals, providing the hospital is not certified as a level I, II or III stroke center and meets the following requirements:

(1) **Emergency Department:**

(A) For a hospital licensed as a general medical surgical hospital or specialty hospital, emergency services shall comply with the requirements of OAC 310:667-29-1 and OAC 310:667-29-2;

(B) For a hospital licensed as a critical access hospital, emergency services shall comply with OAC 310:667-39-14;

(C) For acute stroke patients requiring transfer by emergency medical services, said services will be contacted and emergently requested no more than 20 minutes after patient arrival;

(D) Enter into transfer agreements for expeditious transfer of acute stroke patients to stroke centers able to provide a higher level of care;

(E) Have a comprehensive plan for the prompt transfer of acute stroke patients to higher level stroke centers which includes an expected arrival-to-departure time of < 60 minutes, with the ability to provide documentation demonstrating the ability to meet this requirement at least 65% of the time on a quarterly basis;

(F) A health care professional able to recognize stroke patients will assess the patient within 15 minutes of arrival; and

(G) Collaborate with emergency medical service agencies to develop inter-facility transfer protocols for stroke patients and will only use those emergency medical service agencies that have a Department approved protocol for the inter-facility transfer of stroke patients.

(2) **Supplies and equipment:** All Level IV Stroke referral Centers shall meet the requirements of OAC 310:667-59-9(a)(3).

(3) **Laboratory services:**

(A) For a hospital licensed as a general medical surgical hospital or specialty hospital, clinical laboratory services shall also comply with the applicable requirements in OAC 310:667-23; and

(B) For a hospital licensed as a critical access hospital, clinical laboratory services shall also comply with the applicable requirements in OAC 310:667-39.

(4) **Outcome and quality improvement:** The following outcome and quality improvement requirements are applicable to Level IV Stroke referral Centers, which include tracking of all patients seen with acute stroke:

(A) A facility will meet the applicable outcome and quality measures listed in section 310:667-59-20(G) [1]; and

(B) Track and review all acute stroke transfer cases requiring longer than an arrival-to-departure time of > 60 minutes. If over two consecutive quarters inter-facility transfers (arrival-to-departure) exceeds > 60 minutes more than 35% of the time the facility will create and implement an internal plan of correction.

(5) **Agreements and policies:**

(A) A Level IV Stroke referral Center shall develop and implement a written plan for transfer of patients to a Level I, II or III Stroke Center. The written plan shall establish medical conditions and circumstances to determine:

(i) Which patients may be retained or referred for palliative or end-of-life care;

(ii) Which patients shall require stabilizing treatment; and

(iii) Which patients shall require transfer to a Level I, II or III Stroke Center;

(B) Development and implementation of policy and transfer agreements directing transfer of acute stroke patients to the closest appropriate higher level facility. Patient preference may be taken into consideration when making this decision.

AGENCY NOTE: *[1] In the process of drafting and revising new language for this section 310:667-59-20, a change in numbering was not captured in the new rule text in subparagraph (d)(4)(A) of this section. The cross-reference to 310:667-59-20(G) in this subparagraph is invalid and refers to a non-existent subsection. The cross-reference should refer to 310:667-59-20(c)(6), relating to outcome and quality improvement measures. This error will be revised in future rule-making.*

[OAR Docket #15-716; filed 7-6-15]

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

[OAR Docket #15-624]

RULEMAKING ACTION:
PERMANENT final adoption

RULES:
Subchapter 1. Human ~~Resources~~Resource Management ~~Division (HRMD)~~
Part 3. Internal Human Resources
340:2-1-26 through 340:2-1-28 [AMENDED]
Part 7. Recruitment, Selection, ~~and~~ Placement Policy, and Procedures
340:2-1-81 [AMENDED]
(Reference WF 14-18)

AUTHORITY:
Director of Human Services; Section 162 of Title 56 of the Oklahoma Statues (O.S. 56 § 162); and the Oklahoma Merit rules of Employment 530:10-1-1(e)(f)(g).

SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
January 23, 2015

COMMENT PERIOD:
February 17, 2015 through March 19, 2015

PUBLIC HEARING:
None requested

ADOPTION:
March 24, 2015

SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:
March 25, 2015

APPROVED BY GOVERNOR'S DECLARATION:
Approved by Governor's declaration on June 8, 2015

FINAL ADOPTION:
June 8, 2015

EFFECTIVE:
September 15, 2015

SUPERSEDED EMERGENCY ACTIONS:
n/a

INCORPORATIONS BY REFERENCE:
n/a

ANALYSIS:
The proposed revisions to Chapter 2 Subchapter 1 amend the rules to: (1) establish changes in Oklahoma Department of Human Services (DHS) application processes due to the integration of new technology; and (2) provide information to improve and clarify the rules for the general public during the application process. The proposed amendment removes text that references Affirmative Action and the use of the Fair Employment Practices Act (FEPA) eliminated by State Question 759.

CONTACT PERSON:
Dena Thayer, Programs Administrator, Policy Management Unit, DHS, PO Box 25352, Oklahoma City, OK 73125, 405-521-4326.

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

SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 15, 2015:

SUBCHAPTER 1. HUMAN ~~RESOURCES~~RESOURCE MANAGEMENT ~~DIVISION (HRMD)~~

PART 3. INTERNAL HUMAN RESOURCES

340:2-1-26. Employment and assignment

(a) **Selection from Office of ~~Personnel~~ Management ~~(OPM)~~and Enterprise Services Human Capital Management (HCM) E-List.** The process to fill a position is initiated ~~by use of~~using Form 11PE031E, Announcement Requisition, which is forwarded to ~~the Human Resources Management Division (HRMD),~~ Oklahoma Department of Human Services ~~(OKDHS)~~(DHS) Human Resource Management (HRM). When ~~HRMD~~HRM is notified of vacancies ~~that are~~ not filled by promotion, demotion, transfer, or reinstatement ~~in accordance with OKDHS~~per DHS recruitment, selection, and placement policy and procedures, ~~HRMD~~HRM may request an ~~OPM~~ HCM E-List ~~which~~that may be used ~~in accordance with~~per Oklahoma Administrative Code (OAC) 340:2-1-84(b). ~~OPM~~HCM supplies names of eligible ~~persons~~applicants. The hiring rule is the top ~~ten~~10 available ~~eligibles~~, eligible applicants or ~~anyone whose~~ any name ~~is~~ tied with the lowest ~~ranked~~ranking, eligible applicant within the hiring rule~~.~~ [per OAC 530:10-9-92, and Section 840-4.13 of Title 74 of the Oklahoma Statutes (74 O. S. § 840-4.13]).~~OKDHS~~DHS may make its selection from the ~~OPM~~HCM E-List within the hiring rule. In selecting new personnel from the ~~OPM~~HCM E-List, ~~OKDHS~~ DHS may consider any ~~information~~ legally available information concerning each applicant, including ~~data recorded~~information on the application, reports of interviews with applicants and references, performance evaluations, letters of reference, and background checks. ~~OKDHS~~DHS does not discriminate in ~~any of~~ its employment policies and is an equal opportunity employer.

(b) ~~**Utilization of multiple continuous announcement (MCA).** OKDHS may announce that applications will be accepted for a specified period of time in anticipation that numerous vacancies will occur during the period of the announcement. Criteria for the establishment of an MCA is determined by HRMD. When MCA is utilized:~~

~~(1) individual announcements are not utilized for the same job family descriptor at the same unit location;~~

~~(2) applicant lists may be issued to selecting official beginning ten calendar days after announcement opens and up to ten calendar days after the announcement closes; and~~

~~(3) an applicant will have his or her name removed from further consideration for MCA when the applicant:~~

~~(A) fails to respond to an invitation for an interview;~~

~~(B) fails to respond to a request for additional information;~~

~~(C) declines an interview; or~~

~~(D) declines a job offer.~~

~~(c)~~ **Determination of availability.** Upon receipt of the ~~OPM~~HCM~~E-List~~, ~~HRMD~~HRM forwards the HCM E-List to the requesting official~~. This official~~who contacts applicants on the ~~list~~E-List by mail or ~~e-mail~~email to determine if the applicants are available for ~~an interview~~interviews.

(1) ~~If~~When an applicant declines an offer of appointment, fails to report for an interview, or fails to report for duty, the circumstances are documented for the record. An eligible applicant ~~may be~~is considered to have declined and may be removed from consideration when he or she:

(A) fails to reply to a written invitation to interview within seven calendar days, exclusive of the date of mailing;

(B) is contacted by ~~e-mail~~email with an invitation to interview and fails to respond to the ~~electronic~~email inquiry within 72 hours; or

(C) verbally declines an opportunity to interview with a DHS representative ~~of OKDHS DHS~~.

(2) Information regarding a selected applicant's availability for appointment is transmitted to ~~HRMD~~HRM with ~~any~~ other pertinent information ~~obtained~~ regarding the applicant ~~at the time~~. Form 11PE076E, Applicant List, is returned to ~~HRMD~~HRM and ~~as relevant,~~ the ~~OPM~~HCM E-List.

(3) A conditional offer of employment, Form 11PE009E, Conditions of Employment, is made to an applicant pending the passing of the required, pre-employment drug screening~~.~~ [per OAC 340:2-1-43(b)(1)].

(4) Appointment to certain DHS positions ~~within OKDHS~~ requires the completion of a favorable background check [per OAC 340:2-1-56].

(~~d~~c) **Notice of appointment.** ~~Since OKDHS~~DHS administers statewide programs~~,~~ and staff are assigned in accordance with ~~the~~DHS particular needs ~~of OKDHS~~. ~~Form OPM 14, Request for Personnel Action, showing~~The HCM PeopleSoft Human Resource Management System generates a Personnel Action report providing the ~~OPM~~ HCM position identification number, job family with level and job code, place of assignment, pay band and salary, and is provided to the new employee as notice of his or her appointment.

340:2-1-27. Report of entrance on duty

(a) **Required documents.** On the ~~day a new employee enters~~employee enter on duty day (EOD), the unit supervisor ~~of the unit of assignment~~ completes Form 11AD068E, Report of Accession, and forwards it to ~~the Human Resources Management Division (HRMD)~~Human Resource Management (HRM). Documents attached to Form 11AD068E include:

(1) a copy of the employee's Social Security card. The employee's name on all personnel and payroll records is shown exactly as it appears on the Social Security card. ~~If~~When the employee is unable to provide ~~the~~his or her required, original Social Security card, ~~the employee~~he or she must present a receipt of application for the replacement card within three business days of ~~entering on duty~~EOD;

(2) Secretary of State (SOS) Form 100, Loyalty Oath. ~~A signed, written loyalty oath is required for each new employee.~~ A new ~~SOS~~ Form 100 is submitted with each appointment following a consecutive, 30-calendar day break in service;

(3) Form W-4, Employees Withholding Allowance Certificate, or Form W-5, Earned Income Advance Payment Certificate;

(4) Form 515-01-97R, Enrollment Application in State Retirement, except for temporary appointments;

(5) Notice of Employee's Right to Continue Group Health Coverage, Consolidated Omnibus Budget Reconciliation Act (COBRA), except for temporary appointments;

(6) ~~Form 11PE021E, Additional Application Information~~Form 11PE201E, Payroll and EEOC Reporting Information;

(7) Form 10PL023E, Employee Longevity Service Worksheet, except for temporary appointments;

(8) Department of Homeland Security, United States Citizenship and Immigration Services, Form I-9, Employment Eligibility Verification. Pursuant to the Immigration Reform and Control Act of 1986, Form I-9 is completed by the employing unit on the first day of employment. ~~If~~When the employee is unable to provide the acceptable original document(s) as listed on ~~the~~ Form I-9, the employee must present a receipt for the application for the document(s) within three business days of ~~entering on duty~~EOD or the employee ~~will be~~is immediately separated from duty. However, an employee working three or less days ~~or less~~ must produce the required original documents for the completion of Form I-9 on ~~the first day of duty~~EOD. An employee who presented a receipt for the application of a document must present the required original document within 90-calendar days of ~~entering on duty~~EOD or he or she ~~will be~~is immediately separated from duty;

(9) verification of tribal affiliation, ~~if~~when the employee ~~wishes~~requests designation as Native American;

(10) insurance benefits enrollment forms, except for temporary appointments;

(11) Form ~~11AD133E~~05AD133E, Employee and Non-employee Acknowledgment of Confidentiality; and

(12) the employee's acceptance of the conditional job offer, Form 11PE009E, Conditions of Employment, agreeing to classification, status, salary, and agreement to serving a probationary period upon entrance to the classified service as a direct hire, ~~as a~~ reinstatement, or ~~any~~ other hire that does not utilize the Office of ~~Personnel~~ Management ~~(OPM)~~and Enterprise Services Human Capital Management Division E-List.

(b) **Missing documents.** If all documents are not available on the date of entry on duty, all available documents are submitted. Missing documents are submitted as soon as possible, but no later than required by law to ensure accurate compensation. All of the documents listed in (a)(1) through (12) of this Section are required in accordance with state and federal laws.

340:2-1-28. Probationary or trial period, classified service

~~(a)~~ **Probationary period upon initial appointment.** The probationary period for ~~any~~ an appointed employee is one-year or until the probationary period is waived after the employee has served six months. The probationary period may not be extended beyond one year but may be adjusted, per ~~Merit Rule~~Oklahoma Administrative Code (OAC) Merit Rule 530:10-11-36. An employee in a leave without pay status in excess of 40 ~~working~~ hours will have the probationary period adjusted equal to his or her leave without pay time in excess of 40 hours.

(1) The probationary period is a working, test period during which a classified employee is required to demonstrate fitness for the job family and level to which appointed. The decision to grant a probationary employee permanent status is based ~~upon~~on a closed Office of Management and Enterprise Services Human Capital Management (HCM) Division, Form HCM-111, Supervisory Documentation, written evaluations, recommendations, or other pertinent information. ~~Early award of permanent status is reviewed and approved at division level or designee. When permanent status is granted, the employee and OPM receive confirmation from the Human Resources Management Division (HRMD).~~

(2) ~~Services of an employee on probationary status may be terminated at any time.~~ Early award of permanent status wavier for the remainder of the probationary period must be reviewed and approved by the division director or by his or her designee. When permanent status is granted, HCM and the employee receive confirmation from Human Resource Management. An employee may be discharged at any time during the probationary period.

(3) Employee benefits are available to probationary employees in accordance with specific benefit policies.

(4) A change in shift assignment or a significant change of duties of a probationary employee, in excess of 30-calendar days, requires prior HCM approval ~~of OPM~~.

(5) A probationary employee is not:

(A) eligible for promotion or demotion;

(B) eligible to apply for ~~OKDHS~~DHS job announcements until successful completion of the probationary period;

(C) transferred from the original locality where appointed;

(D) changed from part-time to full-time; ~~and~~or

(E) transferred to a position in another job family.

(6) A probationary or permanent ~~OKDHS~~DHS employee may apply for a job through the ~~OPM~~HCM application system. If a job offer is subsequently made, the offer is to a new appointment and the employee is required to:

(A) resign from the ~~old~~ position held at the time of acceptance; and

(B) serve a new one-year probationary period in the new position.

~~(b) **Trial period upon promotion or transfer.** A classified employee who is promoted or transferred to a different job family and level serves a six-month trial period in the job family and level to which the employee is promoted or transferred. The trial period may be waived in writing at any time.~~

~~(c) **Trial period upon voluntary demotion.** Voluntary demotion of a classified OKDHS employee requires a six-month trial period. The voluntarily demoting employee is notified in writing of a trial period prior to the effective date of the voluntary demotion. The trial period may be cancelled at any time.~~

~~(d) **Failure to complete trial period.** If an employee's performance does not prove satisfactory in the new job, the employee is reinstated to the former position or another in the same job family and level, at the salary the employee would have received if the promotion, demotion, or transfer had not taken place. The employee is provided written notice of the reason for failure to acquire permanent status in the job.~~

~~(e) **Interagency transfer or reinstatement.** Permanent, classified employees of other Oklahoma state agencies may transfer in permanent status unless the selecting authority elects to require appointment as a reinstatement to include a probationary period as a condition of employment.~~

PART 7. RECRUITMENT, SELECTION, AND PLACEMENT POLICY AND PROCEDURES

340:2-1-81. Issuing Applicant List and E-List

(a) ~~The Human Resources Management Division (HRMD)~~Human Resource Management (HRM) prepares Form 11PE076E, Applicant List, for the announced position. Applicants are screened to determine eligibility.

(b) ~~If~~When the position is in the classified service and announced as ~~such~~a classified position, applicants may be considered from all sources. The local administrator may request that ~~HRMD~~HRM issue an Office of ~~Personnel~~ Management ~~(OPM)~~and Enterprise Services Human Capital Management (HCM) Division E-List for the announced job family descriptor and level, and authorized announced alternate hiring level, as applicable. ~~For positions that have been identified as underutilized in the current fiscal year in the Oklahoma Department of Human Services (OKDHS) Affirmative Action Plan, a special OPM E-List is requested by the local administrator under the provisions of the Fair Employment Practices Act (FEPA) for which a goal has been established.~~ The selecting official:

(1) must ~~work~~use Form 11PE076E; and

(2) may ~~work~~use the regular ~~OPM E-list(s) which~~HCM E-List that includes the:

(A) ~~FEPA List; and~~

~~(B)~~ Priority Reemployment E-List~~.~~; and

(B) Free List, Optional Program for Hiring Applicants with Disabilities.

[OAR Docket #15-624; filed 6-19-15]

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

[OAR Docket #15-625]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 3. Office of Client Advocacy
Part 3. Investigations
340:2-3-32 through 340:2-3-38 [AMENDED]
Part 9. Advocacy Programs
340:2-3-71 through 340:2-3-75 [AMENDED]
(Reference WF 14-06)
AUTHORITY:
Director of Human Services; O.S. 56 § 162; 10A O.S. § 162; 10A O.S. § 1-1-101 et seq.; 43A § 10-102 et seq.; and Section 5101 et seq. of Title 42 of the United States Code.
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
January 23, 2015
COMMENT PERIOD:
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PUBLIC HEARING:
None requested
ADOPTION:
March 24, 2015
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Approved by Governor's declaration on June 8, 2015
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June 8, 2015
EFFECTIVE:
September 15, 2015
SUPERSEDED EMERGENCY ACTIONS:
n/a
INCORPORATIONS BY REFERENCE:
n/a
ANALYSIS:
The proposed amendments to Chapter 2, Subchapter 3 amend the rules to: (1) comply with Oklahoma Commission for Human Services November, 1, 2012 resolution in regards to the closing of the Northern Oklahoma Resource Center of Enid (NORCE) and the Southern Oklahoma Resource Center (SORC); and (2) reflect clarification on the investigations program regarding who needs to be contacted after an investigation finding is reached, interview protocol, and time frames of initiation regarding vulnerable adult cases.
CONTACT PERSON:
Dena Thayer, Programs Administrator, Policy Management Unit, DHS, PO Box 25352, Oklahoma City, OK 73125, 405-521-4326.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 15, 2015:

SUBCHAPTER 3. OFFICE OF CLIENT ADVOCACY

PART 3. INVESTIGATIONS

340:2-3-32. Office of Client Advocacy (OCA) investigations

(a) **Legal authority, scope, and purpose.**

(1) **Legal authority.**

(A) Section 1-9-112(A)(3)(d) and (e) of Title 10A of the Oklahoma Statutes (10A O.S. § 1-9-112(A)(3)(d) and (e)) gives the Office of Client Advocacy (OCA) the responsibility to investigate allegations of abuse, neglect, sexual abuse, sexual exploitation, and misconduct by a person responsible for the child:

(i) residing outside their own homes regardless of custody, other than children in foster care;

(ii) receiving services from a community services provider or a community services worker, per 56 O.S. § 1025.1;

(iii) in a day treatment program per 10 O.S. § 175.20; and

(iv) residing in a state institution per 10 O.S. § 1406.

(B) 43A O.S. § 10-105 gives the Oklahoma Department of Human Services (DHS) responsibility to investigate allegations of caretaker abuse, neglect, verbal abuse, and exploitation of vulnerable adults. DHS confers on OCA the responsibility to conduct investigations that involve:

(i) Hissom class members;

(ii) residents of the ~~Southern Oklahoma Resource Center (SORC), the Northern Oklahoma Resource Center of Enid (NORCE), and the~~ Robert M. Greer Center (Greer); and

(iii) vulnerable adults receiving services from a community services provider, community services worker, Medicaid personal care services provider, or Medicaid personal care assistant, as those terms are defined in 56 O.S. § 1025.1.

(C) OCA investigates, pursuant to Oklahoma Administrative Code (OAC) 340:75-3-430, reports alleging denial of medically beneficial treatment by a medical provider to a handicapped infant.

(2) **Scope.** OCA conducts investigations of maltreatment allegations listed in this subsection. ~~All of the individuals listed, who are clients of the facilities and providers that provide residential care, vocational services, or day treatment, are referred to as the "client" throughout this Section and OAC 340:2-3-33 through 340:2-3-37.~~ Per 10A O.S. § 1-9-112, OCA investigates allegations of:

(A) abuse, neglect, sexual abuse, sexual exploitation, and caretaker misconduct of children by persons responsible for a child regardless of custody residing outside their own homes, other than children in foster care or children in the custody of the Oklahoma Office of Juvenile Affairs (OJA) and placed in an OJA Secure facility as defined by Section 2-1-103 of Title 10A of the Oklahoma Statutes. These investigations include, but are not limited to:

(i) in DHS operated or licensed shelters and group homes;

(ii) and children in facilities operated by, licensed by, or contracting with OJA;

(iii) in community-based youth services shelters and community intervention centers that contract with OJA per 10A O.S. § 2-7-305;

(iv) in facilities operated by or contracting with Oklahoma Department of Mental Health and Substance Abuse Services (ODMHSAS);

(v) in facilities operated by the J.D. McCarty Center of Oklahoma;

(vi) residing in or attending educational classes at facilities operated by the Oklahoma Department of Rehabilitation Services (ODRS), the Oklahoma School for the Blind and the Oklahoma School for the Deaf; and

(vii) receiving services from a community services worker or community services provider per 56 O.S. § 1025.1;

(B) abuse and neglect of, and caretaker misconduct with regard to, children in day treatment programs per 10 O.S. § 175.20, including sanctions programs certified by OJA to provide programming for children who are court ordered to participate in that program;

(C) abuse, neglect, verbal abuse, and caretaker misconduct with regard to, residents of ~~SORC, NORCE, and~~ Greer;

(D) abuse, neglect, verbal abuse, and exploitation of Hissom class members living in Oklahoma and who do not reside in a private intermediate care facility for the intellectually disabled (ICF/ID); and

(E) abuse, neglect, verbal abuse, and exploitation of vulnerable adults receiving services from a community services worker, community services provider, Medicaid personal care services provider, or Medicaid personal care assistant, per 56 O.S. § 1025.1.

(3) **Purpose.** OCA conducts independent and objective investigations of suspected maltreatment of clients by PRFCIs and vulnerable adult caretakers (VACs) in order to:

(A) protect clients from further maltreatment;

(B) deter and prevent maltreatment;

(C) provide relevant evidence in administrative and judicial proceedings;

(D) rule out unfounded allegations; and

(E) hold violators accountable.

(b) **Confidentiality of Office of Client Advocacy records.** State and federal statutes and regulations including, but not limited to, 10A O.S. § 1-9-112(C); 10A O.S. § 1-6-102; 56 O.S. § 183; 43A O.S. § 10-110; and OAC 340:65-1-2 require confidentiality for certain DHS records. Information regarding clients is confidential and protected from unauthorized use. Only authorized individuals are permitted access to case records or provided information from OCA case records.

(1) **OCA investigations involving children.** Statutes and policies regarding the confidentiality of OCA files,

records, and reports relating to investigations involving children include, but are not limited to, the confidentiality provisions of the statutes and policies listed in (A) through (C) of this paragraph.

(A) 10A O.S. §§ 2-6-102 through 106 ~~apply~~applies to OCA investigations involving children in OJA custody and in facilities that contract with OJA.

(B) 10A O.S. §§ 1-2-106, 1-2-107, 1-6-102 et seq., and 1-6-107 ~~apply~~ applies to investigations involving children, regardless of custody, residing outside their own homes.

(C) OAC 340:75-1-42 through 340:75-1-46 applies to OCA investigations involving children in DHS custody, including information regarding placement.

(2) **OCA investigations involving vulnerable adults.** Statutes and policies regarding the confidentiality of OCA files, records, and reports relating to investigations involving vulnerable adults include, but are not limited to, (A) through (C) of this paragraph.

(A) **Disclosure to meet client's protection and other needs.** When consulting persons knowledgeable of the circumstances of an alleged victim of abuse, neglect, or exploitation, or when making other contacts as part of the investigation or service planning process, OCA staff may disclose information necessary to ensure the client is protected and the client's needs are met. Information may be disclosed for this purpose without a court order to specific persons acting in an official capacity with regard to the investigation, including:

(i) a district attorney or employees of the district attorney's office;

(ii) the attorney representing an alleged victim in the matter under investigation;

(iii) staff of an Oklahoma law enforcement agency or a law enforcement agency of another state;

(iv) physical or mental health care professionals involved in the evaluation or treatment of the vulnerable adult;

(v) the guardian of the vulnerable adult, in the form of a summary of the allegations in the referral;

(vi) the provider for a vulnerable adult; and

(vii) other public or private agencies or persons authorized by DHS to diagnose, or provide care, treatment, supervision, or other services to a person who is the subject of an OCA investigation.

(B) **Disclosure to district attorney and law enforcement.** District ~~attorneys their~~attorneys and staff, the attorney representing the alleged victim, and law enforcement agencies may receive information from the Advocate General or review the entire case record. All other disclosures are limited to summaries of information provided for a specific purpose. Case information from OCA records is not released for research purposes without the prior approval of the advocate general.

(C) **Disclosure to others and the news media.** In other situations, OCA investigative information is considered confidential per 43A O.S. § 10-110(A) and may be disclosed only by court order. Confidentiality applies to members of the news media as well as the general public. News media representatives requesting information on a specific case are referred to the advocate general, the OCA programs administrator for investigations, or the DHS Office of Communications for a detailed explanation of DHS confidentiality rules.

340:2-3-33. Procedure for reporting suspected abuse, neglect, verbal abuse, caretaker misconduct, and exploitation

(a) **Reporting abuse or neglect of a child under 18 years of age.** Persons having reason to believe that a child under 18 years of age is a victim of abuse or neglect are required per Section 1-2-101 of Title 10A of the Oklahoma Statutes (10A O.S. § 1-2-101) to promptly report it to the Oklahoma Department of Human Services (DHS) Abuse and Neglect Hotline (Hotline) at 1-800-522-3511. Any allegation of abuse or neglect reported in any manner to a DHS county office is immediately referred to the Hotline, per Section 10A O.S. § 1-2-101.

(b) **Reporting abuse, neglect, verbal abuse, or exploitation of a vulnerable adult.** Any person having reasonable cause to believe that a vulnerable adult is a victim of abuse, neglect, verbal abuse, or exploitation reports to DHS or the municipal police department or sheriff's office in the county where the suspected abuse, neglect, verbal abuse, or exploitation occurred as soon as the person is aware of the situation. The reporting requirement applies to providers, per Oklahoma Administrative Code (OAC) 340:2-3-2~~,~~ and the provider's employees and agents.

(c) **Reporting caretaker misconduct regarding a child.** When the DHS Specialized Placement Unit Child Care Licensing office, the Office of Juvenile Affairs, or another source determines a:

(1) pattern of misconduct exists by a facility or person responsible for the child of interest (PRFCI); or

(2) facility administration fails to take appropriate corrective action in response to an investigation or written plan of compliance, a report should be made to the Hotline.

(d) **Reporting caretaker misconduct regarding a vulnerable adult.** Persons who have reason to believe caretaker misconduct, per OAC 340:2-3-2, has occurred with regard to a vulnerable adult residing at ~~the Southern Oklahoma Resource Center (SORC), the Northern Oklahoma Resource Center of Enid (NORCE), or~~ the Robert M. Greer Center (Greer), promptly reports the allegation to ~~DHS~~the Office of Client Advocacy (OCA).

(e) **Reporting a vulnerable adult's death, serious physical injury, or sexual assault.** In addition to the mandatory reporting requirements per OAC~~:~~ 340:2-3-33(b) the events listed in (1) through (7) of this subsection are reported to OCA intake when a vulnerable adult's caretaker is alleged to be involved in the vulnerable adult's:

(1) violent death, whether apparently homicidal, suicidal, or accidental;

(2) death under suspicious, unusual, or unnatural circumstances;

(3) death when the vulnerable adult is a resident ~~of SORC, NORCE, or~~ Greer;

(4) death when the vulnerable adult is a Hissom class member;

(5) serious physical injury, per OAC 340:2-3-2;

(6) physical injury when the injury is:

(A) unexplained; and

(B) suspicious; or

(7) rape, sodomy, or other sexual activity prohibited by state law.

(f) **Interference, retaliation, or discrimination related to the reporting obligations required by the Oklahoma Children's Code and the Protective Services for Vulnerable Adults Act prohibited.**

(1) Per 10A O.S. § 1-2-101, the reporting obligations under the Oklahoma Children's Code are individual and no employer, supervisor, or administrator interferes with the reporting obligations of any employee or other person or in any manner ~~discriminate~~discriminates or ~~retaliate~~retaliates against the employee or other person who in good faith reports suspected child abuse or neglect, or who provides testimony in any proceeding involving child abuse or neglect. Any employer, supervisor, or administrator who discharges, discriminates, or retaliates against the employee or other person is liable for damages, costs, and attorney fees.

(2) Per 43A O.S. § 10-104, no employer terminates the employment, prevents or impairs the practice, or occupation of, or imposes any other sanction on any employee solely for the reason the employee made or caused to be made a report or cooperated with an investigation pursuant to the Protective Services for Vulnerable Adults Act.

(g) **Immunity from liability for good faith report of abuse, neglect, or exploitation of a child or vulnerable adult.** Per 10A O.S. § 1-2-104, the Oklahoma Children's Code and 43A O.S. § 10-104, the Oklahoma Protective Services for Vulnerable Adults Act, any person exercising good faith and due care in making a report of alleged abuse, neglect, or exploitation has immunity from any civil or criminal liability the person might otherwise incur. The person has the same immunity with respect to participation in any judicial proceeding resulting from the report.

(h) **Failure to report abuse, neglect, or exploitation of a child or vulnerable adult.** Any person who knowingly and willfully fails to promptly report abuse, neglect, or exploitation as required ~~by the provisions of~~per 10A O.S. § 1-2-101 and 43A O.S. § 10-104 may be subject to administrative action or criminal sanctions upon conviction. In addition, failure to report by a DHS employee may result in disciplinary action.

(i) **False report of abuse, neglect, or exploitation of a child or vulnerable adult.**

(1) Per 10A O.S. § 1-2-101, any person who knowingly and willfully makes a false report regarding alleged maltreatment of a child, or a report ~~that~~ the person knows lacks factual foundation, may be reported by DHS to local law enforcement for criminal investigation, and upon conviction, is guilty of a misdemeanor.

(2) Per 43A O.S. § 10-104, any person who willfully or recklessly makes a false report of abuse, neglect, or exploitation of a vulnerable adult may be liable in a civil action for actual damages and for punitive damages set by the court or jury regarding the reported party.

(j) **Method of reporting.**

(1) Each report alleging abuse or neglect of a child is screened by the DHS Hotline in compliance with Child Welfare Services policies and procedures. Each accepted report of a child within Office of Client Advocacy (OCA) investigative authority and scope is assigned to OCA for possible investigation. Reports may be phoned to the Hotline at 1-800-522-3511, faxed to 405-936-0922, emailed to STO.Hotline.Referral@OKDHS.org, or mailed to Child Abuse and Neglect Hotline, DHS, PO Box 25352, Oklahoma City, Oklahoma 73125-0352.

(2) Reports of abuse, neglect, or exploitation of a Hissom class member, resident of ~~SORC, NORCE, or~~ Greer, or other vulnerable adults receiving Developmental Disabilities Services (DDS) services are reported to OCA except for weekends and after business hours when the reports are made to the Hotline at 1-800-522-3511. Reports to OCA may be phoned to 1-800-522-8014 or 405-522-2720, faxed to 405-522-2680, or emailed to oca.intake@okdhs.org.

(3) Reports of abuse, neglect, verbal abuse, financial neglect, or exploitation of a vulnerable adult receiving services from a Medicaid personal care services provider are reported to the Adult Protective Services office, except for weekends and after business hours when the reports are made to the Hotline at 1-800-522-3511.

(4) Reports of allegations may be submitted by completing Form 15GN001E, Office of Client Advocacy-Intake Referral, and sent to the applicable intake unit.

(k) **Confidentiality of reporting party's identity.** The identity of the person who reports abuse or neglect of a child per 10A O.S. § 1-6-102(H)(7), or abuse, neglect, or exploitation of a vulnerable adult per 43A O.S. § 10-105.1(C)(2), is kept confidential and is not disclosed. DHS accepts anonymous reports of abuse, neglect, or exploitation of a child or vulnerable adult.

(l) **Staff training regarding reporting obligations.** Each administrator ensures the employee receives relevant training regarding the employee's responsibility to report a child or vulnerable adult's alleged abuse, neglect, or exploitation. Except for employees of a DDS provider, the employee receives the training within 30 calendar days of the employee's initial employment and receives subsequent annual training. DDS provider employee training is as specified per OAC 340:100-3-38 et seq.

340:2-3-34. Administrator's responsibilities regarding allegations reportable to Office of Client Advocacy (OCA)

(a) **Facility administrator's responsibility for ~~client's~~ protection, safety, health, and welfare of children and vulnerable adults.** When OCA intake receives an allegation of maltreatment by a vulnerable adult caretaker (VAC) or a person responsible for the child of interest (PRFCI), from anyone other than the administrator or the administrator's designee, of the facility or provider responsible for the client, OCA intake promptly notifies the applicable administrator of the allegation.

(1) Upon becoming aware of an allegation of caretaker maltreatment involving an ~~Office of Client Advocacy (~~OCA~~)~~ client, an administrator ensures the safety, protection, and needed medical attention of any client named in the allegation and other clients receiving services from the facility or provider.

(2) When criminal activity is alleged regarding a child or vulnerable adult, the administrator immediately notifies the appropriate local law enforcement authority. The types of criminal activity reported to law enforcement include, but are not limited to, the use or possession of illegal drugs, domestic abuse, illegal sexual activity, illegal use of alcohol, theft of money, property, or medication that is a controlled substance, and when someone other than a caretaker is believed to have committed the allegation.

(3) The administrator takes necessary personnel actions to ensure the protection and safety of the alleged victim(s) and other clients. When necessary to ensure safety, an Immediate Protective Action Plan (IPAP) is completed with an OCA investigator. The creation of the IPAP may include consultation with: Oklahoma Department of Human Services (DHS) Developmental Disabilities Services (DDS), Child Welfare Services (CWS), Specialized Placements and Partnerships Unit (SPPU), Child Care Services (CCS), or the Oklahoma Office of Juvenile Affairs (OJA). OCA does not determine or approve personnel actions taken by an administrator in response to allegations reported to OCA.

(4) In the event of alleged abuse or neglect of a Hissom class member by a provider's employee or subcontractor, the administrator ensures the protection and medical attention for any class member named in an allegation or other individual served. In the event of alleged abuse or neglect by an individual serving as a provider, it is the responsibility of the class member's case manager to ensure protection, medical attention, or both for the class member. OCA intake notifies the applicable ~~Developmental Disabilities Services Division (DDSD)~~DDS area manager by email within one ~~working~~business day of receipt of a referral of abuse or neglect by an individual serving as provider for the class member.

(b) **Preliminary assessment.** Upon learning of an incident reportable to ~~OKDHS~~DHS, the administrator:

(1) immediately ensures the safety of any client(s) named in the referral;

(2) secures any physical evidence and gathers documents within the possession, custody, or control of the facility or provider ~~that may be~~ relevant to the allegation;

(3) immediately photographs injuries. Photographs are taken by a person uninvolved in the incident that is the subject of the allegation relating to the injuries; and

(4) coordinates activities with OCA and other agency or law enforcement authorities involved in investigating the referral.

(c) **Collecting pertinent reports and documents.** The administrator determines which employees were present when the alleged incident occurred and requires each employee to submit a written account of the alleged incident. The administrator collects medical records, documents, reports, and other documentary evidence that pertains to the alleged incident, within the facility or provider's~~,~~ possession, custody, or control, and places them in a ~~holding~~ file for OCA investigative ~~use~~ and other investigative ~~authorities~~authorities' use. The administrator securely maintains documents collected during the preliminary assessment.

(d) **OCA access to documents and evidence.** Upon request, an OCA investigator is provided a copy of and access to the original written statements, incident reports, relevant documents, records, reports, photos, and other evidence collected during the preliminary assessment.

(e) **Prohibition from interviewing during preliminary assessment.** Facility or provider employees do not conduct an investigation of an alleged incident ~~pending~~ while the OCA decision to accept the referral for investigation is pending, or during ~~a pending~~an open OCA investigation. To avoid the consequences of over-interviewing parties involved in an alleged incident, the preliminary assessment is limited to inquiries regarding those involved, obtaining written statements, and clarifying information needed to take appropriate action to ensure client safety. Determining if a staff member engaged in maltreatment is not the goal of a preliminary assessment ~~and is avoided until the OCA disposition is determined~~. Once there is reason to believe abuse or neglect occurred, the preliminary assessment ceases, and the incident is reported to the OKDHS Abuse and Neglect Hotline, when it involves a juvenile, or to OCA when the alleged victim is a vulnerable adult. This prohibition does not extend to interviews and investigations conducted by law enforcement when responding to a report of criminal activity. The assigned OCA investigator coordinates activities with local, state, and federal law enforcement entities to seek the most appropriate investigative response to the referral.

(f) **Facility and provider contact person.** ~~Each~~The facility or provider administrator is responsible for the care of ~~any of the individuals listed in OAC~~each individual per Oklahoma Administrative Code (OAC) 340:2-3-32(a)(2) and designates a contact person for OCA. The administrator informs the advocate general of the name, phone number, and email address of the designated contact person and immediately notifies the advocate general in writing, by mail or email, of changes to the information. The designated contact person is available by telephone, pager, or email at all times. Form 15IV011E,

Designation of Contact Person for Client Investigations, may be used for this purpose.

(g) **Documentation provided by ~~SORC, NORCE, and~~the Robert M.Greer Center (Greer).** Within one business day of ~~the Southern Oklahoma Resource Center (SORC), the Northern Oklahoma Resource Center of Enid (NORCE), or the Robert M. Greer Center (~~Greer~~)~~ submitting ~~to the Oklahoma State Department of Health~~ an incident report to the Oklahoma State Department of Health, a five-day report, or a final report regarding an allegation reported to OCA intake, the facility sends OCA intake a copy by fax or email attachment.

(h) **Ensuring confidentiality.** Administrators maintain information, files, and documents regarding referrals made to OCA intake, including OCA investigation reports distributed per OAC 340:2-3-36, in a manner that protects information confidentiality.

340:2-3-35. Processing referrals received by the Office of Client Advocacy (OCA)

(a) **OCA referral screening options.** Except for referrals received from the Oklahoma Department of Human Services ~~(OKDHS)~~(DHS) Abuse ~~&~~and Neglect Hotline (Hotline) involving a child, ~~the Office of Client Advocacy (~~OCA~~)~~ intake records on Form 15GN001E, Office of Client Advocacy-Intake Referral, ~~or the electronic equivalent,~~ the specifics of each referral ~~received~~ and makes an appropriate disposition. All known information is considered when determining the appropriate disposition and course of action. If the information is unclear and it appears the allegation may rise to the level of abuse, neglect, or exploitation, a preliminary inquiry is conducted by intake staff. The screening disposition options and criteria include, but are not limited to, the options described in (1) through ~~(7)~~(12) of this subsection.

(1) **Assign for OCA investigation.** This screening disposition means OCA opens an investigation of an allegation of the person responsible for the child of interest (PRFCI) or vulnerable adult caretaker (VAC) maltreatment.

(2) **Assign for internal caretaker conduct review.** This screening disposition means the facility or provider named in the referral is given responsibility to conduct an internal caretaker conduct review per Oklahoma Administrative Code (OAC) 340:2-3-37. Within one ~~working~~business day of receiving a referral given this disposition, OCA intake notifies the administrator or designated contact person. This screening disposition applies to allegations involving vulnerable adults residing at the ~~Southern Oklahoma Resource Center (SORC), Northern Oklahoma Resource Center of Enid (NORCE), and the~~ Robert M. Greer Center (Greer) and facilities for children ~~that are~~ not licensed by or contracted with ~~OKDHS~~DHS.

(3) **Refer to OCA advocate.** This screening disposition is made when the referral involves a Hissom class member or a resident of ~~SORC, NORCE, or~~ Greer and involves a concern based on the information provided~~,~~and does not rise to the level of maltreatment.

(4) **Refer to another administrative entity.** This screening disposition means OCA intake forwards the information to another state agency or ~~the Oklahoma Department of Human Services (OKDHS)~~DHS program or office. This screening disposition is appropriate when information provided by the reporting party does not include an allegation of caretaker maltreatment within OCA purview, but involves complaints about employee performance or allegations within the scope of another administrative entity.

(5) **Refer to Office of Inspector General (OIG).** An allegation regarding the alleged misuse of a Supplement Nutrition Assistance Program (SNAP) Electronic Benefits Transfer (EBT) card, or Social Security Administration fraud or overpayment, is sent to OIG for investigation. This disposition is also utilized when there are allegations of fraud, misconduct, or criminal behavior against current DHS employees.

(~~5~~6) **Refer to law enforcement.** This screening disposition is used when the referral involves possible criminal activity and the reported allegations are not within OCA investigative authority per OAC 340:2-3-32(a). This disposition is not used when OCA opens an investigation on a referral even though a law enforcement agency is investigating the matter. A case may warrant simultaneous OCA involvement and referral to law enforcement. In those instances, notification to law enforcement is appropriately documented.

(~~6~~7) **Refer for grievance.** This screening disposition means the referral is directed to the appropriate entity for processing as a grievance, when the content of the referral is not caretaker maltreatment, but a complaint or concern that can be addressed by a grievance. When the complaint can be addressed as a grievance and is referred for grievance by OCA, the entity promptly notifies its local grievance coordinator. A referral may be appropriate for processing as a grievance when the complaint concerns:

(A) conditions that do not endanger clients or residents;

(B) staff improprieties that do not constitute maltreatment; and

(C) privileges and restrictions not involving the use of isolation, force, or restraints.

(~~7~~8) **No action required.** This screening disposition is made when OCA takes no action in response to the referral because the information provided is for notification purposes only and does not include an allegation, complaint, or concern appropriate for another screening disposition.

(~~8~~9) **Refer to administration.** This screening disposition means the matter is not within the purview of OCA, another ~~OKDHS~~DHS unit, or another state agency, but is relevant to the facility or provider operations.

(~~9~~10) **Refer to ~~DDSD~~Developmental Disabilities Services (DDS) Quality Assurance (QA).** This screening disposition is made when an allegation involves an alleged contract violation that does not involve caretaker maltreatment.

(~~10~~11) **Refer for special advocacy.** This screening disposition is made when the referral constitutes a request for advocacy services per OAC 340:2-3-75.

(12) **Refer to State Office DDS case management.** This screening disposition is made when an allegation does not rise to the level of abuse, neglect, or exploitation but involves an issue of person-centered planning or case management follow-up on behalf of a vulnerable adult.

(b) **Law enforcement notification.** Law enforcement is notified when a referral opened as an OCA investigation involves possible criminal activity on the part of a PRFCI or a VAC.

(c) **Assignment process for referrals opened for investigation.** Investigations involving vulnerable adults are assigned within one ~~working~~business day of ~~making~~ a disposition to investigate the allegation. When urgent circumstances exist in a case opened for investigation, an assignment is made, and the investigation ~~commenced~~ commences immediately.

(d) **Information provided to reporting party.** The reporting party upon proper identification may be provided with information regarding the disposition of the referral.

340:2-3-36. Office of Client Advocacy investigation procedures

(a) **Initiation of Office of Client Advocacy (OCA) investigation.**

(1) Per Section 1-9-112 of Title 10A of the Oklahoma Statutes (10A O.S. § 1-9-112), Oklahoma Department of Human Services (DHS) OCA within its investigative scope and authority, conducts a prompt and thorough investigation upon receiving a report of abuse, neglect, sexual abuse, or sexual exploitation of a child within priority guidelines per 10A O.S. §1-2-105 and Oklahoma Administrative Code (OAC) 340:75-3-130.

(2) Per 43A O.S. § 10-105 DHS OCA within its investigative scope and authority, conducts a prompt and thorough investigation upon receiving a report of abuse, neglect, verbal abuse, financial neglect, or exploitation of a vulnerable adult with intellectual disabilities who is a recipient of home and community based waiver services.

(A) An OCA investigator initiates an investigation by making face-to-face contact with the vulnerable adult, who is the alleged victim.

(B) The OCA investigator initiates the investigation, as soon as possible, but within five calendar days, and not to exceed 120 hours from the time of the receipt of the referral.

(C) In the case of an emergency when a priority response is required, an OCA investigator initiates the investigation, as soon as possible, but not to exceed 24 hours from the date of case assignment.

(D) If during the course of an investigation, the OCA investigator has concerns that the vulnerable adult victim may be engaging in acts of self-neglect, or in need of involuntary protective services or court intervention, the OCA investigator promptly makes a referral to Adult Protective Services (APS) and coordinates with APS to ensure the safety of the vulnerable adult per 43A O.S. § 10-106.

(b) **Joint investigations with law enforcement are conducted ~~when report regards a child~~during children and vulnerable adult investigations when possible.** Per 10A O.S. § 1-9-102, the multidisciplinary team (MDT) approach is used:

(1) whenever feasible for investigations involving cases of child sexual abuse, serious physical abuse, and serious neglect;

(2) to enhance the investigative process and maximize services provided to affected children and families; and

(3) to consult with other MDT team members, as appropriate.

(c) **Notice of investigation provided to person responsible for the child of interest (PRFCI).** Per 10A O.S. § 1-2-106, at initial contact with a ~~(~~PRFCI who is the subject of an investigation pursuant to the Oklahoma Children's Code, DHS advises the PRFCI of the specific complaint or allegation made against him or her.

(d) **Written description of the investigation process provided to PRFCI.** When DHS is unable to locate the PRFCI who is the subject of an investigation, DHS as soon as possible after initiating the investigation of the person, provides the person a brief and easily understood written description of the investigation process that includes information ~~detailed in~~per 10A O.S. § 1-2-106.

(e) **Reportable incident regarding vulnerable adult reported by DHS to law enforcement.** Per 43A O.S. § 10-104, the investigation of a vulnerable adult by DHS includes notification of the allegation to the local law enforcement agency.

(f) **Notice of investigation provided to vulnerable adult's caretaker (VAC), legal guardian, and next of kin.**

(1) Per 43A O.S. § 10-105.1, as soon as possible after initiating an investigation of a referral regarding a vulnerable adult, DHS provides the alleged victim's caretaker, legal guardian, and next of kin, notice that includes a brief oral summary and ~~easily understood~~a written description of the investigation process, whether ~~or not~~ the caretaker, guardian, or next of kin is alleged to be the perpetrator of the abuse, neglect, or exploitation of the vulnerable adult.

(2) ~~If~~When the vulnerable adult retains capacity to consent to voluntary services and does not wish for a caretaker or next of kin to receive notification of the investigation, DHS abides by the vulnerable adult's wishes.

(g) **Facility or provider responsibility to arrange document production, visits, and interviews.** The applicable facility administrator or designee arranges document production, site visits, and interviews per OCA request.

(1) The facility or provider administrator who employed the accused PRFCI or VAC at the time of the alleged incident informs the employee of:

(A) the OCA investigator's name and telephone number;

(B) the investigative process described in this Section;

(C) except as stated in paragraph (2) of this subsection, the employee's rights and responsibilities relating to the investigation described in subsection (l) of this Section, using Form 15IV005E, Rights and Responsibilities of Accused Caretakers; Form 15IV006E, Investigations of Foster Parent Retaliation Complaints - Rights and Responsibilities of Accused

DHS Employees; Form 15IV004E, Investigations of Client Maltreatment - Rights and Responsibilities of Accused DHS Employees; or a substantially similar provider or agency form, a copy of which is provided to the OCA investigator except as stated in paragraph (2) of this subsection; and

(D) the allegation made against the PRFCI or VAC without divulging the identity of the reporting party or the substance of the evidence.

(2) When the PRFCI or VAC is subject to the Community Services Worker (CSW) Registry maintained by ~~the~~ DHS Legal Services, the rights and responsibilities of the accused community services worker and Medicaid personal care assistant is found in OAC 340:100-3-39.

(A) The facility or provider administrator or designee promptly completes Form 06PE059E, Rights and Responsibilities of Community Services Worker in an Investigation of Maltreatment, per OAC 340:100-3-39(e)(2)(C).

(B) The facility or provider administrator or designee mails Form 06PE059E to the worker when it is not possible to hand deliver it to the worker who is no longer employed by the provider.

(h) **OCA access to victims, employees, clients, facilities, files, and other records.**

(1) The applicable facility or provider administrator arranges for the OCA investigator to have immediate and direct access to any alleged victim in the referral who is still a client of the facility or provider.

(2) During an OCA investigation, DHS, Office of Juvenile Affairs (OJA), Oklahoma Department of Rehabilitation Services (ODRS), Oklahoma Department of Mental Health and Substance Abuse Services (ODMHSAS), the J.D. McCarty Center, providers, and facilities~~,~~ and persons who contract with them, provide OCA access to all employees, clients, facilities, locations, files, and records of any nature that may pertain to the investigation.

(3) Denial of access may be grounds for a contract termination between DHS and the contractor.

(i) **Court order allowing entry to premises, access to and exam of the child, and access to child's medical, psychological, or psychiatric records.** Per 10A O.S. § 1-2-105:

(1) the investigation may include a medical, psychological, or psychiatric examination of any child in the home or in out-of-home placement. When admission to the home, school, or any place where the child may be located cannot be obtained, the district court having jurisdiction, upon application by the district attorney and upon cause shown, orders the PRFCI, or the person in charge of any place where the child may be located, to allow entrance for the interview, examination, and investigation;

(2) when the PRFCI does not consent to the DHS requested medical, psychological, or psychiatric examination of the child, the district court having jurisdiction, upon application by the district attorney and upon cause shown, orders the examination to be made at the times and places designated by the court; and

(3) the investigation may include an inquiry into the possibility the child has a history of mental illness. When the PRFCI does not allow DHS access to requested behavioral health records or treatment plans that may be relevant to the alleged abuse or neglect, the district court having jurisdiction, upon application by the district attorney and upon good cause shown, allows DHS by order, access to the records pursuant to terms and conditions prescribed by the court.

(j) **Court order allowing entry to premises, private access to the vulnerable adult, or records and documentation.**

(1) Per 43A O.S. § 10-105, the DHS investigation includes:

(A) a visit to the home or other place of residence of the person who is the subject of the report;

(B) a private interview with the person who is the subject of the report; and

(C) consultation with persons who have knowledge of the circumstances.

(2) When in the course of an investigation, DHS is denied entrance to the home or other place of residence of a person believed to be a vulnerable adult in need of protective services, or is denied a private interview with the vulnerable adult, DHS may petition the court for an order allowing entry to the premises or private access to the vulnerable adult per 43A O.S. § 10-105.

(3) The court makes a finding of probable cause of the vulnerability of the adult before issuing the order.

(4) When documentation, or access to records, or other information relating to the alleged vulnerable person is denied, DHS may petition the court for an order allowing entry or access. The petition states the name and address of the person who is the subject of the report and alleges specific facts sufficient to show the circumstances of the person are in need of investigation.

(5) When it is necessary to forcibly enter the premises, DHS enters, accompanied by a peace officer per 43A O.S. § 10-105.

(k) **Discrimination, retaliation, or interference in an OCA investigation prohibited.**

(1) 10A O.S. § 1-2-101(B)(4) prohibits discrimination or retaliation against a person who in good faith provides information about a reportable incident or testifies in a proceeding.

(2) 21 O.S. § 455 makes it a felony to interfere with a child abuse investigation or a vulnerable adult investigation ~~per 43A O.S~~. A DHS employee who interferes with an OCA investigation may be subject to administrative action. Interference includes, but is not limited to:

(A) intimidating, harassing, or threatening a party to the investigation;

(B) retaliation against an employee for reporting an allegation; or

(C) denial of access to clients, employees, facilities, witnesses, records, or evidence.

(3) 43A O.S. § 10-104(K) states ~~that~~ an employer shall not terminate the employment, prevent or impair the practice or occupation, of or impose any other sanction on any

employee solely for the reason ~~that~~ the employee made or caused to be made a report or cooperated with an investigation pursuant to the Protective Services for Vulnerable Adults Act, 43A O.S. §§ 10-101 et seq.

(l) **Rights and responsibilities of accused PRFCI or VAC.** The rights and responsibilities of the accused PRFCI or VAC during an OCA investigation are outlined in this subsection, except when the accused is a community services worker, whose rights and responsibilities are found at OAC 340:100-3-39.

(1) **Rights.** During the investigation process, an accused PRFCI or VAC has the right to:

(A) be advised of the nature of each allegation made against him or her;

(B) be advised by OCA of the investigative process involving caretaker maltreatment;

(C) be interviewed by the investigator and allowed to give his or her position regarding the allegation;

(D) be advised by the investigator of the substance of the evidence against him or her, but not the identity of the person reporting the allegation;

(E) submit or supplement a written statement relating to the allegations;

(F) seek advice from other parties concerning a PRFCI's or VAC's rights and responsibilities in OCA investigations, including the right to seek counsel;

(G) decline to answer any question when he or she reasonably believes the answer to the question may incriminate him or her in a criminal prosecution; and

(H) be notified in writing by his or her employer of the outcome of the investigation when the investigation involves a VAC; and

(I) be notified in writing by OCA of the outcome of the investigation when the investigation involves a PRFCI.

(2) **Responsibilities.** During the investigative process, the accused PRFCI or VAC has the responsibility to:

(A) prepare written statements and reports relevant to the investigation upon request;

(B) be available for interviews and accommodate the investigator in scheduling interviews;

(C) refrain from action that interferes with the investigation, including any action that intimidates, threatens, or harasses any person who has or may provide information relating to the allegation; and

(D) provide pertinent information and respond fully and truthfully to questions asked.

(m) **Educational employees.** This subsection applies to an employee of a school district providing contract educational services on-site at a facility~~,~~ per OAC 340:2-3-2, who is either a witness or the accused PRFCI or VAC in an OCA investigation.

(1) The administrator of the facility where the incident took place notifies the principal of the school of the nature of the allegation and the name of the assigned OCA investigator.

(2) The principal of the school is responsible for notifying the school employee of the reason for the investigative interview, advising the employee of his or her rights and responsibilities relating to the OCA investigation, and arranging for the employee's appearance at an investigative interview. This requirement is for purposes of notification and coordination of the investigative process and does not extend to ensuring the protection of the alleged victim(s) or other clients at the facility where the educational services are provided. The administrator of the facility where the alleged incident took place is responsible for client protection.

(3) OCA investigates educational employees who meet the definition of a caretaker per OAC 340:2-3-2.

(n) **Contractor's employees.** This subsection applies to an employee of a contractor of a provider or facility when the employee is an accused PRFCI or VAC in an investigation opened by OCA.

(1) The facility or provider administrator where the incident took place notifies the contractor chief administrative officer of the nature of the allegation against the contractor's employee and the name of the assigned OCA investigator.

(2) The contractor chief administrative officer is responsible for notifying the contract employee of the reason for the investigative interview, advising the employee of his or her rights and responsibilities relating to the OCA investigation, and arranging for the employee's appearance at an investigative interview. This requirement is for purposes of notification and coordination of the investigative process. The facility or provider administrator where the alleged incident took place is responsible for client protection.

(o) **Document collection and review.** The investigator gathers and reviews relevant documents including, but not limited to:

(1) incident reports and other written reports, accounts, and statements prepared during the preliminary assessment;

(2) medical records;

(3) ~~photos~~photographs and/or video; and

(4) facility or provider logs, and activity and tracking documents.

(p) **Investigative interviews.** When an injury is alleged, the investigator or other appropriate person observes, notes, and documents apparent injuries, and obtains pertinent medical documentation, including photographic evidence. Interviews are conducted in private. No person, other than the investigator and the person interviewed, is allowed to attend an interview except for a person necessary to facilitate communication. An attorney or other representative of the person interviewed attends an interview only as a silent observer with prior permission of the advocate general or designee.

(q) **Interview protocols.** The OCA investigator conducts a separate private interview with each alleged victim, available witnesses to the alleged maltreatment, and persons who allegedly were directly or indirectly involved in the allegation, persons with knowledge of relevant information, and each caretaker accused of the maltreatment.

(r) **Conducting the investigation.** OCA investigators conduct investigations in a professional manner.

(s) **Recording investigation interviews.** OCA interviews are audio recorded. To maintain information confidentiality provided in an interview, recording by the person interviewed or by anyone else in attendance is not permitted. Recordings of interviews remain with the OCA investigative file. OCA files and recordings are not public documents.

(t) **Immediate Protective Action Plan (IPAP) regarding children and vulnerable adults.** The purpose of an IPAP is to address issues related to the present danger of children or vulnerable adults in order to ensure their continued safety. An IPAP involves communication by the investigator with the agency or facility to document the steps the agency or facility is taking to ensure the immediate safety of children or vulnerable adults until safety concerns are eliminated.

(~~t~~u) **Presentation of the allegation.** If, during the course of an investigation, a witness is identified as a potential accused caretaker, the investigator interviews the witness again to inform the witness that he or she is a potential accused caretaker. At that time, the witness is informed of the substance of the evidence and relevant information learned during the investigation and provided an opportunity to respond. The OCA investigator informs the facility administrator ~~of the facility~~ or provider agency of the new allegation and of the ~~new~~ potential, additional accused ~~caretaker~~ caretaker(s). The investigator advises the accused caretaker of the substance of the new information and provides an opportunity to present a response.

(~~u~~v) **Opportunity for accused caretakers to respond.** Following the initial interview of the accused caretaker, if the investigator obtains information ~~that~~ the accused caretaker did not have an opportunity to respond, the investigator conducts another interview with the caretaker. The investigator advises the accused caretaker of the substance of the new information and provides an opportunity to present a response.

(~~v~~w) **Interpreter services for persons who are deaf or hard of hearing.** When OCA interviews the person who is deaf or hard of hearing ~~is interviewed by OCA~~, the facility or provider agency that employed the person at the time of the alleged incident provides, at no cost to OCA, oral or sign language interpreter services by an independent and qualified interpreter. Interpreter services for DHS employees and clients are provided per OAC 340:1-11-10.

(~~w~~x) **Scheduling interviews.** To schedule an interview with an accused caretaker, the investigator contacts by phone, email, or regular mail, the facility~~,~~administrator, the provider agency administrator, or designee that employs the caretaker. ~~When a reasonable time has passed without being able to schedule an interview,~~After two documented attempts to schedule an interview, the investigator contacts, in writing, the facility administrator,~~or~~ provider ~~to request~~agency administrator, or designee advising the administrator of their responsibility to compel the employee to participate. The investigator notifies Developmental Disabilities Services (DDS) Quality Assurance (QA) or Child Welfare Services Specialized Placements and Partnerships Unit (SPPU) to ensure compliance with contract provisions. If unsuccessful, the investigator sends a letter by regular mail to the caretaker's last known address notifying the caretaker of the investigation,~~and~~ offering an opportunity to be interviewed, and setting a date and time for a response. The letter informs the caretaker of the consequence of ~~failure~~failing to participate.~~is for the~~The OCA investigative report ~~to be~~is completed without the caretaker's statement, and a finding is made based on the available information. For other persons needing to be interviewed, the investigator follows the same ~~sequence as~~ protocol for an accused caretaker, but the letter only requests ~~their~~his or her participation in an interview.

(~~x~~y) ~~**Exit notice**~~**Area of concern (AOC) notification.** ~~Within 30 calendar days of assignment of a referral for investigation,~~During the course of the investigation, the assigned OCA investigator contacts the applicable facility or provider administrator or designee by email ~~when the information gathering portion of the investigative process is completed. The investigator informs~~or telephone and informs the facility or provider agency administrator or designee of ~~any~~identified areas of concern ~~identified and that a written report will be prepared with the final finding~~. ~~Preliminary findings are not required.~~Upon completion of the investigation, all identified areas of concern are provided in writing to the facility or agency provider administrator.

(~~y~~z) **The written investigative report.** After completing the information-gathering portion of the investigative process, the investigator prepares a written investigative report containing:

(1) the referral allegation(s) ~~in the referral~~ investigated, including the date, time, and location of the alleged incident(s), the date the allegation was reported to OCA, and the assigned OCA case number;

(2) a statement of any physical injuries sustained by the alleged victim(s);

(3) information regarding any involved law enforcement entities;

(4) a recommendation for the district attorney to consider further investigation;

(5) the applicable definition(s) of caretaker misconduct or the type of maltreatment at issue, such as abuse, neglect, verbal abuse, exploitation, or caretaker misconduct;

(6) the finding(s) per this (t) - (v) of this Section;

(7) a list of the involved parties, their titles and roles in the matter, if they were interviewed and, if ~~so, when, and whether~~ interviewed, whether face-to-face or by telephone;

(8) the name, address, and telephone numbers of any interpreter employed during the investigation;

(9) an explanation of the basis for the finding(s);

(10) a summary of relevant information obtained during each interview conducted during the investigation;

(11) areas of concern relating to the referral identified during the investigation regarding facility, provider, or DHS practices or procedures that have implications for the safety, health, or welfare of clients, but do not rise to the level of abuse or neglect;

(12) a list of relevant documents and records reviewed during the investigation;

(13) a list of attachments to the report provided upon request; and

(14) an explanation for any delays in meeting the time requirements for completing the investigation report contained in this Section.

(~~z~~aa) **OCA findings and completion time requirements regarding investigations involving a child in DHS custody.** Per 10A O.S. § 1-9-112.1, the OCA investigation of a report of abuse or neglect of a child in DHS custody results in a written report within 30 calendar days from the date of the referral stating one of the findings in (1) through (3) of this subsection.

(1) "Substantiated" means OCA determined, after an investigation of a report of child abuse or neglect of a child in DHS custody and based upon ~~some~~ credible evidence, that child abuse or neglect occurred;

(2) "Unsubstantiated" means OCA determined, after an investigation of a report of child abuse or neglect of a child in DHS custody, that insufficient evidence exists to fully determine whether child abuse or neglect occurred; or

(3) "Ruled out" means OCA determined, after an investigation of a report of child abuse or neglect of a child in DHS custody, that no child abuse or neglect occurred.

(~~aa~~bb) **OCA findings and completion time requirements regarding investigations involving a child not in DHS custody.** OCA investigations involving a child not in DHS custody results in a written report within 30 calendar days from the date of the referral stating one of the findings in (1) through (3) of this subsection.

(1) "Substantiated" means OCA determined, after an investigation of a report of child abuse or neglect of a child not in DHS custody and based upon ~~some~~ credible evidence, that child abuse or neglect occurred;

(2) "Unsubstantiated" means OCA determined, after an investigation of a report of child abuse or neglect of a child not in DHS custody, that insufficient evidence exists to fully determine whether child abuse or neglect occurred; or

(3) "Ruled out" means OCA determined, after an investigation of a report of child abuse or neglect of a child not in DHS custody, that no child abuse or neglect occurred.

(~~bb~~cc) **OCA findings regarding investigations involving a vulnerable adult.** The OCA investigation of a report of abuse**.**~~or~~ neglect**,** or exploitation of a vulnerable adult results in a written response within ~~60~~45 calendar days from the date of the referral stating one of the findings in (1) through (4) of this subsection. The OCA investigator determines the appropriate finding for each allegation contained in the referral investigated. Findings are made based on a greater weight of the evidence standard. The finding options are:

(1) **"~~Substantiated~~substantiated"** means the greater weight of the available evidence establishes the alleged maltreatment occurred;

(2) **"~~Not substantiated~~not substantiated"** means the greater weight of the available evidence indicates the alleged maltreatment did not occur; or

(3) **"~~Ruled out~~ruled out"** means no evidence was discovered that ~~indicates~~ indicated the alleged maltreatment occurred; ~~or~~

~~(4) **"Defer"** means OCA will defer the completion of an investigation and the issuance of a finding upon reasonable request to do so by a law enforcement agency having investigative authority.~~

(~~cc~~dd) **Identification of the responsible VAC.** Regarding investigations involving a vulnerable adult, when the evidence gathered during the investigation is sufficient to substantiate maltreatment of a vulnerable adult but the person responsible for the maltreatment cannot be identified, the substantiated finding is made on an unknown VAC. The administration may be named as responsible when the policies, procedures, or practices adopted by the administration of a facility or provider are the primary factor resulting in the maltreatment of individual clients.

(~~dd~~ee) **Notice of findings of child abuse or neglect.**

(1) After completion of the OCA investigation, a findings letter is mailed to the:

(A) alleged PRFCI; and

(B) facility administrator.

(2) When a facility administrator is named as an accused PRFCI, a findings letter is mailed to the chair of the board of directors of the facility, or to the director of the state agency operating the facility, as applicable.

(3) The OCA investigator verbally provides the findings to the child victim's parents or guardian.

(~~ee~~ff) **Appeal process for substantiated findings of child abuse or neglect.** The 2010 Child Abuse Prevention and Treatment Act (CAPTA), Section 5101 et seq. of Title 42 of the United States Code, requires that DHS provide an appeal process for persons who disagree with a substantiated finding of child abuse or neglect~~. The appeal process is detailed in~~per OAC 340:2-3-39.

(gg) **Appeal process for substantiated findings of vulnerable adult abuse, neglect, financial exploitation, financial neglect, or verbal abuse.** The appeal process is provided for VACs who disagree with a substantiated finding of vulnerable adult abuse, neglect, financial exploitation, financial neglect, or verbal abuse per OAC 340:100-3-39.

(~~ff~~hh) **OCA investigation report submitted to Child Welfare Services (CWS).** Per 10A O.S. § 1-9-112.1, in addition to the requirements of 10A O.S. § 1-9-112, the OCA investigation report concerning a report of abuse or neglect of the child in DHS legal custody DHS is submitted to the CWS director or designee within 30 calendar days from the referral date.

(~~gg~~ii) **Dissemination of OCA investigative reports involving PRFCIs and VACs not subject to the Community Services Worker (CSW) Registry.**

(1) Except as provided in subsection (aa) of this Section, a copy of the final OCA investigation report involving a vulnerable adult client is sent to the administrator of an affected facility or provider agency. The administrator is responsible for notifying the client of the OCA finding. OCA notifies the caretaker, legal guardian, and next of kin of a vulnerable adult of the OCA finding.

(2) When the referral alleges abuse, verbal abuse, sexual abuse, neglect, financial neglect, or exploitation, a copy is sent to the applicable district attorney.

(3) A copy is sent to the appropriate DHS ~~state office~~State Office administrator, OJA executive director, ODRS director, ODMHSAS director, or the J.D. McCarty Center director, ~~whichever is~~as applicable.

(4) When a facility or provider administrator is named as an accused VAC in the allegation, OCA forwards the investigative report to the facility or provider agency chair of the board of directors~~,~~ or to the director of the state agency operating the facility~~, whichever is applicable~~.

(5) A copy of the OCA report is sent to ~~the Oklahoma State Department of Health (~~OSDH~~)~~ when the investigation involved a day treatment program.

(6) ~~A copy of the OCA report~~Form 04K1078E, Notification Concerning Finding(s) of Child Abuse/Neglect, is sent to the administrator of a DHS operated facility and applicable DHS director or designee. ~~The administrator provides the accused DHS employee who is a VAC a letter that summarizes the allegation and states the OCA finding.~~ When an accused PRFCI is a DHS employee who does not work at a DHS operated facility, the applicable DHS director or designee is responsible for providing the employee with a letter ~~that summarizes~~ summarizing the allegation and states the OCA finding. The administrator provides the accused DHS employee who is a VAC, a letter summarizing the allegation and states the OCA finding.

(7) When client maltreatment by a licensed nurse is substantiated, a copy of the OCA report is submitted to the Oklahoma State Board of Nursing.

(8) When appropriate in cases involving a vulnerable adult, a copy of the OCA report is sent to any state agency with concurrent jurisdiction over persons or issues identified in the investigation including, but not limited to, OSDH and any appropriate state licensure or certification board, agency, or registry and includes sending OSDH a copy of any report when at least one of the accused PRFCIs or VACs is a certified nurse aide (CNA).

(9) When maltreatment by a guardian is substantiated, a copy of the OCA investigation report is submitted to the applicable guardianship court.

(10) OCA distributes the investigation report by United States mail, fax, or email, ~~whichever is~~as appropriate.

(~~hh~~jj) **Dissemination of reports involving Hissom class members, PRFCIs, and VACs subject to the CSW Registry or the Child Care Restricted Registry.**

(1) All OCA investigations involving a substantiated finding against a community services worker, or Medicaid personal care assistant employed by a Medicaid personal care services provider, are processed for the CSW Registry per OAC 340:100-3-39 and 317:35-15.

(2) All OCA investigations involving a substantiated finding against a PRFCI while the child is in the care of a child care facility are processed for the Child Care Restricted Registry per OAC 340:110-1-10.1.

(3) A copy of the investigation report is sent to the district attorney in the county where the suspected maltreatment occurred per 10A O.S. § 1-2-105(E) when the victim is a child, or 43A O.S. § 10-104(I) when the victim is a vulnerable adult.

(4) In addition to (aa) of this Section, when the victim is a child receiving DDS services, OCA sends a copy of the report to the DDS director or designee.

(5) When the OCA finding substantiates an allegation against a PRFCI when the abuse or neglect occurred to a child in the care of a child care facility, OCA submits a copy of the report to Child Care Services (CCS) Licensing Records Office per OAC 340:110-1-10.1(f) for processing under the Child Care Restricted Registry.

(6) When the victim is a vulnerable adult, OCA sends the report to the facility or provider administrator, the DDS director or designee, the Aging Services director or designees, or the Oklahoma Health Care Authority (OHCA) director or designee~~, whichever is~~as applicable.

(7) OCA notifies the caretaker, legal guardian, and next of kin of a vulnerable adult of the investigation finding. When the vulnerable adult is a Hissom class member, the class member's assigned OCA advocate notifies the class member and the class member's guardian or close family member of the investigation finding.

(8) ~~When maltreatment by a guardian is substantiated, a copy of the OCA investigation report is submitted to the applicable guardianship court.~~When an investigation involves a vulnerable adult with a guardian, a copy of the completed investigation report must be filed with the court to which the guardian is accountable per 43A O.S. § 10-105 (D).

(~~ii~~kk) **Confidentiality of OCA investigative reports.**

(1) Persons receiving copies of OCA investigative reports regarding a child are bound by the confidentiality provisions of 10A O.S. §§ 1-6-102 through 1-6-107.

(2) Persons receiving copies of OCA investigative reports regarding a vulnerable adult are bound by the confidentiality provisions of 43A O.S. § 10-110.

(A) Pursuant to 43A O.S. §~~110(A)~~10-110(A) of the Protective Services for Vulnerable Adults Act, all reports, records, and working papers used or developed in an investigation of the circumstances of a vulnerable adult are confidential~~,~~ and can be disclosed only pursuant to rules promulgated by DHS, by court order, or as otherwise provided in the "Public Disclosure" provisions per 43A O.S § 10-110.1 when a VAC is charged with committing a crime that resulted in the death or near death of the vulnerable adult.

(B) Pursuant to 43A O.S. § 10-110(B), all reports, records, and working papers may be disclosed without a court order to:

(i) any district attorney and their staff upon ~~showing~~presentation of proper credentials in the course of their official duties pursuant to this ~~title~~Title or in the prosecution of crimes against a vulnerable adult;

(ii) the attorney representing a vulnerable adult in a proceeding under the Protective Services for Vulnerable Adults Act;

(iii) employees of a law enforcement agency of this or another state ~~and employees of adult protective services agencies of this or another state~~; ~~and~~

(iv) employees of adult protective services agencies of this or another state;

(~~iv~~v) a physician examining or treating a vulnerable adult who the physician suspects may have been abused or neglected or any health care or mental health professional involved in the evaluation or treatment of the vulnerable adult;

(~~v~~vi) a caretaker, legal guardian, custodian, or other family members of the vulnerable adult; provided, DHS may limit such disclosures to summaries or to information directly necessary for the purpose of such disclosure;

(~~vi~~vii) any public or private agency or person authorized by DHS to supervise or provide other services to a vulnerable adult who is the subject of a report or record of abuse or neglect; provided, DHS may limit such disclosures to summaries or to information directly necessary for the purpose of such disclosure; and

(~~vii~~viii) any person or agency for research purposes, when ~~all of~~ the ~~following~~ conditions in (I) and (II) are met. The person or agency conducting:

(I) ~~the person or agency conducting~~ such research is employed by the State of Oklahoma or is under contract with the State and is authorized by DHS to conduct such research; and

(II) ~~the person or agency conducting~~ the research ensures ~~that~~ all documents ~~contained~~containing identifying information are maintained in secure locations and access to such documents by unauthorized persons is prohibited; and that all ~~in~~ identifying information is redacted from documents used in the research when the research is completed.

(C) A summary disclosed per 43A O.S. § 10-110(B) excludes:

(i) Social Security numbers and financial account numbers of the:

(I) alleged victim;

(II) alleged VAC;

(III) DHS caseworker;

(IV) other vulnerable adults identified in the investigation; and

(V) any other person identified in the record; and

(ii) all identifying information~~,~~ including, but not limited to, names, addresses, and phone numbers of the person(s) who reported the abuse, neglect, or exploitation, and all such identifying information of any other vulnerable adults in the home or facility.

(D) The OCA investigation report may be provided in lieu of a separately created summary and the identifying information found in this subsection is redacted.

(E) All investigative records received by DHS and created by other local or state agencies, including law enforcement agencies, are obtained directly from those local or state entities.

(F) Persons seeking redacted identifying information listed in subparagraph (2)(C) contained in the OCA investigative report, in any summary, or other information contained in any other reports, records, or working papers used or developed in the investigation must obtain a court order authorizing release of such information.

(i) All reports, records, ~~and~~ working papers, and all information contained therein remain confidential after the DHS release; and

(ii) it is unlawful and a misdemeanor for any person to furnish any record or disclose any information contained therein for any unauthorized purpose.

(~~jj~~ll) **Substantiated findings involving DHS operated facilities.** The OCA investigation report findings involving client maltreatment at a DHS operated facility are considered final when the time for requesting Grievance and Abuse Review Committee (GARC) review per OAC 340:2-3-62(b) has expired and a review was not requested, or the review was timely requested and concluded.

(1) When CWS or DDS receives a copy of a final OCA investigative report or notice that a review per OAC 340:2-3-62 is concluded, within 30 calendar days, the applicable director notifies the advocate general in writing of:

(A) personnel action taken or to be taken with regard to each accused PRFCI or VAC named in the report;

(B) corrective action taken or to be taken regarding areas of concern noted in the report; and

(C) for each worker found to have engaged in maltreatment, whether there were prior OCA or facility confirmations for client maltreatment by the worker and, when so, the basis for each such finding, and the personnel action taken in response.

(2) When personnel action ~~was~~is or will be taken, the applicable director ~~also~~ notifies the DHS Human Resource Management director. When the final OCA finding does not substantiate maltreatment, no information or material pertaining to the allegation or the investigation is placed in the personnel file of an accused PRFCI or VAC.

(3) OCA reports information regarding substantiated findings to the DHS Director.

(~~kk~~mm) **Findings involving a Hissom class member.** This subsection applies to the administrator of a provider that employed, or contracted with a contractor that employed an accused VAC named in an OCA investigation report.

~~(1)~~ Within 60 calendar days of receipt of a final OCA investigation report, the DDS director or designee notifies the advocate general in writing:

(~~A~~1) when personnel action was or will be taken with regard to each accused VAC named in the report; and

(~~B~~2) of corrective action taken or to be taken regarding areas of concern noted in the report.

~~(2) OCA reports information regarding substantiated findings to the Commission during executive session.~~

340:2-3-37. Caretaker conduct review (CCR)

(a) **Application.** This Section applies to referrals received by the Office of Client Advocacy (OCA) that OCA refers to a facility for an internal caretaker conduct review (CCR) per Oklahoma Administrative Code (OAC) 340:2-3-35(a)(2). Allegations of caretaker misconduct regarding children are screened by the Oklahoma Department of Human Services ~~(OKDHS)~~(DHS) Abuse & Neglect Hotline (Hotline) and referred to the appropriate facility contracting and licensing entities where the incident occurred. OCA may conduct an investigation when the ~~(OKDHS)~~DHS Specialized Placement Unit, ~~(OKDHS)~~DHS Child Care Licensing Unit, or other source, determines a pattern of misconduct exists by a person responsible for the child of interest (PRFCI) or facility administration, or facility administration fails to take appropriate corrective action. This Section does not apply to allegations involving caretaker misconduct of a Hissom class member or a vulnerable adult, other than a resident of ~~Southern Oklahoma Resource Center (SORC), Northern Oklahoma Resource Center of Enid (NORCE), and~~ the Robert M. Greer Center (Greer). OCA ~~will continue~~continues to accept and process CCRs regarding children who are in facilities ~~that are~~ not licensed by or contracted with ~~(OKDHS)~~DHS.

(b) **Assignment to a facility to conduct a CCR.**

(1) When OCA receives a referral that indicates possible caretaker misconduct, in lieu of an investigation, OCA intake may refer it to the facility where it allegedly occurred for handling as a CCR ~~if~~when:

(A) there is no injury or evidence the client might have been exposed to a significant risk of harm;

(B) there is a minor physical injury and it is not a suspicious injury;

(C) there is a serious physical injury and the known credible information makes it unlikely the serious injury was the result of abuse or neglect; or

(D) excessive or unauthorized use of force is alleged and there is no injury or only a minor injury that is not suspicious.

(2) In addition to the referrals in subsection (b)(1) of this Section, regarding vulnerable adults at ~~(OKDHS)~~DHS operated facilities, and at Greer, a referral indicating possible maltreatment may be referred to the facility for handling as a CCR ~~if~~when the allegation involves a serious physical injury that occurred under unexplained or unusual circumstances.

(c) **Protocol for conducting a CCR.** When OCA intake assigns a facility the responsibility to conduct a CCR, the administrator or designee takes necessary steps to ensure the safety of all clients and to protect the integrity of all evidence. A facility employee designated to conduct a CCR follows the investigative procedures ~~described in~~per OAC 340:2-3-36, with the exception of recording the interviews ~~in~~per OAC 340:2-3-36(j)(1), including:

(1) reviewing pertinent documentation, records, and evidence collected;

(2) viewing any injuries and photos of injuries, and obtaining photos of injuries;

(3) obtaining written statements and conducting interviews with:

(A) each alleged victim;

(B) each eyewitness;

(C) other persons with knowledge relevant to the allegation; and

(D) each accused caretaker;

(4) reviewing statutes, policies, directives, standards, rules, or practices relevant to the allegation;

(5) analyzing the accused caretaker's actions in relation to relevant statutes, policies, directives, standards, rules and practices; and

(6) determining the appropriate finding(s) per OAC 340:2-3-36(v).

(d) **Returning the investigation responsibility to OCA.** If at any time during the CCR information is learned that gives cause to believe ~~that~~ a client was the victim of caretaker misconduct resulting in a serious injury, abuse, or neglect, the administrator immediately discontinues the CCR and contacts OCA intake to report the new information warranting an OCA investigation. OCA intake notes the new information and changes the disposition on Form 15GN001E, Office of Client Advocacy - Intake Referral, ~~or its electronic equivalent,~~ and the case is assigned to an OCA investigator for investigation per OAC 340:2-3-35(c).

(e) **Written report of CCR.** After completion of the CCR process and determination of the appropriate finding, the person conducting the CCR prepares a written report. Facilities are encouraged, but not required, to use the OCA format for CCR reports. The written report contains:

(1) the allegation(s), including the dates, times, and location of the alleged incident(s), the date the allegation was reported to OCA, and the OCA case number;

(2) a statement of any injury sustained by the alleged victim(s) and, in cases involving an injury, a statement whether photographs were taken of the injury and if so, the date they were taken;

(3) the finding(s), whether caretaker misconduct did or did not occur, based on a greater weight of the evidence standard;

(4) a list of the involved parties, their titles and roles in the matter, whether they were interviewed and, if so, when;

(5) citation to pertinent statutes, policies, directives, standards, rules, and practices, when applicable;

(6) an explanation of the basis for the finding(s);

(7) a summary of pertinent information obtained in interviews conducted during the review;

(8) a list of relevant documents and records reviewed;

(9) a list of attachments to the report;

(10) a list of areas of concern identified during the course of the investigation regarding facility or ~~OKDHS~~DHS practices or procedures that have implications for the safety, health, or welfare of clients, but ~~that~~ do not rise to the level of abuse or neglect; and

(11) either on a cover memo or at the end of the report, the date and signature of the person who conducted the CCR, and the signature of the person who reviewed and approved the report.

(f) **Time for completion of report.** The final written report is submitted to the advocate general within 30 calendar days from the date OCA intake notified the administrator ~~that~~ an allegation is referred for CCR.

(g) **OCA processing of CCR reports.** The administrator transmits the completed CCR to the advocate general. The advocate general or designee reviews the CCR report for completeness and appropriateness of the finding. ~~If~~When a report is incomplete or the finding is questionable, OCA contacts the administrator to request further inquiry into the allegation. OCA opens an investigation ~~if~~when a report indicates the need.

(h) **Final CCR report.** ~~If~~When a final CCR report is not submitted to the advocate general within 45 calendar days from the date OCA notifies the facility or provider administrator ~~that~~ the allegation is referred for CCR, OCA notifies the appropriate state agency, office, or regulatory entity that contracts with the facility or agency for the delivery of services.

(i) **Review by ~~DDSD~~Developmental Disabilities Services (DDS) director.** Within five business days of completion of a CCR report at ~~SORC, NORCE, or~~the Robert M. Greer Center (Greer), the facility administrator or designee informs the client and the client's guardian or parent of the CCR result. If the client or the guardian or parent does not concur with the finding(s), the facility administrator or designee notifies the advocate general in writing by email or letter. The advocate general refers the matter to the OCA grievance coordinator to process for review by the ~~DDSD~~DDS director as a contested grievance per OAC 340:2-3-46 and 340:2-3-51(g) and the client or guardian or parent who did not concur with the finding(s) is considered the grievant for purposes of the review. ~~If~~When the grievant does not concur with the proposed resolution of the applicable director or designee, the matter is reviewed by the Grievance and Abuse Review Committee (GARC) per OAC 340:2-3-62 and 340:2-3-64.

(j) **State office administrator's report.** The findings in a CCR are considered final when the time for requesting review pursuant to subsection (i) of this Section has expired and review has not been requested, or the review was timely requested and ~~has~~ concluded.

(1) Within 60 calendar days of the finding becoming final, the state office administrator or designee informs the advocate general in writing of:

(A) any personnel action taken or to be taken;

(B) any corrective action taken or to be taken; and

(C) for each worker found to have engaged in caretaker misconduct, whether there ~~has been any~~was prior confirmation by OCA or the facility for client maltreatment by the worker and, if so, the basis for each finding and the personnel action taken in response.

(2) ~~If~~When personnel action is involved, the ~~state office~~State Office administrator ~~also~~ notifies the ~~OKDHS~~DHS Human Resources Management ~~Division~~ director.

(3) ~~If~~When a CCR has not resulted in a confirmed finding, no information or material pertaining to the allegation or the investigation is placed in the personnel files of any employee named in the report.

340:2-3-38. Investigation of foster parent complaints of retaliation and discrimination

(a) **Application.** This Section describes processes relating to allegations of retaliation and discrimination against a foster parent by an employee of the Oklahoma Department of Human Services ~~(OKDHS)~~(DHS) or a child placing agency. The Office of Client Advocacy (OCA) is designated by Sections 1-9-112 and 1-9-117 of Title 10A of the Oklahoma Statutes to conduct administrative investigations into these allegations.

(b) **Definitions.** The following words and terms when used in this Section shall have the following meanings unless the context clearly indicates otherwise:

(1) **"Administrator,"** with regard to a child placing agency, means the chief administrative officer of the agency.

(2) **"Child placing agency"** means a private agency licensed to place children in foster family homes, group homes, adoptive homes, transitional or independent living programs, or family child care homes or other out-of-home placements, and ~~that~~ approves and monitors such placements and facilities per the licensing requirements established by the Oklahoma Child Care Facilities Licensing Act~~. [~~Sections 401 through 408 of Title 10 of the Oklahoma Statutes (10 O.S. §§ 401 through 418~~]~~).

(3) **"Child Welfare ~~division~~Services"** means ~~the OKDHS Field Operations Division (FOD) and theChildren and Family Services Division (CFSD)~~DHS Adult and Family Services.

(4) **"~~DDSD~~Developmental Disabilities Services (DDS)"** means ~~the OKDHS~~ DHS Developmental Disabilities Services ~~Division (DDSD)~~.

(5) **"Discrimination"** means knowing and willful application of a different standard to a particular foster parent that negatively affects the foster parent.

(6) **"Harassment"** means a knowing and willful course of conduct, statements, or behaviors serving no legitimate purpose directed at a foster parent that a reasonable person in the same or similar circumstances would find intimidating or substantially distressing.

(7) **"Retaliation"** means threatening a foster parent with removal of a child ~~in~~ from the foster parent's care, harassing a foster parent, refusing or failing to place a child in a licensed or certified foster home, or disrupting a child placement in reprisal for the foster parent engaging in a protected activity listed in (c)(2) of this Section.

(8) **"State ~~office~~Office administrator"** means the ~~FOD director, CFSD~~Child Welfare Services (CWS) and DDS~~director, DDSD director~~directors, or their designees.

(c) **Scope.** A foster parent has the right, without fear of reprisal or discrimination, to lodge concerns and complaints with respect to the providing of foster care services. OCA initiates investigations of allegations that:

(1) ~~an~~a DHS employee ~~of OKDHS~~ or a child placing agency has:

(A) threatened a foster parent with removal of a child ~~in~~from the foster parent's care;

(B) harassed a foster parent;

(C) refused or failed to place a child in a licensed or approved foster home; or

(D) disrupted a child placement; and

(2) for the purpose of retaliation or discrimination against a foster parent who has:

(A) filed or attempted to file a grievance with ~~OKDHS~~DHS per OAC 340:2-3-45 or with a child placing agency, ~~whichever is~~as applicable;

(B) provided information regarding foster care services to any state official or ~~OKDHS~~DHS employee; or

(C) testified, assisted, or otherwise participated in an investigation, proceeding, or hearing against ~~OKDHS~~DHS or a child placing agency.

(d) **Exclusions.** The provisions of this Section do not apply to:

(1) a complaint by a foster parent regarding the result of a criminal, administrative, or civil proceeding for a violation by that foster parent of a law, rule, or contract provision, or an action taken by ~~OKDHS~~DHS or a child placing agency in conformity with the result of ~~any~~ such ~~proceeding~~proceedings;

(2) allegations of acts of retaliation or discrimination that occurred more than one year prior to the date of the foster parent complaint; or

(3) allegations of a pattern of retaliation or discrimination the last incident ~~of~~ which occurred more than one year after the foster parent participated in protected activity.

(e) **Reportable allegations.** Section 1-9-117 of Title 10A of the Oklahoma Statutes provides that any foster parent who has reasonable cause to believe he or she has been improperly treated by ~~an~~a DHS employee ~~of OKDHS~~ or a child placing agency, as outlined in subsection (c) of this Section, may file a complaint with OCA. The law provides that persons making a report in good faith under this Section may not be adversely affected solely on ~~the basis of~~ having made such report. The law also provides that any person who knowingly and willfully makes a false or frivolous report or complaint or a report ~~that~~ the person knows lacks factual foundation, may be subject to loss of foster parent approval or licensure status.

(f) **Reporting procedure.** Foster parents may file complaints by contacting:

(1) the Foster Parent Hotline, 1-800-376-9729; or

(2) the OCA offices in Oklahoma City, 1-405-525-4850 or 1-800-522-8014.

(g) **Confidentiality.** At the request of the reporter, OCA maintains confidential the identity of the reporter ~~until the advocate general reports the results of the investigation to the Commission for Human Services (Commission) per subsection (m) of this Section~~. OCA maintains written records regarding the reporting source to provide information to the extent known at the time the report is received, including the:

(1) ~~the~~ names and addresses of the foster child and the person(s) responsible for the child's welfare;

(2) ~~the~~ nature of the complaint; and

(3) ~~the~~ names of the persons and agencies responsible for the allegations contained in the complaint.

(h) **Interference prohibition.**

(1) ~~An OKDHS~~A DHS employee who interferes with an OCA investigation may be subject to administrative action for misconduct ~~under OKDHS~~per the DHS personnel policy relating to cause for disciplinary action ~~if the~~when an employee attempts to intimidate a witness, foster parent, or other ~~OKDHS~~DHS employee, or threatens any of them with physical or mental harm.

(2) Interference includes, but is not limited to:

(A) intimidating, harassing, or threatening a party to the investigation;

(B) retaliation against an employee for cooperating during an OCA investigation;

(C) denial of access to clients, employees, facilities, witnesses, records, or evidence; and

(D) causing or influencing another person to provide false information during the investigation.

(i) **Initiation of OCA investigation.** Upon acceptance of a report of retaliation or discrimination against a foster parent, OCA assigns an investigator to investigate the allegations per this Section. The OCA investigation does not duplicate and is separate from any investigation mandated by the Oklahoma Child Abuse Reporting and Prevention Act or other investigations having formal notice or hearing requirements.

(j) **Rights and responsibilities of employees.** The rights and responsibilities of ~~OKDHS~~DHS employees in an OCA foster parent investigation are listed in (1) through (7) of this subsection.

(1) Employees make themselves available for interviews and accommodate the investigator in scheduling interviews.

(2) Employees provide pertinent information and respond fully and truthfully to questions asked.

(3) In addition to being interviewed, employees may submit written statements relating to the events in question.

(4) Employees may seek advice concerning their rights and responsibilities from other parties within or outside ~~OKDHS~~of DHS.

(5) Employees prepare written statements or reports relevant to the investigation upon request.

(6) Employees, who reasonably believe answers to official inquiries regarding the events in question may incriminate them in a criminal prosecution, may decline to answer those questions.

(7) Employees interviewed do not discuss their interviews with anyone outside of OCA.

(k) **Access.** OCA at all times is granted access to any foster home that is approved, authorized, or funded by ~~OKDHS~~DHS, or a child placing agency.

(l) **Investigation procedures.** Investigations are conducted per OAC 340:2-3-36 unless otherwise provided in this Subchapter.

(1) **Notifying administrators and accused caretakers.** The assigned investigator notifies the applicable administrator or state office administrator of the investigation and arranges for document production, site visits, and interviews. The administrator or state office administrator who employed any accused employee at the time of an

alleged incident promptly informs the accused employee of the:

(A) ~~the~~ name and telephone number of the OCA investigator;

(B) ~~the~~ investigative process;

(C) ~~the~~ employee's rights and responsibilities relating to the investigation described in subsection (j) of this Section, using Form 15IV006E, Investigations of Foster Parent Retaliation Complaints - Rights and Responsibilities of Accused ~~OKDHS~~DHS Employees, a copy of which is provided to the OCA investigator; and

(D) ~~the~~ nature of the allegation(s) made against the employee; however, at this time the employee is not provided the details of the allegations or the substance of the evidence.

(2) **OCA access to evidence.** Applicable administrators and state office administrators facilitate and cooperate with the OCA investigation by:

(A) providing access to requested information;

(B) producing relevant documents, files, and records, accompanying the investigator on foster home visits when requested by OCA; and

(C) providing access to accused employees and others who have knowledge of relevant information.

(3) **Document review and interviews.** The OCA investigator conducts a prompt investigation per OAC 340:2-3-36(h) through (j) unless otherwise provided in this Section.

(4) **Exit notice.** The OCA investigator provides an exit notice, ~~either electronically or by telephone~~via email, to the applicable administrator or state office administrator when the information-gathering portion of the investigative process is completed. The investigator informs the administrator or state office administrator ~~that~~ a written report is forthcoming. Preliminary findings are not required.

(5) **The written investigation report.** After completing the information-gathering portion of the investigative process, the OCA investigator prepares a written report containing:

(A) the allegations investigated, including the date, time, and location of the alleged incidents, the date the allegation was reported to OCA, and the assigned OCA case number;

(B) a list of the involved parties, their titles and ~~role~~roles in the matter, whether they were interviewed and, if so, when and where;

(C) the applicable definition of the type of misconduct at issue, such as discrimination, retaliation, or both;

(D) whether the foster parent engaged in an activity listed in (c)(2) in this Section and, if so, a description of the activity;

(E) the findings ~~in accordance with~~per OAC 340:2-3-36(m);

(F) an explanation of the basis for the finding;

(G) in cases involving a confirmed finding, a summary of relevant information obtained during each interview conducted during the investigation;

(H) any areas of concern relating to the allegations ~~that were~~ identified during the investigation regarding practices or procedures of ~~OKDHS~~DHS or the child placing agency;

(I) a list of relevant documents and records reviewed during the investigation; and

(J) a list of attachments to the report.

(6) **Dissemination of the OCA investigative report.**

(A) In cases involving allegations against ~~OKDHS~~a DHS employee, the advocate general submits a copy of the final OCA investigation report to the ~~OKDHS~~DHS Director and ~~the~~ state office administrators.

(B) In cases involving an employee of a child placing agency, the advocate general sends a copy of the OCA report to the administrator of the agency and the appropriate state office administrator. ~~If~~When the administrator of the child placing agency is the subject of the report, the report is sent to the agency's board of directors.

(C) OCA sends the foster parent and each accused ~~OKDHS~~DHS employee a letter ~~that summarizes~~summarizing the allegation and states the OCA finding.

(D) All parties receiving copies of the investigative reports are bound by the confidentiality provisions of Section 1-9-112 of Title 10A and Section 10-110 of Title 43A of the Oklahoma Statutes.

(m) **~~OKDHS~~DHS Director's request for review by the Grievance and Abuse Review Committee (GARC).** Within 20 calendar days of receipt of a final OCA investigative report, the ~~OKDHS~~DHS Director may request GARC ~~to~~ review the allegations and submit a report of its findings per OAC 340:2-3-63.

(n) **State office administrator's response to a confirmed finding.**

(1) When a state office administrator receives a copy of an OCA investigation report containing a finding that ~~an OKDHS~~a DHS employee ~~has~~ engaged in retaliation or discrimination against a foster parent, within 30 calendar days of receipt of the OCA report, the state office administrator notifies the advocate general in writing of any personnel action taken or to be taken with regard to the employee, and any corrective action taken or to be taken regarding areas of concern noted in the OCA report.

(2) ~~If~~When the ~~OKDHS~~DHS Director ~~has referred~~refers the matter for GARC review ~~by GARC~~ per subsection (l) of this Section, the state office administrator's response is due within 45 calendar days of GARC's written report to the ~~OKDHS~~ DHS Director.

(3) When an administrator of a child placing agency receives a copy of an OCA investigation report containing a finding that an employee of the child placing agency ~~has~~ engaged in retaliation or discrimination against a foster parent, within 30 calendar days of receipt of the report the

administrator notifies the advocate general in writing of any personnel action taken or to be taken with regard to each employee named in the report as having engaged in misconduct, and the status of any areas of concerns noted in the report.

~~(4) The advocate general reports to the Commission confirmed allegations and corrective action taken.~~

SUBCHAPTER 3. OFFICE OF CLIENT ADVOCACY

PART 9. ADVOCACY PROGRAMS

340:2-3-71. ~~Advocacy services of the~~ Office of Client Advocacy (OCA) ~~in~~ general advocacy services

(a) **Legal authority.**

(1) Section 1415.1(A)(2) of Title 10 to the Oklahoma Statutes requires the Oklahoma Department of Human Services ~~(OKDHS)~~(DHS) to establish an ombudsman program for each institution and residential facility for ~~the mentally retarded~~persons with intellectual disabilities operated by ~~OKDHS~~DHS. ~~OKDHS~~ DHS ~~has~~ conferred this responsibility on the Office of Client Advocacy (OCA).

(2) Orders of the United States District Court for the Northern District of Oklahoma in Homeward Bound, Inc., et al. v. Hissom Memorial Center, et al., Case No. 85-C-437-TCK-SAJ, require ~~OKDHS~~DHS and OCA to provide advocacy services to individuals certified by the court as members of the plaintiff class, known as Hissom class members.

(3) ~~OKDHS also has conferred on~~DHS assigned OCA other advocacy responsibilities as outlined in Part 9, OAC 340:2-3-71 through 340:2-3-75.

(b) **Scope.** OCA provides advocacy services to clients of the ~~OKDHS DHS~~ Developmental Disabilities Services ~~Division (DDSD)~~(DDS) listed in this subsection, who are collectively referred to as "clients" in Part 9, OAC 340:2-3-71 through 340:2-3-75.

(1) OCA advocacy services for residents of the ~~Northern Oklahoma Resource Center of Enid (NORCE), the Southern Oklahoma Resource Center (SORC), and the Greer Center Facility~~Robert M. Greer Center (Greer) outlined in greater detail ~~in~~per Oklahoma Administrative Code (OAC) 340:2-3-72.

(2) OCA advocacy services for former residents of the Southern Oklahoma Resource Center (SORC), and the Northern Oklahoma Resource Center of Enid (NORCE)~~, and Greer for whom the director of the facility is guardian ad litem (GAL)~~ are outlined in greater detail in OAC 340:2-3-73.

(3) OCA advocacy services for Hissom class members are outlined in greater detail in OAC 340:2-3-74.

(4) OCA provides advocacy services on a short-term or emergency basis for other ~~DDSD~~DDS clients who have a special advocacy ~~need pursuant to~~needs per OAC 340:2-3-75.

(c) ~~**Mission statement and guiding**~~**Guiding principles.**

~~(1) **Mission statement.** OCA advocacy programs advance the capacity and recognition of individual choice, the realization of rights and responsibilities of citizenship, and the personal well-being of recipients of DDSD services.~~

~~(2) **Guiding principles.**~~ OCA advocacy programs advance the capacity and recognition of individual choice, the realization of rights and responsibilities of citizenship, and the personal well-being of recipients of DDS services. In addition to ~~those~~the guiding principles listed in OAC 340:100-1-3.1, the guiding principles for OCA advocacy on behalf of clients are listed in (A) through (D) of this paragraph.

(~~A~~1) **Self-determination.** Advocates promote the individual as the driving force of life choices and decisions.

(~~B~~2) **Meaningful choice.** Advocates promote the development of meaningful choices for persons with developmental disabilities consistent with their unique strengths, resources, priorities, concerns, abilities, capabilities, and interests.

(~~C~~3) **Active citizenry.** Advocates promote the inclusion and involvement of persons with developmental disabilities in the social and political structures of the community.

(~~D~~4) **Well-being.** Advocates promote access to physical and emotional supports necessary for a healthy life-style.

(d) **Definitions.** In addition to ~~the~~ definitions in OAC 340:2-3-2, the following words and terms when used in OAC 340:2-3-71 through 340:2-3-75 shall have the following meaning, unless the context clearly indicates otherwise:

(1) ~~**"Behavior Review Committee"** or **"BRC"** means the BRC established pursuant to OAC 340:100-3-5 and 340:100-3-5.1 and defined in OAC 340:100-1-2.~~

~~(2)~~ **"Capacity assessment"** means the process of determining an individual's ~~capacity~~ability to make informed decisions and the need for assistance with decision-making regarding personal and financial matters~~, in accordance with OAC 340:100-1-2~~per OAC 340:100-3-5.

(2) **"Human Rights Committee"** or **"HRC"** means the~~HRC created by OAC 340:100-3-6 and defined in OAC 340:100-1-2~~committee charged with the responsibility for external monitoring and advocacy to address protection of individual rights.

(~~4~~3) **"Individual plan"** or **"IP"** or **"plan"** means ~~an individual plan established pursuant to OAC 340:100-5-51~~a written document developed by the Personal Support Team based upon assessment of need. The Plan specifies outcomes being pursued on behalf of the individual, steps being taken to achieve outcomes, and all services and supports necessary to achieve outcomes.

(~~5~~4) **"Informed consent"** means informed consent ~~as defined in~~per OAC 340:100-3-5. Individuals, 18 years of age and older, are presumed to have capacity to give informed consent except to the extent adjudicated incapacitated by the court. An individual is not considered incapacitated solely by reason of his or her diagnosis.

Individuals may be adjudicated incapacitated in one area while being fully capable of understanding and exercising rights in other areas. Individuals have the right to exercise judgment in all areas of capacity.

(5) **"Personal Support Team (PST)"** means the participants in the individual's assessment and planning process. The PST includes the service recipient, case manager, legal guardian, advocate, service providers, and others whose participation is necessary to achieve the outcomes desired by the service recipient.

(6) **"Program coordinator"** or **"PC"** means a ~~program coordinator as defined in OAC 340:100-1-2~~person employed by a DDS residential or group home contract provider agency responsible for the supervision, coordination, and monitoring of services provided by the contract agency to a service recipient.

(7) ~~**"Qualified Mental Retardation Professional"** or **"QMRP"** means a QMRP as defined in OAC 340:100-1-2.~~

~~(8)~~ **"Service review"** means an assessment by an OCA advocate of a client's health, living circumstances, and the delivery of supportive services. The service review documents the extent of services provided to an individual client and identifies problem areas in service delivery. Each service review is a snapshot of the life of an individual at the time the review is completed.

(8) **"Statewide Behavior Review Committee"** or **"SBRC"** means the SBRC established per OAC 340:100-3-14 to review each protective intervention plan with restrictive or intrusive procedures to ensure the plan complies with DDS policy on the use of restrictive or intrusive procedures per OAC 340:100-5-57.

~~(9) **"Unit coordinator"** means a team leader as defined in OAC 340:100-1-2.~~

(e) **Confidentiality.** Information in OCA records relating to advocacy services provided to the clients listed in subsection (b) of this Section is confidential and protected from unauthorized use. Only authorized individuals are given access to client records or provided information from those records.

(1) The confidentiality provisions of OAC 340:100-3-2 ~~apply~~applies to OCA client files.

(2) The confidentiality provisions of OAC 340:5-1-5 apply to information in OCA records regarding allegations of abuse, neglect, and exploitation of a vulnerable adult as those terms are defined in Section 10-103 of Title 43A of the Oklahoma Statutes.

(3) A breach of confidentiality may result in a criminal prosecution. Violations by ~~OKDHS~~DHS employees can also result in personnel action.

(f) **Training requirements for advocates.** New and tenured OCA advocates receive appropriate training consistent with their background and experience. This includes training on the rights of ~~DDSD~~DDS clients under Oklahoma and federal law.

(g) **Client representation.**

(1) OCA ~~maintains offices on campus at SORC and NORCE, and~~ assigns advocates to represent Greer residents ~~of SORC, NORCE, and Greer~~.

(2) OCA assigns advocates, ~~in accordance with~~per Part 9, OAC 340:2-3-71 through 340:2-3-75, to represent specific ~~DDSD~~DDS clients living in community residential settings, including Hissom class members living in Oklahoma and former residents of SORC~~,~~and NORCE~~, and Greer for whom the facility director is the GAL~~.

(3) An OCA advocate is knowledgeable about the clients ~~represented by him or her~~ he or she represents and seeks to understand each client's specific challenges and communication styles, needs, interests, and goals. An advocate ascertains the client's preferences and choices ~~of a client~~. An advocate becomes familiar with a client by:

(A) reviewing relevant client records and files;

(B) visits and other contacts with the client at home, at work, and in other contexts; and

(C) communication with the client's relatives, loved ones, guardians, program coordinator and other provider staff, case manager, and others in the client's circle of support.

(h) **OCA advocacy services.**

(1) **Advocacy.** Advocacy is the function of assisting an individual in voicing his or her interests. Clients are encouraged to engage in self-determination~~,~~ and are assisted to the extent they need and desire. When a client has a limitation in voicing his or her own interests, needs, and preferences, an advocate seeks to speak on behalf of the client. Advocacy services provided by OCA advocates include:

(A) supporting the implementation of the least restrictive alternative in residential, vocational, therapeutic, and medical settings;

(B) supporting the most appropriate living environment for each client consistent with the client's needs and objectives;

(C) encouraging the development of natural supports, including friends, coworkers, and neighbors in the community ~~in which an~~where the individual lives; and

(D) advocating for those responsible for providing services for a client to fulfill their responsibilities by bringing performance issues to the attention of those who are responsible for correcting the situation.

(2) **Monitoring.** OCA monitors the well-being and provision of services to a client by means of: visits and other forms of contact with the client, staff, family members, and others who know the client; ~~review of~~reviewing records, documentation, contracts, and financial agreements between clients and providers of services, incident reports, and professional assessments; and attendance at IP and other ~~team~~Personal Support Team (PST) meetings. OCA advocates cooperate with, and render assistance to, outside monitoring and advocacy entities as provided for by federal and state laws, in accordance with the laws and rules relating to client confidentiality, and release of information protocols. The monitoring role of an OCA advocate ~~is to ensure that~~ensures:

(A) individual needs, preferences, and choices are identified and met appropriately and consistently;

(B) health, safety, and welfare standards and safeguards are maintained; and

(C) problems and issues are addressed at the earliest juncture by appropriate persons and entities in a prompt manner.

(3) **Informal problem resolution.** An advocate seeks to resolve issues and client concerns by means of informal problem resolution at the lowest level of administrative responsibility or decision-making. Informal problem resolution seeks to resolve issues and reach a consensus with the client on a plan of action to informally resolve the problem ~~informally~~. An advocate uses the problem resolution activity consistent with the nature and imminence of the problem. An advocate assists a client in the development of problem resolution skills and self-advocacy.

(4) **Grievances.** As needed, an OCA advocate files grievances on behalf of clients ~~in accordance with~~per Part 5, OAC 340:2-3-45 through 340:2-3-55. OCA also advises clients and assists them with filing grievances on their own behalf ~~when they so desire~~.

(5) **Protection and safety.** OCA staff take appropriate action under the circumstances to protect the health, safety, and well-being of clients, including reporting allegations of abuse, neglect, maltreatment, and exploitation ~~in accordance with~~per Part 3, OAC 340:2-3-32 through ~~340:2-3-38~~340:2-3-39.

(A) OCA advocates assist OCA and Adult Protective Services investigators and law enforcement officers ~~in obtaining~~to obtain information necessary ~~for completion of~~to complete investigations ~~in which~~when a client is an alleged victim.

(B) Advocates engage in appropriate follow-up activity in response to ~~receiving~~ a referral from the OCA intake unit ~~in accordance with~~per OAC 340:2-3-35~~(a)(7)~~.

(C) When an advocate has a concern related to a client's health, safety, well-being, or program implementation, the advocate advises the client's case manager or designated QMRP, as applicable, and others ~~(for example,~~; such as~~DDSD~~DDS staff, provider or facility staff, treatment staff, ~~and~~or health care professionals~~)~~ as ~~the~~ circumstances warrant.

(D) Immediately upon becoming aware of ~~any~~ concerns regarding imminent risk of harm, an advocate advises the applicable residential or vocational provider ~~as well as~~and the client's case manager.

(E) An OCA advocate ensures that allegations of abuse, neglect, maltreatment, and exploitation ~~of which the advocate becomes aware~~ are reported to OCA intake ~~in accordance with~~per OAC 340:2-3-33.

(6) **Promoting informed choice.** An OCA advocate promotes informed decision-making, consistent with a client's unique strengths, resources, priorities, concerns, abilities, capabilities, and interests, through provision of necessary information and ~~assisting a~~assistance to a client in understanding options and potential consequences of a decision. If a client is unable to make an informed choice, the advocate seeks to provide the client's legal guardian, ~~GAL~~Guardian ad Litem, volunteer advocate, and other representative(s) with access to information to make an informed decision on ~~behalf of~~ the ~~client~~client's behalf. The advocate general does not provide legal advice to clients, but may provide information about the law.

(7) **Protection of rights.** An OCA advocate promotes the full exercise of legal rights guaranteed clients under federal and state laws. An advocate takes appropriate steps to protect a client's rights, including ensuring those rights are considered in ~~team~~PST decisions and in the manner ~~with which team~~PST decisions are carried out. An advocate seeks to ensure the application of due process in administrative, quasi-judicial, and judicial proceedings involving a client ~~which~~that might result in a rights restriction or a reduction in services. When a rights restriction is absolutely necessary, OCA supports the least restriction necessary for the shortest period of time possible, and a plan to remove the restriction as soon as possible.

(8) **Access to services.** An OCA advocate promotes client access to the full range of supports ~~in accordance with the requirements of~~per state and federal ~~programs~~ requirements. Although an advocate takes a position with regard to services needed by a client, an advocate does not have authority to approve services.

(9) **Guardianship issues.** The Oklahoma Guardianship and Conservatorship Act promotes the participation of persons as fully as possible in the decisions ~~which~~that affect them, in the development of maximum self-reliance and independence, and ~~appointment~~the appointments of guardians and others, only to the extent necessitated by the mental and adaptive limitations or other ~~condition~~conditions of individuals~~. [~~per 30 O.S. § 1-103~~]~~. Because a full guardianship of the person and ~~estate of a client~~his or her estate is the most restrictive intrusion on an individual's decision-making, OCA advocates for the least restrictive alternative to a full guardianship ~~that is~~ feasible under the circumstances~~,~~ including, but not limited to: limited guardianship; representative payee for financial benefits; volunteer advocate; supportive friends and family; health care proxy; durable power of attorney; and advance directives.

(10) **Promoting inclusion.** An advocate promotes the realization of active citizenship and inclusion in the community. This includes, but is not limited to, encouraging clients to: learn the rights and responsibilities of good citizenship, vote, take classes, participate in volunteer services organizations, attend religious services of the client's choice, attend recreational, cultural and social events, and join citizen advocacy organizations that promote inclusion in the community. An advocate encourages the development of friends who can serve as natural supports for a client. An advocate assists a client in locating relatives who are not currently active in the client's life and encourages relationship building between the client and family members.

(11) **End-of-life issues.** End-of-life issues for an individual with a developmental disability do not differ from

those of ~~the community at large~~other individuals. Regardless of the medical circumstance ~~which bring~~that brought these issues to the forefront, an OCA advocate seeks to have a client's physicians, guardians, and loved ones ~~of a client~~ adhere to Oklahoma laws relating to do-not-resuscitate orders, withdrawal or denial of nutrition or hydration, and withdrawal or termination of medical treatment. In the absence of clear and convincing evidence of a client's ~~wishes~~choices, an advocate presumes the client would choose life-sustaining measures.

(i) **Contacting an OCA advocate.** ~~OCA advocates carry pagers or cell phones during office hours. If~~When an advocate is not available during office hours, his or her supervisor serves as a back-up to the advocate ~~and can be contacted~~. Information about the name of the advocate assigned to a client, the advocate's phone ~~and pager~~ numbers~~,~~ and the name of the advocate's supervisor ~~can be~~is obtained from OCA ~~offices in Oklahoma City 1-405-525-4850 or~~ at 1-800-522-8014.

(j) **OCA access to client records and information.** OCA staff ~~are~~is provided access to all records, files, documents, and information needed to fulfill OCA responsibilities regarding a client. ~~DDSD~~DDS case managers and employees, and ~~staff of~~ provider ~~agencies send~~ agency staff ~~to~~send the assigned OCA advocate ~~a copy~~copies of documents and notices sent to the client.

340:2-3-72. Advocacy services for residents of ~~Northern Oklahoma Resource Center of Enid (NORCE), the Southern Oklahoma Resource Center (SORC), and the Greer Center Facility~~the Robert M. Greer Center (Greer)

(a) **Application.** This Section describes advocacy services the Office of Client Advocacy (OCA) provides to Greer residents ~~of Southern Oklahoma Resource Center (SORC), Northern Oklahoma Resource Center of Enid (NORCE), and Greer Center Facility (Greer) ("the facilities")~~. Section 1415.1(A)(2) of Title 10 to the Oklahoma Statutes requires the Oklahoma Department of Human Services ~~(OKDHS)~~(DHS) to establish an ombudsman program for each institution and residential facility for ~~thementally retarded~~persons with intellectual disabilities operated by ~~(OKDHS)~~DHS. ~~OKDHS has conferred on~~DHS assigned OCA this responsibility. Advocacy services are provided to Greer residents ~~of the facilities~~ consistent with Oklahoma Administrative Code (OAC) 340:2-3-71.

(b) **Grievance coordination.** OCA advocates serve as grievance coordinators for resident grievances ~~in accordance with~~per OAC 340:2-3-51.

(c) **Abuse and neglect reporting.**

(1) OCA advocates provide training to new Greer employees ~~of SORC, NORCE, and Greer~~ regarding their obligation to report suspected incidents of abuse, neglect, verbal abuse, and caretaker misconduct ~~in accordance with~~per OAC 340:2-3-33.

(2) OCA advocates receive referrals of suspected abuse, neglect, and maltreatment, and immediately transmit that information to OCA intake ~~in accordance with~~per OAC 340:2-3-33.

(d) **Advocacy and monitoring.** OCA advocates provide advocacy and monitoring to ensure compliance with policies, rules, and regulations applicable to the health, safety, and well-being of residents. In addition to ~~the~~ activities ~~described in~~per OAC 340:2-3-71, advocacy and monitoring activities ~~at the facilities~~for Greer residents include:

(1) a face-to-face visit with each resident at least ~~bi-annually~~semi-annually, and more frequently as needed, to assess and address the resident's advocacy needs;

(2) periodic site visits to facility buildings frequented by residents, including residential units, vocational programs locations, ~~canteen~~canteens, and therapy departments, at least quarterly and more frequently as warranted to monitor compliance with health and safety requirements and protection of client rights~~,~~ including, but not limited to, privacy rights;

(3) a visit with a resident at the request of the resident, the resident's guardian, or ~~other~~another person concerned about the well-being of the resident unless contraindicated;

(4) review of relevant documentation within seven calendar days of receipt~~,~~ including, but not limited to: individual plan (IP) and interim IPs; accident and incident reports; OCA investigation findings; ~~and~~ behavior data collection forms, guardianship assessments, and other professional reports and assessments;

(5) serving as a member of a resident's ~~personal support team~~PST;

(6) ~~attending team meetings when it can reasonably be anticipated that a significant issue will be addressed, including any rights issue and in particular a rights restriction or an intrusive behavior intervention strategy;~~

(~~7~~6) participating in capacity assessment meetings and annual reviews;

(~~8~~7) attending facility Behavior Review Committee (BRC) and Human Rights Committee (HRC) meetings as required or indicated;

(~~9~~8) attending mortality review meetings ~~pursuant to~~per OAC 340:100-3-35;

(~~10~~9) reporting policy violations for administrative action and correction, to the facility director or quality assurance designee;

(10) promoting ~~team~~PST discussion of alternatives to living in the facility, and consulting with ~~teams~~PST members regarding community supports and community residential alternatives; and

(11) ~~participation in discharge planning meetings;~~providing transition advocacy assistance for 90 calendar days from the date the resident moves out of Greer. The 90 calendar days may be extended by the advocate general or designee as warranted. Transition advocacy assistance includes:

(A) participating in discharge planning meetings;

(B) visiting the identified home prior to the move and ensuring Form 06CB034E, Residential Pre-service Checklist, is completed, any identified issues are resolved, and everything is in place before the resident moves out of Greer;

(C) visiting the home within seven calendar days of a resident moving out of Greer to determine if there are advocacy needs. Making telephone contact with the community case manager, the program coordinator, the resident and/or guardian, and at least one staff person in the home to determine if there are advocacy needs; and

(D) visiting the home monthly until the case is closed to assist with resolution of advocacy needs.

~~(12) when a resident who has been discharged from the facility is not eligible for assignment of an OCA advocate in the community, providing transition advocacy assistance for 90 calendar days from the date the resident moves out of the facility. The 90 days can be extended by the advocate general or designee as warranted; and~~

~~(13) reporting, for administrative action and correction, policy violations to the facility director or quality assurance designee.~~

340:2-3-73. Advocacy services for former residents of the Northern Oklahoma Resource Center of Enid (NORCE)~~,~~ and the Southern Oklahoma Resource Center (SORC)~~, and the Greer Center Facility (Greer)~~

(a) **Application.** This Section describes advocacy services the Office of Client Advocacy (OCA) provides to former residents of ~~Southern Oklahoma Resource Center (~~SORC~~)~~, and ~~Northern Oklahoma Resource Center of Enid (~~NORCE~~), and Greer Center Facility (Greer) ("the facilities") for whom the facility director is the guardian ad litem (GAL). Oklahoma Department of Human Services (OKDHS) has conferred on OCA responsibilities for each of these individuals until the court relieves the facility director of GAL responsibilities~~who transition after the Oklahoma Commission for Human Services November 1, 2012, resolution to close those facilities. Ombudsman and advocacy services are provided to former residents of the facilities ~~consistent with~~per Oklahoma Administrative Code (OAC) 340:2-3-71. Pursuant to the Oklahoma Commission for Human Services November 1, 2012, resolution the Advocate General, as OCA chief administrative officer, was directed to review every individual's plan for community placement and certify all services and supports were in place prior to the person moving to a community home. Additionally, each former resident had an OCA advocate assigned to act as a separate voice to ensure his or her needs were met and ensure they were provided the information, skills, opportunities, and support to:

(1) make informed choices and decisions about their lives;

(2) live in homes and communities where individuals can exercise their full rights and responsibilities as citizens;

(3) pursue meaningful and productive lives;

(4) contribute to their family, community, state, and nation;

(5) have interdependent friendships and relationships with others;

(6) live free from abuse, neglect, financial and sexual exploitation, and other violations of legal rights; and

(7) achieve maximum health and full integration and inclusion in society; in an individualized manner consistent with unique strengths, resources, and priorities.

(b) **Representation.** ~~A person eligible for OCA services pursuant to this Section is assigned to an OCA advocate to represent the client's interests when OCA has adequate staff resources to provide such services. A community advocate is assigned 30 calendar days prior to the date identified to transition the client.~~OCA assigns an advocate to each former resident of NORCE and SORC living in Oklahoma for the duration of the resident's lifetime. Clients are provided choices with regard to the advocate assigned to represent them to the extent feasible, ~~taking into consideration~~considering the geographic location of the client's residence and the ~~caseloads of~~ OCA ~~advocates~~advocate caseloads. Requests for a change in the advocate representing an individual are made to the advocate general or designee.

(c) **~~Team~~Personal Support Team (PST) membership.** As a representative of a Developmental Disabilities Services ~~Division (DDSD)~~(DDS) client living in a community residential placement, an OCA advocate is a member of the client's ~~personal support team~~ PST. As a ~~team~~PST member, the advocate receives from the client's ~~(DDSD)~~DDS case manager timely notice of all ~~team~~PST meetings, including emergency ~~team~~PST meetings. Within the ~~team~~PST context, the advocate assists the client and represents the client's interests without relinquishing priority to client safety and rights.

(d) **Guardianship issues.** The OCA advocate ensures a client has a current capacity assessment and attends capacity assessment meetings. ~~If~~When a client has sufficient capacity to require no guardian or only a limited guardian, the advocate promotes the filing of a petition with the guardianship court to terminate or limit the ~~GAL~~guardianship appointment ~~or limit it, as the case may be~~. ~~If~~When the current capacity assessment for the client recommends a guardian or volunteer advocate, the OCA advocate participates with the ~~team~~PST in identifying persons who might serve as the client's guardian or advocate ~~for the client~~. An advocate encourages the development of friends in the community who might become ~~a~~the client's guardian or advocate ~~for the client~~. The OCA advocate monitors the implementation of the recommendations in the capacity assessment and advocates for timely achievement. When a guardian is needed and a suitable guardian ~~has been~~is identified, the advocate promotes the filing of a petition with the guardianship court ~~to terminate the GAL appointment and~~ to appoint a guardian.

(e) **Advocacy and monitoring.** OCA advocates provide advocacy and monitoring to ensure compliance with policies, rules, and regulations applicable to the health, safety, and well-being of clients. In addition to the services described in OAC 340:2-3-71(h), advocacy and monitoring activities on behalf of each client include:

(1) verifying that Form 06CB034E, Residential Pre-Service Checklist, has been completed and everything on the checklist is in place prior to ~~the resident moving out of the facility~~any change in residence;

(2) ~~a home visit with the client within 30 calendar days of the client's discharge from the facility;~~

~~(3) verifying Form 06CB034E has been completed prior to any subsequent changes in residence, and~~ making a home visit with the client within 30 calendar days after the client moves into a new residence;

(~~4~~3) a face-to-face visit with the client at least quarterly and more frequently as indicated~~, which includes:~~;

~~(A) site visits to a client's residence at least twice a year, every five to seven months, at a time when the client is present in the home; and~~

~~(B) visits with the client outside the home setting at least twice a year, every five to seven months;~~

(~~5~~4) visits with the client at the request of the client, the client's legal guardian, or other person concerned about the well-being of the client;

(~~6~~5) completion of a service review ~~twice a year, every five to seven months~~semi-annually;

(~~7~~6) in connection with each service review, verifying that direct contact staff have completed required training;

(~~8~~7) participating as a member of a resident's ~~personal support team~~PST;

(~~9~~8) attending annual individual plan (IP) meetings, interim meetings, and follow-up planning meetings;

(~~10~~9) attending emergency ~~team~~PST meetings;

(~~11~~10) attending other ~~team~~PST meetings when significant issues are ~~being~~ addressed, including when a rights restriction or an intrusive behavior intervention strategy is contemplated or ~~to be~~ recommended;

(~~12~~11) attending capacity assessment meetings of the client's ~~team~~PST;

(~~13~~12) attending other ~~team~~PST meetings at the request of the client, guardian, or involved family or friend;

(~~14~~13) requesting ~~(DDSD)~~DDS Quality Assurance to conduct an administrative inquiry of suspected provider contract violations ~~in accordance with~~per OAC 340:100-3-27;

(~~15~~14) assisting the client and the client's guardian or representative with the review of proposed financial agreements and contracts between the client and the provider;

(~~16~~15) review of documents~~,~~ including, but not limited to:

(A) assessments, IP, and interim IP documents;

(B) incident reports;

(C) Adult Protective Services ~~(APS)~~ and OCA investigation findings; and

(D) behavior data collection forms;

(~~17~~16) attending mortality review meetings held ~~pursuant to~~per OAC 340:100-3-35;

(~~18~~17) attending legal proceedings involving the client, including guardianship proceedings, as warranted by the circumstances;

(~~19~~18) providing each client or guardian an annual copy of Form 15GR006E, Notice of Grievance Rights: DDS Service Recipients;

(~~20~~19) monitoring semi-annually the hot water in homes, using a thermometer to ensure the water does not exceed 114 degrees Fahrenheit; and

(~~21~~20) at least bi-annually, every five to seven months, ~~verify that~~verifying appropriate records are kept with regard to an individual's personal finances.

(f) **Advocacy services for former residents of NORCE and SORC who reside in private Intermediate Care Facilities for persons with Intellectual Disabilities (ICF/ID).** Advocacy and monitoring services for former residents of NORCE and SORC who reside in a private ICF/ID in Oklahoma are contained in this subsection.

(1) The assigned OCA advocate conducts a face-to-face visit with a client living in a private ICF/ID at least once every 120 calendar days, and more frequently as warranted.

(2) The OCA advocate maintains a helping relationship with the client, assessing the realization of desired and targeted outcomes, and initiating change through referral or grievance as needed. During contacts with the client, the advocate inquires about individual satisfaction with current supports and provides information regarding options available to clients for community supports.

(3) The OCA advocate, at least once every six months, contacts the guardian of the client if one has been appointed. The OCA advocate also contacts the guardian in response to an expression by the client of dissatisfaction with the current residential arrangements. These contacts reaffirm the availability of service options to clients for support in community settings. Contacts with the guardian occur in person, by phone, or by mail as circumstances warrant.

(4) The OCA advocate contacts the private ICF/ID case manager and requests to be notified in advance of yearly planning meetings, interim, and emergency meetings. The advocate brings to the attention of the PST the expressed desires of the individual and any concerns expressed by the individual, guardian, or other family members.

(5) The OCA advocate assesses the client's welfare and determines if advocacy is needed. The OCA advocate develops a working knowledge of the facility's grievance procedure as well as other problem resolution processes and resources for change. The advocate provides assistance, either directly or through referral, resolving concerns identified by the client or by others on behalf of the client. This may include contacting the DHS Aging Services Long-Term Care Ombudsman.

(g) **Advocacy services for former residents of NORCE and SORC who are in Oklahoma Department of Corrections (DOC) or county sheriff custody.** Advocacy and monitoring services for clients, who are in DOC or county sheriff custody, except those who are detained pre-trial, are contained in this subsection. The assigned OCA advocate:

(1) contacts the client at least once every six months. These contacts are in person unless contraindicated by the individual;

(2) obtains copies of court documents that reflect the sentence the client is serving;

(3) assesses the welfare of the client and determines if advocacy assistance is needed. The advocate provides assistance, either directly or through referral, resolving concerns identified by the client or by others on behalf of the client. Advocacy assistance is provided to enforce the rights of clients under the Americans with Disabilities Act and other state and federal laws to the extent they are applicable to persons who are in custody; and

(4) provides advocacy assistance with the DDS case manager to commence transition planning when the client has less than a year remaining to serve in custody. The advocate participates in and monitors transition planning, representing the client's interests.

(h) **Services for former residents of NORCE and SORC who decline DDS services.** Per OAC 340:100-3-11, clients and their legal representatives have the right to refuse DDS services. The OCA advocate for a client who has declined DDS services contacts the individual at least once every six months and remains available to assist with advocacy regarding non-specialized assistance, when requested by the individual. If the OCA advocate determines the client's need or desire for specialized supports has changed, the advocate takes appropriate follow-up action with DDS case management.

340:2-3-74. Advocacy services for Hissom class members

(a) **Application.** This Section describes Office of Client Advocacy (OCA) advocacy services for Hissom class members who reside in Oklahoma. Advocacy services are provided to Hissom class members ~~consistent with~~per Oklahoma Administrative Code (OAC) 340:2-3-71. Orders of the United States District Court for the Northern District of Oklahoma in Homeward Bound, Inc., et al. vs. Hissom Memorial Center, et al., Case No. 85-C-437-TCK-SAJ, require the Oklahoma Department of Human Services ~~(OKDHS)~~ (DHS) and OCA to provide independent advocacy services to individuals certified by the court as members of the plaintiff class, known as Hissom class members. This includes, but is not limited to:

(1) independently advocating for class ~~members~~members' rights and interests regarding: their daily lives, proposed movements, medical and behavioral emergencies including hospitalizations, appropriate consents, financial interests, and meetings held on their behalf;

(2) challenging adverse service authorization actions through the ~~OKDHS~~DHS administrative appeal and/or grievance procedures; and

(3) referral to Oklahoma protection and advocacy agencies ~~in Oklahoma~~ to obtain legal counsel and legal advocacy services.

(b) **Assignment of advocate.** OCA assigns an advocate to each Hissom class member living in Oklahoma. Clients are provided choices with regard to the advocate assigned to represent them to the extent feasible, taking into consideration the geographic location of the client's residence and ~~the caseloads of~~ OCA ~~advocates~~advocates' caseloads. Requests for a change in the advocate representing an individual are made to the advocate general or designee.

(c) ~~Team~~**Personal Support Team (PST) membership.** As a representative of a Hissom class member living in a community residential placement, an OCA advocate is a member of the client's ~~personal support team~~PST. As a ~~team~~PST member, the advocate receives from the client's Developmental Disabilities Services ~~DDSD~~(DDS) case manager timely notice of all ~~team~~PST meetings, including emergency ~~team~~PST meetings. Within the team context, the advocate assists the client and represents the client's interests without relinquishing priority to client safety and rights.

(d) **Guardianship issues.** The OCA advocate ensures the client has a current capacity assessment and attends capacity assessment meetings. If a client with a full guardianship has sufficient capacity to require no guardian or only a limited guardian, the advocate promotes the filing of a petition with the guardianship court to limit or terminate the guardianship. If the current capacity assessment of a client who does not have a guardian recommends a guardian or volunteer advocate, the OCA advocate participates with the ~~team~~PST in identifying persons who might serve as guardian or advocate for the client. This includes encouraging the development of friends in the community who might become a guardian or volunteer advocate for the client. The OCA advocate monitors the implementation of the recommendations in the capacity assessment and advocates for their timely achievement. When a guardian is needed and a suitable guardian ~~has been~~ is identified, the advocate promotes the filing of a petition with the guardianship court to appoint a guardian.

(e) **Advocacy and monitoring services for class members in residential community settings.** OCA advocates provide advocacy and monitoring to class members living in community residential settings, including group homes, to ensure compliance with policies, rules, and regulations applicable to the client's health, safety, and well-being ~~of clients~~. In addition to the activities described in OAC 340:2-3-71(h), advocacy and monitoring activities on behalf of each client include:

(1) verifying a Form 06CB034E, Residential Pre-service Checklist, is completed prior to any change in residence, and making a home visit with the client within 30 calendar days after the client moves into a new residence;

(2) a face-to-face visit with the client at least ~~quarterly and more frequently as indicated, including~~once every three months;

~~(A) site visits to a client's residence at least bi-annually, every five to seven months, at a time when the client is at home; and~~

~~(B) visits with the client outside the home setting at least twice a year, every five to seven months;~~

(3) visits with the client at the request of the client, the client's legal guardian, or other person concerned about the well-being of the client;

(4) completion of a service review twice a year, ~~every five to seven months~~at least once every six months;

(5) in connection with each service review, verifying ~~that~~ direct contact staff have completed required training;

(6) participating as a member of a client's ~~personal support team~~PST;

(7) attending annual individual plan (IP) meetings, interim meetings, and follow-up planning meetings;
(8) attending emergency ~~team~~PST meetings;
(9) attending other ~~team~~PST meetings when significant issues are addressed, including when a rights restriction or an intrusive behavior intervention strategy is contemplated or recommended;
(10) attending guardianship assessment meetings of the client's ~~team~~PST;
(11) attending other team meetings at the request of the client, guardian, or involved family or friend;
(12) requesting ~~DDSD~~DDS Quality Assurance to conduct an administrative inquiry of suspected provider contract violations ~~in accordance with~~per OAC 340:100-3-27;
(13) assisting the client and the client's guardian or representative with the review of proposed financial agreements and contracts between the client and the provider;
(14) prior to and during a hospitalization, advocating for the provision of adequate staff to be present in the hospital with the client as circumstances warrant;
(15) review of documents~~,~~ including, but not limited to:
(A) assessments, IP, and interim IP documents;
(B) incident reports;
(C) behavior data collection forms; and
(D) Adult Protective Services ~~(APS)~~ and OCA investigation findings;
(16) attending mortality reviews conducted ~~in accordance with~~per OAC 340:100-3-35;
(17) communicating to the client, the client's guardian, and the client's family as appropriate the final finding of an OCA investigation in which the client was named as an alleged victim;
(18) attending legal proceedings involving the client, including guardianship proceedings, as warranted by the circumstances;
(19) monitoring, semi-annually, the hot water in homes, using a thermometer to ensure the water does not exceed 114 degrees Fahrenheit;
(20) ~~at least bi-annually, every five to seven months, verify~~verifying that appropriate records are ~~being~~ kept with regard to an individual's personal finances at least once every six months; and
(21) ~~annually provide~~providing each client or guardian ~~a~~an annual copy of Form 15GR007E, Notice of Grievance Rights: Hissom Class Members.

(f) **Advocate services for Hissom class members on the Focused Advocacy List (FAL).** On December 1, 2004, the judge in *Homeward Bound, et al. vs. The Hissom Memorial Center, et al.*, U.S. District Court for the Northern District of Oklahoma, Case No. 85-C-437-E, issued an order for the transition of responsibilities and phase-out of the combined office of the Homeward Bound review panel and Guardian ad Litem (GAL). The Court Order specified "advocacy services provided by the Guardian ad Litem's Office for all class members on the GAL List will be transferred to and be assumed by the Office of Client Advocacy" by January 31, 2005. In response, OCA created the Focused Advocacy program to provide increased advocacy supports to class members with limited or no family involvement. In addition to the activities described in section (e) and OAC 340:2-3-71(h), advocacy and monitoring activities on behalf of each client include:
(1) ensuring the assigned developmental disabilities representative is invited to PST meetings when warranted to review and update progress in securing a volunteer advocate or guardian for all clients on the FAL;
(2) visiting each class member on the FAL at least once every two months, and more frequently when warranted. Visits include home visits, work-site visits, and other face-to-face contacts;
(3) placing a priority on expanding the circles of support of a class member on the FAL to include persons who are not paid to be involved in the class member's life, including identifying relatives not involved in the class member's life who may be encouraged to become more involved;
(4) identifying class members who have the greatest immediate need for a volunteer advocate or guardian. Advocates must promptly inform the OCA Focused Advocacy manager when a class member is identified as having a priority need; and
(5) ensuring a Team Review of Advocate/Guardian Participation (TRAGP) document is prepared for each class member assigned to them at least annually and one is completed more frequently whenever there is a significant change in circumstances warranting review of the involvement of persons who are not paid to be involved in the class member's life. The form includes information documenting the need for the individual to remain on, be added to, or be removed from the FAL. The Focused Advocacy Committee meets regularly to review TRAGP forms and determine whether class members remain on the FAL or require prioritized identification of a volunteer advocate or guardian.

(~~f~~g) **Advocacy services for Hissom class members in a private intermediate care facility for ~~the mentally retarded (ICF/MR)~~persons with intellectual disabilities (ICF/ID).** Advocacy and monitoring services for class members who reside in a private ~~ICF/MR~~ICF/ID in Oklahoma are contained in this subsection.
(1) The assigned OCA advocate personally visits a client living in a private ~~ICF/MR~~ ICF/ID at least quarterly, and more frequently as warranted.
(2) The OCA advocate maintains a helping relationship with the client, assessing the realization of desired and targeted outcomes, and initiating change through referral or grievance as needed. During contacts with the client, the advocate inquires about individual satisfaction with current supports and provides information regarding options available to clients for community supports.
(3) The OCA advocate, at least bi-annually, contacts the guardian of the client if one has been appointed. The OCA advocate also contacts the guardian in response to an expression by the client of dissatisfaction with the

current residential arrangements. These contacts reaffirm the availability of service options to clients for support in community settings. Contacts with the guardian occur in person, by phone, or by mail as the circumstances warrant.

(4) The OCA advocate contacts the private ~~ICF/MR~~ICF/ID case manager, generally a Qualified Mental Retardation Professional, responsible for yearly care planning for the client. The advocate informs the facility case manager of the advocate's intent to attend yearly planning meetings. The advocate asks to be notified in advance of yearly planning meetings and emergency meetings. The advocate checks periodically to ensure meetings have not been held without notice to the advocate.

(5) The OCA advocate participates in annual planning meetings at the private ~~ICF/MR~~ICF/ID. The advocate provides advocacy assistance regarding the individual's expressed desires ~~of the individual~~. The advocate brings ~~to the attention of the team~~ concerns expressed by the client, guardian, or other family members to the PST attention. The advocate participates in interim meetings addressing any significant change in residence, work, health, or important relationships.

(6) The OCA advocate develops a working knowledge of the facility's grievance procedure as well as other problem resolution processes and resources for change, ~~for example,~~such as the Long-Term Care Ombudsman Program and licensing agencies. The advocate uses these services, either directly or through referral, as needed for the benefit of the individual.

(7) The OCA advocate assesses the welfare of the client and determines if advocacy assistance is needed which OCA can provide. The advocate provides assistance, either directly or through referral, with resolving concerns identified by the client or by others on behalf of the client. This includes contacting the ~~OKDHS~~ DHS Aging Services ~~Division~~, long-term care ombudsman. The advocate also informs the Long-Term Care Ombudsman Office of concerns involving other individuals living in an ~~ICF/MR which~~ICF/ID that come to the advocate's attention ~~of the OCA advocate~~.

(8) Service reviews are not completed.

(9) The OCA advocate requests a capacity assessment on behalf of the client when there has been a substantial change in circumstances regarding the individual's need for a guardian.

(10) The OCA advocate provides information and encouragement to consider community residential settings.

(~~g~~h) **Advocacy services for Hissom class members who are in the Oklahoma Department of Corrections (DOC) or a county sheriff's custody.** Advocacy and monitoring services for class members who are in ~~of the Department of Corrections or a county sheriff~~DOC or a county sheriff's custody, except those who are detained pre-trial ~~in a facility~~, are contained in this subsection. The assigned OCA advocate:

(1) contacts the client at least ~~semi-annually~~every six months~~.~~;

(2) obtains copies of court documents ~~which~~that reflect the sentence the class member is serving~~.~~;

(3) ~~The advocate~~ assesses the welfare of the client and determines if advocacy assistance is needed ~~that the advocate can provide~~. The advocate provides assistance, either directly or through referral, with resolving concerns identified by the client or by others on behalf of the client. Advocacy assistance is provided ~~with regard~~in regard to enforcing the rights of clients under the Americans with Disabilities Act and other state and federal laws to the extent they are applicable to persons who are in custody~~.~~; and

(4) ~~When the client has less than a year remaining to serve in custody, the OCA advocate~~ provides advocacy assistance and works with the ~~DDSD~~DDS case manager to ~~commence~~begin transition planning when the client has less than one year remaining to serve in custody. The advocate participates in and monitors transition planning, representing the client's interests.

(~~h~~i) **Services for Hissom class members who decline ~~DDSD~~DDS services.** ~~Pursuant to~~Per OAC 340:100-3-11, class members and their legal representatives have the right to refuse services from ~~OKDHS~~DHS. The OCA advocate for a class member who ~~has~~ declined ~~DDSD~~DDS services, contacts the individual ~~bi-annually~~at least once every six months and remains available to assist with advocacy regarding non-specialized assistance when ~~desired~~requested by the individual. ~~At least one of the contacts is face to face when feasible.~~If the OCA advocate determines the client's need or desire for specialized supports has changed, the advocate takes appropriate follow-up action with DDS case management.

340:2-3-75. Advocacy services for clients with a special advocacy need

(a) **Application.** This Section describes advocacy services the Office of Client Advocacy (OCA) provides to Developmental Disabilities Services ~~Division (DDSD)~~(DDS) clients who are not otherwise eligible for OCA advocacy services but ~~who~~ have a special short-term need for advocacy assistance.

(b) **Requests for services.** Any ~~DDSD~~DDS client or the client's guardian, ~~case manager, or~~ next of kin, or Personal Support Team (PST) member may~~can~~ request short-term advocacy services for the client by contacting the ~~advocate general or designee~~OCA Intake Unit. Written requests ~~which~~that explain the nature of the advocacy need are encouraged, but verbal requests are accepted. Factors considered in granting requests include:

(1) whether the advocacy need is a matter within OCA jurisdiction;

(2) the existence of other resources to meet the client's need; and

(3) the urgency of the need.

(c) **Advocacy provided.** When a request for short-term advocacy ~~has been~~is granted, the assigned advocate provides the support and advocacy appropriate given the nature of the problem and any imminent harm.

(1) The advocate, in consultation with his or her supervisor, prepares a time-limited plan for achieving the goals of the advocacy need.

(2) Short-term advocacy assistance is provided for up to ~~three months~~30 calendar days. The advocate's supervisor may extend the special advocacy assignment up to three months depending on the need. When necessary, the OCA advocacy programs administrator may further extend the special advocacy assignment ~~beyond three months~~.

(3) The advocate has full access to the client's case record and is a member of the client's PST for the duration of the special advocacy assignment.

[OAR Docket #15-625; filed 6-19-15]

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

[OAR Docket #15-626]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 37. Communications
340:2-37-1 through 340:2-37-5 [AMENDED]
(Reference APA WF 14-15)
AUTHORITY:
Director of Human Services; Section 162 of Title 56 of the Oklahoma Statues (O.S. 56 § 162).
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
January 23, 2015
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February 17, 2015 through March 19, 2015
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Approved by Governor's declaration on June 8, 2015
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September 15, 2015
SUPERSEDED EMERGENCY ACTIONS:
n/a
INCORPORATIONS BY REFERENCE:
n/a
ANALYSIS:
The proposed revisions to Chapter 2, Subchapter 37 update current Oklahoma Department of Human Services (DHS) Office of Communications practices by removing language that is no longer applicable and adding language to better define the purpose and scope of the office.
CONTACT PERSON:
Dena Thayer, Programs Administrator, Policy Management Unit, OKDHS, P.O. Box 25352, Oklahoma City, OK 73125, 405-521-4326.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 15, 2015:

SUBCHAPTER 37. COMMUNICATIONS

340:2-37-1. Purpose, authority, and scope

(a) **Purpose.** The Office of Communications coordinates the dissemination of information about the Oklahoma Department of Human Services ~~(OKDHS)~~(DHS).

(b) **Authority.** The Office of Communications operates under the authority ~~given in Article XXV, Section 4 of the Oklahoma Constitution~~of the Director of Human Services.

(c) **Scope.** The Office of Communications:

(1) communicates a clear vision of ~~OKDHS~~DHS;

(2) conveys to large and varied audiences information about programs, services, operations, and actions undertaken by ~~OKDHS~~DHS and its agents;

(3) monitors health and human services issues as reported by the media on ~~the~~ state and national levels;

(4) participates in an advisory role in social services-related activities ~~involving~~to all DHS programs, other state agencies, county and local governments, advocacy groups, community organizations, and trade and professional organizations;

(5) provides support and leadership for ~~OKDHS~~DHS celebrations and employee quality recognition events;

(6) monitors ~~OKDHS~~DHS communications-related activities and contracts;

(7) coordinates and monitors ~~OKDHS~~DHS public service campaigns and provides support for public service and education projects;

(8) serves as the central point of media contact ~~for the media~~ and responds or arranges for a response to all inquiries from newspaper, magazine, radio, online media, and television journalists;

(9) develops and disseminates ~~OKDHS~~DHS media releases;

(10) provides communications ~~counseling~~training to ~~OKDHS~~DHS staff on media ~~relations~~interviews, public relations, public speaking, and other communications matters;

(11) publishes ~~specified newsletters and serves as executive producers for OKDHS broadcast communications programs and projects~~information and produces videos for internal employee communication;

(12) ~~monitors and consults on~~oversees Internet~~,and~~ Intranet, and other technology-driven communications content to ensure the delivery of clear~~, concise, cohesive,~~ and accurate messages;

(13) serves as a point of clearance on ~~questionable~~ communication materials and tools;

(14) monitors and ensures the appropriate use of ~~OKDHS~~DHS brands, logos, and other images uniquely associated with the DHS image ~~of OKDHS~~; and

(15) ~~files required information with the Secretary of State regarding OKDHS open meetings; [OAC 340:1-1-19] and~~

~~(16)~~ complies with the Open Records Act through rules governing the receipt and processing of open records requests ~~at OAC~~from members of the media per Oklahoma Administrative Code 340:2-21-12 through 340:2-21-16.

340:2-37-2. Definitions

The words and terms in this subchapter shall have the following meanings unless the context clearly indicates otherwise:

"Agent" means a person, group, partner, or entity ~~that is~~ not employed by the Oklahoma Department of Human Services ~~(OKDHS),~~(DHS)~~and~~that works with or has a paying contract with ~~OKDHS~~DHS.

"Brand" means a name, visual or non-visual image, reflective of the ~~OKDHS~~DHS mission, vision, and values~~,~~ that:

(A) creates a positive perception in the public mind~~,~~;

(B) establishes a market position~~,~~; and

(C) is used to carry any message relevant to ~~OKDHS~~DHS through any medium.

"Technology-driven communications" means electronic communication tools, including ~~e-mail~~email, audio and video programming, Internet and Intranet content, and public education and service announcements.

340:2-37-3. Confidentiality

(a) The Office of Communications complies with federal and state statutes and Oklahoma Department of Human Services ~~(OKDHS)~~(DHS) rules regarding confidentiality of persons applying for or receiving services from ~~OKDHS~~DHS and their records per Section 1-6-102 of Title 10A of the Oklahoma Statutes~~[(10~~10A O.S. §~~7500~~1-6-102); 43A O.S. § 10-110; 51 O.S. § 24A.1 et seq.; 56 O.S. § 183; OAC 340:65-1-2; and Oklahoma Administrative Code 340:2-21-13~~]~~.

(b) Form ~~ADM-13~~16AD013E, News Media and Media Production Release of Information, is completed when information about or the likeness of ~~an OKDHS~~a DHS employee, applicant or recipient of ~~OKDHS~~DHS services, or person(s) volunteering to support the ~~OKDHS~~DHS mission are used to increase public awareness of ~~OKDHS~~DHS services, train ~~OKDHS~~DHS employees or volunteers, or educate persons with an interest in Oklahoma health and human services issues. The person does not receive a royalty or compensation for the use of the information.

340:2-37-4. ~~Spokespersons for OKDHS~~Oklahoma Department of Human Services (DHS) spokespersons

(a) **Speaker's Bureau.** The Office of Communications operates the DHS Speaker's Bureau ~~and Speaker's Bureau Web site are designed~~ to help those needing ~~speakers~~ to find ~~Oklahoma Department of Human Services (OKDHS)~~DHS employees who can ~~speak~~ present DHS information to groups, organizations, or conferences ~~on behalf of OKDHS~~. ~~The Web site lists topics, subject matter, experts, and speakers who provide current information regarding OKDHS services and programs to agencies, organizations, or groups.~~

(b) **Local media contacts.**

~~(1) Members of the Oklahoma Commission for Human Services and the OKDHS~~ The Director of Human Services, Office of Communications staff, and other designees are ~~the~~DHS spokespersons ~~for OKDHS, in accordance with provisions of Article XXV of the Oklahoma Constitution.~~

~~(2) The Office of Communications staff are the designated media spokespersons for the Commission and OKDHS Director, and speak for OKDHS~~ on all issues, programs, services, and operations~~, as appropriate~~.

~~(3) Officers, division directors, area directors, county directors, and resource center administrators are considered standing spokespersons for OKDHS. These individuals may delegate specific issues to others with more detailed program expertise.~~

340:2-37-5. Internet and Intranet communications

(a) **Purpose.** The Oklahoma Department of Human Services ~~(OKDHS)~~(DHS) is committed to using electronic technology efficiently and effectively to:

(1) provide Oklahoma citizens and ~~OKDHS~~DHS employees, clients, and partners with ~~the most~~ current, ~~and~~ accurate, and accessible information about ~~OKDHS~~DHS programs and ~~divisions~~services;

(2) ~~inform~~communicate with contracted service providers in a more efficient and cost-effective manner;

(3) distribute information electronically to save money and production time; and

(4) promote partnerships with organizations that share ~~OKDHS~~DHS interests.

(b) **Applicability.** This rule applies to:

(1) ~~OKDHS~~DHS~~divisions,~~ programs, and county and area offices; and

(2) all contractors and consultants, including those who operate or maintain ~~Web sites~~websites for ~~OKDHS~~DHS entities~~, through incorporation into contracts~~.

(c) **Scope.**

~~(1)~~ The Office of Communications serves as the ~~OKDHS Web~~DHS web content manager.

~~(2) Consistent with other leadership responsibilities for public and internal communication, the decision whether to establish a division or program Web site and to publish the Web site is delegated to each division director or designee, with consultation from the OKDHS Web content manager.~~

~~(3) All OKDHS Internet and Intranet pages must adhere to OKDHS Standards for the Web located on the OKDHS Intranet as well as this rule.~~

[OAR Docket #15-626; filed 6-19-15]

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

[OAR Docket #15-627]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 39. Planning, Research, and Statistics
Part 1. Office of Planning, Research, and Statistics [NEW] (New Part 1 will include existing section 340:2-39-1, which is not being amended)
Part 3. Institutional Review Board [NEW]
340:2-39-5 through 340:2-39-13 [NEW]
(Reference APA WF 14-16)
AUTHORITY:
Director of Human Services; Section 162 of Title 56 of the Oklahoma Statues (56 O.S. § 162); 56 O.S. § 168; Part 46 of Title 45 and Parts 50 and 56 of Title 21 of the Code of Federal Regulations.
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
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Approved by Governor's declaration on June 8, 2015
FINAL ADOPTION:
June 8, 2015
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September 15, 2015
SUPERSEDED EMERGENCY ACTIONS:
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INCORPORATIONS BY REFERENCE:
n/a
ANALYSIS:
The proposed issuance of Chapter 2, Subchapter 39, Part 3 is to establish an administrative body that protects the rights and welfare of human participants involved in research and assist the investigator and the institution in their mutual obligation to comply with all applicable federal, state, and local laws, rules and regulations, including internal policies of the Oklahoma Department of Human Services (DHS), with respect to the research participants and investigators.
CONTACT PERSON:
Dena Thayer, Programs Administrator, Policy Management Unit, OKDHS, P.O. Box 25352, Oklahoma City, OK 73125, 405-521-4326.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 15, 2015:

SUBCHAPTER 39. PLANNING, RESEARCH, AND STATISTICS

PART 1. OFFICE OF PLANNING, RESEARCH AND STATISTICS

PART 3. INSTITUTIONAL REVIEW BOARD

340:2-39-5. Purpose, scope, and authority

(a) **Purpose.** The purpose of the Oklahoma Department of Human Services Institutional Review Board (DHSIRB) is to protect the rights and welfare of human participants involved in research and assist the investigator and the institution in their mutual obligation to comply with all applicable federal, state, and local laws, rules and regulations, including internal policies of the Oklahoma Department of Human Services (DHS), with respect to the research participants and investigators.

(b) **Scope.** The DHSIRB operates per Part 46 of Title 45 of the Code of Federal Regulations and applicable state laws. Unless the research meets the criteria for review exemption per Oklahoma Administrative Code (OAC) 340:2-39-12(b), DHSIRB reviews research and program evaluation projects involving:

(1) direct interaction between the investigator and the research subject, including:

(A) experimentation, such as experimental medication or treatment, involving the research subject;

(B) surveys or interviews with research subjects;

(C) interaction with research subjects beyond normal service delivery; and

(D) performance of any procedures not performed for the sole benefit of the person involved, and any procedures in which either a primary or secondary purpose, or objective, is the collection of data for research analysis;

(2) any research or evaluation program intended to contribute to generalized knowledge; and

(3) the collection of protected information about research subjects from third parties for research analysis of program evaluation.

(A) Research involving human subjects is not limited to deliberate experimentation with human subjects. It also includes the performance of any procedures not performed for the sole benefit of the person involved and any procedures in which either a primary or secondary purpose or objective is the collection of data for research analysis.

(B) The scope of research involving human subjects covered by this Part not only involves physical, chemical, electrical, or psychological stimulation of responses within the human body, but also includes:

(i) interviews;

(ii) observation of behavior;

(iii) administration of tests; or

(iv) other techniques of measurement.

(C) Some research involving human subjects may be exempt from on-going DHSIRB review. Authority for the decision on whether a research or evaluation project is exempt resides with the DHSIRB. Research involving human subjects is not intended to cover data obtained as part of the teaching or training of individuals in which the performance of therapeutic procedures is for the direct and sole benefit of the person

involved, or for any area of investigation of individuals as part of the performance of professional services.

(D) All activities related to human participant research, regardless of funding source, is guided by the ethical principles in The Belmont Report.

(c) **Authority.**

(1) The DHSIRB receives its authority from the Director of Human Services. The DHSIRB is registered with the federal Department of Health and Human Services and has approved Federalwide Assurance of Protection for Human Subjects submitted to United States Department of Health and Human Services.

(2) DHSIRB has the authority to review any research funded through DHS or that involves staff or human participants receiving services provided at DHS operated facilities. In addition, DHSIRB has the authority to:

(A) approve, disapprove, or order modification of research based upon consideration of the risks and benefits to the human participants;

(B) oversee the conduct of the research and require periodic progress reports from research investigators;

(C) suspend or terminate prior approval of a research;

(D) place restrictions on a research;

(E) require research investigators to promptly report breaches of confidentiality; and

(F) require research investigators to promptly report if any researcher or research participant is endangered physically or psychologically during the data collection period of the study.

340:2-39-6. Definitions

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

"Children" means persons under 18 years of age.

"Cognitively impaired" means a person with:

(A) a psychiatric disorder, for example, psychosis, neurosis, personality or behavior disorders;

(B) dementia;

(C) a developmental disorder for example, mental retardation affecting cognitive or emotional functions to the extent that capacity for judgment and reasoning is significantly diminished; or

(D) a compromised ability to make decisions in his or her best interest, for example:

(i) persons under the influence of or dependent on drugs or alcohol;

(ii) those suffering from degenerative diseases affecting the brain;

(iii) terminally ill patients; and

(iv) persons with severely disabling physical handicaps.

"Confidentiality" means the treatment of information an individual discloses in a relationship of trust with the expectation that it is not divulged to others or in ways inconsistent with the understanding of the original disclosure without permission.

"Demonstration project" means a deliberately small in scale and limited in scope project, usually with a short project cycle.

"Department of Human Services Institutional Review Board (DHSIRB)" means a specially constituted review body established or designated by the Oklahoma Department of Human Services (DHS) to protect the welfare of human subjects recruited to participate in biomedical or behavioral research per Sections 46.102(g), 108, and 109 of Title 45 of the Code of Federal Regulations (45 C.F.R §§ 102(g), 108 and 109).

"The Belmont Report" means a statement of basic ethical principles governing research involving human subjects issued by the National Commission for the Protection of Human Subjects in 1978.

"Human Protections Administrator (HPA)" means the person designated by the DHS Office of Planning, Research and Statistics director, who provides administrative support to the DHSIRB, serves as the Office of Human Research Protection's primary institutional contact, and has the administrative responsibility for the program. The HPA:

(A) has comprehensive knowledge of all aspects of the DHS system of protections for human subjects;

(B) is familiar with the institution's commitments under the Human Subject Assurance (HSA); and

(C) plays a key role in ensuring the institution fulfills its responsibilities under the HSA.

"Human subject" means a living individual about whom an investigator, whether professional or student, conducting research obtains:

(A) data through intervention or interaction with the individual; or

(B) identifiable private information per 45 C.F.R. § 46.102(f). DHSIRB extends the definition to include deceased individuals about whom an investigator conducting research obtains identifiable private information.

"Human Subject Assurance (HSA)" means a formal written, binding commitment an institution submits to the United States Department of Health and Human Services (DHHS), Office for Human Research Protections (OHRP), in which it promises to comply with applicable regulations governing research with human subjects and stipulates the procedures through which compliance is achieved per 45 C.F.R. § 46.103.

"Informed consent" means a person's voluntary agreement, based upon adequate knowledge and understanding of relevant information, to participate in research or to undergo a diagnostic, therapeutic, or preventive procedure. In giving informed consent, subjects may not waive or appear to waive any of their legal rights, or release or appear to release the investigator, the sponsor, the institution or agents thereof from liability for negligence per 45 C.F.R. § 46.116, 21 C.F.R. § 50.20 and 50.25 and Form 21AD084E, Application to the Oklahoma Department of Human Services Institutional Review Board (DHSIRB).

"Investigator" means a scientist or scholar with primary responsibility for the design and conduct of research.

"Minimal risk" means the probability and magnitude of harm or discomfort anticipated in the proposed research are not greater, in and of themselves, than those ordinarily encountered in daily life or during the performance of routine physical or psychological examinations or tests per 45 C.F.R. § 46.102(i). For example, the risk of drawing a small amount of blood from a healthy individual for research purposes is no greater than the risk of doing so as part of routine physical examination.

"Office of Human Research Protection (OHRP)" means a federal agency that provides leadership in the protection of the rights, welfare, and well-being of subjects involved in research conducted or supported by DHHS. OHRP ensures this by:

(A) providing clarification and guidance;

(B) developing educational programs and materials;

(C) maintaining regulatory oversight; and

(D) providing advice on ethical and regulatory issues in biomedical and social-behavioral research.

"Office of Planning, Research and Statistics (OPRS)" means the DHS office that provides technical assistance in the design, development, implementation and evaluation of projects, programs, and grants conducted or supported by DHS. OPRS conducts data-driven research and statistical analysis of programs and services and disseminates information and results.

"Principal investigator (PI)" means the research investigator who is ultimately responsible for assuring compliance with applicable federal, state and local laws, rules and regulations, and the conduct of the research.

"Privacy" means having control over the extent, timing, and circumstances of sharing one's self physically, behaviorally, or intellectually with others.

"Research subject" means a DHS employee, client and/or patient:

(A) who is voluntarily participating as a human subject in a research project;

(B) who is voluntarily participating in a survey or interview conducted as part of a research or program evaluation project; and/or

(C) whose protected information is disclosed to and used by an investigator during a research or program evaluation project. The words "subject" and "participant" are used interchangeably.

"Research" means a systematic investigation, including development, testing, and evaluation, designed to develop or contribute to generalizable knowledge per 45 C.F.R. § 46.102(d).

"Risk" means the probability of harm or injury whether physical, psychological, social, or economic occurring as a result of participation in research. Both the probability and magnitude of possible harm may vary from minimal to significant.

340:2-39-7. Principle and Policies

(a) **Ethical Principles.** The Oklahoma Department of Human Services Institutional Review Board (DHSIRB) is guided by the ethical principles regarding research involving human subjects set forth in the report of the National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research entitled Ethical Principles and Guidelines for the Protection of Human Subjects of Research or the Belmont Report. The DHSIRB recognizes the principles of respect for persons; beneficence, including minimization of harms and maximization of benefits; and justice as stated in The Belmont Report and strives to apply these principles in all research covered by this Part. In addition, all reasonable efforts are made to comply with the requirements in Part 46 of Title 45 of the Code of Federal Regulations for all research conducted or funded by DHSIRB.

(b) **Institutional Policies.**

(1) DHSIRB acknowledges and accepts its responsibility for protecting the rights and welfare of human research subjects.

(2) DHSIRB acknowledges that it and its investigators accept those responsibilities necessary for the performance of all research covered by this Part, including compliance with applicable federal, state, and local laws, if any.

(3) DHSIRB works to assure that, before subjects are involved in research, the requirements listed in (A) - (G) of this paragraph are met.

(A) Risks to participants are minimized by:

(i) using procedures consistent with sound research design that do not unnecessarily expose participants to risks; and

(ii) employing procedures already being performed on participants for prevention, diagnostic, or treatment purposes, when appropriate.

(B) Risks to participants are reasonable relative to anticipated benefits, if any, and the importance of the knowledge that may reasonably be expected to result.

(C) Selection of participants is equitable.

(D) Participants, or the participant's legally authorized representative, provide voluntary informed consent for participating in research, unless otherwise exempted by state or federal law.

(E) There are adequate provisions for ensuring the safety of participants.

(F) There are adequate provisions to protect the privacy of participants and maintain the confidentiality of data.

(G) When necessary, appropriate additional safeguards are included in research involving subjects who are likely to be vulnerable to coercion or undue influence such as children, including those who are wards of the state or any other agency, prisoners, pregnant women, cognitively impaired persons, or economically or educationally disadvantaged persons.

(4) DHSIRB encourages and promotes constructive communication among its administrators, research supervisors, research investigators, and all other relevant parties as a means of maintaining a high level of awareness to safeguard the rights and welfare of research subjects.

(5) DHSIRB exercises appropriate administrative oversight to assure its practices and procedures designed

for the protection of the rights and welfare of human subjects are effectively applied.

(7) DHSIRB serves in a collaborative relationship with research investigators.

(6) DHSIRB provides each individual conducting or reviewing human subject research, such as research investigators, research supervisors, research reviewers, and division directors with a copy of this Section.

340:2-39-8. Membership

(a) **Requirements for membership of the Oklahoma Department of Human Services Institutional Review Board (DHSIRB)**

(1) The DHSIRB is comprised of at least seven members.

(2) Prior to serving on the DHSIRB, all members submit certificates of completed Human Subject Assurance Training offered by the federal Office for Human Research Protections (OHRP), and sign a statement that they have received and reviewed the DHSIRB rules. The federal OHRP training is available at http://ohrp-ed.od.nih.gov/CBTs/Assurance/login.asp.

(3) Prior to serving on the DHSIRB, all members sign the Acknowledgments of Receipt that states they have received and reviewed the DHSIRB rules.

(4) The members of the DHSIRB have varying backgrounds to promote complete and adequate review of research activities commonly conducted by the institution or at state-operated facilities. In addition to possessing the experience and expertise necessary to review specific research activities, the members are able to ascertain the acceptability of proposed research in terms of institutional commitments and regulations, applicable law, and standards of professional conduct and practice.

(5) DHSIRB includes members with consideration of race, gender, cultural, and professional backgrounds, and sensitivity to issues such as community attitudes. The DHSIRB does not consist entirely of men or women. There is at least one member whose primary concerns are in scientific areas and at least one member whose primary concerns are in nonscientific areas. In addition, DHSIRB includes at least one member who is not otherwise affiliated with the Oklahoma Department of Human Services (DHS) and who is not part of the immediate family of a person who is affiliated with the institution.

(6) A member of DHS Office of Client Advocacy (OCA) serves on the DHSIRB.

(7) A member of DHS Legal Services serves on the DHSIRB.

(8) A member of DHS Child Welfare Services serves on the DHSIRB.

(9) A member of DHS Community Living and Support Services serves on the DHSIRB.

(10) A member of DHS Adult and Family Services serves on the DHSIRB.

(11) A member of DHS Office of Planning, Research and Statistics serves on the DHSIRB representing scientific areas.

(12) The Director of Human Services (Director) approves the selection of DHSIRB members, including that of the chair, vice-chair, and alternates, and is notified of any studies that are disapproved by the DHSIRB.

(b) **Alternate members.**

(1) Alternate members are designated by the DHSIRB members and approved by the Director to serve as voting members in the event the primary member is not available to attend the regularly scheduled meeting. Alternate members complete the training and may vote on any new submission. Alternate members receive meeting documents such as agendas, minutes, and protocols for review and are encouraged to attend all meetings.

(2) An alternate member-at-large is designated and approved by the Director to serve if both a voting member and his or her alternate are not available to attend a regularly scheduled meeting. The alternate member-at-large may not serve as an alternate for a representative of particularly vulnerable subjects.

(c) **Ad hoc members.**

(1) If the DHSIRB reviews research involving particularly vulnerable subjects, including but not limited to children, including those who are wards of the state or any other agency, prisoners, pregnant women, or cognitively impaired persons, consideration is given to the inclusion of one or more individuals who are knowledgeable about, and experienced in, working with these participants.

(2) DHSIRB may, at its discretion, invite individuals with competence in specific areas to assist in the review of issues that require expertise beyond or in addition to that available on the DHSIRB.

(3) Ad hoc members are non-voting members.

(4) No person outside the DHSIRB may override a not approved vote.

(d) **Roles and responsibilities.**

(1) The DHSIRB chair:

(A) is appointed by the Director;

(B) serves for a minimum of one year, with the possibility of reappointment;

(C) does not resign when the majority of the DHSIRB membership consists of new members who have served for less than one year;

(D) serves as member of the DHSIRB in addition to his or her authority as chair;

(E) prepares for and convenes meetings with the assistance of the Human Protections Administrator (HPA);

(F) ensures meeting coverage by the vice-chair when not able to serve as chair;

(G) ensures a quorum is present for all meetings;

(H) carries out an initial assessment of submissions with the vice-chair and the member of OCA;

(I) carries out an expedited review of submissions that qualify under such condition, or designates one or more experienced reviewers from among members of the DHSIRB to complete the expedited review;

(J) delegates review responsibilities as necessary and applicable;

(K) distributes copies of the submissions to the appropriate DHSIRB memberswith the assistance of the HPA;
(L) ensures adequate expertise for review and determinations;
(M) consults with investigators as necessary;
(N) assists the reviewers and other members with any concerns in preparing for the meeting;
(O) ensures assigned reviewers present a clear and concise review of research materials;
(P) votes on each DHSIRB action;
(Q) is temporarily removed in the event of a conflict of interest;
(R) is permanently removed in the event of termination of employment, or at the discretion of the Director; and
(S) notifies the Director of any disapprovals.

(2) The DHSIRB vice-chair:
(A) is appointed by the Director;
(B) serves for a minimum of one year, with the possibility of reappointment;
(C) serves as a member of the DHSIRB in addition to his or her DHSIRB authority as vice-chair;
(D) assists or acts on behalf of the chair in particular DHSIRB matters and at DHSIRB meetings;
(E) carries out an initial assessment of submissions with the chair and the member of OCA;
(F) is temporarily removed in the event of a conflict of interest;
(G) is permanently removed in the event of termination of employment, or at the discretion of the Director.

(3) The DHSIRB members:
(A) are approved by the Director;
(B) serve at least one year with the option of rotating with designated alternate;
(C) do not resign from the DHSIRB if the majority of the members are in their first year of serving;
(D) are responsible for reviewing research protocols submitted for full DHSIRB review;
(E) are responsible for reviewing research protocols submitted when designated for an expedited review;
(F) are responsible for attending all scheduled meetings;
(G) are removed from the DHSIRB if more than two consecutive meetings are missed without having the designated alternate attend;
(H) are temporarily removed in the event of a conflict of interest; and
(I) are permanently removed in the event of termination of employment, or at the discretion of the Director.

(4) DHSIRB chair, vice-chair, and members:
(A) annually, July 1 - June 30, submit training certificates from the Assurance Training Modules on OHRP website. Training certificates are not required for ad hoc members;
(B) annually submit signed acknowledgements of reading the DHSIRB procedures and supporting documents. Supporting documents are not required for ad hoc members;
(C) have access to the reference materials available through the DHSIRB library maintained by the HPA;
(D) receive no compensation for serving as members of the DHSIRB;
(E) conduct reviews of submitted research proposals, as delegated, mandated, or requested;
(F) provide written responses to the research investigator and organization containing the findings of the DHSIRB;
(G) determine which research requires review more often than annually;
(H) determine which research needs verification that no material changes have occurred since previous DHSIRB review from sources other than the investigators;
(I) advise research investigators to promptly report changes to the approved research activities;
(J) advise research investigators that changes in approved research are not initiated without DHSIRB review and approval except when necessary to eliminate apparent immediate hazards; and
(K) advise research investigators to promptly report to DHSIRB and appropriate institutional officials of:
(i) unanticipated problems involving risks to research participants, interviewers, or others;
(ii) serious or continuing noncompliance with the requirements of the DHSIRB;
(iii) suspension or termination of DHSIRB approval; or
(iv) disapproval of other DHSIRB submissions.

(5) Consultants are invited to review submissions and attend meetings when a submitted proposal contains information outside the scope of the DHSIRB members' collective knowledge.

(6) The Office of Planning, Research and Statistics provides administrative support for the DHSIRB.

(7) Resources for the DHSIRB, for example filing space, reproduction equipment, and computers are provided by DHS.

(8) Meeting areas are provided by DHS.

(e) **Conflict of Interest.** No DHSIRB member votes on a submission if there is an actual or potential conflict of interest with regard to the professional or personal interests, including financial interests, of the member.

(1) DHSIRB members are not selected by potential investigators.

(2) When a member is directly involved with a research, the member recuses himself or herself from the meeting while the submission is reviewed and abstains from voting on the submission.

340:2-39-9. Meetings

(a) The Oklahoma Department of Human Services Institutional Review Board (DHSIRB) meetings are held monthly. If there is insufficient business, the meeting is cancelled. Full actions of the DHSIRB require a quorum of the voting members.

(b) A quorum is defined as 50 percent plus one of all primary members, including the member whose primary concerns are in nonscientific areas.

(c) A majority vote is required of those present for approval of a motion.

(d) One week prior to the meeting, DHSIRB members and alternates receive:

(1) a reminder of the upcoming meeting, including the date, location, and time;

(2) minutes from the previous meeting;

(3) an agenda for the upcoming meeting; and

(4) all new submissions for review at the upcoming meeting including:

(A) survey instruments;

(B) consent, assent, and permission forms, when applicable;

(C) letters from other IRBs and agency directors, if applicable; and

(D) the assigned unique identifier DHSIRB number.

(e) At a minimum:

(1) the chair convenes and conducts the meetings;

(2) the minutes of the prior meeting are approved by an open vote of the members;

(3) all actions taken require an open vote of the members following discussion and the making and seconding of a motion; and

(4) meeting minutes are recorded by the Human Protections Administrator or designated individual.

340:2-39-10. Record requirements

(a) The Oklahoma Department of Human Services Institutional Review Board (DHSIRB) prepares and maintains documentation of its activities per Section 46.115 of Title 45 of the Code of Federal Regulations (45 C.F.R. § 46.115) and 21 C.F.R. § 56.115, including:

(1) a list of the DHSIRB members identified by:

(A) name;

(B) earned degrees;

(C) competence, scientific concerns, and affiliation;

(D) indications of experience, such as board certifications and licenses, sufficient to describe each member's anticipated contributions to DHSIRB deliberations; and

(E) any employment or other relationship between each member and the institution;

(2) copies of:

(A) all research proposals reviewed;

(B) scientific evaluations, if any, that accompany the proposals;

(C) approved sample consent documents;

(D) progress reports submitted by investigators; and

(E) reports of injuries to subjects;

(3) DHSIRB meeting minutes which shall document:

(A) attendance;

(B) actions taken by the DHSIRB;

(C) the vote on actions including the number of members voting for, against, and abstaining;

(D) the basis for requiring changes in or disapproving research; and

(E) a written summary of the discussion of controversial issues and their resolution;

(4) records of continuing review activities;

(5) copies of all correspondence between the DHSIRB and investigators;

(6) written procedures and guidelines for:

(A) conducting initial and continuing review of research and reporting the findings and actions to the investigator and the institution;

(B) determining which research requires review more often than annually;

(C) determining which research needs verification that no material changes have occurred since the previous DHSIRB review from sources other than the investigators;

(D) prompt reporting to the DHSIRB of proposed changes in an approved research;

(E) initiating proposed changes in an approved research only after DHSIRB review and approval, except when necessary to eliminate apparent immediate hazards to the subject; and

(F) prompt reporting to the DHSIRB of any:

(i) unanticipated problems involving risks to subjects or others;

(ii) serious or continuing noncompliance with this Part or the requirements or determinations of the DHSIRB; and

(iii) suspension or termination of DHSIRB approval.

(b) Records are retained:

(1) for at least three years from the date of creation for general administrative record; and

(2) for at least three years after research completion.

(c) All records are accessible for inspection and copying by authorized representatives of the United States Department of Health and Human Services (DHHS) or the Office of Human Research Protection (OHRP) at reasonable times and in a reasonable manner per 45 C.F.R. § 46.115(b).

(d) DHSIRB submits a list of current DHSIRB members, and any changes in membership, to OHRP, DHHS per 45 C.F.R. §§ 46.103(b)(3) and 115(a)(5).

340:2-39-11. Application procedures

(a) A completed Oklahoma Department of Human Services Form 21AD084E, Application to the Oklahoma Department of Human Services Institutional Review Board (DHSIRB), is submitted with each new research proposal.

(b) Previously approved research must request to continue beyond any one-year period of time. Re-review and re-approval of research occurs on or before the one-year anniversary of the initial Oklahoma Department of Human Services Institutional Review Board (DHSIRB) approval date, unless the degree of risk, complaints about the research, or investigator non-compliance necessitate more frequent re-review. Research found exempt is reviewed annually.

(c) If the research departs from the original proposal, the DHSIRB is advised and a new application submitted for DHSIRB approval.

(d) In general, action on all proposals is taken within two months after submission. Investigators are notified in writing of the DHSIRB decisions within two weeks of board action.

(e) Decisions to disapprove are accompanied by reasons for the decision.

(f) Information provided to the DHSIRB by the investigator is the:

(1) DHSIRB application Form 21AD084E, Application to the Oklahoma Department of Human Services Institutional Review Board (DHSIRB);

(2) professional qualifications to do the research, including a description of necessary support services and facilities;

(3) research protocol including and addressing the:

(A) title of the research;

(B) purpose of the research, including the expected benefits obtained by doing the research;

(C) sponsor of the research;

(D) results of previous related research;

(E) research participant inclusion or exclusion criteria;

(F) justification for use of any special or vulnerable participant populations;

(G) research design, including, as needed, a discussion of the appropriateness of research methods;

(H) description of procedures to be performed;

(I) potential risks, and a discussion of their relationship to the potential benefits to the participants;

(J) circumstances surrounding consent procedure, including the:

(i) setting;

(ii) participant autonomy concerns;

(iii) language difficulties;

(iv) reading level; and

(v) particularly vulnerable subjects;

(K) procedures for documentation of informed consent, including any procedures for obtaining assent from minors, using witnesses, translators, and document storage;

(L) compensation to participants for their involvement;

(M) compensation for injured research participants;

(N) provisions for protection of subjects' privacy;

(O) extra costs to participants for their involvement in the research; and

(P) extra costs to third party payers because of participant's involvement;

(4) investigator's brochure, when one exists;

(5) informed consent document.

(A) Per Section 50.23 of Title 21 of the Code of Regulations (21 C.F.R. § 50.23) and 21 C.F.R. § 50.24, except in situations of medical emergency or active military, no investigator may involve human subjects as participants in research covered by this Part unless the investigator has obtained the legally effective informed consent of the participant or the participant's legally authorized representative. An investigator seeks such consent only under circumstances that provide the prospective participant or the representative sufficient opportunity to consider whether to participate and that minimize the possibility of coercion or undue influence. The information given to the participant or the representative is in language understandable to the participant or the representative. No informed consent, whether oral or written, may include any exculpatory language through which the participant or representative is made to waive or appear to waive any of the participant's legal rights or releases or appears to release the investigator, sponsor, institution, or its agents from liability for negligence.

(B) The proposed informed consent document contains the elements listed in (A) of this paragraph.

(C) When necessary, a translated version of the informed consent is provided to the participant;

(6) requests for changes in research after initiation;

(7) reports of unexpected adverse events including events involving research participants or interviewers;

(8) periodic progress reports if the research has continued past the approval period; and

(9) final report stating the closure of the research and findings.

340:2-39-12. Review and Approval Process

(a) **Submission requirements and initial assessment.**

(1) The proposed research is submitted to the Oklahoma Department of Human Services Institution Review Board (DHSIRB) no less than 14 calendar days prior to the next regularly scheduled meeting.

(2) The chair completes an initial assessment of submissions with the vice-chair and the assigned member of the Office of Client Advocacy. The initial assessment includes:

(A) determining whether the research requires review and contains all supporting documents;

(B) assigning a unique identifier number;

(C) determining whether the submission:

(i) is exempt from review;

(ii) meets the requirements for an expedited review; or

(iii) requires a full review by the DHSIRB; and

(D) distributing copies of the submissions to the appropriate DHSIRB members for:

(i) an expedited review by a subcommittee of no less than two voting members of the DHSIRB. The subcommittee includes:

(I) a scientific member; and

(II) a non-scientific member; or

(ii) a full DHSIRB review by all voting members and their alternates.

(b) **Requirements for exempt submissions.** DHSIRB does not review activities that do not involve the disclosure of protected information to non-DHS staff, and do not involve greater than minimal risk. Research involving human subjects in one or more of the categories listed in (1) - (5) of this subsection, are exempt from DHSIRB review per Section 46.101(b) of Title 45 of the Code of Federal Regulations (45 C.F.R. 46.101(b)).

(1) Research conducted in established or commonly accepted education settings, involving normal educational practices, such as research on:

(A) regular and special education instructional strategies; or

(B) the effectiveness of or the comparison among instructional techniques, curricula, or classroom management methods.

(2) Research involving the use of educational tests such as, cognitive, diagnostic, aptitude, and achievement, survey procedures, interview procedures, or observations of public behavior unless:

(A) information obtained is recorded in such a manner that human participants can be identified, directly or through identifiers linked to the study participants; and

(B) any disclosure of the human participants' responses outside the research could reasonably place the participants at risk of criminal or civil liability or be damaging to the participants' financial standing, employability, or reputation.

(3) Research involving the use of educational tests such as, cognitive, diagnostic, aptitude and achievement, survey procedures, interview procedures, or observations of public behavior that is not exempt under (2) of this subsection, if:

(A) the human participants are elected or appointed public official or candidates for public office; or

(B) federal statute requires without exception that the confidentiality of the personally identifiable information is maintained throughout the research and thereafter.

(4) Research involving the collection or research of existing data, documents, records, pathological specimens, or diagnostic specimens, if these sources are publicly available or if the information is recorded by the investigator in such a manner that participants cannot be identified, directly or through identifiers linked to the participants.

(5) Research and demonstration projects conducted by or subject to the approval of department or agency heads, and designed to research, evaluate, or otherwise examine:

(A) public benefit or services programs;

(B) procedures for obtaining benefits or services under those programs;

(C) possible changes in or alternatives to those programs or procedures; or

(D) possible changes in methods or levels of payment for benefits or services under those programs.

(6) Per 45 C.F.R. 46, Subparts C and D, sometimes exemptions do not apply to research involving vulnerable subjects, such as prisoners, pregnant women, fetuses, children, or cognitively impaired persons.

(c) **Requirements and procedures for expedited review.** DHSIRB may use an expedited procedure to review research that presents no more than minimal risk to participants per 45 C.F.R. 46.110. Additionally, an expedited review may be used when:

(1) minor changes have been made to previously approved research during the period of one year or less for which approval is authorized;

(2) enrollment of new subjects is permanently closed and no additional risks have been identified; all subjects have completed all research-related interventions; and the research remains active only for long-term follow-up of subjects;

(3) remaining research activities are limited to data analysis;

(4) research appears in the list of categories published as a Notice in the Federal Register per 63 C.F.R. 60364 - 60367, that include:

(A) collection of data from voice, video, digital, or image recordings made for research purposes; and

(B) research on individual or group characteristics or behavior including, but not limited to, research on perception, cognition, motivation, identity, language, communication, cultural beliefs or practices, and social behavior or research employing survey, interview, oral history, focus group, program evaluation, human factors evaluation, or quality assurance methodologies;

(5) the review process ensures the research meets the requirements for an expedited review; and

(6) proposals reviewed under the expedited procedure may be approved, conditionally approved, or referred for full DHSIRB review if not approved as proposed. The reviewers may exercise all of the authority of the DHSIRB except the reviewers may not disapprove the research. Research may be disapproved only after a full DHSIRB review.

(e) **Full DHSIRB review.**

(1) Proposals are reviewed at regularly scheduled meetings of the DHSIRB and investigators are informed in writing of the results of the review. Each proposed research project includes:

(A) a detailed description of the research design and procedures as they affect human subjects;

(B) a list of precautions necessary to safeguard the subjects' welfare;

(C) a precise description of the subject population involved in the research;

(D) a description of the informed consent process and all consent forms used; and

(E) methods used to protect data confidentiality and subject privacy.

(2) Proposals are assigned to one of the four categories listed in (A) - (D) of this paragraph.

(A) Approved. Research is approved as submitted. Investigators whose proposals are approved can begin work immediately.

(B) Conditionally approved. Research is conditionally approved until investigators comply with items identified by the DHSIRB for final approval. There are no structural problems with the study.

(C) Deferred. DHSIRB does not have enough information to make a determination. Investigators whose proposals receive a deferral must resubmit the entire application to address the required changes.

(D) Not approved. The magnitude and/or number of concerns is such that conditional approval is not appropriate. Investigators whose work is disapproved cannot conduct the research or resubmit their proposals.

(f) **Review criteria.** In order to approve research covered by this Part, DHSIRB reviews the investigator's qualifications to conduct and supervise the proposed research. This process may include:

(1) reviewing the curriculum vitae of the investigator, sub-investigators, and other necessary research staff, verifying professional associations and licenses. It may also include a review of the investigator's previous specific experience as demonstrated by recent presentations or publications;

(2) using previous DHSIRB experience with the investigator; and

(3) requesting additional information confirming the investigator's qualifications from an administrator of the institution.

(g) **Additional requirements.** DHSIRB determines whether all of the additional requirements listed in (1) - (9) of this subsection are met.

(1) Risks to participants are minimized by using procedures:

(A) consistent with sound research design; and

(B) already being performed on the participants for diagnostic or treatment purposes, whenever appropriate.

(2) Risks are reasonable in relation to anticipated benefits to participants, if any, and the importance of the knowledge that may be expected to be gained. In evaluating risks and benefits, DHSIRB considers only those risks and benefits that may result from the research as distinguished from risks and benefits of therapies that participants would receive even if not participating in the research. Per 45 CFR 46.111(a)(2), DHSIRB does not consider possible long-range effects of applying the knowledge gained in the research.

(3) Selection of participants is equitable. In making this assessment the DHSIRB takes into account the purposes of the research and the setting in which the research is conducted and is particularly cognizant of the special problems of research involving particularly vulnerable subjects, such as children, prisoners, pregnant women, or cognitively impaired persons.

(4) Informed consent is sought from each prospective participant or the participant's legally authorized representative and contains:

(A) an explanation of the purposes of the research;

(B) an expected duration of the participant's involvement in the research;

(C) a description of the procedures to be followed;

(D) identification of any experimental procedure;

(E) a description of any reasonably foreseeable risks or discomforts to the participant;

(F) a description of any benefits to the participant or to others that may reasonably be expected from the research;

(G) disclosure of appropriate alternative procedures or courses of treatment, if any, that may be advantageous to the participant;

(H) a statement describing the extent, if any, to which confidentiality of records identifying the participant is maintained;

(I) an explanation for research involving more than minimal risk:

(i) whether any compensation is available if injury occurs;

(ii) whether medical treatment is available if injury occurs, and if so, what it consists of; or

(iii) where further information can be obtained;

(J) an explanation of whom to contact:

(i) for answers to pertinent questions about the research;

(ii) to discuss research participant's rights; and

(iii) in the event of a research-related injury to the participant;

(K) a statement that:

(i) participation is voluntary;

(ii) refusal to participate involves no penalty or loss of benefits to which the participant is otherwise entitled; and

(iii) the participant may discontinue participation at any time without penalty or loss of benefits to which the participant is otherwise entitled; and

(L) when appropriate, one or more of the elements of information listed in (i) - (viii) of this subparagraph is provided to each participant.

(i) Statement that the particular treatment or procedure may involve unforeseeable risks to the participant or to the embryo or fetus, if the participant is or may become pregnant.

(ii) Anticipated circumstances under which the participant's involvement in the research may be terminated by the investigator without regard to the participant's consent.

(iii) Any additional costs to the participant that may result from involvement in the research.

(iv) Consequences of a participant's decision to withdraw from the research and procedures for orderly termination of involvement by the participant.

(v) Statement that significant new findings developed during the course of the research, that may relate to the participant's willingness to continue, are provided to the participant.

(vi) Approximate number of participants involved in the research.

(vii) Research treatment(s) and the probability of random assignment to a placebo or control group, or to each treatment.

(viii) Other information the DHSIRB determines that would meaningfully add to the protection of the rights and welfare of the participants.

(5) Informed consent is appropriately documented by the use of a written form approved by DHSIRB and signed and dated by the participant or the participant's legally authorized representative at the time of consent. Per 45 C.F.R. 46.117(a), a copy is given to the person signing the form. Except as provided by 45 C.F.R. 46.117(c), consent form may be either of the following:

(A) a written consent document that embodies the elements described above. The consent document may be read to the participant or the participant's legally authorized representative; however, the investigator provides either the participant or the representative opportunity to read the document before it is signed; or

(B) a short form written consent document stating the required elements of informed consent were presented orally to the participant or the participant's legally authorized representative. When this method is used, there is a witness to the oral presentation. The DHSIRB approves a written summary of what is to be said to the participant or the representative. Only the short form is signed by the participant or the representative. However, the witness signs both the short form and a copy of the summary, and the person actually obtaining the consent signs a copy of the written summary. A copy of the summary is given to the participant or the representative in addition to a copy of the short form.

(6) When appropriate, there are adequate provisions to obtain affirmative agreement from children to participate in research and the permission of their parents or guardians.

(7) When appropriate, the research plan makes adequate provision for monitoring the data collected to ensure the safety of participants.

(8) When appropriate, an advocate for children participating as subjects in research is appointed by the DHSIRB, in addition to any other individual acting on behalf of the child as guardian or in loco parentis. The advocate acts in the best interests of the children for the duration of their participation in the research (45 C.F.R. 46.409 (b).

(9) When appropriate, there are adequate provisions to protect the privacy of participants and maintain the confidentiality of data.

(A) When some or all of the participants, such as children, prisoners, pregnant women, or cognitively impaired persons, are likely to be vulnerable to coercion or undue influence, additional safeguards are included in the research to protect the rights and welfare of these participants.

(B) To approve research in clinical settings in which some or all of the participants are children, DHSIRB shall take steps to ensure all research is in compliance with the federal Food and Drug Administration's regulations regarding children per 21 C.F.R. § 50(D).

(10) For some or all participants, DHSIRB may waive the requirement that the participant or the participant's legally authorized representative, sign a written consent form if it finds the research presents no more than minimal risk of harm to participants and involves no procedures for which written consent is normally required outside the research context.

(11) If the submission falls under the jurisdiction of an IRB other than DHSIRB, the approval letter from the other IRB is included in the original submission.

(h) **Communication from DHSIRB for exempt submissions.** For exempt research, the chair:

(1) presents the submission finding to the DHSIRB members at the next scheduled meeting;

(2) writes a letter to the investigator within 14 days of DHSIRB action. The letter contains:

(A) the unique identifier DHSIRB number;

(B) name of the research;

(C) reasons the research is exempt from DHSIRB review; and

(D) signature of the DHSIRB chair or vice-chair; and

(3) files a copy of the letter in the DHSIRB file with the submission.

(i) **Communication from DHSIRB for non-exempt but expedited review submissions.** For expedited review submissions approved or conditionally approved, a letter is written to the investigator(s). At a minimum, the letter contains the:

(1) unique identifier DHSIRB number;

(2) name of the research;

(3) date of approval or conditional approval;

(4) duration of the approval;

(5) circumstances for which DHSIRB must be contacted, such as adverse events or closure of the research; and

(6) signature of the DHSIRB chair or vice-chair.

(j) **Communication from DHSIRB for non-exempt and non-expedited review submissions.**

(1) The submission is forwarded to the chair and all voting members. If a voting member is not available to

attend the meeting to review the submission, he or she forwards the submission to his or her alternate member.

(2) The DHSIRB determines if the submission meets the criteria for approval.

(k) **Quorum requirements.**

(1) A quorum of the DHSIRB includes a majority of voting members, for example five members plus one if DHSIRB has 10 members.

(2) Any quorum must include one non-abstaining outside member.

(3) An investigator may be a member of the DHSIRB so long as the investigator-as-member does not participate in any review and approval process for any research in which he or she has an actual or potential conflict of interest.

(A) Any investigator-as-member with a conflict of interest is allowed to be present only to provide information requested by the DHSIRB.

(B) The investigator-member is absent from the meeting room during the discussion and voting phases of the review and approval process.

(C) DHSIRB minutes reflect whether these requirements are met.

(l) **Voting requirements.** After appropriate research discussion, the chair calls for a vote and announces each vote option. Each member votes in only one category.

(1) **Abstain.** A DHSIRB member declares an abstain vote if the member:

(A) is helping to direct the research;

(B) is an investigator or co-investigator of the research;

(C) has any significant financial interest in the outcome of the research; or

(D) has what he, she, or the DHSIRB considers an unacceptable conflict of interest for other reasons. The minutes of the DHSIRB meeting reflect a vote of abstention. In addition to abstaining from voting on the research, a DHSIRB member with a conflict of interest related to a research does not attend the meeting scheduled to review the research unless requested by the DHSIRB to answer specific questions per (k)(3) of this Section. If the DHSIRB requests the investigator-as-member with a conflict of interest to attend the meeting to provide information, this is reflected in the DHSIRB minutes.

(2) **Approved.** The approval date is the date of the DHSIRB meeting. The approval is valid for one year unless the committee designates a shorter period based on the risk of the research. An approval letter is sent to the investigator. At a minimum, the approval letter contains:

(A) the unique identifier DHSIRB number;

(B) the name of the research;

(C) the date of approval;

(D) all documents reviewed and approved by the DHSIRB;

(E) the duration of the approval;

(F) circumstances for which the DHSIRB must be contacted, such as adverse events or closure of the research; and

(G) signature of the DHSIRB chair or vice-chair.

(3) **Conditionally Approved.**

(A) A letter describing the concerns of the committee is sent to the investigator. The letter makes it clear the research may not begin until DHSIRB issues a letter of approval.

(B) Investigators have 90 calendar days from the day they are notified about the conditionally approved research to respond. If no response is received during this period of time, investigators must resubmit the entire application.

(C) The investigator's response is reviewed for appropriateness by the chair or designated DHSIRB member(s).

(D) A final approval letter from the DHSIRB is sent to the investigator once the response is approved. At that time, the research may begin. The approval date is the date of the original DHSIRB meeting at which the conditional approval determination was made. DHSIRB approval is valid for one year unless the committee designates a shorter period based on the risk of the research.

(4) **Deferred.** A letter describing the determination is sent to the investigator.

(5) **Not Approved.** A designation of not approved indicates the magnitude and/or number of concerns is such that conditional approval is not appropriate.

(A) A letter describing the decision and concerns of the DHSIRB is sent to the investigator. The investigator is notified of the opportunity to respond to the DHSIRB in writing or in person regarding the determination.

(B) The DHSIRB accomplishes any reconsideration in the same manner as an intial review.

(C) The investigator is not advised to resubmit disapproved research without consulting the DHSIRB.

(D) In the event of a resubmission, the DHSIRB submission is given a new number and addressed as a completely new submission.

(6) **DHSIRB does not recognize voting by proxy.** All voting occurs in person at the time of the meeting by the member or his or her designated alternate.

(7) **A deferral decision is reviewed as a new submission.** The voting occurs independent of the prior voting.

(8) **Research including particularly vulnerable subjects.** For a research including particularly vulnerable subjects, such as children, prisoners, pregnant women, or cognitive impaired persons, a quorum includes an advocate representing those subjects.

(m) **Approval.** For a research to receive approval, it must obtain an approval vote from the members attending the meeting. A decision for each category is determined using the process listed in (1) - (2) of this subsection:

(1) Approved (A) and conditionally approved (CA) versus not approved (NA). The NA vote is compared

with the sum of the A and CA vote. If the sum (A + CA) is greater than the NA votes, the conditions of approval are refined using the approach described. If the NA vote is greater than the sum (A + CA), the research is not approved. If the NA vote and the (A + CA) vote are tied, the research is not approved.

(2) Approved (A) versus conditionally approved (CA). If the CA vote is greater than (A + NA), the research is conditionally approved. If the CA vote is less than or equal to (A + NA), a second vote is taken with the choices limited to approved, conditionally approved, and abstain. If the A vote and CA votes are tied, the research is conditionally approved.

(n) **Communication from the DHSIRB.**

(1) Assigned DHSIRB member reviewers presenting the submission may contact the investigator with questions regarding the submission.

(2) The investigator is notified of the review decision within 14 business days following the meeting. This notification may be done electronically with a signed letter to follow.

(3) All parties, including funding agencies, facility directors, and other IRBs with jurisdiction to review the submission, are sent a copy of the signed response letter.

(4) Discussion and individual votes are confidential. Votes by individual members may not be discussed or divulged outside the DHSIRB meeting.

(o) **Continuing review.**

(1) All research is reviewed by DHSIRB until it is completed. This happens when the analysis of data has ended and reports have been written.

(2) Approval for a research project is valid for no more than one year.

(3) DHSIRB is required to conduct continuing reviews of research at intervals appropriate to the degree of risk, but not less than once a year per 45 C.F.R. § 46.109(e).

(4) The principal investigator is responsible for the timely submission of a continuation application to the DHSIRB that previously reviewed the protocol.

(5) Research protocols that initially required full DHSIRB review and that have not completed data collection generally require full DHSIRB review for continuation. The review takes place at a convened DHSIRB meeting, and action on the research must be approved by a majority of the members present. The DHSIRB's stipulations, if any, must be met before approval for continuation is granted.

(6) Research protocols initially approved as exempt need to submit a request for continuation if the research extends beyond the approval period.

(7) Research protocols that initially required full DHSIRB review, that have completed data collection, and are in the process of analyzing data, may be reviewed using the expedited process. Research protocols that were initially reviewed using the expedited process may be re-reviewed using the expedited process as long as the degree of risk associated with the research has not changed. A continuation request must include a:

(A) request to continue the research project;

(B) copy of all currently approved informed consent forms if subjects are still involved;

(C) brief report on the status of the research project including:

(i) the protocol's progress to date;

(ii) the reasons for continuing the research;

(iii) plans for the next approval period;

(iv) a description of any adverse events or unanticipated problems involving risks to participants or others;

(v) a discussion of the number of refusals, withdrawal of participants from the research or complaints about the research;

(vi) a summary of any recent literature;

(vii) findings obtained thus far; and

(viii) modifications to the research.

340:2-39-13. Appeal process

(a) Institutional officials may not approve research disapproved by the DHSIRB per Section 46.112 of Title 45 of the Code of Federal Regulations.

(b) There is no mechanism for an appeal of DHSIRB decisions to other departmental components. DHSIRB is an autonomous entity, and its decisions are binding.

(c) Principal investigators may request reconsideration of a DHSIRB decision regarding a research protocol. The request is submitted in writing and includes any pertinent information relative to the decision. The reconsideration is accomplished in the manner described for initial review per Oklahoma Administrative Code 340:2-39-12(a). Upon reexamination and reconsideration of its actions, the decision of the DHSIRB is final.

[OAR Docket #15-627; filed 6-19-15]

TITLE 340. DEPARTMENT OF HUMAN SERVICES
CHAPTER 10. TEMPORARY ASSISTANCE FOR NEEDY FAMILIES (TANF)

[OAR Docket #15-628]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 1. General Provisions
340:10-1-3 [AMENDED]
Subchapter 2. Temporary Assistance for Needy Families (TANF) Work Program
340:10-2-4 [AMENDED]
340:10-2-8 [AMENDED]
Subchapter 3. Conditions of Eligibility - Need
Part 3. Income
340:10-3-26 [AMENDED]
340:10-3-31.1 [NEW]
Part 5. Assistance Payments
340:10-3-56 through 340:10-3-57 [AMENDED]
340:10-3-59 [AMENDED]
Suchapter 10. Conditions of Eligibility - Deprivation
340:10-10-4 [AMENDED]
340:10-10-7 [AMENDED]

(Reference APA WF 14-01, 14-08)

AUTHORITY:

Director of Human Services; Section 162 of Title 56 of the Oklahoma Statues (O.S. 56 § 162); 56 O.S. §§ 230.50, 230.52, 241.4, Part 261.10 of Title 45 of the Code of Federal Regulations; and Section 401 and 408 of the Social Security Act [Section 601 and 608 of Title 42 of the United States Code]. Public Law 112-96 § 4004 (42 U.S.C. § 608(a)(12)); 7 U.S.C. § 2012; 56 O.S. § 241.4; and SB 1706 effective November 1, 2014.

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Subchapter 1. General Provisions
340:10-1-3 [AMENDED]
Subchapter 3. Conditions of Eligibility - Need
Part 5. Assistance Payments
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INCORPORATIONS BY REFERENCE:

n/a

ANALYSIS:

The proposed revisions to Chapter 10, Subchapter 1 amend the rules to: (1) add federal regulations, state statutes, and DHS rules governing the Temporary Assistance for Needy Families (TANF) program; (2) add debit or electronic benefit transfer (EBT) card transaction restrictions to prevent the use of cards containing federal or state funds at certain businesses; (3) define prohibited businesses and EBT card transactions; (4) add methods DHS will use to inform applicants and recipients of EBT card transaction restrictions; (5) add policy references for recipient benefit reduction penalties and debit card and direct deposit procedures; (6) update terminology; and (7) add clarifying information regarding appeal rights.

The proposed revisions to Chapter 10, Subchapter 2 amend the rules to: (1) clarify a Subsidized Employment Program (SEP) position must include full-time employment for a minimum of 35 hours per week; (2) simplify language describing SEP procedures and TANF work activity payments; (3) remove completion of an unnecessary form; (4) clarify the need to complete a child care application when a TANF client begins active participation in TANF Work activities; (5) add achievement bonuses for recipients that complete certain TANF Work activities; and (6) update terminology.

The proposed revisions to Chapter 10, Subchapter 3 amend the rules to: (1) clarify how a TANF client is notified when required to pursue potential income; (2) simplify and clarify general income provisions, household composition rules concerning who must, may, and may not be included in the TANF benefit, and temporary absence provisions; (3) add a requirement to exclude an adult parent or needy caretaker permanently deemed ineligible due to use of TANF cash assistance in a prohibited location and to allow the child living with the adult to receive TANF benefits to comply with state statute; (4) add requirements for a new earned income disregard available to certain TANF recipients; (5) separate information regarding denials and closures based on net income as certain TANF recipients may be eligible for an earned income disregard; (6) require the Adult and Family Services (AFS) worker to determine whether a TANF recipient is eligible for an earned income disregard prior to closing the TANF benefit; (7) change the name of a policy section to more closely match other programs; and (8) update terminology. The proposed revisions also amend the rules to: (1) update and clarify rules regarding concurrent receipt of TANF and another form of public assistance; (2) add benefit reduction penalties resulting from use of the TANF benefit in a prohibited business; (3) add clarifying language regarding the parent or needy caretaker's eligibility when Child Welfare Services (CWS) removes a child from the home with an expectation of returning the child within four months; (4) update terminology including the removal of references to the Commission for Human Services; (5) add clarifying language regarding availability of funds, minimum TANF payments and overpayments; and (6) add policy references regarding payment to minors, TANF benefit issuance methods, and debit or EBT card transaction restrictions.

The proposed revisions to Chapter 10, Subchapter 10 amend the rules to: (1) remove the requirement for AFS staff to complete Child Support Services (CSS) forms as it is a duplication of efforts; (2) simplify and clarify AFS staff responsibility in determining deprivation based on absence and paternity establishment; (3) remove outdated information regarding signature approval; (4) clarify the AFS worker's responsibility regarding retained support payments; (5) remove information regarding the non-cooperation determination when the client retains support and whether to reimburse the client when CSS receives excess support because these are CSS, not AFS, staff responsibilities; (6) clarify the AFS worker's responsibility to evaluate whether support is expected to continue prior to closing the TANF benefit when the support exceeds the TANF cash assistance payment; and (7) update terminology.

CONTACT PERSON:

Dena Thayer, Programs Administrator, Policy Management Unit, OKDHS, P.O. Box 25352, Oklahoma City, OK 73125, 405-521-4326.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 15, 2015:

SUBCHAPTER 1. GENERAL PROVISIONS

340:10-1-3. State Plan for Temporary Assistance for Needy Families (TANF)

The State Plan covering TANF encompasses the requirements listed in ~~paragraph~~ paragraphs (1) through ~~(12)~~(13) of this Section.

(1) **State-wide operation.** The plan is in effect in all counties of the state as a state-administered program.

(2) **Financing.** The Oklahoma State Legislature appropriates funds for financing the TANF program. Federal money is provided by block grant funding ~~in accordance with~~per federal laws and regulations relating to the TANF program. These state and federal funds are used for assistance and administration under the plan.

(3) **Designated state agency.** The state TANF program is administered by the Oklahoma Department of Human Services ~~(OKDHS)~~(DHS), with at least one county office in each county in the state, operating under federal regulations per Sections 261.1 through 261.80 of Title 45 of the Code of Federal Regulations (45 §§ C.F.R. 261.1 through 261.80), Sections 230.50 through 230.78 of Title 56 of the OklahomaStatutes (56 §§ O.S. 230.50 through 230.78) and DHS rules ~~and regulations adopted by the Oklahoma Commission for Human Services~~

~~(Commission)~~per Oklahoma Administrative Code (OAC) 340:10 and 340:65.

(4) **~~Fair hearings~~Appeal rights.** ~~Any individual whose application~~Individuals applying for or receiving TANF ~~is denied or is not acted upon with reasonable promptness, or who is dissatisfied with the amount of the~~cash assistance ~~payment or with~~have the right to appeal any ~~other~~ action ~~taken in regard to his or her assistance payment, is provided an opportunity for a fair hearing with OKDHS~~ relating to the application for or receipt of TANF benefits. An applicant may also appeal a delay in processing an application timely. Refer to OAC 340:2-5 for fair hearing procedures.

(5) **Proper and efficient administration.** ~~OKDHS~~DHS operates under the State Merit System, which establishes and maintains personnel standards on a merit basis for certain federal grant-in-aid agencies, including ~~OKDHS~~DHS. Employees of ~~OKDHS~~DHS engaged in the administration of the TANF State Plan are covered by the Merit System.

(6) **Reports as required.** ~~The Finance Division~~DHS Financial Services:

(A) assists in fulfilling the requirements of state and federal laws by making necessary reports;

(B) cooperates with various federal agencies by providing current and special reports; and

(C) furnishes ~~OKDHS~~DHS with data necessary for the operation of its programs.

(7) **Safeguarding of information.** Federal and state laws and ~~the~~DHS rules ~~and regulations adopted by the Commission~~ restrict the use or disclosure of information concerning applicants for or recipients of TANF to purposes directly connected with the administration of the program.

(8) **Right to apply.** An individual has the right to:

(A) make application for TANF;

(B) expect an investigation of eligibility; and

(C) a prompt decision by ~~OKDHS~~DHS in regard to the application.

(9) **Assistance under only one program.** The needs of an eligible person ~~can~~ must only be included in one State Supplemental Payment (SSP) or TANF payment.

(10) **Standards for determining eligibility and amount of payment.** Uniform standards for determining eligibility and policies and procedures for such determination are provided in OAC 340:65, and this Chapter. As a means of promoting uniformity and accuracy in determining the basic needs, such as food, clothing, basic drugs, personal items, shelter, utilities, and household equipment of each TANF assistance unit, a flat grant consisting of these requirements is used.

(11) **Income and resources.** ~~In~~When determining need for TANF, ~~OKDHS~~DHS ~~takes into consideration~~considers any available income and resources of an individual requesting assistance, except income and resources required to be disregarded by federal or state law or by DHS rules ~~of OKDHS~~. Income and resources received on behalf of a member of the assistance unit by another individual ~~which~~that include, but ~~is~~are not limited to, a guardian or conservator, is considered available to the assistance unit.

(12) **Civil rights.** The TANF program is administered ~~in accordance with~~per the provisions of Title VI of the Civil Rights Act of 1964, as amended, Section 504 of the Rehabilitation Act of 1975, as amended, the Age Discrimination Act of 1975, the Americans with Disabilities Act of 1990, and Title IX of the Education Amendments of 1972, as amended.

(13) **Electronic benefit transfer (EBT) restrictions.** Per Section 4004 of the Middle Class Tax Relief and Job Creation Act of 2012, Section 608(a)(12) of Title 42 of the United States Code (42 U.S.C. § 608(a)(12)), States are required to maintain policies and practices as necessary to prevent TANF cash assistance from being used in any EBT transaction in certain prohibited businesses. Section 241.4 of Title 56 of Oklahoma Statutes (56 O.S. § 241.4) also restricts the use of EBT transactions in these businesses and adds one additional prohibited business.

(A) Prohibited businesses include any:

(i) liquor store. The term liquor store means any establishment that sells exclusively or primarily intoxicating liquor. The term does not include a grocery store that sells both intoxicating liquor and groceries, including staple foods per 7 U.S.C. § 2012;

(ii) casino, gambling casino, or gaming establishment except for:

(I) a grocery store that sells groceries, including staple foods per 7 U.S.C. § 2012, and also offers, or is located within the same building or complex as an establishment offering casino, gambling, or gaming activities; or

(II) any other establishment offering casino, gambling, or gaming activities incidental to the principal purpose of the business;

(iii) retail establishment that provides adult-oriented entertainment in which performers disrobe or perform in an unclothed state for entertainment; or

(iv) retail establishment whose principal business is that of selling cigarettes, cigars, or tobacco products. This type of retail establishment is prohibited only by state statute.

(B) EBT transaction means the use of a credit or debit card service, automated teller machine, point-of-sale terminal or access to an online system for the withdrawal of funds or the processing of a payment for merchandise or service.

(C) DHS informs applicants and recipients of this prohibition by including information about the prohibition in:

(i) Form 08MP003E, Rights, Responsibilities, and Signature for Benefits, of the application;

(ii) a poster displayed in the county office lobby;

(iii) the certification notice; and

(iv) a sign sent to identified prohibited businesses for use in educating staff and customers that the DHS issued debit card is not accepted at their business.

(D) Refer to OAC 340:10-3-57(h) for recipient benefit reduction penalties when DHS determines a recipient used his or her debit card in a prohibited business.

(E) Refer to OAC 340:65-3-6 for debit card and direct deposit procedures, including information about accessing benefits, free services, and fees.

SUBCHAPTER 2. TEMPORARY ASSISTANCE FOR NEEDY FAMILIES (TANF) WORK PROGRAM

340:10-2-4. Employment

(a) **Applicability.** Temporary Assistance for Needy Families (TANF) Work activities are designed to assist the participant in obtaining employment to achieve economic self-sufficiency. Work allows participants to enhance their self-esteem and to become more independent. Every effort is made to assist participants in securing jobs ~~which~~that provide financial security and opportunities for advancement. The appropriate employment criteria for subsidized and unsubsidized employment are included in ~~paragraph~~ (1) through (5) of this subsection.

(1) Appropriate employment may be temporary, permanent, full-time, part-time, or seasonal work, as long as the daily and weekly hours of employment do not exceed those customary to the occupation.

(2) The wage must meet or exceed the federal or state minimum wage laws or the prevailing rate for similar employment, whichever is applicable. The state law applies when federal law does not cover the job.

(3) A participant is not required to accept employment ~~if~~when the position offered is vacant due to a strike, lockout, or other bona fide labor dispute.

(4) A participant is not required to work for an employer ~~if~~when this is contrary to the conditions of membership in the union governing that occupation. Employment not governed by the rules of the union to which the participant belongs may be appropriate.

(5) A participant is not required to accept employment that results in the net loss of income.

(b) **Unsubsidized employment.** The State Work Incentive Program and any employment for which the employer does not receive reimbursement for any portion of the wages paid are examples of unsubsidized employment.

(1) **State Work Incentive Program.** The State Work Incentive Program is designed to assist in employing TANF participants into entry level positions in all branches of state government. Oklahoma Department of Human Services ~~(OKDHS)~~(DHS), in cooperation with other state agencies and the Office of ~~Personnel~~ Management and Enterprise Services (OMES) Human Capital Management Division coordinates job placements for ~~those~~ TANF participants ~~who are~~ referred for the program by Form 08TW023E, State Work Incentive Referral.

(A) Employment of eligible participants ~~can~~may be considered for positions of unclassified status for a two-year period in a full-time or part-time capacity. These positions are not included within any limitation on full-time equivalent employee positions for any agency.

(B) Participants hired under this program are eligible for leave and other benefits ~~that are~~ available to other state employees, subject to other eligibility requirements, and may be reassigned or promoted while they are in the program.

(C) Participants hired are exempt from probationary hiring procedures. They ~~can~~may be considered for conversion to the permanent classified status after two years of continuous program participation ~~in the program~~.

(D) Requirements for placing employees in permanent status include:

(i) completing satisfactory performance ratings ~~which are~~ conducted during employment; and

(ii) having possession of the minimum requirements stated in the job specifications.

(2) **Other unsubsidized employment.** Unsubsidized employment includes any employment in which a participant is hired by a private or public employer and there is no reimbursement of any portion of the wages paid to the recipient.

(c) **Subsidized employment.** The Subsidized Employment Program (SEP), on-the-job training (OJT), and Supported Transitional Employment Program (STEP) are examples of subsidized employment. The employment criteria in ~~subsection~~ (a) of this Section apply.

(1) **SEP.** SEP is a subsidized employment program through which ~~a~~DHS reimburses employers hiring TANF ~~participant is hired in~~participants into full-time employment ~~with OKDHS reimbursing the employer~~ for ~~partial~~a portion of their wages for up to four months. Public agencies, nonprofit private agencies, and private employers are eligible to participate. ~~State agencies expressing~~When a state agency expresses an interest in participating in the program,~~are informed that~~ DHS staff informs agency personnel that the subsidized employment reimbursement ~~cannot be~~must not be used by the state agency to claim matching federal funds. ~~If~~When, for any reason in any given month, a SEP participant is paid less than the amount of his or her cash assistance at the time of entry into the program, the SEP participant receives a supplemental TANF benefit. SEP participants are entitled to all benefits ~~from~~ the employer ~~which are~~makes available to other employees. Participants are assigned based on their employability plan and the availability of appropriate and willing employers.

(A) **Participant requirements.** TANF participants ~~must be~~are:

(i) included in the cash assistance unit; and

(ii) available for immediate employment.

(B) **Position requirements.** Position requirements must include:

(i) full-time employment ~~with an average~~for a minimum of 35 hours per week;

(ii) a salary not less than $10 per hour. Tips are not considered as part of the $10 per hour requirement;

(iii) the same wages, benefits, and working conditions as provided to other employees ~~who are~~ performing a substantially equivalent job;

(iv) ~~not considering tips as part of the wages;~~

~~(v)~~ employer agreement to conform to the Equal Employment Opportunity Commission and fair employment practices, ~~for example~~ such as nondiscrimination regarding age, race, sex, national origin, or disability; and

(~~vi~~v) ~~contracts are not written for positions~~employer assurance the position:

(I) ~~when there is a strike, lockout, or the contract would cause displacement of other employees~~does not displace the employer's current employees, including any involved in a strike or lockout;

(II) ~~that~~does not involve commission sales when at least $10 per hour is not guaranteed; or

(III) ~~that are~~is not for casual, intermittent, or seasonal labor.

(C) **Recruitment of employers.** ~~Human services center (HSC) designated~~ Designated county staff or the career development specialist (CDS) recruits employers interested in SEP. The employer is asked to notify ~~HSC~~ designated county staff or the CDS of potential positions with job specifications and qualifications in order to match the employer with an appropriate TANF participant referral. ~~All SEP referrals are made by HSC designated~~Designated county staff ~~using~~or the CDS give Form 08TW011E, Subsidized Employment Program (SEP) Referral to the TANF participant to take to the employer specified on the form.

(i) ~~The program explanation~~When explaining SEP to employers, designated county staff or the CDS emphasizes that employers are expected to retain the SEP participant in full-time employment unless there is good cause for the dismissal. Employers who fail to continue the successful SEP participant's employment without good cause are not granted subsequent contracts. Good cause reasons for dismissal are:

(I) lay-off due to economic reasons ~~which~~that result in a reduction-in-force;

(II) the employee is frequently absent from work or engages in disruptive or inappropriate behavior; or

(III) the employee is unable to perform at an acceptable skill level.

(ii) Before designated county staff or the CDS writes new or additional contracts ~~are written~~ with an employer, SEP employees or other employees in lay-off status must be recalled.

(iii) ~~HSC designated~~Designated county staff or the CDS has the responsibility for ensuring the employer is complying with the contract.

(D) **SEP placements.** ~~The HSC designated~~Designated county staff or the CDS arranges interviews between participants and potential employers. SEP participants may begin employment any time during the month. The employer is informed that reimbursement begins after the participant has completed the first 30 calendar days of employment.

(i) Following the employer's agreement to participate and selection of a TANF participant, ~~HSC~~ designated county staff or the CDS negotiates the contract, Form 08TW017E, Subsidized Employment Program (SEP) Contract, with the employer. Negotiation includes the beginning date of employment, the salary the employee will be paid, and the planned number of hours per week the participant will be employed.

(ii) Upon receipt of the contract, ~~HSC~~ designated county staff or the CDS reviews it for completeness and, ~~if~~when approved, signs and dates the contract. ~~HSC designated~~Designated county staff or the CDS delivers to the employer the employer's copy of the contract and Form 08TW018E, Subsidized Employment Program (SEP) Invoice, for requesting reimbursement.

(iii) ~~HSC designated~~Designated county staff or the CDS contacts the participant to complete and sign Form 08TW006E, Subsidized Employment Program (SEP) Temporary Assistance for Needy Families (TANF) Participant Agreement.

(iv) ~~If~~When a contract is not approved, a letter is mailed by the ~~HSC~~ designated county staff or the CDS to the employer explaining the reason for the disapproval. ~~HSC designated~~Designated county staff or the CDS notifies the participant by either telephone or letter that the contract was not approved.

(E) **Program procedures.** The procedures for programs listed in (i) through (iv) of this subparagraph are used.

(i) **TANF cash assistance.** Under SEP, eligibility for TANF cash assistance is frozen. During the period of participation, the TANF assistance unit cannot be determined ineligible.

(ii) **Medical benefits.** SEP participants whose TANF cash assistance is frozen, continue to be eligible for SoonerCare (Medicaid) benefits unless found ineligible for a reason other than earned income.

(iii) **Food benefits.** SEP participants whose TANF cash assistance is frozen and who are receiving Simplified Supplemental Nutrition Assistance Program (SSNAP) benefits ~~in accordance with~~per OAC 340:50-11-20 continue to receive

SSNAP benefits without consideration of the SEP income during the period of participation as long as household composition remains the same. Once the SEP participation period ends and the TANF benefit closes, the household may be eligible for transitional food benefits per Oklahoma Administrative Code (OAC) 340:50-11-27.

(iv) **Child care.** Child care plans must be explored with each SEP participant. During the SEP participation period while the TANF cash assistance is frozen ~~and the child is still considered a TANF recipient~~, the child remains predetermined eligible for child care subsidy benefits with a zero family share co-payment per OAC 340:40-7-1. Once the SEP participation period ends and the TANF benefit closes, the participant's earnings are considered ~~income, and~~in determining the family share co-payments ~~are computed~~ per ~~OKDHS~~DHS Appendix C-4, Child Care Eligibility/Co-payment Chart.

(F) **Payment of employers.** Employers are eligible for:

(i) One hundred percent reimbursement ~~of 100%~~ of the employee's gross wages,~~for the first 30 days of employment~~ capped at a maximum of 40 hours per week at $12 per hour, for the first 30 calendar days of employment~~;~~.

(I) Employers are eligible to apply for reimbursement 30 calendar days following the date of hire.

(II) Employers file for reimbursement by submitting Form 08TW018E, with proof of the participant's earnings for the last six months attached, directly to Adult and Family ~~Support~~ Services ~~Division (FSSD)~~(AFS) TANF ~~Section with proof of the participant's earnings for the last six months attached~~staff.

(III) When a business changes ownership, the SEP contract transfers with the business. When change of ownership occurs mid-month, the original owner maintains the right to file a claim for reimbursement for the transfer month. The new owner may claim for subsidized wages for the remaining months of the original SEP agreement~~.~~;

(ii) Fifty percent reimbursement ~~of 50%~~ of the employee's gross wages,~~based on hourly wage up to the maximum of $12 per hour~~for the following three months, provided the employee remains employed a minimum of 35 hours per week and earning at least $10 per hour ~~up to 40 hours per week~~. The reimbursement is capped at a maximum of 40 hours per week at $12 per hour; and

(iii) a bonus equal to 100~~%~~percent of the unsubsidized portion of wages up to 40 hours per week for the four month subsidized period, provided the SEP employee:

(I) remains employed a minimum of 35 hours per week~~, earning~~;

(II) earns a minimum of $10 per hour~~,~~; and

(III) ~~the employer retains the employee~~is retained for a minimum period of six months after the subsidized agreement ends.

(G) **Supplemental payments to SEP participants.** ~~FSSD~~AFS automatically issues supplemental payments for months in which income shown on Form 08TW018E is less than the amount of the SEP participant's cash assistance prior to entering the program.

(H) **SEP contract period completions.** At the end of the fourth month of subsidized employment, TANF eligibility is reviewed for continued eligibility.

(I) **SEP contract terminations.** At any time the SEP placement is terminated during the four months of subsidized employment, TANF eligibility is reviewed for continued eligibility.

(2) **OJT.** OJT is subsidized employment in which a participant is hired by a private or public employer and, while engaged in productive work, receives training that provides knowledge or skills essential to the full performance of ~~that~~the job. During the OJT period, the employer receives reimbursement for a portion of the wages paid to the employee.

(A) Participants who have successfully completed the Work Experience Program, have a recent history of employment, or ~~who~~ have been through a job readiness activity are the primary candidates for OJT referral.

(B) Income from OJT is considered as any other earned income.

(C) Transitional child care and medical benefits are explained to the participant at the time of entry into OJT.

(3) **STEP.** STEP is a subsidized employment program ~~which~~that provides comprehensive support services ~~that lead~~leading to permanent employment placements for TANF participants. These services are contracted with specified vendors who provide temporary paid work experience to program participants in a supportive work environment. When the participant is accepted into the program, his or her TANF benefit remains active with no cash benefit issued. ~~If~~When eligible, the participant continues to receive other program benefits.

(d) **Work Opportunity Tax Credit (WOTC).** The WOTC law permits for-profit employers to take a credit on ~~their~~ federal income tax when workers from certain target groups are hired. Workers in these target groups have faced significant barriers to employment. The WOTC is equal to between 25~~%~~percent~~to~~and 40~~%~~percent of the first year wages, up to $9000, depending on the number of hours the employee works, and the applicable target group for that person. The main objective of this program is to enable the targeted employees to gradually move from economic dependency into self-sufficiency as ~~they earn~~ he or she earns a steady income and become contributing taxpayers, while the participating employers are compensated

by ~~being able to reduce~~reducing their federal income tax liability.

(1) WOTC is available to employers for workers hired from targeted groups. The targeted groups are:

(A) TANF recipients who have received assistance for nine months out of the last 18 months;

(B) qualified veterans. Qualified veterans are persons who have received food benefits for at least three consecutive months within the last 15 months preceding the date of hire;

(C) qualified ex-felons. Qualified ex-felons are persons who were convicted of a felony and within the last year were either convicted or released from prison;

(D) designated community residents. Designated community residents are persons, who have attained ~~age~~ 18 years of age, but not yet 40 years of age, on the hiring date and his or her principal place of residence is within an Empowerment Zone, Enterprise Community, or a Rural Renewal County and for persons who ~~begin~~began work for an employer after May 25, 2007. This High-Risk Youth group ~~has been~~was renamed "Designated Community Resident" and expanded to include residents of Rural Renewal Counties;

(E) vocational rehabilitation recipients. Vocational rehabilitation recipients are persons with a disability who ~~have~~ received or are receiving vocational rehabilitation from a rehabilitation agency approved by the State or Department of Veterans Affairs;

(F) qualified summer youth employees. Qualified summer youth employees are persons at least 16 years of age, but not 18 years of age, on the hiring date and who ~~has~~have a principal residence in an Empowerment Zone, Enterprise Community, or Rural Renewal County hired between May 1 and September 15;

(G) qualified food benefit recipients. Qualified food benefit recipients are persons, who are at least 18 years of age, but under ~~age~~ 40 years of age, who are:

(i) members of a household that received food benefits for the last six-consecutive months prior to their hiring date; or

(ii) able-bodied adults without dependents no longer eligible for benefits who reside with a household currently receiving food benefits or a household that received food benefits for at least three months out of the last five consecutive months, prior to the hiring date;

(H) qualified recipients of Supplemental Security Income (SSI). Qualified recipients of SSI are persons who ~~have~~ received SSI for any month during the 60-calendar days before the date of hire;

(I) long-term TANF recipients. Long-term TANF recipients are persons certified by a designated local agency as being members of families who received TANF payments for:

(i) ~~who have received TANF payments for~~ at least 18 consecutive months ending on the hiring date;

(ii) ~~who have received TANF payments for~~ a total of at least 18 months, whether consecutive or not, after August 5, 1997, if the persons ~~are~~were hired within two years after the date the 18 month total is reached;

(J) Hurricane Katrina employees. Hurricane Katrina employees do not require certification;

(K) unemployed veterans. Unemployed veterans are persons hired after 2008 and before 2011 who:

(i) ~~have been~~were discharged or released from active duty in the United States Armed Forces at any time during the five-year period ending on the hiring date; and

(ii) received unemployment compensation under state or federal law for at least four weeks during the one year period ending on the hiring date; and

(L) disconnected youth. Disconnected youth are persons who are certified as:

(i) having attained ~~age~~ 16 years of age, but not 25 years of age, on the hiring date;

(ii) not regularly attending any secondary, technical, or post-secondary school during the six month period preceding the hiring date;

(iii) not regularly employed during the six month period preceding the hiring date; and

(iv) not readily employable by reason of lacking a sufficient number of basic skills.

(2) Through an agreement with the Oklahoma Employment Security Commission, ~~OKDHS~~DHS issues WOTC conditional certification forms for ~~recipients of OKDHS benefits~~DHS recipients.

(3) United States (U.S.) Department of Labor Form ETA-9062, Conditional Certification Work Opportunity ~~and Welfare to Work~~ Tax Credits, and a letter from the worker stating the number of months the participant ~~has~~ received ~~OKDHS~~DHS benefits ~~must be~~is given to the participant to present to the employer, on or before, the first day of employment. An explanation is given to the participant about the purpose of the form and ~~that~~how the tax credit may help the participant get a job.

(e) **Work Experience Program (WEP).** The purpose of WEP is to provide job skills and work enhancement to TANF participants ~~that enables~~enabling them to move toward self-sufficiency and obtain unsubsidized employment following completion of the placement.

(1) **Benefits.** ~~Benefits of the program to participants~~Program benefits for participants include an opportunity to establish a work history and earn a recommendation from an employer. Participants also learn to balance the demands of home and work, gain confidence by performing in a job setting, ~~brush up~~ enhance current job skills ~~already acquired~~, learn marketable skills on-the-job, and determine interest and aptitude for a particular type of work by doing the job.

(2) **WEP assignments.** WEP assignments are approved for an initial period of 90 calendar days.

(A) No salary is paid.

(B) With respect to injuries incurred during WEP working hours ~~in WEP~~, federal law requires medical coverage be offered under either state workers' compensation law or by ~~OKDHS~~DHS. Oklahoma workers' compensation law does not cover WEP participants. Medical coverage is provided by the SoonerCare (Medicaid) Program.

(3) **WEP referrals.** Participants are referred to WEP slots based on their employability plan. The worker coordinates assignment to a WEP position with the participant. Based on the employability plan, the worker:

(A) determines which facility best meets the participant's needs;

(B) arranges an interview between the facility and the participant; and

(C) notifies the participant of the place, time, and interviewer's name.

(4) **WEP facilities.** Facilities selected for WEP placements must be capable of providing employment and have an apparent intent to hire, or be able to provide quality job skills enhancement. WEP facilities are solicited by ~~HSC~~ designated county staff, the CDS, or a contracted entity who has agreed to assist with job development and placement, including WEP. Local job market conditions, opportunities for employment following completion of WEP participation, as well as the ability of the facility to provide the necessary supervision and skills enhancement are criteria used when soliciting a facility.

(A) WEP slots are developed to meet ~~the~~participant employment needs ~~of the participant~~ as determined by the employability plan. When a facility agrees to participate in WEP, the facility representative ~~of the facility~~ is requested to provide:

(i) a written description of the type of activities the participant will be involved in;

(ii) the number of participants the facility can accept;

(iii) the hours of participation; and

(iv) any special requirements, such as uniforms or special equipment.

(B) There are two types of WEP facilities, WEP Non-profit (WEP-NP) and WEP-For-Profit (WEP-FP).

(i) WEP-NP placement is approved for public and private non-profit organizations or businesses. When a participant requires additional skills enhancement, the worker may approve a 60-calendar day extension. Extensions are not granted when the primary purpose is to provide additional help to the facility. The criteria listed in ~~subunits~~ (I) through (VII) of this ~~subsection~~unit are used as a guide in determining the appropriateness of requesting an extension beyond the initial three-month period.

(I) The participant needs ~~the~~ additional time ~~for~~to acquire skills to ~~be acquired to~~ meet minimum hiring requirements.

(II) The participant demonstrates a willingness to learn, but needs additional time to develop new skills, to be competitive in the labor market.

(III) The facility has agreed to hire the participant, but will not have funds available or a job opening until a specific date.

(IV) The facility has an opening in ~~an area~~a different area from ~~the one~~where the participant was working ~~in~~ and has agreed to hire the participant ~~if~~when additional time is granted for ~~the~~ additional development of job skills.

(V) The participant ~~has shown~~showed improvement in all areas, but needs additional socialization skills and improved behavior patterns in a work setting.

(VI) The participant ~~has~~ missed more than two weeks due to illness or the illness of a household member.

(VII) There are extenuating circumstances ~~which~~that prevented the participant from receiving full benefit of the job skills enhancement.

(ii) WEP-FP is approved for businesses or entities that operate for profit. Only one WEP-FP placement is allowed per 25 full-time employees in a for-profit business or entity. The criteria in ~~subunits~~ (I) through (II) of this ~~subsection~~unit must be in effect prior to a WEP-FP placement.

(I) The placement matches the participant's employability plan and the career path chosen by the participant.

(II) The employer ~~has~~ committed to hire the participant, on or before, the completion of the three-month placement.

(5) **WEP procedures.** Upon approval by the county director,~~or HSC~~ designated county staff, or the CDS, the worker contacts the WEP facility to complete Form 08TW015E, Work Experience Program - Non-profit Training Agreement, or Form 08TW115E, Work Experience Program - For-Profit Training Agreement.

(A) The worker instructs the facility representative or ~~the~~ supervisor regarding the purpose and use of Form 08TW013E, Time and Progress Report.

(B) It is the participant's responsibility to complete Form 08TW013E and submit it to the worker by the day of the month shown on the form.

(C) Approved WEP slots ~~that have~~ not ~~been~~ utilized within a six-month period are reviewed for appropriateness. ~~If~~When the position is no longer feasible, ~~HSC~~ designated county staff or the CDS sends a letter to the facility stating the WEP slot is no longer active and may be re-evaluated at the facility's request.

(6) **Non-cooperation by WEP facility.** When the worker obtains information ~~that~~ the facility is violating the terms and conditions of ~~Form~~Forms 08TW015E~~, Form~~ and/or 08TW115E, or ~~that~~ participants are ~~being~~ treated unfairly, the county director is informed immediately. The nature of the allegations guides the necessary action ~~which~~that may include:

(A) suspension of subsequent assignments at the facility;

(B) immediate removal of current participants; or

(C) termination of the agreement.

(7) **Notification to participant and facility.** Ten calendar days prior to the anticipated WEP completion date, or at any time the participant becomes ineligible for WEP, the worker notifies the participant by letter or telephone. The worker notifies the facility by letter or by telephone five calendar days prior to the termination.

(8) **Changes in placements and subsequent placements.** When the facility, worker, and participant determine ~~that~~ placement in a different facility is more beneficial, the worker locates a new facility and arranges an interview for the participant. When the participant fails to secure employment following successful completion of WEP, a conference is held with the participant, worker, and supervisor to determine whether a second WEP placement might be beneficial. The worker reviews the employability plan prior to allowing a participant to re-enter WEP. Consideration is given to reassignment to job search or another appropriate work activity. In making this decision, consideration must be given to the:

(A) participant's ability to secure and maintain full-time employment;

(B) opportunities for employment in the new field and in the area in which the participant received job skills enhancement;

(C) participant's efforts to secure employment; and

(D) length of time between assignments.

(f) **Community Partnership (CP).** CP is unpaid employment in which TANF recipients perform work for the direct benefit of the community. A CP may be approved for both public and non-profit agencies and organizations. A CP assignment ~~must be~~is limited to projects that serve a useful community purpose and are designed to improve the employability of recipients not otherwise able to obtain employment. All CPs must be approved by ~~FSSD,~~AFS TANF ~~Section~~ staff. Placements in CP require daily supervision. Prior training, experience, and skills of a recipient ~~must be~~are considered in making an appropriate CP assignment.

(1) **Benefits.** ~~Benefits of the program to participants~~Participant program benefits include an opportunity to establish the basic skills necessary to obtain employment, such as daily attendance, appropriate attire, and proper behavior in a work environment. Participants also learn to balance the demands of home and work and gain confidence by performing in a job setting.

(2) **CP facilities.** CP facilities are solicited by ~~HSC~~ designated county staff or the CDS. The ability of the CP to provide the necessary supervision and basic skills training are criteria used when soliciting a partnership.

(A) Training slots are developed to meet the participant's employment needs ~~of the participant~~ as determined by the employability plan.

(B) The worker submits Form 08TW019E, Community Partnership (CP) Approval Request, to ~~the FSSD~~AFS TANF ~~Section~~staff for ~~approval of the~~ training facility approval.

(C) When a CP agrees to participate, the facility representative is requested to provide:

(i) a written description of the type of activities in which the participants will be involved ~~in~~;

(ii) the number of participants the CP can accept;

(iii) the hours of participation; and

(iv) any special requirements, such as uniforms or special equipment.

(D) No salary is paid.

(E) ~~With respect to~~When injuries ~~incurred~~occur during working hours in CP, federal law requires medical coverage be offered under either state workers' compensation law or by ~~OKDHS~~DHS. Oklahoma workers' compensation law does not cover CP participants. Medical coverage is provided by the SoonerCare (Medicaid) Program.

(3) **CP assignments.** CP assignments are approved for an initial period of no more than 60-calendar days. When a participant requires additional training**,** the worker may approve a 30-calendar day extension. The criteria listed in (A) through (F) of this paragraph are used as a guide ~~in~~when determining the appropriateness ~~requesting an extension~~of an extension request beyond the initial 60-calendar day period, but are not limited to:

(A) the participant needs ~~the~~ additional time for skills to be acquired to meet minimum hiring requirements;

(B) the participant demonstrates a willingness to learn, but needs additional time to develop basic job skills necessary to be competitive in the labor market;

(C) the CP has an opening in ~~an area~~a different area from the one in which the participant was trained;

(D) the participant has shown improvement in all areas, but needs additional socialization skills and improved behavior patterns in a work setting;

(E) the participant ~~has~~ missed more than two weeks of training due to illness or the illness of a household member; or

(F) extenuating circumstances ~~which~~that prevented the participant from receiving the full benefit of the training.

(4) **CP referrals.** Participants are referred to CP slots based on their employability plan and the availability of CP positions ~~at the CP~~. Assignment to a CP position is coordinated between the participant, worker, and the CP. Based on the employability plan, the participant and worker determine:

(A) which CP best meets the participant's needs; and

(B) the location, date, and time to report to the CP.

(5) **Procedures.** Upon approval by ~~FSSD~~AFS TANF ~~Section~~ staff, the worker contacts the CP facility to complete Form 08TW020E, Community Partnership (CP) Agreement.

(A) The worker instructs the facility representative or the training supervisor regarding the purpose and use of Form 08TW013E~~, Time and Progress Report~~.

(B) It is the participant's responsibility to complete Form 08TW013E and submit it to the worker by the day of the month shown on the form.

(6) **Non-cooperation by CP.** When the worker obtains information that the CP is violating the terms and conditions of Form 08TW020E or participants are treated unfairly, the worker informs the county director,~~or HSC~~ designated county staff, or the CDS immediately. The nature of the allegations guides the necessary action ~~which~~that may include:

(A) suspension of subsequent CP assignments ~~at the CP~~;

(B) immediate removal of the current participants; or

(C) termination of the agreement.

(7) **Changes in placements and subsequent placements.** Following successful completion of CP training, the worker and participant meet to determine whether a second CP placement or other work activity might be beneficial. The worker reviews the employability plan prior to allowing a participant to enter the next work activity. ~~In~~When making this decision, consideration ~~must be~~is given to:

(A) the participant's ability to secure and maintain employment;

(B) whether the participant needs additional training or placement opportunities to enhance employment skills; or

(C) whether the participant needs any educational opportunities to enhance employment skills.

340:10-2-8. Temporary Assistance for Needy Families (TANF) Work support services

(a) **Scope.** The worker provides or arranges payments and services for the participant to ensure successful completion of the participant's employability plan to become self-supporting.

(1) Payments are authorized for items or services directly related to employment as an outcome.

(2) When support services are available and part of the employability plan, the participant's failure to cooperate in obtaining the support services constitutes a failure to participate in the TANF Work program.

(3) Items and services covered by the participant's medical card are not paid for by the support service fund.

(4) The only support services available to an applicant are the participant allowance and work activity payment.

(5) Payments are not authorized for reimbursement of expenses already paid by client or others.

(b) **Flexible funds.** The intent of flexible funds is to provide a participant with the necessary support services needed to accomplish his or her employment goals.

(1) Flexible funds are not available to the applicant.

(2) To be eligible for flexible funds, the participant must:

(A) otherwise be ready to participate in a required work activity for the minimum number of hours;

(B) have a guaranteed offer of employment; or

(C) be employed.

(3) Payments for the services through flexible funds are not an automatic entitlement to the participant.

(4) Flexible funds are not used for fines including traffic fines or any cost related to a criminal offense, such as legal fees or court costs.

(5) ~~Human services center (HSC)~~Designated county staff or the career development specialist has final authority to determine authorizations.

(6) One-time payments of specific services are not ~~to be used~~approved for reimbursement of expenses already paid by the participant or others.

(7) Ongoing maintenance payments are not allowed.

(8) Relatives of the client are not eligible for payment. ~~See~~Refer to Oklahoma Administrative Code (OAC) 340:10-9-1 for degree of relationship.

(c) **Other support services.**

(1) **Work activity payments.** Work activity payments are issued ~~to persons participating in or ready to participate in assigned work activities when they have need of a small amount of cash~~ to purchase specific items,~~to aid them in participating in their assigned work activities~~ such as a tank of gas, clothing, or personal items, when needed to participate in assigned work activities. The maximum amount approved cannot exceed $40 per month.

(2) **Participant allowances.** Daily cash allowances, up to a ~~maximum of~~ $13 maximum~~for each~~per day, are made to participants in assigned scheduled, structured, and supervised work activities ~~which are scheduled, structured, and supervised~~.

(A) Lunch hours and travel time are not included as actual attendance hours ~~of attendance~~.

(B) For persons in Job Search, travel time between job interviews and job applications is included as actual attendance hours ~~of attendance~~.

(C) The participant makes appropriate daily entries on Form 08TW013E, Time and Progress Report, to document actual attendance hours ~~in attendance~~ and submits it to the worker by the time frame shown on the form.

(D) The daily allowance paid is:

(i) $8 ~~each~~per day when the work activity equals four hours or less; or

(ii) $13 ~~each~~per day when the work activity equals more than four hours.

(3) **Oklahoma State Bureau of Investigations (OSBI) background checks.** OSBI background checks may be requested for a participant who is placed in job skills training that requires an OSBI background check

as a prerequisite for employment. The job skills training ~~can~~may include vocational training, hands-on work experience, or public or private sector work experience. ~~The participant is advised of the requirement and Form 08AD060E, Request for Release of Information, is completed.~~

(4) **Child care.** Child care arrangements are made for each child(ren) in the home ~~who is~~ under ~~age~~ 13 years of age, mentally or physically incapable of self-care, or under court supervision. The plans for child care are included on Form 08TW002E, TANF Work/Personal Responsibility Agreement. When the person begins active participation in TANF Work activities, the worker and client complete a child care ~~services are documented~~application based on the TANF Work plan per OAC 340:40.

(5) **Transportation contracts.** Transportation contracts are initiated to provide transportation for TANF recipients who have no means of transportation to access required TANF Work training activities. To initiate a transportation contract, ~~HSC~~ designated county office staff contact the Adult and Family ~~Support~~ Services ~~Division~~(AFS) TANF ~~Section~~staff.

(6) **Disability Advocacy Program (DAP).** DAP is available to assist a TANF Work participant or a child(ren) receiving a TANF benefit, who has an application for disability pending with the Social Security Administration (SSA) or who ~~the~~ Oklahoma Department of Human Services ~~(OKDHS)~~(DHS) determines has a potentially meritorious claim for such benefits.

(A) The worker makes a referral to the ~~OKDHS~~DHS contracted law firm to assist the recipient(s) with the:

(i) application;

(ii) reconsideration;

(iii) Administrative Law Judge hearing; and

(iv) review by the SSA Appeals Council.

(B) The evaluation of merit determines ~~if~~whether the appropriate SSA test for disability would be met if evidence was available to prove all conditions claimed by the TANF recipient. ~~If~~When the evaluation of merit determines there is:

(i) sufficient evidence, the law firm represents the TANF recipient.

(I) Statewide ~~this~~ representation consists of assisting the recipient with the application through an unfavorable ~~decision by the~~ SSA Appeals Council decision.

(II) In counties in which representation by a lawyer or experienced non-lawyer advocate is not available without advance payment, the contracted law firm assists with the pending application for disability through an unfavorable decision by the SSA Appeals Council; or

(ii) insufficient evidence to prove conditions claimed by the TANF recipient, no further services are provided by DAP. Representation by the law firm ceases at any time the law firm determines there is insufficient evidence to support the TANF recipient's claim for disability benefits.

(7) **Achievement bonuses.** TANF recipients participating in TANF Work are eligible for bonuses related to achievement of certain goals when funding is available. TANF recipients may receive one bonus payment per achievement, for activities in (A) of this paragraph.

(A) Achievements are completion of a:

(i) high school diploma;

(ii) general educational development certificate (GED); or

(iii) career readiness certificate (CRC) per OAC 340:10-2-3(b).

(B) Refer to DHS Appendix H-4-C for bonus payment amounts.

SUBCHAPTER 3. CONDITIONS OF ELIGIBILITY - NEED

PART 3. INCOME

340:10-3-26. General provisions regarding income

Income is defined as gain, payment, or ~~proceed~~proceeds from labor, business, property, retirement, and other benefits. All available income, except that required to be disregarded by law or the Oklahoma Department of Human Services ~~(OKDHS)~~(DHS) policy, is taken into consideration in determining ~~need~~eligibility for Temporary Assistance for Needy Families (TANF) cash assistance. Income is considered available when actually received. When an individual's income is reduced due to recoupment of an overpayment or a garnishment, the gross amount before the recoupment or garnishment is counted as income. The individual is responsible for reporting all income, the source, amount, and regularity of receipt.

(1) Income received on behalf of a member of the assistance unit by another individual, such as, but not limited to, a guardian or conservator, is considered available to the assistance unit.

(2) Money received and used for the care and maintenance of a third party ~~who is~~ not included in the assistance unit is not counted as income ~~if~~when it ~~can be~~is identified and verified as intended for third party use. ~~This is not applicable to~~The income of a stepparent or a person acting in the role of a spouse is considered per Oklahoma Administrative Code (OAC) 340:10-3-57(e). ~~[OAC 340:10-3-57(f)]~~

(3) If it appears any member of the TANF assistance unit or an individual whose income and resources are considered ~~when computing the cash assistance~~per OAC 340:10-3-57(e) is eligible for any type of income or benefits, ~~OKDHS notifies~~ the worker uses Form 08AD092E, Client Contact and Information Request, to notify the assistance unit in writing. ~~The notice~~Form 08AD092E contains the information that failure to apply for and take all appropriate steps to obtain such benefits within 30-calendar days from the date of the notice results in

a determination of ineligibility. Supplemental Security Income (SSI) does not fall under these types of benefits.

(4) ~~If a husband and wife are living~~When spouses live together or ~~are living~~live apart, but there has not been a clear break in the family relationship, income received by either spouse and income received jointly is considered as family income.

(5) Income ~~of individuals receiving Temporary Assistance for Needy Families (TANF) benefits~~received by a member of the TANF cash assistance unit cannot be diverted to members ~~who receive~~receiving State Supplemental Payments~~. Income of a natural or adoptive parent cannot be diverted~~or to meet the needs of a stepparent.

(6) Any family member ~~who receives~~receiving SSI is not included in a TANF benefit and ~~consideration is not given to any of~~ the SSI income is not considered in computing the TANF benefit.

(~~5~~7) When ~~it is determined the assistance unit's~~an applicant's net income, after applying applicable earned income exemptions per OAC 340:10-3-33, meets or exceeds the payment standard for that month, the application is denied ~~or the cash assistance is terminated the next possible effective date~~.

(8) Refer to OAC 340:10-3-31.1 to determine whether the recipient is eligible for an earned income disregard prior to closing the TANF cash assistance payment because of earnings.

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340:10-3-31.1. Earned income disregard

A Temporary Assistance for Needy Families (TANF) recipient may be eligible to receive an earned income disregard when conditions described in (1) through (3) of this Section are met. When applied, the earned income disregard excludes all earned income from consideration against the cash assistance payment for three consecutive months. The recipient is eligible for one earned income disregard per rolling 12-month period.

(1) Applicants and individuals not included in the cash assistance unit are not eligible for an earned income disregard.

(2) The combined monthly earned income of all TANF cash assistance unit members must not exceed $2,064.

(3) Before applying the earned income disregard, the worker first subtracts all applicable earned income exemptions per Oklahoma Administrative Code 340:10-3-33 from the payment standard to determine if the individual remains eligible for TANF.

(A) Refer to Schedule IX on the Oklahoma Department of Human Services (DHS) Appendix C-1, Schedule of Maximum Income, Resource, and Payment Standards for the TANF payment standard.

(B) When the recipient remains eligible, the assistance unit is not eligible for an earned income disregard.

PART 5. ASSISTANCE PAYMENTS

340:10-3-56. ~~Structure of the assistance unit~~Household composition

(a) **Household composition.** ~~The structure of~~Household members who must be, may be, and must not be included in the Temporary Assistance for Needy Families (TANF) assistance unit ~~is~~are defined in this Section.

(1) Persons ~~whose needs~~who**must** be included in the assistance unit, unless otherwise excluded per paragraph (3) of this subsection, are:

(A) at least one ~~Temporary Assistance for Needy Families (~~TANF~~)~~ eligible child;

(B) the natural or adoptive parent(s); and

(C) all blood-related minor siblings living in the home with the TANF eligible child(ren), including half-brothers and half-sisters, unless:

(i) eligibility for the half-brothers and half-sisters does not exist;

(ii) ~~This does not apply to the siblings of~~ a minor parent ~~when the minor parent~~ is the adult in the assistance unit and the minor parent's siblings live in the same home;

(iii) a blood-related minor sibling receives Supplemental Security Income (SSI); or

(iv) a blood-related minor sibling is an ineligible alien per Oklahoma Administrative Code (OAC) 340:10-15-1.

(2) Persons whose needs **may** be included are:

(A) the caretaker relative-payee other than the natural or adoptive parent(s) with whom the child(ren) resides, ~~if~~when this person meets the definition of needy and is of the specified degree of relationship per OAC 340:10-9-1. A caretaker, other than stepparent, may be included in the assistance unit only when the natural or adoptive parent(s) is absent from the home. A stepparent may be included in the assistance unit when the natural or adoptive parent(s) is incapacitated or absent;

(B) the caretaker relative or the natural or adoptive parent when the only dependent child(ren) residing in the home:

(i) receives ~~Supplemental Security Income (~~SSI~~)~~; or

(ii) was removed from the home by a child protection action and the plan for the child(ren) is impending reunification;

(C) the caretaker relative when the only child(ren) in the home receives federal or state foster care maintenance payments;

(D) the adoptive parent(s) when the only dependent child(ren) receives a Title IV-E or state adoption subsidy;

(E) a family that includes any head of household or a spouse of the head of household who received TANF benefits for a total of 60 cumulative months nationwide, whether consecutive, and a hardship extension is approved. All other conditions of TANF eligibility must be met. The hardship extensions are:

(i) under-employment. The participant is regularly working 30 hours or more per week and earning at least minimum wage or its equivalent, but the net income of the assistance unit is insufficient to close the TANF cash assistance;

(ii) chronically under-employed. The participant is under-employed over an extended period of time as a result of documented barriers;

(iii) pending SSI or Social Security Administration (SSA) disability application. This extension is granted only ~~if~~when the Oklahoma Department of Human Services ~~(OKDHS)~~(DHS) determines the disability application has merit and the participant pursues all appeals through a decision by the SSA Appeals Council. ~~If~~When an unfavorable decision is received from the SSA Appeals Council during the time period the participant is approved for a hardship extension, Adult and Family Services (AFS)~~,~~ TANF ~~Section~~staff, is notified and the TANF benefit is closed the next effective date;

(iv) care of a disabled child(ren) or spouse. The participant is responsible for the care of a disabled child(ren) or spouse. This extension is granted only when verification ~~was~~is provided to show the participant is needed in the home to care for this disabled person and alternative care is unavailable;

(v) a clinical diagnosis of mental illness. The participant ~~must be~~is diagnosed with, and receiving treatment for, a mental disorder listed at Part 404, Subpart P, Appendix 1 of Title 20 of the Code of Federal Regulations. This illness must interfere with the participant maintaining or obtaining gainful employment. ~~If~~When appropriate, the participant ~~must participate~~participates in other work activities in conjunction with receiving treatment;

(vi) a substance abuse treatment plan per OAC 340:10-2-6. The participant has a treatment plan level of care requiring:

(I) intensive aftercare treatment of nine hours or more per week in conjunction with other appropriate work activities~~,~~;

(II) outpatient treatment of nine hours or more per week in conjunction with other appropriate work activities~~,~~; or

(III) is in full-time inpatient treatment;

(vii) a continuing training or educational activity. The participant, during the 60th month, is regularly attending an approved training or educational activity that will be completed in less than 12 months;

(F) a child of a minor in foster care ~~if~~when the minor's child is not included in a foster care payment; ~~or~~

(G) a child(ren) living with a parent who is ineligible due to a positive screen for the illegal use of a controlled substance or substances per OAC 340:10-4-1; or

(H) a child(ren) living with a parent permanently deemed ineligible due to a fourth violation of using the TANF cash assistance in a prohibited location per OAC 340:10-3-57(h)(2).

(3) Persons whose needs **may not** be included are:

(A) a person who ~~has~~ received a State Supplemental Payment (SSP) for the same month;

(B) a person who ~~has~~ received or is included in an SSI payment for the same month;

(C) the payee's spouse ~~of the payee if~~when the payee is not the natural or adoptive parent;

(D) a child(ren) included in a foster care payment;

(E) an adopted child(ren) receiving an adoption subsidy;

(F) an alien who is not legally admitted to the United States ~~(US)~~ for permanent residence or does not meet alienage requirements;

(G) a caretaker other than a stepparent when the natural or adoptive parent is in the home;

(H) a person whose period of ineligibility due to receipt of a lump sum payment has not expired;

(I) a stepparent when the natural or adoptive parent is in the home and not incapacitated;

(J) a person in a household that is eligible to receive benefits under a tribal TANF program;

(K) a fugitive felon;

(L) a probation and/or parole violator;

(M) a person convicted of having fraudulently misrepresented residence in order to obtain assistance in more than one state. The person is ineligible for a ~~ten~~10-year period that begins on the conviction date;

(N) child(ren) in a family that includes any head of household or a spouse of the head of household who received TANF benefits for a total of 60 cumulative months, whether or not consecutive, and a hardship extension is not approved;

(O) a minor unmarried payee who has a dependent child(ren) in the minor's care and does not reside with a parent(s), legal guardian, or other adult relative 18 years of age or older.

(i) For the minor payee to be eligible for TANF benefits, the minor must live:

(I) with the minor's natural or adoptive parent(s)~~;or~~

(II) with a stepparent~~,~~;

(III) with a legal guardian~~,~~;~~or other~~

(IV) with another adult relative 18 years of age or older~~,~~; or ~~live~~

(V) in a foster home, maternity home, or other supportive living arrangement supervised by an adult. A supportive living arrangement is a privately maintained family setting and an adult assumes the responsibility for the care and control of the minor and the minor's dependent child(ren) or provides supportive services, such as counseling and guidance.

(ii) The minor payee ~~can~~may reside elsewhere and be eligible for TANF if good cause is established because the:

(~~i~~I) minor has no living parent or legal guardian whose whereabouts are known;

(~~ii~~II) parent(s), legal guardian, or other adult relative does not allow the minor to live in the home;

(~~iii~~III) physical or emotional health or safety of the minor or the minor's dependent child(ren) is jeopardized ~~if~~when the minor or the minor's dependent child(ren) lives in the home with the parent(s), legal guardian, or other adult relative ~~age~~ 18 years of age or older;

(~~iv~~IV) minor parent has lived apart from the minor's parent(s), legal guardian, or other adult relative 18 years of age or older~~,~~ for at least one year before the birth of ~~any dependent child(ren)~~of the child or before the minor ~~applied~~applies for benefits; or

(~~v~~V) minor parent is legally emancipated pursuant to Chapter 4, Title 10 of the Oklahoma Statutes. A minor is legally emancipated when the district court granted the minor authority to act on the minor's own behalf; ~~or~~

(P) an adult parent or needy caretaker who is ineligible as a result of a positive screen for the illegal use of a controlled substance or substances per OAC 340:10-4-1~~.~~; or

(Q) an adult parent or needy caretaker permanently deemed ineligible due to a fourth violation of using TANF cash assistance in a prohibited location per OAC 340:10-3-57(h)(1)(D).

(b) **Temporary absence.** In general, when a person ~~whose needs are~~ included in a TANF assistance unit is temporarily absent from the home ~~for the purpose of receiving training or education for employment, or certain medical services~~, he or she ~~is considered part of the family and the budgetary requirements are not changed~~continues to be included for at least three months unless ~~needs change by reason of~~ circumstances unrelated to the temporary absence occurs or a longer period of absence is permitted as indicated in this subsection. Persons temporarily absent from the home ~~but~~and included in the assistance unit are a:

(1) person receiving training or education for employment during the time the training or educational activities take place;

(2) child(ren), during the school term, attending:

(A) boarding school ~~during the school term~~;

(B) the School for the Blind or the School for the Deaf;

(C) school, other than boarding school, when:

(i) the parent or needy caretaker maintains normal ties with the child;

(ii) the child(ren) continues under the control and guidance of the payee during the absence; and

(iii) the payee is responsible for meeting the child(ren)'s expenses;

(3) child(ren) absent from the home ~~on visitation~~ to visit the absent parent ~~up to~~for a maximum of three months. This consideration applies only to visitation and does not apply if the absent parent has physical and legal custody of the child(ren) during these three months;

(4) ~~child(ren) absent in order to attend school, other than boarding school. Factors considered in making this determination include the maintenance of normal ties between home and the child(ren) during the period of absence; whether the child(ren) continues under the control and guidance of the payee during the absence; and assumption of responsibility by the relative payee for meeting the child(ren)'s expenses during the school term. A child(ren) who attends the School for the Blind or the School for the Deaf is considered temporarily absent from the home in determining TANF eligibility;~~

~~(5)~~ person absent from the home because of entrance into a private facility for treatment, rehabilitation, behavioral problems, or special training for up to four months. ~~If~~When an assessment indicates ~~care~~the person is ~~projected for a period exceeding~~expected to be absent more than four months, ~~the absence is not considered temporary. At any time an absence is determined as not temporary or no longer temporary,~~ the ~~needs of the person cannot be~~person's needs are not included in the assistance unit;

(~~6~~5) person absent from the home for medical services, other than institutionalization for treatment of mental illness, mental retardation, or tuberculosis, for up to six months. Six-month extensions may be allowed when verification indicates the person may return to the home within the next six months;

(~~7~~6) person absent from the home to receive substance abuse treatment for up to four months when not subject to requirements per OAC 340:10-4-1. A four-month extension may be allowed when verification indicates the person will return to the home within the next four months; or

(~~8~~7) person absent from the home to receive nursing care approved by the Oklahoma Health Care Authority, Level of Care Evaluation Unit. ~~If~~When it appears the person is disabled, an application for State Supplemental Payment is taken, and a referral made to the SSA district office for an SSI application.

~~(c) A change in benefit is not made during a temporary absence from Oklahoma for three months or less, unless a change is necessary by reason of some change in circumstances not relating to such absence from Oklahoma.~~

340:10-3-57. Special considerations

(a) **Concurrent receipt of State Supplemental Payment (SSP) for the aged, blind, or disabled.** A person ~~who is not a recipient of Supplemental Security Income (SSI) has an option to~~must not concurrently be included in a Temporary Assistance for Needy Families (TANF) assistance unit ~~or may be a recipient of~~and SSP ~~if all eligibility requirements are met~~for the same month. The person may ~~also~~ be included in the TANF assistance unit while an application is pending

~~determination of eligibility~~ for SSP or Supplemental Security Income (SSI)~~if~~when all eligibility requirements are met.

(b) **Concurrent receipt of TANF and SSI.** A person ~~is~~must not concurrently be included in a TANF benefit ~~for the same month he or she is included in an~~and receive a SSI payment for the same month. When a person included in a TANF application or an active TANF benefit meets the eligibility conditions for TANF and SSI, the person has a choice to have eligibility determined for TANF or SSI benefits. The ~~worker informs the~~ payee ~~of his or her responsibility to report to~~must inform the Oklahoma Department of Human Services ~~(OKDHS)~~(DHS)~~if~~when any member of the assistance unit makes application for, ~~SSI~~ or becomes eligible ~~for~~to receive, SSI. ~~If any assistance unit member applies for TANF, or is receiving TANF when~~When the payee or a member of the assistance unit makes an application for SSI, the payee must inform the Social Security Administration (SSA) of TANF receipt.

(1) When the only dependent child(ren) ~~is receiving~~receives SSI, the natural or adoptive parent(s) or needy caretaker relative may receive an adult only TANF ~~if~~ benefit when all other eligibility factors are met. ~~The assistance unit consists of the adult(s only).~~

(2) When a TANF applicant is also a SSI applicant, he or she may be included in the TANF ~~eligibility must be determined and~~benefit, ~~if~~when eligible, ~~is included in the benefit~~ until notified of SSI eligibility.

(3) When a TANF recipient is a SSI applicant, SSA ~~advises~~notifies~~OKDHS~~DHS of SSI eligibility~~, and requests the month of~~to coordinate closure of the person's TANF ~~termination~~benefit and approval of SSI and requests the amount of TANF benefits paid for each month of SSI eligibility. ~~SSA considers a recipient removed from a TANF benefit effective with, and based on, the TANF termination date provided orally by the worker.~~ If the actual closure date ~~of termination~~ is later than the date given orally to SSA, TANF payments to SSI recipients are TANF overpayments and must be recouped per Oklahoma Administrative Code (OAC) 340:65-9.

(4) When a TANF recipient is determined ineligible for SSI, the person may continue to be included in the TANF assistance unit ~~if~~when all other conditions of eligibility are met.

(5) When a TANF recipient is determined ineligible for SSI for reasons other than a disability determination, the person may be included in ~~an~~a SSP, instead of TANF, if ~~all other eligibility conditions are met~~determined disabled by the Oklahoma Health Care Authority (OHCA) Level of Care Evaluation Unit (LOCEU) per OAC 317:35-5-4(1)(D).

(c) **Concurrent receipt of state and tribal TANF.** A person must not concurrently be included in a tribal TANF payment ~~is not included in another~~and a state approved TANF benefit in the same month. ~~If~~When the person meets the criteria of a tribal TANF service area and population, the entire assistance unit must be served by tribal TANF. ~~If~~When the household moves out of the tribe's service area, the worker coordinates certification of state TANF benefits.

(d) **Concurrent receipt of TANF in more than one ~~form of public assistance~~state.** A person must not be included in a TANF benefit ~~is not included in another TANF or SSP benefit~~in Oklahoma and another state for the same ~~period~~month. ~~When a TANF applicant is eligible for TANF but has received a weekly or bi-monthly TANF benefit from another state for the same month the applicant is eligible in Oklahoma, the benefit from the other state is counted as unearned income. A person who is the payee for a TANF benefit, but not included in that benefit, is not prevented from being a SSP recipient if the SSP eligibility requirements are met. When transferring a TANF recipient to SSP, the removal and approval date must agree.~~

(e) **Stepparent, spouse of needy caretaker, person acting in the role of a spouse, parent who is ineligible as a result of a positive screen for the illegal use of a controlled substance or substances, or parent(s) of a minor parent.** The natural or adoptive parent's income cannot be diverted to meet the needs of the stepparent or other dependents in the home, but is considered available to the TANF assistance unit. No income is considered if the stepparent, spouse of a needy caretaker, person acting in the role of a spouse, parent(s) of a minor parent, or his or her dependent is ~~an~~a SSI recipient.

(1) **Stepparent or spouse of needy caretaker income.** If a stepparent of the child(ren) or the spouse of a needy caretaker for whom TANF is requested lives in the home with the child(ren), the worker computes the verified gross earned and unearned income of the stepparent or spouse of a needy caretaker, after all applicable TANF income disregards and work related expenses, to determine the amount considered available to the assistance unit. The worker computes the stepparent's or spouse of a needy caretaker's income by:

(A) subtracting the work related expense, one-half of the remaining gross earned income, and dependent care expense from the stepparent's or spouse of a needy caretaker's earned income for full-time or part-time employment~~; [~~per OAC 340:10-3-33~~]~~;

(B) adding the net earned income to the stepparent's or spouse of a needy caretaker's gross unearned income;

(C) subtracting the need standard for the appropriate number of persons, including the stepparent or spouse of a needy caretaker and dependents who are not included in the assistance unit, but are living in the home and can be claimed on the stepparent's or spouse of a needy caretaker's personal income taxes;

(D) subtracting the actual amounts the stepparent or spouse of a needy caretaker paid to persons not living in the household, but claimed as tax dependents. It is the stepparent's or spouse of a needy caretaker's responsibility to identify and verify tax dependents;

(E) subtracting the actual payments of alimony and child support to persons outside the household; and

(F) adding the stepparent's or spouse of a needy caretaker's remaining net income to all other gross income of persons included in the TANF assistance

unit. If the income does not exceed the monthly maximum gross income, the remaining income of the stepparent or spouse of a needy caretaker is considered as a contribution to the assistance unit.

(2) **Stepparent or spouse of a needy caretaker resources.** The worker does not consider resources owned exclusively by the stepparent or spouse of a needy caretaker to determine the assistance unit's resource eligibility, but does consider the assistance unit's share of resources owned jointly with the stepparent or spouse of a needy caretaker.

(3) **Person acting in the role of a spouse.** The worker must count the income of a person acting in the role of a spouse who lives in the home with the natural or adoptive parent when he or she does not receive a TANF benefit on another case.

(A) For the purpose of this rule, "living in the home with" means ~~that~~ a person of the opposite sex is acting in the role of a spouse.

(i) The opposite sex individual is acting in the role of a spouse when one or both of these factors exist:

(I) they represent themselves to be a couple; or

(II) have a physical relationship with each other.

(ii) When the client states the conditions in (A)(i) of this paragraph do not exist, factors that may indicate the opposite sex individual is acting in the role of a spouse include when he or she:

(I) assists in parenting the ~~child~~child(ren), such as exercising responsibility for the child(ren), providing day-to-day care, physical care, and guidance for the child(ren);

(II) provides financial support for the family beyond his or her own pro rata share of the household expenses;

(III) shares joint bank accounts or real property ownership with the client; or

(IV) files a joint tax return with the client.

(B) The worker computes the income of this person the same as stepparent income. The person acting in the role of spouse is not eligible to receive the exemption of one-half of the remainder or a dependent care expense deduction in determining this person's countable earned income.

(C) If the parent or the person acting in the role of a spouse fails to provide information necessary to determine income eligibility, the application is denied or the cash assistance terminated. ~~Provided however, the~~The income of non-relative adults of the opposite sex ~~not receiving TANF~~ may be excluded ~~if~~when the adults have separate living quarters and demonstrate no characteristics of a person acting in the role of spouse.

(4) **Parent who is ineligible as a result of a positive screen for the illegal use of a controlled substance or substances.** The income, earned and unearned, of a parent who is ineligible as a result of a positive screen for the illegal use of a controlled substance or substances per OAC 340:10-4-1 is considered in its entirety.

(5) **Parent(s) of a minor parent.** When a minor parent is living in the home with his or her natural or adoptive parent(s) and the needs of the parent(s) are not included in the assistance unit, the parent's income is considered available to the assistance unit and computed the same as stepparent income. The income of a minor parent's stepparent is not considered. The parent of the minor parent may be designated as the substitute payee for the assistance unit.

(f) **Allocating or diverting income.** When family members are not included in the assistance unit, special consideration is required in determining the income available to the assistance unit.

(1) Income received by a person included in the assistance unit is not allocated or diverted to persons who are not in the assistance unit. All countable unearned and earned income of the person is considered available to the assistance unit.

(2) The net income of an alien parent excluded from the benefit because the citizenship or alienage requirement is not met is considered the same as stepparent income. The needs and income of disqualified alien siblings are not considered when determining eligibility of an otherwise eligible child(ren).

(3) The net income of a fugitive felon excluded from the benefit is considered the same as stepparent income.

(g) **Benefit reduction as a result of program violation.** The TANF benefit is reduced by 25~~%~~percent of the payment standard when a determination of program violation is made. The 25~~%~~percent penalty is removed the next effective date when compliance is documented or the penalty time period ends. When multiple types of program violations ~~have occurred~~occur, a 25~~%~~percent~~for~~ penalty of the payment standard is imposed for each type of violation. If the benefit reduction causes existing income to be in excess of the benefit amount, the case is closed using the reason for the benefit reduction. The amount of the payment standard reduction applies as Food Stamp Penalty Income (FSPI) in the Supplemental Nutrition Assistance Program (SNAP) per OAC 340:50-7-29(c)(1)(A). Reasons for benefit reduction are:

(1) refusal to cooperate in an effort to obtain child support per OAC 340:10-10-5(c);

(2) failure to apply for or provide a Social Security number per OAC 340:10-12-1;

(3) failure of a child(ren) kindergarten to 18 years of age to attend school per OAC 340:10-13-1;

(4) failure to provide verification of child(ren) immunizations per OAC 340:10-14-1; and

(5) intentional program violations determined as fraud by court action or an administrative disqualification hearing or administrative hearing waiver per OAC 340:65-9-2(d) and ~~OAC~~ 340:65-9-4~~(c)(1)(A-C)~~.

(h) **Benefit reduction penalty resulting from use of the TANF benefit in a prohibited business.** Per Section 608(a)(12) of Title 42 of the United States Code (42 U.S.C. § 608(a)(12)) and Section 241.4 of Title 56 of Oklahoma

Statutes (56 O.S. § 241.4), TANF recipients must not use a debit or electronic benefit transfer (EBT) card containing TANF cash assistance in prohibited businesses. Refer to OAC 340:10-1-3(13) for a list of prohibited businesses and the definition of an EBT transaction.

(1) When it is determined the parent or caretaker violated provisions per OAC 340:10-1-3(13), the TANF cash assistance payment standard is reduced:

(A) 25 percent for three months for the first violation;

(B) 35 percent for six months for the second violation;

(C) 50 percent for 12 months for the third violation; and

(D) permanently by deeming the parent or needy caretaker ineligible for TANF benefits for subsequent violations.

(2) When the parent or needy caretaker is permanently deemed ineligible to receive TANF cash assistance for this reason and all other factors of eligibility are met, he or she may receive child only benefits. The ineligible parent's earned and unearned income is considered in its entirety.

(3) The amount of the penalty reduction applies as FSPI for SNAP per OAC 340:50-7-29(c)(1)(A).

(~~h~~i) **Parent living in the home receiving SSP.** When there is a parent living in the home, but not included in the TANF benefit because of receipt of SSP and not SSI, no consideration is given to ~~that parent's~~his or her individual income for the TANF benefit. When a parent in the SSP benefit becomes ineligible to continue to receive the SSP, the parent is included in the TANF benefit and all the income and resources of the parent are considered in determining eligibility for TANF. If consideration of the parent's income and resources causes the TANF benefit to ~~be closed~~close, and the closure of the SSP benefit was a direct result of an overall Social Security increase, the SSP benefit is placed in Special Medical Status. If the parent is living in the home, but not included in the TANF benefit because of receipt of SSP and SSI, no consideration is given to the parent's income and the parent is not included in the TANF assistance unit as long as the parent remains eligible for SSI.

(~~i~~j) **TANF eligibility when the child(ren) is placed in out-of-home care.** When Child Welfare (CW) staff removes the child(ren) ~~is removed by a child protection action~~from the home and ~~it is~~ reasonably ~~anticipated~~anticipates the child(ren) will return ~~to the~~ home within four months, the natural or adoptive parent or needy caretaker relative ~~continues~~ may continue to be eligible ~~for~~to receive an adult only TANF benefit~~, if~~ per OAC 340:10-3-56(a)(2)(B)(ii). The adult remains eligible when all other conditions of eligibility are met unless the child(ren) is placed with a relative requesting needy caretaker benefits. The child(ren) must be removed from the TANF benefit effective the next advance notice deadline date per Appendix B-2, Deadlines for Case Actions.

(1) A team consisting of the worker, ~~Child Welfare (~~CW~~) worker~~specialist, natural or adoptive parent or needy caretaker relative, and any other appropriate ~~partner(s)~~ partner must meet to develop a mutually agreed upon plan of action. ~~This~~The plan ~~addresses~~must include the parent or needy caretaker's employability plan and strategies to correct the conditions that caused the child(ren) to be removed from the home.

(2) At the end of the four month period if the child(ren) has not been returned to the home, the ~~adult(s)' needs are removed and the~~adult only TANF ~~benefits are discontinued~~benefit is closed.

(~~j~~k) **Strikers.** The assistance unit is not eligible for TANF for any month the natural or adoptive parent, whether included in the benefit, is participating in a strike on the last day of that month. A person other than the natural or adoptive parent is not included in the benefit for any month if that person is participating in a strike on the last day of the month.

340:10-3-59. Assistance benefits

(a) **Availability of funds.** ~~If funds in any category of assistance are not sufficient to meet the full need of all persons in that category within the Oklahoma Department of Human Services (OKDHS) policy, the Commission for Human Services (Commission) specifies the percentage of total requirements for which funds are available. The formula for computing the assistance payment is the need standard multiplied by the percent specified by the Commission equals the payment standard. The payment standard minus the total available net income equals the amount of the assistance payment.~~The Oklahoma Temporary Assistance for Needy Families (TANF) Cash Assistance Program is funded by a federal TANF block grant. In the event of insufficient block grant funds, the program may be terminated or benefits not paid during the insufficiency period.

(b) **Maximum benefits.** The maximum benefit a ~~Temporary Assistance for Needy Families (~~TANF~~)~~ assistance unit is eligible to receive cannot exceed a nine-person payment standard. A TANF eligible child(ren) who is not a blood-related sibling to the other TANF eligible child(ren) must ~~have his or her own~~receive benefits in a separate case per Oklahoma Administrative Code (OAC) 340:10-3-56(a).

(c) **Minimum payments.** The minimum TANF benefit paid to a recipient is $10 except for recoupment of an overpayment per OAC 340:65-9-6. ~~No TANF benefit is issued when the family is eligible for a monthly benefit of less than $10. However, the~~The TANF case ~~is eligible as an active case~~remains open and, when applicable per OAC 340:10-2, the parent or needy caretaker is subject to TANF Work participation rules. The assistance unit remains eligible for SoonerCare (Medicaid) and ~~the family can~~may continue to receive food benefits in this case, ~~if~~when eligible.

(d) **Payment to minors.** Minors may be considered as the adult payee for TANF on behalf of others ~~if~~when the ~~person~~minor is assuming the responsibilities of an adult and meets all conditions of eligibility for TANF. Refer to OAC 340:10-3-56(3)(O) for rules regarding when a minor parent may not be considered part of the assistance unit. (e) **Overpayments.**~~The overpayment may be the whole or any part of the benefit or vendor payment made when~~When the recipient received assistance but did not meet all conditions of eligibility, refer to OAC 340:65-9 for overpayment procedures.

(f) **~~Non-conditioning~~Flat grant system and use of benefits.** The flat grant system of budgeting was developed to determine the extent of need based on the number of eligible persons ~~and is not interpreted to restrict in any way the use the recipient makes of the TANF benefit~~.

(1) ~~This also~~A flat grant precludes any agreement on the part of ~~OKDHS~~Oklahoma Department of Human Services (DHS) to pay or guarantee payment for goods or services provided to recipients by vendors in lieu of a money payment.

(2) Per OAC 340:65-3-6, DHS issues TANF cash assistance by debit card or direct deposit.

(3) Except per OAC 340:10-1-3(13), DHS does not restrict where the recipient uses the TANF benefit.

SUBCHAPTER 10. CONDITIONS OF ELIGIBILITY - DEPRIVATION

340:10-10-4. Continued absence of the natural or adoptive parent(s) from the home

(a) **Determining absence.** Continued absence of the natural or adoptive parent(s) from the home constitutes a reason for deprivation of parental care.

(1) ~~It is essential to determine if a~~The applicant or recipient must be the primary caretaker ~~exists or if the parents are equally sharing parental responsibilities~~of the child(ren) in order to be eligible due to the absence of the other parent.

~~(A) Only the parent determined as the primarycaretaker is eligible to receive Temporary Assistance for Needy Families (TANF) for this child(ren).~~

(~~B~~2) ~~If~~ When both parents ~~are exercising~~exercise responsibility for the child(ren), ~~providing~~provide day-to-day care, ~~and~~ share maintenance, physical care, and guidance for the child(ren), deprivation does not exist ~~for this child(ren)~~. ~~If~~When ~~any~~ one of ~~the~~these conditions ~~included in the previous sentence~~ is not met, the child(ren) is deprived of parental care.

(~~2~~3) The ~~nature of the~~ absence of the parent must ~~have either interrupted or terminated~~interrupt or stop the parent's functioning as a provider of maintenance, physical care, or guidance for the child(ren).~~and the known or indefinite duration of the absence precludes counting on the parent(s) for the present support or care of the child(ren). If these conditions exist, thelength~~The amount of time ~~of~~ the ~~absence~~parent has been absent is not considered when determining deprivation based on absence.

(~~3~~4) A ~~parent(s) whose~~child is not considered deprived due to absence ~~is~~when the parent is out of the home due solely to employment, looking for employment, education, or active duty in the United States uniformed services ~~of the United States, is not considered absent from the home~~.

(~~4~~5) A parent(s) who is a convicted offender but is permitted to live at home while serving a court-imposed sentence by performing unpaid public work or unpaid community service during the workday is considered absent from the home.

(b) **Identifying information.** ~~An~~A TANF applicant ~~for TANF~~or recipient must provide the name of the person(s) alleged as responsible for the support of a child(ren), including the legal and natural father when they are not the same, and provide identifying information, such as name, address, and the employer of the person(s), ~~if~~when known. The ~~parent or caretaker relative~~applicant or recipient completes and signs Form 08TA001E, Absent Parent (AP) Information Sheet ~~and Form 03EN002E, Affidavit of Child Support Payments Received~~.

(1) Absence is verified through an evaluation of the information recorded.

(2) ~~If the~~When contact information is available, the worker interviews or attempt to interview the absent parent ~~can be located at the time deprivation is being established or at subsequent reviews, the absent parent must be interviewed~~ to determine whether deprivation exists and ~~whether~~ child support is being paid at application and subsequent renewals.

(c) **Establishing need.** To establish the need for TANF, ~~it is necessary to~~the worker must determine ~~if any~~whether child support is currently ~~being~~ paid and, ~~if so~~when paid, the amount, how often it is paid, and the method of payment.

(1) Parents have a legal obligation to provide financial support for their child(ren), whether or not they were married to each other.

(2) An unmarried mother is legally the sole parent until paternity is established.

(3) The termination of parental rights does not stop the obligation of either parent to provide financial support for his or her minor child(ren), unless the child(ren) has been subsequently adopted.

(4) An adoptive parent's legal obligation continues even ~~if~~when a child(ren) is returned to the care of the natural parent.

(d) **Acknowledgment of paternity.** ~~At any time the alleged father is located, the acknowledgment of paternity is discussed with the alleged father. The alleged father's and the mother's signature are secured on Form 03PA209E, Acknowledgement of Paternity.~~When the worker is able to contact the alleged father, the worker asks whether he is willing to acknowledge paternity. When the alleged father agrees to acknowledge paternity, the worker gives or sends him Form 03PA209E, Acknowledgement of Paternity, to review. The worker advises him to contact Child Support Services at the telephone number on the back of the form if he is willing to sign the form.

(1) ~~If~~When the alleged father lives in the home and acknowledges paternity orally, deprivation does not exist.

(2) ~~If~~When the alleged father in the home denies paternity, but the mother continues to maintain ~~that~~ he is the father, deprivation does not exist pending legal establishment of paternity.

340:10-10-7. Oklahoma Department of Human Services ~~(OKDHS)~~(DHS) responsibilities in relation to support payments

(a) **Referral to ~~Oklahoma~~ Child Support Services ~~(OCSS)~~(CSS).** Federal regulations require ~~referral~~Adult and Family Services (AFS) staff to send referrals based on absence to ~~OCSS no later than~~CSS within two ~~working~~business days ~~after the~~of Temporary Assistance for Needy Families (TANF) benefit ~~is issued based on deprivation due to absence~~issuance. The ~~appropriate completed OCSS forms supplement the~~AFS referral is computer-generated ~~referral and are submitted, with the exception of good cause, to OCSS~~upon TANF approval. ~~Information which may have an effect on support enforcement may become known after the OCSS district office referral has been made~~At any time AFS staff receives additional information regarding the absent parent, AFS staff sends the additional information to CSS ~~as quickly as possible~~.

(b) **Receipt of child ~~support~~ or spousal support.** For purposes of this Subchapter, child or spousal support is defined as voluntary monetary contributions or court-ordered obligations. When a child support order ~~also~~ contains an order for spousal support, which may be referred to as alimony or support alimony in Oklahoma, the obligation for spousal support ~~must~~is also ~~be~~ assigned to ~~the Oklahoma Department of Human Services (OK~~DHS~~)~~. At the application or renewal interview, the applicant or recipient is informed of the responsibility to forward to the Oklahoma Centralized Support Registry (OCSR) any child or spousal supportpayments received from the absent parent(s) after TANF certification.

(1) **Payments received during application period.** All child and spousal support payments reported by an applicant ~~during the time~~ prior to certification are considered ~~as~~ income. ~~For purposes of rules in this Chapter, certification is considered the date of the supervisor's signature authorizing payment.~~ Support anticipated to be received after certification is not considered as the client ~~has~~ agreed by signing the application to submit any future payments to OCSR.

(2) **Payments received after certification.** ~~Any~~AFS staff forwards any support payments brought to the ~~human services center (HSC)~~county office by the client after certification ~~must be forwarded~~ to OCSR. Payments are not sent in the form of cash. ~~When OCSS receives~~CSS may send child support in excess of the monthly court ordered amount~~, the excess payment may be sent~~ to the client. ~~The~~ When the client receives ~~this~~ excess ~~amount~~child support from CSS, it is considered as unearned income.

(3) **Retained support payments.** ~~If the~~The worker informs CSS when he or she becomes aware ~~that~~ the client ~~has~~ retained assigned support payments~~, the OCSS district office is contacted with this information~~.

(A) ~~The client is considered as not cooperating if:~~

~~(i) assigned support paid directly to the client is retained;~~

~~(ii) he or she refuses to repay a retained support overpayment in full or sign a repayment plan;~~

~~(iii) he or she fails to make payments according to the repayment agreement; or~~

~~(iv) he or she retains assigned direct support payment even if any overpayment has been repaid in full or a repayment plan is being followed.~~

~~(B) The OCSS~~When the CSS district office determines ~~whether non-cooperation has occurred and notifies the worker. When non-cooperation is determined~~the client is not cooperating, the TANF cash assistance payment is reduced by 25~~%~~percent of the TANF payment standard~~.and the~~ The worker considers the retained support ~~is considered~~ as income ~~the next effective date~~unless the client forwards the child support to OCSR.

(~~C~~B) When ~~notified by OCSS that~~CSS determines the client has resumed cooperation, ~~the worker removes~~ the 25~~%~~percent penalty is removed and the worker no longer considers the support as income. The cash assistance is increased the next effective date.

(4) **Child support and other income exceeds cash assistance.** When CSS receives a support payment ~~is received~~ that is greater than, or equal to, that month's TANF cash assistance, the worker receives notification the month following receipt.

(A) The worker evaluates the support payment history to determine whether the support is intended for members of the assistance unit and if it is current support that is expected to continue.

(B) The worker closes the TANF cash assistance ~~must be closed~~ the next effective date and continues medical benefits per OAC 340:10-3-75 when, after review, the current support is intended for members of the cash assistance unit and expected to continue.

(C) ~~If~~When the TANF cash assistance is not closed timely, CSS retains any child support payment received during that month or subsequent months ~~is retained by OCSS~~ for reimbursement of TANF payments made for those months or any preceding months. ~~When child support, spousal support, or both, causes ineligibility, the family is entitled to continued medical benefits in accordance with OAC 340:10-3-75. Following reimbursement of all TANF cash assistance, any excess payment remaining is forwarded to the client.~~

(5) **Federal and/or state tax intercept payments.** ~~Federal~~CSS uses federal and/or state tax intercept ~~is used for the collection of~~to collect current and past due child support payments, including interest owed.

(A) ~~Tax~~Joint tax intercept payments collected ~~by OCSS~~ prior to the client's current receipt of TANF ~~and~~may be held for six months~~.may be distributed~~ When CSS distributes all or part of the tax intercept payment to the client, ~~and is considered~~the worker considers the payment as a resource the month following the month of receipt.

(B) Tax intercept payments collected for interest owed on past due child support may be forwarded to the client when the principle amount of past due child support ~~has been~~is paid ~~off~~in full.

(c) **Child support services after TANF closure.** At the time the TANF benefit ~~is closed~~closes, the closure notice informs the client ~~is advised that he or she can receive non-TANF Child Support Services with no further application, no fee required, nor charge for collection deducted. This service occurs automatically~~child support services will continue unless the client ~~specifically requests~~notifies CSS in writing that ~~OCSS not provide~~he or she no longer wants the service or the client becomes ineligible for ~~non-TANF Child Support Services for some other reason~~the service.

[OAR Docket #15-628; filed 6-19-15]

TITLE 340. DEPARTMENT OF HUMAN SERVICES
CHAPTER 15. STATE SUPPLEMENTAL PAYMENT AND THE SUPPLEMENTAL SECURITY INCOME-DISABLED CHILDREN'S PROGRAM

[OAR Docket #15-629]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 1. State Supplemental Payment [NEW]
Subchapter 3. Supplemental Security Income-Disabled Children's Program [NEW]
340:15-3-1. Eligibility and available services [NEW]
(Reference WF 14-14)
AUTHORITY:
Director of Human Services; Section 162 of Title 56 of the Oklahoma Statues; and Section 701 and 1382d of Title 42 of the United States Code.
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
January 23, 2015
COMMENT PERIOD:
February 17, 2015 through March 19, 2015
PUBLIC HEARING:
None requested
ADOPTION:
March 24, 2015
SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:
March 25, 2015
APPROVED BY GOVERNOR'S DECLARATION:
Approved by Governor's declaration on June 8, 2015
FINAL ADOPTION:
June 8, 2015
EFFECTIVE:
September 15, 2015
SUPERSEDED EMERGENCY ACTIONS:
n/a
INCORPORATIONS BY REFERENCE:
n/a
ANALYSIS:
Chapter 15 Subchapter 3 is issued with the reorganized and clarified Supplemental Security Income-Disabled Children's (SSI-DCP) Program rule revoked from Chapter 70, Subchapter 8.
CONTACT PERSON:
Dena Thayer, Programs Administrator, Policy Management Unit, OKDHS, P.O. Box 25352, Oklahoma City, OK 73125, 405-521-4326.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 15, 2015:

SUBCHAPTER 1. STATE SUPPLEMENTAL PAYMENT

SUBCHAPTER 3. SUPPLEMENTAL SECURITY INCOME-DISABLED CHILDREN'S PROGRAM

340:15-3-1. Eligibility and available services

(a) **Supplemental Security Income-Disabled Children's Program (SSI-DCP).** SSI-DCP is established per Section 1615 of the Social Security Act and administered by the Oklahoma Department of Human Services (DHS) Adult and Family Services (AFS). The Social Security Administration (SSA) refers children younger than 18 years of age approved for Supplemental Security Income (SSI) to DHS for SSI-DCP services and to apply for the State Supplemental Payment (SSP).

(1) Due to limited funding, requested SSI-DCP services are pre-approved by AFS Health Related and Medical Services (HR&MS) staff.

(2) AFS HR&MS staff considers many factors in deciding which services or equipment to approve including, but not limited to:

(A) the child's needs;

(B) the availability of other resources;

(C) whether the child is in a stable or temporary living situation;

(D) the cost of the service or equipment; and

(E) the availability of funding.

(b) **Eligibility.** Any child from birth to 18 years of age is eligible for SSI-DCP services when the child receives a SSI payment. SSA establishes financial and medical eligibility for the SSI disability payment. When the child becomes 18 years of age, he or she is no longer eligible for SSI-DCP services. A child receiving SSI is not automatically eligible for SSP.

(c) **Service plan.** The AFS worker completes a service plan prior to providing SSI-DCP services to the child unless the child has a current service plan with another program within DHS or another agency.

(1) The AFS worker makes a scheduled home visit per Oklahoma Administrative Code (OAC) 340:65-3-4(1) to complete Form 08MA017E, SSI-DCP Service Plan, with the child's parent, guardian, or caretaker. The service plan is reviewed yearly. When the child receives SSP, the worker completes Form 08MA017E in conjunction with the eligibility review

(2) When the child receives services from another agency that requires a current social service plan, such as early intervention services through SoonerStart or special education services through the local public school, the SSI-DCP service plan is not necessary.

(3) Within DHS, the child may receive services from Child Welfare Services (CWS), Developmental Disabilities Services (DDS), or Aging Services for State Plan Personal Care. When applicable, the worker collaborates with CWS or DDS to:

(A) address the child's current and future social service needs; and

(B) avoid duplication in providing services

(d) **Services.** SSI-DCP provides funding for the services described in (1) through (3) of this subsection. The parent, guardian, or caretaker requests services through the AFS worker in the county office and provides a prescription or written recommendation from an education or healthcare professional. The prescription or written recommendation is provided yearly at the time of the annual renewal.

(1) **Diapers.** To be eligible to receive diapers, the child is at least 4 years of age. Once the child turns 18 years of age, he or she is not eligible for diapers. Prior to approval, a health care professional documents in writing that the child cannot be toilet trained. When approved by AFS HR&MS staff, authorized county staff orders available diapers through the DHS Supply Warehouse. Only diapers available through the DHS Supply Warehouse are approved.

(2) **Formula.** A health care professional provides a prescription naming the brand of formula needed by the child. When approved by AFS HR&MS, authorized county staff orders available formula through the DHS Supply Warehouse. Only formula available through the DHS Supply Warehouse is approved.

(3) **Interaction and integration services.** Non-medical services aimed at strengthening the child physically or mentally; providing opportunities for social interaction; or assisting with mobility may be approved when recommended by an education or health care professional and the recommendation clearly defines the goals and objectives for the child. Examples of such services include, but are not limited to, swimming or horseback riding lessons, sports activities, or a health club membership. Due to budget constraints, services are approved on a temporary basis.

(e) **Equipment.** Equipment approved through SSI-DCP is used to aid the child in accessibility or mobility. Equipment available through SSI-DCP is pre-approved by AFS HR&MS Section staff. Available equipment that may be approved is described in (1) and (2) of this subsection. The parent, guardian, or caretaker provides a written recommendation from an education or health care professional with knowledge concerning the child's equipment needs. HR&MS Section staff does not approve requests for equipment the child can obtain through other sources, such as SoonerCare (Medicaid) or through the child's school.

(1) **Developmental aid.** A developmental aid is any device or equipment adapted to meet the needs of a child with disabilities. An education or healthcare professional provides a written explanation concerning the goals and objectives this developmental aid meets before it is approved. Educational or classroom devices, equipment, or supplies not adapted for the child's needs are not in the scope of the program.

(2) **Van lifts.** Van lifts are devices used for vehicular transportation of wheelchairs. Van lifts may be approved when needed to transport a child in a wheelchair. A van lift is not approved for a child in DHS or tribal custody or in the Developmental Disabilities Home and Community-Based Waiver Program. Modifications to the van are not approved.

(A) The parent, guardian, or caretaker must own the van as verified by title registration and license verification and the van must be in operating condition.

(B) The family provides estimates from two van lift dealers who employ certified van lift installation technicians.

(C) When the request is approved, HR&MS staff contacts the family and approved vendor to arrange installation of the van lift.

(D) Only a certified van lift specialist is approved to install the lift and the lift must have factory and dealership warranty equal to private purchase warranty.

(E) HR&MS staff does not approve replacement of a van lift within 10 years of the purchase date.

(F) SSI-DCP staff does not pay for repairs of vans or van lifts not purchased with SSI-DCP funds.

(f) **Exclusions.** Items or supplies not in the scope of SSI-DCP are not approved. Examples of excluded items or supplies include, but are not limited to:

(1) learning programs;

(2) psychological programs;

(3) books;

(4) video or audio tapes;

(5) paper, pencils, or art supplies;

(6) computers, tablet computers, or computer software;

(7) televisions; and

(8) video games.

(g) **Purchasing procedures.** SSI-DCP orders are processed through AFS HR&MS. Purchased equipment is shipped to the local county office.

(h) **SSI-DCP notices.** When a SSI-DCP request is denied, the AFS worker sends a hand-generated denial notice using Form 08MA004E, Notification of Eligibility Status for Medical Assistance, to inform the child's parent, guardian, or caretaker the item is not approved for purchase through SSI-DCP funding. The family may request a fair hearing within 30 calendar days from the date of the notice by completing Form 13MP001E, Request for a Fair Hearing.

(i) **Respite Voucher Program.** The Respite Voucher Program provides financial assistance in the form of vouchers to families to pay for respite. When the family appears eligible for the Respite Voucher Program, the worker advises the family to call a designated number to request a respite voucher application. The SSI-DCP, other DHS programs, and certain public and private agencies provide funding to the Respite Voucher Program.

(1) The caregiver is the person who provides ongoing care for the child. He or she may be a parent, grandparent, other relative, or non-relative.

(2) When respite care is approved it is not:

(A) designed to pay for ongoing care, such as child care, therapy, in-home assistance, housekeeping, or home health services; and

(B) provided by a member of the child's household.

[OAR Docket #15-629; filed 6-19-15]

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

[OAR Docket #15-630]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 1. Scope and Applicability
340:25-1-3.1 [AMENDED]
Subchapter 5. Operational Policies
Part 9. Disclosure of Information
340:25-5-67 [AMENDED]
Part 15. Case Initiation, Case Management, and Case Closure
340:25-5-123 [AMENDED]
Part 17. Past Support
340:25-5-140.2 [NEW]
Part 20. Medical Support
340:25-5-168 [AMENDED]
Part 21. Establishment
340:25-5-176 through 340:25-5-176.1 [AMENDED]
340:25-5-178 [AMENDED]
340:25-5-179.1 [AMENDED]
Part 22. Review and Modification
340:25-5-198.2 [AMENDED]
Part 23. Enforcement
340:25-5-212 [AMENDED]
Part 27. State Tax Refund Offset Program
340:25-5-235 [AMENDED]
Part 37. Recovery
340:25-5-305 [AMENDED]
Part 38. Title IV-D and Non-Title 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 WF 14-10)
AUTHORITY:
Director of Human Services; Section 162 of Title 56 of the Oklahoma Statutes (56 O.S. § 162); Social Security Act (SSA), codified at Chapter 7 of Title 42 of the United States Code (42 U.S.C. §§ 301-1397mm); Child Support Performance and Incentive Act of 1998, Public Law (Pub. L.)105-200; 42 U.S.C. §§ 653-654; 42 U.S.C. §§ 656-657; 42 U.S.C. § 664; 42 U.S.C. § 666; Parts 302 and 303 of Title 45 of the Code of Federal Regulations (45 C.F.R.); 45 C.F.R. § 303.21; 45 C.F.R. § 307.11; 45 C.F.R. § 303.11; 45 C.F.R § 205.2; 56 O.S. § 183; 43 O.S. § 112A; 70 O.S. §§ 3970.1-3970.12; 43 O.S. § 112; 10 O.S. §§ 7700-101- 7700-902; 12 O.S. § 1031.1; 43 O.S. §§ 118-118.I; 43 O.S. § 119; 10 O.S. § 83; 68 O.S. § 205.2; 43 O.S. § 109.5; 56 O.S. § 171; 56 O.S. § 185; and 56 O.S. §§ 231-241, 31 O.S. § 1.
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
January 23, 2015
COMMENT PERIOD:
February 17, 2015 through March 19, 2015
PUBLIC HEARING:
None requested
ADOPTION:
March 24, 2015
SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:
March 25, 2015
APPROVED BY GOVERNOR'S DECLARATION:
Approved by Governor's declaration on June 8, 2015
FINAL ADOPTION:
June 8, 2015
EFFECTIVE:
September 15, 2015
SUPERSEDED EMERGENCY ACTIONS:
Superseded rules:
Subchapter 5. Operational Policies
Part 21. Establishment
340:25-5-179.1 [AMENDED]
(Reference WF 14-11)
Gubernatorial approval:
July 31, 2014
Register publication:
31 Ok Reg 696
Docket number:
14-823
INCORPORATIONS BY REFERENCE:
n/a
ANALYSIS:
The proposed amendments to Chapter 25 Subchapters 1 and 5 amend the rules to: (1) implement policy changes recommended during the annual Child Support Services (CSS) policy review process; and (2) make non-substantive housekeeping changes to improve the clarity of rules.
CONTACT PERSON:
Dena Thayer, Programs Administrator, Policy Management Unit, DHS, PO Box 25352, Oklahoma City, OK 73125, 405-521-4326.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 15, 2015:

SUBCHAPTER 1. SCOPE AND APPLICABILITY

340:25-1-3.1. Designation of an authorized representative

(a) A custodial person, noncustodial parent, or biological parent may designate a person as an authorized representative to:

(1) obtain child support case information and documents from Oklahoma Department of Human Services (DHS) Child Support Services ~~(OCSS)~~(CSS) on his or her behalf; or

(2) ~~both obtain case~~provide information and documents to CSS on his or her behalf ~~and, when permitted by law, to negotiate, compromise, or settle the child support case by signing releases, agreements, and documents~~.

(b) ~~OCSS~~CSS does not honor requests to designate as an authorized representative a person who has a conflict of interest that would result in the release of information he or she is otherwise not entitled to receive.

(c) The information and documents an authorized representative may obtain are limited to those items the person represented may obtain per ~~OAC~~Oklahoma Administrative Code 340:25-5-67.

(d) This Section does not allow an authorized representative to appear before the ~~Oklahoma Department of Human Services~~DHS Office of Administrative Hearings: Child Support or the district court on behalf of the person represented unless

specifically allowed by law. Further, nothing in this Section prevents ~~OCSS~~CSS from requesting the court to enter a default order based on the person's failure to appear, even when the person's authorized representative is present.

(e) The authorized representative does not have to be an attorney.

(f) A person must complete and submit Form 03EN010E, ~~Designation of~~ Authorized Representative Designation, to ~~OCSS~~CSS, before the representative may act or receive information orally or in writing on behalf of the person represented. A person may have only one authorized representative at any time.

(g) Once ~~OCSS~~CSS receives Form 03EN010E, ~~OCSS~~CSS considers the designation in effect until ~~OCSS~~CSS receives:

(1) a new Form 03EN010E designating another person as the authorized representative;

(2) written notice that the designation of an authorized representative is revoked; or

(3) written notice that the designator is deceased.

(h) ~~OCSS~~CSS reserves the right to refuse to honor a designation of authorized representative.

SUBCHAPTER 5. OPERATIONAL POLICIES

PART 9. DISCLOSURE OF INFORMATION

340:25-5-67. Information disclosure

(a) **Confidentiality.** *All applications, information and records concerning any applicant or recipient obtained pursuant to law or as authorized by law by the Department of Human Services or any other public or private entity shall be confidential* per Section 183 of Title 56 of the Oklahoma Statutes (56 O.S. § 183).

(1) All files and records concerning the assistance or services provided under the child support program or concerning an alleged father of a child born out of wedlock are confidential per 56 O.S. § 237, except as otherwise authorized by law.

(2) Any information Oklahoma Department of Human Services (DHS) Child Support Services (CSS) obtains from federal or state agencies is subject to limitations on disclosure imposed by laws governing the information received from those agencies. CSS complies with the limitations imposed by federal laws and regulations per Section 653 of Title 42 of the United States Code (42 U.S.C. § 653), Section 285.3 of Title 31 of the Code of Federal Regulations (31 C.F.R. § 285.3), and Internal Revenue Service Publication 1075.

(3) Nothing in this Section authorizes disclosure of the location or information that may lead to discovery of the location of a case participant with a family violence indicator per Oklahoma Administrative Code (OAC) 340:25-5-67.1.

(4) CSS redacts personal information, including Social Security and ~~driver's~~driver license numbers, from court documents prior to filing them, pursuant to Rule 31 of the Rules for District Courts of Oklahoma.

(b) **Authorized disclosure.** Information, when requested per OAC 340:25-5-68, may be shared with:

(1) persons duly authorized by the United States in connection with the performance of their official duties per 56 O.S. § 183, including, but not limited to:

(A) exchange of information to the extent necessary to carry out the state agency Title IV-D program responsibilities directly and through statewide automated data processing and information retrieval networks within DHS, with authorized representatives of DHS programs and other state agencies, other states and countries, and federal and tribal agencies;

(B) exchange of information directly and through statewide automated data processing and information retrieval networks with DHS representatives and other state agencies administering programs under Titles IV-A through IV-E, XIX, and XXI of Chapter 7 of Title 42 of the U.S.C., and the Supplemental Nutrition Assistance Program (SNAP) to the extent necessary to carry out the responsibilities of those agencies;

(C) release of information received from the Federal Parent Locator Service, through the State Parent Locator Service, to an authorized person per 42 U.S.C. § 663 representing:

(i) agencies administering or enforcing programs under Titles IV-B and IV-E of Subchapter IV of Chapter 7 of Title 42 of the U.S.C. to the extent necessary to carry out state agency Titles IV-B and IV-E responsibilities; and

(ii) the United States or Oklahoma for purposes of enforcing or prosecuting any federal or state law with respect to the unlawful taking or restraint of a child, or any court or agent of such court having jurisdiction to make or enforce a child custody or visitation determination; and

(D) release of Social Security numbers for child support purposes, such as:

(i) locating the parents;

(ii) submitting cases for federal administrative and income tax refund offset;

(iii) state income tax refund offset;

(iv) financial institution data match;

(v) enrolling children as beneficiaries of health insurance coverage; and

(vi) processing interstate child support services;

(2) parties to a child support case, their attorneys, interpreters, and authorized representatives, who may only access:

(A) pay records and payment calculations;

(B) documents, exhibits, worksheets, and supporting documents filed with the court and any administrative documents that are part of the Order, such as guideline worksheets and financial affidavits;

(C) specific case activity in the course of providing child support enforcement services, such as the number and dates of locate attempts, and establishment and enforcement of child support or medical support orders;

(D) information required by Titles 43 or 56 of the Oklahoma Statutes disclosed for the purpose of enforcing, reviewing, establishing, or modifying a support order or judgment;

(E) information necessary to enroll children as beneficiaries of court-ordered health insurance coverage;

(F) information necessary to access court-ordered health care coverage and obtain health care for the children; and

(G) address of record for service of process per 43 O.S. § 112A. The address of record must only be released per OAC 340:25-5-340.1;

(3) employers and plan administrators, who may only access information necessary to enroll children as beneficiaries of court-ordered health insurance coverage; and

(4) persons as directed by court order or by a subpoena approved by ~~an~~a CSS state's attorney.

PART 15. CASE INITIATION, CASE MANAGEMENT, AND CASE CLOSURE

340:25-5-123. Case closure system

(a) Oklahoma Department of Human Services (DHS) Child Support Services ~~(OCSS)~~ (CSS) closes cases eligible for closure per Section 303.11 of Title 45 of the Code of Federal Regulations (45 C.F.R. § 303.11).

(b) A child support case may not be closed when there is a pending paternity, establishment, or modification action filed with the court by ~~OCSS~~CSS and the non-applicant has been served, unless the pending action is withdrawn or dismissed at the discretion of the ~~OCSS~~CSS state's attorney.

(c) A child support case may be closed when any of the criteria in (1) through (4) of this subsection applies.

(1) ~~Less than $500 in court ordered support is owed to the state, unless there has been a~~There is no current support order and arrears are unenforceable. Arrears are determined to be unenforceable when:

(A) ~~collection during the past six months; or~~there has been no collection during the past year; and

(B) ~~federal or state income tax refund intercept in the past 18 months~~the noncustodial parent (NCP) has no known or prospective income or assets.

(2) The custodial person (CP) is participating in the ~~Oklahoma Department of Human Services (OKDHS)~~DHS Child Care Subsidy Program, is not receiving Temporary Assistance for Needy Families (TANF) or non-TANF SoonerCare (Medicaid), requests closure, and (A) and (B) apply.

(A) There is a child support order.

(B) The CP is receiving the full amount of the current monthly child support obligation and has reported to his or her Adult and Family Services worker receipt of this child support income.

(3) The CP is participating in the ~~OKDHS~~DHS Child Care Subsidy Program, is receiving non-TANF SoonerCare (Medicaid) benefits for a child(ren) only, requests closure, and all the criteria in (2) of this subsection apply.

(4) ~~noncustodial parent~~NCP is receiving Supplemental Security Income, has no income or assets to pay arrears, and the child support order is set at or modified to $0 per month due to the parent's disability and lack of income.

(d) A child support case may be closed when the CP receives non-TANF SoonerCare (Medicaid) child-only benefits when:

(1) the case is received from the Oklahoma Health Care Authority as a referral, but ~~OCSS~~CSS learns the CP desires to decline child support services and no service of process is initiated on a legal action filed by ~~OCSS~~CSS to establish or enforce the child support order, including the medical support portion; or

(2) the CP:

(A) cannot be located per 45 C.F.R. § 303.11(b)(10); or

(B) fails to cooperate and an action by the CP is essential for the next step in providing child support services per 45 C.F.R. § 303.11(b)(11).

(e) The case applicant requests that a child support case be closed by submitting ~~OCSS~~ CSS Form 03GN542E, Case Closure Application ~~for Case Closure~~ Child Support Services. When ~~an Application for Case Closure~~a case closure application is received, ~~OCSS~~CSS staff determines whether the case meets federal case closure criteria per 45 C.F.R. § 303.11.

(f) When ~~OCSS~~CSS staff closes a case, ~~OCSS~~CSS:

(1) terminates the Order or Notice to Withhold Income for Child Support with the employer per ~~OAC~~Oklahoma Administrative Code (OAC) 340:25-5-201.1;

(2) ~~removes case balances~~resolves enforcement actions filed and CSS processes that are specific to the case being closed; ~~and~~

(3) ~~documents the date and amounts removed on the automated Oklahoma Support Information System Case Log (CSLOG) screen removes case balances~~reviews the Family Violence Indicator per OAC 340:25-5-67.1;

(4) removes case balances; and

(5) documents the date and amounts removed on the Oklahoma Support Information System Case Log (CSLOG) screen.

(g) Per 45 C.F.R. § 302.33 when Title IV-A Temporary Assistance for Needy Families (TANF), Title IV-E foster care, and non-TANF SoonerCare (Medicaid) services are discontinued, ~~OCSS~~CSS notifies the recipient that ~~OCSS~~CSS maintains a full-service child support case, unless the CP declines services in writing. ~~If~~When the CP declines services in writing, ~~OCSS~~CSS closes the case. ~~If~~When the CP fails to respond, ~~OCSS~~ CSS maintains a full-service child support case.

PART 17. PAST SUPPORT

340:25-5-140.2. Child Support College Savings Incentive Program

(a) **General.** Oklahoma Department of Human Services Child Support Services (CSS) partners with the Oklahoma State Treasurer to offer the Oklahoma Child Support College Savings Incentive Program (program). The program allows CSS to waive all or a portion of arrears assigned to Oklahoma (state) in exchange for contributions to a designated Oklahoma 529 College Savings Plan (529) account by the noncustodial parent (NCP) or by other persons on behalf of the NCP.

(b) **Authority.** CSS is authorized to offer the college savings plan by Oklahoma Statute Title 70 Sections 3970.1 through 3970.12 (70 O.S. §§ 3970.1 - 3970.12), 43 O.S. § 112, and Oklahoma Administrative Code 340:25-5-140 and 340:25-5-140.1.

(c) **Program Details.**

(1) To be eligible for the program, all child support arrears owed on an NCP's case must be assigned to the state.

(2) CSS waives two dollars of child support arrears assigned to the state in exchange for every one dollar contributed to the program account on behalf of an eligible NCP when:

(A) any current support amount has been paid in full; and

(B) at least one dollar has been paid to CSS toward the state arrears in the same month as the deposit in the 529 account.

PART 20. MEDICAL SUPPORT

340:25-5-168. Establishment of medical support

(a) **Scope and applicability.** Oklahoma Department of Human Services (DHS) Child Support Services ~~(OCSS)~~(CSS) refers to federal and state law for establishment of a medical support order per:

(1) Section 666 of Title 42 of the United States Code;

(2) Sections 302.33, 302.56, 303.7, 303.30, and 303.31 of Title 45 of the Code of Federal Regulations; and

(3) Section 6058A of Title 36 of the Oklahoma Statutes (36 O.S. § 6058A),~~Sections 112, 118 through 118I, 118.2, and 119 of Title~~ 43 O.S. §§ 112, 118-118I, 118.2 and 119, and ~~Section 237 of Title~~ 56 O.S. § 237~~of the Oklahoma Statutes~~.

(b) **Medical support provision of child support order.** A child support order established by ~~OCSS~~CSS must contain a medical support provision.

(c) **Calculating the cost of medical support.** To calculate the actual premium cost of health insurance, ~~OCSS~~CSS:

(1) deducts from the total insurance premium, the cost of coverage for the parent;

(2) deducts from the total insurance premium, the cost of coverage for any other adults in the household, when that cost information is available;

(3) divides the remainder by the number of dependent children covered; and

(4) multiplies the amount per child by the number of children in the child support case under consideration.

(d) **Standards for medical support provision.** When choosing a medical support provision, ~~OCSS~~CSS requests the court to apply the standards in paragraphs (1) through (3) of this subsection.

(1) Health insurance must be reasonable in cost, meaning that the actual out-of-pocket premium cost paid does not exceed five percent of the gross income of the parent ordered to provide health insurance.

(2) Health insurance must be accessible, meaning the health care providers must be available to meet the child(ren)'s individual health care needs, and must be located no more than 60 miles one-way from the primary residence of the child(ren).

(3) Health insurance must provide coverage for both routine and major medical expenses~~,~~ including, but not limited to: preventive care, office visits, hospitalization, and medication coverage in compliance with the Oklahoma Insurance Department per Oklahoma Administrative Code (OAC) 365:10-5-3(14) and OAC 365:10-5-5(f). Limited Insurance Coverage per OAC 365:10-5-5(k) does not satisfy this requirement. Annual deductibles must be reasonable and relate to the medical circumstances of the child(ren).

(e) **Exceptions to standards for medical support provision.** When the parents agree or it is otherwise appropriate, ~~OCSS~~CSS requests the court make an exception to the standards for health coverage when the:

(1) reasonable cost of health insurance exceeds five percent of the gross income of the parent ordered to provide health insurance; or

(2) closest insurance provider exceeds 60 miles one-way from the primary residence of the child(ren).

(f) **Hierarchy of medical support provisions.** The provision for medical support must be consistent with one of the priorities listed in paragraphs (1) through (4) of this subsection.

(1) Health insurance is provided through a parent's employer or other available group health insurance plan.

(2) No coverage is available under paragraph (1) of this subsection, and a private insurance policy or group health insurance is available to the child(ren) through another source, such as a third party custodian or spouse of a parent, ~~OCSS~~CSS seeks an order for the:

(A) parent to provide health insurance when insurance is provided through the spouse of a parent; or

(B) third party custodian to provide health insurance when insurance is provided through a third party custodian and the third party custodian has requested an order to provide the coverage.

(3) No health coverage is available under paragraphs (1) or (2) of this subsection, and alternative health coverage including, but not limited to Indian Health Services (IHS) and Defense Eligibility Enrollment Reporting System (DEERS) is available to the child(ren).

(4) If none of the provisions in paragraphs (1) through (3) of this subsection are available at reasonable cost or are not accessible, the custodial person (CP) is required to make application for the child(ren) for health coverage

through a government medical assistance program such as SoonerCare (Medicaid).

(g) **Health coverage preference.** When health coverage meeting standards in subsection (d) of this Section is available to both parents, ~~OCSS~~CSS requests the court give priority to the preference of the ~~custodial person~~CP.

(h) **Exceptions to hierarchy.** ~~OCSS~~CSS requests a cash medical order instead of an order for health coverage by the noncustodial parent (NCP) under paragraphs (1) or (2) of subsection (f) of this Section when the:

(1) court determines an order for health insurance is inappropriate due to family violence concerns; or

(2) obligor is an applicant for a governmental medical assistance program, such as Insure Oklahoma, State Children's Health Insurance Program (S-CHIP), or SoonerCare (Medicaid).

(i) **Cash medical support.**

(1) When paragraph (4) of subsection (f) of this Section is chosen as the provision for medical support, ~~OCSS~~CSS requests the court order cash medical support to be paid by the ~~noncustodial parent(s)~~NCPs, until insurance is provided under paragraphs (1) through (3) of subsection (f) of this Section.

(2) ~~OCSS~~CSS refers to the Cash Medical Income Guidelines Table as found in the child support computation form prescribed by ~~OCSS~~CSS and published by the Administrative Office of the Courts on the Oklahoma State Courts Network site per ~~Section 120 of Title 43 of the Oklahoma Statutes4~~3 O.S. § 120 to determine the cash medical support amount.

(3) ~~OCSS~~CSS computes a cash medical order by applying the Cash Medical Income Guidelines Table, using the ~~combined~~ gross income for the ~~parents~~NCP of the child in the case under consideration and the number of children in the instant case.

(A) When the ~~combined~~NCP's gross income is at or below the income amount for the number of children in the case, ~~OCSS~~CSS requests the court order a cash medical order at $0 per month.

(B) When the ~~combined~~NCP's gross income exceeds the income amount for the number of children in the case, ~~OCSS~~CSS computes the requested cash medical order by:

(i) multiplying the amount of $115, representing the average monthly cost of health care for an uninsured child(ren), by the number of children in the case that are not covered by insurance; and

(ii) prorating the result by the percentage of income for each parent.

(C) The ~~noncustodial parent's~~NCP's share of the cash medical amount is added to the child support obligation.

(D) When neither parent is the obligor or ~~noncustodial parent~~NCP due to equally shared physical custody and the application of the parenting time adjustment, ~~OCSS~~CSS requests the court set cash medical support as follows:

(i) if the child(ren) receives SoonerCare or other governmental medical assistance, the parent who is not the applicant for governmental medical assistance is ordered to pay the cash medical support;

(ii) if the child(ren) does not receive SoonerCare or other governmental medical assistance, the cash medical amount is calculated for each parent and the amounts are offset. The parent owing the larger amount is ordered to pay the net cash medical support.

(4) Unless the parties agree or the court orders a greater amount, the prorated cash medical support amount must not exceed five percent of the gross income of the parent who is ordered to pay cash medical support.

(5) ~~OCSS~~CSS seeks cash medical support only as part of a prospective order for child support. ~~OCSS~~CSS does not include a cash medical support amount in a judgment for support for a prior period per OAC 340:25-5-179.1.

(6) In a child support modification action, ~~OCSS~~CSS requests a cash medical support order be effective the first day of the month following the date the modification order is entered.

(j) **Medical support for ~~OKDHS~~DHS adopted children.** ~~OCSS~~CSS does not request health insurance or cash medical support for children who are adopted through ~~OKDHS~~ DHS Adoption Services. ~~OCSS~~CSS requests a medical support order reflecting that the child(ren) receive SoonerCare through the adoption plan. The parties may agree to cover the child(ren) on health insurance.

(k) **Termination of cash medical support.**

(1) When ~~OCSS~~CSS receives notice ~~that~~ the parent ordered to pay cash medical support ~~has~~ enrolled the child(ren) in health insurance, ~~OCSS~~CSS sends a Notice of Proposed Termination of Cash Medical Support to all parties in the case by regular mail. When a party believes the child(ren) is not covered by health insurance, a party may request a review of the termination of cash medical support within ~~ten~~10 calendar days from the date of mailing of the notice.

(2) When a party requests a review to contest the Notice of Proposed Termination of Cash Medical Support, ~~OCSS~~CSS reviews the case within ~~ten~~10 calendar days of receipt of the request and determines if termination of cash medical support is proper based on information provided by the contesting party. ~~OCSS~~CSS notifies the parties of the review decision.

(3) When the parties disagree with the review decision, the parties have 15 calendar days from the date of mailing the review decision to request a hearing on the termination of cash medical support.

(4) ~~OCSS~~CSS files a Notice of Termination of Cash Medical Support with the proper court when no party requests a:

(A) review within the ~~ten~~10-day time period; or

(B) hearing after ~~OCSS~~CSS notifies them of the review decision.

(5) ~~OCSS~~CSS does not proceed with a separate termination of cash medical support when the child support and medical support order is modified within 30 calendar days of notification that the child(ren) is enrolled in health insurance.

(6) When a cash medical support order is terminated within a modification action, ~~OCSS~~CSS requests the termination become effective the date of filing of the Motion to Modify or the date, if later when the child was actually enrolled in the insurance.

(l) **Reinstatement of cash medical support.**

(1) ~~OCSS~~CSS seeks reinstatement of the cash medical order when:

(A) a child support court order previously ordered the ~~noncustodial parent~~ NCP to pay cash medical support until insurance was available;

(B) insurance became available;

(C) the cash medical support was terminated; and

(D) the insurance subsequently lapsed.

(2) ~~OCSS~~CSS uses one of the following processes to seek reinstatement of the cash medical order:

(A) **Modification.** ~~OCSS~~CSS seeks modification of the child support order and reinstatement of cash medical support ~~pursuant to~~per OAC 340:25-5-198.1 and OAC 340:25-5-198.2 when:

(i) the child support order that provided for cash medical support has been modified to include credit for insurance premium costs; or

(ii) there is another material change of circumstance in addition to the lapse of health coverage.

(B) **Expedited Process.** When subparagraph (A) of this paragraph does not apply, ~~OCSS~~CSS uses an expedited process to reinstate the cash medical support. ~~OCSS~~CSS uses the expedited process when there is an address of record for the obligor.

(3) ~~OCSS~~CSS initiates a reinstatement of cash medical support when it receives notice ~~that~~ the parent whose cash medical support was terminated due to the enrollment of the child(ren) in health insurance has allowed the coverage to lapse. ~~OCSS~~CSS sends a Notice of Proposed Reinstatement of Cash Medical Support to all parties in the case by regular mail. When a party believes the child(ren) is covered by health insurance, a party may request a review of the reinstatement within 10 calendar days of the date the notice was mailed.

(4) A party may file a written objection to the reinstatement of cash medical support and submit it to ~~OCSS~~CSS with supporting health care coverage documentation. ~~OCSS~~CSS reviews the case within 10 calendar days of receipt of the objection and determines if reinstatement of cash medical support is proper based on the information provided by the contesting party. ~~OCSS~~CSS provides the ~~custodial person~~CP and the ~~noncustodial parent~~NCP with written notice of the review decision.

(5) When the parties disagree with the review decision, they have 15 calendar days from the date of the review decision to request a hearing.

(6) ~~OCSS~~CSS files a Notice of Reinstatement of Cash Medical Support with the proper court when no party requests a:

(A) review within the 10 calendar day time period; or

(B) hearing after ~~OCSS~~CSS notifies them of the review decision.

(m) **Fixed medical costs.** When the parties agree or the court orders, ~~OCSS~~CSS includes the total monthly fixed medical costs in the child support guidelines computation. ~~If~~When the obligor's share of fixed medical costs exceeds five percent of the obligor's gross income and the parties do not agree to exceed the five percent standard, ~~OCSS~~CSS requests the court determine the monthly amount of fixed medical costs included in the current child support order.

(n) **Indian Health Services (IHS).**

(1) A child support order that provides for the enrollment of a child(ren) in IHS may comply with the standards in subsection (d) of this Section. ~~OCSS~~CSS seeks an order for either or both parents to secure health insurance for the minor child(ren) when:

(A) IHS does not meet the standards in subsection (d) of this Section; or

(B) health insurance is available through an employer or other group plan and the ~~custodial person~~CP requests it.

(2) ~~OCSS~~CSS does not request cash medical support when IHS is the chosen provider.

(o) **Notification requirements.** The ~~noncustodial parent~~NCP and the ~~custodial person~~ CP must notify ~~OCSS~~CSS in writing within 30 calendar days after:

(1) health insurance becomes available;

(2) the cost of existing health insurance changes; or

(3) other provisions of existing health insurance change.

(p) **Modification request.** When a child support order exists, ~~OCSS~~CSS considers a request to establish a medical support order as a request for modification of the order per ~~Section 118.1 of Title 43 of the Oklahoma Statutes~~ 43 O.S. § 118.1. ~~OCSS~~CSS seeks a medical support order in a tribunal that has jurisdiction to modify the child support order.

PART 21. ESTABLISHMENT

340:25-5-176. Establishment of paternity

(a) In cases where paternity has not been legally established, Oklahoma Department of Human Services Child Support Services ~~OCSS~~(CSS) establishes paternity and provides genetic testing per:

(1) Sections 653, 654, and 666 of Title 42 of the United States Code (42 U.S.C. §§ 653, 654, & 666);

(2) Parts 302 and 303 of Title 45 of the Code of Federal Regulations; and

(3) Sections 83, 84, 90.4, and 7700-101 through 7700-902 of Title 10 of the Oklahoma Statutes~~,~~(10 O.S. §§ 83, 84, 90.4 and 7700-101 - 7700-902),~~Sections 601-201, 601-401, and 601-701 of Title~~ 43 O.S. §§

601-201, 601-401, & 601-701, ~~Sections 230.60 and 231 through 240.23 of Title~~ 56 O.S. §§ 230.60, 231 - 240.23, and ~~Sections 1-311 and 1-321 of Title 63 of the Oklahoma Statutes~~63 O.S. §§ 1-311 and 1-321.

(b) ~~OCSS~~CSS only initiates a paternity action when the child has no legal father. A child has a legal father when:

(1) paternity has been voluntarily acknowledged in Oklahoma or another state and not rescinded within 60 calendar days~~; [~~ per 10 O.S. §§ 7700-301 through 7700-314~~]~~;

(2) the child has a presumed father per 10 O.S. § 7700-204; or ~~[10 O.S. § 7700-204]~~

(3) paternity has been established by a district or administrative court order per 10 O.S. § 7700-636. ~~[10 O.S. § 7700-636]~~

(c) ~~OCSS~~CSS provides Form 03PA209E, Acknowledgment of Paternity, for voluntary acknowledgment of paternity ~~under Section 7700-312 of Title 10~~per 10 O.S. § 7700-312 and ~~Sections 1-311 and 1-311.3 of Title~~ 63 O.S. §§ 1-311 & 1-311.3~~of the Oklahoma Statutes~~. ~~OCSS~~CSS also provides ~~several~~ companion forms, which include instructions for completion, described in paragraphs (1) through (4) of this subsection. ~~The forms include instructions for completion.~~ Signed and witnessed forms must be filed with the Oklahoma State Department of Health (OSDH), Division of Vital Records.

(1) When parents of an adult child, ~~age~~ 18 years of age or older, complete Form 03PA209E, the adult child must give consent to add the natural father's name to the birth certificate. The child indicates consent by signing Form 03PA212E, Adult Child's (18 Years or Older) Consent.

(2) Form 03PA210E, Denial of Paternity, must accompany Form 03PA209E if the mother of a child is married to someone other than the natural father and the child is born within 300 calendar days after the marriage is terminated ~~under Section 7700-204 of Title~~per 10 O.S. § 7700-204~~of the Oklahoma Statutes~~.

(3) ~~Under Sections 7700-307 and 7700-312 of Title~~Per 10 O.S. §§ 7700-307 & 7700-312~~of the Oklahoma Statutes~~, ~~OCSS~~CSS provides Form 03PA211E, Rescission of Acknowledgment of Paternity, for a person to use to cancel the legal finding of paternity created by having previously signed Form 03PA209E. This form must be completed, signed, and filed with the OSDH Division of Vital Records within 60 calendar days after the date of the last signature on Form 03PA209E.

(A) When a person submits Form 03PA211E within 60 calendar days after the date of the last signature on Form 03PA209E, ~~OCSS~~CSS sends notice of the rescission to all other signatories on Forms 03PA209E and 03PA210E. Notice is given by mailing a copy of the rescission to the address of the signatories as shown on Forms 03PA209E and 03PA210E and to the last-known address of the signatories, if different.

(B) When rescissions are submitted to ~~OCSS~~CSS past the 60-calendar day time period, ~~OCSS~~CSS sends a letter to the person who submitted Form 03PA211E informing the person ~~that~~ the rescission is invalid because it was not timely submitted.

(4) ~~Under Sections 7700-307 and 7700-312 of Title~~Per 10 O.S. §§ 7700-307 & 7700-312~~of the Oklahoma Statutes~~, ~~OCSS~~CSS provides Form 03PA213E, Rescission of Denial of Paternity, for a person to use ~~OCSS~~CSS to cancel the legal finding of paternity created by having previously signed Form 03PA210E. Form 03PA213E must be completed, signed, and filed with the OSDH Division of Vital Records within 60 calendar days after the date of the last signature on Forms 03PA209E and 03PA210E.

(A) When a person submits Form 03PA213E to ~~OCSS~~CSS within 60 calendar days after the date of the last signatures on Forms 03PA209E and 03PA210E, ~~OCSS~~CSS sends notice of the rescission to all other signatories of Forms 03PA209E and 03PA210E. Notice is given by mailing a copy of the rescission to the address of the signatories as shown on Forms 03PA209E and 03PA210E and to the last known addresses of the signatories, if different.

(B) When a rescission of denial is submitted to ~~OCSS~~CSS past the 60-calendar day time period, ~~OCSS~~CSS sends a letter to the person who submitted Form 03PA213E informing the person ~~that~~ the rescission of denial is invalid because it was not timely submitted.

(d) When ~~OCSS~~CSS establishes paternity against an alleged father or with a custodial person, either of whom is a servicemember, ~~OCSS~~CSS applies the provisions of the Servicemembers Civil Relief Act, codified in ~~Sections 501 through 596 of Title 50A of the United States Code~~50A U.S.C. §§ 501-596.

(e) When ~~OCSS~~CSS has the cooperation of a deceased alleged father's relatives, ~~OCSS~~ CSS establishes paternity of the child(ren) through genetic testing of the relatives as necessary according to the standards and provisions of the Uniform Parentage Act, ~~Sections 7700-501 through 7700-511 of Title~~ 10 O. S. §§ 7700-501-7700-511~~of the Oklahoma Statutes~~.

(f) ~~OCSS~~CSS establishes paternity against an alleged father who is disabled and receiving monthly Supplemental Security Income before reviewing the case for possible closure per Oklahoma Administrative Code (OAC) 340:25-5-123.

(g) CSS pursues all alleged fathers before requesting the court enter a default paternity order when the custodial person (CP) has provided information that more than one man is possibly the child's biological father.

(1) CSS requests a default order when genetic testing shows one alleged father is the biological father or all other alleged fathers have been excluded by genetic testing. CSS uses other legal processes to compel genetic testing, such as license revocation or contempt of court proceedings.

(2) CSS requests the court determine paternity when unable to obtain genetic testing on two or more alleged fathers.

(h) CSS does not request a default paternity order when the alleged father is the case applicant and the CP objects to the alleged father being found the father without genetic testing.

~~(g)~~ When a default paternity order has been entered and either party contacts ~~OCSS~~CSS in writing within 30 calendar

days of entry of the default order, ~~OCSS~~CSS treats the request as a motion to vacate or modify the default order. After the request is filed with the district court or Office of Administrative Hearings: Child Support, ~~OCSS~~CSS pursues genetic testing and vacates or amends the default order as necessary based on findings.

(~~h~~i) Genetic testing costs incurred in paternity establishment cases are paid as follows:

(1) ~~OCSS~~CSS advances the costs for genetic testing and recovers the genetic test costs from the noncustodial parent or as ordered by the court.

(2) When ~~OCSS~~CSS paternity results are contested, ~~OCSS~~CSS requests payment in advance of a second genetic test by the requesting party.

(3) When a court orders ~~OCSS~~CSS to provide genetic testing and ~~OCSS~~CSS does not have a case open for services, ~~OCSS~~CSS requires a party to complete an application for services prior to advancing the costs of genetic testing.

(4) In interstate cases, ~~OCSS~~CSS follows OAC 340:25-5-270.

340:25-5-176.1. Challenges to paternity establishment

(a) Oklahoma Department of Human Services Child Support Services ~~(OCSS)~~(CSS) objects to a paternity challenge proceeding when:

(1) ~~there has been an acknowledgment of paternity executed in Oklahoma or another state and not rescinded within the allowable time per Section 303.5 of Title 45 of the Code of Federal Regulations and Sections 7700-301 through 7700-307 of Title 10 of the Oklahoma Statutes (10 O.S. §§ 7700-301 through 7700-307)~~a party challenges an acknowledgment of paternity (AOP) outside of the rescission time periods per Section 7700-307 of Title 10 of the Oklahoma Statutes (10 O.S. § 7700-307), unless the challenge is filed within the two year time limit for challenges per 10 O.S. § 7700-308. When a party challenges an AOP within the statutory time limit, the state's attorney reviews the facts of the case to determine whether an objection is appropriate under the circumstances. CSS may object to the proceedings and request the court require the challenging party to prove fraud, duress, or material mistake of fact by clear and convincing evidence.

(2) the child has a presumed father and a party initiates a challenge more than two years after the child's birth, unless the parties meet the jurisdictional requirements per 10 O.S. § 7700-607(B);

(3) paternity has been established by a district or administrative court order per 10 O.S. § 7700-636 and the challenging party is filing outside the 30 calendar day time period to vacate a judgment per 12 O.S. § 1031.1 (A).

(b) ~~OCSS~~CSS does not object to a paternity challenge proceeding when the:

(1) time requirement to rescind an acknowledgment of paternity has not passed;

(2) parties neither cohabited nor engaged in sexual intercourse and the husband never held out the child as his own; or

(3) mother, legal father, and biological father agree to adjudicate paternity per 10 O.S. § 7700-607.

(c) When a paternity challenge proceeding is brought by a child per 10 O.S. § 7700-637, the state's attorney reviews the facts of the case and determines whether an objection is appropriate under the circumstances.

(d) When one or both parties timely objects, orally or in writing, to the entry of an order for a child with a presumed father, CSS takes necessary steps to bring the paternity challenge before the appropriate court for resolution.

340:25-5-178. ~~Establishment~~Calculation of ~~current~~new and modified child support obligations

(a) **Legal authority.** Oklahoma Department of Human Services (DHS) Child Support Services (CSS) establishes current child support per:

(1) Sections 654, 656, and 666 of Title 42 of the United States Code (42 U.S.C. §§ 654, 656, and 666);

(2) Parts 302 and 303 of Title 45 of the Code of Federal Regulations ~~(45 C.F.R.)~~; and

(3) Section 83 of Title 10 of the Oklahoma Statutes (10 O.S. § 83); Title 43; and 56 O.S. §§ 231 through 240.23.

(b) **Child support guidelines.** CSS uses the child support guidelines in 43 O.S. §§ 118-118I and 119 to:

(1) establish the amount of current support; and

(2) prepare a child support computation form prescribed by CSS and published by the Administrative Office of the Courts on the Oklahoma State Courts Network website per 43 O.S. § 120.

(c) **Child support computation.** Per 43 O.S. §§ 118-118I, CSS uses the best evidence available to determine a parent's monthly gross income for the child support computation form, including written earning records, past job history, and earning ability based on education and training, with a continued emphasis on setting fair and equitable child support orders ~~that are fair and equitable~~. When requesting the court enter or modify child support orders in a noncustodial parent's (NCP) multiple cases, CSS may request the court deviate from the child support guidelines amounts per 43 O.S. § 118H.

(d) **Gross income.** When determining gross income for the child support computation, CSS uses (1) through (4) of this subsection per 43 O.S. § 118B.

(1) **Written earning record.** For time periods when a parent has a written earning record, CSS uses the:

(A) actual monthly gross income; or

(B) average of the gross monthly income for the time actually employed during the previous three years.

(2) **Ability to work and no written earning record.** For time periods when a parent has an earning ability, but no written earning records, CSS imputes the most equitable of the:

(A) minimum wage paid for a 40-hour work week; or

(B) amount of gross income a person with comparable education, training, and experience could reasonably expect to earn.

(3) **Combination.** For time periods when a parent has a written earning record for some months, but no written earning record for other months, for the months worked CSS uses the actual income and for the months with no written earning record CSS uses the most equitable of either:

(A) the actual gross income; or

(B) an imputed amount of either:

(i) minimum wage paid for a 40-hour work week; or

(ii) the amount of gross income per person with comparable education, training, and experience could reasonably expect to earn.

(4) **Reduced earning ability.** CSS uses actual income when a parent has reduced earning ability due to the parent's limited education, physical or mental disability, incarceration, or other obstacle to employment, and there is evidence the parent has income of less than minimum wage for 40 hours per week.

(~~d~~e) **Child care.** To establish the amount of current support, CSS considers "actual" child care expenses to be the amount paid to the child care provider by the custodial person (CP) except when ~~(e)~~(f) of this Section applies. CSS determines the amount of prospective annual child care costs and allocates this amount between the parents in the same proportion as their adjusted gross income. The amount allocated to the NCP becomes part of the fixed monthly child support obligation.

(~~e~~f) **Child care subsidy.** When the CP is participating in the DHS Child Care Subsidy Program per 56 O.S. § 230.50, CSS uses DHS Appendix C-4, ~~Page 1,~~ Child Care Eligibility/~~Rates Schedule~~Co-payment Chart, to determine the family share co-payment amount considered as actual child care costs on the child support computation form per 43 O.S. § 118G.

(1) CSS considers the NCP's share of the base monthly obligation for child support and the CP's gross monthly income as the CP's monthly income when applying Appendix C-4. Upon selecting the applicable income level on Appendix C-4, ~~Page 1,~~ CSS uses the corresponding family share co-payment amount based on the number of children in DHS subsidized child care. CSS allocates the family share co-payment amount indicated on Appendix C-4, ~~Page 1,~~ in the same proportion as base child support. CSS staff performs a separate child support guidelines calculation for each NCP.

(2) ~~If~~When the CP has a child(ren) in DHS subsidized child care other than a child(ren) included in the child support case being established, CSS uses the proportionate share of the family share co-payment for the child(ren) included in the case.

(~~f~~g) **Deprived cases.** CSS establishes child support orders in deprived court actions per 10A O.S. § 1-4-702 and prepares the child support order on the standard child support order form prescribed by CSS and published by the Administrative Office of the Courts on the Oklahoma State Courts Network website.

(~~g~~h) **Intergovernmental majority age.** CSS establishes child support orders for a child(ren) for whom child support is imposable under applicable law.

(~~h~~i) **Minor parents.** When the NCP is a minor, CSS establishes paternity per Oklahoma Administrative Code ~~(OAC)~~ 340:25-5-176 when necessary and establishes a child support order. When a minor NCP or a CP is under 16 years of age, CSS does not impute gross income for the minor parent in the child support computation and only uses actual income. When a minor NCP or CP is between 16 and 18 years of age and regularly and continuously attending high school, unless ~~it is~~ otherwise inappropriate, CSS uses either the imputed gross income for the minor parent(s) based on minimum wage at 20 hours per week~~,~~ or actual income.

(~~i~~j) **Adult disabled child.** CSS enforces child support orders for adults with disabilities per 43 O.S. § 112.1A.

~~(j)~~ CSS establishes or modifies child support orders to continue after the child reaches the age of majority per 43 O.S. § 112.1A if the application or referral for Title IV-D services is received during the period when child support is due per 43 O.S. § 112.

(k) **Incarcerated NCP.** ~~CSS establishes a child support and medical support order on an incarcerated NCP and requests the court order that the child support obligation begins the first day of the month following a lapse of 45 calendar days from release from incarceration. CSS requests the court reserve the amount of child support for the time period prior to the entry of the court order as per OAC 340:25-5-179.1 through the time of incarceration to the date the current child support obligation begins.~~When an NCP is incarcerated, CSS follows (1) and (2) of this subsection.

(1) When an NCP is expected to be incarcerated for at least six consecutive months from the date the support amount is reviewed or established, CSS requests the court enter a temporary child support and medical support amount using actual income of $0, unless there is evidence of income or assets outside of the correctional institution. At the time the order is entered, when there is:

(A) a pre-incarceration child support order, CSS requests the order state that upon release from incarceration, the monthly child support obligation reverts to the pre-incarceration order amount beginning the first day of the month following a lapse of 90 calendar days upon release from incarceration. When the NCP within the lapse period requests in writing a review of the pre-incarceration order, the post incarceration monthly child support obligation does not begin until the review or modification is complete. When a review is requested and the NCP fails to appear for hearing, the monthly child support obligation reverts to the pre-incarceration amount to begin the first day of the month following a lapse of 90 calendar days upon release from incarceration; or

(B) no pre-incarceration child support order, CSS requests the court order state; upon release from incarceration, the monthly child support amount is set based on minimum wage for a 40 hour work week beginning the first day of the month following a lapse

of 90 calendar days upon release from incarceration. When the NCP within the lapse period requests in writing a hearing, the post incarceration monthly child support amount does not begin until the review or modification is complete. When a hearing is requested and the NCP fails to appear for the hearing, the monthly child support obligation reverts to the support amount set based on minimum wage for a 40 hour work week, to begin 90 calendar days upon release from incarceration.

(2) This provision does not apply when the NCP is incarcerated for crimes against the CP or child.

(l) **Military.** When CSS establishes a child support order for a child of ~~a~~an NCP or a CP who is a servicemember, CSS applies the provisions of the Servicemembers Civil Relief Act, codified in 50A U.S.C. §§ 501 through 596.

(m) **Disability benefits.** CSS does not impute gross income to a person determined disabled by the Social Security Administration.

(n) **Default orders.** When a default order for child support has been ordered and either party contacts CSS in writing within 30 calendar days of entry of the default order and provides information to calculate an accurate child support obligation, CSS treats the request as a motion to vacate or modify, and requests the court enter a new order consistent with the evidence presented.

340:25-5-179.1. Establishment of support for a prior period

(a) Oklahoma Department of Human Services Child Support Services ~~(OCSS)~~(CSS) establishes support for a prior period.

(1) When paternity is being established by court order or when paternity has been previously established by a signed Form 03PA209E, Acknowledgment of Paternity, ~~OCSS~~CSS establishes current support and support for a prior period at the same time per Sections 83 and 7700-636 of Title 10 (10 O.S. §§ 83 and 7700-636), 43 O.S. §§ 118-118I and 119, and 56 O.S. § 238.6B.

(2) When a child(ren) is born during a marriage and no order addressing support for a prior period exists, ~~OCSS~~CSS establishes support for a prior period per 43 O.S. §§ 118-118I and 119 and 56 O.S. § 238.1.

(A) ~~OCSS~~CSS establishes support for a prior period under this subsection only when:

(i) current child support is sought; and

(ii) Temporary Assistance for Needy Families (TANF) or Title IV-E and non-Title IV-E eligible foster care has been expended in any month during the past ~~five~~two years ~~per OAC 340:75-13-26~~.

(B) ~~OCSS~~CSS may issue a Notice of Support Debt or file a district court action to establish support for a prior period. ~~OCSS~~CSS limits this prior period to the number of months on TANF or Title IV-E and non-Title IV-E eligible foster care during the ~~five~~two years immediately before the date ~~OCSS~~CSS issues the Notice of Support Debt, or files the district court action.

(b) When a child support order is entered against a minor noncustodial parent (NCP), ~~OCSS~~CSS establishes support for a prior period under the criteria for establishing current child support per Oklahoma Administrative Code (OAC) 340:25-5-178.

(c) ~~OCSS~~CSS does not establish an order for support for a prior period on an incarcerated NCP. ~~OCSS~~CSS requests the court reserve the amount of child support for the period prior to the entry of the court order through the time of incarceration to the date the current child support obligation begins per OAC 340:25-5-178.

(d) When ~~OCSS~~CSS establishes an order for support for a prior period for a child of ~~a~~an NCP or a custodial person who is a servicemember, ~~OCSS~~CSS applies the provisions of the Servicemembers Civil Relief Act, codified in Sections 501 through 596 of Title 50A of the United States Code.

(e) When the NCP is a current TANF or Supplemental Security Income (SSI) recipient and ~~OCSS~~CSS:

(1) has information that the NCP had no obligation based on the child support guidelines for the prior period, ~~OCSS~~CSS requests the court set the judgment at $0; or

(2) determines a debt may be owed for a prior period, ~~OCSS~~CSS requests the court reserve the issue of support for a prior period until the NCP is no longer receiving TANF or SSI.

(f) ~~OCSS~~CSS sets a monthly payment schedule per OAC 340:25-5-140.

PART 22. REVIEW AND MODIFICATION

340:25-5-198.2. Modification

(a) **Authority for modification.** Oklahoma Department of Human Services(DHS) Child Support Services (CSS) may initiate modification of a child support order per Sections 112, 118-118I, 118.1, 119, 601-611, 601-613, and 601-615 of Title 43 of the Oklahoma Statutes (43 O.S. §§ 112, 118-118I, 118.1, 119, 601-611, 601-613, and 601-615) and 56 O.S. § 237 in the appropriate tribunal when facts indicate modification is warranted under applicable state or federal law or regulation.

(b) **Modification of child support order.** CSS seeks a modification when:

(1) there has been a material change in circumstances per 43 O.S. § 118I including, but not limited to:

(A) a change in either parent's gross income or changes in child support guideline calculation, such as child care expenses or medical support;

(B) a child reaching the age of majority per 43 O.S. § 112;

(C) a component of or the new current child support amount is 20 percent higher or lower than the existing order;

(D) there is a change in physical custody verified per Oklahoma Administrative Code (OAC) 340:25-5-201.1;

(E) one of the parents is determined disabled by the Social Security Administration and the parent is

receiving Supplemental Security Income or Social Security Disability Income; or

(2) per 56 O.S. § 237 when the evidence in the case justifies a modification regardless of whether there has been a change of circumstances including, but not limited to, when:

(A) the original order fails to set child support according to the guidelines; ~~or~~

(B) an adjustment is needed to maximize a noncustodial parent's (NCP's) available income to meet the current child support obligation in each of the NCP's cases~~.~~; or

(C) a parent provides proof the child support obligation is being satisfied in full or in part by an apportionment of the veteran's disability compensation.

(c) **Modification of medical support order.**

(1) CSS seeks a modification of an order for medical support when:

(A) there is no existing order for either parent to provide dependent health care coverage. CSS initiates a modification of a support order to require either or both parents to provide dependent health care coverage when CSS obtains information ~~that~~ the child(ren) is not covered under an existing health care plan other than SoonerCare (Medicaid), regardless of whether the coverage is currently available to either parent;

(B) the availability of medical insurance changes;

(C) there is an order for the custodial person to provide medical support for the minor child(ren) and enforcement of the order is not appropriate per 43 O.S. § 139.1 or 21 O.S. § 566;

(D) an order for the NCP to provide medical insurance and the release of information necessary for enrollment of the child is inappropriate due to family violence and a cash medical order is appropriate per OAC 340:25-5-198; or

(E) there is an order for a parent to provide medical insurance, the applicant for child support services has not requested services against that parent, and the ordered parent is not actually providing medical insurance for the child.

(2) When CSS participates in the modification of a child support order filed by a party, CSS requests the court order contain a provision for medical support consistent ~~per~~with OAC 340:25-5-168.

(3) When a child support order exists, CSS considers a request to establish a medical support order as a request for modification of the order per 43 O.S. § 118.1. CSS seeks a medical support order in a tribunal that has jurisdiction to modify the child support order and follows procedures per OAC 340:25-5-198.1.

(4) When cash medical support is ordered as part of a modification action, CSS requests a cash medical support order be effective the first day of the month following the date the modification order is entered.

PART 23. ENFORCEMENT

340:25-5-212. Financial institution data match reporting system

(a) **Legal basis.** Oklahoma Department of Human Services Child Support Services ~~(OCSS)~~(CSS) maintains a financial institution data match reporting system to identify noncustodial parents'(NCP) assets and issue levies on accounts of ~~noncustodial parents~~ NCPs who are in noncompliance with an order for support. In maintaining the system, ~~OCSS~~CSS follows Part A of Subchapter IV of Chapter 7 of Title 42 of the United States Code, associated federal regulations, and state statutes. This Section establishes provisions necessary to implement Sections 666(a)(17) and 669A of Title 42 of the United States Code and Sections 240.22 through 240.22G of Title 56 of the Oklahoma Statutes (56 O.S. §§ 240.22-240.22G). The definitions in ~~Section~~56 O.S. § 240.22A ~~of Title 56 of the Oklahoma Statutes~~ apply to the terms used in this Section.

(b) **Financial institutions.**

(1) All data supplied to ~~OCSS~~CSS by financial institutions doing business in Oklahoma must be in accordance with the Financial Institution Data Match Specifications Handbook published by the federal Office of Child Support Enforcement.

(2) A financial institution may charge an account levied on by ~~OCSS~~CSS a fee of $20, ~~under Section~~per 56 O.S. § 240.22E(E) ~~of Title 56 of the Oklahoma Statutes~~, which is deducted from the account before the financial institution remits funds to ~~OCSS~~CSS. If the levied funds are subsequently refunded by ~~OCSS~~CSS because ~~of an OCSS error described in (d)(4)(A) or (d)(4)(B) of this Section~~there is a mistake of identity or the obligor did not owe three months of child support at the time of the levy, ~~OCSS~~CSS refunds any fee charged to the appropriate account holder.

(c) **Levies.** Levies are for the total amount of past-due support ~~as defined in Section~~per 56 O.S. § 237.7 ~~of Title 56 of the Oklahoma Statutes~~. ~~Under Section~~Per 56 O.S. §240.22G ~~of Title 56 of the Oklahoma Statutes~~, ~~OCSS~~CSS automatically issues a levy for each matched account unless the ~~noncustodial parent~~NCP is in full and timely compliance with a court-ordered payment plan. ~~OCSS~~CSS considers ~~a noncustodial parent~~an NCP in full and timely compliance with a court-ordered payment plan when the ~~noncustodial parent~~NCP has made voluntary payments of at least 92 percent of the court-ordered payment plan payments due over the last six full calendar months prior to the date of the levy. ~~OCSS~~CSS considers a manual levy appropriate ~~if~~when there is evidence ~~that~~ the noncustodial parent has funds subject to levy not previously considered by ~~OCSS~~CSS in establishing the monthly court-ordered payment plan. ~~OCSS~~CSS requests the financial institution not remit funds in an amount less than $50.

(d) **Notice of levy and administrative review.**

(1) ~~OCSS~~CSS sends a notice of levy to ~~a noncustodial parent~~an NCP within three calendar days after sending the levy to the financial institution~~. [56 O.S. § 240.22G]~~ per 56 O.S. § 240.22G. The notice of levy includes:

(A) instructions for the ~~noncustodial parent~~NCP or a non-obligated joint account holder to request an administrative review in writing;

(B) a description of the grounds for requesting an administrative review;

(C) a description of the review process; and

(D) notice that failure to submit a timely request for review in writing means the levy is final.

(2) It is the responsibility of the ~~noncustodial parent~~NCP to notify any joint account holder(s) of the levy.

(3) Either the ~~noncustodial parent~~NCP or a non-obligated joint account holder may request an administrative review of the levy in writing after the date on the notice of levy ~~under Section~~per 56 O.S. § 240.22G ~~of Title 56 of the Oklahoma Statutes~~.

(4) A non-obligated joint account holder may request an administrative review in writing when the levied funds are not owned by the ~~noncustodial parent~~NCP.

(5) Upon receipt of a request for an administrative review ~~OCSS~~CSS:

(A) contacts the requesting party within three business days to:

(i) notify the party ~~that~~ the review has begun; and

(ii) request further information as necessary;

(B) completes the review as soon as possible, not to exceed three business days from receiving all necessary information; and

(C) completes the review using the best information available when the party requesting a review does not provide the information requested by ~~OCSS~~ CSS within five business days of the request.

(6) The purpose of the administrative review is to quickly resolve any obvious factual errors.

(7) After the administrative review, ~~OCSS~~CSS issues a notice of administrative review decision and information about requesting an administrative hearing.

(e) **Administrative hearing.** Either the ~~noncustodial parent~~NCP or a non-obligated joint account holder may request a hearing before the Oklahoma Department of Human Services Office of Administrative Hearings: Child Support (OAH), by the date specified in the notice of administrative review decision. A request for an OAH hearing must be submitted in writing to the district office.

(f) **Release of funds from levy.**

(1) ~~OCSS~~CSS releases funds from levy when the ~~noncustodial parent~~person requesting review of the levy submits sufficient and credible evidence at the administrative review that the source of the funds is:

(A) Supplemental Security Income (SSI) benefits;

(B) State Supplemental Payments (SSP) for Aged, Blind and the Disabled;

(C) Temporary Assistance for Needy Families (TANF) benefits; ~~or~~

(D) child support payments, ~~if~~when the obligor is the custodial person (CP) of a minor child(ren) and is receiving the payments as required by a court order~~.~~; or

(E) the property of the non-obligated account holder.

(2) When the account contains funds from sources listed in subsection (f)(1) of this rule as well as funds from other sources, CSS can levy the funds that are not from a source included in the list in subsection (f)(1) of this rule.

(3) Funds from a levy may be released, in full or in part, at the discretion of the state's attorney when it is determined the levy negatively impacts a reliable source of child support, or is not in the best interest of the child(ren). When the funds are not assigned to the state and the source of the funds is not listed in subsection (f)(1) of this rule, ~~OCSS~~CSS considers the input of the ~~custodial person in~~CP when reviewing the case for release.

PART 27. STATE TAX REFUND OFFSET PROGRAM

340:25-5-235. Collection of past support and overpayments from state tax refund offset

(a) The Oklahoma Department of Human Services through ~~Oklahoma~~ Child Support Services ~~OCSS~~ (CSS) requests collection of overpayments and past child support, including interest, and spousal support from state tax refund offset. The state tax offset program is governed by:

(1) Section 303.102 of Title 45 of the Code of Federal Regulations;

(2) ~~Sections~~Section 205.2 ~~and 205.3~~ of Title 68 of the Oklahoma Statutes; and

(3) Sections 11-6 through 11-11 of Chapter 50 of Title 710 of the Oklahoma Administrative Code.

(b) When an offset is made to satisfy ~~non-TANF~~non-Temporary Assistance for Needy Families past-due support from a state tax refund, ~~OCSS~~CSS delays issuance of the funds for a period of forty-five calendar days from the notice of deposit.

PART 37. RECOVERY

340:25-5-305. General overpayment and recovery policies

(a) **Purpose.** The rules in this Part:

(1) establish Oklahoma Department of Human Services ~~Oklahoma~~ Child Support Services ~~OCSS~~ (CSS) policies and procedures used to recover ~~OCSS~~CSS overpayments to custodial persons (CPs), noncustodial parents (NCPs), and other entities; and

(2) resolve payment disputes arising from overpayments.

(b) **Overpayment categories.**

(1) Retained support occurs when the CP kept support payment(s) in violation of the assignment of support rights.

(2) Erroneous payment occurs when ~~OCSS~~CSS incorrectly paid money to a CP, NCP, or other entity, or failed to retain money assigned to Oklahoma because of an administrative error.

(3) Bad debt occurs when:

(A) the funding for a payment made by ~~OCSS~~CSS to a CP or NCP is subsequently withdrawn when a tax intercept or other collection is revoked;

(B) a check or other payment instrument received by ~~OCSS~~CSS from ~~a~~an NCP or other payor on behalf of the NCP is dishonored after a payment was made to the CP; or

(C) ~~OCSS~~CSS issues a payment to a CP based on an incorrect arrearage balance or an incorrect allocation of a payment.

(c) **Authority.** When recovering overpayments under this Part, ~~OCSS~~CSS is governed by Title IV, Part A of Subchapter IV of Chapter 7 of Title 42 of the United States Code; Section 109.5 of Title 43 of the Oklahoma Statues (43 O.S. § 109.5); and ~~Sections 171, 185, and 231 through 244 of Title 56 of the Oklahoma Statutes~~56 O.S. §§ 171, 185, and 231 through 244.

(d) **Recovery.** ~~OCSS~~CSS may use any legal remedy to recover overpayments, including, but not limited to, state tax offsets ~~under~~per OAC 340:25-5, Part 27.

(1) ~~OCSS~~CSS is not responsible for creating or recovering overpayments for:

(A) non-Title IV-D time periods when non-Title IV-D cases convert to Title IV-D cases;

(B) time periods when ~~OCSS~~CSS collected under a court order that was later vacated or after the case was dismissed; or

(C) time periods when ~~OCSS~~CSS collected under a court order that was later modified and the parties failed to provide ~~OCSS~~CSS a copy of the new order.

(2) ~~OCSS~~CSS does not charge, collect, or pay interest on overpayments.

PART 38. TITLE IV-D AND NON-TITLE IV-D CENTRAL CASE REGISTRY INFORMATION

340:25-5-340. Collection and maintenance of addresses of record

(a) **Scope and ~~Authority~~authority.** Section 112A of Title 43 of the Oklahoma Statutes (43 O.S. § 112A) provides the basis for Oklahoma Department of Human Services (DHS) Child Support Services ~~(OCSS)~~ (CSS) to collect and maintain addresses of record for:

(1) parties and custodial persons (CP) subject to paternity orders or child support orders entered in Oklahoma;

(2) noncustodial parents ~~under Section 237A of Title 56 of the Oklahoma Statutes~~ (NCP) per (56 O.S. § 237A) and ~~(OAC)~~Oklahoma Administrative Code 340:25-5-213;

(3) parties and ~~custodial persons~~CPs subject to paternity orders or child support orders entered in other jurisdictions; and

(4) parties and ~~custodial persons~~CPs when they voluntarily submit them.

(b) **Establishment of address of record.** ~~Custodial persons~~CPs and ~~noncustodial parents~~NCPs establish the initial address of record through:

(1) completion of Form 03EN008E, ~~Family Violence~~Child Support Services - Address of Record and/or Family Violence Statement;

(2) designation in form 03EN001E, Application for Child Support Services;

(3) a court order; or

(~~3~~4) a support order summary form when services are not provided under the ~~OKDHS~~DHS state Title IV-D plan ~~pursuant to Section 237 of Title 56 of the Oklahoma Statutes~~per 56 O.S. § 237.

(c) **Updating an address of record.**

(1) A person who is responsible for maintaining an address of record on file with ~~OCSS under Section 112A of Title 43~~CSS per 43 O.S. § 112A or ~~Section 237A of Title 56 of the Oklahoma Statutes~~56 O.S. § 237A must notify ~~OCSS~~CSS of any change in the address within 30 calendar days. The person may send changes to ~~OCSS~~CSS, Central Case Registry, ~~P.O.~~PO Box 248843, Oklahoma City, ~~OK~~ Oklahoma 73124-8843 or to a district child support office. ~~OCSS~~CSS may require proof of a person's identity before establishing or changing a person's name or the address of record and may attempt to verify or confirm the correctness of the address of record.

(2) A ~~custodial person~~CP updates an address of record:

(A) by ~~completing and signing a change of records letter~~submitting a new address of record in writing;

(B) by telephoning ~~OCSS~~CSS customer service at 405-522-2273 in the Oklahoma City calling area, 918-295-3500 in the Tulsa calling area, or toll-free at 1-800-522-2922 and entering ~~an OKDHS~~a DHS customer identification number and personal identification number. This provides restricted access to the ~~custodial person's~~CP's case information for ~~OCSS~~CSS to update the address of record by telephone; or

(C) through a court order.

(3) A ~~custodial person~~CP who is represented by an attorney may designate the attorney's address as the address of record ~~pursuant to Sections 112A and 413(F) of Title 43 of the Oklahoma Statutes~~per 43 O.S. 112A & 413(F) by completing Form 03EN026E, Designation of Custodial Person's Address of Record. The designation must include the ~~signature of the custodial person~~CP's and the ~~attorney~~attorney's signatures. In accepting designation as the CP's address of record, the attorney becomes responsible for receiving the CP's legal documents and other official papers by regular mail and may receive the CP's payments. When a ~~custodial person~~CP has designated an attorney's address as the address of record, the address of record can ~~only~~ be updated ~~with the written permission of thecustodial person and the attorney~~by the CP completing Form 03EN030E, Termination of Attorney Address of Record Designation. ~~In accepting designation as the custodial person's address of record, the attorney becomes responsible for receiving the custodial person's legal documents and other official papers by regular mail and may receive the custodial person's payments.~~

(4) ~~OCSS~~CSS does not change a ~~custodial person's~~CP's address of record to that of a collection agency to send

support payments to the collection agency's address. ~~OCSS~~CSS denies any such request, unless there has been an assignment of child support to an attorney ~~pursuant to Section 118.4 of Title 43 of the Oklahoma Statutes~~per 43 O.S. § 118.4.

(5) ~~A noncustodial parent~~An NCP updates an address of record:

(A) by ~~completing and signing a change of records letter~~submitting a new address of record in writing; or

(B) through a court order.

PART 39. ACCOUNTING AND DISTRIBUTION

340:25-5-350.1. Return of overcollected support amounts

(a) When Oklahoma Department of Human Services (DHS) Child Support Services ~~(OCSS)~~(CSS) receives a payment:

(1) in excess of the noncustodial parent's (NCP's) total arrears balance, ~~OCSS~~CSS returns the excess amount to the payor within 45 calendar days, after discovering the overcollection.

(2) and the custodial person's (CP's) address is unknown, ~~OCSS~~CSS applies support collections to any unreimbursed public assistance debt associated with the NCP.

(3) made due to an error on the part of the payor that has not been disbursed, ~~OCSS~~CSS returns it to the payor within 45 calendar days, after discovering the overcollection. ~~OCSS~~CSS is not required to correct, redirect, or recover the payment unless it was retained by ~~the Oklahoma Department of Human Services (OKDHS)~~DHS.

(4) that cannot be disbursed to a CP, or returned to the payor or NCP, and there is no debt to the State of Oklahoma, ~~OCSS~~CSS remits the payment to the ~~OKDHS~~ DHS General Revenue Fund Treasury.

(b) When ~~a~~an NCP makes an overpayment, amounts less than $3 are not refunded unless issued on an Electronic Benefits debit card. Amounts less than $3 and not issued on a debit card are remitted to the ~~OKDHS~~DHS General Revenue Fund Treasury.

(c) ~~OCSS~~CSS does not return overcollected support amounts when the parties failed to provide ~~OCSS~~CSS with a copy of the order that was modified or vacated.

(d) When a child support modification order initiated by CSS is effective back to the date the motion to modify was filed and the modified support amount is less than the amount previously ordered and paid:

(1) CSS satisfies the over collection when the NCP owes:

(A) past-due child support, by crediting the arrears amount by the amount overcollected;

(B) no past-due child support but owes current support, by offsetting the current child support by an amount each month that will satisfy the overcollection. Unless the parties agree to another amount, CSS requests the offset not exceed 25 percent of the current child support amount; or

(2) CSS is not responsible for satisfying the over collection when there is no current or past due support due and the overcollected support was not retained by the state.

340:25-5-350.3. Payment of support through Centralized Support Registry

(a) **Centralized Support Registry.** Oklahoma Department of Human Services (DHS) Child Support Services ~~(OCSS)~~(CSS) operates a Centralized Support Registry (Registry), also known as the State Disbursement Unit, for the receipt, recording, allocation, distribution, and disbursement of support payments. ~~OCSS~~CSS operates the Registry ~~under~~per Sections 410 and 413 of Title 43 of the Oklahoma Statutes (43 O.S. §§ 410 and 413), Sections 302.51 and 303.100 of Title 45 of the Code of Federal Regulations (45 C.F.R. §§ 302.51 and 303.100), and Sections 654b and 657 of Title 42 of the United States Code (42 U.S.C. §§ 654b and 657).

(1) This Section applies to both Title IV-D and non-Title IV-D cases, unless the context clearly indicates otherwise.

(2) When a non-Title IV-D child support case has an income assignment in place, the Registry processes child support payments received from unemployment compensation benefits as income assignments per federal and state law.

(b) **Support payments.**

(1) Support payments must be paid as instructed in writing by ~~OCSS~~CSS to the Registry.

(2) ~~OCSS~~CSS offices may accept support payments when a payment is made:

(A) in connection with a court action; or

(B) as part of a settlement agreement on a lien or levy.

(c) **Method of payment.** ~~OCSS~~CSS may require payors and persons to provide information needed to identify and properly allocate and distribute payments and to submit payments to the Registry per 43 O.S. § 413.

(1) Support payment amounts are converted from a foreign country's order amount to a United States (U.S.) dollar amount at the time the order is registered and that exchange rate remains in place until the child support order is modified or the arrears are confirmed.

(2) ~~OCSS~~CSS:

(A) allocates and distributes support payments per Oklahoma Administrative Code (OAC) 340:25-5-351;

(B) modifies or enforces international orders per OAC 340:25-5-285;

(C) safeguards case information and records received from payors and persons. Information and records concerning Title IV-D and non-Title IV-D recipients of services through the Registry are confidential ~~under~~per 56 O.S. § 183 except as provided in OAC 340:25-5-67;

(D) sends custodial persons (CPs) a quarterly written notice of the amount of current support, arrears, and interest collected, and the amount of collections paid to the CP. CPs may also obtain this information

over the Internet or by telephoning ~~OCSS~~CSS per OAC 340:25-1-2.1;

(E) reserves the right to refuse to accept a personal or business check or direct debit after receiving a dishonored personal or business check, direct debit, electronic funds transfer (EFT), or other negotiable instrument from the same payor or on the same case; and

(F) considers the date of collection to be the date payments are received by the Registry and applies payments to existing case balances as of that date. If a payment collected represents the current support amount for future months, the amount should be applied to such future months as long as there are no past due balances on any of the noncustodial parent's (NCP's) cases per 45 C.F.R. § 302.51.

(3) When ~~OCSS~~CSS refuses to accept a personal or business check, direct debit, EFT, or other negotiable instrument from a payor ~~under~~per (2)(E) of this subsection, the payor:

(A) must submit the payment by cashier's check, certified check, money order, or online using a debit or credit card;

(B) is added to the ~~OCSS~~CSS Returned Payments List;

(C) remains on the Returned Payments List until ~~OCSS~~CSS receives the equivalent of 12 months of payments unless:

(i) the payment is returned due to missing endorsement;

(ii) payor provides prior notification that payment will be returned and remits a replacement payment within 10 days of notification in the manner required by ~~OCSS~~CSS;

(iii) returned payment is insufficient funds caused by ~~an OCSS~~a CSS Financial Institution Data Match levy; or

(iv) ~~OCSS~~CSS deems the reason for returned payment is out of payor's control;

(D) must request removal from the Returned Payments List by contacting ~~OCSS~~CSS per OAC 340:25-1-2.1.

(4) ~~OCSS~~CSS notifies the payor by mail:

(A) of the reason for the returned payment;

(B) that the payor was placed on the Returned Payments List;

(C) that the payor must submit payments as outlined in (3)(A) of this subsection; and

(D) how the payor can be removed from the Returned Payments List.

(5) When ~~OCSS~~CSS removes the payor from the Returned Payments List and subsequently has another payment returned, the payor is added back to the Returned Payments List and remains there indefinitely.

(d) **EFT support payments.** NCPs, employers, and other payors may register to make electronic payments through the ~~OCSS~~CSS online child support payment system (WebPay) at https://www.okdhs-paycs.com/Login.aspx.

(1) To transfer child support payments electronically, NCPs, employers, and other payors must:

(A) call ~~OCSS~~CSS at the telephone numbers provided in OAC 340:25-1-2.1 to set up the EFT process;

(B) have a valid email account;

(C) have Internet access;

(D) be a legal owner of a:

(i) bank account held at a financial institution within the U.S.; or

(ii) VISA or MasterCard credit or debit card held at a financial institution within the U.S.; and

(E) register to use WebPay.

(2) WebPay payments do not replace federally mandated income withholding and will not stop or cancel income-withholding orders for NCPs.

(3) ~~OCSS~~CSS may adjust and release payroll deductions that were electronically transferred from ~~a~~an NCP's wages. When an adjustment cannot be processed in time to effect the change on the next scheduled electronic funds transfer, employers do not refund money to the employee, make adjustments to subsequent EFT payments, or take other action to correct the amount deducted.

(4) ~~OCSS~~CSS reserves the right to:

(A) close a WebPay account and impose fees and charges when a scheduled payment transaction is returned for any reason;

(B) add payor to Returned Payments List per (c)(3) of this Section; and

(C) specify what payment formats are used to conduct the electronic funds transfer between businesses to state child support entities.

(e) **Payment issuance.**

(1) Per 42 U.S.C. § 654 and 45 C.F.R. § 302.38, ~~OCSS~~CSS issues payments to the CP only by transferring funds electronically, also known as direct deposit, or through debit cards.

(2) Except as listed in OAC 340:25-5-340, CSS does not honor an attorney lien or other involuntary collection remedy against a CSS customer's child support funds until there has been an opportunity for the exemptions to be determined per 31 O.S. § 1 or other similar law.

(3) When a CP has designated an attorney's address as the address of record per OAC 340:25-5-340, CSS considers the designation to be an assignment of child support to the attorney per 43 O.S. § 118.4. CSS issues payments to the attorney by paper warrant made payable jointly to the attorney and the CP or by EFT to the attorney's trust account. When the CP terminates the assignment by changing the address of record per OAC 340:25-5-340, CSS resumes issuing payments to the CP as described in (e)(1).

(4) In interstate cases, ~~OCSS~~CSS issues payments to the initiating state Title IV-D agency by electronic funds transfer and only issues payments by paper warrant to initiating states that do not have an electronic funds transfer system.

(~~1~~5) Payments issued by debit card.

(A) When ~~an Oklahoma Department of Human Services (OKDHS)~~a DHS customer has a debit card,

at the point of ~~OCSS~~CSS initial child support payment issuance for a CP, a letter is mailed explaining that child support funds are added to the existing debit card account.

(B) When ~~an OKDHS~~a DHS customer was not issued an Oklahoma debit card at the point of ~~OCSS~~CSS initial child support payment issuance, a letter is mailed explaining the debit card activation process and that the debit card should be expected within ~~ten~~10 business days. The CP must activate the debit card within 90 calendar days of issuance.

(i) When a card is not activated, ~~OCSS~~CSS mails a second letter to the CP after 45 calendar days and a third letter after 90 calendar days. The letters explain the importance of activating the debit card and that when the card is not activated within 90 calendar days the payment is no longer available on the debit card.

(ii) Payments issued to a CP who has not activated the debit card are returned to ~~OCSS~~CSS after 90 calendar days. When payments are returned to ~~OCSS~~CSS, payments are applied per OAC 340:25-5-350.4. When the payments were distributed to other case balances or returned to the NCP, the payments are not redistributed to the CP.

(~~2~~6) Payments issued by direct deposit. After receiving a debit card, the CP may enroll in direct deposit by calling the toll-free customer service telephone number located on the back of the debit card. There are no charges or fees for receiving child support payments by direct deposit. A CP must have a bank account held at a financial institution within the United States U.S. to receive direct deposit child support payments and normal banking charges may apply.

(f) **Forged endorsement on warrants.**

(1) When a CP reports that a warrant has been fraudulently cashed, ~~OCSS~~CSS compares the payee's signature against the endorsement on the warrant and verifies that the signatures do not match.

(2) ~~OCSS~~CSS sends the following completed and signed documentation by the payee to the Oklahoma State Treasurer's Office (OST):

(A) Form 10AD044E, Affidavit of Lost or Destroyed Warrant;

(B) Form 10AD045E, Affidavit of Forged Endorsement; and

(C) Form 10AD046E, Investigation Questionnaire.

(3) ~~OCSS~~CSS issues a replacement warrant to the payee after ~~OCSS~~CSS receives the return of funds from OST and the OST mandatory 60 calendar-day holding period closes.

(g) **Overcollected support amounts.** ~~OCSS~~CSS returns overcollected support amounts per OAC 340:25-5-350.1.

(h) **Payment errors.** When payments have been disbursed, ~~OCSS~~CSS manages payment errors as described in this subsection.

(1) If a payor makes a payment error, ~~OCSS~~CSS is not required to correct, redirect, or recover the distributed payment, unless it has been retained by ~~OKDHS~~DHS.

(2) When ~~OCSS~~CSS errs, ~~OCSS~~CSS recovers overpayments to parties or CPs in Title IV-D and non-Title IV-D cases per OAC 340:25-5, Part 37.

(i) **Suspicious payment activity.** ~~OCSS~~CSS restricts use of payment methods by imposing limits, hold times, or other measures when ~~OCSS~~CSS believes that suspicious activity has occurred or may occur on a payor's account.

[OAR Docket #15-630; filed 6-19-15]

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

[OAR Docket #15-631]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 5. Child Care Plan ~~of Service~~
340:40-5-1 [AMENDED]
Subchapter 7. Eligibility
340:40-7-1 [AMENDED]
340:40-7-3.1 [AMENDED]
340:40-7-7 [AMENDED]
340:40-7-8 [AMENDED]
340:40-7-9 [AMENDED]
340:40-7-11 [AMENDED]
340:40-7-12 [AMENDED]
Subchapter 9. Procedures Relating to Case Changes
340:40-9-2 [AMENDED]
Subchapter 13. Child Care Rates and Provider Issues
340:40-13-5 [AMENDED]
(Reference WF 14-09)
AUTHORITY:
Director of Human Services; Section 162 of Title 56 of the Oklahoma Statutes; and Title 45 of the Code of Federal Regulations (C.F.R.) Parts 98 and 99. Section 658E of the Child Care and Development Block Grant (CCDBG) Act of 2014, signed by the President on November 19, 2014.
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
January 23, 2015
COMMENT PERIOD:
February 17, 2015 through March 19, 2015
PUBLIC HEARING:
None requested
ADOPTION:
March 24, 2015
SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:
March 25, 2015
APPROVED BY GOVERNOR'S DECLARATION:
Approved by Governor's declaration on June 8, 2015
FINAL ADOPTION:
June 8, 2015
EFFECTIVE:
October 1, 2015
SUPERSEDED EMERGENCY ACTIONS:
n/a
INCORPORATIONS BY REFERENCE:
n/a

ANALYSIS:

The proposed revisions provide clear and concise rules for DHS staff, clients, and providers to ensure benefits are issued properly, renewed appropriately, and child care contracting procedures are properly followed.

CONTACT PERSON:

Dena Thayer, Programs Administrator, Policy Management Unit, OKDHS, P.O. Box 25352, Oklahoma City, OK 73125, 405-521-4326.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF OCTOBER 1, 2015:

SUBCHAPTER 5. CHILD CARE PLAN ~~OF SERVICE~~

340:40-5-1. ~~Plan ofservice~~Child care plan

Providing child care is part of an overall plan of service designed to help the parent or caretaker with whom the child lives achieve his or her maximum potential for self-support. Quality child care services assure the parent or caretaker ~~that~~ each child has adequate care that affords developmental and learning experiences while the parent or caretaker is engaged in self-support activities. The child care plan ~~of service~~ consists of many components that ~~all~~ link to form a goal-directed child care plan ~~of care~~, and includes ~~the~~ components ~~in~~ (1) through (11) of this Section.

(1) **Child characteristics.** The worker gathers information about the child for whom child care is needed including his or her name, age, grade level, and whether the child has a disability.

(2) **Need for child care.** The worker determines whether the parent or caretaker meets a need factor per Oklahoma Administrative Code (OAC) 340:40-7-7 and 340:40-7-8.

(3) **Plan hours.** The worker gathers information about the days and hours the parent or caretaker meets the need factor, including travel time.

(A) When there are two parents or caretakers in the home, the worker only approves subsidized child care benefits when both parents or caretakers meet a need factor during the same hours per OAC 340:40-7-7 and 340:40-7-8.

(B) Based on the days and hours the child requires care, the worker approves a full-time daily, part-time daily, a combination of full-time and part-time daily, weekly, or a blended unit type.

(C) Refer to OAC 340:40-7-7(e) for plan hours concerning a child attending an Early Head Start-Child Care (EHS-CC) Partnership grant program.

(4) **Alternative to subsidized child care benefits.** The worker and client explore whether there is an appropriate, feasible alternative to Oklahoma Department of Human Services ~~(OKDHS)~~(DHS) subsidized child care benefits.

(A) ~~If~~When the alternative is a spouse or the natural or adoptive parent of the child who lives in the home, the client must use the alternative rather than subsidized child care benefits.

(B) ~~If~~When the alternative is someone ~~else~~other than a spouse or parent of the child, the client has a choice whether to use ~~this~~the alternative. ~~Possible alternatives include:~~

~~(i) care by a dependable relative who is able and willing to assume responsibility for care and supervision of the child for part of the day;~~

~~(ii) care in a free or low-cost facility, such as a preschool, pre-kindergarten, kindergarten, Head Start, Early Head Start, or tribal child care program;~~

~~(iii) dependent care expenses considered as earned income exemptions, per OAC 340:10-3-33(3); and~~

~~(iv) for a school age child, the rearrangement of the parent's or caretaker's employment or training schedule to coincide with the hours the child is in school.~~

(5) **Plan to increase income.** At each application or ~~review~~renewal, the client and worker ~~discuss~~explore ways the client ~~can increase~~could become more self-supporting by increasing household income ~~and identify the goals child care helps the family achieve~~. ~~Together, they estimate when the family can assume progressively greater responsibility for the cost of child care. The worker makes referrals to other agencies as appropriate and per OAC 340:40-7-9.~~Ways to increase income may include pursuing a work promotion, searching for a higher paying job, or increasing job skills. The client must also pursue any identified potential income per OAC 340:40-7-9.

(6) **Back up plan.** The worker and client discuss ~~the~~and develop a back up plan for child care ~~if~~when the child cannot go to the usual provider because of illness, school holidays, or other unforeseen emergencies. The back up plan includes the name and address of a person the client feels he or she can rely on when the normal plan of care cannot be used.

(7) **Choice of provider.** The worker documents the choice of provider on the application or ~~review~~renewal form.

(A) ~~If~~When the client does not choose a provider at the time of request, the worker provides the client with information to help in making the choice.

(B) The client may choose a family child care home regardless of star level.

(C) The client may not choose a child care:

(i) facility that does not have a valid contract with ~~OKDHS~~DHS;

(ii) facility in which the client or his or her spouse, including the child's parent or stepparent, has an ownership interest;

(iii) home in which the child resides;

(iv) home in which the client also works during the hours his or her child is in care;

(v) provider who does not allow parental access during the hours the provider is caring for children;

(vi) ~~provider who is~~program receiving state or federal funds, such as Head Start, Early Head Start, or public schools~~,who is~~and not charging all parents for the hours subsidy payment is requested. EHS-CC Partnership grant programs are exempt from this rule; and

(vii) provider caring for a school age child during the regular school day when ~~such~~the student could be attending a public or private school during those hours; or

(viii) center, ~~which~~when it is a one star facility, unless there are no centers with a higher star status in the community or special exception criteria are met. Special exception criteria are:

(I) the child was ~~already~~ approved for care at ~~this~~the one star center prior to January 1, 2003, or prior to the provider's star status being reduced to one star. The child ~~can~~may remain at ~~this~~the facility unless the child stops attending there for more than 30 calendar days. The child may be approved at ~~this~~the same facility again ~~if~~when the only reason the child did not attend for more than 30 calendar days was because of a school break or ~~due to~~ circumstances beyond the control of the family, such as the illness of the child;

(II) care is requested for a child living in the same home as a child already approved for care ~~as described in~~per (7)(C)(viii)(I) of this subsection for the same one star child care provider; or

(III) the parent or guardian demonstrates there is no other child care option that meets the family's needs.

(8) **Income determination.** Per OAC 340:40-7, the worker determines who is considered part of the household for income determination, what income is countable, and what income is excluded. After determining the amount of countable household income, the worker uses ~~OKDHS~~DHS Appendix C-4, Child Care Eligibility/Co-payment Chart, to determine whether the household meets income guidelines. ~~The OKDHS Appendix C-4 is amended from time to time and the Commission for Human Services must approve any changes.If~~When the family's countable income ~~of the family~~ exceeds the eligibility standard on the appendix ~~or is above the income level on the appendix~~, the family is not ~~eligible~~approved for subsidized child care benefits.

(9) **Family share ~~co-payment~~copayment.** The worker uses ~~OKDHS~~DHS Appendix C-4 to determine the family share ~~co-payment~~copayment for each family. The family share ~~co-payment~~copayment is applied before ~~OKDHS~~DHS pays a child care subsidy. The ~~amounts the family and OKDHS pay toward the~~family's copayment cost ~~of care~~ varies ~~depending on the plan of service,~~based on family size, income, and the number of children receiving subsidized child care benefits.

(10) **Social services requests.** When a client requests help in meeting the social services needs listed on the application or ~~review~~renewal form, the worker provides all available information to aid a client in meeting these needs.

(11) **Client rights and responsibilities.** The worker advises the client of rights and responsibilities listed in (A) through (G) of this paragraph.

(A) A child care request is only approved back to the date of request when the interview is conducted and verification is provided on that same date.

(B) The client has the right to ask for a fair hearing ~~if~~when the client disagrees with an action taken on his or her case, per OAC 340:2-5.

(C) The provider may charge the client for special fees, such as enrollment or transportation fees, provided these fees are posted and also charged to the general public.

(D) The provider may charge the client for care provided in excess of ~~OKDHS~~the DHS approved child care plan ~~of service hours~~ when the client chooses to leave the child in care longer. ~~If~~When the provider requires ~~that~~ all children in the facility begin care by a certain time of day and the client's child care plan hours start later, the provider must not charge the client for those additional hours. The client swipes attendance based on the child care plan hours.

(E) The provider may charge the client for any days ~~OKDHS~~DHS refuses to pay for care when:

(i) the client did not swipe attendance for the correct days and times his or her child attended child care;

(ii) swipes were denied and the client did not get them corrected within ~~ten~~10 calendar days; or

(iii) the provider loses the absent day payment for a child approved for a weekly unit type because the client did not swipe correct attendance for every day the child attended that month.

(F) The provider may not charge the client for:

(i) days and hours covered in the child care plan when all attendance was correctly swiped even ~~if~~when the hours are more than customary for a full-time day; and

(ii) days the child is not in attendance.

(G) The client is required to cooperate with the ~~OKDHS~~DHS Office of Inspector General in any audit or investigation of possible overpayments by the client or by the client's chosen provider.

SUBCHAPTER 7. ELIGIBILITY

340:40-7-1. Categories of eligibility

A person may be predetermined eligible for a child care benefit, determined income eligible based on the gross income of the household, or have dual eligibility with his or her tribe.

(1) **Predetermined eligible.** A person is predetermined eligible for a child care benefit with a zero ~~co-payment~~copayment when he or she is a recipient of public assistance or Supplemental Security Income (SSI). Public assistance is defined as a State Supplemental Payment (SSP), Temporary Assistance for Needy Families (TANF) that includes Supported Permanency, or Refugee Resettlement Program (RRP) cash assistance.

(A) ~~All~~ TANF recipients who work and are eligible for a child care benefit ~~can~~ may choose to receive a child care benefit through the Oklahoma Department of Human Services ~~(OKDHS)~~(DHS)~~while they work~~ or ~~choose to~~ pay for the child care themselves. ~~If~~When they choose to pay for the child care cost ~~themselves~~, it ~~can be~~is considered as an earned income exemption for the TANF benefit per Oklahoma Administrative Code 340:10-3-33.

(B) ~~Exceptions to a~~A person ~~being eligible with a zero co-payment when he or she receives~~receiving public assistance or SSI ~~include~~is not predetermined eligible for a zero copayment when:

(i) the recipient is a child and the parent or guardian requesting the benefit for the child is not the payee on the public assistance or SSI payment; or

(ii) it makes a difference ~~in~~ whether other children in the household are income eligible for child care.

(2) **Income eligible.** Households ~~who are~~ not predetermined eligible for a child care benefit must meet income eligibility guidelines ~~shown on OKDHS~~for their household size per DHS Appendix C-4, Child Care Eligibility/Co-payment Chart, ~~for their household size,~~ to receive assistance with child care costs.

(3) **Transitional child care.** Per Section 230.61 of Title 56 of the Oklahoma Statutes, a TANF recipient who becomes employed is eligible for transitional child care benefits for 24 months following the date of employment as long as he or she meets income eligibility guidelines ~~on OKDHS~~per DHS Appendix C-4 for his or her household size unless the:

(A) employer provides child care benefits; or

(B) recipient'sgross monthly ~~salary received from the employer~~earned income exceeds the monthly allowance of assistance pursuant to the TANF program plus the cost of child care and medical insurance to which the recipient would be entitled.

(4) **Dual eligibility.** A person may have dual eligibility ~~for both~~to receive child care assistance through the DHS Child Care Subsidy Program ~~through OKDHS~~ and ~~through~~ his or her tribe. ~~The~~However, the child care provider may not receive payment for the same service from both programs simultaneously.

340:40-7-3.1. Child with disabilities and special needs rate approval process

(a) **Child with disabilities.** A child with disabilities is defined as a child who receives Supplemental Security Income (SSI), SoonerStart early intervention services ~~provided in accordance with~~documented on an Individualized Family Service Plan (IFSP), or special education services ~~provided in accordance with an~~documented on an Individualized Education Program (IEP), by the child's local school district. This definition also includes a child whose SSI payment stops because of financial reasons, but who still meets the medical definition of disability as determined by the Social Security Administration (SSA).

(1) When a child with disabilities is 13 through 18 years of age, the client must provide a statement from a licensed health care professional verifying the child is physically or mentally incapable of self-care as age appropriate before care is approved and annually thereafter.

(2) When the licensed health care professional states the child is capable of self-care as age appropriate, subsidized child care benefits are not approved.

(b) **Special needs rate approval process.** The special needs rate, if approved, is paid in addition to the rate paid for a typical child. When a child does not meet the definition of a child with disabilities, the child is not ~~eligible~~approved for a special needs rate. A child with disabilities may be approved for a moderate or severe special needs rate unit type after the special needs rate approval process is completed. ~~If~~When the worker determines the ~~parent or caretaker~~child is eligible for subsidized child care benefits before the special needs rate approval process is completed, the worker approves the child for a typical child unit type. The special needs process includes steps described in (1) through (5) of this subsection.

(1) The parent or caretaker must provide proof the child meets the definition of a child with disabilities and information about the child's care needs. Proof is required prior to approval of the special needs rate and annually thereafter.

(A) For a child under 3 years of age, the parent or caretaker submits the child's current IFSP.~~that~~The IFSP verifies the child receives SoonerStart services and documents the child's care needs ~~of the child~~.

(B) For a child over ~~three~~3 years of age, the parent or caretaker submits the child's current IEP.~~that documents~~The IEP verifies the child receives special education services and documents the child's care needs ~~of the child~~.

(C) ~~If~~When the child receives SSI, the parent or caretaker submits the child's award letter or other proof from SSA that verifies SSI receipt ~~of this income~~. ~~If~~When the child ~~is not receiving~~does not receive SoonerStart or special education services, the parent or caretaker submits a statement from a health professional describing the child's care needs.

(2) The ~~Adult and Family Services (AFS) worker,~~ parent or guardian, child care provider, ~~Oklahoma~~ Child Care Services ~~(OCCS)~~(CCS) licensing staff, and the Adult and Family Services (AFS) Child Care Subsidy staff ~~or Child Welfare Services (CWS) staff~~ completes the appropriate sections of Form 08AD006E, Certification for Special Needs ~~Child Care~~ Rate ~~Certification~~for Licensed Child Care Homes and Centers. Determination of

~~whether~~special needs certification requirements are ~~met~~ made by the:

(A) ~~child are made by the~~ AFS Child Care Subsidy staff ~~or~~for the child ~~welfare (CW) specialist~~; and

(B) ~~provider are made by the OCCS~~the CCS licensing specialist for the provider.

(3) ~~The~~ AFS Child Care Subsidy staff ~~or child welfare specialist follows the instructions on~~uses Form 08AD007E, Scoring Sheet for Special Needs Rate Determination ~~Scoring Sheet~~, to score the 08AD006E. The child's care needs must be within the scoring range shown on Form 08AD007E for moderate or high need to qualify for a special needs rate.

(4) When the child and the provider meet certification requirements for the special needs rate, the rate is effective the first of the month following the month ~~OCCS licensing~~AFS Child Care Subsidy staff signs Form 08AD006E. ~~If~~When the child does not start child care until after the special needs rate is approved, the rate is effective the first date care is approved.

(5) Once ~~Form 08AD006E has been completed and the AFS Child Care Subsidy staff or child welfare specialist determines~~ the child is ~~eligible~~approved for one of the special need rates, a new Form 08AD006E is ~~only completed~~required when:

(A) the child's needs change;

(B) the child moves to a different child care facility;

(C) the child stops attending the facility that was approved for the special needs rate unit type for more than six months; or

(D) ~~the provider fails to obtain an on-site consultation within the parameters of the corrective action agreed upon with licensing staff; or~~

~~(E) OCCS~~CCS licensing staff ~~determines~~withdraws the provider's special needs certification per Oklahoma Administrative Code (OAC) 340:110-1-9.1 and the provider ~~no longer meets the child's need~~subsequently demonstrates compliance.

(c) **Supplemental Security Income-Disabled Children's Program (SSI-DCP).** A child between birth to 18 years of age ~~who receives~~receiving SSI may be eligible for additional services ~~described at~~per OAC 340:70-8-1 and enrichment child care ~~described at~~per OAC 340:40-7-8(f).

340:40-7-7. Establishing the need factor for child care

(a) **Establishing the need factor.** In order for children to be cared for in a safe environment while the parent or caretaker participates in an approved activity or for protective or preventive reasons, the Oklahoma Department of Human Services ~~(OKDHS)~~ (DHS) provides subsidized child care benefits.

(1) The worker arranges to obtain from the client or collateral sources, documentation of the need factor.

(2) The worker and client negotiate the amount of travel time allowed for an activity based on what is a reasonable length of time.

(3) The worker does not approve child care for the hours the child attends school or Head Start.

(b) **Need factor for single parent or caretaker families.** The need for subsidized child care is met when the:

(1) parent or caretaker is employed per Oklahoma Administrative Code (OAC) 340:40-7-8(a);

(2) parent or caretaker needs sleep time during the day after working night hours when a feasible alternative is used at no cost to ~~OKDHS~~DHS during the night working hours per OAC 340:40-7-8(a)(5);

(3) parent or caretaker is actively searching for a job per OAC 340:40-7-8(a)(6);

(4) parent or caretaker ~~is engaged in~~attends a training or formal education program designed to lead to employment per OAC 340:40-7-8(b) and (c);

(5) parent or caretaker attends high school, General Educational Development (GED), literacy, adult basic education (ABE), or English as a Second Language (ESL) classes per OAC 340:40-7-8(c);

(6) parent or caretaker ~~is actively participating~~participates in an approved Temporary Assistance for Needy Families (TANF) Work activity per OAC 340:10-2-1;

(7) child ~~is in need of~~needs care or supervision for part of the day as a protective or preventive service per OAC 340:40-7-8(e); or

(8) child receives Supplemental Security Income (SSI) and needs care ~~is needed~~ for enrichment purposes per OAC 340:40-7-8(f).

(c) **Need factor for two-parent or two-caretaker families.** Two-parent or two-caretaker families ~~can be~~include two natural or adoptive parents, the natural parent and a stepparent, two grandparents, other relative married couples, or other non-relative married couples. ~~If a~~When an unmarried couple ~~who is not married~~ applies~~,~~ ~~and only one person is the natural or adoptive parent of the child,~~ only the natural or adoptive parent must meet a need factor ~~as described at OAC 340:40-7-7(b)~~. The need for subsidized child care is met when:

(1) both parents or caretakers ~~are employed~~work during the same hours ~~for which~~ they request child care ~~is requested~~ per OAC 340:40-7-8(a);

(2) one or both parents or caretakers need sleep time during the day after working night hours when a feasible alternative is used at no cost to ~~OKDHS~~DHS during the night working hours per OAC 340:40-7-8(a)(5). ~~If~~When both parents do not work night hours, ~~the other~~one parent must ~~be employed~~work during the other parent's sleep time hours;

(3) one or both parents are ~~actively~~ searching for a job per OAC 340:40-7-8(a)(6). ~~If only~~When one parent or caretaker ~~is searching~~searches for a job, the other parent or caretaker ~~is employed, in~~must work or attend a training~~,~~ or ~~in a~~ formal education program during the same hours;

(4) one parent or caretaker ~~is attending~~attends a formal education or training program during the same hours the other parent or caretaker ~~is employed~~works per OAC 340:40-7-8(a) through (c);

(5) both parents or caretakers ~~are in~~attend high school per OAC 340:40-7-8(c);

(6) one parent or caretaker ~~is in~~attends high school during the same hours the other parent or caretaker ~~is working~~works~~, attending~~or attends a formal education~~,~~ or post high school training program per OAC 340:40-7-8(a) through (c);

(7) one parent or caretaker ~~is attending~~attends GED, literacy, ABE, or ESL classes during the same hours ~~as~~ the other parent or caretaker ~~is employed~~works per OAC 340:40-7-8(a) through (c);

(8) one or both parents or caretakers ~~are actively participating~~participate in approved TANF Work activities per OAC 340:10-2-1. ~~If~~When one parent or caretaker is not participating in TANF Work activities, that parent ~~meets~~must meet a need factor ~~defined at~~per OAC 340:40-7-8 during the same hours;

(9) the child ~~is in need of~~needs care or supervision for part of the day as a protective or preventive service per OAC 340:40-7-8(e);

(10) the child receives SSI and needs care ~~is needed~~ for enrichment purposes per OAC 340:40-7-8(f); or

(11) one parent or caretaker is incarcerated and the other parent remains in the home. In this instance, ~~use subsection (b) of this Section to determine if~~the parent remaining in the home ~~meets a need factor~~is treated as a single parent.

(d) **Need factor in joint custody cases.** When parents are separated or divorced and share custody of their child, ~~either~~ voluntarily or through a court order, each parent's income and need for child care is considered separately ~~as well as his or her income~~.

(e) **Need factor for a child attending an Early Head Start-Child Care (EHS-CC) Partnership grant program.** A child attending an EHS-CC Partnership grant program may be approved for a weekly unit type when the parent or caretaker qualifies for Child Care Subsidy and meets a need factor per (b) or (c) of this Section for some of the EHS-CC Partnership grant program care hours.

(~~e~~f) **Activities ~~which~~that do not meet the need factor for child care.** The need factor for child care is not met and child care ~~cannot~~must not be approved for:

(1) job search for ~~persons~~parents or caretakers not ~~involved in~~:

(A) participating in TANF Work activities ~~described at~~per OAC 340:10-2-1; or

(B) ~~the activities described at~~meeting the job search employment need factor per OAC 340:40-7-8(a)(6);

(2) ~~on-line~~online Internet based or televised education or training courses when an instructor is not conducting a live broadcast and attendance is not required while the program is being broadcast per OAC 340:40-7-8(b) and (c);

(3) undergraduate classes or other training ~~that are~~ not expected to lead to a degree or certificate of completion per OAC 340:40-7-8(b) and (c);

(4) post graduate education, such as master's and doctoral programs;

(5) two-parent or two-caretaker families when both ~~are attending~~attend a formal education or training program during the same days and hours;

(6) transportation only;

(7) court-ordered community service hours, volunteer hours, or jury duty;

(8) hours a school age child could ~~be in~~attend a public or private school, but the parent or caretaker chooses ~~not to allow the child to attend because he or she wishes~~ to home school the child at night; and

(9) children in Child Welfare Services (CWS) foster care, when one or both foster parents do not meet child care eligibility rules per OAC 340:75-7-65.

340:40-7-8. Defining the need factor for child care benefits

(a) **Employment.** Employment means the parent or caretaker earns wages for work performed or meets criteria per (5) or (6) of this subsection.

(1) The client must provide proof of his or her work hours. When the client has the flexibility to set his or her own work hours, the client and worker jointly determine if ~~they~~the client can reduce the number of hours the child needs care by rearranging the client's work schedule. This is especially important in two-parent or two-caretaker families.

(2) The worker limits approval of child care to the number of days and hours the client is working plus reasonable travel time. In two-parent or two-caretaker working families, the worker limits approval to the days and hours they ~~are both working~~ work ~~at~~ the same ~~time~~hours plus reasonable travel time. ~~When the child attends school or Head Start during part of the work hours, the worker reduces the number of hours he or she approves child care accordingly.~~

(3) ~~Unless the~~The client ~~is an adoptive parent who meets criteria per OAC 340:40-7-12(6) or a caretaker not legally and financially responsible for the child per OAC 340:40-7-6(a)(6), the client~~ must make at least minimum wage for the number of hours he or she ~~is working, referred to as the minimum wage rule, in order~~works to meet the employment need factor~~, with the~~unless the client qualifies for an exception ~~of circumstances in~~per (D) or (E) of this paragraph. Criteria for determining minimum wage is specified in (A) through (C) of this paragraph.

(A) Minimum wage is determined by the federal government.

(B) ~~To~~The worker reviews the pay information provided by the client to determine whether the client makes at least minimum wage.~~when the client:~~

(i) When the paycheck or employer statement shows the hourly pay rate, the worker compares it to the federal minimum wage.

(~~i~~ii) ~~works for an employer, is not considered self-employed, and~~ When the pay information provided does not show the client's hourly pay rate ~~of pay~~, the worker divides the number of hours

the client works ~~from~~by the gross pay ~~for the~~per pay ~~periods used to calculate income~~period to determine the client's hourly pay rate~~; or~~.

(~~ii~~iii) When the client is considered self-employed per OAC 340:40-7-11(b)(2)(A), the worker divides the number of hours the client works by the net pay, after applicable business expenses, ~~when declared, for the pay periods used to calculate income~~to determine the client's hourly pay rate. When the client and spouse are self-employed in the same business, the worker ~~adds~~combines their work hours ~~together~~ and ~~then~~ divides the work hours ~~from~~by the net pay ~~for the pay periods used to calculate income~~to determine their hourly pay rate.

(C) When the client works for an employer~~, whether considered self-employed or not per OAC 340:40-7-11(b)(2), is paid~~paying a set wage less than minimum wage, and the employer refuses to begin paying at least minimum wage, the worker denies or closes child care benefits.

(D) When the client ~~works for himself or herself~~ is self-employed or works for an employer ~~who pays~~paying wages based on commission or other performance measures ~~rather than~~instead of a set wage, ~~is not making~~does not make at least minimum wage, and the client has been performing this work:

(i) less than one year, the worker counsels with the client to develop a plan for increasing his or her income within three-to-six months. When the client does not cooperate in developing a plan or does not agree to implement the developed plan ~~that was developed~~, the worker closes or denies the child care benefit.

(I) When the client's income increases to at least minimum wage during this time period, no further monitoring is needed until the next ~~review~~renewal.

(II) When after three-to-six months the client's income increases, but is ~~still~~ less than minimum wage, the worker ~~may approve an additional three-to-six months of care, if after evaluating the client's circumstances, such as how well~~ evaluates the likelihood of the client making at least minimum wage before approving more care. Factors to consider include how closely the client followed the plan, how much the hourly rate ~~at which income has~~ increased, and whether plan modifications ~~can be made to~~could help the client increase ~~income, it is reasonable to presume the client will make at least minimum wage during this time frame~~earnings. The worker may approve an additional three-to-six months of care when appropriate.

(III) When it is not reasonable to presume the client's income will increase to at least minimum wage within three-to-six months, the worker closes the child care benefit; or

(ii) at least one year without any substantial change, the worker denies or closes the child care subsidy benefit.

(E) When the client is an adoptive parent who meets criteria per OAC 340:40-7-12(6) or a caretaker not legally and financially responsible for the child per OAC 340:40-7-6(a)(6), he or she is not required to make at least minimum wage for the number of hours worked.

(4) A person employed and working from his or her own home may be approved for subsidized child care benefits in an out-of-home child care home or center.

(5) Subsidized child care benefits ~~can~~may be approved for sleep time during the day when a parent or caretaker works night hours and a feasible alternative is used at no cost to the Oklahoma Department of Human Services ~~(OKDHS)~~(DHS) during the night working hours. Night working hours are defined as the hours between 11:00 p.m. and 7:00 a.m.

(A) The maximum amount of time the worker approves child care allows the client eight hours of sleep plus travel time to and from the child care provider.

(B) In two-parent or two-caretaker families care may only be approved for this reason when both parents have night time jobs or when one parent has a night time job and the other parent or caretaker works during the day while the other parent is sleeping.

(6) Job search meets the definition of employment ~~and child care may be approved for a single or two-parent or caretaker household only~~ when ~~a~~the client ~~who has~~ received subsidized child care benefits for at least 30 calendar days, loses employment or successfully completes a formal education or training program, and requests child care to look for a job.

(A) Child care may be approved for a maximum of ~~30~~90 calendar days from the date the client loses employment or successfully completes a formal education or training program as long as the child continues to attend the same child care facility.

(i) Job search may be approved no more than twice per calendar year.

(ii) The client must ~~have been employed~~work or ~~going to~~attend school for at least 90 calendar days between job search approval periods.

(B) When the client reports a new job ~~within the job search period~~ and provides all required verification to prove continued eligibility within the job search period or 30 calendar days of the job search closure, a new application is not needed. When the client does not report a new job or provide required verification within the job search period or 30 calendar days of the job search closure, he or she must complete a new application before being approved for further child care.

(b) **Training.** A training program is defined as a course of study that when completed, qualifies a person to meet requirements for a job the client could not ~~have obtained~~obtain without the certificate of completion, accreditation, or licensure. Child care ~~can~~may be approved for one parent or caretaker to attend a training program. In two-parent or two-caretaker families, the other parent or caretaker must ~~be employed~~work during the same hours.

(1) The training program must qualify to receive federal financial aid from the United States Department of Education (USDE) or other federal or state education funds.

(2) Prior to approval for child care, the client must provide proof of enrollment, the days and hours the client will be attending, and when he or she is expected to complete the program.

(3) The program must require classroom attendance on a school campus with an instructor present. Care is only approved for an ~~on-line~~online Internet based course or televised course when it is a live broadcast conducted by an instructor and attendance is required while the program is being broadcast. When the program is self-paced and the client ~~is able to~~may choose his or her own school hours, care is not approved.

(4) The client must provide proof of progress when requested. When the client is not making satisfactory progress, further child care for this reason is not approved.

(5) Once the client completes a training program, further child care is not approved for training or education. The client is expected to look for jobs that require his or her training credentials. The client may be ~~eligible~~approved for subsidized child care benefits to job search when he or she meets requirements at (a)(6) of this Section.

(6) In certain circumstances, the worker may approve child care benefits for a client to attend a second training program. The client must have been employed in a job requiring the training credentials he or she has for at least 12 months. Possible circumstances include when:

(A) the client can no longer perform the job he or she is trained to do because of physical or mental health reasons. In this instance, the client must provide a statement from a doctor, mental health professional, or a vocational rehabilitation professional verifying the reason. The professional must also state that the client is capable of performing the job tasks ~~of~~after completion of the training program ~~where the client wants to enroll~~;

(B) there is no longer a demand for the type of work the person is trained to do. The client must provide a statement from a professional working with the client to obtain employment stating there is no demand. The professional must be employed by the Workforce Oklahoma Center, a Workforce Investment Act (WIA) contracted entity, the Oklahoma Employment Security Commission (OESC), or the Oklahoma Department of Rehabilitation Services (DRS); or

(C) the client can establish receipt of the additional training will increase the person's earning potential. The client must provide proof the starting salary for a person with the training credentials the client wants to obtain is higher than he or she is currently earning.

(c) **Education program.** An education program may include:

(1) **High school.** Child care may be approved for one or both parents or caretakers to attend high school. It is not approved for a parent or caretaker to receive homebound instruction. Prior to approval the client must provide proof that he or she is enrolled, the days and hours the client is attending, and when he or she is expected to graduate.

(2) **General Educational Development (GED), literacy, or adult basic education (ABE) classes.** The program must require classroom attendance with an instructor present. Child care may be approved for one parent or caretaker to attend GED, literacy, or ABE classes. However, in two-parent or two-caretaker families, the other parent or caretaker must be employed during the same hours.

(A) The client must provide proof of enrollment, the days and hours the client is attending, and the ~~length~~end date of the class prior to care approval. When the class has open enrollment and no established end date, the client must provide proof of progress and how it is measured.

(B) Within the first month of classes, the client must provide proof of initial testing showing the client's education ~~and/or~~or literacy level.

(C) ~~The~~When the class ends, the worker reviews the client's progress ~~when the class is expected to end~~ prior to approval for further child care for this reason. When the class is open-ended, the worker reviews progress no later than 12 months from the date care ~~was~~is approved for this reason. At ~~review~~renewal, the client must provide a statement from the school that includes:

(i) whether the client ~~is attending~~attends regularly;

(ii) whether the client is making satisfactory progress;

(iii) an estimated ~~length of time it will take~~end date to complete the program; and

(iv) ~~what~~the days and hours the client ~~is~~ currently ~~attending~~attends classes.

(D) When the client ~~has~~is not ~~been~~ attending regularly or making satisfactory progress, further child care for this reason is not approved.

(3) **English as a Second Language (ESL) classes.** The program must require classroom attendance with an instructor present. Child care may be approved for ~~a single~~one parent or caretaker to attend ESL classes when the client lacks proficiency in understanding, speaking, reading, or writing the English language. In two-parent or two-caretaker families, the other parent or caretaker must be employed during the same hours.

(A) The client must provide proof of enrollment, the days and hours the client ~~is attending~~attends, and the ~~length~~end date of the class prior to care being

approved. When the class has open enrollment and no established end date, the client must provide proof of how often progress is measured.

(B) The worker reviews the client's progress when the class is expected to end prior to approval for further care for this reason. When the class is open-ended, the worker reviews progress no later than 12 months from the date care ~~was~~is approved for this reason. The client must provide a statement from the school that includes:

(i) whether the client ~~is attending~~attends regularly;

(ii) whether the client is making satisfactory progress;

(iii) an estimated length of time ~~it will take~~needed to complete the program; and

(iv) ~~what~~the days and hours the client ~~is~~ currently ~~attending~~attends.

(C) When the client ~~has~~is not ~~been~~ attending regularly or making satisfactory progress, further care for this reason is not approved.

(4) **Formal education program.** A formal education program is defined as a course of study ~~that leads~~leading to the attainment of an associate or bachelor's degree. Child care ~~can~~may be approved for one parent or caretaker to attend a formal education program and ~~to~~ participate in activities required to maintain a scholarship. Only required scholarship activities for scholarships disbursed through the school's financial aid office qualify for child care. In two-parent or two-caretaker families, the other parent or caretaker must ~~be employed~~work during the same hours.

(A) The formal education program must qualify to receive federal financial aid from USDE or other federal or state education funds.

(B) Prior to approval for child care, the client must provide:

(i) proof of enrollment~~,~~;

(ii) the days and hours the client ~~is attending~~attends school or ~~participating~~participates in activities required to maintain a scholarship~~,~~; and

(iii) when ~~he or she is expected~~the client expects to complete the degree.

(C) The degree program must require classroom attendance on the school campus with an instructor present. Care is only approved for an ~~on-line~~ online Internet based course or a televised course when it is a live broadcast conducted by an instructor and attendance is required while the program is being broadcast. When the program is self-paced and ~~can~~may be completed whenever the client chooses, care is not approved.

(D) The client must provide proof of progress when requested. When the client is not making satisfactory progress, further care for this reason is not approved.

(E) Once the client completes a bachelor's degree, further care is not approved for training or education. The client is expected to look for jobs that require a degree. The client may be ~~eligible~~approved for subsidized child care benefits to job search when he or she meets requirements at (a)(6) of this Section.

(F) In certain circumstances, the worker may approve subsidized child care benefits for a client to obtain a different bachelor's degree. The client must first have been employed in a job that required the degree he or she already has for at least 12 months. Possible circumstances include when:

(i) the client can no longer perform the job he or she is trained to do because of physical or mental health reasons. In this instance, the client must provide a statement from a doctor, mental health professional, or a vocational rehabilitation professional that verifies the reason. The professional must also state that the client is capable of performing the job tasks of the degree program in which the client wants to enroll;

(ii) there is no longer a demand for the type of work the person is trained to do. The client must provide a statement from a professional working with the client to obtain employment stating there is no demand. The professional must be employed by the Workforce Oklahoma Center, a WIA contracted entity, OESC, or DRS; or

(iii) the client can establish receipt of the second degree may increase the person's earning potential. The client must provide proof the starting salary for a person with the degree the client wants to obtain is higher than he or she is currently earning.

(d) **Temporary Assistance for Needy Families (TANF) related child care.** TANF related subsidized child care benefits may be provided for:

(1) any TANF Work activity outlined on the client's Form 08TW002E, TANF Work/Personal Responsibility Agreement, per OAC 340:10-2-1 ~~this includes~~ including when:

(A) the person is waiting to enter an approved TANF Work activity. ~~Approval is limited~~The worker limits approval to a time period not to exceed:

(i) two weeks; or

(ii) one month, on an exception basis,~~where~~when child care arrangements or other services would otherwise be lost and the subsequent activity is scheduled to begin within that period;

(B) prior to TANF approval ~~for TANF~~, applicants are referred for immediate job search. TANF applicants are advised:

(i) child care to job search is limited to 20 days that must be used within 30 calendar days from the date of request;

(ii) TANF applicants may not choose in-home child care arrangements ~~are not available for TANF applicants~~;

(iii) child care ~~may only be used during~~is limited to the times the applicant is actually looking for a job; and

(iv) he or she must notify the worker immediately upon securing employment; and

(C) the person is sanctioned per OAC 340:10-2-2 and participating in TANF Work activities; or

(2) substance abuse treatment when the parent of a child receiving TANF is ineligible for TANF due to the illegal use of a controlled substance or substances. Prior to approval, the parent must provide proof of the substance abuse treatment plan from the treatment provider.

(e) **Protective or preventive child care.** Subsidized protective or preventive child care benefits may be used as an early intervention strategy in certain critical situations to help prevent neglect, abuse, or exploitation of a child. The worker may approve child care in these situations to help stabilize the family situation or enhance family functioning. In most instances, Child Welfare Services~~(CW)~~(CWS) staff completes protective or preventive child care requests when they are working with the family and recommending protective or preventive child care. When ~~CW~~CWS staff contracts with an outside agency to provide protective or preventive services and child care is recommended, Adult and Family Services (AFS) staff completes the child care requests with help from contracted agency staff.

(1) Subsidized protective or preventive child care benefits are temporary and planning to reduce or eliminate the need for such child care begins at the initial contact.

(2) The worker must complete a face-to-face interview with the client prior to approving subsidized protective or preventive child care benefits in order to better assess all of the service needs of the family.

(3) The client must provide a statement from a professional working with the family stating:

(A) the reason child care is recommended;

(B) how placing the child in a child care facility helps to prevent neglect, abuse, or exploitation of the child; and

(C) the length of time ~~this~~the professional expects care ~~is expected~~ to be needed.

(4) The family may or may not be expected to help in paying the cost of ~~these~~the subsidized child care benefits depending on the unique circumstances of the family.

(5) In certain circumstances, families who are financially ineligible for subsidized child care benefits may be approved for protective or preventive child care benefits when the child is in danger of neglect, abuse, or exploitation. The client must provide evidence the family is so burdened by debt the additional financial pressure of paying for child care may result in further deterioration of family stability and functioning. The client must also provide a plan for reducing his or her debt.

(6) The worker may approve subsidized protective or preventive child care benefits for a maximum of 30 calendar days.

(7) When the family requests more than 30 calendar days of subsidized protective or preventive child care benefits ~~beyond this initial 30 calendar day period~~, the worker scans supporting documentation into imaging and sends an email to the AFS Child Care Subsidy ~~Section~~ staff to request an extension. The client must provide all needed eligibility information prior to submission of the extension request.

(f) **Enrichment.** The purpose of subsidized enrichment child care benefits is to assist a child receiving Supplemental Security Income (SSI) to develop socialization skills and ~~to~~ transition into a group setting, such as a classroom. When a child is not receiving SSI benefits, the child is not ~~eligible~~approved for subsidized enrichment child care benefits.

(1) The need for subsidized enrichment child care benefits is based solely on the needs of the child's condition of delay or disability ~~rather than on~~instead of the activities of the parent or caretaker.

(2) ~~Child~~Enrichment child care ~~for enrichment~~ is limited to a maximum of two days per week not to exceed ~~ten~~10 full-time or part-time days per month.

(3) The parent or caretaker must provide a written recommendation from a professional ~~who is~~ working directly with the child ~~in some capacity~~ that states how child care would be beneficial to the child. The professional could be the child's doctor, occupational therapist, physical therapist, or special education teacher.

(4) Enrichment child care is only approved for a child who has not started school or Head Start unless, due to the child's disabilities, the child receives instruction from a teacher in his or her home.

(5) When subsidized enrichment child care benefits are approved, care must be provided outside of the child's home and at least one other child must attend during the same hours.

(6) The worker obtains approval from staff in ~~the~~ AFS Child Care Subsidy ~~Section~~ prior to authorizing care for this need factor.

340:40-7-9. Mandatory pursuit of child support and other potential income

(a) **Mandatory referral to ~~the Oklahoma~~ Child Support Services ~~(OCSS)~~(CSS).** When one or both of the child's parents are absent from the home, the client must agree to pursue child support through ~~OCSS~~CSS for all children who must be included in the same household per Oklahoma Administrative Code (OAC) 340:40-7-6 before subsidized child care benefits are approved.

(1) **When ~~an OCSS~~a CSS referral is required.** The client is required to pursue child support for all children living in the home ~~where~~when one or both parents are absent, unless good cause exists ~~as described at~~per~~paragraph~~ (2) or (6) of this subsection, including when:

(A) the parent or caretaker is not requesting subsidized child care benefits for every child living in the home;

(B) the client ~~is already receiving~~receives court-ordered child support;

(C) there is a joint custody agreement and neither parent is ordered to pay support;

(D) parental rights ~~have been~~are terminated, except in the case of adoption, per Section ~~7006-1.3~~1-4-906 of Title ~~10~~10A of the Oklahoma Statutes;

(E) an additional child, whose parent is absent, is added to the household after certification; or

(F) one or both parents leave the home after certification.

(2) **When ~~an OCSS~~a CSS referral is not required.** The client is not required to complete child support forms when:

(A) he or she is a foster parent to the child and the ~~OCSS~~CSS referral was completed in the child's SoonerCare (Medicaid) case;

(B) the client is an adoptive parent and provides proof of a single parent adoption;

(C) a parent is temporarily out of the home per OAC 340:40-7-6(c) and ~~is still~~ considered part of the household;

(D) the child, whose parent is absent, is not required to be considered part of the household per OAC 340:40-7-6;

(E) the client is a minor parent and is not living with his or her own parents. The minor parent must pursue child support for his or her own child but not for ~~himself or herself~~the minor parent; or

(F) the child ~~is not receiving~~does not receive a subsidized child care benefit and is ~~only~~ included in household composition because his or her parent is considered an adult non-relative of the opposite sex individual (ANROSI) per OAC 340:40-7-6(b).

(3) **Required forms.** The worker makes the referral to ~~OCSS~~CSS by completing with the client Form 08TA001E, Absent Parent (AP) Information Sheet, for each absent parent. The client must sign Form 08TA012E, Cooperation Agreement and Request for Good Cause, ~~as described at~~per paragraph (6) of this subsection. The worker gives the Oklahoma Department of Human Services ~~(OKDHS)~~(DHS) Appendix C-16, Child Support Services and Responsibilities, to the client. The form explains ~~OCSS~~CSS services and client expectations. ~~Supplemental information sent~~The worker sends copies of legal documents concerning custody or child support to the appropriate ~~OCSS~~CSS district office ~~by the worker includes:~~

~~(A) a signed and completed Form 03EN002E, Affidavit of Child Support Payments Received; and~~

~~(B) copies of legal documents concerning custody or child support~~.

(4) **Oklahoma Centralized Support Registry (CSR).** After ~~the worker approves the client for subsidized child care benefits~~approval, the client must send all future child support payments ~~must be made~~ to the CSR. ~~OKDHS~~DHS Appendix C-16 contains the address for the CSR. CSR returns the child support payments to the client unless the client receives Temporary Assistance for Needy Families per OAC 340:10-10-7.

(5) **Establishment of paternity.** ~~If paternity has not been established,~~When the worker ~~discusses the voluntary acknowledgment of paternity process with~~is able to contact the alleged father~~, when he is located. If~~ the ~~alleged father admits~~worker asks whether he is willing to acknowledge paternity~~,~~, ~~the worker secures~~When the alleged ~~father's and the mother's signatures on~~father agrees to acknowledge paternity, the worker gives or sends him Form 03PA209E, Acknowledgment of Paternity, ~~per instructions under the Notice of Rights and Responsibilities on the form~~to review. The worker advises him to contact CSS at the telephone number on the back of the form when, after review, he is willing to sign the form.

(6) **Good cause.** ~~Although the client's cooperation in the pursuit of child support through OCSS is required as a condition of eligibility for child care, good~~Good cause for refusal to cooperate in pursuing child support may be granted when ~~such~~ cooperation is not in the best interest of the child or the parent. ~~OKDHS~~DHS may ~~determine~~continue to pursue child support when CSS determines~~that~~ child support activities ~~can~~may be safely conducted without the client's cooperation ~~of the client~~.

(A) The client must sign Form 03TA012E, Cooperation Agreement and Request for Good Cause~~,~~:

(i) at the time of the initial application~~,~~;

(ii) at the time of an additional child request~~,~~; or

(iii) when circumstances result in an applicant or recipient's request for good cause.

(B) The worker does not deny, delay, or discontinue subsidized child care benefits pending a determination of good cause ~~for refusal to cooperate if~~ when the applicant or recipient ~~has complied with the requirements to furnish~~ furnishes evidence or information supporting the good cause claim.

(~~B~~C) ~~OKDHS~~DHS determines ~~that~~ the client has good cause for refusing to cooperate only when:

(i) there is possible physical or emotional harm to the child;

(ii) there is possible physical or emotional harm to the parent or caretaker;

(iii) the child was conceived as a result of incest or forcible rape;

(iv) legal proceedings for adoption of the child are pending before a court; or

(v) the client is currently being assisted by a public or licensed private social agency to resolve the issue of whether to keep the child or relinquish the child for adoption.

(~~C~~D) ~~It is the responsibility of the~~The applicant or recipient ~~who makes a claim for~~claiming good cause ~~to supply~~is responsible for supplying documentary evidence to establish the claim~~,~~ or ~~to furnish~~furnishing sufficient information to permit ~~OKDHS~~DHS to investigate the ~~circumstances of~~ good cause ~~for refusing to cooperate~~claim. Uncorroborated statements of the applicant or recipient are not acceptable documentation. The evidence must

be of probative value and supported by written statements to the extent possible. Examples of acceptable written statements include:

(i) birth certificate, medical, or law enforcement records indicating the child was conceived as a result of incest or forcible rape;

(ii) court documents or other records indicating legal proceedings for adoption are pending before a court of competent jurisdiction;

(iii) criminal, medical, child protective services, social services, psychological, or law enforcement records indicating the putative or absent parent might inflict physical or emotional harm on the child or caretaker;

(iv) medical records indicating the emotional health history and present emotional health status of the caretaker or child~~,~~ or a written statement from a mental health professional indicating a diagnosis or prognosis concerning the emotional health of the caretaker or child;

(v) a written statement from a public or licensed private social agency ~~that~~working with the applicant or recipient ~~is being assisted by OKDHS~~ to resolve the issue of whether to keep the child or relinquish the child for adoption; and

(vi) sworn statements from persons other than the client with knowledge of the circumstances ~~which~~that provide the basis for the good cause claim.

(~~D~~E) Upon request, the worker ~~assists~~helps the client ~~in obtaining~~ obtain ~~evidence that is not reasonably obtainable. This requirement is limited to the specific~~applicable documentary evidence listed in ~~(C)~~(D) (i) through (vi) of this subsection. The client must specify the type of document or record needed~~, as well as~~and provide sufficient identifying information to make it possible ~~to be obtained~~for the worker to obtain the documents.

(b) **Failure to cooperate in the pursuit of child support.** Failure to cooperate in pursuit of child support without good cause may be indicated at the time of application or at any time further action by the client is necessary.

(1) Actions indicating failure to cooperate include refusals to:

(A) identify and assist in locating a known parent;

(B) establish paternity; or

(C) establish, modify, or enforce a support order.

(2) When the client refuses to cooperate at the time of application, the worker denies the application.

(3) When, after certification, CSS informs the worker ~~is informed by OCSS that~~ the client is not cooperating ~~after certification~~, the worker closes the subsidized child care benefits for all children included in the child care benefits effective ~~ten~~10 calendar days from the date action is taken.

(c) **Cooperation with ~~OCSS~~CSS following denial or closure of the subsidized child care benefits.** The client must verify that he or she is cooperating with ~~OCSS~~CSS before the worker approves subsidized child care benefits ~~can be approved again~~following a denial or closure based on non-cooperation with CSS.

(1) ~~If~~When the client cooperates with ~~OCSS~~CSS and notifies the worker of the cooperation within 30 calendar days of the:

(A) denial of subsidized child care benefits ~~and the worker is notified of the cooperation within this time frame~~, the ~~worker may approve subsidized child care benefits without a~~client is not required to file a new application before benefits may be approved; or

(B) closure of the subsidized child care benefits ~~and the worker is notified of this cooperation within this time frame~~, the worker ~~can reopen~~reopens the benefits back to the closure date ~~they closed without imposing a penalty period~~.

(2) ~~If~~When the client does not cooperate with ~~OCSS~~CSS or ~~waits to inform the worker of this cooperation~~cooperates, but waits to inform the worker of the cooperation for more than 30 calendar days from the denial or closure date ~~the subsidized child care benefits are denied or closed~~, the client must complete a new application before care ~~can be~~is approved. The earliest date subsidized child care benefits ~~can~~may be approved is the date the client completes a child care interview and provides all necessary verification per OAC 340:40-3-1.

(d) **Exploration and development of potential income other than child support.** The worker explores ~~all other~~ potential sources of income, such as Social Security benefits, Supplemental Security Income (SSI), unemployment benefits, ~~veterans~~veteran's benefits, and increased wages with the client at the time of application and ~~at~~ each ~~review~~renewal for all members of the household whose income must be considered per OAC 340:40-7-6. The client must apply for, or continue to pursue, all potential sources of income for which it appears likely he or she may be eligible, except for SSI. The client is encouraged, but not required, to apply for SSI when the client indicates ~~that~~ a household member has a disability. The worker gives the client 90 calendar days ~~from the date potential income is identified~~ to pursue ~~such~~potential identified income.

(1) ~~If~~When the client refuses to pursue available income at the time of request, the worker denies the child care request.

(2) ~~If~~When the client agrees to pursue all potential income and ~~then~~ fails to do so within 90 calendar days, the worker closes subsidized child care benefits effective ~~ten~~10 calendar days from the date the worker takes action.

(3) ~~If~~When the client is approved for the potential income or offered a raise in pay and refuses to accept it, the worker closes the subsidized child care benefits effective ~~ten~~10 calendar days from the date the worker takes action.

(4) ~~If~~When the client's pay ~~is decreased either~~decreases in rate of pay or number of hours worked, the worker explores why the decrease occurred. ~~If~~When the client requested the decrease to avoid a family share ~~co-payment~~copayment increase or to maintain eligibility for the subsidized child care benefits, the worker closes the subsidized child care benefits.

(5) At each ~~review~~renewal, the worker determines whether the client continues to pursue potential income.

(A) ~~If~~ When the client begins receiving previously identified potential income, the worker considers the income for the next negative action deadline after it is reported.

(B) ~~If~~When the client was ~~determined~~ not ~~eligible~~approved for the income, the client must verify this. The worker records in the case record the verification provided and stops exploring this potential income with the client.

(C) ~~If~~When the client stops pursuing ~~the~~potential income and was not determined ineligible for it, the worker closes the client's child care benefit for failure to cooperate effective ~~ten~~10 calendar days from the date the worker takes action.

(6) ~~If~~When the client's subsidized child care benefits ~~were~~ closed because of failure to cooperate, the client must verify receipt or pursuit of such income or that such income is no longer potentially available before child care ~~can~~may be approved.

(A) ~~If~~When the client verifies cooperation within 30 calendar days of the closure of subsidized child care benefits, the worker may reopen the benefits back to the date they were closed without imposing a penalty.

(B) ~~If~~When the client does not cooperate or waits to verify cooperation for more than 30 calendar days from the date the subsidized child care benefits close, the client must complete a new application before care is approved. The earliest date subsidized child care benefits may be approved is the date the client completes a child care interview and provides all necessary verification per OAC 340:40-3-1.

340:40-7-11. Sources of income considered

(a) **Sources of income considered.** Income may be received periodically or at irregular intervals. All income, unless specifically excluded per Oklahoma Administrative Code (OAC) 340:40-7-12, is considered in determining monthly gross income. Income is classified as earned or unearned income.

(b) **Earned income.** Earned income means total money earned by a person through the receipt of wages, salary, commission, or profit from activities in which the person is engaged as self-employed or as an employee. Temporary disability insurance payment(s) and temporary worker's compensation payments are considered as earned income when payments are employer funded and the person remains employed.

(1) **Wages.** Wages include total money earned for work performed as an employee including armed forces pay, commissions, tips, piece-rate payments, longevity payments, and cash bonuses before any deductions are made, such as taxes, bonds, pensions, union dues, credit union payments, and cafeteria plans.

(A) Countable wages for military personnel include any allowance included on the earnings statement, such as the Basic Allowance for Housing (BAH) and the Basic Allowance for Subsistence (BAS).

(B) Only the portion of the cafeteria plan the client controls is counted as income.

(C) Reimbursements for expenses, such as a uniform allowance or transportation costs, other than daily commuting, are subtracted from gross income.

(D) Payments made for annual leave, sick leave, or severance pay are considered earned income during the month such income is received whether paid during employment or at termination of employment.

(E) Wages that are ~~garnisheed~~garnished or diverted and paid to a third party are also counted as income.

(2) **Self-employment.** Self-employment income is considered based on procedures listed in this subsection.

(A) **Persons considered self-employed.** A person is considered self-employed when:

(i) he or she declares himself or herself to be self-employed;

(ii) there is an employer/employee relationship and the employer does not withhold income taxes or Federal Insurance Contributions Act (FICA), even when required to do so by law; or

(iii) the employer withholds taxes and the person provides proof he or she files taxes as self-employed.

(B) **Records used and income calculation.** The worker uses the records described in (i) through (iii) of this subparagraph to calculate income. When the person reports a loss instead of a profit on the business, the worker does not deduct the loss from other household income.

(i) When the person filed a federal income tax return for self-employment income for the most recent year, whether the person's income is derived from his or her own business or from working for an employer, the worker uses the net self-employment income shown on the person's federal income tax return and divides the income by 12 or the number of months the business has been in existence or the person started work for the employer, when less than 12 months. The worker verifies the person's start date with the employer when the person states he or she has not worked for the employer for at least 12 months.

(ii) When the person did not file an income tax return for the most recent tax year for his or her own business, the worker calculates self-employment income using the person's business records for the last 12 months or the number of months the business has been in existence when less than 12 months. When the client declares he or she has business expenses, the worker subtracts 50 percent of the gross self-employment income to arrive at the net profit.

(iii) When the person works for an employer, did not file a federal tax return as self-employed,

and receives earnings from an employer, the person must provide proof of the last 12 months of income from the employer. The worker divides the gross income by 12 or the number of months the person has worked for the employer to determine monthly income. When the person declares he or she has business expenses, the worker subtracts 50 percent of the gross self-employment income before dividing the income by the applicable number of months to determine monthly income.

(C) **Profit sharing.** Households who operate S corporations, general or limited partnerships, or limited liability companies may receive profit sharing that is reported on the household's personal income tax return. When a household member:

(i) actively participates in the operations, the income from profit sharing is considered part of the household's self-employed earned income; or

(ii) does not actively participate in the operations, the income from profit sharing is considered part of the household's unearned income.

(D) **Monthly self-employment income.** Self-employment income received on a monthly basis is normally averaged over a 12-month period. When the averaged amount does not accurately reflect the household's actual monthly circumstances because the household has experienced a substantial increase or decrease in income, the worker calculates the self-employment income based on anticipated earnings.

(E) **Seasonal self-employment.** Self-employment income intended to meet the household's needs for only part of the year is averaged over the period of time it is intended to cover.

(F) **Annualized self-employment income.** Self-employment income that represents a household's annual support is averaged and annualized over a 12-month period, even when the income is received in a short time period.

(i) If the ~~averaged~~average annualized amount does not accurately reflect the person's actual monthly circumstances because the person experienced a substantial increase or decrease in income, the worker calculates the self-employment income on anticipated earnings.

(ii) The worker does not calculate self-employment income on the basis of prior earnings, such as income tax returns, when an increase or decrease of business has occurred.

(I) When the person has received the self-employment income for less than 12 months, the income ~~must be~~is averaged over the applicable number of months and the monthly amount projected for the coming year.

(II) When the person has received the self-employment income for a short time and there is insufficient data to make a reasonable income projection, the worker does not consider income from this source until the renewal is due. At the renewal, the worker averages income over the number of months received until a full year's information is available.

(G) **Income from rental property.** Income from rental property is considered self-employment income.

(H) **Income from room and board.** Payments from roomers or boarders are considered self-employment when the roomer or boarder is paying a reasonable amount. When the roomer or boarder is an adult non-relative opposite sex individual (ANROSI), OAC 340:40-7-6(b)(4) applies.

(3) **On-the-job training.** Earned income from regular employment for on-the-job training (OJT) is considered as earned income. This includes OJT provided under Sections 204(b)(1)(c) or 264(c)(1)(A) of the Workforce Investment Act for persons 19 years of age or older.

(4) **Workforce Investment Act (WIA).** Income earned in OJT positions provided under Section 134 of WIA is considered earned income for persons who are 19 years of age and older. On-the-job training provided must be full-time positions, and there must be a contract between WIA and the employer for each individual position. This does not include classroom training and institutional training or intern assignments sponsored by WIA, even when an hourly amount is paid for such training. Refer to ~~OAC 340:40-7-12(24)(G)~~OAC 340:40-7-12(25)(G) for other types of excluded WIA income.

(5) **Title I payments of Domestic Volunteer Services Act.** Payments under Title I of the Domestic Volunteer Services Act of 1973 as amended [P.L. 93-113] are considered income unless excluded per OAC 340:40-7-12.

(6) **Earnings of children.** Earned income of a minor parent is treated as adult earned income. Earnings of other children 17 years of age and younger who are under the parental control of an adult household member are excluded per OAC 340:40-7-12.

(c) **Unearned income.** Unearned income is income a person receives for which the person does not put forth any daily, physical labor. Types of income listed in paragraphs (1) through (10) of this subsection are considered unearned income.

(1) **Assistance payments.** Assistance payments include state means tested programs, such as Temporary Assistance for Needy Families (TANF), including Supported Permanency benefits, State Supplemental Payment (SSP) to the aged, blind, or disabled, and Refugee Resettlement Program (RRP) cash assistance.

(2) **Pensions, disability, and Social Security benefits.** Annuities, pensions, retirement benefits, disability benefits from either government or private sources, or Social Security survivor benefits are considered unearned income.

(A) When a minor child receiving Social Security benefits no longer lives with the payee receiving the Social Security benefits, only the portion of the child's

Social Security benefit ~~that is~~ used to meet the minor child's needs is considered income. This may include cash given directly to the minor child or money paid to a third party for room and board for the minor child.

(B) The parent or caretaker or, when appropriate, the minor child must take action to become the payee within 90 calendar days ~~as required~~ per OAC 340:40-7-9(d). When action is not taken within 90 calendar days, the worker counts the total Social Security benefit as income.

(3) **Supplemental Security Income (SSI).** SSI is considered unearned income.

(4) **Unemployment and workers' compensation.** Income from unemployment insurance benefits or workers' compensation is counted as unearned income.

(5) **Child support, court-ordered or third party paid child care, and alimony.** Child support, child care payments, and alimony payments, whether court-ordered or voluntary, made directly to the household from non-household members are counted as unearned income.

(A) When a child care payment is paid directly to the child care provider, it is not considered income for the client.

(B) When the absent parent reports he or she is paying a portion of the client's family share ~~co-payment~~copayment to the child care provider, the only action taken by the worker is to record this in the case record.

(C) When the absent parent or another third party, such as an employer, is making a payment to the provider in addition to the client's ~~co-payment~~ co-payment, it is considered as an additional ~~co-payment~~copayment that must be met before the Oklahoma Department of Human Services ~~(OKDHS)~~ (DHS) makes a subsidy payment to the provider.

(D) Any other payment made to a third party for a household expense must be considered as income when a court order directs the payment be made to the household. Payments for medical support are excluded.

(6) **Veterans compensation, pensions, or military allotments.** Annuities, pensions, disability compensation, military allotments, servicemen dependent allowances, and similar payments are considered unearned income.

(7) **Contributions.** Appreciable contributions recurrently received in cash are considered unearned income except when the contribution is not made directly to the client. To be appreciable, a contribution must exceed $30 per calendar quarter per person.

(8) **Dividends, interest, minerals, and royalties.** Dividends, interest income, income from minerals, royalties, and similar sources are considered unearned income. When income from these sources is received irregularly or in varied amounts, it is averaged over 12 months. Income from royalties is treated as unearned, self-employment income, subject to (b)(2) of this Section.

(9) **Lump sum payments.** Recurring lump sum payments, including income from earnings, are averaged over the period they are intended to cover.

(10) **Irregular income.** Income received irregularly but in excess of $30 per quarter is considered income unless it is from an excluded income source specifically mentioned at OAC 340:40-7-12. Countable irregular income is averaged over 12 months.

340:40-7-12. Sources of excluded income

Only the income listed in this Section is excluded in determining a household's eligibility for a child care benefit. No other income is excluded.

(1) **Lump sum payments.** One-time lump sum payments are excluded as income. Recurring lump sum payments are excluded as income unless specifically mentioned per ~~OAC~~Oklahoma Administrative Code 340:40-7-11 as a countable source of income.

(2) **In-kind income.** In-kind income is defined as any gain or benefit that is not in the form of money ~~payable~~paid directly to the household~~,~~. ~~including~~This includes non-monetary or in-kind benefits such as meals, clothing, public housing, or produce from a garden~~, and is excluded~~.

(3) **Money received from the sale of property.** Money received from the sale of property such as stocks, bonds, a house, or a car is excluded. This exclusion does not apply ~~if~~when the person is engaged in the business of selling such property.

(4) **Bank or trust account withdrawals.** Money withdrawn from a bank or trust account is excluded as income even when used to meet current living expenses.

(5) **Capital gains.** The proceeds from the sale of capital goods or equipment are excluded.

(6) **Household income for certain children adopted through Oklahoma Department of Human Services ~~(OKDHS)~~(DHS).** The income of all household members is exempt for a child only when conditions in (A) through (E) are met. The:

(A) child ~~has been~~was adopted through ~~OKDHS~~DHS or a federally recognized Indian tribe, as defined by the Federal and Oklahoma Indian Child Welfare Acts, by the parent ~~who is~~ applying for benefits;

(B) adoptive parent applying for benefits must provide:

(i) ~~have~~ a fully executed Form 04AN002E, Adoption Assistance Agreement, ~~that lists~~listing child care as an adoption assistance benefit for the child;

(ii) ~~and also includes~~ Form 04AN033E, Post Adoption Child Care Referral;

(iii) the Final Decree of Adoption; and

(iv) a form of identity;

(C) adoptive parent and child are residents of Oklahoma;

(D) child is 5 years of age or younger; and

(E) adoptive parent meets an allowable need ~~for child care is for employment only~~factor as defined in OAC 340:40-7-7 and OAC 340:40-7-8 and provides proof ~~is provided~~. ~~Subsidized child care may be approved only for the days and hours the parent works.~~ In a two-parent family,~~ care may also be approved for sleep time when one parent works days and the other parent works during normal night time sleep hours~~both parents must meet an allowable need factor. ~~Refer to OAC 340:40-7-8.~~

(7) **Household income when at least one child attends an Early Head Start-Child Care (EHS-CC) Partnership grant program.** The household income is exempt for all children in care when at least one child attends an EHS-CC Partnership grant program and the household meets income guidelines per DHS Appendix C-4, Child Care Eligibility/Co-payment Chart.

(~~7~~8) **Earnings of children.** Earnings of a person 17 years of age and younger ~~who is~~ considered a child in the case is excluded as long as the child is attending school regularly. ~~This~~The exclusion continues to apply during temporary interruptions in school attendance due to semester or vacation breaks, provided the child's enrollment resumes following the break. ~~Earned income of a~~When the child ~~who is head of his or her own household, such as is the case for~~is a minor parent and the payee, ~~is~~the minor parent's earnings are treated as adult income.

(~~8~~9) **Irregular income.** Any income received too infrequently or irregularly to be reasonably anticipated is not counted unless it is in excess of $30 per calendar quarter.

(~~9~~10) **Reimbursements.** Reimbursements for past or future expenses ~~to the extent theydo~~ not ~~exceed~~exceeding actual expenses are excluded.

(~~10~~11) **Tax refunds.** Federal or state income tax refunds, including the state and federal Earned Income Tax Credit (EITC), and advance payments of federal EITC are excluded.

(~~11~~12) **Money received for third parties.** Money received and used for the care and maintenance of a third party who is not a household member is excluded.

(~~12~~13) **Loans.** All loans, including loans from private as well as commercial institutions, are excluded. Verification the income is a loan is required.

(~~13~~14) **Grants.** Grants obtained and used under conditions that preclude their use for current living costs are excluded.

(~~14~~15) **Educational assistance.** Educational assistance ~~including grants, work study, scholarships, fellowships, educational loans on which payment is deferred, veteran's education benefits, and the like are exempt if~~is excluded when receipt is contingent upon the student regularly attending school.~~and the~~

(A) Examples of educational assistance include:

(i) work study;

(ii) scholarships;

(iii) fellowships;

(iv) educational loans when payment is deferred; and

(v) veteran's education benefits.

(B) The~~money received is~~educational assistance must be intended to offset the costs of education and expenses as identified by the institution, school, program, or other grantor.

(C) ~~If~~When the ~~money received~~educational assistance is not intended to be a reimbursement and is a gain to the client, it is considered income.

(~~15~~16) **Stipends.** Stipends paid to students participating in the Indian Vocational Education Program through the Carl D. Perkins Vocational and Applied Technology Education Act ~~is~~are excluded.

(~~16~~17) **Service Corps of Retired Executives (SCORE) and Active Corps of Executives (ACE).** Payment for supportive services or reimbursement of out-of-pocket expenses made to volunteers serving as foster grandparents, senior health aides, or senior companions, and to persons serving in SCORE and ACE is excluded.

(~~17~~18) **Government rent or housing subsidies.** Government rent or housing subsidies by government agencies ~~that is~~ received in-kind or in cash for rent, mortgage payments, or utilities is excluded.

(~~18~~19) **Foster care payments.** Foster care payments received for a foster child in state or tribal custody are excluded as income.

(~~19~~20) **Title IV E of the Social Security Act or State Adoption Subsidy.** Federal or state funded adoption subsidy payments made to adoptive parents are excluded as income.

(~~20~~21) **Victims of Crime Act of 1984.** Payments made from the crime victims' compensation program as amended in Section 1402 of the Victims of Crime Act of 1984 are excluded. [42 USC 10602]

(~~21~~22) **Family Support Assistance Payment Program.** Family Support Assistance Payment Program payments paid to persons by the DHS Developmental Disabilities Services ~~Division of the Oklahoma Department of Human Services (OKDHS)~~ are excluded as income.

(~~22~~23) **Vendor payments.** Vendor payments ~~are payments in money on behalf of a household when a person or organization outside the household uses its own funds to make a direct payment to either a~~made directly to the household's creditors or a person or organization providing a service to the household are excluded~~. Payments specified by~~unless a court order or other legally binding agreement specifies the money is to be paid directly to the client ~~but that are instead diverted to pay a third party for a household expense are counted as income~~.

(~~23~~24) **Money received by another household for a household member.**

(A) When a child spends part of the month in two separate households and receives countable income, the worker ~~determines which household actually receives the income. Only~~considers the portion of the income ~~that is actually~~ received by the household applying for or receiving a child care benefit ~~is considered~~ as income ~~for that household~~and excludes the remainder.

(B) When a minor parent is the payee and lives with one of his or her parents or a caretaker,~~who receives~~ child support received for the minor parent~~, that child support~~ is considered income for the parent or caretaker and not considered for the minor parent's child care benefit.

(~~24~~25) **Income excluded by federal law.** Income excluded by federal law is defined as:

(A) payments received under Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970;

(B) payments received:

(i) under the Alaska Native Claims Settlement Act [Public Law (P. L.) 92-203, § 21(a)];

(ii) under the Sac and Fox Indian Claims Agreement [P.L. 94-189];

(iii) from the disposition of funds to the Grand River Band of Ottawa Indians [P.L. 94-540];

(iv) by members of the Confederated Tribes of the Mescalero Reservation [P.L. 95-433];

(v) under the Maine Indian Claims Settlement Act of 1980 to members of the Passamaquoddy and the Penobscot Nation [P.L. 96-420]; or

(vi) by an individual as a lump sum or a periodic payment via the Cobell Settlement per the Claims Resolution Act of 2010 [P.L. 111-291];

(C) any payment to volunteers under Title II, Retired and Senior Volunteer Program, Foster Grandparents and others, of the Domestic Volunteer Services Act of 1973 [P.L. 93-113] as amended. Payments under Title I of that Act, Volunteers in Service To America, University Year for Action, and Urban Crime Prevention Program, to volunteers are excluded only if the monthly amount, when converted to an hourly rate, is less than the Oklahoma minimum wage;

(D) income derived from submarginal land of the United States held in trust for certain Indian tribes [P.L. 94-114, Sec. 6];

(E) Indian per capita payments~~, including~~distributed from judgment awards and trust funds ~~orheld in trust, distributed per capita by the Secretary of the Interior of the Bureau of Indian Affairs or distributed by the tribe subject to approval by the Secretary of the Interior~~made pursuant to P.L. 98-64. ~~Any~~ Also excluded is any interest or investment income accrued on such funds while held in trust or any purchases made with judgment funds, trust funds, interest, or investment income accrued on such funds. Any per capita payments, headrights of the Osage tribe, income from mineral leases~~,~~or other tribal business ~~investments, and the like,~~ventures are excluded as long as the payments are paid per capita. ~~For purposes of this paragraph, per capita is defined as each tribal member receiving an equal amount. However, any~~Any interest or income derived from the ~~principal or produced by purchases made with the~~ funds after distribution is considered as any other income. The per capita exclusion applies per person rather than per family;

(F) income up to $2,000 per year received by individual Indians, which is derived from leases or other uses of individually-owned trust or restricted lands, is not counted as income. The income exclusion applies to calendar years beginning January 1, 1994. Any remaining disbursements from the trust or restricted lands are considered as income;

(G) allowances, stipends, earnings, compensation in lieu of wages, grants, and other payments made for participation in the Workforce Investment Act (WIA) or other federally funded workforce training program to persons of all ages and student status with the exception of income paid to persons 19 years of age and older for on-the-job training. This income is treated as any other earned income. Refer to OAC 340:40-7-11(b)(4);

(H) payments, allowances, or earnings to persons participating in programs under Title I of the National and Community Service Trust Act of 1993. Title I includes three Acts: Serve-America, The Community Service, Schools and Service-Learning Act of 1990, the American Conservation and Youth Service Corps Act of 1990, and the National and Community Service Act. Most of the payments are made as a weekly stipend or for educational assistance. The Higher Education Service-Learning Program and the AmeriCorps Umbrella Program come under this Title. This includes AmeriCorps income;

(I) payments or allowances made under any federal law for the purpose of energy assistance, Low Income Home Energy Assistance Program (LIHEAP), and ~~also~~ utility payments and reimbursements made by the Department of Housing and Urban Development (HUD) and the Farmers Home Administration (FmHA);

(J) the amount of the mandatory salary reduction of military service personnel used to fund the G.I. Bill;

(K) all funds paid to persons under the Community Service Employment Program under Title V. [P.L. 100-175] This program is authorized by the Older Americans Act. Each State and various organizations receive some Title V funds. These organizations include:

(i) Experience Works formerly Green Thumb;

(ii) National Council on Aging;

(iii) National Council of Senior Citizens;

(iv) American Association of Retired Persons;

(v) U.S. Forest Service;

(vi) National Association for Spanish Speaking Elderly;

(vii) National Urban League;

(viii) National Council on Black Aging; and

(ix) National Council on Indian Aging;

(L) payments made from the Agent Orange Settlement Fund or any other fund established pursuant to

the settlement In Re Agent Orange Product Liability Litigation, M.D.L. No. 381 (E.D.N.Y.);

(M) payments received under the Civil Liberties Act of 1988. These payments are made to persons of Japanese ancestry who were detained in internment camps during World War II;

(N) payments made from the Radiation Exposure Compensation Trust Fund as compensation for injuries or deaths resulting from exposure to radiation from nuclear testing and uranium mining;

(O) payments for the fulfillment of a Plan for Achieving Self-Support under Title XVI of the Social Security Act;

(P) payments made to persons because of their status as victims of Nazi persecution;

(Q) payments made for the Experimental Housing Allowance Program under Annual Contributions Contracts entered into prior to January 1, 1975, under Section 23 of the U.S. Housing Act of 1937 as amended;

(R) monetary allowances provided to certain children of Vietnam War veterans as described in Chapter 18 of Title 38 of the United States Code (USC);

(S) federal ~~major~~funds distributed by Federal Emergency Management Assistance (FEMA) due to a disaster ~~and~~or emergency ~~assistance provided under the Disaster Relief Act of 1974, and~~to persons directly affected by the event. This exclusion also applies to comparable disaster assistance provided by states, local governments, and disaster assistance organizations. For payments to be excluded, the disaster or emergency must be declared by the President of the United States;

(T) the value of the food benefit allotment under the Food and Nutrition Act of 2008; and

(U) the value of supplemental food assistance under the Child Nutrition Act of 1966 and the special food services program for children under the National School Lunch Act of 1970, both as amended by the Omnibus Budget Reconciliation Act of 1981.

SUBCHAPTER 9. PROCEDURES RELATING TO CASE CHANGES

340:40-9-2. Case changes

(a) **Case changes.** Theclient must report any changes in his or her circumstances that would result in an increase or decrease in subsidized child care benefits within ~~ten~~10 calendar days. The worker acts on changes that increase or decrease the subsidized child care benefits within ~~ten~~10 calendar days of the reported change. Failure to report changes timely may result in an overpayment assessment against the client. Examples of changes the client must report include:

(1) household income;

(2) household composition;

(3) names and number of household members in child care;

(4) the reason child care is needed;

(5) the parent's or caretaker's work or school schedule or any other change affecting the days and hours child care is needed;

(6) the client's address or telephone number;

(7) the child care facility the child is attending;

(8) when child care is no longer being used or needed; ~~and~~

(9) family size; and

(10) when a child stops attending an Early Head Start-Child Care Partnership grant program.

(b) **Change of payee.** When a change of payee is reported, ~~the worker refers to policy at OAC 340:40-7-6(c) regarding temporary absence. If the situation is not temporary,~~ a new application must be taken. Refer to OAC 340:40-3-1 for application processes.

(c) **Additional child request.** When an additional child requires subsidized child care benefits, the worker completes the request within two working days of the client providing all necessary verification to determine eligibility. ~~If~~When eligible, the child ~~can~~may be approved for subsidized child care benefits beginning with the date of request. Family share ~~co-payment~~copayment increases due to adding an additional child to the subsidized child care benefits are effective the month after the month the client requests subsidized child care benefits for ~~that~~the child.

(d) **Changes that increase the subsidized child care benefits.** When the client reports a change timely that increases the subsidized child care benefits, the client and the worker jointly plan the effective date of the change. When the client does not report changes timely, the earliest date the worker increases the subsidized child care benefits is the first day of the month in which the client reports the change.

(e) **Changes that decrease the subsidized child care benefits.** When possible, the worker and client plan changes that decrease the subsidized child care benefits before implementing the change. When the client reports an increase in income, the worker uses Oklahoma Department of Human Services ~~(OKDHS)~~DHS Appendix C-4, Child Care Eligibility/Co-payment Chart, to determine whether the household meets income guidelines per OAC 340:40-5-1(8).

(f) **Change in provider.** When a client reports a change in provider, the change is effective the date the change in provider occurs, regardless of whether the client reports ~~this~~the change timely. The worker completes provider changes within two working days of the date the client reports the change.

(g) **Closure of the subsidized child care benefits.** When advance notice is required, the worker closes the subsidized child care benefits ~~ten~~10 calendar days from the date action is taken. Ten day advance notice is not required when the client gives written permission agreeing to an earlier closure date.

(h) **Reopen action.** When a client's subsidized child care benefits close, ~~they can~~benefits may be reopened within 30 calendar days of the closure effective date using current eligibility information ~~if policy and procedures were not administered correctly or if human services center staff receive new or additional information within 30 calendar days of the effective date the benefits terminated showing the family~~

~~continues to be eligible. The~~ unless the client must complete a new application per OAC 340:40-3-1(a)(1). A new application is required when:

(1) the client's subsidized child care benefits ~~have been~~are closed for more than 30 calendar days;

(2) the payee ~~for the subsidized child care benefits~~ changes; or

(3) family income was ~~not considered because policy at~~excluded per OAC 340:40-7-12(6) ~~applied one or more of the affected adopted children turned six~~for an adopted child turning 6 years of age unless~~there is already a separate open income eligible case and the child can be added to that care per OAC 340:40-9-2(c)~~the child can be added to an open income eligible case established for the child's siblings in which the adoptive parent's income is considered.

SUBCHAPTER 13. CHILD CARE RATES AND PROVIDER ISSUES

340:40-13-5. Child care provider contracts

(a) **Criteria.** ~~In order for the Oklahoma Department of Human Services (OKDHS) to purchase out-of-home child care services, a~~A child care provider must have a current Form 08CC001E, Child Care Provider Contract, signed by ~~both~~ the owner of the facility and the ~~OKDHS~~Oklahoma Department of Human Services (DHS) Director or designee ~~on file with the Family Support Services Division (FSSD) Child Care Subsidy Section staff~~before DHS pays for out-of-home child care services. ~~OKDHS assures all persons that OKDHS or any~~By signing the contract, the provider ~~of contractual services, does~~agrees to not take into account a person's race, color, religion, sex, national origin, or disability in ~~the selection or eligibility of persons to receive services and in the manner of providing them~~deciding which children to accept in the child care program or in how services are provided to them. Age may be a factor only to the extent that certain services are designed for a particular age group.

(1) Written complaints of noncompliance with the assurance in (a) of this Section may be made to the DHS Director ~~of OKDHS~~ or to the Secretary of Health and Human Services, Washington, D.C., 20201.

(2) Local ~~Oklahoma~~ Child Care Services ~~(OCCS)~~CCS licensing staff provides initial information about contracts for child care facilities. The provider contacts ~~the child care liaison~~Adult and Family Services (AFS), Child Care Subsidy staff to request a contract.

(3) Child care contracts are valid for a maximum of one year. Contracts ~~are automatically~~may be renewed at the sole option of DHS for successive one year terms, under the same terms and conditions, unless the child care provider or ~~OKDHS~~DHS gives written notice of its intent not to renew to the other party at least 30 calendar days prior to the expiration of the current term.

(b) **License and star status for child care centers and homes.** ~~OKDHS~~DHS does not contract with child care providers located out-of-state unless the provider had a contract in effect on January 1, 2010. Child care providers may only obtain ~~an OKDHS~~a DHS contract after they are licensed or permitted.

(1) A child care center requesting a contract must have a license or permit and ~~have~~ a one plus ~~and~~or higher star status. ~~The child care center provider may sign Form 08CC001E if a one plus and higher star status shows on the child care licensing system (CCLS) within 30 calendar days.~~

(2) A child care home provider requesting a contract must have a license or a permit.

(A) ~~If~~When licensed, the child care home provider ~~may sign Form 08CC001E if one~~must have a star status of one star or higher ~~shows on CCLS~~.

(B) ~~If~~When on permit, the child care home provider ~~may sign Form 08CC001E if one~~must have a star status of one star plus ~~status~~ or higher ~~shows on CCLS within 30 calendar days~~.

(c) **Procedure for obtaining child care contracts.** The procedures in (1) through (5) of this subsection are used to obtain child care contracts.

(1) ~~OCCS~~CSS licensing staff gives the child care provider a ~~flyer~~publication titled "Obtaining a Contract with OKDHS for Child Care Subsidy Payments~~.~~" and instructs the provider ~~is instructed~~ to contact ~~the child care liaison to obtain the compact disk (CD) titled "Orientation to Child Care Subsidy Contracts" for training and review of the contracting requirements. The CD includes instructions on how to complete the training, take the proficiency test, and print the certificate of completion~~AFS Child Care Subsidy to obtain a child care contract with DHS.

(2) When contacted by the owner ~~or authorized signor~~ of a child care facility, ~~the child care liaison~~AFS Child Care Subsidy staff explains ~~that~~to the owner or person authorized ~~signor must view the required training CD, pass the proficiency test, and provide the certificate of completion~~to sign the contract that he or she must provide documents listed in (A) through (E) of this paragraph before signing a contract. ~~The date on the certificate of completion must be within 30 calendar days of the date the contractis signed. Directors are not required but are highly encouraged to view the training.~~

Documents include a copy of:

(A) the owner's Social Security card;

(B) the owner's Oklahoma State Bureau of Investigation (OSBI) background investigation report unless a National Criminal History Result Information report is on file with DHS;

(C) a document from the Internal Revenue Service (IRS) verifying the employer identification number (EIN) for a child care center provider and a home provider who is not a sole proprietor; and

(E) the certificate of completion of the required online "Orientation to Child Care Subsidy Contracts" training.

(3) Once the ~~certificate of completion isprovided~~owner provides the required documents, ~~the child care liaison~~

~~types all identifying information on Form 08CC001E. The child care liaisongives~~AFS Child Care Subsidy staff sends Form 08CC001E to the provider and explains that the earliest date a contract is valid is the date of approval by the ~~OKDHS~~DHS Director or designee.

(4) The owner or person authorized ~~signor~~to sign the contract signs ~~the contract~~ and returns the contract to ~~the child care liaison~~ AFS Child Care Subsidy. ~~The owner or authorized signor must also provide:~~

~~(A) proof of his or her identity;~~

~~(B) a copy of the owner's or authorized signor's Social Security card;~~

~~(C) a copy of the Oklahoma State Bureau of Investigation (OSBI) background investigation report for the owner or authorized signor of a center or a child care home;~~

~~(D) proof of the employer identification number (EIN) for a child care center provider and any home provider who is not a sole proprietor; and~~

~~(E) a copy of the certificate of completion of the required CD training.~~

(5) ~~The child care liaison sends Form 08CC001E, the Contract Routing Checklist, and the documents listed in (c)(4)(A-E) of this Section to the FSSD~~AFS Child Care Subsidy ~~Section~~staff processes the contract request for approval or denial.

(A) ~~If~~When approved, ~~the FSSD~~AFS Child Care Subsidy ~~Section~~ staff assigns a contract number and sends a copy of the signed contract back to the provider.

(B) ~~If~~When denied, ~~the FSSD~~AFS Child Care Subsidy ~~Section~~ staff sends a letter to the provider advising ~~it is not in the best interest of OKDHS to contract with the provider~~of the denial.

~~(C) If the child care provider signs Form 08CC001E but fails to complete other contracting requirements within 30 calendar days, the child care liaison attaches Form 08CC001E to the Contract Routing Checklist and sends it to the FSSD Child Care Subsidy Section staff for denial.~~

(d) **Changes ~~that~~the provider must ~~be reported~~report.** Form 08CC001E ~~advises~~ informs child care providers of changes they must report to ~~the FSSD~~AFS Child Care Subsidy ~~Section staff~~ no less than 30 calendar days prior to the effective date of any changes. When the provider fails to report the anticipated change timely and a new contract is needed, a gap may occur in the child care subsidy payment to the provider. Changes that must be reported include:

(1) collaborations or agreements;

(2) ~~anticipated sale of the business~~change of ownership;

(3) change of legal business entity;

(4) ~~change of physical or mailing address;~~

~~(5)~~ change in facility status;

(~~6~~5) legal name change;

(~~7~~6) plan to stop caring for children; and

~~(8) change of phone number; and~~

(~~9~~7) reduction of star status.

(e) ~~**Changes that do not require a new contract.** Changes that do not require a new contract include a:~~

~~(1) legal name change;~~

~~(2) change of location. When a child care center or home provider changes the location of his or her child care business, the provider must notify FSSD Child Care Subsidy Section staff of the new location and sign a new license application agreeing to care for children at the new location. The provider's license and contract remain open with the same:~~

~~(A) begin date;~~

~~(B) number assigned; and~~

~~(C) star status;~~

~~(3) facility status change from a child care home to a large child care home or from a large child care home to a child care home as long as the same license number is used. and~~

~~(4) facility status change from a child care home to a child care center or a child care center to a child care home if the business entity stays the same.~~

~~(f)~~ **Changes that require a new contract.** ~~Changes that require a new contract are included in (1) through (2) of this subsection. When a new contract is required, procedures in (c) of this Section are used to complete and submit child care contract requests.~~A new contract is required when changes listed in (1) through (3) of this subsection occur.

(1) **Change in ownership.** ~~When~~A change in ownership occurs when the owner of a child care center or child care home changes~~, the new owner or authorized signor may sign Form 08CC001E if the:~~

~~(A) child care center:~~

~~(i) has a new license or permit application is pending; and~~

~~(ii) meets or is anticipated by OCCS licensing staff to meet one plus star status or higher within 30 calendar days; or~~

~~(B) child care home:~~

~~(i) has a new license application pending; and~~

~~(ii) is anticipated by OCCS licensing staff to meet one star status or higher within 30 calendar days~~.

(2) **Change of legal business entity.** ~~Examples of changing~~A change of legal business entity ~~include changing~~is a change from ~~a sole proprietor, changes to a corporation, partnership, or limited liability company~~one legal business entity type to another. Refer to Appendix L-7, Ownership Proof Chart, for a list of legal business entity types.

~~(A) When a child care center changes the business entity, a new license application is required. A child care center provider may sign Form 08CC001E if the:~~

~~(i) new license or permit application is pending; and~~

~~(ii) provider meets or is anticipated by OCCS licensing staff to meet one plus status or higher within 30 calendar days.~~

~~(B) When a child care home changes the business entity, a new license application is required. A child care home provider may sign Form 08CC001E if the:~~

~~(i) license application is pending at any star status; or~~

~~(ii) permit application is pending and the provider meets or is anticipated by OCCS licensing staff to meet one plus status or higher within 30 calendardays.~~

(3) **Change in facility status.** A change in facility status occurs when a child care home changes to a child care center or a child care center changes to a child care home.

(~~g~~f) **Providing care at a different site than is authorized.** When the child care provider signs the child care contract, he or she agrees to provide care only at the physical address designated in the contract. In certain circumstances, a child care center provider ~~who owns~~owning more than one child care center may be authorized to move children receiving subsidized child care benefits to an alternate center.~~only after he or she receives~~ The provider must receive prior written approval ~~in writing~~ from ~~the FSSD~~AFS Child Care Subsidy ~~Section~~ staff authorizing him or her to move the children and the point-of-service (POS) machine to the alternate site for a designated period of time. ~~FSSD~~AFS Child Care Subsidy ~~Section~~ staff may ~~give approval~~approve when (1) through (4) of this subsection are met.

(1) The same owner or legal business entity ~~owns~~operates the alternate site.

(2) The alternate site is licensed and contracted at the same star level and the provider has adequate licensed capacity at the alternate site.

(3) There is a legitimate business reason for providing care in another location.

(4) The provider advises ~~FSSD~~AFS Child Care Subsidy ~~Section~~ staff how he or she is ensuring ~~that~~ parents are aware their children are being cared for at a different location.

(~~h~~g) **Renewal of child care contracts.** Contracts may be ~~automatically renew~~renewed at the sole option of DHS for successive one year terms, under the same terms and conditions, unless the provider or ~~OKDHS~~DHS gives written notice of its intent not to renew to the other party at least 30 calendar days prior to the expiration of the previous term. A contract is not renewed when a provider fails to complete required contract training or to provide any other information or documents requested during the contract renewal period.

(~~i~~h) **Contract violations.** When the child care provider signs Form 08CC001E, the provider ~~is agreeing~~agrees to abide by the terms of the contract. When ~~human services center (HSC)~~local county staff becomes aware ~~that~~ a provider is violating the terms of the contract, he or she sends an ~~e-mail~~email to ~~FSSD~~AFS Child Care Subsidy ~~Section~~ staff advising of the circumstances. ~~HSC~~Local county staff may also complete Form 19MP001E, Referral Form, to report the violation to the Office of Inspector General. Examples of contract violations include, but are not limited to:

(1) discriminating against persons seeking services ~~either~~ by charging a discriminatory rate or violating a person's rights as listed in the Civil Rights Act of 1964 as amended, the Rehabilitation Act of 1973 as amended, or the Americans with Disabilities Act of 1990, as amended;

(2) failing to maintain a drug-free workplace;

(3) operating over licensed capacity;

(4) possessing or swiping a client's electronic benefit transfer (EBT) card;

(5) knowing a client's EBT personal identification number (PIN);

(6) refusing unlimited access by a parent or caretaker to the areas of the facility used for child care during the hours of operation;

(7) failing to ensure the parent or caretaker records accurate time and attendance information ~~was recorded by the parent or caretaker~~ on the POS machine. ~~The attendance, not time, of a child approved for the part-time or blended unit type is recorded on the POS machine by the parent or caretaker during the school year.~~ During the school year when a child is approved for a blended unit type or any time part-time care is approved, the parent or caretaker is only required to enter one swipe per day to record attendance because the number or hours the child attends does not affect provider payment;

(8) charging a client receiving subsidized child care more than the ~~OKDHS~~DHS rate for days and hours within the client's child care plan ~~of service~~;

(9) charging a client receiving subsidized child care an allowable fee when not charged to ~~non-OKDHS~~non-DHS participants;

(10) failing to post all of the facility's rates and fees;

(11) charging ~~a client~~ or requiring a client to swipe attendance for days and hours outside of client's child care plan ~~of service~~ when those days and hours are a requirement of the provider, not a choice of the client~~.~~;

(12) failing to advise and provide ~~OKDHS~~DHS a completed copy of any collaboration or agreement the provider enters into within 30 calendar days ~~of entering into a collaboration or agreement~~. This includes agreements with Head Start, Early Head Start, public schools, or any other programs receiving state or federal funding;

(13) claiming or receiving payment from ~~OKDHS~~DHS for any hours of care the provider is not charging all parents for care because provider receives state or federal funds for those hours. Refer to Oklahoma Administrative Code (OAC) 340:40-5-1(7) for policy on collaborations;

(14) claiming payment for care given for any hours in an unlicensed collaborative classroom;

(15) moving the children from the agreed upon location shown in the contract ~~for reasons other than field trips~~ and claiming for services at the other location without prior written approval from ~~the FSSD~~AFS Child Care Subsidy ~~Section~~ staff;

(16) moving the POS machine without receiving prior written approval from ~~the FSSD~~AFS Child Care Subsidy ~~Section~~ staff per subsection ~~(g)~~(f) of this Section;

(17) failing to inform ~~OKDHS~~DHS of a change in facility status, ~~location,~~ legal business entity, or ownership

of the business at least 30 calendar days in advance of the change;

(18) failing to inform ~~OKDHS~~DHS in writing within ~~ten~~10 calendar days of any person who has an ownership or controlling interest in, or is an agent or managing employee of the child care business, who has been convicted of a criminal offense related to such person's involvement under Titles XVIII, XIX, or XX of the Social Security Act;

(19) not maintaining ~~written records for~~copies of manual claims filed during the last three years;

(20) not maintaining daily written attendance records ~~which~~that include in and out times for the last three years;

(21) refusing to make available to ~~OKDHS~~DHS all business records that document proper fiscal and program management by the provider within an hour of request by any ~~OKDHS~~DHS representative;

(22) failing to allow full access to the facility's premises and personnel to investigate a complaint;

(23) failing to report the income from the child care business within ~~ten~~10 calendar days to his or her ~~Family Support Services (FSS)~~AFS worker if receiving benefits;

(24) claiming payment for care given by a home provider for ~~his or her~~an employee's child. Refer to OAC 340:40-5-1(7);

(25) subcontracting services to another provider; and

(26) breaching the contract signed by the provider with the ~~OKDHS~~DHS EBT contractor.

(~~j~~i) **Cancellation of child care provider contracts.** ~~FSSD~~AFS Child Care Subsidy ~~Section~~ staff initiates the cancellation by issuing a notice to the provider. When AFS cancels a contract, all open child care authorizations for the provider close automatically.

~~(1)~~ Contracts may be cancelled:

(~~A~~1) with cause. The effective date of cancellation is 13 calendar days after ~~FSSD~~AFS staff mails the notice. This allows three calendar days for mailing time. The notice must contain a reference to the grounds for cancellation including the specific contract provision(s) that was violated; or

(~~B~~2) without cause. The effective date of cancellation is 33 calendar days after ~~FSSD~~AFS staff mails the notice. This allows three calendar days for mailing time.

~~(2) The FSSD Child Care Subsidy Section staff communicates with the child care liaison when a contract is being cancelled to ensure that HSC staff has sufficient time to plan with clients to find another facility, if necessary. When it is necessary to cancel authorizations with a child care provider, the provider is notified by use of a computer-generated notice. FSSD Child Care Subsidy Section staff closes all authorizations with the provider whose contract is cancelled, except for Child Welfare (CW) authorizations. An e-mail is sent to the KIDS Help Desk notifying them of the contract cancellation requesting closure of CW authorizations.~~

[OAR Docket #15-631; filed 6-19-15]

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

[OAR Docket #15-632]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 3. Eligibility for Benefits
340:65-3-6 [AMENDED]
Subchapter 5. Procedures Relating to Case Changes
Part 3. Procedures for Handling Warrants in Special Circumstances [REVOKED]
340:65-5-15 through 340:65-5-20 [REVOKED]
Subchapter 11. Voter Registration
340:65-11-3 [AMENDED]
(Reference WFs 14-02, 14-12, and 14-20)
AUTHORITY:
Director of Human Services; O.S. 56 § 162; Public Law 112-96 § 4004 (42 U.S.C § 608(a)(12)); 7 U.S.C. § 2012; 56 O.S. § 241.4; Public Law 103-31, Section 4-109.2 of Title 26 of the Oklahoma Statutes; and the ruling by a Federal Court of Appeals (Valdez v. Squier, 676 F.3d 935, 945-46 (10th Cir. 2012).
DATES:
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
January 23, 2015
COMMENT PERIOD:
February 17, 2015 through March 19, 2015
PUBLIC HEARING:
None requested
ADOPTION:
March 24, 2015
SUBMISSION OF ADOPTED RULES TO GOVERNOR LEGISLATURE:
March 25, 2015
APPROVED BY GOVERNOR'S DECLARATION:
Approved by Governor's declaration on June 8, 2015
FINAL ADOPTION:
June 8, 2015
EFFECTIVE:
September 15, 2015
SUPERSEDED EMERGENCY ACTIONS:
Superseded rules:
Subchapter 3. Eligibility for Benefits
340:65-3-6 [AMENDED]
Gubernatorial approval:
June 2, 2014
Register publication:
31 Ok Reg 640
Docket number:
14-446
Superseded rules:
Subchapter 11. Voter Registration
340:65-11-3 [AMENDED]
Gubernatorial approval:
November 17, 2014
Register publication:
32 Ok Reg 295
Docket number:
14-1011
INCORPORATIONS BY REFERENCE:
n/a
ANALYSIS:

Procedures regarding paper warrants are revoked as AFS no longer issues paper warrants.

The proposed revisions to OAC 340:65-3-6 are made in conjunction with required changes being made to TANF rules per OAC 340:10 that in addition to rules in this Chapter, comprise the TANF State Plan to comply with federal law and state statute. DHS Financial Services recently developed an automatic method to notify staff when debit card funds expunge due to the client's failure

to activate his or her debit card. In order to help clients access benefits and close SSP and TANF benefits for those who do not want to receive benefits, client notification and assistance requirements prior to benefit closure and reopening benefits information are added to the rule.

A letter was sent on behalf of the Metropolitan Tulsa Urban League, the League of Women Voters of Oklahoma and Metropolitan Tulsa, and the YWCA Tulsa notifying the Oklahoma State Election Board that DHS is not in compliance with the NVRA. The letter specifically mentions that OAC 340:65-11-3 contains an incorrect statement regarding worker action when a client does not answer the voter registration question on the Voter Registration Statement. The proposed revision addresses concerns raised and will enable AFS staff to comply with the NVRA.

CONTACT PERSON:

Dena Thayer, Programs Administrator, Policy Management Unit, OKDHS, P.O. Box 25352, Oklahoma City, OK 73125, 405-521-4326.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 15, 2015:

SUBCHAPTER 3. ELIGIBILITY FOR BENEFITS

340:65-3-6. Payment method for Temporary Assistance for Needy Families (TANF) and State Supplemental Payment (SSP) benefits

(a) **Payment method choices.** ~~When an applicant applies for Temporary Assistance for Needy Families (TANF)~~The Oklahoma Department of Human Services (DHS) issues TANF and~~or State Supplemental Payment (~~SSP~~)~~ benefits~~, the worker advises the applicant that these benefits are issued~~through a contractor on a debit card or by direct deposit. DHS initially issues the benefit on a debit card.

(1) After the first benefit issues, the recipient may continue to receive benefits by debit card or change the payment method to direct deposit.

(2) The recipient may switch between direct deposit and debit card as needed.

(b) **Debit card procedures.** Debit card procedures are listed in (1) through (7) of this paragraph.

(1) ~~When~~Unless the applicant was previously issued a debit card ~~has not previously been issued to the applicant~~, it is issued ~~when benefits are placed in~~to the applicant after the application is placed in application status or after benefits are approved.

(A) ~~When a~~A debit card ~~has previously been issued to~~issues after the application is placed in application status when the applicant~~, a new one is not sent~~was previously issued a client number. ~~It is activated once benefits are approved.~~ DHS assigns a client number to a person after he or she is approved for a DHS benefit or when the person has an open child support case with DHS Child Support Services (CSS).

(B) When the applicant does not have a client number, the debit card issues after the worker certifies the TANF or SSP benefit.

(C) DHS does not issue a debit card to an applicant when he or she was previously issued a debit card. When the applicant states he or she no longer has the debit card, the applicant must call 1-888-401-9843, the contractor's customer service telephone number, to obtain a replacement card.

(2) Once the ~~client~~applicant receives the debit card, he or she must call the customer service telephone number located on the back of the debit card to activate the card and choose a personal identification number (PIN).

(3) Initial and replacement debit cards are mailed to the applicant or recipient's mailing address along with information regarding:

(A) the customer service telephone number the applicant must call to activate the debit card or to report a lost or stolen card;

(B) how to make purchases using the debit card or get cash from participating automated teller machine (ATM) locations;

(C) free services, including two free ATM withdrawals per calendar month from the Bank of Oklahoma and Transfund banking locations, and fees;

(D) how to request an alternate cardholder or switch to direct deposit; and

(E) the website address where the applicant may access his or her account balance and transaction information.

(4) The recipient is eligible for a free replacement card once every 12 months upon request. The recipient is charged a fee when he or she requests a replacement card more than once every 12 months. The debit card expires every three years and a free replacement is sent to recipients with open benefits.

(~~3~~5) The ~~client~~recipient may choose another person to be a secondary cardholder for the benefits. When there is a substitute payee for the TANF benefit per Oklahoma Administrative Code (OAC) 340:65-5-66, the substitute payee is the secondary cardholder.

(A) The recipient and the secondary cardholder must complete and sign a Secondary Cardholder Request form and return it to the address listed on the form before a debit card is issued to the secondary cardholder.

(B) The ~~client must either contact~~recipient obtains the Secondary Cardholder Request form by contacting the customer service telephone number located on the back of the debit card ~~to request~~this or ~~download~~ downloading the ~~alternate cardholder request~~ form from ~~the~~ www.eppicard.com ~~Web site~~. ~~The client and the secondary cardholder must complete and sign the form and return it to the address on the form before a debit card is issued to the secondary cardholder.~~

(C) After the secondary cardholder receives the debit card, he or she must choose a PIN number ~~before accessing~~to access benefits.

(~~4~~6) When the ~~client~~recipient advises the ~~Oklahoma Department of Human Services (OKDHS)~~(DHS) staff that he or she ~~never received~~did not receive the debit card, the

worker checks to see if ~~it was returned as undeliverable~~the recipient's address changed. If the address changed, the worker updates the system with the correct address. The recipient must call the customer service telephone number to request a replacement card.

~~(5)There are certain fees a client may be charged when using a debit card. A list of fees may be found at www.eppicard.com. The client is sent information about fees when a debit card is first issued. The client may access account and transaction information online at www.eppicard.com free of charge at any time.~~

(~~6~~7) ~~If~~When the ~~client~~recipient fails or refuses to activate his or her debit card within 90 calendar days, the benefits are expunged from the debit card and ~~the contractor returns any fundsloaded on a debit card~~returned to ~~OKDHS~~DHS.

(A) Upon notification of expunged benefits, the worker contacts the recipient to offer assistance in pinning the debit card.

(i) When the worker is unable to reach the recipient by telephone, the worker sends Form 08AD092E, Client Contact and Information Request, and gives the recipient 10 calendar days to contact the worker.

(ii) When the worker is able to talk to the recipient, the worker determines why the recipient did not pin the debit card and offers assistance. The worker advises the recipient to pin the debit card within 10 calendar days and let the worker know when it is pinned so he or she can restore expunged benefits to the debit card. If the client does not contact the worker within 10 calendar days to reissue the expunged benefits, the worker sends Form 08AD092E and gives the client 10 calendar days to respond.

(B) ~~These~~The funds may be reloaded on the ~~client's~~recipient's debit card if he or she pins the debit card and requests ~~from OKDHS~~DHS reissuance within 365 calendar days of the issuance date ~~of issuance~~.

(~~A~~C) ~~For SSP, when~~When the ~~client~~recipient fails or refuses to pin the debit card within ~~90~~10 calendar days ~~and attempts have been made to urge the client to do so~~of issuing Form 08AD092E, the worker closes the TANF or SSP benefit due to non-cooperation. When the:

(i) TANF benefit closes due to non-cooperation, the assistance unit's SoonerCare (Medicaid) benefit closes. When the recipient wants to continue to receive SoonerCare (Medicaid) benefits, he or she must reapply through the Oklahoma Health Care Authority's online enrollment system; and

(ii) SSP benefit closes due to non-cooperation, the recipient's SoonerCare (Medicaid) benefit remains open.

(~~B~~D) ~~For~~The recipient's TANF~~, the worker does not close the~~or SSP benefit may be reopened when the ~~client fails to pin~~recipient pins the debit card and notifies the worker within ~~90~~30 calendar days of closure.

(c) **Electronic benefit transfer (EBT) transaction restrictions.** Electronic benefit transfer transaction means the use of a credit or debit card service, automated teller machine, point-of-sale terminal, or access to an online system for the withdrawal of funds or the processing of a payment for merchandise or service. Per Section 4004 of the Middle Class Tax Relief and Job Creation Act of 2012, Section 608(a) of Title 42 of the United States Code (42 U.S.C. § 608(a)(12)), and Section 241.4 of Title 56 of Oklahoma Statutes, no debit or EBT card containing state or federal funds from programs including, but not limited to, TANF may be used in any transaction in any:

(1) liquor store. The term liquor store means any establishment that sells exclusively or primarily intoxicating liquor. The term does not include a grocery store that sells both intoxicating liquor and groceries, including staple foods per Section 3(r) of the Food and Nutrition Act;

(2) casino, gambling casino, or gaming establishment except for:

(A) a grocery store that sells groceries, including staple foods per 7 U.S.C. § 2012, and also offers, or is located within the same building or complex as an establishment offering casino, gambling, or gaming activities; or

(B) any other establishment offering casino, gambling, or gaming activities incidental to the principal purpose of the business;

(3) retail establishment that provides adult-oriented entertainment in which performers disrobe or perform in an unclothed state for entertainment; or

(4) retail establishment whose principal business is that of selling cigarettes, cigars, or tobacco products.

(~~b~~d) **Direct deposit procedures.** Direct deposit procedures are listed in (1) through (7) of this paragraph.

(1) When the ~~client~~recipient prefers to receive benefits through direct deposit, he or she must ~~call the contractor's call center telephone number to request direct deposit. The contractor's staff mails or faxes a direct deposit form to the client to complete and return before benefits are issued by direct deposit. The client may also obtain a direct deposit formby accessing www.eppicard.comand downloading it~~.

~~(1)~~ ~~The client must~~ complete and sign the direct deposit form, provide a voided check or a savings account deposit slip, and return them to the address on the form.

(A) To obtain the direct deposit form, the recipient calls the customer service telephone number located on the back of the debit card, downloads a direct deposit form from the www.eppicard.com website, or obtains one from the worker.

(~~2~~B) ~~Once~~After receiving the completed form ~~is completed~~ and confirming account information ~~confirmed~~, the contractor has five ~~working~~business days to enter direct deposit information in the system.

(~~3~~C) Benefits are changed to direct deposit for the next payment due after direct deposit information is entered in the system.

(~~4~~D) Funds cannot be transferred from a debit card to direct deposit.

(~~c~~e) **Benefit issuance.** ~~The client's~~After the initial issuance, the recipient's cash benefit is deposited in the ~~client's~~recipient's checking or savings account on the first banking day of each month or loaded on the ~~client's~~recipient's debit card on the first day of each month.

(1) The funds are available for withdrawal after deposit.

(2) After the monthly benefit is deposited in the ~~client's~~recipient's account or loaded on the debit card, ~~OKDHS~~DHS is not responsible if someone other than the payee withdraws the funds. Banking regulations govern withdrawals.

(3) ~~Clients~~Recipients are encouraged to be prudent about giving withdrawal privileges or debit card access to other people.

~~(d) The client may switch from direct deposit to the debit card or from the debit card to direct deposit by calling the contractor's call center to request the change and following directions given by the contractor's staff.~~

(~~e~~f) **Issuance problem procedures.** When problems occur with direct deposit or debit card deposits, procedures for dealing with these problems are ~~detailed~~listed in (1) through (5) of this subsection.

(1) When ~~direct deposit cannot be accomplished for a~~the recipient provides incorrect account information, the TANF or SSP benefit cannot be deposited in the recipient's bank account~~,.the~~The contractor's staff attempts to contact the ~~client~~ recipient to obtain current banking information. When the ~~client~~recipient fails to provide current information or five calendar days ~~elapse~~lapse without contact, the contractor converts the payment method to a debit card. ~~If the client wishes to receive direct deposit again, the client~~The recipient must complete a new direct deposit form and provide current account information before another attempt is made to issue benefits through direct deposit.

(2) ~~If~~When~~a client reports that~~ a deposit ~~was~~is not made to ~~his or her~~the recipient's direct deposit account or loaded on the debit card, the ~~client~~recipient ~~reports this~~must report the problem to the contractor's ~~call center~~customer service telephone number. The contractor handles any communication with banking institutions or ~~MasterCard~~debit card vendors and then contacts the ~~client~~recipient regarding resolution.

(3) ~~Payments may be made by direct deposit or debit card after the death of the payee.~~When the recipient dies while receiving benefits, questions may arise concerning unspent funds in the recipient's bank account or on his or her debit card.

(A) When ~~a payment is made after the death of the payee for which the payee~~the client is not eligible for a payment made after death to the recipient's debit card or bank account, an overpayment may be established against the estate.

(i) DHS notifies the debit card contractor to expunge the funds from the debit card, when possible.

(ii) Payments made by direct deposit, cannot be expunged or retrieved.

(B) ~~If~~When there are unused benefits on the debit card at the time of death for which the ~~client~~recipient was entitled and someone contacts ~~OKDHS~~ DHS to request these benefits, he or she is advised to contact the customer service number located on the back of the ~~client's~~recipient's debit card ~~for assistance~~to request the funds. When unused funds remain in a bank account, the person must contact the financial institution to request the funds.

(4) When ~~a~~the recipient's cash benefit ~~is closed~~closes~~, the closure action automatically closes out direct deposit or debit card payments.~~

~~(A) When the client's cash benefit is closed~~ due to transfer of eligibility to another TANF or SSP case, ~~direct deposit or debit card deposit~~the payment method is automatically transferred to the new case provided the client number of the payee in the closed and new case is the same.

~~(B)~~ When the ~~client's~~recipient's cash benefit ~~is closed and~~closes and he or she later reapplies and is approved with the same client number, the previously chosen payment method is used to issue the cash benefit. The ~~client~~recipient must call the contractor's ~~call center~~customer service telephone number to change the payment method or to update bank account information.

(5) When the payee for the cash benefit changes for any reason, ~~he or she~~the new payee is assigned a new client number ~~and a debit card is issued~~if~~unless~~ one ~~has not~~was previously ~~been~~ issued ~~for the new client number~~to him or her.

(A) ~~The client must call the contractor's call center to set up direct deposit if he or she prefers that payment method.~~The new payee is considered an applicant. Refer to (a) and (b) of this Section regarding payment methods and initial payments.

(B) The new payee does not have access to benefits issued prior to the payee change.

SUBCHAPTER 5. PROCEDURES RELATING TO CASE CHANGES

PART 3. PROCEDURES FOR HANDLING WARRANTS IN SPECIAL CIRCUMSTANCES [REVOKED]

340:65-5-15. Non-receipt of benefits issued by warrant [REVOKED]

~~(a) A client or vendor who reports benefit from a warrant has not been received due to loss, theft, mutilation, or non-receipt is required to complete Form 10AD044E, Affidavit of~~

~~Lost or Destroyed Warrant, or the Office of State Finance's (OSF) Form 20R, Warrant Replacement Request, before a replacement warrant may be issued per Section 34 of Title 74 of the Oklahoma Statutes. Original signatures must be on all copies of the form.~~

~~(b) Completion of Form 10AD044E or OSF Form 20R is not required when:~~

~~(1) a sufficient portion of a burned or mutilated warrant remains intact so the warrant can be positively identified to ensure the client could not have redeemed the missing portion; or~~

~~(2) the original warrant is being retained by a law enforcement agency. That agency must:~~

~~(A) submit a letter on its letterhead to the Oklahoma Department of Human Services (OKDHS) Finance Division stating the warrant is being held as evidence and will not be given to the payee under any circumstance, but will be returned to the OKDHS Finance Division for disposition at the conclusion of their investigation; and~~

~~(B) attach a copy of the warrant, front and back.~~

~~(c) The client is advised to not cash the original warrant without first notifying his or her worker if it is located after Form 10AD044E or Form OSF 20R has been signed. Any attempt to cash the warrant will result in the State Treasurer returning the unpaid warrant to the second endorser. The second endorser has recourse against the client to repay the amount of the warrant, plus any returned check charges.~~

~~(d) If the payee is a company rather than an individual, a duly authorized agent of the company must sign Form 10AD044E or Form OSF 20R on behalf of the payee giving the title of the position he or she holds with the company.~~

~~(e) Upon receipt of Form 10AD044E or OSF Form 20R, OKDHS Finance Division staff determines if the warrant has been cashed or if it remains outstanding. If the warrant has not been cashed, OKDHS Finance Division staff sends a stop payment order to the State Treasurer. Upon receipt of confirmation from the State Treasurer, either the OKDHS Finance Division staff or OSF staff issues a replacement warrant.~~

~~(f) If the warrant has been cashed, OKDHS Finance Division staff obtains a copy of the paid warrant and sends it to the human services center (HSC) for signature comparison with Form 10AD045E, Affidavit of Forged Endorsement and Form 10AD046E, Investigation Questionnaire. The worker instructs the client or payee to examine the endorsement carefully and warns him or her of the seriousness of making true and accurate statements concerning whether:~~

~~(1) the endorsement is forged;~~

~~(2) he or she gave someone permission to cash the warrant; and~~

~~(3) he or she received benefit from the warrant. [21 O.S. § 358]~~

~~(g) The worker sends the completed Form 10AD045E and Form 10AD046E to the OKDHS Finance Division for processing.~~

~~(1) When the OKDHS Finance Division receives the required documents, the forged warrant is returned through banking channels to the second endorser for collection. A replacement warrant is not issued until reimbursement is received from the second endorser.~~

~~(2) The second endorser has the right to protest a claim if there is evidence to show it is fraudulent. If the second endorser chooses to protest the claim, he or she must file a complaint with the local police department and send a copy of the complaint report and a letter to the Finance Division.~~

~~(3) When the State Treasurer receives reimbursement from the second endorser, Form 10AD044E or Form OSF 20R is approved and sent to the OKDHS Finance Division. If the second endorser does not protest the claim within two months, either the OKDHS Finance Division or OSF staff issues a replacement warrant to the client or vendor.~~

340:65-5-16. Warrant issued after recipient's death [REVOKED]

~~When a warrant for which the estate is not eligible is cashed and paid by the State Treasurer, the Finance Division requests the State Treasurer return the warrant to the second endorser for collection on the grounds that it does not bear the endorsement of the true payee. Attached to the warrant is anotarized statement signed by a designated employee in the Finance Division, certifying the date of death on file with the Oklahoma Department of Human Services. When the State Treasurer receives reimbursement, the State Fund is credited and the Finance Division is notified of its receipt. When the local human services center is notified of a client's death, the family is advised to return for cancellation any warrants for which the estate is not eligible.~~

340:65-5-17. Warrant cashed in error [REVOKED]

~~When a warrant is inadvertently cashed by the wrong client, due to Oklahoma Department of Human Services error because the names are similar or for other reasons, the human services center (HSC) staff immediately substantiates facts related to the error and sends a report of these facts to the Family Support Services Division (FSSD).~~

~~(1) If the client who cashed the warrant is not convinced of the error, a request is made by the HSC staff to the Finance Division for a photostatic copy of the warrant in order that facts in evidence may be discussed with the client.~~

~~(2) The worker submits an overpayment for the client who inadvertently cashed the wrong warrant to the FSSD Benefit Integrity and Recovery Section in accordance with OAC 340:65-9.~~

340:65-5-18. Warrant returned as undeliverable [REVOKED]

~~The postal service returns to the Oklahoma Department of Human Services (OKDHS) Finance Division any undeliverable warrants in accordance with the return address printed on the envelope.~~

340:65-5-19. Warrants canceled by statute of limitation [REVOKED]

~~Any warrant not presented for payment within 90 days of issuance is automatically canceled by statute of limitation. Section 41.19 of Title 62 of the Oklahoma Statutes restricts reissuance of any public or medical assistance warrant to within 36 months following the month of its cancellation. This restriction does not apply to warrants issued prior to February 1, 1992. The holder of such a canceled warrant may, within the 36 month period, submit the original warrant to the Oklahoma Department of Human Services (OKDHS) with a request for its reissuance.~~

~~(1) If the original warrant is not in the person's possession, Form 10AD044E, Affidavit of Lost or Destroyed Warrant, may be submitted in lieu of the actual warrant.~~

~~(2) If the holder of the canceled warrant is a corporation, a duly authorized agent of the corporation completes and signs Form 10AD044E or the Office of State Finance Form 20R, Warrant Replacement Request. The duly authorized agent must state on the form the title of the position he or she holds with the company.~~

~~(3) Requests for reissuance must be mailed to the Finance Division, P.O. Box 53308, Oklahoma City, OK 73152, where replacement warrants are processed monthly.~~

340:65-5-20. Payment to estate of deceased recipient [REVOKED]

~~(a) Sections 190 and 191 of Title 56 of the Oklahoma Statutes (56 O.S. §§ 190 and 191) provides for payments to the estate of a deceased client. If the client dies before the warrant is endorsed or presented for payment, the next of kin, next friend, or other reputable person must obtain a court order from the district court authorizing and directing such person to endorse the warrant before it can be cashed. No costs may be charged for court proceedings.~~

~~(1) The next of kin, next friend, or other reputable person requesting an endorsement of the warrant(s) due the deceased recipient may file an affidavit directly with the district court stating the name of the recipient, the date of his or her death, and the amount and number of warrants. The next of kin, next friend, or other reputable person may or may not have possession of the warrant(s).~~

~~(2) The next of kin, next friend, or other reputable person may also present unendorsed warrants to the local human services center (HSC) and request assistance in cashing them.~~

~~(A) The county director prepares Form 08MP023E, Notice to County Judge Regarding Deceased Recipient, and sends the original to the district judge and a copy to the Finance Division.~~

~~(B) Prior to completing this form, HSC staff must confirm the date of death of the recipient in order to establish eligibility for this payment. The warrant may be cashed only if the recipient was alive on the first day of the month for which the warrant was issued.~~

~~(C) The first day of the month is considered to begin at 12:00 midnight.~~

~~(b) The district judge or his or her associate is responsible for determining whether to issue a court order based on the information presented. If applicable, a court order is made authorizing and directing the next of kin, next friend, or other reputable person to endorse the warrant and cash it without the signature of an administrator. The order covers all points set out as requirements in the law.~~

~~(c) In lieu of a court order, the district judge or his or her associate may make a notation directly on the warrant itself, specifying the name of the person authorized to endorse it.~~

~~(d) When the unendorsed warrant is returned to the Finance Division, it is only sent to the next of kin, next friend, or other reputable person after Finance Division staff receives the original of the court order with that person's address included. Upon receipt of the judge's order and determination that its issuance conforms to the facts and the law, Finance Division staff mails the warrant directly to the person authorized to endorse it. The Director of the Oklahoma Department of Human Services handles any question regarding a refusal to release the warrant.~~

SUBCHAPTER 11. VOTER REGISTRATION

340:65-11-3. ~~Forms used in providing voter~~Voter registration services

(a) ~~With every application, benefit renewal, or any time a change of address is reported, local county office or support center staff provides the applicant or recipient with the Oklahoma Voter Registration Statement and the Oklahoma Voter Registration Application. All voter registration materials are kept confidential.~~

~~(1) Oklahoma Voter Registration Statement. When an applicant or recipient:~~

~~(A) chooses to register to vote, the person must sign and return the Oklahoma Voter Registration Statement to the local county office; or~~

~~(B) does not complete the Oklahoma Voter Registration Statement, it is presumed the person does not wish to register.~~

~~(2) Oklahoma Voter Registration Application.~~

~~(A) When an applicant or recipient submits an Oklahoma Voter Registration Statement indicating that he or she wants to register to vote, the person is provided an Oklahoma Voter Registration Application.~~

~~(B) Oklahoma Department of Human Services (OKDHS) staff in the county office or support center offers the same degree of assistance in completing the Oklahoma Voter Registration Application as they offer in completing OKDHS application forms, unless the person refuses such assistance.~~

~~(b) The State Election Board provides OKDHS with pre-addressed, postage paid envelopes to transmit Oklahoma Voter Registration Application forms.~~**Voter registration offer.** Adult and Family Services (AFS) staff is federally mandated to offer voter registration services to applicants and recipients

for qualifying events included in (1) through (3). Qualifying events include when persons:

(1) apply for AFS benefits, such as Child Care Subsidy, Low Income Home Energy Assistance Program, SoonerCare (Medicaid), State Supplemental Payment, Supplemental Nutrition Assistance Program (SNAP), and Temporary Assistance for Needy Families;

(2) complete a mid-certification benefit renewal, annual benefit renewal, or SNAP certification renewal; or

(3) report an address or name change.

(b) **Voter registration forms.** Voter registration forms include Form 08MP007E, Voter Registration Statement, and the Oklahoma State Election Board's, Oklahoma Voter Registration Application.

(1) The applicant, recipient, or the worker records the applicant's or recipient's decision to apply or decline to register to vote.

(2) When the applicant or recipient wants to apply to register to vote or does not want to answer the question: "If you are not registered to vote where you live now, would you like to apply to register to vote here today?" on Form 08MP007E, Voter Registration Statement, the Oklahoma Voter Registration Application is given or mailed to the applicant or recipient.

(3) When the applicant or recipient declines to apply to register to vote in writing, an Oklahoma Voter Registration Application is not given or mailed to the applicant or recipient.

(c) **Assistance completing the Oklahoma Voter Registration Application.** AFS staff offers the same degree of assistance in completing the Oklahoma Voter Registration Application as is provided when completing the AFS application and renewal forms.

(d) **Confidentiality.** AFS staff keeps the applicant's or recipient's decision to register or not to register to vote and all voter registration materials confidential.

(e) **Prohibitions.** AFS staff must not:

(1) seek to influence an applicant's or recipient's political preference or party registration;

(2) display political preference or party allegiance;

(3) make statements or take action that has the purpose or effect of discouraging the applicant or recipient from registering to vote; or

(4) make statements or take action that has the purpose or effect of leading the applicant or recipient to believe that a decision to apply to register or a decision not to register to vote has any bearing on the availability of services or benefits.

(f) **Record retention.** AFS staff images and files a completed Form 08MP007E in the applicant's or recipient's case record. Form 08MP007Es, when completed, are retained until the case record is destroyed per Oklahoma Administrative Code 340:65-1-6.

(g) **Training.** AFS staff are required to view voter registration training within 30 calendar days of his or her enter on duty date and annually thereafter.

(h) **Local voter registration site coordinator.** Each county director and field manager is responsible for assigning a local voter registration site coordinator. Site coordinator duties include:

(1) maintaining a sufficient supply of Oklahoma Voter Registration Application forms;

(2) the daily compilation of all completed and partially completed Oklahoma Voter Registration Application forms and mailing them to the Oklahoma State Election Board at the close of each business week in the preaddressed, prepaid, postage envelopes provided by the Oklahoma State Election Board;

(3) maintaining a weekly count of Oklahoma Voter Registration Application forms mailed to the Oklahoma State Election Board and sending a monthly total to the AFS regional office.

(4) being the local office contact person for applicants, recipients, the public, or staff inquiries regarding the voter registration process;

(5) maintaining all voter registration posters as required;

(6) monitoring staff compliance with standard voter registration procedures included in this Section; and

(7) monitoring the staff's completion of annual voter registration training.

(i) **Data collection.** DHS produces a statewide monthly report regarding voter registration activity based on weekly data collection.

[OAR Docket #15-632; filed 6-19-15]

TITLE 340. DEPARTMENT OF HUMAN SERVICES
CHAPTER 70. SOCIAL SERVICES

[OAR Docket #15-633]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 8. Supplemental Security Income-Disabled Children's Program (SSI-DCP) [REVOKED]
340:70-8-1 [REVOKED]
(Reference WF 14-13)
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Director of Human Services; Section 162 of Title 56 of the Oklahoma Statues.
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ADOPTION:
March 24, 2015
SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:
March 25, 2015
APPROVED BY GOVERNOR'S DECLARATION:
Approved by Governor's declaration on June 8, 2015
FINAL ADOPTION:
June 8, 2015
EFFECTIVE:
September 15, 2015

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

ANALYSIS:

The SSI-DCP rule is revoked and issued in the same chapter with State Supplemental Payment (SSP) rules to make it easier for staff and clients to locate as most children receiving SSI-DCP services also receive a SSP cash assistance payment.

CONTACT PERSON:

Dena Thayer, Programs Administrator, Policy Management Unit, OKDHS, P.O. Box 25352, Oklahoma City, OK 73125, 405-521-4326.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 15, 2015:

SUBCHAPTER 8. SUPPLEMENTAL SECURITY INCOME-DISABLED CHILDREN'S PR0GRAM (SSI-DCP) [REVOKED]

340:70-8-1. Eligibility and available services [REVOKED]

~~The Supplemental Security Income Disabled Children's Program (SSI-DCP) is established under Section 1615 of the Social Security Act and administered by the Oklahoma Department of Human Services (OKDHS) Family Support Services Division (FSSD). The Social Security Administration (SSA) refers children under 18 who have been approved for Supplemental Security Income (SSI) to OKDHS, the designated state agency that provides social services.~~

~~(1) **Eligibility.** Any child from birth to 18 years of age is eligible for SSI-DCP services if the child receives a SSI payment. SSA establishes financial and medical eligibility for the SSI disability payment. Once the child turns 18, he or she is not eligible.~~

~~(2) **Service plan.** A service plan must be written by a worker for each child receiving SSI-DCP services to plan current and future social service needs.~~

~~(A) This plan must be reviewed yearly in conjunction with the eligibility review.~~

~~(B) If the child has other types of benefits that require a current social service plan, an additional social service plan is not necessary.~~

~~(3) **Services and equipment.** SSI-DCP provides funding for the services and equipment described in (A) through (E) of this paragraph. The parent, guardian, or caretaker must request services and equipment through the Family Support Services (FSS) worker in the local human services center (HSC). All equipment and services available through SSI-DCP must be pre-approved by FSSD Health Related and Medical Services (HR&MS) Section. HR&MS staff considers whether other resources are available or if the child is in a temporary living situation to determine whether to approve the service or equipment.~~

~~(A) **Equipment.** Equipment approved through SSI-DCP must be used to aid the child in accessibility or mobility. The parent, guardian, or caretaker must provide a written recommendation from a professional, such as an occupational therapist, physical therapist, special education teacher, or physician, who has professional knowledge concerning the equipment needs of the child. SSI-DCP does not pay for repairs of purchased equipment, van lifts, or other items.~~

~~(i) Computers or computer software are not in the scope of the program.~~

~~(ii) Educational or classroom devices, equipment, or supplies that are not adapted for the needs of the child are not in the scope of the program.~~

~~(iii) Van lifts are available to a child who is not in the custody of OKDHS, tribal custody, or in the Developmental Disabilities Home and Community Based Waiver Program. Modifications to the van are not approved.~~

~~(I) The parent, guardian, or caretaker must own the van as verified by title registration and license verification, and the van must be in operating condition.~~

~~(II) The worker advises the family that estimates are required from two van lift dealers who employ certified van lift installation technicians.~~

~~(III) Only a certified van lift specialist is approved to install the lift and the lift must have factory and dealership warranty equal to private purchase warranty.~~

~~(IV) The life expectancy of a van lift is ten years through SSI-DCP. Under no circumstances will the lift be replaced prior to the ten year period.~~

~~(V) All repairs are the responsibility of the family.~~

~~(B) **Diapers.** Certain diapers are available through the OKDHS Supply Warehouse. To be eligible to receive diapers, the child must be at least four years of age. Once the child turns 18, he or she is not eligible. A physician must document in writing that the child cannot be toilet trained. This service request must be renewed yearly at the time of the review to continue receipt of the diapers.~~

~~(C) **Formula.** Certain formula is available through the OKDHS Supply Warehouse. A physician or nutritionist must provide a prescription naming the brand of formula needed by the child. A prescription is required yearly at the time of the review to continue receipt of the formula.~~

~~(D) **Developmental aid.** A developmental aid is any device or equipment that is adapted to meet the needs of a child with special needs. A professional, such as an occupational therapist, physical therapist, special education teacher, or physician, must provide~~

~~a written explanation concerning the goals and objectives this developmental aid would meet before it can be approved.~~

~~(E) **Professional services.** Professional services are non-medical services recommended by a physician, physical therapist, or occupational therapist that clearly define goals and objectives to achieve results. As the budget allows, certain services are available on a temporary basis.~~

~~(4) **Purchasing procedures.** Equipment orders are processed through the OKDHS Support Services Division (SSD) Contracts and Purchasing Unit.~~

~~(5) **SSI-DCP notices.** If a SSI-DCP request is denied, a computer-generated denial notice is sent to the child advising the item is not approved for purchase through the SSI-DCP funding. The family may request a fair hearing within 30 days from the date of the notice by completing Form 13MP001E, Request for a Fair Hearing.~~

~~(6) **Respite Voucher Program.** The Respite Voucher Program provides financial assistance in the form of vouchers to families to pay for respite care so the caregiver can take a break. When the family appears to be eligible for the Respite Voucher Program, the worker advises the family to call a designated number to request a respite voucher application. Funds used to pay for these vouchers are provided by the SSI-DCP Program, other OKDHS programs, and other public and private agencies.~~

~~(A) The caregiver is the person who provides ongoing care for the child. He or she can be a parent, a grandparent, other relative, or a non-relative.~~

~~(B) When respite care is approved it:~~

~~(i) is not designed to pay for ongoing care such as child care, therapy, in-home assistance, housekeeping, or home health services; and~~

~~(ii) cannot be provided by a member of the child's household.~~

[OAR Docket #15-633; filed 6-19-15]

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

[OAR Docket #15-657]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 1. General Provisions of Child Welfare Services
Part 1. Scope and Applicability
340:75-1-12 [AMENDED]
340:75-1-16 [AMENDED]
340:75-1-16.1 [NEW]
340:75-1-17 through 340:75-1-18.1 [AMENDED]
340:75-1-20 [AMENDED]
Part 15. Child Welfare Specialist Training
340:75-1-231 [AMENDED]
Subchapter 3. Child Protective Services
Part 1. Purpose, Definitions, and Hotline Protocol
340:75-3-7.3 [REVOKED]
340:75-3-120 [AMENDED]
340:75-3-130 [AMENDED]
Part 2. Investigative Protocols
340:75-3-200 [AMENDED]
Part 3. Child Safety Evaluation Criteria and Procedure
340:75-3-300 [AMENDED]
Part 4. Specialized Investigative Protocols, Child Death or Near-Death Reporting Protocols
340:75-3-400 [AMENDED]
340:75-3-420 [AMENDED]
340:75-3-440 [AMENDED]
Part 5. Investigative Findings and Appeals
75-3-500 [AMENDED]
75-3-530 [AMENDED]
Subchapter 6. Permanency Planning
Part 7. Family and Child Individualized Service Planning Components
340:75-6-40.9 [AMENDED]
Part 11. Permanency Planning and Placement Services
340:75-6-85 [AMENDED]
340:75-6-86 [AMENDED]
Part 13. Independent Living
340:75-6-110 [AMENDED]
Subchapter 7. Foster Home Care
Part 27. ~~Contracted~~Oklahoma Department of Human Services (DHS) Resource Family Partner (RFP) Foster Care Program
340:75-7-280 [AMENDED]
Part 28. Foster Parent Helpline,~~and~~ Mediation, and Complaints about the Oklahoma Department of Human Services (DHS) or Child-Placing Agency Employees
340:75-7-292 [NEW]
Subchapter 8. Therapeutic Foster Care and Developmental Disabilities Services
Part 1. Therapeutic Foster Care
340:75-8-11.1 [NEW]
Subchapter 13. Other Child Welfare Services and Medical Services for Children in Out-of-Home Care
Part 2. Title IV-E Eligibility and Reimbursability
340:75-13-21 [AMENDED]
Part 3. Income and Resources of the Child
340:75-13-26 [AMENDED]
Subchapter 15. Adoptions
Part 2. Legal Base and Scope of the Adoption Program
340:75-15-6 [AMENDED]
Part 10. Integrated Family Assessment and Preparation Process
340:75-15-84 [AMENDED]
340:75-15-87 [AMENDED]
340:75-15-88 [AMENDED]
340:75-15-91 [AMENDED]
Part 12. Adoption Placement Services
340:75-15-103 [AMENDED]
Part 14. Post Adoption Services
340:75-15-124 [AMENDED]
340:75-15-128.1 through 340:75-15-128.5 [AMENDED]
Subchapter 18. Continuous Quality Improvement
340:75-18-1 through 340:75-18-2 [AMENDED]
(Reference WFs 14-05, 14-19)

AUTHORITY:

Director of Human Services; Section 162 of Title 56 of the Oklahoma Statues (O.S. 56 § 162); Chapter 75 Subchapter 1: O.S. 10 § 601.6; O.S. 10A §§ 1-1-102. 1-4-802, 1-4-805, 1-4-807, 1-4-807.1, 1-4-810, 1-4-811, and 1-9-120; Chapter 75 Subchapter 6: O.S. 10A §§ 1-1-102, 1-4-802, 1-4-805, 1-4-807, 1-4-902, 1-4-904, O.S. 10A § 1-7-103, O.S. 10A § 1-9-107, 1-9-119; and Chapter 75 Subchapter 7: O.S. 10 § 601.6 and 10A §§ 1-9-119, and 1-9-120. Oklahoma Children's Code, Article 1 of Title 10A of the Oklahoma Statutes; Section 475 of the Social Security Act, Public Laws 106-169 and 110-351; Title 45 of the Code of Federal Regulations (CFR) Parts 98 and 99; Title 45 of the Code of Federal Regulations (CFR) Parts 98 and 99; Titles IV-B and IV-E of the Social Security Act; Title 45 of the Code of Federal Regulations (CFR) Parts 98 and 99; Administration for Children and Families (ACF) Information Memorandum, "Establishing and Maintaining Continuous Quality Improvement (CQI) Systems in State Child Welfare Agencies," ACYF-CB-IM-12-07.

SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:

January 23, 2015

COMMENT PERIOD:
February 17, 2015 through March 19, 2015
PUBLIC HEARING:
None requested
ADOPTION:
March 24, 2015
SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:
March 25, 2015
APPROVED BY GOVERNOR'S DECLARATION:
Approved by Governor's declaration on June 8, 2015
FINAL ADOPTION:
June 8, 2015
EFFECTIVE:
September 15, 2015
SUPERSEDED EMERGENCY ACTIONS:
Superseded rules:
Subchapter 1. General Provisions of Child Welfare Services
Part 1. Scope and Applicability
340:75-1-12 [AMENDED]
340:75-1-16 [AMENDED]
340:75-1-16.1 [NEW]
340:75-1-17 through 340:75-1-18.1 [AMENDED]
340:75-1-20 [AMENDED]
Subchapter 6. Permanency Planning
Part 7. Family and Child Individualized Service Planning Components
340:75-6-40.9 [AMENDED]
Part 11. Permanency Planning and Placement Services
340:75-6-85 [AMENDED]
340:75-6-86 [AMENDED]
Subchapter 7. Foster Home Care
Part 28. Foster Parent Helpline and Mediation
340:75-7-292 [NEW]
(Reference WF 14-19)
Gubernatorial approval:
November 17, 2014
Register publication:
32 Ok Reg 296
Docket number:
14-1012
INCORPORATIONS BY REFERENCE:
n/a
ANALYSIS:
The proposed revisions to Chapter 75, Subchapter 1 amend grievance, adjudicatory, dispositional, permanency, and judicial review hearing rules to comply with statutory changes following passage of House Bill (HB) 2585 and Senate Bills (SB) 1793 and 2088. The bills have an effective date of November 1, 2014. The proposed revisions also: (1) amend the rules to comply with federal and state statutes and regulations as well as the Oklahoma Pinnacle Plan requirements related to the provision of child welfare services; and (2) update division, unit, and position titles consistent with the Oklahoma Department of Human Services (DHS) reorganization.

The proposed revisions to Chapter 75, Subchapter 3: (1) amend the rules to comply with state and federal statutes and regulations; (2) align policy with program, protocol, and form changes; and (3) update language to reflect DHS reorganization.

The proposed revisions to Chapter 75, Subchapter 6 amend the termination of parental rights rules to comply with statutory changes following passage of HBs 2130 and 2667 during the 2014 session of the Oklahoma Legislature. Both bills have an effective date of November 1, 2014. The proposed revisions also: (1) amend the rules to comply with federal and state statutes and regulations related to the provision of DHS independent living (IL) program and services; and (2) conform with current practice requirements related to the provision of services through IL.

The proposed revisions to Chapter 75, Subchapter 7: (1) amend the rules to comply with federal and state statutes per SB 1793 and HB 3475 as well as the Oklahoma Pinnacle Plan requirements related to the provision of child welfare services; and (2) update division, unit, and position titles consistent with DHS reorganization.

The proposed amendment to Chapter 75, Subchapter 8 is new policy to define the use of therapeutic foster care contractors to provide traditional level foster care to children meeting specific criteria defined by this policy through the use of contracted foster care (CFC).

The proposed revisions to Chapter 75, Subchapter 13: (1) amend the rules to comply with federal and state statutes and regulations related to the provision of child welfare service; and (2) update division, unit, and position titles consistent with DHS reorganization.

The proposed revisions to Chapter 75, Subchapter 15: (1) amend the rules to comply with federal and state statutes and regulations as well as the Oklahoma Pinnacle Plan requirements related to the provision of child welfare services; and (2) update division, unit, and position titles consistent with DHS reorganization.

The proposed revisions to Chapter 75, Subchapter 18: (1) amend the rules to comply with federal and state statutes and regulations as well as the Oklahoma Pinnacle Plan requirements related to the provision of child welfare services; and (2) update division, unit, and position titles consistent with DHS reorganization.
CONTACT PERSON:
Dena Thayer, Programs Administrator, Policy Management Unit, DHS, PO Box 25352, Oklahoma City, OK 73125, 405-521-4326.

DUE TO EXCESSIVE LENGTH OF THESE RULES (AS DEFINED IN OAC 655:10-7-12), THE FULL TEXT OF THESE RULES WILL NOT BE PUBLISHED. THE RULES ARE AVAILABLE FOR PUBLIC INSPECTION AT THE DEPARTMENT OF HUMAN SERVICES, SEQUOYAH BUILDING, OKLAHOMA CITY, AND AT THE SECRETARY OF STATE'S OFFICE OF ADMINISTRATIVE RULES. THE FOLLOWING SUMMARY HAS BEEN PREPARED PURSUANT TO 75 O.S., SECTION 255(B):

SUMMARY:
Subchapter 1. General Provisions of Child Welfare Services Part 1. Scope and Applicability

Oklahoma Administrative Code (OAC) 340:75-1-12 is amended to clarify grievance responsibilities due to passage of SB 1793 that establishes a foster parent complaint process about DHS employees with the Oklahoma Commission on Children and Youth, Office of Juvenile System Oversight.

OAC 340:75-1-16 is amended to establish a post-petition deprived child emergency hearing requested by a third party as mandated by House Bill 2585 and include hearing notifications requirement for group homes due to SB 2088.

OAC 340:75-1-16.1 is created to address for a group home the right to be heard and the right to receive notice of court proceedings per SB 2088.

OAC 340:75-1-17 is amended to address for a group home the right to receive notice of court proceedings per SB 2088.

OAC 340:75-1-18 is amended to address for a group home the right to receive notice of court proceedings per SB 2088.

OAC 340:75-1-18.1 is amended to address for a group home the right to receive notice of court proceedings per SB 2088.

OAC 340:75-1-20 is amended to address for a group home the right to receive notice of court proceedings per SB 2088.

OAC 340:75-1-231 is amended to update the timeframe for CORE training to implement Pinnacle Plan initiatives. Subchapter 3. Child Protective Services

OAC 340:75-3-7.3 is revoked and the text moved to OAC 340:75-3-130. Part 1. Purpose, Definitions, and Hotline Protocol

OAC 340:75-3-120 is amended to add definitions for commercial sex, human trafficking, human trafficking for commercial sex per 21 O.S. § 748 and HB 1067 (2013), and reasonable parental discipline per 10A O.S. § 1-2-105.

OAC 340:75-3-130 is amended to add clarifying language covering disabled children and new language about Hotline referral recordings per SB 460 (2013). Part 2. Investigative Protocols OAC 340:75-3-200 is amended to include statutory authority to access psychological, medical, and nondirectory education records per HB 3469 (2014). Part 3. Child Safety Evaluation Criteria and Procedure

OAC 340:75-3-300 is amended to align protocols with new Immediate Protective Action Plan and Safety Plan forms per 10A O.S. § 1-4-201. Part 4. Specialized Investigative Protocols, Child Death or Near-death Reporting Protocols

OAC 340:75-3-400 is amended to include statute regarding human trafficking per HB 1067 (2013).

OAC 340:75-3-420 is amended to clarify language to avoid confusion with child care licensing policy.

OAC 340:75-3-440 is amended to reflect statutory changes per HB 1467 (2013) regarding child abuse multidisciplinary team account (CAMA). Part 5. Investigative Findings and Appeals

OAC 340:75-3-500 is amended to clarify language regarding findings per 10A O.S. § 1-1-105 and reflect DHS reorganization.

OAC 340:75-3-530 is amended to clarify the appeal process for substantiated findings of child abuse or neglect that is required by 42 USC § 5101 et seq. and to reflect DHS reorganization. Subchapter 6. Permanency Planning Part 7. Family and Child Individualized Service Planning Components

OAC 340:75-6-40.9 is amended to: (1) include substantial erosion of parent child relationship as grounds for termination of parental rights (TPR) per House Bill 2130; (2) establish separate TPR considerations for a child younger than 4 years of age per House Bill 2130; and (3) update reasonable efforts to reunite not required when a parent has made no measurable progress to alleviate conditions that led to deprived adjudication per HB 2667. Part 11. Permanency Planning and Placement Services

OAC 340:75-6-85 is amended to require a copy of the statement of foster parent rights be given to each foster parent annually per SB 1793.

OAC 340:75-6-86 is amended to address for a group home the right to receive notifications of changes in child's living arrangements per SB 2088. Part 13. Independent Living

OAC 340:75-6-110 is amended to clarify eligibility criteria for the IL program and services as governed by The Foster Care Independence Act of 1999, Public Law (P.L.) 106-169 as amended by P.L. 110-351, Fostering Connections to Success and Increasing Adoption Act of 2008. Subchapter 7. Foster Home Care Part 27. ~~Contracted~~Oklahoma Department of Human Services (DHS) Resource Family Partner (RFP) Foster Care Program

OAC 340:75-7-280 is amended to reflect resource family partner in contract and supported services due to the creation of the Resource Family Partner (RFP) contracts for the recruitment, retention, and support of Bridge resource families as part of the Pinnacle Plan implementation. Part 28. Foster Parent Helpline and Mediation

OAC 340:75-7-292 is created regarding the filing of foster parent complaints about DHS employees with the Oklahoma Commission on Children and Youth, Office of Juvenile System Oversight per SB 1793. Subchapter 8. Therapeutic Foster Care and Developmental Disabilities Services PART 1. Therapeutic Foster Care

OAC 340:75-8-11.1 is created to establish: (1) purpose of contract foster care (CFC) in therapeutic foster care; (2) population served; (3) CFC admission procedure; (4) CFC discharge procedure; (5) CFC respite; (6) CFC contractor requirements; (7) CFC foster parent supports; and (8) child safety in CFC placements. Subchapter 13. Other Child Welfare Services and Medical Services for Children in Out-of-Home Care Part 2. Title IV-E Eligibility and Reimbursability

OAC 340:75-13-21 is amended to clarify foster home placement for a child in tribal custody is according to the approved state plan. Part 3. Income and Resources of the Child

OAC 340:75-13-26 is amended to reflect current language regarding child support order requirements including health care coverage per 43 O.S. § 118F. Subchapter 15. Adoptions Part 2. Legal Base and Scope of the Adoption Program

OAC 340:75-15-6 is amended to delete contracting for administration of Interstate Compact on the Placement of Children (ICPC). Part 10. Integrated Family Assessment and Preparation Process

OAC 340:75-15-84 is amended to modify adoption pre-service training requirement to match foster care pre-service training that supports Bridge resource families as part of the Pinnacle Plan implementation.

OAC 340:75-15-87 is amended to modify adoption pre-service training requirement to match foster care pre-service training that supports Bridge resource families as part of the Pinnacle Plan implementation.

OAC 340:75-15-88 is amended to correct formatting error in policy and update names due to DHS reorganization.

OAC 340:75-15-91 is amended to correct policy references and update names due to DHS reorganization. Part 12. Adoption Placement Services

OAC 340:75-15-103 is amended to correct comprehensive home-based services policy reference and update names due to DHS reorganization. Part 14. Post Adoption Services

OAC 340:75-15-124 is amended to correct adoption medical and social history report form number.

OAC 340:75-15-128.1 is amended to update eligibility for child care services and post adoption services.

OAC 340:75-15-128.2 is amended to update Title IV-E statutory citation.

OAC 340:75-15-128.3 is amended to update administrative code references and name changes due to DHS reorganization.

OAC 340:75-15-128.4 is amended to add Pacific Islander to list of racial and ethnic factors for consideration in adoption assistance per Title IV-E of the Social Security Act.

OAC 340:75-15-128.5 is amended to add clarifying language regarding adoption assistance and include new form reference. Subchapter 18. Continuous Quality Improvement

OAC 340:75-18-1 is amended to update the purpose and description of continuous quality improvement per Administration for Children and Families (ACF) Information Memorandum, "Establishing and Maintaining Continuous Quality Improvement (CQI) Systems in State Child Welfare Agencies," ACYF-CB-IM-12-07.

OAC 340:75-18-2 is amended to add a definition for "stakeholder."

[OAR Docket #15-657; filed 6-25-15]

TITLE 340. DEPARTMENT OF HUMAN SERVICES
CHAPTER 100. DEVELOPMENTAL DISABILITIES SERVICES ~~DIVISION~~

[OAR Docket #15-634]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 1. General Provisions
340:100-1-2 [AMENDED]
Subchapter 3. Administration
Part 1. General Administration
340:100-3-5.1 [AMENDED]
Part 3. Administration
340:100-3-25 [AMENDED]
340:100-3-27.2 [AMENDED]
340:100-3-27.5 [AMENDED]
340:100-3-34 [AMENDED]
340:100-3-39 [AMENDED]
Subchapter 5. Client Services
Part 3. Service Provisions
340:100-5-20 [AMENDED]
340:100-5-22.2 [AMENDED]
340:100-5-26 [AMENDED]
Subchapter 6. Group Home Regulations
Part 11. Program Standards
340:100-6-55 [AMENDED]
(Reference WF 14-03)
AUTHORITY:
Director of Human Services; Section 162 of Title 56 of the Oklahoma Statues (56 O.S. § 162); 10 O.S. §§ 1408, 1411.2, 1412; 30 O.S. § 3-104; 56 O.S. §§ 1020, 1025.1, 1025.2, 1025.3; and Sections 435.1010, 440.180, 441.302, and 483.430 of Title 42 of the Code of Federal Regulations.
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
January 23, 2015
COMMENT PERIOD:
February 17, 2015 through March 19, 2015
PUBLIC HEARING:
None requested
ADOPTION:
March 24, 2015
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND LEGISLATURE:
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APPROVED BY GOVERNOR'S DECLARATION:
Approved by Governor's declaration on June 8, 2015
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September 15, 2015
SUPERSEDED EMERGENCY ACTIONS:
n/a
INCORPORATIONS BY REFERENCE:
n/a

ANALYSIS:

The proposed revisions update and clarify DDS rules per state and federal laws and regulations and provide staff with clear guidance in implementation to: (1) provide improved services that meet or exceed customer expectations; (2) address needs identified in the DDS annual rule review; and (3) update legal citations.

CONTACT PERSON:

Dena Thayer, Programs Administrator, Policy Management Unit, OKDHS, P.O. Box 25352, Oklahoma City, OK 73125, 405-521-4326.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 15, 2015:

SUBCHAPTER 1. GENERAL PROVISIONS

340:100-1-2. Definitions

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

"Active treatment" means aggressive and consistent implementation of a program of specialized and generic training, treatment, and health services directed toward the service recipient's acquisition of skills necessary, in order to function as independently as possible.

"Advisory Committee on Services to Persons with Developmental Disabilities" means the committee appointed by the Director of ~~Oklahoma Department of~~ Human Services ~~(OKDHS)~~(Director) to review and make recommendations on rules and programs of Developmental Disabilities Services ~~Division (DDSD)~~(DDS)~~to the Directorand Oklahoma Commission for Human Services~~.

"Advocate" means a person who speaks for or on behalf of a service recipient, especially when individual rights or interests are at risk.

"Alternative appropriate setting" means a setting, other than a nursing facility, in which needed habilitation services are provided, including an intermediate care facility for ~~the mentally retarded(ICF/MR)~~individuals with intellectual disabilities (ICF/IID) or Home and Community-Based Services (HCBS).

"Assessment" means one or more processes ~~that are~~ used to obtain information about a service recipient, including his or her condition, personal goals and preferences, functional limitations, health status, or other factors relevant to the authorization or provision of services. Assessment information supports the determination that an individual requires services as well as the development of the Individual Plan.

"Back-up-plan" means provision for alternative arrangements for the delivery of services ~~that are~~ critical to the service recipient's well-being in the event the provider responsible for furnishing the service fails, is unable to deliver the services, or the home where the person lives is no longer available.

"Capacity to give informed consent" means the ability to make and express voluntary decisions, given correct and sufficient information about the nature, purpose, risks, and benefits of a proposed service or action, and ~~has~~was not ~~been~~ adjudicated incapacitated by a court for purposes of the decision.

"Case manager" means an ~~OKDHS DDSD~~Oklahoma Department of Human Services (DHS) DDS professional who is responsible for assisting a service recipient ~~gain~~ in gaining access to needed medical, social, educational, or other services per Oklahoma Administrative Code (OAC) 317:30-5-1010.1. Case management activities may include assessment, plan development, plan implementation and monitoring, as well as assistance in accessing services and other resources.

"Challenging behavior" means a behavior that, by its frequency or degree of intensity:

(A) places a service recipient's physical safety, environment, relationships, or participation in the community at risk; or

(B) creates a risk of involvement in civil or criminal processes.

"Client Contact Manager (CCM)" means a computer software system used by ~~DDSD~~DDS case managers to collect and monitor case management data for ~~all~~ service recipients.

"Community Integrated Employment (CIE)" means a service program that provides placement, job training, and short-term or long-term supports to assist service recipients in achieving and maintaining employment within the community.

"Confidential information" means:

(A) information related to a service recipient generated by ~~OKDHS~~DHS or contract providers; and

(B) observations of and discussions concerning service recipients, their families, guardians, or friends.

"Consumer" means a person who is a direct recipient or beneficiary of service planning and delivery and is synonymous with client, service recipient, individual, and member in Oklahoma Health Care Authority (OHCA) policy.

"Contract provider or agency" means an agency ~~or person~~ rendering services to persons with developmental disabilities under a contractual agreement with ~~OKDHS~~DHS or ~~Oklahoma Health Care Authority (~~OHCA~~)~~.

"Convalescent care" means nursing facility care:

(A) following a person's release from an acute care hospital that is part of a medically prescribed period of recovery; and

(B) ~~that is~~ not expected to exceed an established number of days.

~~**"DDSD"**~~**"DDS"** means DHS Developmental Disabilities Services ~~Division of OKDHS~~.

"Developmental disability" means a severe chronic disability of a person that:

(A) is attributable to a mental or physical impairment or combination of mental and physical impairments;

(B) is manifested before the person attains ~~age~~ 22 years of age;

(C) is likely to continue indefinitely;

(D) results in substantial functional limitations in three or more of the areas of major life activity that are:

(i) self-care;
(ii) receptive and expressive language;
(iii) learning;
(iv) mobility;
(v) self-direction;
(vi) capacity for independent living; and
(vii) economic self-sufficiency; and

(E) reflects the person's need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services that are of lifelong or extended duration and are individually planned and coordinated.

"Family homes" means residences maintained by persons biologically related to a person receiving services.

"Family training" means activities designed to equip family members, significant others, and persons with developmental disabilities with knowledge and skills, that allow a family member with developmental disabilities to remain in, or return to, his or her home.

"Goals" means long-term categorical statements that describe what the service recipient is expected to achieve in a given time frame and are used synonymously with outcomes.

"Guardian" means a person appointed by a court as general or limited guardian of the person, general or limited guardian of property, special guardian, or temporary guardian as provided by state statutes to ensure the essential requirements for the health and safety of the ward are met, to manage the estate or financial resources of the ward, or both.

"Guardian ad litem" means a person appointed by a court to represent the interests of a person in a legal action.

"Habilitation services" means goal-directed services and therapy activities:

(A) designed to assist a service recipient ~~to~~ acquire a variety of skills, including self-help, socialization, adaptive skills, and ~~prevent~~prevention of loss of skills; and

(B) based on the service recipient's capacity to increase the level of physical, mental, and social functioning.

"Human Rights Committee" means the committee charged with the responsibility for external monitoring and advocacy to address protection of individual rights.

~~**"ICF/MR"**~~**"ICF/IID"** means an intermediate care facility for ~~the mentally retarded~~ individuals with intellectual disabilities that is:

(A) a residential facility licensed in accordance with Oklahoma law; and

(B) certified by the federal government as a provider of Medicaid services to persons who have ~~mental retardation (MR)~~intellectual disabilities (ID) or related conditions.

"Incapacitated" means a determination made by the court that a person is unable to provide for and make decisions for the person's own needs and safety.

"Individual Plan (Plan)" means a written document developed by the Personal Support Team (Team) based upon assessment of need. The Plan:

(A) specifies outcomes ~~being~~ pursued on behalf of the service recipient, steps ~~being~~ taken to achieve outcomes~~, and all services and supports necessary to achieve outcomes~~; and

(B) is a single, comprehensive plan that encompasses all relevant components of the service recipient's life. Various aspects of the Plan are assigned to those persons or agencies designated by the Team to provide services.

"Individual provider" means a person rendering services to persons with ID under a contractual agreement with DHS or OHCA.

"Intake" means the process by which a person gains access to ~~DDSD~~DDS services. Intake staff:

(A) provides answers to specific service inquiries;

(B) assists in the identification of needs in times of crisis;

(C) supplies information regarding the range and means of accessing available services;

(D) provides assistance as necessary in service application; and

(E) facilitates eligibility determination.

"Intellectual Disability (ID)" means a person, per Section 1408 of Title 10 of the Oklahoma Statutes who:

(A) has significantly sub average functioning, an intelligence quotient (IQ) of less than 70 that manifests before 18 years of age; and

(B) exists concurrently with related limitations in two or more of the applicable adaptive skill areas that are:

(i) communication;
(ii) self-care;
(iii) home living;
(iv) social skills;
(v) use of community resources;
(vi) self-direction;
(vii) health and safety;
(viii) functional academics;
(ix) leisure; and
(x) work.

"Integrated employment site" means a location or activity that provides regular interaction for service recipients with persons without disabilities, excluding service providers, to the same extent that a worker without disabilities, in a comparable position, interacts with others.

"Intrusive procedure" means a procedure that impinges upon the bodily integrity of the service recipient, per OAC 340:100-5-57 and OAC 340:100-5-58. Intrusive procedures include, but are not limited to:

(A) ~~use of injections or oral medications administered for the sole purpose of controlling behavior~~p.r.n. psychotropic medications used for behavioral control;

(B) physical management or physical restraint; and

(C) mechanical restraints for ~~medical~~behavioral reasons.

"Job coach" means a person who holds ~~an OKDHS~~a DHS approved job coach certification and provides ongoing support services to service recipients in supported employment

placements. Services directly support the service recipient's work activity, including:

(A) marketing and job development;
(B) job and work site assessment;
(C) training and assessment;
(D) job matching procedures;
(E) developing co-worker supports; and
(F) teaching job skills.

"Least restrictive" means services and supports that maximize the service recipient's independence and freedom and are provided in a manner that is the least restrictive and intrusive possible to meet the service recipient's needs.

"Long-term resident" means ~~any~~a resident of a nursing facility with ~~mental retardation~~ID or related conditions who has continuously resided in a nursing facility for at least 30 consecutive months prior to the date of the first preadmission screening and resident review (PASRR) disposition.

"Mechanical restraint" means any device used to hinder, forcibly confine, or control an individual's freedom of bodily movement.

~~**"Mental retardation (MR)"** means a condition, per Diagnostic and Statistical Manual of Mental Disorders (DSM), that:~~

~~(A) refers to substantial limitations in present functioning;~~
~~(B) manifests before age 18; and~~
~~(C) is characterized by significantly subaverage intellectual functioning, existing concurrently with related limitations in two or more of the applicable adaptive skill areas of:~~
~~(i) communication;~~
~~(ii) self-care;~~
~~(iii) home living;~~
~~(iv) social skills;~~
~~(v) use of community resources;~~
~~(vi) self-direction;~~
~~(vii) health and safety;~~
~~(viii) functional academics;~~
~~(ix) leisure; and~~
~~(x) work.~~

"Monitoring" means the ongoing observation and analysis of the provision of services to determine whether ~~they~~the services are furnished ~~according to the plan~~per the Plan and effectively meet the service recipient's needs, including whether services adequately protect ~~their~~his or her health and welfare. Monitoring activities may include, but are not limited to, telephone contact, observations, and interviewing the service recipient, family, or service provider.

"Natural supports" means assistance provided by a person, such as a service recipient's family, friend, co-worker, ~~or~~ neighbor, or member of a service recipient's club, church, or interest group, or others in the service recipient's community, who:

(A) ~~is~~are not paid specifically to provide assistance to the service recipient; and
(B) ~~provides~~provide voluntary assistance ~~voluntarily~~.

"Non-prescription medication" means a pharmacological drug ~~that is~~ sold without a prescription, prepackaged for use by the service recipient, and labeled ~~in accordance with requirements of~~per state and federal statutes and regulations.

"Nursing facility" means an Oklahoma Medicaid-certified institution providing skilled nursing and related services, excluding a facility certified as ~~ICF/MR~~ICF/IID.

"Personal Support Team (Team)" means the participants in the service recipient's assessment and planning process and includes:

(A) the service recipient; and
(B) service recipient's:
(i) case manager;
(ii) legal guardian; and
(iii) when applicable, advocate, who may be a parent, family member, friend, or ~~another~~other person who knows the service recipient well; and
(C) others, including service providers, whose participation is necessary to achieve the ~~outcomes desired by the~~ service ~~recipient~~recipient's, desired outcomes.

"Physical management" means an intrusive procedure involving any physical guidance of a service recipient to overcome resistance or a brief upper body hold to ensure safety per OAC 340:100-5-57.

"Physical restraint" means an intrusive procedure in which the service recipient is physically held to restrict movement.

~~**"Physical Status Review"** means Form 06HM007E, Physical Status Review, that is a written assessment identifying a service recipient's ability to attend to activities of daily living based on past and present health history and current treatment modalities. Completed Form 06HM007E assists the service recipient and Team in identifying the:~~

~~(A) service recipient's health care level;~~
~~(B) staff training requirements;~~
~~(C) health care coordination needs; and~~
~~(D) in-depth assessment needs~~.

"Plan of Care (POC)" means a summary listing of services requested as a result of needs identified within the Plan that indicates the amount, duration, and cost of each service recommended for funding through ~~DDSD~~DDS HCBS Waivers.

"Preadmission screening and resident review (PASRR)" means the process of evaluating, reviewing, and establishing the need for nursing facility services in contrast to other services for persons with ~~MR~~ID and related conditions.

"Prescription medication" means any drug ordered by a practitioner of medicine, such as dentistry, osteopathy, optometry, or podiatry, who is licensed by law to prescribe a drug, intended to be filled, compounded, or dispensed by a pharmacist.

"p.r.n." means to take or administer a medication as needed.

"Program coordinator" means a person employed by a ~~DDSD~~DDS residential or group home contract provider agency ~~who is~~ responsible for the supervision, coordination, and monitoring of services provided by the contract agency to a service recipient.

"Program manager" means a person employed by a ~~DDSD~~DDS employment contract provider agency ~~who is~~ responsible for the supervision, coordination, and monitoring of services provided by the contract agency to a service recipient.

"Psychotropic medication" means a pharmacological drug used to treat a mental disorder, or any drug prescribed to stabilize or improve mood, mental status, or behavior.

"Punishment" means the intentional application of something undesirable or unpleasant or the removal of something desirable or pleasant in response to a behavior deemed unacceptable.

"Punitive" means inflicting or involving punishment.

~~**"QMRP"**~~**"QIDP"** means a qualified ~~mental retardation~~ID professional who meets ~~ICF/MR~~ICF/IID regulations ~~specified in~~per Section ~~483.420~~483.430 of Title 42 of the Code of Federal Regulations ~~(42 CFR § 483.420)~~(42 C.F.R. § 483.430). A ~~QMRP~~QIDP must have a baccalaureate degree in a human services field, in addition to one year of experience serving persons with ~~MR~~ID.

"Related condition" means a severe chronic disability, per ~~42 CFR § 435.1009~~42 C.F.R § 435.1010 that:

(A) is attributable to:

(i) cerebral palsy;

(ii) epilepsy; or

(iii) ~~any~~ other condition~~, including autism. Any other condition excludes~~except mental illness (MI) that is closely related to ~~MR~~ID as it results in impairment of general intellectual functioning or adaptive behavior similar to that of persons with ~~MR~~ID and requires treatment or services similar to those required for persons with ~~MR~~ID;

(B) is manifested before the person reaches ~~age 21~~22 years of age;

(C) is likely to continue indefinitely; and

(D) results in substantial functional limitations in three or more areas of major life activity, including:

(i) self-care;

(ii) understanding and use of language;

(iii) learning;

(iv) mobility;

(v) self-direction; and

(vi) independent living.

"Restrictive procedure" or **"restriction"** means a procedure that results in the limitation of the service recipient's rights, per OAC 340:100-5-57 and OAC 340:100-5-58~~,~~ and includes:

(A) limiting communication or association with others;

(B) any limitation of access to:

(i) leisure activities;

(ii) the service recipient's own money ~~or~~, personal property, or items purchased with the individual's money; and

(iii) ~~goods or services beyond normal budgetary considerations~~food or beverages;

(C) any limitation of movement at home or in the community; ~~or~~

(D) ~~any direct observation procedures, specified as a result of challenging behavior, such as continuous one-to-one staffing~~visual or electronic supervision during times or places that would otherwise be considered private; or

(E) the use of a response cost procedure that is the removal of a reinforcer valued by the individual as a consequence of a behavior with the intent of reducing the frequency of the behavior.

"Sheltered employment" means a service that:

(A) assists service recipients toward achieving their vocational potential through a controlled work environment;

(B) provides worker reimbursement in accordance with individual production and Fair Labor Standards Act (FLSA); and

(C) includes assessment, training, and transitional programming leading to community job placements.

"Sheltered workshop" means a facility that contracts with ~~DDSD~~DDS to provide employment training and sheltered employment services for workers with disabilities.

"Short-term resident" means any resident with ~~MR~~ID or related conditions who ~~has~~ resided in a nursing facility for less than 30 months prior to the date of the first PASRR disposition.

"Specialized services" means individualized services specified in PASRR evaluations completed by ~~DDSD~~DDS that, combined with services provided by the nursing facility or other service providers, results in a treatment regimen leading to the continued and ongoing enhancement of independence.

"Supplemental Security Income (SSI)" means a federal income subsidy program administered by Social Security Administration.

"Supported employment" means competitive work in an integrated work setting with ongoing support services for service recipients with severe disabilities for whom competitive employment has not traditionally occurred or has been interrupted or intermittent as a result of severe disabilities.

"Terminal illness" means, as certified by a physician, a person ~~has~~with a medical prognosis of life expectancy of six months or less~~,if~~when the illness runs its natural course.

"Transition" means the planned movement of a service recipient from one service setting to another, occurring as a result of a Team recommendation and informed consent of the service recipient.

"Treatment team for specialized services" means the team whose purpose is to develop a prescribed plan of specialized services for each service recipient. The team:

(A) is composed of the service recipient, guardian or advocate, nursing home representative, and other professionals and paraprofessionals as needed to develop a comprehensive plan of services; and

(B) may include a psychologist, physical therapist, speech pathologist, physician, and nurse's aide among others.

"Vocational assessment" means the employment service evaluation, whether standardized procedures are employed, that:

(A) identifies unique preferences, strengths, and needs of the service recipient;

(B) evaluates work skills and work behaviors;

(C) is supplemented by personal interviews and behavioral observations; and

(D) incorporates information that addresses the service recipient's:

(i) medical;

(ii) physical;

(iii) psychological;

(iv) social;

(v) cultural;

(vi) educational goals and objectives; and

(vii) present and future employment options.

"Volunteer guardian" means a person unrelated to the service recipient who:

(A) serves as guardian for the service recipient and is trained and certified by the volunteer guardianship agency; and

(B) is appointed by and responsible to the court to ensure essential requirements for the health and safety of the service recipient are met.

"Ward" means a person for whom a guardian is appointed by the court.

SUBCHAPTER 3. ADMINISTRATION

PART 1. GENERAL ADMINISTRATION

340:100-3-5.1. Volunteer guardians and advocates

(a) **Purpose.** Developmental Disabilities Services ~~Division (DDSD)~~(DDS) contracts with an agency to maintain a system to recruit, screen, match, monitor, and support volunteer guardians and advocates for eligible service recipients. To be eligible, the service recipient must:

(1) be assigned a ~~DDSD~~DDS case manager;

(2) have been determined through the capacity assessment process, per Oklahoma Administrative Code (OAC) 340:100-3-5, to need a guardian or volunteer advocate; and

(3) if volunteer guardianship is recommended; have no appropriate relative willing to serve as guardian.

(b) **~~DDSD~~DDS responsibilities.**

(1) When the need for a guardian or advocate is determined through the capacity assessment process, per OAC 340:100-3-5, the ~~DDSD~~DDS case manager forwards Form 06MP032E, Capacity Assessment, with a recommendation for a volunteer guardian or advocate to the ~~DDSD~~DDS case management supervisor. ~~If~~When volunteer guardianship is recommended, documentation of attempts made to locate a guardian, among those who are eligible per OAC 340:100-3-5 must be included.

(2) The ~~DDSD~~DDS case management supervisor reviews the documents, and if approved, forwards the documents to the guardianship coordinator.

(3) The guardianship coordinator reviews Form 06MP032E and, if approved, makes a referral to the volunteer guardianship agency to initiate the process to recruit a volunteer guardian or advocate.

(c) **Volunteer guardianship eligibility requirements.** In addition to requirements per OAC 340:100-3-5, eligibility criteria for volunteer guardians listed in subsections (1) through (6) apply.

(1) A corporate officer, member of the board of directors, owner, operator, administrator, or employee of a facility subject to provisions of Section 1-1901 et seq. of Title 63 of the Oklahoma Statutes (63 O.S. § 1-1901 et seq.) or 10 O.S. § 1430.1 et seq., or other ~~DDSD~~DDS providers are ineligible to be appointed volunteer guardian of a person receiving services from that provider.

(A) An immediate family member, ~~spouse, parent, sibling, or adult child~~such as a wife, husband, brother, sister, biological or adoptive child, biological or adoptive parent, stepparent, stepchild, adult biological or stepchild, of an ineligible person cannot serve as a volunteer guardian.

(B) An extended family member, such as a parent-in-law, grandchild, grandparent, brother-in-law, sister-in-law, son-in-law, daughter-in-law, aunt, uncle, niece, nephew, or first cousin, of an ineligible person cannot serve as a volunteer guardian when there is evidence that financial interdependence exists.

(2) ~~Employees of DDSD~~DDS employees cannot serve as volunteer guardians.

(A) An immediate family member ~~spouse, parent, sibling, or adult child~~ , including a wife, husband, brother, sister, biological or adoptive child, biological or adoptive parent, stepparent, stepchild, adult biological or stepchild, of the ~~DDSD~~DDS employee cannot serve as a volunteer guardian~~, when the employee is a member of the service recipient's Personal Support Team (Team)~~.

(B) An extended family member, including a parent-in-law, grandchild, grandparent, stepchild, brother-in- law, sister-in-law, son-in-law, daughter-in-law, aunt, uncle, niece, nephew, or first cousin, of the ~~DDSD~~DDS employee cannot serve as a volunteer ~~when there is evidence that financial interdependence exists, and the employee is a member of the service recipient's Team~~.

(3) Any exceptions to the selection of a volunteer guardian, per OAC 340:100-3-5.1(c)(1) and (2) must be approved by the ~~DDSD~~DDS programs manager for guardianship.

(4) Employees of Oklahoma Department of Human Services ~~(OKDHS)~~(DHS) cannot serve as volunteer guardians for residents of the Northern Oklahoma Resource Center of Enid (NORCE), the Southern Oklahoma Resource Center (SORC), or the Robert M. Greer Center (Greer), per 10 O.S. § 1415.

(5) Potential guardians must:

(A) consent to a background check per OAC 340:100-3-39 and ~~OKDHS~~a DHS Community Services Worker Registry check;

(B) be willing and able to fulfill guardian responsibilities;

(C) be certified by the volunteer guardianship agency; and

(D) approved by the Personal Support Team (Team).

(6) A volunteer guardian:

(A) supports philosophies and values consistent with the ~~DDSD~~DDS mission statement per OAC 340:100-1-3.1; and

(B) may not act as a volunteer advocate or guardian for more than two service recipients unless approved in advance and in writing by the ~~DDSD~~ DDS programs manager for guardianship.

(d) **Volunteer advocate eligibility requirements.** ~~DDSD~~DDS supports the recruitment of volunteers from outside the service delivery system to avoid potential conflicts of interest.

(1) Non-~~DDSD OKDHS~~DHS DDS employees, contract providers, and employees of contract providers may serve as volunteer advocates when:

(A) an ongoing relationship exists with the service recipient; and

(B) they are not providing direct services to the service recipient and are not employed by a provider agency or ~~OKDHS division~~DHS program that provides services to the service recipient; and

(C) they serve as a volunteer advocate or guardian for no more than two service recipients.

(2) ~~DDSD~~DDS employees may not serve as volunteer advocates.

(3) Any exceptions to the selection of a volunteer advocate, per OAC 340:100-3-5.1 must be approved in advance and in writing by the ~~DDSD~~DDS programs manager for guardianship.

(e) **Volunteer guardian responsibilities.** Volunteer guardian responsibilities are outlined per OAC 340:100-3-5.

(f) **Volunteer advocate responsibilities.** A volunteer advocate assists the service recipient in making decisions, and supports the service recipient in preserving his or her rights and obtaining necessary services. Such ~~support~~supports may include:

(1) advocating for the service recipient;

(2) assisting the service recipient in decision making;

(3) reviewing the quality of services provided to the service recipient;

(4) attending the Individual Plan ~~(IP)~~ meeting or other meeting(s);

(5) assisting the service recipient with finances;

(6) accompanying the service recipient to medical appointments; or

(7) assisting the service recipient in completing applications.

(g) **Volunteer advocate responsibilities.** Temporary advocate assistance is requested when a service recipient or Team seeks a guardianship dismissal in order to restore full decision making rights to the service recipient. Temporary volunteer advocate responsibilities include:

(1) filing a petition on behalf of the service recipient as an interested party so the request for restoration of capacity can be heard in court; and

(2) after capacity is restored, continuing to be available to the service recipient for support and guidance for a period of no more than six months.

(h) **Guardianship voucher.** After the volunteer guardianship agency certifies a prospective volunteer guardian the action is approved by the Team ~~approval~~, and ~~if~~when able, the service recipient. The volunteer submits Form 06MP031E, Guardianship Voucher, per OAC 340:100-3-5.2, to pay the attorney fees necessary to file the guardianship petition. Court involvement is not required to establish volunteer advocacy, therefore the voucher is not available in such cases.

(i) **Volunteer guardian and advocate monitoring.** Volunteer guardian and advocate monitoring is provided by the volunteer guardianship agency per requirements in the ~~OKDHS~~DHS and agency contract.

(j) **Volunteer guardian and advocate training requirements.** Volunteers must participate in training regarding understanding and defining advocacy, developing effective advocacy skills, working effectively with service recipients and Teams, community inclusion, Oklahoma's service delivery system, and confidentiality. Volunteer guardians must participate in additional training regarding guardianship responsibilities, duties, and limitations.

(1) Training is provided by the volunteer guardianship agency at no cost to the volunteer.

(2) Volunteers receive orientation from the volunteer guardianship agency regarding applicable ~~OKDHS~~DHS rules and procedures ~~regarding volunteer programs~~.

(3) Volunteer guardians proceed with knowledge they are not covered by 51 O.S. § 151 et seq., The Governmental Tort Claims Act, as they are not authorized to act on behalf of ~~OKDHS~~DHS, nor can they be so authorized without creating a conflict of interest in their roles as guardians.

(k) **Volunteer guardianship agency responsibilities.** Volunteer guardianship agency responsibilities include:

(1) recruiting volunteers to serve as guardians and advocates;

(2) obtaining background checks of potential volunteer guardians and advocates;

(3) contacting references. The volunteer guardianship agency contacts a minimum of three references. If responses are negative or if three references cannot be found, the volunteer is not considered;

(4) submitting proposed volunteers to the ~~Personal Support~~ Team for review and approval;

(5) arranging visits between potential volunteers and service recipients;

(6) providing training and orientation on ~~OKDHS~~DHS rules and procedures, including 51 O.S. § 151 et seq.;

(7) monitoring per OAC 340:100-3-5.1; and

(8) providing technical assistance as requested by the volunteer or ~~DDSD~~DDS case manager, including:

(A) attending any ~~team~~Team meetings;

(B) accompanying the volunteer on home visits;

(C) reviewing legal or specific documents or records regarding the service recipient; and

(D) providing due date reminders for annual court reports, and when needed, providing assistance completing reports.

PART 3. ADMINISTRATION

340:100-3-25. Advisory Committee on Services to Persons with Developmental Disabilities

The Advisory Committee on Services to Persons with Developmental Disabilities ~~to the Commission for Human Services~~(Advisory Committee) reviews ~~all~~Developmental Disabilities Services policies ~~of the Developmental Disabilities Services Division~~ and makes recommendations to ~~the Commission and~~ the Director of Human Services (Director).

(1) The statutory authority of the Advisory Committee is Section 1412 of Title 10 of the Oklahoma Statutes (10 O.S. § 1412).

(2) Advisory Committee members are volunteers.

(3) The Director ~~of DHS~~ determines the size and constituency groups ~~to be~~ directly represented through Advisory Committee membership ~~within parameters established by Section 1412 of Title 10 of the Oklahoma Statutes~~per 10 O.S. § 1412.

(4) The Advisory Committee is governed by bylaws approved by the ~~Commission~~ Director~~for Human Services~~ and statutory requirements inclusive of the Open Meetings Act.

(5) The Advisory Committee meets ~~on~~ at least ~~a~~ quarterly ~~basis~~.

~~(6) The Advisory Committee submits a report of activities, on at least an annual basis, to the DHS Commission for Human Services.~~

340:100-3-27.2. Performance Review Committee (PRC), sanctions, and emergency determinations

(a) Findings of performance surveys, administrative inquiries, or focused re-surveys are reviewed by the ~~Performance Review Committee (~~PRC~~)~~ when the:

(1) provider submits an appeal of any decision of the Quality Assurance (QA) administrator or designee within 14 calendar days from mailing of the preliminary determination;

(2) provider fails to correct all identified deficiencies by the approved resolution date or if new deficiencies are identified per ~~subparagraph (6)(E) of~~Oklahoma Administrative Code (OAC) 340:100-3-27.1(6)(E); or

(3) QA administrator ~~of~~ or designee determines ~~that~~ sanctions may be required as a result of gross or perpetual violation of the contract.

(b) The PRC consists of representatives of major units of the division appointed by the Developmental Disabilities Services ~~Division (DDSD)~~(DDS) director, except the QA administrator ~~of~~ does not serve as a voting member.

(c) The PRC meets monthly to review and issue a determination on referrals. Available determinations include:

(1) acceptance, denial, or modification of an appeal;

(2) a determination that sanctions are not warranted;

(3) invocation of one or more sanctions including:

(A) a vendor hold that precludes the admission to the agency of any person whose services are ~~to be~~ funded by ~~DDSD~~DDS or Waiver services. The agency may not provide services to a participant who was not being served before the vendor hold was issued;

(B) suspension of funding pending resolution of conditions violating terms of the contract;

(C) disallowance of claims for services by staff whose:

(i) training ~~has~~was not ~~been~~ completed per OAC 340:100-3-38; or

(ii) pre-employment screening does not comply with OAC 340:100-3-39;

(D) termination of contract with the Oklahoma Department of Human Services ~~(OKDHS)~~(DHS);

(E) recommendation for termination of contract with the Oklahoma Health Care Authority (OHCA); and

(F) the requirement ~~that~~ the provider employ sufficient program coordination staff to provide one program coordinator for every ~~ten~~10 individuals receiving residential supports ~~as defined in~~per OAC 340:100-5-22.1.

(i) The program coordination staff ratio may be invoked when a violation(s) of program coordination requirements in OAC 340:100-5-22.1 remains uncorrected for 60 calendar days following the provider's receipt of a written report of the findings.

(ii) The provider maintains the 1:15 program coordinator ratio for one year, unless the requirement is extended by the PRC based on subsequent deficiencies.

(iii) The provider must maintain the 1:15 program coordinator ratio for each caseload that includes a person receiving residential supports.

(d) Agencies are notified in writing of the determinations made by the PRC. The president of the agency's board of directors is provided a copy by mail when a sanction, as described ~~at subsection~~in (c) of this Section~~,~~ is authorized.

(e) ~~The DDSD director retains the authority to supersede the decisions of the QA administrator or the PRC.~~When DDS receives an appeal of any decision of the PRC in writing within 14 calendar days from the mailing of the determination, the DDS director retains the authority to supersede the decisions of the QA administrator or the PRC.

(f) Failure to comply with pre-employment screening requirements of criminal background checks and registry checks for community services workers per OAC 340:100-3-39 result in placement of agencies on immediate vendor hold. Per OAC

340:100-3-27.2, agencies have 60 calendar days to correct all deficiencies. Following the re-survey, if all deficiencies are not corrected, DDS pursues recoupment in those instances where services were delivered by an unqualified provider.

(~~f~~g) The ~~DDSD~~DDS director or designee may issue an emergency determination independent of review by the PRC or written input by a provider agency when evidence is presented indicating risk of immediate and substantial jeopardy to the health or safety of a person receiving supports.

(1) The ~~DDSD~~DDS director or designee may use any ~~OKDHS~~DHS resource considered appropriate to further investigate such circumstance, but is not required to do so.

(2) Emergency determinations:

(A) include the scope of options defined in ~~subsection~~ (c) of this Section, waiving any stated time frame for implementation; and

(B) are not subject to appeal.

340:100-3-27.5. Provider agency quality assurance and fiscal controls

(a) Each agency providing services funded through the Oklahoma Department of Human Services ~~(OKDHS)~~(DHS) or the Oklahoma Health Care Authority (OHCA), through Home and Community-Based Services (HCBS) Waivers, to six or more service recipients implements an internal quality assurance system. The system identifies and corrects obstacles to agency compliance with rules governing its services or effectively addressing the needs and preferences of service recipients. Implementation is assessed on the basis of outcomes for service recipients and services.

(b) Provider agencies must have adequate fiscal controls, including internal management controls, systems to ensure accuracy and authorization of claims, and mechanisms to detect and resolve a threat to solvency.

(1) A provider agency is a corporation, partnership, association, or individual proprietorship that contracts with ~~OKDHS~~DHS or OHCA, through HCBS Waivers, to provide residential, employment, or in-home paraprofessional supports to service recipients.

(2) Each provider agency receiving $~~50,000~~100,000 or more per fiscal year for the delivery of supports funded through ~~OKDHS~~DHS or HCBS Waivers is required to conduct an independent financial audit. When a financial audit is required:

(A) the audit is performed by a certified public accountant:

(i) with a valid and current permit to practice public accountancy in Oklahoma; and

(ii) approved by the Oklahoma Accountancy Board to perform audits in accordance with Government Auditing Standards;

(B) ~~OKDHS~~DHS reserves the right to approve the selection of the auditor or examine the work papers of the auditor; and

(C) the provider agency submits two copies of the audited financial statements, management letter, and plan to address all concerns noted by the auditor to ~~OKDHS~~the DHS Office of Inspector General (OIG).

(i) The audited financial statements are submitted within four months after the end of the provider agency's fiscal year.

(ii) An extension of up to four months may be authorized by ~~DDSD~~ DDS or OIG, following the provider agency's submission of a request and explanation for delay.

(iii) No extension is granted to an agency that has not submitted the previous year's audit.

(iv) Failure to submit the audited financial statements may result in sanctions per Oklahoma Administrative Code (OAC) 340:100-3-27.2.

(3) Audited financial statements are examined by ~~DDSD~~DDS and OIG staff. Problems noted in either the findings or substance of the audit may result in:

(A) acceptance of audited financial statements;

(B) correspondence with the provider agency or auditor to clarify and resolve issues in or with the audited financial statements;

(C) an administrative inquiry per OAC 340:100-3-27.1; or

(D) sanctions per OAC 340:100-3-27.2.

340:100-3-34. Incident reporting

(a) **Reporting requirement.** Contract provider staff and Developmental Disabilities Services ~~Division (DDSD)~~(DDS) staff must report critical and non-critical incidents involving the health and welfare of any person receiving ~~DDSD~~DDS services, excluding Family Support Assistance Payment Program recipients per Oklahoma Administrative Code (OAC) 340:100-13.

(b) **Critical incidents.** Critical incidents include:

(1) suspected maltreatment including abuse, verbal abuse, sexual abuse, neglect, financial neglect, exploitation, or sexual exploitation of a vulnerable adult per Section 10-103 of Title 43A of the Oklahoma Statutes (43A O.S. § 10-103) or abuse, neglect, sexual abuse, or sexual exploitation of children per 10A O.S. § 1-1-105;

(2) threatened or attempted suicide by a service recipient;

(3) death of a service recipient;

(4) an unplanned hospital admission of a service recipient;

(5) a medication event resulting in emergency medical treatment for a service recipient;

(6) law enforcement involvement in a situation concerning a service recipient;

(7) property loss of more than $500 involving a service recipient;

(8) a service recipient who is missing; and

(9) a highly restrictive procedure used on a service recipient, such as:

(A) p.r.n. medication for behavioral control; or

(B) physical hold.

(c) **Non-critical incidents.** Non-critical incidents include:

(1) an injury or an unplanned health-related event involving a service recipient;

(2) physical aggression by a service recipient;

(3) fire setting by a service recipient;
(4) deliberate harm to an animal by a service recipient;
(5) property loss of less than $500 involving a service recipient;
(6) a vehicle accident involving a service recipient;
(7) the suspension, termination, or removal of a service recipient's program, including employment; and
(8) a medication event involving a service recipient, including:
(A) a dose at the wrong time;
(B) a missed dose;
(C) a wrong dose;
(D) the wrong medicine;
(E) the wrong route;
(F) an incorrect medicine label or instructions;
(G) a medication refused by the service recipient;
(H) incorrect medication documentation; or
(I) any other significant occurrence involving medication.

(d) **Incident notification requirements.**
(1) For Waiver funded service recipients, contract provider staff:
(A) report incidents electronically via the ~~DDSD~~DDS Provider Reporting System for all critical and non-critical incidents;
(B) ~~notify the DDSD case manager~~program coordination staff:
(i) ~~immediately, when there is a critical incident per OAC 340:100-3-34(b). If the incident occurs outside regular working hours, the DDSD case manager is notified the next working day~~review and submit reports of all critical incidents per OAC 340:100-3-34(b) within one business day of the incident; and
(ii) ~~within 72 hours for non-critical incidents~~review and submit reports of all non-critical incidents per OAC 340:100-3-34(c) within three business days of the occurrence.
(C) notify the service recipient's family or guardian, in accordance with provider policies;
(D) notify other persons or entities as required by law or regulation, including:
(i) when a service recipient dies per OAC 340:100-3-35; and
(ii) investigative authorities immediately in cases of suspected maltreatment, including:
(I) Office of Client Advocacy per OAC 340:2-3-33;
(II) Adult Protective Services per ~~Section 10-104 of Title 43A of the Oklahoma Statutes (~~43A O.S. § 10-104~~)~~; or
(III) Child Protective Services per 10A O.S. § 1-1-105.
(2) For critical incidents involving state funded service recipients, contract provider staff submits Form 06MP046E, Incident Report, to ~~DDSD~~DDS State Office within ~~72 hours~~one business day of the incident. For non-critical incidents, contract provider staff maintains a copy of Form 06MP046E per OAC 340:100-3-40.

340:100-3-39. Pre-employment screening for community services workers

(a) **Legal basis.** Section 1025.1 et seq. of Title 56 of the Oklahoma Statutes (56 O.S. § 1025.1 et seq.) requires Oklahoma Department of Human Services ~~(OKDHS)~~(DHS) to establish and maintain a registry listing the names of community services workers against whom a final investigative finding of maltreatment involving a service recipient, ~~has been~~ was made by ~~OKDHS~~DHS or an administrative law judge. Providers of community services:
(1) are required to conduct a search of criminal history records and ~~OKDHS~~the DHS Community Services Worker Registry (Registry) prior to permanent employment of any community services worker; and
(2) must not hire, contract with, or use as a volunteer, a person whose name is listed in the Registry or who has a criminal background ~~described in~~per Oklahoma Administrative Code (OAC) 340:100-3-39~~(d)~~(e)(1)(G).

(b) **Applicability.** The requirements set forth in OAC 340:100-3-39 apply to all community services providers who contract with, ~~or~~ are licensed or funded by ~~OKDHS~~DHS, or who contract with the Oklahoma Health Care Authority (OHCA) to provide residential or employment services to service recipients through Developmental Disabilities Services ~~Division (DDSD)~~(DDS) Home and Community-Based Services (HCBS) Waivers.

(c) **Definitions.** The following words and terms when used in this Section shall have the following meanings, unless the context clearly indicates otherwise:
(1) **"Community services provider"** means a community-based program, corporation, or person who contracts with, ~~or~~ is licensed or funded by ~~OKDHS~~DHS, or who contracts with OHCA to provide residential or employment services to a service recipient through ~~DDSD~~DDS HCBS Waivers.
(2) **"Community services worker"** means any person who:
(A) contracts with ~~the~~ OHCA to provide specialized foster care, habilitation training specialist services, or homemaker services to persons with developmental disabilities; or
(B) is not a licensed health professional; and
(C) is employed by or under contract with a community services provider, for compensation or as a volunteer, to provide ~~for compensation or as a volunteer~~:
(i) health-related services;
(ii) training; or
(iii) supportive assistance.
(3) **"Good cause"** means the failure of a community services worker to make a timely response for reconsideration of a confirmed finding of maltreatment due to:
(A) a death within the community services worker's immediate family;

(B) hospitalization of the community services worker; or

(C) an equally meritorious reason, determined within the sound discretion of the administrative law judge or other ~~OKDHS~~DHS staff authorized per OAC 340:100-3-39 to determine such cause.

(4) **"Health related services"** means assistance provided to a service recipient that includes, but is not limited to:

(A) personal hygiene;

(B) transferring;

(C) range of motion;

(D) supervision or assistance in activities of daily living; or

(E) basic nursing care, such as:

(i) taking temperature, pulse, or respiration;

(ii) positioning;

(iii) incontinent care; or

(iv) identification of signs and symptoms of disease; and

(F) certain tasks that may be performed as basic nursing care by community services workers and require appropriate training provided or approved by ~~OKDHS~~DHS, written agreement by the service recipient's ~~personal support team~~Personal Support Team, and the primary care physician's acknowledgement and specific order related to the task. Under such circumstances, basic nursing care may include, but ~~need~~is not ~~be~~ limited to:

(i) nutrition, including meals by gastrostomy tube or jejeunostomy tube;

(ii) blood glucose monitoring;

(iii) ostomy bag care;

(iv) oral suctioning; and

(v) administration of oral metered dose inhalers and nebulizers.

(5) **"Supportive assistance"** means ~~the~~ service rendered ~~that is~~ sufficient to enable the service recipient to meet an adequate level of daily living including, but not limited to:

(A) training;

(B) supervision;

(C) assistance in housekeeping;

(D) assistance in meal preparation; and

(E) assistance in personal care and activities of daily living necessary for the health and comfort of the service recipient.

(6) **"Maltreatment"** means abuse, verbal abuse, sexual abuse, neglect, financial neglect, exploitation, or sexual exploitation of vulnerable adults ~~as defined in~~per Section 10-103 of Title 43A of the Oklahoma Statutes (43A O.S. § 10-103); or abuse, neglect, sexual abuse, or sexual exploitation of children ~~as defined in Section 7102 of Title 10 of the Oklahoma Statutes~~per 10 O.S. § 7102.

(7) **"Specialized foster care"** means the home and community-based service as defined in the 1915(c) ~~waiver~~Waiver approved by the Centers for Medicare and Medicaid Services.

(8) **"Habilitation training specialist services"** means the home and community-based service as defined in the 1915(c) ~~waiver~~Waiver approved by the Centers for Medicare and Medicaid Services.

(9) **"Homemaker services"** means the home and community-based service as defined in the 1915(c) ~~waiver~~Waiver approved by the Centers for Medicare and Medicaid Services.

(d) **~~Duties of OKDHS~~DHS duties.** When ~~the~~ OHCA contracts directly with a specialized foster care provider, habilitation training specialist services provider, or a homemaker services provider to provide services through ~~the DDSD~~DDS HCBS ~~waivers~~Waivers, ~~OKDHS~~DHS follows the screening procedures required for community services providers.

(e) **~~Duties of community~~Community services ~~providers~~provider duties.**

(1) **Provider pre-employment responsibilities.** Each community services provider conducts a search of criminal history records and the Registry for each potential employee who is not a licensed health professional and who will provide, for compensation or as a volunteer, on a full-~~time~~ or part-time basis, health-related services, training, or supportive assistance to a service recipient. This requirement also applies to applicants for supervisory, management, or administrative positions, when the applicant is to provide, on a full-~~time~~ or part-time basis, supportive assistance, health-related services, or training to a service recipient. The provider:

(A) uses Form 06PE039E, Employment Application Supplement, to formally advise each applicant of the:

(i) required search of criminal history records and the Registry;

(ii) potential consequences of background checks, including the provider's prohibition from hiring any person whose name appears in the Registry, or who has a prohibited criminal conviction, per OAC 340:100-3-39(e)(1)(G);

(iii) requirement that the community services worker's employment must be terminated if his or her name appears in the Registry, even though the applicant's name may not have appeared in the Registry at the time of application or hiring;

(iv) requirement to report all current and previous employers who provide services to children or to vulnerable adults; and

(v) fact that giving false information regarding current and previous employers results in termination of employment~~.~~;

(B) contacts all previous employers engaged in delivery of services to children or vulnerable adults, ~~defined in~~per 43A O.S. § 10-103, requesting information on investigations or findings of maltreatment;

(C) when contacted by a potential employer, gives accurate information regarding investigations of maltreatment ~~that were~~ reported to Adult Protective Services (APS), Office of Client Advocacy (OCA), or

Child Protective Services (CPS) and are pending or confirmed;

(D) requests a criminal history records search from the Oklahoma State Bureau of Investigation (OSBI) prior to employment of, or offer of employment to, any applicant, except as provided in OAC 340:100-3-39~~(d)~~(e)(1)(F) and (G).

(i) The provider must secure the criminal history records search and cannot accept documents provided by the applicant.

(ii) ~~If~~When the provider uses a contractor to secure the criminal history records search, the contractor attaches the document received from OSBI to any report given to the provider;

(E) investigates discrepancies in the criminal record information received from OSBI.

(i) If discrepancies exist between criminal history information and information reported by the applicant, such as convictions not reported by the applicant, the provider secures from the applicant a written explanation of the discrepancy, that is then sent to ~~OKDHS if~~ DHS when the provider is requesting a waiver per OAC 340:100-3-39~~(e)~~(f).

(ii) If OSBI information reports inconclusive data, such as reporting the case was referred to another law enforcement agency, the provider secures documentary evidence of the outcome;

(F) may choose to make an offer of temporary employment to an applicant, pending the results of the OSBI criminal history records search.

(i) The provider submits a request for a criminal history records search to OSBI within 72 hours of the applicant's acceptance of any offer of temporary employment.

(ii) Temporary employment of any applicant does not extend longer than the time necessary to receive the results of the criminal history records search and registry review, not to exceed 30 calendar days.

(iii) During any period of temporary employment the temporary employee may not work alone nor work solely with other temporary employees; and

(G) when the OSBI search reveals ~~that~~ the applicant has been convicted, pled guilty~~,~~ or ~~pled~~ nolo contendere to misdemeanor assault and battery or a felony, the provider does not hire or contract with the person and immediately cancels any temporary employment arrangement. ~~If~~When a waiver is requested per OAC 340:100-3-39~~(e)~~(f), the community services worker is relieved of responsibilities working directly with service recipients until the provider receives a written DHS decision ~~by OKDHS~~.

(2) **Provider duties during an investigation.** Upon receiving notification of an investigation of an allegation of maltreatment involving an employee, the provider chief executive officer or designee:

(A) ensures protection and the health and safety for any and all persons receiving services from the provider;

(B) notifies the community services worker, in a face-to-face conference, of the upcoming investigation; and

(C) explains the rights of the community services worker, using Form 06PE059E, Rights and Responsibilities of Community Services Worker in an Investigation of Maltreatment, before the community services worker is interviewed by the investigator, including:

(i) ~~that~~the notice of the outcome of the investigation is mailed to the community services worker's address ~~given~~ on Form 06PE059E; and

(ii) the community services worker's right to request due process ~~in accordance with~~per procedures ~~given~~provided in the notice mailed.

(3) **Provider responsibilities regarding due process procedures.** ~~If~~When an employee of a provider is called as a witness in a hearing, the provider:

(A) directs the employee to attend the hearing to give testimony;

(B) accommodates his or her work ~~schedules~~schedule; and

(C) when written records are required, submits the required records or certified copies. Failure to comply with these responsibilities may result in sanctions per OAC ~~340:100-3-27~~340:100-3-27.2.

(f) **Waiver of requirement not to hire based on criminal history records search.** ~~If~~ When the criminal history records search reveals a criminal background the provider believes will not place a service recipient at risk of harm and will not affect the quality of services provided by the applicant, the provider may request a waiver from ~~OKDHS~~DHS.

(1) The provider sends a written request for a waiver to the ~~DDSD~~DDS director. The request includes:

(A) the applicant's:

(i) full name;

(ii) Social Security number; and

(iii) date of birth;

(B) a legible copy of the criminal history records search that must be no more than 30 calendar days old; ~~and~~

(C) ~~an explanation of all factors or circumstances the provider believes must be considered~~the criminal history record information request; and

(D) an explanation of all factors or circumstances the provider wants to be considered.

(2) A waiver is not granted, under any circumstance, for employment of an applicant who ~~has been~~was convicted of, pled guilty, or ~~pled~~ nolo contendere to:

(A) a felony count of:

(i) aggravated assault and battery;

(ii) homicide;

(iii) murder;

(iv) attempted murder;

(v) rape;

(vi) incest; or

(vii) sodomy; or

(B) abuse, neglect, or exploitation of any person entrusted to the applicant's care.

(3) No waiver is granted for offenses resulting in a conviction, plea of guilty, or plea of nolo contendere to a felony that occurred less than five calendar years from the date of the request.

(4) Factors considered in the ~~OKDHS~~DHS decision to grant or deny a waiver include:

(A) other convictions of the person;

(B) responsibility evidenced by the person since conviction;

(C) time lapse since the person's conviction;

(D) person's age upon conviction;

(E) nature and underlying circumstances of the person's offense;

(F) evidence of efforts made by the person toward rehabilitation, including job training or educational programs in which the person participated;

(G) person's prior employment record; and

(H) nature and location of the position the person seeks.

(5) ~~OKDHS~~DHS:

(A) may grant a waiver for applicants who will provide services through ~~DDSD~~ DDS HCBS Waivers only upon concurrence by OHCA; and

(B) assumes no responsibility for the actions of a person employed by a provider subsequent to a waiver. The provider indemnifies and holds ~~OKDHS~~DHS harmless for any damages or attorney fees resulting from a claim ~~that~~ an employee of the provider subsequently abused, neglected, exploited, or otherwise injured a service recipient.

(g) **Rights of community services worker.** During investigation of an allegation of maltreatment, any community services worker who is accused of maltreatment is entitled to:

(1) be advised of the nature of any allegation against such worker;

(2) be interviewed by the investigator and allowed to give his or her position in relation to the allegation;

(3) be advised of the substance of the evidence against him or her prior to making a statement to the investigator. The identity of persons reporting alleged maltreatment is not released during the investigation;

(4) refuse, without penalty, to take a polygraph examination;

(5) submit or supplement a written statement relating to the allegation;

(6) seek and receive advice concerning his or her rights and responsibilities in the investigation and review process; and

(7) receive DHS notice ~~from OKDHS~~ of the outcome of the investigation. The community services worker:

(A) provides a correct address to receive notice; and

(B) is responsible to notify CPS, APS, or OCA, as applicable, of any address change.

(h) **Responsibilities of community services worker.** Any community services worker who is involved, either as a witness or as an accused caretaker, in the investigation of alleged maltreatment has the responsibility to:

(1) prepare a written incident report;

(2) be available for scheduled interviews;

(3) respond fully and truthfully to the investigator's questions. A community services worker who believes that his or her answers to official inquiries concerning alleged maltreatment may incriminate ~~the worker~~him or her in a criminal prosecution may discontinue the interview for that reason;

(4) refrain from any action that may interfere with the investigation, including any action that may intimidate, threaten, or harass any person who has or may provide information relating to alleged maltreatment; and

(5) appear at any hearing as requested by ~~OKDHS~~DHS per OAC 340:100-3-39~~(h)(6)~~(i)(6)(D).

(i) **Procedures for notice and due process.**

(1) **Determination not to place in Registry.** At any time during the notice and due process, ~~OKDHS~~DHS may determine the placement of a community services worker's name in the Registry is not warranted, despite a confirmed finding of maltreatment by APS, CPS, or OCA, as applicable.

(A) ~~OKDHS~~DHS may determine that the community services worker's name will not be placed in the Registry when the wrongful conduct:

(i) does not warrant placement in the Registry using the clear and convincing evidence standard applicable at the administrative hearing;

(ii) did not result in, or create a substantial risk of, serious physical or emotional injury to a service recipient; or

(iii) is not the result of intentional, willful, or reckless disregard for the health or safety of a service recipient.

(B) When a determination is made that a community services worker's name is not to be placed in the Registry, ~~OKDHS~~DHS sends a notice to the community services worker informing the worker that his or her name will not be placed in the Registry. A copy of the notice is sent to the community services provider who employed the community services worker at the time of the incident that resulted in the confirmed finding.

(2) **~~Notification of DDSD~~DDS notification.** ~~OKDHS~~DHS divisions responsible for investigating allegations of maltreatment, per OAC 340:2-3, OAC 340:5, or OAC 340:75-3, send reports of investigations to the ~~DDSD~~DDS director or designee.

(3) **Notification to provider.** The ~~OKDHS division~~DHS program responsible for the investigation notifies the provider, or appropriate ~~OKDHS~~DHS representative, when the investigative report reveals systemic administrative issues regarding:

(A) protection or safety of the service recipient; or

(B) provider agency shortcomings.

(4) **Notification to community services worker.** ~~OKDHS~~DHS sends written notice of the results of the investigation to the community services worker alleged to have committed maltreatment. The name of the community services worker who has a confirmed finding of maltreatment is added to the Registry when ~~OKDHS~~DHS has sent proper notice to the last known address of the community services worker, and the notice was returned as unclaimed or undeliverable. The notice:

(A) is sent within three ~~working~~business days of receipt by OCA of the ~~OKDHS~~DHS determination to proceed with the Registry process. If the allegation is ruled out, the provider is also notified;

(B) is sent by certified mail, return receipt requested, if the investigation resulted in a finding of maltreatment;

(C) contains a summary of the evidence supporting the finding of maltreatment without identifying the complainant;

(D) specifies that, if the community services worker desires to contest the finding, he or she submits a detailed written statement with a request that ~~OKDHS~~DHS issue a reconsideration decision reversing the finding;

(E) advises the community services worker that a reconsideration decision must be requested in writing, postmarked within ~~ten~~10 calendar days of receipt of the notice; and

(F) notifies the community services worker that failure, absent good cause, to request a reconsideration decision within ~~ten~~10 calendar days, as evidenced by the date of his or her signature on the United States (U.S.) Postal Service return receipt card:

(i) results in the finding becoming final;

(ii) waives the right to further administrative or judicial review; and

(iii) authorizes:

(I) entry of the community services worker's name in the Registry; and

(II) disclosure per OAC 340:100-3-39~~(I)~~(j) to any person requesting such information per OAC 340:100-3-39(j).

(5) **Reconsideration decision.** If the community services worker submits a timely request for a reconsideration decision, or if ~~OKDHS~~DHS determines good cause for untimely filing, ~~OKDHS~~DHS issues a reconsideration decision.

(A) The reconsideration decision:

(i) affirms the investigative report;

(ii) modifies the investigative report;

(iii) reverses the investigative report; or

(iv) remands the investigative report for further investigation; and

(v) is issued within ~~ten working~~10 business days of receipt of the request, or~~,~~ if applicable, the date of any determination of good cause.

(I) If the decision is to remand for further investigation, the investigation is completed within 15 ~~working~~business days of the decision to remand.

(II) Upon completion of the supplemental investigation, ~~OKDHS~~DHS notifies the community services worker within three ~~working~~business days;

(vi) states the basis for the determination including, but not limited to, any investigative report, ~~OKDHS~~DHS records, or provider records deemed relevant;

(vii) specifically evaluates and comments upon the contents of the community services worker's written request; and

(viii) is mailed to the community services worker by certified mail, return receipt requested, postage prepaid.

(B) When the reconsideration decision affirms or modifies the investigative report, ~~OKDHS~~DHS:

(i) if the community services worker is aggrieved by the decision, notifies the community services worker that he or she may request an administrative hearing;

(ii) states a written request for hearing must be submitted by the community services worker to ~~OKDHS~~DHS at a specified address and postmarked within ~~ten~~10 calendar days of receipt of the reconsideration decision, unless good cause is established. Receipt is deemed to occur on the date the community services worker signs the U.S. Postal Service return receipt card; and

(iii) states failure to timely request a hearing, absent a finding of good cause by an administrative law judge:

(I) results in the reconsideration decision becoming final;

(II) waives any right to either an administrative hearing or judicial review; and

(III) authorizes entry of the community services worker's name in the Registry, and disclosure to any person requesting the information per OAC 340:100-3-39(j).

(6) **Notice of hearing.** When the community services worker submits a timely written request for hearing, or upon the administrative law judge finding of good cause for a request that was not timely, ~~OKDHS~~DHS sends a notice of hearing by certified mail, return receipt requested, postage prepaid within ~~ten working~~10 business days of receipt of the request. The notice is dated and states:

(A) name of administrative law judge;

(B) time and date of hearing, that must be held no earlier than 15 calendar days and no later than 60 calendar days after the date of mailing of the notice;

(C) street and city address, and room number where the hearing will be held;

(D) failure of the community services worker to attend the hearing, absent a finding of good cause by an administrative law judge:

(i) results in the reconsideration decision becoming final;

(ii) waives any right to either an administrative hearing or judicial appeal; and

(iii) authorizes entry of the community services worker's name in the Registry, and disclosure to any person requesting the information per OAC 340:100-3-39(j);

(E) the community services worker may be represented by an attorney;

(F) requests by the community services worker or his or her attorney for witnesses, records, or both, relevant to the proceeding must be directed to ~~OKDHS~~DHS. ~~OKDHS~~DHS sends requests to the relevant provider, per OAC 340:100-3-39~~(d)(3)~~(e), persons, and appropriate ~~OKDHS divisions~~DHS programs;

(G) a final proposed list of witnesses and summary of anticipated testimony must be submitted to the administrative law judge designated on the notice of hearing at least ~~ten~~10 calendar days prior to any hearing;

(H) any final decision on the specific persons allowed to testify, the scope of direct testimony and cross-examination, and admissibility of exhibits will be within the sound discretion of the administrative law judge, except all ~~OKDHS~~ DHS and provider records pertaining to a finding of confirmed maltreatment are admissible;

(I) the community services worker or his or her attorney is allowed to cross examine witnesses called by the ~~OKDHS~~DHS attorney, who is allowed to cross examine any witnesses called by the community services worker or his or her attorney; and

(J) although the formal rules of evidence and procedure under Oklahoma law are not controlling, the burden of persuasion and initially coming forward with evidence is on ~~OKDHS~~DHS through its attorney, and the standard of proof is clear and convincing evidence.

(7) **Hearing.**

(A) The hearing is:

(i) closed and all information presented therein is confidential; and

(ii) tape recorded.

(B) The administrative law judge affirms, modifies, or reverses the reconsideration decision, or determines the name of the community services worker, who has been confirmed as having engaged in maltreatment, must not be added to the Registry when the act or omission that is the basis for the confirmed finding:

(i) did not result in, or create a substantial risk of, serious physical or emotional injury to a service recipient; or

(ii) was not the result of intentional, willful, or reckless disregard for the health or safety of a service recipient.

(C) A written decision by the administrative law judge affirming, modifying, or reversing the reconsideration decision, or determining, per OAC 340:100-3-39~~(h)(7)(B)~~, the community services worker's name is not to be placed in the Registry:

(i) is issued within 30 calendar days of the hearing;

(ii) is mailed to the community services worker by certified mail, return receipt requested, no later than the first ~~working~~business day following the date the decision is signed by the administrative law judge;

(iii) contains findings of fact and conclusions of law;

(iv) notifies the community services worker that, if he or she is aggrieved by the decision, a judicial appeal, solely on the administrative record, may be initiated by filing a petition in the Oklahoma district court with jurisdiction within 30 calendar days from the date the decision is signed by the administrative law judge, pursuant to 56 O.S. § 1025.3 and 75 O.S. § 318; and

(v) states a copy of any petition and summons filed in district court must be served on ~~OKDHS~~DHS Legal ~~Division~~Services.

(j) **Disclosure requirements for Registry.**

(1) The Registry information includes, but is not limited to:

(A) community services worker's:

(i) full name;

(ii) Social Security number; and

(iii) date of birth;

(B) date the community services worker's name was placed in the Registry; and

(C) information on the final investigative finding or administrative law judge finding regarding the community services worker.

(2) The information disclosed includes only whether the person is listed in the Registry. No other information related to the allegation, investigation, or evidence is disclosed.

(3) The provider requesting Registry information on an applicant or employing a community services worker alleged to have committed maltreatment is notified when the community services worker's or applicant's name is entered in the Registry. ~~If~~ When more than one community services worker is named as an accused caretaker, a separate letter is sent to the provider for each community services worker.

(k) **Public access to Registry.** Access to the Registry is available to the public ~~through the OKDHS Web site:~~at www.OKDHS.org.

SUBCHAPTER 5. CLIENT SERVICES

PART 3. SERVICE PROVISIONS

340:100-5-20. Respite Voucher Program

(a) **Applicability.** The rules in this Section apply to the respite voucher program operated by the Oklahoma Department of Human Services ~~(OKDHS)~~DHS Developmental Disabilities Services ~~Division (DDSD)~~(DDS). When funding resources are sufficient, ~~DDSD~~DDS may use funds for the provision of respite vouchers. For the purpose of this Section, respite is defined as temporary relief for ~~caregivers and families~~a caregiver who ~~are~~is caring for a person with a developmental disability~~, or developmental delay~~known as the care recipient.

(b) **Eligibility.**

(1) Respite vouchers may be issued ~~for~~to caregivers of ~~persons~~a care recipient who ~~have developmental disabilities; and do not~~:

(A) ~~receive: services through a Home and Community Based Services (HCBS) Waiver~~has a developmental disability per Section 1408 of Title 10 of the Oklahoma Statutes;

(B) ~~receive the Family Support Assistance Payment~~is a United States citizen or a qualified alien;

(C) ~~receive respite services funded through any other program or service~~is in DHS custody living in a family home;

(D) ~~live in an assisted living facility~~is in DHS custody and placed in kinship foster family care per Oklahoma Administrative Code (OAC) 340:75-7-2;

(E) ~~live independently~~receives less than 20 hours per week of state funded services, such as:

(i) Sheltered Workshop;

(ii) Community Integrated Employment; or

(iii) Adult Day;

(F) ~~receive Advantage Waiver services~~does not receive:

(i) services through a DDS Home and Community-Based Services (HCBS) Waiver;

(ii) services through the Advantage Waiver;

(iii) respite services funded through any other state or federal program or service; or

(iv) the Family Support Assistance Payment; and

(G) ~~receive a foster care payment or are in OKDHS custody~~does not live:

(i) in an assisted living facility;

(ii) independently; or

(iii) in a drug or alcohol treatment facility

~~(H) receive state funded services such as:~~

~~(i) Sheltered Workshop;~~

~~(ii) Community Integrated Employment; or~~

~~(iii) Adult Day;~~

~~(I) reside in a drug or alcohol treatment facility; or~~

~~(J) receive OKDHS Child Care Subsidy~~.

(2) The ~~voucher applicant is the~~ caregiver is the voucher applicant and ~~must~~:

(A) ~~be an~~must live in Oklahoma ~~resident~~;

(B) must reside with and provide at least eight hours per day of care to an eligible care recipient;~~full time care for an eligible person with a developmental disability or developmental delay with an assessment or evaluation date within 12 months of the date of application, demonstrated by (i) through (v) of this paragraph:~~

~~(i) doctor's statement or diagnosis;~~

~~(ii) SoonerStart developmental evaluation documenting scores indicating:~~

~~(I) a 50% delay in one domain; or~~

~~(II) a 25% delay in two or more domains;~~

~~(iii) school test scores;~~

~~(iv) psychological evaluations; or~~

~~(v) statement from a licensed therapist indicating a condition related to a developmental delay or developmental disability; and~~

(C) must not receive respite services funded through any other state or federal program or service on behalf of an eligible care recipient;

(D) may receive a DHS Child Care Subsidy per OAC 340:40-7-1 on behalf of an eligible care recipient;

(E) may receive an adoption subsidy on behalf of an eligible care recipient; and

(~~C~~F) ~~have~~has an adjusted gross income of ~~$60,000 or~~ less than $75,000 from the most recent federal tax return.

(c) **Respite voucher application.**

(1) Applications for respite vouchers are available through ~~DDSD~~DDS area offices.

(2) A completed application must include:~~a copy of the most recent federal income tax return. When an applicant receives Supplemental Security Income, Temporary Assistance for Needy Families, or SoonerCare the federal income tax return is not required.~~

(A) a signed copy of the caregiver's most recent federal income tax return. When married and filing separately, send returns for the caregiver and the caregiver's spouse;

(B) when the caregiver is employed and did not complete a tax return, a statement from the employer indicating the average number of hours worked per week, the hourly rate, and usual schedule worked each week;

(C) a copy of the caregiver's most recent Social Security Administration award letter, when applicable;

(D) a copy of the caregiver's Social Security card; and

(E) a copy of the documentation that verifies the care receiver's disability that includes, but is not limited to:

(i) a psychological evaluation;

(ii) the portion of an Interdisciplinary Education Plan titled, Multidisciplinary Evaluation and Eligibility Group Summary, also known as "MEEGS" or "MEETS";

(iii) the portion of an Interdisciplinary Education Plan titled, Review of Existing Data, also known as the "RED";

(iv) an evaluation from a licensed therapist indicating a condition related to a developmental disability; or

(v) a copy of the SoonerStart developmental evaluation documenting scores indicating:

(I) a 50 percent delay in one domain; or

(II) a 25 percent delay in two or more domains.

(3) Incomplete applications are returned to the applicant for correction.

(4) Respite voucher applications are considered in chronological order of receipt~~,~~ of a completed application. ~~DDSD~~DDS provides a written determination to the applicant within ~~30~~60 calendar days.

(d) **Issuance of respite voucher.** ~~Respite voucher applications are valid for the state fiscal year (July-June).~~Authorization for the respite voucher program is valid for one calendar year from the date the application or annual review is approved. Issuance of a respite voucher is subject to the continued availability of funding. When an application or annual review is approved, respite vouchers are issued:~~is issued to the caregiver applicant for use from the date of issuance and is valid for 90 days.~~

(1) to the caregiver applicant and are valid for 90 calendar days from the date of issuance;

(2) in sets of three. The applicant must submit to the DDS State Office Respite Voucher program staff Form 06RP002E, Request for Additional Respite Vouchers, to request additional vouchers;

(3) in the amount of:

(A) $500 when the caregiver's adjusted gross income is $0 through $59,999.99;

(B) $400 when the caregiver's adjusted gross income is $60,000.00 through $74,999.99;

(C) $100 for each additional eligible care recipient with a maximum payment of $800 per 90 calendar-day period when the caregiver's adjusted gross income is $0 through $59,999.99; or

(D) $100 for each additional eligible care recipient with a maximum payment of $700 per 90 calendar-day period when the caregiver's adjusted gross income is $60,000.00 through $74,999.99.

(e) **Caregiver responsibilities.** Caregivers are responsible for:

(1) interviewing and selecting the respite provider;

(2) setting an hourly rate;

(3) training the provider;

(4) ensuring proper payment for services; and

(5) tracking the ~~number of respite hours used and~~ total amount claimed against the voucher.

(f) **Submitting voucher for payment.** The caregiver and the respite care provider complete and sign the respite voucher and submit it to ~~OKDHS FinanceDivision~~DHS Financial Services for payment.

(g) **Fair hearing.** Any person who has been denied a voucher~~;~~, except for denials based on insufficient funding, may request a hearing per OAC 340:2-5.

340:100-5-22.2. Assisted Living without Waiver supports

(a) **General information.** Assisted Living without Waiver supports:

(1) is provided to individuals with ~~mental retardation~~intellectual disabilities who:

(A) do not receive Home~~-~~and Community-Based Waiver services; and

(B) require minimal staff supports to live safely in their own homes; and

(2) includes, but is not limited to, service coordination, advocacy, linking with generic resources, assistance with transportation, and emergency response.

(b) **Requirements.** Access by service recipients to Assisted Living supports is contingent upon:

(1) availability of sufficient resources;

(2) a determination of eligibility ~~in accordance with~~per Oklahoma Administrative Code (OAC) 340:100-3-1; and

(3) a determination by the provider agency of the person's appropriateness for Assisted Living supports ~~in accordance with subsection~~per (c) of this Section.

(c) **Pre-placement requirements.** Prior to service initiation, the provider agency assesses the consumer's ability to live safely with minimal staff supports.

(1) In determining an individual's ability to participate in the Assisted Living program, all potential resources are considered to ensure the individual can financially maintain his or her home.

(A) Availability of financial resources, such as food ~~stamps~~benefits, rental subsidy, income from employment, and public assistance is considered.

(B) The provider agency assesses sources of transportation and leisure activities, such as family, friends, and public transportation.

(C) The provider agency assists the individual to the extent necessary to establish and maintain an affordable household budget based on the individual's earned and unearned income. The provider agency considers living expenses ~~which~~that provide adequate housing, food, and clothing.

(2) The provider agency documents efforts to ensure ~~that~~ housing occupied by the individual:

(A) meets local building codes;

(B) remains in safe and sanitary condition;

(C) meets the person's accessibility requirements;

(D) has at least two means of exit;

(E) is equipped with a:

(i) telephone;

(ii) flashlight;

(iii) first aid kit;

(iv) smoke detector; and

(v) carbon monoxide detector.

(3) The provider agency ensures ~~that~~ the individual has the ability to:

(A) safely self-administer any necessary medication; and

(B) ~~to~~ reorder medications with available assistance.

(4) The provider agency ensures ~~that~~ the individual is competent in basic home safety skills, such as locking doors, asking identification of persons desiring admittance, use of appliances, and use of toxic cleaning substances.

(5) The provider agency ensures ~~that~~ the individual has:

(A) the ability to contact appropriate persons in case of fire, burglary, illness, or other emergency; ~~and~~

(B) necessary emergency contact numbers available by the telephone~~.~~; and

(C) an identified back-up plan should the home become uninhabitable.

(6) The provider agency determines ~~that~~ the individual possesses basic food preparation skills.

(d) **Governing principles.** Services provided through Assisted Living without Waiver supports are developed around the needs and desires of the person receiving supports and conform to the principles listed in this subsection.

(1) Assisted Living supports do not include funding for rent and food expenses. Each individual is responsible for his or her room and board expenses, as well as all daily living expenses, recreational activities, clothing, furnishing, and other services or supports not authorized and funded through ~~DDSD~~DDS.

(2) No more than four persons receiving services may share a home.

(3) Family members and guardians are allowed announced and unannounced visits, in accordance with the rights and wishes of the person receiving services.

(4) The Oklahoma Department of Human Services (DHS) provides ongoing monitoring through visits with at least a 30 ~~minutes~~minute notice by ~~DDSD~~DDS staff as well as others deemed appropriate by ~~the Department~~DHS.

(5) Services promote and use age-appropriate, natural, and informal community supports including family, friends, and other non-paid citizens.

(6) The provider agency provides necessary assistance to the individual in ~~all of the areas listed in (A) - (K) of this paragraph. Assistance is provided in~~:

(A) identifying as many natural and informal supports and resources as are available to the individual~~.~~;

(B) obtaining transportation to and from community activities, vocational activities, and needed community services including, but not limited to, the grocery store, bank, medical clinic, and department store.

(i) ~~If~~When the provider agency transports the individual, drivers hold applicable Oklahoma licenses and appropriate insurance.

(ii) The provider agency ensures ~~that~~ any vehicle used to transport a person receiving services:

(I) is licensed and operated ~~in accordance with~~per local, state, and federal laws, regulations, and ordinances; and

(II) is maintained in a safe condition~~.~~;

(C) securing the supports necessary for the individual to participate in regular recreational and leisure activities at home and in the community~~.~~;

(D) maintaining an adequate supply of food, medication(s), clothing, personal grooming materials, linens, and furnishings~~.~~;

(E) obtaining medical coverage through private insurance, Medicaid, or employer's group plan~~.~~;

(F) establishing and maintaining a checking account, savings account, or both, with a bank convenient to the person receiving services~~.~~;

(G) locating a relative or friend to act as the individual's advocate as needed~~.~~;

(H) practicing the basic principles of financial management, such as budgeting, making purchases, and discretion in releasing financial information. ~~If~~When the provider is the person's payee, the provider adheres to all rules ~~in~~per OAC 340:100-3-4~~.1.~~;

(I) making and keeping appointments for any needed supports or services~~.~~;

(J) maintaining the person's residence ~~in accordance with paragraph~~per (c)(2) of this Section~~.~~; and

(K) maintaining utility service.

(7) The provider agency maintains records for each person receiving services ~~which~~ that contain:

(A) demographic information including, but not limited to, ~~birthdate~~date of birth, ~~social security~~Social Security number, finding address, phone number, landlord's address and phone, emergency contact, and family phone number(s);

(B) names and contact information of relatives, friends, staff, and legal guardian, ~~if~~when the person has a guardian;

(C) name, address, and telephone number of the person's doctor or clinic, dentist, and the hospital of the individual's choice;

(D) updated medical information, including allergies and current medication;

(E) appropriate assessments;

(F) current Individual Plan and implementation strategies; and

(G) documentation of service delivery, including the date, time, and summary of support provided.

(8) When the consumer leases or subleases a home from the provider agency or an individual associated with the provider agency, the guidelines in this paragraph are followed.

(A) The provider agency ensures ~~that~~ the individual has choice in selecting a home to rent, including providing support necessary for the person receiving services to consider homes not owned or leased by the provider agency or an individual associated with the provider agency.

(B) The provider agency and the person receiving services or legal guardian enter into a written lease agreement.

(C) The provider agency ensures the home is leased at fair market value or below, and is affordable for the person receiving services.

(D) If financially able to do so, the individual is free to:

(i) move from the house leased from the provider:

(I) for health and safety concerns; or

(II) ~~in accordance with~~per Section 102 et seq. of Title 41 of the Oklahoma Statutes; or

(ii) renew the lease.

(E) The provider agency ensures the home owned by the provider or an individual associated with the provider agency meets all guidelines ~~given~~ provided in this Section.

(F) The provider cannot condition receipt of Assisted Living Services on leasing, or continuing to lease, the provider's home.

(9) If the provider determines ~~that~~ the person needs additional services or supports and the need(s) can no longer be met through Assisted Living Services, the provider assists the individual to find other appropriate services.

340:100-5-26. Health and wellness

(a) **Purpose.** Services and supports promote health and well-being.

(b) **Scope and applicability.** Oklahoma Administrative Code (OAC) 340:100-5-26 applies to service recipients receiving services funded by Developmental Disabilities Services ~~Division (DDSD)~~(DDS) or Home and Community-Based Services (HCBS) Waivers.

(1) Oklahoma State Department of Health (OSDH) guidelines for universal precautions, and infection control practices are used to prevent the transmission of communicable diseases.

(2) ~~DDSD~~DDS staff and contract providers implement procedures to promote the health and wellness of each service recipient, including procedures related to:

(A) accessing emergency medical intervention;

(B) initiating first aid and cardio pulmonary resuscitation (CPR);

(C) promoting disease prevention;

(D) addressing issues associated with aging;

(E) medication administration per OAC 340:100-5-32;

(F) health related services per OAC 340~~.~~:100-5-26.3;

(G) assisting the service recipient to access medical and dental services when needed; and

(H) identifying and addressing service recipient needs per OAC 340:100-5-50 through 340:100-5-58.

(c) **Service recipient responsibilities.**

(1) The right of a service recipient to refuse service is respected per OAC 340:100-3-11. However the:

(A) Personal Support Team (Team) meets to discuss the service recipient's decision;

(B) service recipient must cooperate with assessments and provide documents necessary to continue eligibility to receive HCBS ~~waiver~~Waiver services;

(C) service recipient must cooperate with the case manager and provider to obtain necessary assessments and physician orders if assistance by a paid HCBS ~~waiver~~Waiver provider is identified in the Individual Plan (Plan); and

(D) except as provided for in OAC 340:100-5-22.5~~;~~, the service recipient is responsible for health and medical costs including:

(i) over-the-counter medications~~,~~ and other medications not covered by insurance;

(ii) health insurance co-payments;

(iii) dental treatments and appliances not covered by dental insurance or within the allowable annual limits of the HCBS ~~waiver~~Waiver, ~~if~~ when eligible;

(iv) medical treatments not covered by health insurance;

(v) dietary supplements~~,~~ including, but not limited to:

(I) vitamins; and

(II) herbal and dietary treatments;

(vi) treatment supplies not medically necessary for:

(I) nutrition;

(II) incontinence;

(III) respirator or ventilator care;

(IV) decubitis care;

(V) catheterization;

(VI) health conditions;

(VII) infection control; or

(VIII) not within the allowable limits of the HCBS ~~waiver~~ Waiver.

(2) The service recipient or his or her family ~~will assume~~assumes the responsibility for making appointments when residing in his or her own home or family home.

(d) **Assessment of needs.** The ~~DDSD~~DDS case manager ensures an individual assessment is completed for each service recipient per OAC 340:100-5-51.

(e) **Planning and implementation requirements.**

(1) Health and wellness support and services and the roles of various individuals are specifically noted in the service recipient's ~~IP~~Plan per OAC 340:100-5-50 through 340:100-5-58.

(2) For a service recipient who receives minimal services to maintain residence in his or her own home, family home, or to maintain employment, the service recipient and his or her Team determines the appropriate roles for members of the Team per applicable policy.

(3) For a service recipient who receives residential, group home, or extensive health supports to remain in their own home, family home, or maintain employment, the team ~~will identify~~identifies specific roles and protocols necessary to provide support as listed in (A) - (H) of this paragraph.

(A) The Team identifies desired health care outcomes through the Team process.

(B) Health issues identified through health care evaluations and assessments that impact the service recipient's life are incorporated and integrated by the Team into the Plan through goals and objectives.

(C) Health care services are addressed in terms of individual outcomes, not units of clinically specific service.

(D) When assessing health care services or implementation strategies involving discipline-specific services, a representative from that discipline participates in at least a consulting role.

(E) Any invasive or intensive professional service or procedure is reviewed by the Team, including participation from any other service provider as appropriate. Consent is assessed per OAC 340:100-3-5.

(i) Team review of an invasive or intensive service or procedure includes discussion~~,~~ prior to implementation~~,~~ of the proposed service or procedure~~,~~ and of possible alternatives.

(ii) Invasive procedures reviewed by the Team comprise both scheduled and emergency procedures, that include, but are not limited to:

(I) tracheotomy;

(II) orthopedics;

(III) gastrostomy;

(IV) jejunostomy;

(V) multiple dental extractions;

(VI) amputation; or

(VII) consideration of permanent sterilization.

(iii) An invasive or intensive professional service or procedure implemented on an emergency basis must be reviewed by the Team as soon as possible, ~~but~~ within five ~~working~~business days. Emergency procedures subject to review include, but are not limited to emergency:

(I) surgery; or

(II) behavioral intervention, including mechanical or chemical restraints.

(F) The residential or group home provider has an obligation to assure health coordination activities are implemented.

(G) The Team identifies a health care coordinator (HCC) to ensure implementation and coordination of health care services for the service recipient. The HCC:

(i) is a person who has an understanding of the service recipient's health care needs and lifestyle, and may be the service recipient, service recipient's family member, foster parent, companion, residential provider staff, or other person who is familiar with the service recipient's needs;

(ii) receives ~~DDSD~~DDS required training;

(iii) documents that health concerns are addressed, monitored, and communicated;

(iv) supports the person to directly communicate to the physician the reason for the medical consultation whenever possible, or communicate on the service recipient's behalf;

(v) keeps the physician advised of medical status and data regarding any target symptoms;

(vi) communicates physician orders to core Team members and other service providers as appropriate;

(vii) presents Form 06HM005E, Referral Form for Examination or Treatment, for HCBS Waiver recipients to the physician at the time of the visit~~.~~:

(I) ensuring Form 06HM005E is completed by the HCC prior to the visit~~.~~; and

(II) ~~The HCC requests~~ the physician ~~to complete~~completes a short written summary of the findings~~.~~;

(viii) presents Form 06HM073E, Referral Form for Psychiatric Examination or Treatment, for HCBS Waiver recipients to the psychiatrist at the time of the visit.

(I) Form 06HM073E is completed by the HCC prior to the visit.

(II) The HCC requests the psychiatrist complete a short written summary of the findings;

(~~viii~~ix) ~~When~~when employed by a contract provider, the employer develops and implements a procedure to ensure appropriate backup if the HCC is unable, for any reason, to perform these duties; and

(~~ix~~x) completes health status and medication reviews each month using Form 06HM006E, Health Status and Monthly Medication Review.

(H) For HCBS Waiver service recipients, the ~~DDSD~~DDS case manager makes a referral for a clinical pharmacy review by a clinical pharmacist or physician:

(i) upon request of a Team member or clinician participating with the Team;

(ii) when a review performed by the assigned ~~DDSD~~DDS case manager and nurse determines a referral to an independent clinical pharmacist or physician is indicated. The ~~DDSD~~DDS case manager submits a clinical pharmacy review annually or as needed when the service recipient:

(I) receives five or more medications;

(II) has an unusual physical sign or symptom during the month in review that is not resolved through other medical interventions;

(III) uses a p.r.n. medication routinely for more than three months with an average use of three per week or ten per month;

(IV) takes two or more psychotropic medications per OAC 340:100-5-26.1; or

(V) takes three or more anticonvulsant medications used for a seizure disorder.

(f) **Implementation procedures for HCBS waiver skilled nursing services.**

(1) Skilled nursing services are implemented per OAC 317:30-5-390 through ~~317:30-5-394~~317:30-5-393.

(2) Community service workers are trained and carry out implementation strategies addressing health care outcomes.

(3) Accurate and current medical and program information is maintained in the home record by the residential provider and available for review by authorized ~~OKDHS~~DHS staff.

(g) **Case management monitoring responsibilities for HCBS Waiver service recipients.**

(1) The case manager monitors implementation of the plan per OAC 340:100-5-52 and 340:100-3-27.

(2) For the purpose of monitoring and evaluation, designated ~~DDSD~~DDS staff ~~have~~ has access at all times to the service recipient's medical and programmatic information.

(3) The case manager monitors the service recipient's access to medical and dental services.

(4) The case manager may assist the service recipient in locating health care providers.

SUBCHAPTER 6. GROUP HOME REGULATIONS

PART 11. PROGRAM STANDARDS

340:100-6-55. Staffing requirements

Group homes must employ sufficient staff who are appropriately qualified and trained to provide the essential services of the home.

(1) **Sufficient staff.** The provider agency designates one person who, in the absence of the agency administrator, is responsible for the administration of the agency and is empowered to act on behalf of the provider agency.

(A) There must be at least one designated person in charge of the home and its operation available for each home when service recipients are present. Staff support and supervision must be provided as needed for each service recipient in the home. Staff must be physically able and mentally alert to carry out the duties of the job.

(B) In addition to direct support staff, each service recipient in a group home must have a staff person who serves as program coordinator. In addition to duties required by Oklahoma Administrative Code (OAC) 340:100-5-52, program coordination staff must:

(i) get to know the service recipient and the service recipient's needs;

(ii) make announced and unannounced visits to the group home that include a minimum of three monitoring visits per month, to monitor the needs of the service recipients and the need for supervision of staff. The visits should occur at times when it would reasonably be anticipated that the majority of the residents are home. Agency administration staff meeting the requirements of this Section may complete these visits in addition to program coordination staff. At least two of the visits must be unannounced, unless the:

(I) home has fully trained staff~~,~~;

(II) home has no turn-over for the past year~~,~~;

(III) the service recipients do not require restrictive or intrusive procedures~~,~~; and

(IV) there have been no medication errors for the previous year, in which case the unannounced visits may be reduced to one per month. Of the unannounced visits, at least one visit must occur each month~~:~~

~~(I)~~ on Saturday or Sunday~~;~~ or

~~(II)~~ between 8:00 p.m. and 7:00 a.m. on a weekday;

(iii) provide support and assistance to any service recipient who is experiencing an emotional, behavioral, or medical crisis;

(iv) be accessible to direct support staff 24 hours per day and available to respond, in person ~~if~~when necessary, to an emergency;

(v) supervise direct support staff to promote achievement of outcomes in the service recipient's Individual Plan (Plan);

(vi) ensure staffing levels meet the requirements of the service recipient's Plan, with staff trained per OAC 340:100-3-38;

(vii) ensure each service recipient's needs are always met, including, but not limited to:

(I) utilities and phone service;

(II) furniture;

(III) food supplies that meet the service recipient's nutritional needs;

(IV) linens;

(V) personal items;

(VI) adaptive equipment; and

(VII) prescription medications;

(viii) assist the Developmental Disabilities Services ~~Division (DDSD)~~ (DDS) case manager as requested to prepare for and implement the service recipient's Plan and its revisions per OAC 340:100-5-50 through 340:100-5-58;

(ix) ensure Oklahoma Department of Human Services and Oklahoma Health Care Authority rules are followed; and

(x) complete necessary training ~~specified in~~per OAC 340:100-3-38.

(C) All group home providers must have a signed, written agreement with a registered nurse to:

(i) act as a consultant;

(ii) review medication issues and administration quarterly, or more often ~~if~~when required; and

(iii) provide technical assistance upon request. Documentation of the use of the nurse consultant must be maintained by the group home provider.

(D) Service recipients do not supervise other service recipients.

(2) **Staff qualifications.**

(A) The group home has an administrator and program coordinator who must:

(i) be at least 21 years ~~old~~of age; and

(ii) have a minimum of four years of any combination of college level course work or full-time equivalent experience in serving persons with disabilities or full-time equivalent experience in a supervisory position, unless this requirement is waived in writing by the ~~DDSD~~DDS director or designee. Both roles may be filled by the same person.

(B) All other staff must be at least 18 years of age.

(C) The provider agency is responsible for recruitment, screening, training, and supervision of staff or volunteers providing direct services, ensuring direct support staff is not supervised by a relative or person living in the staff's home. A relative includes a wife, husband, child, parent, stepparent, parent-in-law, grandchild, grandparent, brother, sister, stepchild, brother-in-law, sister-in-law, son-in-law, daughter-in-law, aunt, uncle, niece, nephew, first cousin, or any such person with whom the employee shares a foster relationship.

(~~C~~D) The provider agency must comply with OAC 340:100-3-39 regarding pre-employment screening for community services workers.

(3) **Staff training.** To ensure all providers achieve and maintain a level of competency necessary to meet the needs of each service recipient in the group home, provider agency staff must complete training ~~specified in~~per OAC 340:100-3-38.

[OAR Docket #15-634; filed 6-19-15]

TITLE 340. DEPARTMENT OF HUMAN SERVICES
CHAPTER 105. AGING SERVICES

[OAR Docket #15-635]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 10. Policies and Procedures Manual for Title Ill of the Older Americans Act of 1965, as Amended
Part 3. State Agency
340:105-10-12 [AMENDED]
Part 7. Program Standards for Services Funded Under Title III of the Older Americans Act of 1965, as Amended
340:105-10-77 [AMENDED]
340:105-10-85 [AMENDED]
(Reference WF 14-17)
AUTHORITY:
Director of Human Services; Section 162 of Title 56 of the Oklahoma Statutes; and the Older Americans Act of 1965, as Amended.
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
January 23, 2015
COMMENT PERIOD:
February 17, 2015 through March 19, 2015
PUBLIC HEARING:
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Approved by Governor's declaration on June 8, 2015
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June 8, 2015
EFFECTIVE:
September 15, 2015
SUPERSEDED EMERGENCY ACTIONS:
n/a
INCORPORATIONS BY REFERENCE:
n/a
ANALYSIS:
The proposed revisions to Chapter 105 Subchapter 10 amend the rules to match changes in the State Council on Aging membership bylaws and changes to the Oklahoma State Department of Health Food Services Establishment Regulations.
CONTACT PERSON:
Dena Thayer, Programs Administrator, Policy Management Unit, DHS, PO Box 25352, Oklahoma City, OK 73125, 405-521-4326.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 15, 2015:

SUBCHAPTER 10. POLICIES AND PROCEDURES MANUAL FOR TITLE III OF THE OLDER AMERICANS ACT OF 1965, AS AMENDED

PART 3. STATE AGENCY

340:105-10-12. State Council on Aging

(a) **Policy.** The State of Oklahoma has a State Council on Aging meeting the requirements for the Older Americans Act (OAA), and ~~the~~ Aging Services ~~Division (ASD)~~(AS) need for statewide representation from older Oklahomans and service providers.

(b) **Authority.** The authority for this Section is Section 305 of the OAA of 1965, as amended and the Oklahoma State Council on Aging Bylaws.

(c) **Procedures.** The State Council on Aging is composed of 30 members, at least 18 of whom are 60 years of age or older, residents of the state, and have demonstrated an interest in, knowledge of, and exhibited achievements with respect to the concerns of older persons.

(1) Members of the State Council on Aging include:

(A) one member appointed by the Governor;

(B) one member appointed by the President Pro Tempore of the State Senate;

(C) one member appointed by the Speaker of the House of Representatives; and

(D) 27 members appointed by the ~~Oklahoma Department~~Director of Human Services ~~(OKDHS)~~(Director) and include:

(i) five members who are 60 years of age or older and are participating consumers or volunteers working regularly in aging programs chosen from Area Agency on Aging (AAA) advisory council nominees. Each AAA advisory council submits one nominee for consideration from their respective planning and service areas. The consumer or volunteer nominee members chosen include residents of rural counties and represent citizens from varied economic levels whose duration and frequency of work, past and present, is considered.

(ii) one nominee member is submitted by entities (I) through (XIII):

(I) Oklahoma Association of Area Agencies on Aging;

(II) Oklahoma State Department of Health;

(III) Oklahoma State Department of Mental Health, gerontological representative;

(IV) Oklahoma Senior Corps Directors Association;

(V) Oklahoma State Nutrition Directors Association;

~~(VI) Urban League, alternating by term between Oklahoma City and Tulsa chapters;~~

(~~VII~~VI) Oklahoma Indian Council on Aging;

(~~VIII~~VII) Oklahoma AARP;

(~~IX~~VIII) Oklahoma Federation of Chapters of the National Association of Retired Federal Employees;

(~~X~~IX) Oklahoma Alliance on Aging;

(~~XI~~X) Oklahoma Retired Educators Association;

(~~XII~~XI) Silver Haired Legislature Alumni; and

(~~XIII~~XII) Oklahoma Health Care Authority; and

(iii) ~~nine~~10 at-large members nominated and appointed by the ~~OKDHS~~ Director to ensure ethnic, geographical, and demographical balance.

(2) Duties of the State Council on Aging include:

(A) communicating the needs, conditions, and concerns of older Oklahomans with entities including the:

(i) ~~Oklahoma Commission for Human Services;~~

~~(ii)~~ ~~OKDHS~~ Director and the ~~ASD~~AS director;

(~~iii~~ii) State of Oklahoma Governor's Office;

(~~iv~~iii) Oklahoma State Legislature;

(~~v~~iv) United States Oklahoma Congressional Delegates;

(~~vi~~v) state agencies;

(~~vii~~vi) federal agencies; and

(~~viii~~vii) general public;

(B) reviewing and commenting on all policies, budget appropriations, planning regulations, and legislation that benefit or adversely impact older Oklahomans, and advocating for their concerns and issues while maintaining high visibility and a strong voice;

(C) monitoring and evaluating the provision of services to older Oklahomans;

(D) conducting public forums and seeking input on the needs, conditions, programs, or issues involving older Oklahomans; and

(E) advising the ~~ASD~~AS director on all matters pertaining to:

(i) development and implementation of policies, budget appropriations, planning, regulations, and standards;

(ii) effective and efficient administration of division programs;

(iii) development of training and educational programs; and

(iv) administration of ~~ASD~~AS functions.

PART 7. PROGRAM STANDARDS FOR SERVICES FUNDED UNDER TITLE III OF THE OLDER AMERICANS ACT OF 1965, AS AMENDED

340:105-10-77. Congregate meals food preparation and service

(a) **Policy.** All preparation and serving of food for the Congregate Meals Program meet all applicable state and local fire, health, sanitation, and safety regulations. Food preparation and delivery is performed in the most cost efficient manner possible.

(b) **Authority.** The authority for this Section is Section 339 of the Older Americans Act of 1965, as amended and the Oklahoma State Department of Health ~~Code, Section 2-101 and 2-102~~Food Service Establishment Regulations found at Oklahoma Administrative Code (OAC) 310:257-5-9, 310:257-5-52, and 310:257-5-62.

(c) **Procedures.**

(1) Projects with multiple serving sites make every effort to consolidate all meal preparation at one facility. Such consolidation is undertaken only when delivery distances and holding times make it feasible.

(2) The project director or designee arranges for all appropriate fire, health, safety, and sanitation inspections and responds appropriately to all identified deficiencies.

(3) All food preparation staff work under the supervision of a certified food handler who ensures the application of hygienic techniques and practices in food preparation and service.

(4) Tested, quality recipes, adjusted to yield the number of servings needed, must be used to achieve the consistent and desirable quality and quantity of meals. Uniform, standardized recipes that provide for required amounts per serving are used when feasible.

(5) Meal service is designed so that hot food is available for at least one-half hour after serving begins to enable individuals who arrive late to receive a meal.

(6) Holding time from the completion of food preparation until all meals are served at each site shall not exceed ~~two~~four hours.

(7) Temperatures are taken and documented daily before foods are removed from the stove or oven. Satellite nutrition sites record food temperatures immediately upon arrival at the site.

(8) Temperatures of hot and cold foods are taken and documented daily after food is placed on the steam table or immediately before serving. If temperatures fall below the recommended level, foods are heated to the proper temperature. Foods are not reheated on a steam table as they may reach temperatures that are too hot to be eaten safely and may suffer in quality and consistency.

(9) Daily temperatures of hot and cold foods are documented in writing and kept at the Title III senior nutrition site and made available for random review by the site manager, Area Agency on Aging staff, consulting dietitian, and state dietitian.

(d) **Cross references.** ~~See~~Refer to OAC 340:105-10-50.1(a)(4) and (7), 340:105-10-51, 340:105-10-68 through 340:105-10-76, 340:105-10-78 through 340:105-10-80, and 340:105-10-86.

340:105-10-85. Home delivered meals packaging and delivery

(a) **Policy.** Home delivered meals are packaged and delivered to ensure temperature control and prevent contamination and spillage.

(b) **Authority.** The authority for this Section is Oklahoma State Department of Health Food Service Establishment Regulations Oklahoma Administrative Code (OAC)~~310:256-5-9~~ 310:257-5-9, 310:257-5-52, and 310:257-5-62 and Section 1321.11 of Title 45 of the Code of Federal Regulations.

(c) **Procedures.** This Section is implemented by including procedures for:

(1) packaging and handling up to the point of delivery of the meals.

(A) Hot foods are maintained at a minimum of 135 degrees Fahrenheit.

(B) Cold foods are maintained at a temperature no more than 41 degrees Fahrenheit.

(C) Frozen foods are maintained frozen and hard;

(2) performing temperature checks at least quarterly on a random basis to ensure food is delivered at the proper temperature. Documentation of these checks is maintained by the provider and monitored by the Area Agency on Aging;

(3) packaging and packing cold, hot, and frozen foods separately;

(4) packaging meals individually and in secondary insulated food carriers to meet established safety and sanitation standards;

(5) delivering meals within ~~one hour~~four hours of ~~packaging~~leaving the production site; ~~and~~

(6) dating all disposable meal containers with the packaging date~~.~~;

(7) marking individual meals with an expiration date by which they are consumed, refrigerated, or discarded; and

(8) providing instructions with all home delivered meals regarding reheating or chilling if needed before consumption.

(d) **Cross references.** ~~See~~Refer to OAC 340:105-10-50.1(a)(4), 340:105-10-51, 340:105-10-68, 340:105-10-70, 340:105-10-74 through 340:105-10-79, 340:105-10-82 through 340:105-10-84, and 340:105-10-86.

[OAR Docket #15-635; filed 6-19-15]

TITLE 365. INSURANCE DEPARTMENT CHAPTER 1. ADMINISTRATIVE OPERATIONS

[OAR Docket #15-673]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 9. Description of Forms and Instructions
365:1-9-2. Deposit of securities forms [AMENDED]
365:1-9-18. Bail bond forms [AMENDED]
AUTHORITY:
Insurance Commissioner, 36 O.S. §§ 307.1; 59 O.S. § 1302
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
January 8, 2015
COMMENT PERIOD:
February 2, 2015 through March 4, 2015
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APPROVED BY GOVERNOR'S DECLARATION:
Approved by Governor's declaration on June 8, 2015
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June 8, 2015
EFFECTIVE:
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SUPERSEDED EMERGENCY ACTIONS:
n/a
INCORPORATIONS BY REFERENCE:
n/a
ANALYSIS:
The amendments to 365:1-9-2 and 365:1-9-18 both reflect a legislative change made by SB 1319 in 2014. Company deposits are no longer held at the State Treasurer's office, but are held at the Oklahoma Insurance Department. These amendments simply remove the references to the State Treasurer's office. 365:1-9-18 is also amended to include multicounty agent bondsmen, which is a license created by new law in 2014.
CONTACT PERSON:
Buddy Combs, Director of Public Policy, Oklahoma Insurance Department, 3625 NW 56th St., Suite 100, Oklahoma City, OK 73112, (405) 522-4609

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

SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 15, 2015:

SUBCHAPTER 9. DESCRIPTION OF FORMS AND INSTRUCTIONS

365:1-9-2. Deposit of securities forms

(a) **Deposit form.** The deposit form is used by all companies depositing securities with the Insurance Department~~ to be held by the State Treasurer's Office~~. A description of the securities and value must be itemized on this form which must accompany securities being deposited when presented to the Insurance Commissioner for approval. After completion of transaction, a copy of this form is sent to said company for use to obtain release of deposited securities. Prior to the withdrawal of said securities, the deposit form must be executed by a company official authorized to make such withdrawals and presented to the Insurance Commissioner for approval.

(b) **Resolution form.** Each company having securities on deposit with the Insurance Department must adopt a resolution and file it with the Insurance Commissioner's Office, authorizing and empowering certain persons designated by said company to deal with the securities on deposit. Requests for exchange or withdrawal of deposited securities will not be honored unless made by designated persons.

365:1-9-18. Bail bond forms

(a) **Application for bail bondsman license form.** Unless otherwise provided by electronic means by the Insurance Commissioner or an administrator approved by the Commissioner, bail bond applications must be completed by the person making application and, upon completion, must comply with the applicable Oklahoma statutes. The application shall include the license fee, a complete set of fingerprints, one recent credential-size full face photograph, an investigative fee and evidence of completion of sixteen (16) hours of education. The Commissioner may propose any reasonable interrogatories to an applicant for a license.

(b) **Bail bondsman license forms.** The bail bondsman license form, executed under the hand and seal of the Insurance Commissioner, upon execution and delivery, is evidence of an individual's authority to act as a bail bondsman within Oklahoma.

(c) **Bail bond appointment form.** The bail bond appointment form is to be completed by an insurer/professional when appointing specific surety bondsmen as agents of the insurer/professional.

(d) **Bail bond appointment cancellation form.** The notice of cancellation of bondsman insurer/professional appointment form is to be used by a insurer/professional when they desire to cancel the appointment of a surety bondsman.

(e) **Professional bondsman and multicounty agent bondsman securities deposit/withdrawal form.** The deposit/withdrawal form (State Form 31) is used for all professional bondsmen and multicounty agent bondsmen for depositing/withdrawing securities with the ~~State Treasurer through the~~ Insurance Commissioner's office.

(f) **Pledge of Account form.** The bondsman shall execute a pledge of the certificate of deposit to the Insurance Commissioner for the payment of unpaid bond forfeitures.

(g) **Assignment of Account form.** The bondsman shall execute an assignment of the annuity deposit to the Insurance Commissioner for the payment of unpaid bond forfeitures.

(h) **Proof of Courses.** As a prerequisite for submission of a renewal or reinstatement application, when requested by the Insurance Commissioner, each licensee shall have completed the total number of continuing education hours required.

(i) **Required submissions for reinstatement.** After the license expires and within one year after the license expiration date, a licensee shall be eligible for reinstatement by completing required Continuing Education and submitting a new application and double the license fee. A licensee shall not be eligible for reinstatement if previously the license was revoked, suspended or continuance denied.

(j) **Name change on an individual license.** Name changes for an individual license require proper documentation at the time of the written request, such as a copy of a court order, marriage license, or divorce decree. A duplicate license fee shall be submitted for a new license to be issued.

[OAR Docket #15-673; filed 6-30-15]

TITLE 365. INSURANCE DEPARTMENT CHAPTER 10. LIFE, ACCIDENT AND HEALTH

[OAR Docket #15-674]

RULEMAKING ACTION:
PERMANENT final adoption

RULES:
Subchapter 1. General Provisions
Part 1. General Provisions
365:10-1-13. Notification required upon rejection [REVOKED]
365:10-1-15. Eliminating unfair discrimination on basis of children as single applicants [REVOKED]
Subchapter 3. Advertising
Part 1. Accident and Health Insurance
365:10-3-3. Definitions [AMENDED]
Part 3. Life Insurance Advertising
365:10-3-31. Definitions [AMENDED]
Subchapter 9. Annuities
Part 1. New Annuity Mortality Table for Use in Determining Reserve Liabilities for Annuities
365:10-9-1. Purpose [AMENDED]
365:10-9-2. Definitions [AMENDED]
365:10-9-3. Individual annuity or pure endowment contracts [AMENDED]
365:10-9-3.1. Application of the 2012 IAR Mortality Table [NEW]
Subchapter 31. Navigators and Navigator Entities [NEW]
365:10-31-1. Purpose [NEW]
365-10-31-2. Scope [NEW]
365:10-31-3. Authority [NEW]
365:10-31-4. Individual navigator registration application, registration renewals, fees, and civil penalties [NEW]
365:10-31-5. Navigator entity registration application, registration renewals, fees, and civil penalties [NEW]
365:10-31-6. Individual navigator requirements [NEW]
365:10-31-7. Navigator entity requirements [NEW]

Appendix WW. 2012 IAM Period Table, Female, Age Nearest Birthday [NEW]
Appendix XX. 2012 IAM Period Table, Male, Age Nearest Birthday [NEW]
Appendix YY. Projection Scale G2, Female, Age Nearest Birthday [NEW]
Appendix ZZ. Projection Scale G2, Male, Age Nearest Birthday [NEW]

AUTHORITY:
Insurance Commissioner; 36 O.S. §§ 307.1 and 1415.5

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Approved by Governor's declaration on June 8, 2015

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SUPERSEDED EMERGENCY ACTIONS:

Superseded rules:
Subchapter 31. Navigators and Navigator Entities [NEW]
365:10-31-1. Purpose [NEW]
365-10-31-2. Scope [NEW]
365:10-31-3. Authority [NEW]
365:10-31-4. Individual navigator registration application, registration renewals, fees, and civil penalties [NEW]
365:10-31-5. Navigator entity registration application, registration renewals, fees, and civil penalties [NEW]
365:10-31-6. Individual navigator requirements [NEW]
365:10-31-7. Navigator entity requirements [NEW]

Gubernatorial approval:
October 6, 2014

Register publication:
32 Ok Reg 311

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14-1013

INCORPORATIONS BY REFERENCE:
n/a

ANALYSIS:
365:10-1-13 is revoked because the rule no longer has a statutory basis. 36 O.S. § 4509.2(C) was amended in 2014 to delete this requirement set out in the rule. Furthermore, 36 O.S. § 6533 was amended in 2014 to prohibit the issuance of health insurance through the Oklahoma Health Insurance High Risk Pool effective June, 2014, and all coverage terminated December 31, 2014. 365:10-1-15 is revoked because it is no longer necessary. Federal law no longer permits a health insurance carrier to deny coverage to an applicant of any age on the basis of pre-existing conditions. 365:10-3-3 and 365:10-3-31 are amended to include social media in the definition of advertisement. These two rules are also amended to correct formatting and numbering errors. An amendment to 365:10-3-31 also corrects a spelling error.

The amendments in Subchapter 9 address the National Association of Insurance Commissioners' December 2012 adoption of the revised Model Rule for Recognizing a New Annuity Mortality Table for Use in Determining Reserve Liabilities for Annuities. The revised model adds the 2012 Individual Annuity Reserving Mortality Table (2012 IAR Mortality Table). The amendments include (1) adding the 2012 IAR Mortality Table to the list of recognized mortality tables; (2) adding definitions for Period Table, Generational Mortality Table, 2012 IAR Mortality Table, 2012 IAM Period Table, and Projection Scale G2; and (3) establishing when and how the 2012 IAR Mortality Table may be used. Four new appendices (WW, XX, YY, and ZZ) are added to reflect these changes.

In 2014, the regulation of navigators and navigator entities was placed under the authority of the Insurance Commissioner with the passage of HB 3286. Subchapter 31, which supersedes emergency rules, sets out the rules to implement the provisions of that law, now codified in 36 O.S. §§ 1415.2-1415.5. Sections 1-3 set out the purpose, scope, and authority for the new rules. 365:10-31-4 sets out the process for individual navigators to register with the Oklahoma Insurance Department, required background checks, required fees, and the procedure in the event of a denial of a registration application. 365:10-31-5 sets out the process for navigator entities to register with the Oklahoma Insurance Department, required fees, and the procedure in the event of a denial of a registration application. 365:10-31-6 sets out the record keeping requirements for individual navigators and guidelines for dealing with private consumer information. 365:10-31-7 sets out the record keeping requirements for navigator entities and required reporting to the Commissioner.

CONTACT PERSON:
Buddy Combs, Director of Public Policy, Oklahoma Insurance Department, 3625 NW 56th St., Suite 100, Oklahoma City, OK 73112, (405) 522-4609

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 15, 2015:

SUBCHAPTER 1. GENERAL PROVISIONS

PART 1. GENERAL PROVISIONS

365:10-1-13. Notification required upon rejection [REVOKED]

~~In the event an insurer rejects an applicant seeking health insurance coverage, such rejection shall be in writing and shall state with specificity the reason(s) for the denial. The rejection notification shall contain the following language: "Although your application for health insurance coverage was rejected, you may be eligible for coverage through the Oklahoma Health Insurance High Risk Pool or the Oklahoma Temporary High Risk Pool. For more information regarding these alternatives, please call 1-877-885-3717 or access the website at www.bcbsok.com/ohrp."~~

365:10-1-15. Eliminating unfair discrimination on basis of children as single applicants [REVOKED]

~~(a) **Purpose.** The purpose of this section is to eliminate the act of denying benefits or coverage unfairly in the issuance, terms and conditions of insurance contracts and in underwriting criteria of insurance carriers. It is not intended to prohibit reasonable and justifiable differences in premium rates based upon sound actuarial principles or actual or reasonably anticipated experience.~~

~~(b) **Definitions.**~~

~~(1) "Child only policy" means an individual health benefit policy, which provides coverage to an individual under the age of nineteen (19). This shall not include health benefit policies that cover children under the age of nineteen (19) as a dependent;~~

~~(2) "Insurer" includes:~~

~~(A) every person engaged in the business of making contracts of insurance or indemnity,~~

~~(B) a nonprofit hospital service and medical indemnity corporation, and~~

~~(C) a health maintenance organization.~~

~~(3) "Qualifying event" means adoption or loss of existing health insurance coverage, including loss of eligibility in the SoonerCare or SoonerStart programs, 56 O.S. §§ 1010.1 through 1010.13 and 1011.1 through 1011.11, for any reason other than fraud, misrepresentation or failure to pay premium. "Qualifying event" shall also mean entry of a valid court order mandating the child be covered if there is no employer sponsored coverage available to the parent ordered to provide health insurance coverage to the child.~~

~~(c) **Enrollment.**~~

~~(1) Enrollment only allowed during certain period.~~

~~(A) Insurers issuing child only policies on or after September 23, 2010 shall only accept applications for coverage during the open enrollment period outlined in this section.~~

~~(B) Enrollment outside the open enrollment period shall be prohibited, except upon the occurrence of a qualifying event.~~

~~(2) Beginning January 1, 2012, insurers offering child only policies shall hold an open enrollment period that begins on June 1 and ends on July 31 each year. During the annual enrollment period, children under the age of nineteen (19) shall be offered coverage on a guaranteed issue basis, without any limitations or riders based on health status.~~

~~(3) Notice of the open enrollment opportunity and open enrollment dates for new applicants, as well as the opportunity to enroll due to a qualifying event, shall be displayed prominently on the insurer's website throughout the year.~~

~~(4) Applications for coverage during an open enrollment period shall become effective on the first day of the month following receipt of the completed application, except that if mutually agreed upon by the applicant and the insurer an alternative effective date may be selected.~~

~~(5) Non-health eligibility underwriting rules may be applied to child only coverage, provided such eligibility rules are uniformly applied to all applicants applying for child only coverage.~~

~~(6) Insurers shall use such rates as have been filed and approved by the Insurance Commissioner.~~

~~(d) **Insurer participation.** Only insurers that participate in the most recent open enrollment period shall be permitted to write child only policies. Any insurer not participating in the most recent open enrollment period shall be prohibited from issuing child only policies until the commencement of the next subsequent open enrollment period, regardless of whether the policy is issued as a result of a qualifying event.~~

~~(e) **Penalty for violations.** Noncompliance with this section may result, after proper notice and hearing, in an administrative action and penalty.~~

SUBCHAPTER 3. ADVERTISING

PART 1. ACCIDENT AND HEALTH INSURANCE

365:10-3-3. Definitions

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

"Advertisement" means:

(A) Printed and published material, audio-visual material, and descriptive literature of an insurer used in direct mail, newspapers, magazines, radio scripts, TV scripts, social media, billboards and similar displays; and

(B) Descriptive literature and sales aids of all kinds issued by an insurer, person, agent or broker for presentation to members of the insurance buying public, including, but not limited to circulars, leaflets, booklets, depictions, illustrations, and form letters and lead-generating devices of all kinds as herein defined; and

(C) Prepared sales talks, presentations and material for use by agents, persons, brokers, solicitors, announcers, celebrities and other persons and representations made by agents, persons, brokers, announcers, celebrities and other persons in accordance therewith.

"Exception" means any provision in a policy whereby coverage for a specified hazard is entirely eliminated; it is a statement of a risk not assumed under the policy.

"Insurer" means any individual, corporation, association, partnership, reciprocal exchange, inter-insurer, Lloyds, fraternal benefit society, health maintenance organization, and any other legal entity which is defined as an "insurer" in the Insurance Code of this state and is engaged in the advertisement of a policy as "policy" is herein defined.

"Lead-Generating Device" means any communication directed to the public which, regardless of form, content or stated purpose, is intended to result in the compilation or qualification of a list containing names and other personal information to be used to solicit residents of this State for the purchase of accident and sickness insurance.

"Limitation" means any provision which restricts coverage under the policy other than an exception or a reduction.

"Policy" means any policy, plan, certificate, contract, agreement, statement of coverage, rider or endorsement which provides accident, disability or sickness benefits, or medical, surgical or hospital expense benefits, whether or an indemnity reimbursement, service or prepaid basis, except when issued in connection with another kind of insurance other than life, and except disability, waiver of premium and double indemnity benefits included in life insurance and annuity contracts.

"Reduction" means any provision which reduces the amount of the benefit; a risk of loss is assumed but payment upon the occurrence of such loss is limited to some amount or period less than would be otherwise payable had such reduction not been used.

PART 3. LIFE INSURANCE ADVERTISING

365:10-3-31. Definitions

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

(1) **"Advertisement"** means material designed to create public interest in life insurance or annuities or in an insurer, or in an insurance producer; or to induce the public to purchase, increase, modify, reinstate, borrow on, surrender, replace, or retain a policy, provided:

(A) **"Advertisement"** shall include:

(i) printed and published material, audiovisual material, and descriptive literature of an insurer or insurance producer used in direct mail, newspapers, magazines, radio and television scripts, social media, billboards and similar displays;

(ii) descriptive literature and sales aids of all kinds, authored by the insurer, its insurance producers, or third parties, issued, distributed or used by such insurer or insurance producer; including but not limited to circulars, leaflets, booklets, depictions, illustrations and form letters;

(iii) material used for the recruitment, training, and education of an insurer's insurance producers which is designed to be used or is used to induce the public to purchase, increase, modify, reinstate, borrow on, surrender, replace or retain a policy;

(iv) prepared sales talks, presentations and material for use by insurance producers.

(B) **"Advertisement"** shall not include:

(i) communications or materials used within an insurer's own organization and not intended for dissemination to the public;

(ii) communications with policyholders other than material urging policyholders to purchase, increase, modify, reinstate or retain a policy;

(iii) a general announcement from a group or blanket policyholder to eligible individuals on an employment or membership list that a policy or program has been written or arranged; provided the announcement clearly indicates that it is preliminary to the issuance of a booklet explaining the proposed coverage.

(2) **"Insurance producer"** means an individual who solicits, negotiates, effects, procures, renews, continues or binds policies of life insurance covering risks located in this State.

(3) **"Insurer"** means any individual, corporation, association, partnership, reciprocal exchange, interinsurer, Lloyd's, fraternal benefit society, and any other legal entity which is defined as an "insurer" in the insurance code of this State or issues life insurance or annuities in this State and is engaged in the advertisement of a policy.

(4) **"Policy"** means any policy, plan, certificate, including fraternal benefit certificate, contract, agreement, statement of coverage, rider or endorsement which provides for life insurance or annuity benefits.

(5) **"Non-guaranteed policy element"** means any premium, cash value, death benefit, endowment value, dividend or other policy benefit or pricing element or portion thereof whose amount is not guaranteed by the terms of the contract. Any policy element that contractually follows a separate account result or a defined index is not considered a non-guaranteed policy element.

(6) **"Pre-need funeral contract or prearrangement"** means an agreement by or for an individual before the individual's death relating to the purchase of provision of specific funeral or cemetery merchandise or services.

(~~3~~b) **Applicability.**

(~~A~~1) The rules of this section shall apply to any life insurance or annuity advertisement intended for dissemination in this State.

(~~B~~2) Every insurer of life insurance shall establish and at all times maintain a system of control over the content, form and method of dissemination of all advertisements of its policies. All such advertisements, regardless of by whom written, created, designed or presented, shall be the responsibility of the insurer.

(~~4~~c) **Conflict with other rules.** It is not intended that the rules of this section conflict with or supersede any rules currently in force or subsequently adopted in this State governing specific aspects of the sale or replacement of life insurance including, but not limited to, rules dealing with life insurance cost comparison indices, deceptive practices in the sale of life insurance, and replacement of life insurance policies. Consequently, no disclosure required under any such rules shall be deemed to be an advertisement within the meaning of the rules of this section.

(~~5~~d) **Severability.** If any section, term or provision of this section shall be adjudged invalid for any reason, such judgment shall not affect, impair or invalidate any other Section, term or provision of this section, and the remaining Sections, terms and provisions shall be and remain in full force and effect.

SUBCHAPTER 9. ANNUITIES

PART 1. NEW ANNUITY MORTALITY TABLE FOR USE IN DETERMINING RESERVE LIABILITIES FOR ANNUITIES

365:10-9-1. Purpose

The purpose of this Part is to recognize the following mortality tables for use in determining the minimum standard of valuation for annuity and pure endowment contracts: the 1983 Table "a," the 1983 Group Annuity Mortality (hereinafter 1983 GAM) Table, the Annuity 2000 Mortality Table, ~~and~~ the 1994 Group Annuity Reserving (hereinafter 1994 GAR) Table, and the 2012 Individual Annuity Reserving (2012 IAR) Table.

365:10-9-2. Definitions

(a) **1983 Table "a."** As used in this Part "1983 Table 'a'" means that mortality table developed by the Society of Actuaries Committee to Recommend a New Mortality Basis for Individual Annuity Valuation and adopted as a recognized

mortality table for annuities in June 1982 by the National Association of Insurance Commissioners.

(b) **1983 GAM Table.** As used in this Part "1983 GAM Table" means that mortality table developed by the Society of Actuaries Committee on Annuities and adopted as a recognized mortality table for annuities in December 1983 by the National Association of Insurance Commissioners.

(c) **1994 GAR Table.** As used in this Part "1994 GAR Table" means that mortality table developed by the Society of Actuaries Group Annuity Valuation Table Task Force and shown on pages 866-867 of Volume XLVII of the *Transactions of the Society of Actuaries* (1995).

(d) **Annuity 2000 Mortality Table.** As used in this Part "Annuity 2000 Mortality Table" means that mortality table developed by the Society of Actuaries Committee on Life Insurance Research and shown on page 240 of Volume XLVII of the *Transactions of the Society of Actuaries* (1995).

(e) As used in this Part "Period table" means a table of mortality rates applicable to a given calendar year (the Period).

(f) As used in this Part "Generational mortality table" means a mortality table containing a set of mortality rates that decrease for a given age from one year to the next based on a combination of a Period table and a projection scale containing rates of mortality improvement.

(g) As used in this Part "2012 IAR Table" means that Generational Mortality table developed by the Society of Actuaries Committee on Life Insurance Research and containing rates, q_x^{2012+n}, derived from a combination of the 2012 IAM Period Table and Projection Scale G2, using the methodology stated in OAC 365:10-9-4.

(h) As used in this Part "2012 Individual Annuity Mortality Period Life (2012 IAM Period) Table" means the Period table containing loaded mortality rates for calendar year 2012. This table contains rates, q_x^{2012}, developed by the Society of Actuaries Committee on Life Insurance Research and is shown in Appendices WW and XX.

(i) As used is this Part "Projection Scale G2 (Scale G2)" is a table of annual rates, $G2_x$, of mortality improvement by age for projecting future mortality rates beyond calendar year 2012. This table was developed by the Society of Actuaries Committee on Life Insurance Research and is shown in Appendices YY and ZZ.

365:10-9-3. Individual annuity or pure endowment contracts

(a) Except as provided in 365:10-9-3(b) and (c), the 1983 Table "a" is recognized and approved as an individual annuity mortality table for valuation and, at the option of the company, may be used for purposes of determining the minimum standard of valuation for any individual annuity or pure endowment contract issued on or after July 1, 1981.

(b) Except as provided in 365:10-9-3(c), either the 1983 Table "a" or the Annuity 2000 Mortality Table is to be used for determining the minimum standard of valuation for any individual annuity or pure endowment contract issued on or after July 1, 1985.

(c) Except as provided in 365:10-9-3(e), the Annuity 2000 Mortality Table shall be used for determining the minimum standard of valuation for any individual annuity or pure endowment contract issued on or after January 1, 1998.

(d) Except as provided in Subsection (e) of this section, the 2012 IAR Mortality Table shall be used for determining the minimum standard of valuation for any individual annuity or pure endowment contract issued on or after January 1, 2015.

(~~d~~e) The 1983 Table "a" without projection is to be used for determining the minimum standards of valuation for an individual annuity or pure endowment contract issued on or after January 1, 1998, solely when the contract is based on life contingencies and is issued to fund periodic benefits arising from:

(1) Settlements of various forms of claims pertaining to court settlements or out of court settlements from tort actions;

(2) Settlements involving similar actions such as worker's compensation claims; or

(3) Settlements of long term disability claims where a temporary or life annuity has been used in lieu of continuing disability payments.

365:10-9-3.1. Application of the 2012 IAR Mortality Table

(a) In using the 2012 IAR Mortality Table, the mortality rate for a person age x in year (2012 + n) is calculated as follows:

$q_x^{2012+n} = q_x^{2012}(1 - G2_x)^n$

(b) The resulting q_x^{2012+n} shall be rounded to three decimal places per 1,000, e.g., 0.741 deaths per 1,000. Also, the rounding shall occur according to the formula above, starting at the 2012 period table rate.

(c) For example, for a male age 30:

(1) $q_x^{2012} = 0.741$.

(2) $q_x^{2013} = 0.741 * (1 - 0.010) \wedge 1 = 0.73359$, which is rounded to 0.734.

(3) $q_x^{2014} = 0.741 * (1 - 0.010) \wedge 2 = 0.7262541$, which is rounded to 0.726.

(d) A method leading to incorrect rounding would be to calculate q_x^{2014} as $q_x^{2013} * (1 - 0.010)$, or $0.734 * 0.99 = 0.727$.

(e) It is incorrect to use the already rounded q_x^{2013} to calculate q_x^{2014}.

SUBCHAPTER 31. NAVIGATORS AND NAVIGATOR ENTITIES

365:10-31-1. Purpose

The purpose of this Subchapter is to set forth the regulations and procedures relating to the registration and oversight of navigators and navigator entities under 36 O.S. §§ 1415.2-1415.5.

365:10-31-2. Scope

This Subchapter shall apply to all navigators and navigator entities, as defined by 36 O.S. § 1415.2, which must be registered pursuant to 36 O.S. § 1415.3.

365:10-31-3. Authority

This Subchapter is promulgated under the authority granted to the Insurance Commissioner ("Commissioner") in 36 O.S. § 1415.5.

365:10-31-4. Individual navigator registration application, registration renewals, fees, and civil penalties

(a) An application for an individual navigator registration shall be on a form provided by the Commissioner and shall be accompanied by a fee of Twenty-Five Dollars ($25.00). This fee shall be deemed earned and not refundable if the application is denied, withdrawn, cancelled, or refused for any reason by either the applicant or the Commissioner. Subject to the Oklahoma Insurance Department's ("OID") ability to accept electronic applications, all applicants for an individual navigator registration shall apply electronically. The individual navigator registration fee may be paid by the individual navigator or by the navigator entity employing or supervising the navigator.

(b) An applicant for an initial individual navigator registration shall submit to a criminal background check with the Oklahoma State Bureau of Investigation ("OSBI"). The criminal background check shall be conducted through submission of a Criminal History Record Information Request Form ("Form") to the OSBI. The Form can be found on the OSBI website. An individual navigator registration applicant shall submit to the following searches with the OSBI: name based, sex offender, and Mary Rippy Violent Offender. The individual navigator registration applicant shall submit a completed OSBI criminal background check report to the OID at the time of application.

(1) An individual navigator registration applicant who is not a resident of the State of Oklahoma shall submit with his or her initial application the results of a criminal background check conducted by the state in which the applicant maintains his or her principal place of residence.

(2) The background check required by this Section may be requested and paid for by the individual navigator or by the navigator entity employing or supervising the navigator.

(3) The background check required by this Section shall be current as of a date no more than thirty (30) days prior to the date of application.

(c) An individual navigator registration shall continue in force no longer than twelve (12) months from the month of issuance. If the individual navigator fails to timely apply for renewal of his or her registration or fails to pay any applicable fees or outstanding fines by the last day of the month in which the registration was originally issued, the registration shall expire automatically and the individual shall be required to apply for a registration in the same manner as an initial individual navigator registration application.

(d) Upon filing an individual navigator registration renewal application on a form provided by the Commissioner, and upon payment of a renewal fee of Twenty-Five Dollars ($25.00), a renewal registration shall be issued by the Commissioner to an individual navigator registrant who has continuously maintained such registration. The registration renewal fee may be paid by the individual navigator or by the navigator entity employing or supervising the navigator. An applicant for renewal of an individual navigator registration shall not be required to submit to a new criminal background check with the OSBI.

(e) In the event that the Commissioner declines to issue or renew an individual navigator registration for any reason provided by law, the Commissioner shall notify the individual of such declination and advise the individual, in writing, of the reason for the denial or nonrenewal of the individual's navigator registration. The individual may make written demand upon the Commissioner within thirty (30) days of the date of notification by the Commissioner for a hearing before the Commissioner or an independent hearing examiner appointed by the Commissioner to determine the existence of the grounds for the Commissioner's action. The hearing shall be held within a reasonable time period pursuant to the Oklahoma Administrative Procedures Act.

(f) After notice and opportunity for hearing, and upon determining that an individual navigator has violated any of the provisions of Title 36 of the Oklahoma Statutes, or any rules promulgated by the Commissioner, the Commissioner or his or her duly appointed hearing examiner may suspend or revoke an individual navigator registration and assess a civil penalty for each occurrence, or both, as set out by 36 O.S. §§ 1415.3 and 1415.4.

365:10-31-5. Navigator entity registration application, registration renewals, fees, and civil penalties

(a) An application for a navigator entity registration shall be on a form provided by the Commissioner and shall be accompanied by a fee of Fifty Dollars ($50.00). This fee shall be deemed earned and not refundable if the application is denied, withdrawn, cancelled, or refused for any reason by either the applicant or the Commissioner. Subject to the OID's ability to accept electronic applications, all applicants for a navigator entity registration shall apply electronically.

(b) The navigator entity registration shall continue in force no longer than twelve (12) months from the month of issuance. If the navigator entity fails to timely apply for renewal of its registration or fails to pay any applicable fees or outstanding fines by the last day of the month in which the license was originally issued, the registration shall expire automatically and the navigator entity shall be required to apply for a registration in the same manner as an initial navigator entity registration application.

(c) Upon filing a navigator entity registration renewal application on a form provided by the Commissioner, and upon payment of a renewal fee of Fifty Dollars ($50.00), a renewal registration shall be issued by the Commissioner to a navigator entity registrant which has continuously maintained such registration.

(d) In the event that the Commissioner declines to issue or renew a navigator entity registration for any of the reasons provided by law, the Commissioner shall notify the entity of such declination and advise the entity, in writing, of the reason for the denial or nonrenewal of the navigator entity registration. The entity may make written demand upon the Commissioner

within thirty (30) days of the date of notification by the Commissioner for a hearing before the Commissioner or an independent hearing examiner appointed by the Commissioner to determine the existence of the grounds for the Commissioner's action. The hearing shall be held within a reasonable time period pursuant to the Oklahoma Administrative Procedures Act.

(e) After notice and opportunity for hearing, and upon determining that a navigator entity has violated any of the provisions of Title 36 of the Oklahoma Statutes, or any rules promulgated by the Commissioner, the Commissioner or his or her duly appointed hearing examiner may suspend or revoke the navigator entity's registration.

(f) After notice and opportunity for hearing, and upon determining that a navigator entity has allowed an individual who is employed or overseen by the navigator entity to interact with individuals or employer groups while performing any of the functions of a navigator without an active registration, the Commissioner or his or her duly appointed hearing examiner may assess a civil penalty as set out by 36 O.S. § 1415.3.

365:10-31-6. Individual navigator requirements

(a) For the purpose of this Subchapter, the term "assist" shall mean:

(1) facilitating the application for or enrollment of an individual or employer group in a qualified health plan (QHP) on the exchange, either though an in-person meeting, telephone conversation, video conference, mail, or any other electronic means, regardless of whether the individual or employer group completes final enrollment in a QHP, or

(2) assisting in determining an individual's eligibility for premium tax credits and cost sharing reductions available for QHPs, including but not limited to receiving an individual's financial information for the purpose of determining said eligibility.

(b) "Assist" shall not include answering general questions about the exchange such as the website address or phone number of the exchange.

(c) If an individual navigator obtains authorization to provide assistance to an individual or employer group pursuant to 45 C.F.R. § 155.210(e)(6)(ii), the navigator shall provide a disclaimer to the individual or employer group on a form provided by the Commissioner. If the navigator assists an individual or employer group via telephone, the navigator shall read the contents of the disclaimer to the individual or employer group, confirm that the individual or employer group understands the disclaimer, and shall send a signed copy of the disclaimer to the individual or employer group via certified mail, e-mail, or facsimile.

(d) If an individual navigator obtains authorization to provide assistance to an individual or employer group pursuant to 45 C.F.R. § 155.210(e)(6)(ii), the navigator shall record the contact information and the date of contact for the individual or employer group and provide such information to the navigator entity within three (3) business days after the date of contact. "Contact information" shall mean, but is not limited to, an individual or employer group's name, mailing address, phone number, and e-mail address. A navigator shall only be required to record an individual or employer group's contact information which is available.

(e) Any individual or employer group receiving assistance from a navigator may refuse, in writing, to allow the individual or employer group's contact information from being disclosed to the Oklahoma Insurance Department. Provided, however, that no individual navigator shall instruct, coerce, or otherwise direct the individual or employer group to make such a refusal. An individual navigator shall provide a copy of the written refusal to the navigator entity within three (3) business days after the date of refusal. If the individual or employer group receiving assistance from a navigator refuses in writing to allow the individual or employer group's contact information from being disclosed to the Oklahoma Insurance Department, the disclaimer form shall still be provided to the individual or employer group pursuant to paragraph (c) of this Section.

(f) An individual navigator shall allow for an inspection of operations and records related to the fulfillment of the enrollment or assistance with enrollment duties of the individual navigator at the discretion of the Commissioner. In order to safeguard consumer privacy, such an inspection of operations and records shall not include the observation of an enrollment session.

(g) An individual navigator shall submit to the Commissioner, at the request of the Commissioner, a report setting forth the individuals or employer groups which have received a disclaimer form from the navigator pursuant to paragraph (c) of this Section. The report shall include the contact information of any individual or employer group received by the navigator pursuant to paragraph (d) of this Section.

(h) Any notification or report submitted to the Commissioner shall be submitted electronically. Any navigator or navigator entity submitting information to the Commissioner shall take appropriate steps to safeguard the transmission of the information in compliance with applicable federal and state laws governing the security of such information.

365:10-31-7. Navigator entity requirements

(a) A navigator entity shall maintain a record of all individuals employed or overseen as an individual navigator for a period of three (3) years following the date of termination of the employment or oversight of the individual as a navigator. This record shall include the name, date of hiring, job title, job description, length of employment, and date of termination for each individual navigator. Subject to the ability of the navigator entity, these records shall be maintained electronically.

(b) A navigator entity shall maintain all records required to be provided to the navigator entity by registered individual navigators for a period of three (3) years following the date of termination of the employment or oversight of each individual navigator. Subject to the ability of the navigator entity, these records shall be maintained electronically.

(c) A navigator entity shall allow for an inspection of operations and records related to the fulfillment of the enrollment or assistance with enrollment duties at the discretion of the Commissioner. In order to safeguard consumer privacy, such an inspection of operations and records shall not include the observation of an enrollment session.

(d) A navigator entity shall submit to the Commissioner, at the request of the Commissioner, a report setting forth the individuals or employer groups which have received a disclaimer from any navigator employed or supervised by the navigator entity pursuant to paragraph (c) of Section 6 of this Subchapter. The report shall include the contact information of any individual or employer group received by the navigator pursuant to paragraph (d) of Section 6 of this Subchapter.

(e) At the time of application, a navigator entity shall provide the Commissioner with a list of all individual navigators whom, at the time of application, it is employing, supervising or affiliated with or has, during the previous year while registered as a navigator entity, employed, supervised or been affiliated with. Subject to the ability of the navigator entity, this list shall be submitted to the OID electronically.

(f) A navigator entity registrant shall report to the Commissioner any termination of employment, engagement, affiliation or other relationship with an individual navigator within thirty (30) days if the individual navigator registrant is terminated for failing to comply with any requirement of Title 36 of the Oklahoma Statutes. Subject to the ability of the navigator entity, this report shall be submitted electronically to the OID.

(g) A navigator entity registrant shall report to the Commissioner any change in the entity's designated responsible party within ten (10) days after the change.

APPENDIX WW. 2012 IAM PERIOD TABLE, FEMALE, AGE NEAREST BIRTHDAY [NEW]

2012 IAM Period Table
Female, Age Nearest Birthday

AGE	$1000 \cdot q_x^{2012}$	AGE	$1000 \cdot q_x^{2012}$	AGE	$1000 \cdot q_x^{2012}$	AGE	$1000 \cdot q_x^{2012}$
0	**1.621**	30	**0.300**	60	**3.460**	90	**88.377**
1	**0.405**	31	**0.321**	61	**3.916**	91	**97.491**
2	**0.259**	32	**0.338**	62	**4.409**	92	**107.269**
3	**0.179**	33	**0.351**	63	**4.933**	93	**118.201**
4	**0.137**	34	**0.365**	64	**5.507**	94	**130.969**
5	**0.125**	35	**0.381**	65	**6.146**	95	**146.449**
6	**0.117**	36	**0.402**	66	**6.551**	96	**163.908**
7	**0.110**	37	**0.429**	67	**7.039**	97	**179.695**
8	**0.095**	38	**0.463**	68	**7.628**	98	**196.151**
9	**0.088**	39	**0.504**	69	**8.311**	99	**213.150**
10	**0.085**	40	**0.552**	70	**9.074**	100	**230.722**
11	**0.086**	41	**0.600**	71	**9.910**	101	**251.505**
12	**0.094**	42	**0.650**	72	**10.827**	102	**273.007**
13	**0.108**	43	**0.697**	73	**11.839**	103	**295.086**
14	**0.131**	44	**0.740**	74	**12.974**	104	**317.591**
15	**0.156**	45	**0.780**	75	**14.282**	105	**340.362**
16	**0.179**	46	**0.825**	76	**15.799**	106	**362.371**
17	**0.198**	47	**0.885**	77	**17.550**	107	**384.113**
18	**0.211**	48	**0.964**	78	**19.582**	108	**400.000**
19	**0.221**	49	**1.051**	79	**21.970**	109	**400.000**
20	**0.228**	50	**1.161**	80	**24.821**	110	**400.000**
21	**0.234**	51	**1.308**	81	**28.351**	111	**400.000**
22	**0.240**	52	**1.460**	82	**32.509**	112	**400.000**
23	**0.245**	53	**1.613**	83	**37.329**	113	**400.000**
24	**0.247**	54	**1.774**	84	**42.830**	114	**400.000**
25	**0.250**	55	**1.950**	85	**48.997**	115	**400.000**
26	**0.256**	56	**2.154**	86	**55.774**	116	**400.000**
27	**0.261**	57	**2.399**	87	**63.140**	117	**400.000**
28	**0.270**	58	**2.700**	88	**71.066**	118	**400.000**
29	**0.281**	59	**3.054**	89	**79.502**	119	**400.000**
						120	**1000.000**

APPENDIX XX. 2012 IAM PERIOD TABLE, MALE, AGE NEAREST BIRTHDAY [NEW]

2012 IAM Period Table
Male, Age Nearest Birthday

AGE	$1000 \cdot q_x^{2012}$	AGE	$1000 \cdot q_x^{2012}$	AGE	$1000 \cdot q_x^{2012}$	AGE	$1000 \cdot q_x^{2012}$
0	**1.605**	30	**0.741**	60	**5.096**	90	**109.993**
1	**0.401**	31	**0.751**	61	**5.614**	91	**123.119**
2	**0.275**	32	**0.754**	62	**6.169**	92	**137.168**
3	**0.229**	33	**0.756**	63	**6.759**	93	**152.171**
4	**0.174**	34	**0.756**	64	**7.398**	94	**168.194**
5	**0.168**	35	**0.756**	65	**8.106**	95	**185.260**
6	**0.165**	36	**0.756**	66	**8.548**	96	**197.322**
7	**0.159**	37	**0.756**	67	**9.076**	97	**214.751**
8	**0.143**	38	**0.756**	68	**9.708**	98	**232.507**
9	**0.129**	39	**0.800**	69	**10.463**	99	**250.397**
10	**0.113**	40	**0.859**	70	**11.357**	100	**268.607**
11	**0.111**	41	**0.926**	71	**12.418**	101	**290.016**
12	**0.132**	42	**0.999**	72	**13.675**	102	**311.849**
13	**0.169**	43	**1.069**	73	**15.150**	103	**333.962**
14	**0.213**	44	**1.142**	74	**16.860**	104	**356.207**
15	**0.254**	45	**1.219**	75	**18.815**	105	**380.000**
16	**0.293**	46	**1.318**	76	**21.031**	106	**400.000**
17	**0.328**	47	**1.454**	77	**23.540**	107	**400.000**
18	**0.359**	48	**1.627**	78	**26.375**	108	**400.000**
19	**0.387**	49	**1.829**	79	**29.572**	109	**400.000**
20	**0.414**	50	**2.057**	80	**33.234**	110	**400.000**
21	**0.443**	51	**2.302**	81	**37.533**	111	**400.000**
22	**0.473**	52	**2.545**	82	**42.261**	112	**400.000**
23	**0.513**	53	**2.779**	83	**47.441**	113	**400.000**
24	**0.554**	54	**3.011**	84	**53.233**	114	**400.000**
25	**0.602**	55	**3.254**	85	**59.855**	115	**400.000**
26	**0.655**	56	**3.529**	86	**67.514**	116	**400.000**
27	**0.688**	57	**3.845**	87	**76.340**	117	**400.000**
28	**0.710**	58	**4.213**	88	**86.388**	118	**400.000**
29	**0.727**	59	**4.631**	89	**97.634**	119	**400.000**
						120	**1000.000**

APPENDIX YY. PROJECTION SCALE G2, FEMALE, AGE NEAREST BIRTHDAY [NEW]

Projection Scale G2
Female, Age Nearest Birthday

AGE	$G2_x$	AGE	$G2_x$	AGE	$G2_x$	AGE	$G2_x$
0	**0.010**	30	**0.010**	60	**0.013**	90	**0.006**
1	**0.010**	31	**0.010**	61	**0.013**	91	**0.006**
2	**0.010**	32	**0.010**	62	**0.013**	92	**0.005**
3	**0.010**	33	**0.010**	63	**0.013**	93	**0.005**
4	**0.010**	34	**0.010**	64	**0.013**	94	**0.004**
5	**0.010**	35	**0.010**	65	**0.013**	95	**0.004**
6	**0.010**	36	**0.010**	66	**0.013**	96	**0.004**
7	**0.010**	37	**0.010**	67	**0.013**	97	**0.003**
8	**0.010**	38	**0.010**	68	**0.013**	98	**0.003**
9	**0.010**	39	**0.010**	69	**0.013**	99	**0.002**
10	**0.010**	40	**0.010**	70	**0.013**	100	**0.002**
11	**0.010**	41	**0.010**	71	**0.013**	101	**0.002**
12	**0.010**	42	**0.010**	72	**0.013**	102	**0.001**
13	**0.010**	43	**0.010**	73	**0.013**	103	**0.001**
14	**0.010**	44	**0.010**	74	**0.013**	104	**0.000**
15	**0.010**	45	**0.010**	75	**0.013**	105	**0.000**
16	**0.010**	46	**0.010**	76	**0.013**	106	**0.000**
17	**0.010**	47	**0.010**	77	**0.013**	107	**0.000**
18	**0.010**	48	**0.010**	78	**0.013**	108	**0.000**
19	**0.010**	49	**0.010**	79	**0.013**	109	**0.000**
20	**0.010**	50	**0.010**	80	**0.013**	110	**0.000**
21	**0.010**	51	**0.010**	81	**0.012**	111	**0.000**
22	**0.010**	52	**0.011**	82	**0.012**	112	**0.000**
23	**0.010**	53	**0.011**	83	**0.011**	113	**0.000**
24	**0.010**	54	**0.011**	84	**0.010**	114	**0.000**
25	**0.010**	55	**0.012**	85	**0.010**	115	**0.000**
26	**0.010**	56	**0.012**	86	**0.009**	116	**0.000**
27	**0.010**	57	**0.012**	87	**0.008**	117	**0.000**
28	**0.010**	58	**0.012**	88	**0.007**	118	**0.000**
29	**0.010**	59	**0.013**	89	**0.007**	119	**0.000**
						120	**0.000**

APPENDIX ZZ. PROJECTION SCALE G2, MALE, AGE NEAREST BIRTHDAY [NEW]

Projection Scale G2
Male, Age Nearest Birthday

AGE	$G2_x$	AGE	$G2_x$	AGE	$G2_x$	AGE	$G2_x$
0	**0.010**	30	**0.010**	60	**0.015**	90	**0.007**
1	**0.010**	31	**0.010**	61	**0.015**	91	**0.007**
2	**0.010**	32	**0.010**	62	**0.015**	92	**0.006**
3	**0.010**	33	**0.010**	63	**0.015**	93	**0.005**
4	**0.010**	34	**0.010**	64	**0.015**	94	**0.005**
5	**0.010**	35	**0.010**	65	**0.015**	95	**0.004**
6	**0.010**	36	**0.010**	66	**0.015**	96	**0.004**
7	**0.010**	37	**0.010**	67	**0.015**	97	**0.003**
8	**0.010**	38	**0.010**	68	**0.015**	98	**0.003**
9	**0.010**	39	**0.010**	69	**0.015**	99	**0.002**
10	**0.010**	40	**0.010**	70	**0.015**	100	**0.002**
11	**0.010**	41	**0.010**	71	**0.015**	101	**0.002**
12	**0.010**	42	**0.010**	72	**0.015**	102	**0.001**
13	**0.010**	43	**0.010**	73	**0.015**	103	**0.001**
14	**0.010**	44	**0.010**	74	**0.015**	104	**0.000**
15	**0.010**	45	**0.010**	75	**0.015**	105	**0.000**
16	**0.010**	46	**0.010**	76	**0.015**	106	**0.000**
17	**0.010**	47	**0.010**	77	**0.015**	107	**0.000**
18	**0.010**	48	**0.010**	78	**0.015**	108	**0.000**
19	**0.010**	49	**0.010**	79	**0.015**	109	**0.000**
20	**0.010**	50	**0.010**	80	**0.015**	110	**0.000**
21	**0.010**	51	**0.011**	81	**0.014**	111	**0.000**
22	**0.010**	52	**0.011**	82	**0.013**	112	**0.000**
23	**0.010**	53	**0.012**	83	**0.013**	113	**0.000**
24	**0.010**	54	**0.012**	84	**0.012**	114	**0.000**
25	**0.010**	55	**0.013**	85	**0.011**	115	**0.000**
26	**0.010**	56	**0.013**	86	**0.010**	116	**0.000**
27	**0.010**	57	**0.014**	87	**0.009**	117	**0.000**
28	**0.010**	58	**0.014**	88	**0.009**	118	**0.000**
29	**0.010**	59	**0.015**	89	**0.008**	119	**0.000**
						120	**0.000**

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TITLE 365. INSURANCE DEPARTMENT
CHAPTER 15. PROPERTY AND CASUALTY

[OAR Docket #15-675]

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Subchapter 1. General Provisions
365:15-1-3. Property and casualty form filings [AMENDED]
365:15-1-3.1. Workers' compensation ~~medical claims small~~optional deductible form [AMENDED]
Subchapter 7. Property and Casualty Competitive Loss Cost Rating Regulation
365:15-7-3. Property and casualty rate, loss cost and manual rule filings [AMENDED]
Subchapter 9. Medical Professional Liability Rate Setting [REVOKED]
365:15-9-1. Purpose [REVOKED]
365:15-9-2. Severability [REVOKED]
365:15-9-3. Notice to Policyholders [REVOKED]
365:15-9-4. Certified shorthand reporter [REVOKED]
365:15-9-5. Purchasing Groups [REVOKED]
365:15-9-6. Rating Organizations [REVOKED]
365:15-9-6.1. Umbrella medical professional liability coverage [REVOKED]
365:15-9-7. Right to Appeal [REVOKED]
365:15-9-8. Miscellaneous [REVOKED]
365:15-9-9. Rate change application is a public record [REVOKED]
365:15-9-10. Property and casualty rate, loss cost and manual rule filings [REVOKED]
365:15-9-11. Duration of filings [REVOKED]
365:15-9-12. Forms governed by Article 36 [REVOKED]
365:15-9-13. Group filings [REVOKED]
365:15-9-14. Independent filings [REVOKED]
365:15-9-15. Reference filings [REVOKED]
365:15-9-16. Members of or subscribers to a licensed advisory organization [REVOKED]
365:15-9-17. Resubmittal of disapproved or rejected filings~~.~~ [REVOKED]
365:15-9-18. Statistical plans [REVOKED]
365:15-9-19. Outside Review [REVOKED]
365:15-9-20. Individual risk rating plans [REVOKED]
365:15-9-21. Waiver of Premium [REVOKED]
365:15-9-22. Withdrawal or discontinue writing [REVOKED]
Appendix B. Oklahoma Workers' Compensation Small Deductible Acceptance/Rejection Form [REVOKED]
Appendix B. Oklahoma Workers' Compensation Optional Deductible Acceptance/Rejection Form [NEW]
Appendix D. Format for Notification to Policyholders of Application for Rate Change [REVOKED]
AUTHORITY:
Insurance Commissioner; 36 O.S. §§ 307.1 and 987
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
January 8, 2015
COMMENT PERIOD:
February 2, 2015 through March 4, 2015
PUBLIC HEARING:
March 5, 2015
ADOPTION:
March 27, 2015
SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:
March 27, 2015
APPROVED BY GOVERNOR'S DECLARATION:
Approved by Governor's declaration on June 8, 2015
FINAL ADOPTION:
June 8, 2015
EFFECTIVE:
September 15, 2015
SUPERSEDED EMERGENCY ACTIONS:
n/a
INCORPORATIONS BY REFERENCE:
n/a

ANALYSIS:
The proposed revision to 365:15-1-3 eliminates the word "paper" because the Insurance Department is moving toward all filings being done electronically. 365:15-1-3.1 is amended to reflect a legislative change to the referenced statute. The proposed revision to 365:15-7-3 eliminates the word "paper" because the Insurance Department is moving toward all filings being done electronically.
The entirety of Subchapter 9 is revoked because the statutory basis for the rules, 36 O.S. § 6821, was repealed in HB 1512 in 2013.
Appendix B is revoked and re-passed to reflect a change to the authorizing statute.
Appendix D is revoked because the authorizing statute has been repealed.
CONTACT PERSON:
Buddy Combs, Director of Public Policy, Oklahoma Insurance Department, 3625 NW 56th St., Suite 100, Oklahoma City, OK 73112, (405) 522-4609

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 15, 2015:

SUBCHAPTER 1. GENERAL PROVISIONS

365:15-1-3. Property and casualty form filings

(a) **Purpose.** The purpose of this section is to specify the procedures for submitting form filings to the Insurance Commissioner as required by Article 36 of the Insurance Code.

(b) **Procedures.** Policy forms, endorsements and revisions thereto, by insurance companies and advisory organizations licensed in Oklahoma, shall be submitted in compliance with this section, or shall be rejected for filing, and the entity that made such submission shall be so notified.

(1) **Filing requirements.** The Insurance Code, Article 36, requires that each insurer shall make its form filings by line of business directly with the Insurance Commissioner. Companies may satisfy their obligation to make such filings, where authorized by law, by becoming a member or subscriber to an Oklahoma licensed advisory organization that makes such filings.

(2) **Filing fees.**

(A) Form filings shall be accompanied by the proper fees as specified in the Insurance Code. Fees shall not be paid in cash.

(B) Filings for groups of insurers shall be accompanied by the specified fee for each transaction, regardless of the number of members or subscribers.

(C) Filings by advisory organizations shall be accompanied by the specified fee for each transaction regardless of the number of members or subscribers.

(3) **Address requirements.** All filings shall be addressed as follows: Oklahoma Insurance Commissioner, 3625 NW 56th Street, Suite 100, Oklahoma City, Oklahoma 73112.

(4) **Number of copies.** All filings except those exempted shall be submitted through the System for Electronic Rate and Form Filing (SERFF) pursuant to the SERFF General Instructions. All ~~paper~~ filings including

the cover letter, all exhibits, forms and additional information submitted to the Insurance Commissioner shall be typewritten or printed and submitted with one (1) legible copy of all material. Companies that file as a group listing all companies on the transmittal letter may accomplish this requirement by submitting one (1) typewritten or printed legible copy of all material.

(5) **Effective date of filings.** The effective date of form filings and the dates of required action by the Insurance Commissioner are governed by the applicable provisions of the Insurance Code.

(6) **Notice of Insurance Commissioner action.** The Insurance Commissioner shall indicate action taken through the System for Electronic Rate and Form Filing (SERFF). Nothing in this section shall preclude the Insurance Commissioner from the use of other forms of communication to secure information from the filing entity.

(7) **Life, accident and health insurance.** This section does not apply to Life, Accident and Health. Life, Accident and Health filings shall be made in accordance with the applicable provisions of the Insurance Code and Rules of the Insurance Commissioner.

(8) **Postage requirements.** No submissions shall be accepted which arrive at the offices with postage due. No submissions will be returned unless the necessary postage accompanies the same.

(9) **Filing form and content.** All filings shall contain the following:

(A) The name of the filing entity and complete mailing address to which correspondence shall be sent.

(B) A "RE" or "caption" briefly describing the content and context of the filing.

(C) A list or index of the forms filed in the filing letter or attached thereto including the form numbers and edition date, if applicable.

(D) A complete description and full explanation of the changes made by the filing including, reasoning therefore, illustrative examples, including "John Doe" specimen form, and a comparison of currently approved and proposed materials (side by side comparison or marked copy).

(E) A concise statement to identify the form to be replaced by the filing including the approval date in this jurisdiction and the identifying filing number of the filing containing the form to be replaced as assigned by the Insurance Department.

(F) If a form is being withdrawn or amended due to court decisions in any jurisdiction, the filing entity shall furnish the legal citation, and if from another jurisdiction, a copy of such decision or opinion with its filing.

(G) If a form filing is due to a federal law or regulation of a federal agency, the filing entity shall furnish the legal citation and a copy of the pertinent provisions.

(H) Completed transmittal forms and exhibits.

(10) **Withdrawal of pending filings.** Pending filings may be withdrawn by the filing entity upon notice to the Insurance Commissioner prior to the approval or disapproval thereof. The notice shall include the reason for the withdrawal.

(11) **Duration of filings.** All filings are in effect until withdrawn or amended by the insurer or rating organization, with approval of the Insurance Commissioner or until abrogated by the Insurance Commissioner.

(12) **Advisory organization deviations.** Every member of, or subscriber to, a licensed rating organization may adhere to any filings made on its behalf by its Advisory Organization, except that any such member or subscriber may deviate from such filings as authorized by this section if it has filed with the Advisory Organization and with the Insurance Commissioner, the deviation to be applied and information necessary to justify the deviation. If such deviation is approved, it shall remain in force until such approval is withdrawn or replaced by the insurer with approval of the Insurance Commissioner.

(13) **Group filings.** Where filings are made on behalf of more than one insurer, the filing shall list the insurer or insurers by individual name and not by Company group.

(14) **Members of or subscribers to a licensed advisory organization.**

(A) **Filings.** A licensed advisory organization may make filings on behalf of its members and subscribers except deviation filings.

(B) **Adherence to filings.** Every member of or subscriber to a licensed advisory organization may adhere to any filings made on its behalf by such organization except that any such member or subscriber may deviate from such filings upon compliance with this section and approval of the Insurance Commissioner

(C) **Individual company filings.** Members and subscribers shall not file individual forms that have been filed on their behalf by the appropriate advisory organization. Declaration pages, policy "jackets" and other forms not normally filed by the rating organization shall be filed by the insurer directly with the Insurance Commissioner.

(D) **Filing requirements; advisory organization form deviation.** If form deviations are proposed, the insurer shall file the form including supporting documentation with the Insurance Commissioner and furnish copies to the appropriate rating organization.

(E) **Agency filings.** "Agency Filings" by a Rating Organization on behalf of its members or subscribers shall be accepted by the Insurance Commissioner in instances where the rating organization does not have a filing in effect for the coverage involved.

(15) **Independent filings.** If the insurer is filing an independently developed form, the filing shall comply with the following:

(A) File Policy Forms, Endorsements, and other materials, with the Insurance Commissioner and designate them as "Independent Filings".

(B) File support of each filing in accordance with this section.

(C) For revisions, file form with the Insurance Commissioner.

(16) **Reference filings.**

(A) **Advisory Organization Filings.**

(i) **Filings permitted without reference filing agreement.** Advisory Organization forms used in whole or in part may be adopted by participating insurers of a licensed advisory organization by "Reference Filings" subject to the approval of the Insurance Commissioner. When making such type filing submit a filing memorandum identifying the forms used. Departures and exceptions, if any, shall be accompanied by the necessary supporting data. Such adoption shall apply only to current filings and shall have no automatic effect as to future filings. Each advisory organization filing shall be separately and specifically adopted.

(ii) **Filings permitted with reference filing agreement.** Approved Advisory Organization material may be adopted by participating insurers of a licensed advisory organization by filing a REFERENCE FILING AGREEMENT with the Insurance Commissioner identifying the forms and material to be used. Such adoption shall apply from the date it is approved by the Insurance Commissioner to filings in effect on that date and to all applicable future filings. It shall remain in effect until such time as the agreement is withdrawn with the approval of the Commissioner.

(iii) **Reference filing.** If filing by "Reference Filing" DO NOT file forms.

(B) **Other than Advisory Organization filings.** An insurer may adopt another insurer's filing by filing forms on the filing insurer's format and by advising the Insurance Commissioner of the names(s) of the insurer whose program is being copied, the Oklahoma filing number, and the date(s) the program was filed for that insurer. Unless an exception is granted by the Insurance Commissioner, this procedure applies only to the filing of the initial program for the adopting insurer and is subject to the review of the Insurance Commissioner.

(17) **Resubmittal of filings.** All resubmissions of disapproved or rejected filings shall be presented to the Insurance Commissioner in the same manner as required by this section for an original filing. In addition the cover letter or completed transmittal forms addressed to the Insurance Commissioner shall state the full and complete history of the filing, the reason for disapproval or rejection, and the factors which distinguish the resubmittal so it warrants reconsideration.

(18) **Retroactive filings.** The Insurance Commissioner has no authority to and shall not approve filings proposing a retroactive effective date except in cases of a filing correcting an error in a previously approved filing and in cases where required or necessitated by Statute.

(19) **Delivery of policy to insured.** In any instance whereby a policy of insurance is effected the insured shall be furnished with either:

(A) The original policy;

(B) A copy of the original policy or a duplicate policy printed with ten point or larger type; or

(C) A certificate including provisions and conditions of the original policy printed with ten point or larger type.

(20) **Coverage elimination after policy issuance.** Any endorsement which eliminates or restricts coverage and which is issued during the policy term shall be identified as accepted by the insured, by the signature of the insured thereon, and a signed copy (original, computer generated or microfilm) of such endorsement shall be retained in the files of the insurer for one year after the expiration of the policy.

(21) **Uniform standard mortgage clause.** The mortgage clause to be used by Insurance Companies in Oklahoma shall be uniform Standard Form Number 127B September 1934 Edition or subsequent editions, except upon written application by an insurer or rating organization, a clause providing broader coverage may be approved by the Insurance Commissioner.

(22) **Claims-made policies.**

(A) The policy application and the Declarations page of each claims-made policy shall include a conspicuous notice indicating that the contract is a claims-made policy and advising the policyholder to read its provisions.

(B) The policy shall provide for extended reporting period options based on rules, rates or rating plans approved by or filed with the Insurance Commissioner. If so stated in the policy, the extended reporting period options shall not be required to be offered if a policy is cancelled for nonpayment of premium or a material representation or fraud.

(23) **New forms, reductions in coverage.**

(A) Form filings that may result in the elimination of claims (losses) shall be considered as a relevant factor to be given due consideration by the Insurance Commissioner as respects rates in effect or proposed for the coverage involved.

(B) The filer shall fully disclose the rate consideration so that Commissioner can be notified of the form filing. The form filing may be disapproved if the rate effect has not been considered in rules, rates or rating plans approved by or filed with the Commissioner.

365:15-1-3.1. Workers'compensation ~~medical claims small~~optional deductible form

The offer of ~~a~~an optional~~small~~ deductible on all Oklahoma Workers' Compensation policies required pursuant to ~~85~~85A O.S. §~~356(D)~~95, shall be in the form set forth in Appendix B of this Chapter which shall be filed with and approved by the Insurance Commissioner. The form shall be provided to the proposed insured in writing separately from the application and shall read as set forth in Appendix B of this Chapter.

SUBCHAPTER 7. PROPERTY AND CASUALTY COMPETITIVE LOSS COST RATING REGULATION

365:15-7-3. Property and casualty rate, loss cost and manual rule filings

(a) **Purpose.** The purpose of this section is to specify the procedures for submitting rate, loss cost and manual rule filings to the Insurance Commissioner as required by 36 O.S. § 981 et seq.

(b) **Procedures.** Rate, loss cost and manual rules and revisions thereto by insurance companies and advisory organizations licensed in Oklahoma shall be submitted in compliance with this section, or shall be rejected for filing, and the entity that made such submission shall be so notified.

(1) **Filing requirements.** The Insurance Code, 36 O.S. § 981 et seq., requires that each insurer shall make its rate, loss cost and manual rule filings by line of business directly with the Insurance Commissioner. Companies may satisfy their obligation to make such filings, where authorized by law, by becoming a member or subscriber to an Oklahoma licensed advisory organization which makes such filings.

(2) **Filing fees.**

(A) Rate, loss cost and manual rule filings shall be accompanied by the proper fees as specified in the Insurance Code. Fees shall not be paid in cash.

(B) Filings for groups of insurers shall be accompanied by the specified fee for each transaction regardless of the number of members or subscribers.

(C) Filings by advisory organizations shall be accompanied by the specified fee for each transaction regardless of the number of members or subscribers.

(3) **Address requirements.** All filings shall be addressed as follows: Oklahoma Insurance Commissioner, 3625 NW 56th Street, Suite 100, Oklahoma City, Oklahoma 73112.

(4) **Number of copies.** All filings except those exempted shall be submitted through the System for Electronic Rate and Form Filing (SERFF) pursuant to the SERFF General Instructions. All ~~paper~~ filings including the cover letter, all exhibits, rate sheets and additional information submitted to the Insurance Commissioner shall be typewritten or printed and submitted with one (1) legible copy of all material. Companies that file as a group listing all companies on the transmittal letter may accomplish this requirement by submitting one (1) typewritten or printed legible copy of all material.

(5) **Effective date of filings.** The effective date of rate, loss cost and manual rule filings and the dates of required action by the Insurance Commissioner are governed by the applicable provisions of the Insurance Code.

(6) **Notice of Insurance Commissioner action.** The Insurance Commissioner shall indicate action taken through the System for Electronic Rate and Form Filing (SERFF). Nothing in this section shall preclude the Insurance Commissioner from the use of other forms of communication to secure information from the filing entity.

(7) **Life, accident and health insurance.** This section does not apply to life, accident and health insurance. Life, accident and health insurance filings shall be made in accordance with the applicable provisions of the Insurance Code and Rules of the Insurance Commissioner.

(8) **Postage requirements.** No submissions shall be accepted that arrive at the offices with postage due. No submissions will be returned unless the necessary postage accompanies the same.

(9) **Withdrawal of pending filings.** Pending filings may be withdrawn by the filing entity upon notice to the Insurance Commissioner prior to the approval or disapproval thereof. The notice shall include the reason for the withdrawal.

(10) **Filing form and content.** All filings shall include the following:

(A) The name of the filing entity and complete mailing address to which correspondence shall be sent.

(B) A "RE" or "caption" briefly describing the content and context of the filing.

(C) A list or index of the manual pages filed in the filing letter or attached thereto including the page numbers and edition date, if applicable.

(D) A complete description and full explanation of the changes made by the filing including, reasoning therefore, illustrative examples, including "John Doe" specimen examples, and a comparison of currently approved and proposed materials (side by side comparison or marked copy).

(E) A concise statement to identify the manual pages (rate and/or rule) to be replaced by the filing including the approval date in this jurisdiction and the identifying Oklahoma Insurance Department's assigned filing number of the filing containing the documents to be replaced.

(F) Completed transmittal forms and exhibits.

(11) **Advisory organization deviations.** Every member of, or subscriber to, a licensed advisory organization may adhere to any filings made on its behalf by its advisory organization, except that any such member or subscriber may deviate from such filings as authorized by this section if it has filed with the advisory organization and with the Insurance Commissioner, the deviation to be applied and information necessary to justify the deviation. If such deviation is approved, it shall remain in force until such approval is withdrawn by the insurer with approval of the Insurance Commissioner.

SUBCHAPTER 9. MEDICAL PROFESSIONAL LIABILITY RATE SETTING [REVOKED]

365:15-9-1. Purpose [REVOKED]

~~The purpose of this subchapter is to set forth rules to carry out the provisions of Section 6821 of Title 36 relating to medical professional liability rate setting.~~

365:15-9-2. Severability [REVOKED]

~~If any section or portion of a section of this subchapter or its applicability to any person or circumstance is held invalid by a court, the remainder of this subchapter or the applicability of the provision to other persons or circumstances shall not be affected.~~

365:15-9-3. Notice to Policyholders [REVOKED]

~~(a) Notification to policyholders required pursuant to Section 6821(C) of Title 36 shall be in the form as set out in Appendix D of this Chapter.~~

~~(b) Policyholders who are notified of any application for a rate change and the medical malpractice liability insurer making the application for a rate change may submit to the Insurance Commissioner a letter signed by the policyholder waiving the right to request a rate change application hearing pursuant to 36 O.S. § 6821(C)(1).~~

365:15-9-4. Certified shorthand reporter [REVOKED]

~~(a) The medical professional liability insurer who files a rate change application shall have the responsibility of providing a certified shorthand reporter for a hearing on the rate change application.~~

~~(b) The medical professional liability insurer shall notify the Insurance Department of the contact information of the certified shorthand reporter at least seven days prior to the scheduled hearing. The medical professional liability insurer's choice of certified shorthand reporter must be acceptable to the Insurance Department. The medical professional liability insurer shall provide a written copy of the hearing transcript to the Insurance Department as soon as the transcript becomes available.~~

365:15-9-5. Purchasing Groups [REVOKED]

~~Purchasing Groups as defined by Section 6453 of Title 36 shall be exempt from the provisions of Section 6821 of Title 36 and this subchapter.~~

365:15-9-6. Rating Organizations [REVOKED]

~~Rating and advisory organizations as defined by Section 982 and licensed pursuant to Section 991 of the Commercial Property and Casualty Competitive Loss Cost Rating Act, 36 O.S. §§ 981-998, shall be exempt from the provisions of Section 6821 of Title 36 and this subchapter. However, insurers who use information provided by a rating and advisory organization that has the result of increasing rates charged for medical professional liability insurance shall not be exempt from the provisions of Section 6821 of Title 36.~~

365:15-9-6.1. Umbrella medical professional liability coverage [REVOKED]

~~An umbrella policy which includes medical professional liability losses is not required to comply with the requirements of Sections 6810 through 6821 of Title 36.~~

365:15-9-7. Right to Appeal [REVOKED]

~~Medical professional liability insurers shall have the right to appeal a final order of the Commissioner pursuant to the Oklahoma Administrative Procedures Act.~~

365:15-9-8. Miscellaneous [REVOKED]

~~Supplementary rating information as defined by Section 982 and filed by insurers with the Property and Casualty Division shall remain under the authority of the Property and Casualty Competitive Loss Cost Rating Act, 36 O.S. §§ 981-998.~~

365:15-9-9. Rate change application is a public record [REVOKED]

~~All parts of a rate change application submitted by an insurer pursuant to 36 O.S. § 6821 shall be a public record upon receipt by the Insurance Department. An insurer may not make an assertion of confidentiality for any part of a rate change application.~~

365:15-9-10. Property and casualty rate, loss cost and manual rule filings [REVOKED]

~~(a) **Purpose.** The purpose of this section is to specify the procedures for submitting rate, loss costs and manual rule filings to the Insurance Commissioner, which are submitted under the authority of 36 O.S. § 6821.~~

~~(b) **Procedures.** Rate, loss costs and manual rules and revisions by insurance companies and advisory organizations licensed in Oklahoma shall be submitted in compliance with this section or shall be rejected for filing. If a filing is rejected, the entity that made such submission shall be notified.~~

~~(1) **Filing requirements.** The rate, loss cost and manual rule filings allowed by this section are for medical professional liability insurance. Companies may satisfy their obligation to make such filings, where authorized by law, by becoming a member or subscriber to an Oklahoma licensed advisory organization which makes such filings.~~

~~(2) **Filing fees.**~~

~~(A) Rate, loss cost and manual rule filings shall be accompanied by the proper fees as specified in the Insurance Code. Fees shall not be paid in cash.~~

~~(B) Filings for groups of insurers shall be accompanied by the specified fee for each transaction regardless of the number of members or subscribers.~~

~~(C) Filings by rating organizations shall be accompanied by the specified fee for each transaction regardless of the number of members or subscribers.~~

~~(3) **Address requirements.** All filings shall be addressed as follows: Oklahoma Insurance Commissioner, 3625 NW 56th Street, Suite 100, Oklahoma City, Oklahoma 73112.~~

~~(4) **Number of copies.** All filings except those exempted shall be submitted through the System for Electronic Rate and Form Filing (SERFF) pursuant to SERFF General Instructions. All paper filings including the cover letter, all exhibits, rate sheets and additional information submitted to the Insurance Commissioner shall be submitted with one (1) legible copy of all material. Companies that file as a group and list all companies on the transmittal letter may accomplish this requirement by submitting one (1) typewritten or printed legible copy of all material. .~~

~~(5) **Effective date of filings.** The effective date of rate, loss cost and manual rule filings and the dates of required action by the Insurance Commissioner are governed by the applicable provisions of the Insurance Code.~~

~~(6) **Notice of Insurance Commissioner action.** The Insurance Commissioner shall indicate action taken through the System for Electronic Rate and Form Filing (SERFF). Nothing in this section shall preclude the Insurance Commissioner from the use of other forms of communication to secure information from the filing entity.~~

~~(7) **Life, accident and health insurance.** This section does not apply to life, accident and health insurance. Life, accident and health insurance filings shall be made in accordance with the applicable provisions of the Insurance Code and Rules of the Insurance Commissioner.~~

~~(8) **Postage requirements.** No submissions shall be accepted that arrive at the offices with postage due. No submissions will be returned unless the necessary postage accompanies the same.~~

~~(9) **Withdrawal of pending filings.** Pending filings may be withdrawn by the filing entity upon notice to the Insurance Commissioner prior to the approval or disapproval thereof. The notice shall include the reason for the withdrawal.~~

~~(10) **Filing form and content.** All filings shall include the following:~~

~~(A) The name of the filing entity and complete mailing address to which correspondence shall be sent.~~

~~(B) A RE or caption briefly describing the content and context of the filing.~~

~~(C) A list or index of the manual pages filed in the filing letter or attached thereto including the page numbers and edition date, if applicable.~~

~~(D) A complete description and full explanation of the changes made by the filing including reasoning therefor, illustrative examples, including John Doe specimen examples, and a comparison of currently approved and proposed materials (side by side comparison).~~

~~(E) A concise statement identifying the manual pages (rate and or rule) to be replaced by the filing. The statement shall include the approval date in this jurisdiction and the identifying Oklahoma Insurance Department's assigned filing number of the filing containing the documents to be replaced .~~

~~(F) Completed transmittal forms and exhibits.~~

~~(11) **Bureau deviations.** Every member of, or subscriber to, a licensed advisory organization may adhere to any filings made on its behalf by its rating organization, except that any such member or subscriber may deviate from such filings as authorized by this section if it has filed with the rating organization and with the Insurance Commissioner, the deviation to be applied and information necessary to justify the deviation. If such deviation is approved, it shall remain in force until such approval is withdrawn by the insurer with approval of the Insurance Commissioner.~~

365:15-9-11. Duration of filings [REVOKED]

~~Approved rates for medical professional liability insurance shall be effective until amended or withdrawn by the insurer.~~

365:15-9-12. Forms governed by Article 36 [REVOKED]

~~Policy forms, endorsements, and other forms used for medical professional liability insurance shall be filed in compliance with the applicable provisions of Article 36 of the Insurance Code. The forms shall be filed separately from rates and manual rules.~~

365:15-9-13. Group filings [REVOKED]

~~Filings made on behalf of more than one insurer shall list the insurer or insurers individually and not by company group.~~

365:15-9-14. Independent filings [REVOKED]

~~(a) Independent filers shall file rates, loss costs, rating plans or rating systems, schedules, manuals, and other materials with the Insurance Commissioner and designate them as independent filings.~~

~~(b) Independent filers shall file data and experience in support of each filing in accordance with these rules.~~

~~(c) Independent filers shall file rate and loss cost revisions with the Insurance Commissioner.~~

365:15-9-15. Reference filings [REVOKED]

~~(a) **Advisory organization filings.**~~

~~(1) **Filings permitted without reference filing agreements.** Advisory organization manuals, materials, and forms used in whole or in part may be adopted by members of or subscribers to a licensed advisory organization by reference filings subject to review by the Insurance Commissioner. When making a reference filing, a filing memorandum shall be submitted, identifying the manuals, rules, or forms used and the Oklahoma filing number. Rate departures and rule exceptions, if any, shall be accompanied by the necessary supporting data. Such adoption shall apply only to current filings and shall have no automatic effect as to future filings. Each advisory~~

~~organization filing shall be separately and specifically adopted.~~

~~(2) **Filings permitted with reference filing agreement.** Approved advisory organization manuals, material and forms may be adopted by members of or subscribers to a licensed advisory organization by filing a reference filing agreement with the Insurance Commissioner identifying the manuals, material or forms to be used and the Oklahoma filing number. Such adoption shall apply from the date it is filed with the Insurance Commissioner to filings in effect on that date and to all applicable future filings. The reference filing agreement shall remain in effect until such time as the agreement is withdrawn as a filing with the Insurance Commissioner. Manuals shall not be filed if filings are made by reference filing.~~

~~(b) **Other than Advisory organization filings.** An insurer may adopt another insurer's filing by filing rates on the filing insurer's format and by advising the Insurance Commissioner of the name(s) of the insurer whose program is being copied, the Oklahoma filing number, and the date(s) the program was filed for that insurer. Unless an exception is granted by the Insurance Commissioner, this procedure applies only to the initial filing of the program for the "adopting" insurer and is subject to the review of the Insurance Commissioner. Reference filings for previously approved rates for medical professional liability insurance are not allowed.~~

~~(c) **Reference filings.** References filings to previously approved rates for medical professional liability insurance are not allowed.~~

365:15-9-16. Members of or subscribers to a licensed advisory organization [REVOKED]

~~(a) **Filings.** A licensed advisory organization may make filings on behalf of its members and subscribers except deviation and rate filings.~~

~~(b) **Adherence to filings.** Every member of or subscriber to a licensed advisory organization may adhere to the filings made on its behalf by such organization except that any such member or subscriber may deviate from such filings upon compliance with the rules of this chapter and review of the Insurance Commissioner where required by the Insurance Code.~~

~~(c) **Individual company filings.** Members and subscribers shall not file individual manuals that have been filed on their behalf by the appropriate advisory organization.~~

~~(d) **Filing requirements; loss cost deviations.** When loss cost deviations are proposed, the filing memorandum shall indicate the applicable advisory organization filing, the Oklahoma filing number, and state the percentage of deviation, as well as the subject matter the deviation applies to by manual name, page number and supporting date in accordance with the rules of this chapter. Copies of all such information shall be furnished to the appropriate advisory organization.~~

365:15-9-17. Resubmittal of disapproved or rejected filing. [REVOKED]

~~All resubmitted filings shall be presented to the Insurance Commissioner in the same manner required by this subchapter for an original filing. In addition, the cover letter or completed transmittal forms addressed to the Insurance Commissioner shall state the full and complete history of the filing, the reason for the disapproval, and the factors that distinguish the resubmittal to warrant reconsideration.~~

365:15-9-18. Statistical plans [REVOKED]

~~(a) Every insurer doing business in this state shall file a statistical plan and any modifications thereto with the Oklahoma Insurance Department.~~

~~(b) The statistical plan shall record the loss and expense experience of the insurer and shall provide all data elements necessary to support the rating systems the insurer has filed with the Oklahoma Insurance Department. The experience developed in accordance with an approved statistical plan shall be filed on a yearly basis.~~

~~(c) An insurer may appoint a registered advisory organization as its agent to report and file its statistical plan and experience.~~

~~(d) The Insurance Commissioner may approve an advisory organization as a statistical agent to gather, record, compile, and report experience in such manner, form, and detail determined by the Insurance Commissioner as necessary to determine whether rating systems comply with the standards of the Property and Casualty Competitive Loss Cost Rating Act and Section 6821 of Title 36 of the Oklahoma Statutes.~~

365:15-9-19. Outside Review [REVOKED]

~~(a) The Insurance Commissioner shall have the authority to hire statisticians, accountants, attorneys, auditors, investigators or any other person the Insurance Commissioner deems necessary or beneficial to aid in review or examination of any filings for rate revision made by insurers or advisory organizations.~~

~~(b) Persons listed in paragraph (a) of this section shall be fully accredited and or licensed in their field of expertise and may be employees of corporations, partnerships or individuals duly qualified to provide required services.~~

~~(c) The Insurance Commissioner may retain an actuary to review a filing when deemed necessary or beneficial by the Insurance Commissioner based on one ore more of the following criteria:~~

~~(1) Significant premium and or percentage effect;~~

~~(2) Significant market share as determined from market share report;~~

~~(3) Staff unfamiliar with actuarial methodology;~~

~~(4) Filing establishes a benchmark;~~

~~(5) Actuarial review necessitated by filer's inability to comply with filing requirements;~~

~~(6) Review of the adequacy of the proposed filing; and~~

~~(7) Review of whether the proposed filing constitutes discrimination as described by 36 O.S. § 985(A)(3).~~

~~(d) When a filing is referred to an outside consultant for review, an engagement letter shall be presented to the consultant~~

~~specifying the scope of review. The filer shall be notified of the review.~~

~~(e) All reasonable expenses incurred in such filing review shall be paid by the insurer or advisory organization making the filing.~~

~~(f) The Insurance Commissioner shall consider the opinion of the consulting actuary and any other evidence submitted in support of the filing and shall accept or reject the consulting actuary's opinion in whole or in part based on such other evidence.~~

365:15-9-20. Individual risk rating plans [REVOKED]

~~Individual risk rating plans shall comply with the following requirements:~~

~~(1) Each individual risk rating plan shall establish standards that bear arelationship to the variation in hazard and or expense to be measured.~~

~~(2) Any individual risk rating plan shall be applied by company representatives responsible for underwriting the risk(s) involved.~~

~~(3) Each insurer utilizing such plans shall obtain all information necessary to determine the proper applications of such plans to any particular risk. Such supporting information shall be retained by the insurer for three (3) years and made available to the Insurance Department upon its request.~~

365:15-9-21. Waiver of Premium [REVOKED]

~~Insurers may waive additional premium due from an insured. An insurer may also waive the return premium due to an insured. However, any return premium shall be returned to the insured upon request. The amount to be waived for both the additional premium and the return premiums shall be shown on a manual rule page and filed with the Insurance Commissioner.~~

365:15-9-22. Withdrawal or discontinue writing [REVOKED]

~~Any insurer desiring to withdraw from the state or discontinue the writing of medical malpractice insurance or programs in this state or transferring policyholders between admitted companies within the same insurance holding company system shall give ninety (90) days notice in writing to the Rate and Form Compliance Division of the Insurance Department. The insurer shall state in writing its reasons for such action. The ninety (90) day notice is inclusive of, and not in addition to, any other notice requirement per line of business. The insurer shall also provide the following information:~~

~~(1) The number of policyholders affected;~~

~~(2) The number of insurance agents affected;~~

~~(3) The date the insurer will cease writing new business;~~

~~(4) The date the insurer will start non-renewing insurance policies;~~

~~(5) Whether the insurer has made arrangements with another insurer to cover the renewals;~~

~~(6) The lines of insurance on which the insurer plans to concentrate; and~~

~~(7) Whether the insurer anticipates re-entering the market.~~

APPENDIX B. OKLAHOMA WORKERS' COMPENSATION SMALL DEDUCTIBLE ACCEPTANCE/REJECTION FORM [REVOKED]

APPENDIX B. OKLAHOMA WORKERS' COMPENSATION OPTIONAL DEDUCTIBLE ACCEPTANCE/REJECTION FORM [NEW]

Oklahoma law requires insurers issuing a policy under the Administrative Workers' Compensation Act ("AWCA") to offer, as a part of the policy or as an optional endorsement to the policy, deductibles optional to the policyholder for benefits payable under the AWCA. Deductible amounts offered shall be fully disclosed to the prospective policyholder in writing. The policyholder is not required to select the deductible option, but if the policyholder chooses to exercise this option, the policyholder may choose only one deductible amount. Please carefully review the requirements for the deductible option outlined below.

DEDUCTIBLE OPTIONS

Optional deductibles shall be offered in each policy insuring liability for workers' compensation that is issued, delivered, issued for delivery, or renewed under the AWCA on or after approval by the Insurance Commissioner, unless an insured employer and insurer agree to renegotiate a workers' compensation policy in effect on that date so as to include a provision allowing for a deductible.

EMPLOYER OBLIGATIONS IF DEDUCTIBLE OPTION IS SELECTED

If the policyholder exercises the option and chooses a deductible, the insured employer shall be liable for the amount of the deductible for benefits paid for each compensable claim of work injury suffered by an employee. The insurer shall pay all or part of the deductible amount, whichever is applicable to a compensable claim, to the person or medical provider entitled to the benefits conferred by the AWCA, and seek reimbursement from the insured employer for the applicable deductible amount. The payment or nonpayment of deductible amounts by the insured employer to the insurer shall be treated under the policy insuring the liability for workers' compensation in the same manner as payment or nonpayment of premiums. ***WARNING:*** **The insured employer must reimburse the insurer within sixty (60) days of a written demand. If the insured employer fails to reimburse the insurer within sixty (60) days, the insurer may seek to recover the *full amount* of such claim from the insured employer. In addition, the non-payment of deductible amounts shall be treated in the same manner as non-payment of premiums.**

EXPERIENCE MODIFICATION

Premium reduction for deductibles may be determined before the application of any experience modification, premium surcharge, or premium discounts, and, to the extent that an employer's experience rating or safety record is based on benefits paid, money paid by the insured employer under a deductible as provided herein may not be included as benefits paid so as to harm the experience rating of the employer.

ACCEPTANCE/REJECTION

[ ] Yes, I have read the optional deductible information outlined above and want the following deductible amount to apply to claims under the AWCA. I understand that this deductible applies to every claim for bodily injury by accident or disease filed by an injured employee.

Deductible Amount: $ _____

[ ] No, I do not want the optional deductible described in this notice.

NAMED INSURED: _____

ADDRESS: _____

TITLE: _____

SIGNATURE: _____

DATE: _____

PLEASE NOTE: The optional deductible does not apply to employers who are approved to self-insure against liability for workers' compensation or group self-insurance funds for workers' compensation.

THIS FORM IS NOT A PART OF YOUR POLICY AND DOES NOT PROVIDE COVERAGE.

APPENDIX D. FORMAT FOR NOTIFICATION TO POLICYHOLDERS OF APPLICATION FOR RATE CHANGE [REVOKED]

NOTICE OF RATE CHANGE APPLICATION

TO ALL INSUREDS OF [medical professional liability insurer name]

On [rate change application filing date], [medical professional liability insurer name] filed a Rate Change Application with the Oklahoma Insurance Department, seeking approval of a percentage increase change in its medical professional liability rates. The proposed effective date of this rate change will be [effective date]. Policyholders are entitled to notice of the Rate Change Application pursuant to Section 6821(C) of Title 36 of the Oklahoma Insurance Code.

[Medical professional liability insurer name] has the burden of proving that the requested change is justified and meets the requirements of Section 6821. You or your representative may request a hearing by the Oklahoma Insurance Department on the Application. The hearing request must be in writing and must be received by the Insurance Department within forty-five (45) days of the date of this notice. Requests for a hearing must be addressed to the Oklahoma Insurance Department, Attn: Property and Casualty Division, P. O. Box 53408, Oklahoma City, OK 73152-3408. The scope of the hearing will be limited to the items mentioned by Section 6821. Written requests for a hearing and written comments about the proposed change become public record and are subject to the Oklahoma Open Records Act.

No professional medical liability insurer shall cancel or refuse to renew coverage of a policyholder on the basis of a policyholder's exercise of any right pursuant to Section 6821.

Specific questions about the circumstances that produced the Rate Change Application should be directed to [medical professional liability insurer contact person, contact information]. Questions about the details of the Application should be directed to the Rate and Form Compliance Division of the Oklahoma Insurance Department.

Sincerely,

[medical professional liability insurer contact information].

[OAR Docket #15-675; filed 6-30-15]

TITLE 365. INSURANCE DEPARTMENT
CHAPTER 20. TITLE INSURANCE

[OAR Docket #15-676]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 3. Oklahoma Title Insurance Policies
365:20-3-3. Documentation [AMENDED]
AUTHORITY:
Insurance Commissioner; 36 O.S. §§ 307.1
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
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COMMENT PERIOD:
February 2, 2015 through March 4, 2015
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Approved by Governor's declaration on June 8, 2015
FINAL ADOPTION:
June 8, 2015
EFFECTIVE:
September 15, 2015
SUPERSEDED EMERGENCY ACTIONS:
n/a
INCORPORATIONS BY REFERENCE:
n/a
ANALYSIS:
The proposed revision to 365:20-3-3 removes the words "and Inspector" as the State Auditor and Inspector no longer licenses abstractors. Abstractors are licensed by the State Abstractors Board.
CONTACT PERSON:
Buddy Combs, Director of Public Policy, Oklahoma Insurance Department, 3625 NW 56th St., Suite 100, Oklahoma City, OK 73112, (405) 522-4609

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 15, 2015:

SUBCHAPTER 3. OKLAHOMA TITLE INSURANCE POLICIES

365:20-3-3. Documentation

(a) All title insurers engaged in the business of title insurance in this state, other than reinsurance, shall attach to or include in the title insurer's copy of the title insurance policy the following:

(1) A signed and dated copy of the preliminary abstractor's certificate as required by 74 O.S. § 227.10, et seq., along with the final title report or final abstractor's certificate shall be reproduced and attached to each policy.

(2) A copy of an opinion of title covering the real property insured under said policy shall be reproduced and attached to each policy. Said opinion of title shall be issued by an attorney licensed to practice in this state; and the Oklahoma Bar Association Number of the attorney issuing the opinion shall be prominently displayed upon the opinion.

(3) The title insurance policy shall be countersigned in accordance with the provisions of 36 O.S. § 5001(C). The function of making a title insurance coverage decision, based upon the title opinion of a licensed attorney, is the "countersignature" function. The countersignature function shall not be exercised by anyone other than an individual licensed title agent. In accordance with the provisions of 36 O.S. § 5001(C), only an individual actively and lawfully engaged in the real estate title business, possessing a current license, and maintaining an office in the state shall be permitted to exercise the countersignature function.

(4) If the title insurance policy is being issued directly by the title insurer, all of the requirements in (a)(1), (a)(2) and (a)(3) of this rule shall be attached to or included in the title insurer's copy of the policy, concurrently with the issuance thereof. If the title insurance policy is issued by a duly appointed agent of the title insurer, all of the requirements in (a)(1), (a)(2) and (a)(3) of this rule must be furnished to the title insurer not later than one hundred eighty (180) days from the effective date of the title insurance policy. In the case where a loan policy, owner's policy or leasehold policy are simultaneously issued, the required documentation need only be attached to the owner's policy. The documentation required under this section shall be permanently maintained by the title insurer in a manner which is readily accessible and open to inspection by the Insurance Commissioner or his duly authorized representative.

(b) No title insurance policy shall be issued in this state until a duly certified abstract of title has been prepared, in accordance with the Oklahoma Abstractors Law, and examined by an attorney licensed to practice in this state. The abstract need only be prepared once prior to the issuance of the title insurer's commitment and policy. Before a title insurance policy can be issued pursuant to a commitment, an abstractor licensed by the Oklahoma Abstractors Board~~ and Inspector~~ in the county where the insured property is located shall prepare either of the following:

(1) an extension of the abstract; or

(2) a final title report after a final title search has been conducted. The report shall include all information as mandated by Title 80:10-5-3(b) of the Oklahoma Administrative Code: Rules and Regulations Governing the Oklahoma Abstractors Law.

[OAR Docket #15-676; filed 6-30-15]

TITLE 365. INSURANCE DEPARTMENT CHAPTER 25. ~~LICENSURE OF PRODUCERS, ADJUSTERS, BAIL BONDSMEN, COMPANIES, PREPAID FUNERAL BENEFITS, CEMETERY MERCHANDISE TRUSTS, AND VIATICAL SETTLEMENT PROVIDERS AND BROKERS~~OTHER LICENSEES

[OAR Docket #15-677]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 3. Producers, Brokers, Limited Lines Producers and Vehicle Protection Product Warrantors
365:25-3-1. Insurance producers continuing education [AMENDED]
365:25-3-14. Insurance adjusters continuing education [AMENDED]
Subchapter 5. Bail Bondsmen
Part 5. General Provisions Pertaining to Bail Bondsmen
365:25-5-31. ~~Residence, business, mailing, and e-mail addresses~~Information to be included on applications [AMENDED]
365:25-5-41. Special deposit [AMENDED]
365:25-5-44. Notice of return to custody [AMENDED]

365:25-5-48. Acts of a bail bondsman [NEW]
Subchapter 15. Captive Insurance Companies Regulation
365:25-15-2. Annual reporting requirements [AMENDED]
365:25-15-3. Annual Audit [AMENDED]
365:25-15-4. Independent Certified Public Accountant [AMENDED]
365:25-15-5. Deposit Requirement [AMENDED]
365:25-15-6. Organizational examination [AMENDED]
365:25-15-7. Reinsurance [AMENDED]
365:25-15-9. Executive officers and directors [AMENDED]
365:25-15-10. Conflict of interest [AMENDED]
365:25-15-11. Rescission of captive license [REVOKED]
365:25-15-12. Acquisition of control of or merger with domestic company [AMENDED]
365:25-15-13. Change of business [AMENDED]
365:25-15-14. Prior approval [AMENDED]
365:25-15-15. Severability Provision [REVOKED]
365:25-15-16. Consolidated or combined audits [NEW]
365:25-15-17. Sponsored captive shares and dividends [NEW]
365:25-15-18. Variable contracts [NEW]
365:25-15-19. Qualification of sponsors [NEW]
365:25-15-20. Sponsored captive and cell assets [NEW]
365:25-15-21. Delinquency of sponsored captive insurance companies [NEW]
365:25-15-22. Reinsurance of life insurance policies [NEW]
365:25-15-23. Dormant captive insurance companies [NEW]
365:25-15-24. Severability [NEW]
Subchapter 19. Annuity Disclosure Regulation
365:25-19-3. Applicability and scope [AMENDED]
Subchapter 25. Oklahoma Employee Injury Benefit Act [NEW]
365:25-25-1. Purpose [NEW]
365:25-25-2. Scope [NEW]
365:25-25-3. Authority [NEW]
365:25-25-4. Definitions [NEW]
365:25-25-5. Election notification to the Oklahoma Insurance Department [NEW]
365:25-25-6. Election fee [NEW]
365:25-25-7. Written benefit plan [NEW]
365:25-25-8. Employee notice [NEW]
365:25-25-9. Funding of Qualified Employer's benefit plan, liability, and other insurable risk [NEW]
365:25-25-10. Insuring Qualified Employer's benefit plan, liability, and other insurable risk [NEW]
365:25-25-11. Self-Funding Qualified Employer's benefit plan, liability, and other insurable risk [NEW]
365:25-25-12. Surety bond and irrevocable letter of credit [NEW]
365:25-25-13. Release of security deposit [NEW]
365:25-25-14. Oklahoma Option Self-Insured Guaranty Fund [NEW]
365:25-25-15. Severability [NEW]
Subchapter 29. Pharmacy Benefits Managers [NEW]
365:25-29-1. Purpose [NEW]
365:25-29-2. Scope [NEW]
365:25-29-3. Authority [NEW]
365:25-29-4. Definitions [NEW]
365:25-29-5. Forms and contents of application for PBM license [NEW]
365:25-29-6. Surety bond [NEW]
365:25-29-7. License term, renewals, and fees [NEW]
365:25-29-8. PBM to file certain financial statements with the Commissioner [NEW]
365:25-29-9. Contractual requirements-maximum allowable cost [NEW]
365:25-29-10. Disclosure of price-reimbursement differential [NEW]
365:25-29-11. Penalty for noncompliance [NEW]
365:25-29-12. "Doing pharmacy benefits management business in this state" defined-venue-exceptions [NEW]
Appendix Z. Notice to Employees Concerning Qualified Employer [NEW]

AUTHORITY:
Insurance Commissioner; 36 O.S. §§ 307.1, 1435.19, 1435.29, 6217; 59 O.S. §§ 358 and 1302; 85A O.S. § 202

SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
January 8, 2015

COMMENT PERIOD:
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PUBLIC HEARING:
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APPROVED BY GOVERNOR'S DECLARATION:
Approved by Governor's declaration on June 8, 2015

FINAL ADOPTION:
June 8, 2015

EFFECTIVE:
September 15, 2015

SUPERSEDED EMERGENCY ACTIONS:

Superseded rules:
Subchapter 25. Oklahoma Employee Injury Benefit Act [NEW]
365:25-25-1. Purpose [NEW]
365:25-25-2. Scope [NEW]
365:25-25-3. Authority [NEW]
365:25-25-4. Definitions [NEW]
365:25-25-5. Election notification to the Oklahoma Insurance Department [NEW]
365:25-25-6. Election fee [NEW]
365:25-25-7. Written benefit plan [NEW]
365:25-25-8. Employee notice [NEW]
365:25-25-9. Funding of Qualified Employer's benefit plan, liability, and other insurable risk [NEW]
365:25-25-10. Insuring Qualified Employer's benefit plan, liability, and other insurable risk [NEW]
365:25-25-11. Self-Funding Qualified Employer's benefit plan, liability, and other insurable risk [NEW]
365:25-25-12. Surety bond and irrevocable letter of credit [NEW]
365:25-25-13. Release of security deposit [NEW]
365:25-25-14. Oklahoma Option Self-Insured Guaranty Fund [NEW]
365:25-25-15. Severability [NEW]
Appendix Z. Notice to Employees Concerning Qualified Employer [NEW]

Gubernatorial approval:
February 18, 2014

Register publication:
31 Ok Reg 461

Docket number:
14-213

Superseded rules:
Subchapter 29. Pharmacy Benefits Managers [NEW]
365:25-29-1. Purpose [NEW]
365:25-29-2. Scope [NEW]
365:25-29-3. Authority [NEW]
365:25-29-4. Surety Bond [NEW]
365:25-29-5. License applications, license renewals, fees, and fines [NEW]

Gubernatorial approval:
July 1, 2014

Register publication:
31 Ok Reg 697

Docket number:
14-822

Superseded rules:
Subchapter 3. Producers, Brokers, Limited Lines Producers and Vehicle Protection Product Warrantors
365:25-3-1. Insurance producers continuing education [AMENDED]
365:25-3-14. Insurance adjusters continuing education [AMENDED]

Gubernatorial approval:
August 25, 2014

Register publication:
32 Ok Reg 25

Docket number:
14-852

INCORPORATIONS BY REFERENCE:
n/a

ANALYSIS:
365:25-3-1 and 365:25-3-14 are amended to require insurance producers and adjusters to undergo at least 1 hour of continuing education regarding earthquake insurance every two years.

365:25-5-31 is amended to add telephone number and legal name to the list of information a bail bond license applicant must include on his or her application. 365:25-5-41 is amended to reflect a legislative change made by

SB 1319 in 2014. Company deposits are no longer held at the State Treasurer's office, but are held at the Oklahoma Insurance Department. The amendment simply removes the references to the State Treasurer's office. 365:25-5-44 is amended to clean up a statutory reference. 365:25-5-48 provides a definition for the "acts of a bail bondsman" to give clarity to the provisions of 59 O.S. § 1311.3.

365:25-15-2 is amended to correct reporting requirements for pure captives and require an independent audit and opinion. 365:25-15-3 is amended to require an audit of annual report, an auditor to address material weaknesses and remedial actions, and to restate the audit exemption for small captive insurers. 365:25-15-4 is amended to provide the Commissioner with 90 additional days notice of selection of auditor, clarify definition of "working papers", and require the rotation of audit partners. 365:25-15-5 is amended to clarify Commissioners authority to require deposit of additional capital. The change to 365:25-15-6 broadens the Commissioner's discretion to plan an examination of captives. 365:25-15-7 is repealed as unnecessary. 365:25-15-9 is amended to provide exception to personal interest prohibition. 365:25-15-10 is amended to require adoption of conflict of interest policy and board disclosure. 365:25-15-11 is repealed because its provisions exist in statute. 365:25-15-12 is amended to correct statutory reference regarding change of control of captive. 365:25-15-13 is amended to delete exemption from prior approval requirement; defines "nature of the captive business" 365:25-15-14 is amended to change "forms as determined by the Commissioner" to "forms as prescribed by the Commissioner." 365:25-15-15 is repealed but the language is enacted again at the end of the Subchapter. 365:25-15-16 is a new section that provides for consolidated audits. 365:25-15-17 provides for incorporated protected cells, dividends on protected cell shares, and allows a sponsored captive insurer to act on behalf of protected cells. 365:25-15-18 provides for separate accounts for variable life and annuity contracts; compliance with 36 O.S. § 6061. 365:25-15-19 provides that "sponsor" of sponsored captive insurance company may be any person approved by the Commissioner; establishes criteria for qualification as "sponsor." 365:25-15-20 provides for distinction between assets of sponsored captive and assets of protected cells. 365:25-15-21 provides special rules for handling assets of protected cells and sponsored captive insurer in the event of insolvency. 365:25-15-22 establishes reserve requirements and the form of the annual report required of a captive insurance company that reinsures life insurance policies. 365:25-15-23 provides license status for pure captives that have ceased transacting and specifies requirements for "certificate of dormancy." 365:25-15-24 provides severability.

365:25-19-3 corrects a spelling error and adds annuities used to fund prepaid funeral benefits to the list of contracts exempted from the requirements of the Subchapter.

The new Subchapter 25 sets out the procedure and requirements for employers to elect to become a Qualified Employer under the Oklahoma Employee Injury Benefit Act, 85A O.S. § 200 et seq. Sections 365:25-25-1 through 3 set out the purpose, scope, and authority for promulgating these rules. Section 4 sets out the definitions of terms used in the Subchapter. Section 5 describes the process for an employer to elect to become a Qualified Employer. Section 6 sets out the fee for electing to become a Qualified Employer. Section 7 outlines the specific documents and information an employer must file along with its election form. Section 8 requires an Employee Notice be provided by employers electing to become a Qualified Employer, and provides specific instructions for the use and placement of the Notice. Section 9 sets out the ways in which a Qualified Employer may fund its benefit plan. Section 10 sets out the requirements for Qualified Employers choosing to insure its benefits payable under its benefit plan. Section 11 sets out the requirements for Qualified Employers choosing to self-fund its benefits payable under its benefit plan. Section 12 sets out the surety bond and letter of credit requirements for Qualified Employers. Section 13 sets out regulations regarding a Qualified Employer's security deposit and how and when that security deposit may be released. Section 14 sets out the procedure for the Commissioner to petition the Workers' Compensation Commission for its approval that the Commissioner release a Qualified Employer's security and notify the Oklahoma Property and Casualty Insurance Guaranty Association. Section 15 is a severability clause.

Subchapter 29, Sections 1-3 set out the purpose, scope, and authority for the new rules relating to pharmacy benefits managers. Section 4 sets out the definitions for terms used in the Subchapter. Section 5 mandates the form and required contents for applications for a PBM license. Section 6 sets out the surety bond requirements for PBM licensees. Section 7 sets out the length of the PBM license term, procedures for license renewals, fees for license renewals, and provides a procedure for a PBM to follow if the PBM's license renewal has been denied. Section 8 requires a PBM to annually file an audited financial statement with the Commissioner. Section 9 sets out the requirements for contracts between a PBM and a provider. Section 10 requires a PBM to disclose to providers the amount of rebates and other revenue received by the PBM from pharmaceutical manufacturers or labelers. Section 11 sets out the penalty for noncompliance with the terms of the statutes or rules related to PBM licensing. Section 12 provides a definition for "doing pharmacy benefits management in this state."

CONTACT PERSON:

Buddy Combs, Director of Public Policy, Oklahoma Insurance Department, 3625 NW 56th St., Suite 100, Oklahoma City, OK 73112, (405) 522-4609

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 15, 2015:

SUBCHAPTER 3. PRODUCERS, BROKERS, LIMITED LINES PRODUCERS AND VEHICLE PROTECTION PRODUCT WARRANTORS

365:25-3-1. Insurance producers continuing education

(a) **Purpose.** The purpose of this section is to set forth the requirements for continuing education, which an insurance producer must meet and to set forth the requirements for approval by the Insurance Commissioner of a proposed continuing education course.

(b) **Definitions.** The following words or terms, when used in this section, shall have the following meaning, unless the context clearly indicates otherwise:

(1) **"CE"** means continuing education.

(2) **"Certificate of course completion"** means a document acceptable to the Commissioner which signifies satisfactory completion of the course and reflects hours of credit earned.

(3) **"Continuing Education Advisory Committee"** means the committee established by the Commissioner for the purpose of reviewing and recommending approval or disapproval of continuing education courses.

(4) **"Credit hour"** means at least fifty (50) minutes classroom instruction unless a correspondence or self-study course.

(5) **"Instructor"** means a person who presents course materials approved for continuing education credit hours, and who has experience, training, and/or education in the course subject matter and has been approved by the Commissioner.

(6) **"Instructor Qualification Form"** means a form acceptable to the Commissioner and completed by the instructor which documents qualifications of the instructor.

(7) **"Licensee"** means a natural person who is licensed by the Commissioner as an insurance producer.

(8) **"Provider"** means a person, corporation, professional association or its local affiliates, an insurance company or any other entity which is approved by the Commissioner and provides approved continuing education to insurance producers.

(9) **"Provider Course Completion Form"** means a form acceptable to the Commissioner and completed by the provider which documents completion of an approved course by a producer or producers.

(c) **Exceptions.** The requirements for continuing education in this section shall not apply to:

(1) limited lines producers.

(2) a non-resident producer who resides and is licensed in a state or district having continuing education requirements and the producer meets all the requirements of that state or district to practice therein.

(3) a non-resident producer of a state that does not require continuing education hours may fulfill the requirements of any other state's continuing education requirements and shall be deemed to have complied with this rule upon proof of completion of said hours.

(d) **Continuing education requirements.**

(1) **CE during twenty-four month period.** All licensees shall complete the required hours of continuing education as set forth in 36 O.S. § 1435.29 during each twenty-four month period. The twenty-four month period begins the first day after the license is granted. Ethics shall include, but not be limited to, the study of fiduciary responsibility, commingling of funds, payment and acceptance of commissions, unfair claims practices, policy replacement consideration, and conflicts of interest.

(2) **Certificates of course completion required for license renewal.** If requested by the Insurance Department, each producer shall submit upon each licensing renewal certificate(s) of course completion as approved by the Insurance Department, which verify courses completed during the previous twenty-four month period.

(3) **Credits carried over.** Six (6) credit hours in excess of the minimum twenty-four month period requirement shall carry forward as general hours to the next twenty-four month period. Excess hours may be applied to bring a lapsed license into compliance.

(4) **Legislative updates.**

(A) At least two (2) of the continuing education credit hours of instruction completed by licensees each twenty-four month period shall be taken in the following topics:

(i) state legislative updates

(ii) federal legislative updates.

(5) **Earthquake insurance education.** Beginning January 1, 2015, each resident insurance producer with a property line of authority shall complete one (1) hour of continuing education credit in the topic of earthquake insurance as part of the continuing education credit hours required each twenty-four month period.

(~~5~~6) **Credits for instructors.** An instructor who is a licensee shall receive the same continuing education credit for presenting approved course materials as a licensee who attends an approved classroom instructional session by including his/her name and license number on roster.

(~~6~~7) **Prerequisite for renewal or reinstatement.** As a prerequisite for licensure renewal or upon reinstatement following a lapse of license, a producer must demonstrate that the education requirements have been reported for the previous renewal cycle.

(e) **Approval of continuing education providers.**

(1) **Information required, fee.** Each provider shall apply for approval from the Commissioner. Each provider, with the exception of public funded educational institutions, federal agencies, nonprofit organizations, not-for-profit organizations, and Oklahoma state agencies shall submit a provider fee of Two Hundred Dollars ($200.00), and all providers, including public funded educational institutions, federal agencies, nonprofit organizations, not-for-profit organizations and Oklahoma agencies shall provide:

(A) Name, address, and email address of the provider;

(B) Contact person and his or her address and telephone number;

(2) **Renewal fee.** An annual renewal fee of Two Hundred Dollars ($200.00) shall be payable on or before the approval anniversary date of each year by each provider to renew the approval of the provider. A fee of double the annual renewal fee shall be paid if the application for renewal is late or incomplete on the approval anniversary date.

(3) **Reinstatement period.** Providers whose approval has expired may be reinstated pursuant to paragraph 1 of this subsection. The reinstatement period shall be for a period of one (1) year following the expiration of the renewal date. The approval of the provider and any currently active courses shall remain active for the reinstatement period. If the provider and all courses fail to remain active following the reinstatement period, the provider and courses shall not be reinstated and the provider and courses shall be required to be approved pursuant to the provisions of this subsection.

(4) **Withheld or withdrawn approval.** The Commissioner may withhold or withdraw approval of any provider for violation of or non-compliance with any provision of this section.

(f) **Courses; approval; records; fee.**

(1) **Timeline for approval.** At least thirty (30) days prior to the use of any course and not less than ten (10) days prior to the Continuing Education Advisory Committee meeting immediately preceding the course date, the provider shall apply for and submit the appropriate course review fee to the Commissioner for course approval. The Commissioner shall grant or deny approval based upon information submitted in this section regarding each course or additional information regarding the course, if necessary. The Commissioner will assign the number of CE hours awarded for an approved course and the line or lines of insurance for which the course qualifies. The provider shall submit the following at the time of application:

(A) The number of CE hours requested for each course;

(B) Topic outlines which list the summarized topics covered in each course and a copy of any course

materials. If a prior approved course has substantially changed, a summarization of those changes;

(C) If a prior approved course has materially changed, a summarization of those changes.

(2) **Instructor approval.** Instructors shall be approved by the Commissioner at least fourteen (14) calendar days prior to a presentation of a course. The Commissioner may disapprove any course if instructor approval has not been granted. An instructor shall have one of the following qualifications:

(A) Three (3) years of recent experience in the subject area being taught; or

(B) A degree related to the subject area being taught; or

(C) Two (2) years of recent experience in the subject area being taught and twelve (12) hours of college and/or vocational technical school credit hours in the subject area being taught.

(3) **Written approval required.** All courses shall require written approval by the Commissioner.

(4) **Withheld or withdrawn approval.** The Commissioner may withhold or withdraw approval for any course approval. This withdrawal will not affect any CE hours attained under the course previous to the withdrawal. If a provider provides a CE course after that course has been denied by the Commissioner, the provider may be subject to an administrative action and penalty.

(5) **Minimum of one credit hour.** Courses submitted for approval must consist of a minimum of one credit hour of course instruction.

(6) **Continuing education course must be separate from meetings.** Courses conducted in conjunction with other meetings must have a separate continuing education course component.

(7) **Content of courses.** Courses must be of a meaningful nature and shall not include insurance company specific courses in areas such as prospecting, motivation, sales techniques, psychology, recruiting, and subjects not relating to the insurance license. However, agency management courses designed to assist producers in becoming more efficient, profitable, and assuring their perpetuation, will be deemed to be in the best interest of the insuring public and thereby subject to approval. Each such agency management course must include the description, the effects the course is designed to accomplish toward the purposes of efficiency, profitability, and/or perpetuation and each course will be reviewed for approval on its own merits.

(8) **Certificate of Course Completion.** At the completion of each course, the provider shall provide the insurance producer a "Certificate of Course Completion" Form.

(9) **List of producers completing course to Commissioner; producer license numbers.** Within ten (10) business days after completion of each course, the provider shall electronically upload a list of all insurance producers who completed the course to the Commissioner's database system. This list shall contain the course number, date of completion and license numbers of all insurance producers completing the course. If the list is not reported within ten (10) business days, a late report fee of $50.00 shall be paid to the Insurance Department. Failure to pay the late report fee may result in revocation of provider approval. Continued late filing may also result in loss of approval.

(10) **Course records maintained four years.** Providers shall maintain course records for at least four (4) years. The Commissioner may order an examination of a provider, at the provider's expense, for good cause shown.

(11) **Repeated approved course.** At least fourteen (14) days prior to the repetition of an approved course, the Commissioner shall be notified in writing of the repetition, providing course number, name, date and instructor's name.

(12) **Course evaluation.** The continuing education provider shall provide written notification to each producer of the opportunity to offer comments on any continuing education class via the Insurance Department website.

(13) **Course review fee.** A non-refundable course review fee of thirty dollars ($30.00) per course shall be submitted by all continuing education providers at the time the course submission is first submitted for review and upon submission for renewal at expiration with the exception of publicly funded educational institutions, federal agencies, Oklahoma state agencies, non-profit organizations, and not-for-profit organizations.

(g) **Approved professional designation programs.**

(1) **Definitions.**

(A) **Participation.** As used in 36 O.S. § 1435.29(B)(3), participates means successfully completing any part of a course curriculum totaling twenty-four (24) classroom or equivalent classroom hours of an approved professional designation program.

(B) **Approved Professional Designation Program.** As used in 36 O.S.§ 1435.29(B)(3), an approved professional designation program means an educational insurance program approved by the Commissioner with a sponsoring organization that administers curriculum requirements and testing standards for candidates.

(2) **Requirements.** A professional designation program shall satisfy the following criteria to receive initial and ongoing approval for the program:

(A) The program shall have a sponsoring organization;

(B) The program's sponsoring organization shall maintain and govern a code of conduct;

(C) The program shall be relevant to the sale, solicitation, or negotiation of insurance products in the State of Oklahoma;

(D) Each course of the professional designation course curriculum shall be a minimum of twenty-four (24) hours of classroom instruction or equivalent classroom instruction; and

(E) The program shall include an examination requirement that students shall pass before earning the designation.

(3) **Submissions.** The sponsoring organization shall submit the following to the Commissioner for its professional designation program to be considered for initial and ongoing approval for the program:

(A) The sponsoring organization's code of conduct;

(B) The sponsoring organization's membership requirements;

(C) The professional designation program's course requirements; and

(D) The professional designation program's examination requirements.

(4) **Submission exemptions.** Professional designation programs recognized by the National Association of Insurance Commissioners (NAIC) for waiver/exemption of pre-licensing education training shall receive initial and continuing approval without submission by the sponsoring organization.

(h) **Presumptive Continuing Education Credit Approval.**

(1) **Requirements.** A professional association may receive presumptive approval of the association's continuing education courses by satisfying the following requirements:

(A) The association shall have a mission statement that includes a commitment to enhance the professional, educational, or ethical skills of its members;

(B) The association shall maintain and govern a code of member conduct;

(C) The association shall offer educational programs relevant to the sale, solicitation, or negotiation of insurance products in the State of Oklahoma; and

(D) The association shall perpetuate its continuity through the election of officers.

(2) **Submissions.** Each professional association shall submit the following to be considered for initial and ongoing presumptive course approval:

(A) The association's mission statement;

(B) The association's code of member conduct;

(C) The chapter officers, the responsibilities for each officer, and the term of office for each officer;

(D) The mailing address and primary contact for the association; and

(E) The list of continuing education courses approved in Oklahoma and offered by the professional association in the past twenty-four (24) months.

(3) **Notification of approval or disapproval.**

(A) The Commissioner shall notify the association within ninety (90) days from the receipt of submission whether presumptive approval for continuing education courses was granted. The notification shall indicate the reasons for disapproval.

(B) Submissions to the Commissioner by an association seeking presumptive approval of continuing education courses shall include the course summary, instructor name, course date and location and shall be submitted to the Commissioner at least fifteen (15) business days prior to the presentation of the course.

(C) If the Commissioner receives a report or reports that the content of a continuing education course may violate 365:25-3-1(f)(7) of this section, the Commissioner may review the content and determine if the course should be disapproved for noncompliance. The Commissioner shall notify the association if the course has been disapproved due to non-compliance, and the association shall immediately cease offering the course upon receipt of the notification. The association may then make corrections to a disapproved course to bring the course into compliance with 365:25-3-1(f)(7) of this section and submit the course for approval by the Commissioner in the manner of an original submission for presumptive continuing education course approval.

(D) Should an association receive notification of three (3) disapproved courses within a twenty-four (24) month period, the association's presumptive approval for continuing education courses shall be rescinded for twenty-four (24) months after which time the association may re-apply for presumptive approval.

(4) **Assignment of course number.** The Commissioner shall assign a course number once the presumptive approval for continuing education courses has been granted and shall notify the association of the assigned course number. All future correspondence relating to that course shall reference the assigned course number.

(5) **Instructor approval.** Instructors shall be approved by the Commissioner at least fourteen (14) calendar days prior to a presentation of a course. The Commissioner may disapprove any course if instructor approval has not been granted.

(6) **Review.** Course approval shall be reviewed every three (3) years. The association shall re-submit the items required in subparagraph (3)(B) of this section during the fourth quarter of the last approval year.

(7) **Agency Management Courses.** Agency management courses shall not be considered for presumptive continuing education approval.

(i) **Self study and Distance Learning Courses.** The Insurance Commissioner shall determine appropriate guidelines and standards for self-study and distance learning CEC offerings. The guidelines and standards shall include authentication of the registered licensee, technology requirements for course delivery and testing protocols. Guidelines and standards shall be reviewed, updated as appropriate, and published annually. Failure to follow the guidelines and standards established by the Commissioner may result in denial of continuing education credit for the producer and revocation of the course approval and or provider status for the provider.

(j) **Repeating courses.** An insurance producer may repeat a course within the twenty-four month period if the maximum credits designated for the course were not attained in the first attempt. By repeating the course, the producer may not during the twenty-four month period earn more than the maximum

credits designated for the course. A producer may repeat a course after two years have elapsed and receive the maximum credits designated for the course.

(k) **Extension of time.** For good cause shown, the Commissioner may grant an extension of time during which the requirements imposed by the act may be completed. The extension shall not exceed twelve (12) months. The extension will not alter the requirements or due date of the succeeding twenty-four-month period. "Good cause" includes disability, natural disaster, or other extenuating circumstances. Each request for extension of time shall be in writing from the licensee and shall include details and any documentation to support the request. Each request must be received by the Commissioner no less than thirty (30) days before the expiration of the twenty-four month period.

(l) **Course approval.** There shall hereby be established by 36 O.S. § 1435.29(B)(1)(b) the Continuing Education Advisory Committee. This committee shall consist of representatives from the Licensing Division, and representatives from the industry as designated by the Commissioner. The committee shall meet at least quarterly and additionally as required. Members of the committee shall serve without pay and shall not be reimbursed for any expenses associated therewith. Prior to the Commissioner's approval or disapproval of a course in 365:25-3-1(f), a continuing education advisory committee will review the course submitted and make its nonbinding recommendation to the Commissioner on granting or denying approval based upon information submitted in 365:25-3-1(f) regarding the course or additional information regarding the course, if necessary, the number of CE hours awarded for an approved course and the line or lines of insurance for which the course qualifies. Each course approval shall be valid for a period of not more than two (2) years, unless the course has a material change. Material changes to courses require course resubmission for overall course review and approval. Course approval following the review of material changes shall reset the validity period. At the expiration of the validity period, providers shall submit the course for approval by the Commissioner if the provider wants to continue to offer the course for continuing education credit.

(m) **Severability provision.** If any provision of this section, or application of such provision to any person or circumstances, shall be held invalid, the remainder of the section, and the application of such provision to person or circumstances other than those as to which it is held invalid, shall not be affected thereby.

365:25-3-14. Insurance adjusters continuing education

(a) **Purpose.** The purpose of this section is to set forth the requirements for continuing education which an insurance adjuster must meet, and to set forth the requirements for approval by the Insurance Commissioner of a proposed continuing education course.

(b) **Definitions.** The following words or terms, when used in this section, shall have the following meaning, unless the context clearly indicates otherwise:

(1) **"CE"** means continuing education.

(2) **"Certificate of course completion"** means a document acceptable to the Commissioner which signifies satisfactory completion of the course and reflects hours of credit earned.

(3) **"Continuing Education Advisory Committee"** means the committee established by the Commissioner for the purpose of reviewing and recommending approval or disapproval of continuing education courses.

(4) **"Credit hour"** means at least fifty (50) minutes of classroom instruction, unless a correspondence or self-study course.

(5) **"Instructor"** means a person who presents course materials approved for continuing education credit hours, and who has experience, training, and/or education in the course subject matter and has been approved by the Commissioner.

(6) **"Instructor Qualification Form"** means a form acceptable to the Commissioner and completed by the instructor which documents qualifications of the instructor.

(7) **"Licensee"** means a natural person who is licensed by the Commissioner as an insurance adjuster.

(8) **"Provider"** means a person, corporation, professional association or its local affiliates, an insurance company or any other entity which is approved by the Commissioner and provides approved continuing education to insurance adjusters.

(9) **"Provider Course Completion Form"** means a form acceptable to the Commissioner and completed by the provider which documents completion of an approved course by an adjuster or adjusters.

(c) **Exceptions.** Continuing education requirements shall not apply to non-resident adjusters licensed in a designated home state that has a continuing education requirement for adjusters.

(d) **Continuing education requirements.**

(1) **CE during twenty-four month period.** All licensees shall complete the required hours of continuing education as set forth in Section 6217(B) of Title 36 of the laws of this state during each twenty-four month period. The twenty-four month period begins the first day after the license is granted.

(2) **Certificates of course completion required for license renewal.** If requested by the Insurance Department, each adjuster shall submit upon each licensing renewal a certificate(s) of course completion as approved by the Insurance Department, which verifies courses completed during the previous twenty-four month period.

(3) **Credits carried over.** Six (6) credit hours in excess of the minimum twenty-four month period requirement shall carry forward to the next twenty-four month period as general hours. Excess hours may be applied to bring a lapsed license into compliance.

(4) **Legislative Updates.** At least two (2) of the continuing education credit hours of instruction completed by licensees each twenty-four month period shall be taken in the following topics:

(A) State legislative updates, or

(B) Federal legislative updates.

(5) **Earthquake insurance education.** Beginning January 1, 2015, all resident insurance adjuster licensees, or nonresident insurance adjusters who have designated Oklahoma as their home state, with a property line of authority shall complete one (1) hour of continuing education credit in the topic of earthquake insurance as part of the continuing education credit hours required each twenty-four month period.

(~~5~~6) **Credits for instructors.** An instructor who is a licensee shall receive the same continuing education credit for presenting approved course materials as a licensee who attends an approved classroom instructional session by including his/her name and license number on roster.

(~~6~~7) **Prerequisite for renewal or reinstatement.** As a prerequisite for license renewal or prior to reinstatement following a lapse of license, an adjuster must demonstrate that the educational requirements have been reported for the previous renewal cycle.

(e) **Approval of continuing education providers.**

(1) **Information required.** Each provider shall apply for approval by the Commissioner. Each provider, with the exception of public funded educational institutions, federal agencies, nonprofit organizations, not-for-profit organizations, and Oklahoma state agencies shall submit a provider fee of Two Hundred Dollars ($200.00), and all providers, including public funded educational institutions, federal agencies, nonprofit organizations, not-for-profit organizations and Oklahoma agencies shall provide:

(A) Name, address, and email address of the provider.

(B) Contact person and his or her address and telephone number(s).

(2) **Withheld or withdrawn approval.** The Commissioner may withhold or withdraw approval of any provider for violation of or non-compliance with any provision of this section.

(3) **Renewal fee.** An annual renewal fee of Two Hundred Dollars ($200.00) shall be payable on or before the approval anniversary date of each year by each provider to renew the approval of the provider. A fee of double the annual renewal fee shall be paid if the application for renewal is late or incomplete on the approval anniversary date.

(4) **Reinstatement period.** Providers whose approval has expired may be reinstated pursuant to paragraph 1 of this subsection. The reinstatement period shall be for a period of one (1) year following the expiration of the renewal date. The approval of the provider and any currently active courses shall remain active for the reinstatement period. If the provider and all courses fail to remain active following the reinstatement period, the provider and courses shall not be reinstated and the provider and courses shall be required to be approved pursuant to the provisions of this subsection.

(f) **Courses; approval; records.**

(1) **Timeline for approval.** At least thirty (30) days prior to the use of any course and not less than ten (10) days prior to the Continuing Education Advisory Committee meeting immediately preceding the course date, the provider shall apply for and submit the appropriate course review fee to the Commissioner for course approval. The Commissioner shall grant or deny approval based upon information submitted in this section regarding each course or additional information regarding the course, if necessary. The Commissioner will assign the number of CE hours awarded for an approved course and the line or lines of insurance for which the course qualifies. The provider shall submit the following at the time of application:

(A) The number of CE hours requested for each course.

(B) Topic outlines which list the summarized topics covered in each course and a copy of any course materials.

(C) If a prior approved course has materially changed, a summarization of those changes.

(2) **Instructor approval.** Instructors shall be approved by the Commissioner at least fourteen (14) calendar days prior to a presentation of a course. The Commissioner may disapprove any course if instructor approval has not been granted. An instructor shall have one of the following qualifications:

(A) Three (3) years of recent experience in the subject area being taught; or

(B) A degree related to the subject area being taught; or

(C) Two (2) years of recent experience in the subject area being taught and twelve (12) hours of college and/or vocational technical school credit hours in the subject area being taught.

(3) **Repeated approved course.** At least fourteen (14) days prior to the repetition of an approved course, the Commissioner shall be notified in writing of the repetition, providing course number, name, date, location and instructor's name.

(4) **Written approval required.** All courses shall require written approval by the Commissioner.

(5) **Withheld or withdrawn approval.** The Commissioner may withhold or withdraw approval for any course. This withdrawal will not affect any CE hours attained under the course previous to the withdrawal.

(6) **Minimum of one credit hour.** Courses submitted for approval must consist of a minimum of one credit hour of course instruction.

(7) **Continuing education course must be separate from meetings.** Courses conducted in conjunction with other meetings must have a separate continuing education course component.

(8) **Content of courses.** Courses must be of a meaningful nature and shall not include insurance company specific courses in areas such as prospecting, motivation, sales techniques, psychology, recruiting, time management, phone etiquette, basic pre-licensing principles of adjusting, and subjects not relating to the adjuster's license.

(9) **Certificate of Course Completion.** At the completion of each course, the provider shall provide the insurance adjuster a "Certificate of Course Completion" Form.

(10) **List of adjusters completing course to Commissioner.** Within ten (10) business days after completion of each course, the provider shall electronically upload a list of all insurance adjusters who completed the course to the Commissioner's database system. This list shall contain the course number, date of completion and license numbers of all insurance adjusters completing the course. If the list is not reported within ten (10) business days, a late report fee of $50.00 shall be paid to the Insurance Department. Failure to pay the late report fee may result in revocation of provider approval. Continued late filing may also result in loss of approval.

(11) **Course records maintained four (4) years.** Providers shall maintain course records for at least four (4) years. The Commissioner may order an examination of a provider, at the provider's expense, for good cause shown.

(12) **Course review fee.** A non-refundable course review fee of thirty dollars ($30.00) per course shall be submitted by all continuing education providers at the time the course submission is first submitted for review and upon submission for renewal at expiration with the exception of publicly funded educational institutions, federal agencies, Oklahoma state agencies, non-profit organizations, and not-for-profit organizations.

(13) **Course evaluation.** The continuing education provider shall provide written notification to each producer of the opportunity to offer comments on any continuing education class via the Insurance Department website.

(g) **Approved professional designation programs.**

(1) **Definitions.**

(A) **Participation.** As used in 36 O.S. § 6217(C), participates means successfully completing any part of a course curriculum totaling twenty (20) classroom or equivalent classroom hours of an approved professional designation program.

(B) **Approved professional designation program.** As used in 36 O.S. § 6217(C), an approved professional designation program means an educational insurance program approved by the Commissioner with a sponsoring organization that administers curriculum requirements and testing standards for candidates.

(2) **Requirements.** A professional designation program shall satisfy the following criteria to receive initial and ongoing approval for the program:

(A) The program shall have a sponsoring organization;

(B) The program's sponsoring organization shall maintain and govern a code of conduct;

(C) The program shall be relevant to the sale, solicitation, or negotiation of insurance products in the State of Oklahoma;

(D) Each course of the professional designation course curriculum shall be a minimum of twenty (20) hours of classroom instruction or equivalent classroom instruction; and

(E) The program shall include an examination requirement that students shall pass before earning the designation.

(3) **Submissions.** The sponsoring organization shall submit the following to the Commissioner for its professional designation program to be considered for initial and ongoing approval for the program:

(A) The sponsoring organization's code of conduct;

(B) The sponsoring organization's membership requirements;

(C) The professional designation program's course requirements; and

(D) The professional designation program's examination requirements.

(4) **Submission exemptions.** Professional designation programs recognized by the National Association of Insurance Commissioners (NAIC) for waiver/exemption of pre-licensing education training shall receive initial and continuing approval without submission by the sponsoring organization.

(h) **Presumptive continuing education credit approval.**

(1) **Requirements.** A professional association may receive presumptive approval of the association's continuing education courses by satisfying the following requirements:

(A) The association shall have a mission statement that includes a commitment to enhance the professional, educational, or ethical skills of its members;

(B) The association shall maintain and govern a code of member conduct;

(C) The association shall offer educational programs relevant to the sale, solicitation, or negotiation of insurance products in the State of Oklahoma; and

(D) The association shall perpetuate its continuity through the election of officers.

(2) **Submissions.** Each professional association shall submit the following to be considered for initial and ongoing presumptive course approval:

(A) The association's mission statement;

(B) The association's code of member conduct;

(C) The chapter officers, the responsibilities for each officer, and the term of office for each officer;

(D) The mailing address and primary contact for the association; and

(E) The list of continuing education courses approved in Oklahoma and offered by the professional association in the past twenty-four (24) months.

(3) **Notification of approval or disapproval.**

(A) The Commissioner shall notify the association within ninety (90) days from the receipt of submission whether presumptive approval for continuing education courses was granted. The notification shall indicate the reasons for disapproval.

(B) Submissions to the Commissioner by an association seeking presumptive approval of continuing education courses shall include the course summary, instructor name, course date and location and shall be submitted to the Commissioner at least fifteen (15) business days prior to the presentation of the course.

(C) If the Commissioner receives a report or reports that the content of a continuing education course may violate paragraph 365:25-3-1(f)(8) of this section, the Commissioner may review the content and determine if the course should be disapproved for noncompliance. The Commissioner shall notify the association if the course has been disapproved due to non-compliance, and the association shall immediately cease offering the course upon receipt of the notification. The association may then make corrections to a disapproved course to bring the course into compliance with paragraph 365:25-3-1(f)(8) of this section and submit the course for approval by the Commissioner in the manner of an original submission for presumptive continuing education course approval.

(D) Should an association receive notification of three (3) disapproved courses within a twenty-four (24) month period, the association's presumptive approval for continuing education courses shall be rescinded for twenty-four (24) months after which time the association may re-apply for presumptive approval.

(4) **Assignment of course number.** The Commissioner shall assign a course number once the presumptive approval for continuing education courses has been granted and shall notify the association of the assigned course number. All future correspondence relating to that course shall reference the assigned course number.

(5) **Instructor approval.** Instructors shall be approved by the Commissioner at least fourteen (14) calendar days prior to a presentation of a course. The Commissioner may disapprove any course if instructor approval has not been granted.

(6) **Review.** Course approval shall be reviewed every three (3) years. The association shall re-submit the items required in subparagraph 365:25-3-14(H)(3)(B) of this section during the fourth quarter of the last approval year.

(7) **Agency management courses.** Agency management courses shall not be considered for presumptive continuing education approval.

(i) **Self study and distance learning courses.** The Insurance Commissioner shall determine appropriate guidelines and standards for self-study and distance learning CEC offerings. The guidelines and standards shall include authentication of the registered licensee, technology requirements for course delivery and testing protocols. Guidelines and standards shall be reviewed and updated as appropriate and published on the Commissioner's website annually. Failure to follow the guidelines and standards established by the Commissioner may result in denial of continuing education credit for the adjuster and revocation of the course approval and or provider status for the Provider.

(j) **Repeating courses.** An insurance adjuster may repeat a course within the twenty-four month period if the maximum credits designated for the course were not attained in the first attempt. By repeating the course, the adjuster may not during the twenty-four month period earn more than the maximum credits designated for the course. An adjuster may repeat a course after two (2) years have elapsed and receive the maximum credits designated for the course.

(k) **Extension of time.** For good cause shown, the Commissioner may grant an extension of time during which the requirements imposed by the act may be completed. The extension shall not exceed twelve (12) months. The extension will not alter the requirements or due date of the succeeding twelve-month period. "Good cause" includes disability, natural disaster, or other extenuating circumstances. Each request for extension of time shall be in writing from the licensee and shall include details and any documentation to support the request. Each request must be received by the Commissioner no less than thirty (30) days before the expiration of the twenty-four month period.

(l) **Continuing education advisory committee.**

(1) There shall hereby be established the Continuing Education Advisory Committee. This committee shall consist of representatives from the Licensing Division, and representatives from the industry as designated by the Commissioner. Members of the Advisory Board established by 36 O.S. § 6221 may also serve on the Continuing Education Advisory Committee. The committee shall meet at least quarterly and additionally as required. Members of the committee shall serve without pay and shall not be reimbursed for any expenses associated therewith.

(2) Prior to the Commissioner's approval or disapproval of a course in 365:25-3-14(f), a continuing education advisory committee will review the course submitted and make its nonbinding recommendation to the Commissioner on granting or denying approval based upon information submitted in 365:25-3-14-(f) regarding the course or additional information regarding the course, if necessary, the number of CE hours awarded for an approved course and the line or lines of insurance for which the course qualifies. Each course approval shall be valid for a period of not more than two (2) years, unless the course has a material change. Material changes to courses require course resubmission for overall course review and approval. Course approval following the review of material changes shall reset the validity period. At the expiration of the validity period, providers shall submit the course for approval by the Commissioner if the provider wants to continue to offer the course for continuing education credit.

(m) **Severability provision.** If any provision of this section, or application of such provision to any person or circumstances, shall be held invalid, the remainder of the section, and the application of such provision to person or circumstances other than those as to which it is held invalid, shall not be affected thereby.

SUBCHAPTER 5. BAIL BONDSMEN

PART 5. GENERAL PROVISIONS PERTAINING TO BAIL BONDSMEN

365:25-5-31. ~~Residence, business, mailing, and e-mail addresses~~Information to be included on applications

(a) Original and renewal applications shall include the ~~following~~applicant's:

(1) ~~applicant's~~ residence address,

(2) ~~applicant's~~ business address,

(3) ~~applicant's~~ mailing address, ~~and~~

(4) ~~applicant's~~ e-mail address~~.~~,

(5) telephone number, and

(6) legal name.

(b) An applicant's business address and mailing address shall be in the same county.

365:25-5-41. Special deposit

(a) In addition to the cash or securities deposited in trust with the ~~State Treasurer through the~~ Insurance Commissioner's office pursuant to 36 O.S. § 613, insurers writing bail bonds in this state shall deposit in trust additional cash or securities equaling at least Three Hundred Thousand Dollars ($300,000.00), and insurers writing bail bonds in this state shall not exceed a twenty-to-one (20:1) ratio of outstanding liability-to-special deposit.

(b) An insurer shall comply with the following requirements to maintain the special deposit described in Subsection (a):

(1) The insurer's monthly report of outstanding liability shall be within ten percent (10%) of the outstanding liability reported by all the insurer's appointed surety bondsmen for that month.

(2) All bail bond forfeitures shall either be paid within 91 days after receipt of the Order and Judgment of Forfeiture or vacated by the court within 91 days from the date of receipt of the Order and Judgment of Forfeiture pursuant to Section 365:25-5-40.

(c) If the insurer fails to comply with either requirement of paragraph (b) more than three (3) times in a consecutive twelve (12) month period, the insurer's outstanding liability shall not exceed a ten-to-one (10:1) ratio of outstanding liability-to-special deposit. The Insurance Commissioner shall provide written notification of this requirement via certified mail, return receipt requested, to the insurer's address of record. The special deposit required by this paragraph shall become effective thirty (30) days from the date notification is received.

(d) If an insurer is authorized to write only bail bonds, any cash or securities deposited in trust with ~~the State Treasurer through~~ the Insurance Commissioner's office pursuant to 36 O.S. § 613 in excess of the minimum amount required by Section 613 shall apply towards the special deposit required by this section.

365:25-5-44. Notice of return to custody

Following a forfeiture, if the defendant has been returned to custody as defined in 59 O.S. § 1332(C)(~~3~~4), the bondsman shall file notice with the court clerk of the county where the forfeiture occurred by the ninety-first day after receipt of the order and judgment of forfeiture, certifying the defendant was returned to custody by the ninetieth day after receipt of the order and judgment of forfeiture. Failure to provide notice prior to the ninety-first day shall be a violation of 59 O.S. § 1310(A)(2).

365:25-5-48. Acts of a bail bondsman

Pursuant to 59 O.S. § 1311.3(A), it is unlawful for any individual whose license to act as a bail bondsman has been suspended, revoked, surrendered, or refused, to do or perform any of the acts of a bail bondsman. Likewise, pursuant to 59 O.S. § 1311.3(B), it is unlawful for any bail bondsman to assist, aid, or conspire with a person whose license as a bail bondsman has been suspended, revoked, surrendered, or refused, to engage in any acts as a bail bondsman. For the purposes of 59 O.S. § 1311.3, the "acts of a bail bondsman" include, but are not limited to:

(1) Soliciting for a bond as defined in 59 O.S. § 1301(B)(11);

(2) Accepting collateral and providing a written receipt for collateral pursuant to 59 O.S. § 1314(A);

(3) Collecting premiums in person at a location other than the bondsman's recorded place of business pursuant to 59 O.S. § 1316(C);

(4) Providing a written receipt for premium pursuant to 59 O.S. § 1316(C);

(5) Negotiating or posting bonds pursuant to 59 O.S. § 1317(D);

(6) Surrendering a defendant into custody pursuant to 59 O.S. § 1327(A);

(7) Returning a defendant to custody prior to forfeiture pursuant to 59 O.S. §§ 1327 & 1328;

(8) Filing or signing with the court clerk a notice of return to custody;

(9) Signing or filing with the court clerk a guarantee to pay travel expenses;

(10) Signing and presenting a request that a defendant be entered into the records of the National Crime Information Center (NCIC);

(11) Submitting monthly reports to the Insurance Department pursuant to 59 O.S. 1314(B);

(12) Providing to the Oklahoma Insurance Department required documentation regarding Notice of Appointment, Filing Fee, and Notice of Termination pursuant to 59 O.S. § 1317; and

(13) Any other act that imposes any duty or obligation upon a licensed bail bondsman or surety.

SUBCHAPTER 15. CAPTIVE INSURANCE COMPANIES REGULATION

365:25-15-2. Annual reporting requirements

(a) ~~A pure, association, sponsored, or industrial~~Except as provided in 36 O.S. § 6470.11, a captive insurance company doing business in this State shall annually, prior to March 1, submit to the Insurance Commissioner a report of its financial condition, verified by oath of two of its executive officers. The report shall be that prescribed by the Insurance Commissioner as "Oklahoma Captive Insurance Company Annual Report."

(b) A company that elects to file its annual report on a fiscal year basis pursuant to 36 O.S. § 6470.11(C), shall file such report no later than 60 days following the close of such fiscal year.

(c) A company that elects to file its annual report on a fiscal year basis shall submit, concurrently with each premium tax return required in connection with premium taxes due under36 O.S. § 6470.19 pages 1 through 7 of the "Captive Annual Statement: Pure or Industrial Insured," verified by oath of two of its executive officers.

(d) In order to verify results reported in the company's annual report, each company shall cause its books and records to be audited annually by an independent certified public accounting firm approved in accordance with Section 4 of this Subchapter.

(e) In order to further verify results reported in the company's annual report each company shall cause to be prepared an actuarial opinion by a qualified actuary certifying the accuracy of the company's life, health, or annuity insurance reserves, or its loss reserves and loss expense reserves, as reported in the annual report. "Qualified actuary" means an individual who is a member of the American Academy of Actuaries and who has met the Qualification Standards for Actuaries Issuing Statements of Actuarial Opinions in the United States promulgated by the American Academy of Actuaries.

(~~b~~f) A risk retention group doing business in this State shall annually submit to the Insurance Commissioner a report of its financial condition, verified by oath of two of its executive officers. The report shall be that required by Section 311 of Title 36 of the Oklahoma Statutes.

365:25-15-3. Annual Audit

(a) All companies shall have an annual audit by an independent certified public accountant, authorized by the Insurance Commissioner, and shall file such annual audited financial report with the Insurance Commissioner on or before June 30 for the year ending December 31 immediately preceding.

(b) A pure captive insurance company may make written application to file its annual report on a fiscal year basis and, if approved by the Commissioner, shall file such report no later than ~~sixty (60)~~one hundred eighty (180) days following the close of the fiscal year.

(c) A company that elects to file its annual report on a fiscal year basis shall submit, concurrently with each premium tax return required, a schedule detailing the net direct written premium and assumed premium for the fiscal year in question.

(d) The annual audited financial report shall be considered part of the company's annual report of financial condition except with respect to the date by which it must be filed with the Insurance Commissioner.

(e) The annual audited financial report shall consist of the following:

(1) **Opinion of Independent Certified Public Accountant.**

(A) Financial statements furnished pursuant to this section shall be examined by independent certified public accountants in accordance with generally accepted accounting principles, or as required by any other comprehensive basis of accounting in use by the company and approved by the Insurance Commissioner~~ and the National Association of Insurance Commissioners~~.

(B) The opinion of the independent certified public accountant shall cover all years presented.

(C) The opinion shall be addressed to the company on stationery of the accountant showing the address of issuance, shall bear original manual signatures and shall be dated.

(2) **Report of Evaluation of Internal Controls.**

(A) ~~This report shall include an evaluation of the internal controls of the company relating to the methods and procedures used in the securing of assets and the reliability of the financial records, including but not limited to, such controls as the system of authorization and approval and the separation of duties.~~In addition to the annual audit, each company shall furnish the Commissioner with a written report, prepared in accordance with SAS No. 112, or any successor thereto, by the independent certified public accounting firm describing significant deficiencies and material weaknesses in the company's internal control structure.

(B) The review shall be conducted in accordance with generally accepted accounting principles, or as required by any other comprehensive basis of accounting in use by the company and approved by the Insurance Commissioner, and the report shall be filed with the Insurance Commissioner.

(C) The company is required to provide a description of remedial actions taken or proposed to correct material weaknesses and, at the Commissioner's discretion, significant deficiencies, if such actions are not described in the independent certified public accounting firm's report.

(3) **Accountant's Letter.** The independent certified public accountant accountant shall furnish the company, for inclusion on the filing of the annual audited financial report, a letter stating:

(A) That ~~(s)he~~he or she is independent with respect to the company and conforms to the standards of his/her profession as contained in the Code of Professional Ethics and pronouncements of the American Institute of Certified Public Accountants and pronouncements of the Financial Accounting Standards Board.

(B) The general background and experience of the staff engaged in audit including the experience in auditing captives or other insurance companies.

(C) That the accountant understands that the audited annual report and his opinions thereon will be filed in compliance with this regulation with the Department, and that the Commissioner will be relying on this information in the monitoring and regulation of the financial position of the company.

(D) That the accountant consents to the requirements of 365:25-15-4(c) of this regulation and that the accountant consents and agrees to make available for review by the Insurance Commissioner, or his appointed agent, the work papers as defined in 365:25-15-4(c).

(E) That the accountant is properly licensed by an appropriate state licensing authority and that ~~(s)he~~he or she is a member in good standing in the American Institute of Certified Public Accountants.

(4) **Financial Statements.** Statements required shall be as follows:

(A) Balance sheet,

(B) Statement of gain or loss from operations,

(C) Statement of changes in financial position,

(D) Statement of changes in capital paid up, gross paid in and contributed surplus and unassigned funds (surplus), and

(E) Notes to financial statements. The notes to financial statements shall be those required by generally accepted accounting principles, or as required by any other comprehensive basis of accounting in use by the company and approved by the Insurance Commissioner, and shall include:

(i) A reconciliation of differences, if any, between the audited financial report and the statement or form filed with the Insurance Commissioner.

(ii) A summary of ownership and relationship of the company and all affiliated corporations or companies insured by the captive.

(iii) A narrative explanation of all material transactions and balances with the company. "Material transactions" means sales, guarantees, purchases, exchanges, loans or extensions of credit or investments which, based upon an annual aggregate, involve more than three percent (3%) of the insurer's admitted assets or twenty-five percent (25%) of the insurer's surplus as regards policyholders, whichever is less, as of the latest annual financial statement filed with the Commissioner.

(5) **Certification of Loss Reserves and Loss Expense Reserves.**

(A) The annual audit shall include an opinion as to the adequacy of the company's life, health, or annuity reserves, or its loss reserves and loss expense reserves.

~~(B) The individual who certifies as to the adequacy of reserves shall be approved by the Insurance Commissioner and shall be a Fellow of the Casualty Actuarial Society, a member in good standing of the American Academy of Actuaries, or an individual who has demonstrated his competence in loss reserve evaluation to the satisfaction of the Insurance Commissioner.~~

(~~C~~B) Certification shall be in such form as the Insurance Commissioner deems appropriate.

(f) ~~Any company having direct written premiums of Two Million Dollars ($2,000,000) or less in the preceding year may request exemption from the annual audit requirement.~~Upon request by the company and for good cause shown, the Commissioner may grant an exemption from the annual audit requirement for any company having direct written and assumed premiums of Two Million Dollars ($2,000,000.00) or less in the preceding year.

365:25-15-4. Independent Certified Public Accountant

(a) **Designation of Independent Certified Public Accountant.** ~~Companies subject to an annual audit shall, within ninety days, report to the Insurance Commissioner in writing, the name and address of the independent certified public accountant retained to conduct the annual audit set forth in this subchapter.~~Each company shall provide to the Commissioner the name and address of the independent certified public accounting firm retained to conduct the annual audit required under this regulation not less than six months before the date on which the first annual audit conducted by such firm is to be filed with the Commissioner in accordance with Section 3 of this Subchapter. The certified public accountant that is retained to conduct the annual audit ~~may only be appointed~~must be selected from the list of approved certified public accounting firms or individual certified public accountants maintained by the Insurance Commissioner.

(b) **Notification of Adverse Financial Condition.** A company shall require the independent certified public accountant conducting its annual audit to immediately notify in writing an officer and all members of the Board of Directors of the company of any determination by the independent certified public accountant that the company has materially misstated its financial condition in its report to the Insurance Commissioner as required in Sections 311 or 6470.11 of Title 36 of the Oklahoma Statutes. The company, or its designated captive insurance manager, shall furnish such notification to the Insurance Commissioner within five working days of receipt thereof.

(c) **Availability and Maintenance of Working Papers of the Independent Certified Public Accountant.**

(1) Each company shall require the independent certified public accountant to make available for review by the Insurance Commissioner, or his appointed agent or examiner, the work papers prepared in the conduct of the audit of the company. The company shall require that the accountant retain the audit work papers for a period of not less than ~~five (5)~~seven (7) years after the period reported upon.

(2) The aforementioned review by the Insurance Commissioner shall be considered investigations and/or examination and all working papers obtained during the course of such investigations and/or examination shall be

confidential pursuant to 36 O.S. § 6470.13(B). The company shall require that the independent certified public accountant provide copies of any of the working papers which the Insurance Commissioner considers relevant. Such working papers may be retained by the Insurance Commissioner.

(3) "~~Work~~Working Papers" as referred to in this section ~~include~~means procedures followed, the tests performed, the information obtained, and the conclusions reached pertinent to its audit of the financial statements of a company, including but ~~are~~ not necessarily limited to, schedules, analyses, reconciliations, abstracts, memoranda, narratives, flow charts, copies of company records or other documents prepared or obtained by the accountant and his employees in the conduct of their examination of the company.

(d) **Rotation of Audit Partners.** A company shall not file an annual audit in which a partner or other person responsible for rendering such annual audit has acted in that capacity for more than seven (7) consecutive years. Each company filing an annual audit shall disqualify such person from acting in that or a similar capacity for the same company or its insurance subsidiaries or affiliates for a period of two (2) years. A company may make application to the Commissioner for relief from the above rotation requirement on the basis of unusual circumstances.

365:25-15-5. Deposit Requirement

Whenever the Insurance Commissioner ~~deems~~determines, pursuant to 36 O.S. § 6470.6, that the financial condition of ~~the~~a company warrants additional ~~security~~capital and surplus based upon the type, volume, and nature of insurance business transacted, he may require such additional capital in the form of a ~~company to~~ deposit with the Department. Such additional capital shall consist of cash, securities approved by the Insurance Commissioner, or a clean irrevocable letter of credit issued by a bank chartered by the State of Oklahoma or a member bank of the Federal Reserve System and approved by the Insurance Commissioner. The company may receive interest or dividends from said deposit or exchange the deposits for others of equal value with the approval of the Insurance Commissioner. If such company discontinues business, the Insurance Commissioner shall return such deposit only after being satisfied that all obligations of the company have been discharged.

365:25-15-6. Organizational examination

In addition to the processing of the application, an organizational investigation or examination may be performed before or after an applicant is licensed. Such investigation or examination ~~shall~~may consist of a general survey of the company's corporate records, including charter, bylaws and minute books; verification of capital and surplus; verification of principal place of business; determination of assets and liabilities; biographical affidavits; and a review of such other factors as the Insurance Commissioner deems necessary.

365:25-15-7. Reinsurance [REVOKED]

~~(a) Any captive insurance company authorized to do business in this State may take credit for reserves on risks ceded to a reinsurer subject to the following limitations:~~

~~(1) No credit shall be allowed for reinsurance where the reinsurance contract does not result in the complete transfer of the risk or liability to the reinsurer.~~

~~(2) No credit shall be allowed, as an asset or a deduction from liability, to any ceding insurer for reinsurance unless the reinsurance is payable by the assuming insurer on the basis of the liability of the ceding insurer under the contract reinsured without diminution because of the insolvency of the ceding insurer.~~

~~(b) Reinsurance under this section shall be effectuated through a written agreement of reinsurance setting forth the terms, provisions and conditions governing such reinsurance.~~

~~(c) The Insurance Commissioner in his discretion may require that complete copies of all reinsurance treaties and contracts be filed and/or approved by the Insurance Commissioner.~~

365:25-15-9. Executive officers and directors

(a) Every company shall report to the Insurance Commissioner within thirty days after any change in its executive officers or directors, including in its report a statement of the business and professional affiliations of any new executive officer or director. Every executive officer or director shall provide a biographical affidavit to the Insurance Commissioner within forty-five (45) days of his/her appointment as an executive officer or to the board of directors of the company.

(b) Except as otherwise permitted under the company's plan of operation approved by the Commissioner, ~~No~~no director, officer, or employee of a company shall, except on behalf of the company, accept, or be the beneficiary of, any fee, brokerage, gift, or other emolument because of any investment, loan, deposit, purchase, sale, payment or exchange made by or for the company, but such person may receive reasonable compensation for necessary services rendered to the company in his or her usual private, professional or business capacity.

(c) Any profit or gain received by or on behalf of any person in violation of this section shall inure to and be recoverable by the company.

365:25-15-10. Conflict of interest

~~(a)~~ Each company chartered in this State ~~is required to~~shall adopt a conflict of interest statement for its executive officers~~,~~ and directors~~ and key employees~~. Such ~~statement~~policy shall require that ~~disclose that the individual has no outside commitments, personal or otherwise, that would divert the individual from the individual's duty to further the interests of the company he represents but this shall not preclude such person from being a director or officer in more than one insurance company~~each such person disclose to the company's governing body, at least annually, any outside commitments that have the potential to create a conflict of interest with respect to the duty of such person to further the interests of the company.

~~(b) Each officer, director, and key employee shall file such disclosure with the Board of Directors yearly.~~

365:25-15-11. Rescission of captive license [REVOKED]

~~(a) The Insurance Commissioner may, subject to the provisions of this section, by order rescind the license of the company:~~

~~(1) if the company has not commenced business according to its plan of operation within two years of being licensed; or~~

~~(2) if the company ceases to carry on insurance business in or from within Oklahoma; or~~

~~(3) at the request of the company; or~~

~~(4) for any reason provided in Section 6470.14 of Title 36 of the Oklahoma Statutes.~~

~~(b) Before the Insurance Commissioner rescinds the license of a company under paragraphs (a)(1) or (2) of this section, the Insurance Commissioner shall give the company notice in writing of the grounds on which he proposes to cancel the license, and shall afford the company an opportunity to make objection in writing within the period of thirty days after receipt of notice. The Insurance Commissioner shall take into consideration any objection received by him within that period and, if he decides to cancel the license, cause the order of cancellation to be served on the company.~~

365:25-15-12. Acquisition of control of or merger with domestic company

(a) ~~Companies~~All persons shall comply with ~~Section 1653~~Sections 1651-1653 of Title 36 and associated regulations when seeking to acquire control of or merge with a domestic ~~company~~captive insurer, notwithstanding that the Insurance Commissioner may waive or modify the requirements for public notice and hearing when the Insurance Commissioner concludes the public hearing is not necessary due to the limited public interest in the change of control.

(b) Definitions of terms found in Section 1651 of Title 36 shall apply when a captive insurance company seeks to acquire control of or merge with a domestic company. For purposes of this section, the definition of the term insurer as set out in Section 1651 of Title 36 shall include captive insurance companies.

365:25-15-13. Change of business

(a) Except as otherwise provided, ~~Any~~any change in the nature of the captive business from that stated in the company's plan of operation filed with the Insurance Commissioner upon application requires prior approval from the Insurance Commissioner. ~~Any change in any other information filed with the application must be filed with the Insurance Commissioner within sixty (60) days of the change, but does not require prior approval.~~

(b) For purposes of this Section, "nature of the captive business" includes, but is not limited to, nonrecurring transactions such as loans or extensions of credit, reinsurance agreements or modifications thereto, management agreements, service contracts and all cost-sharing arrangements and changes in certificate of incorporation or bylaws.

365:25-15-14. Prior approval

Requests for the prior approval of the Insurance Commissioner of mergers, consolidations, conversions, mutualizations, redomestications or any other matter for which prior approval is required shall be made on the appropriate forms as set out in this Chapter for use by insurers or on forms as ~~determined~~prescribed by the Insurance Commissioner.

365:25-15-15. Severability Provision [REVOKED]

~~If any provisions of this subchapter or its applicability to any person or circumstance are held invalid, the remainder of the subchapter, and the application of such provisions to other persons or circumstances shall not be affected. To this end, the provisions of this subchapter are declared severable.~~

365:25-15-16. Consolidated or combined audits

A company may make written application to the Commissioner for approval to submit a consolidated annual audit in lieu of separate annual audits if the company is part of a group of entities that consolidates its annual audit. In such cases, a consolidating or combining worksheet shall be prepared with the annual audit as follows:

(1) Amounts for each company subject to this section shall be stated separately.

(2) Non-insurance operations may be shown on the worksheet on a combined or individual basis.

(3) Explanations of consolidating and eliminating entries shall be included.

(4) A reconciliation shall be included of any differences between the amounts shown in the individual company columns of the worksheet and comparable amounts shown on the annual reports of such companies.

365:25-15-17. Sponsored captive shares and dividends

(a) A sponsored captive insurer shall be a single legal entity and each protected cell of or within a sponsored captive insurer may be established as a separate legal entity, which shall constitute a legal entity separate from the sponsored captive insurer. Each protected cell shall be separately identified or designated as being a part of the sponsored captive insurer.

(b) A sponsored captive insurer may create and issue shares in one or more classes or series for one or more protected cells. The proceeds of the issue shall be included in the assets of the protected cell that issued the shares.

(c) The proceeds of the issue of shares, other than protected cell shares, shall be included in the sponsored captive insurer's general assets.

(d) Subject to prior approval by the Commissioner, a sponsored captive insurer may pay a dividend on protected cell shares of any class or series whether or not a dividend is declared on any other class or series of protected cell shares, or any other shares.

(e) Protected cell dividends may be paid on the protected cell shares from the protected cell assets. The dividends shall only be paid to the shareholders of the protected cell from which the protected cell shares were issued and otherwise in accordance with the rights of the shares.

(f) Any act, matter, deed, agreement, contract, instrument under seal, or other instrument or arrangement, which is to be binding on or to inure to the benefit of a protected cell, shall be executed by the sponsored captive insurer for and on behalf of such protected cell, and shall indicate that the execution is in the name of, by or for the account of, the protected cell.

365:25-15-18. Variable contracts

Any captive company that issues variable life or annuity contracts shall establish separate accounts subject to the requirements of 36 O.S. § 6061.

365:25-15-19. Qualification of sponsors

A sponsor of a sponsored captive insurance company may be any person approved by the Commissioner in the exercise of his or her discretion, based on a determination that the approval of such person as a sponsor is consistent with the purposes of this Subchapter. In evaluating the qualifications of a proposed sponsor, the Commissioner shall consider the type and structure of the proposed sponsor entity, its experience in financial operations, financial stability and strength, business reputation, and such other facts deemed relevant by the Commissioner. A risk retention group shall not be a sponsor of a sponsored captive insurance company.

365:25-15-20. Sponsored captive and cell assets

(a) The assets of a sponsored captive insurer shall be either protected cell assets or general assets. The protected cell assets shall comprise the assets of the sponsored captive insurer held within or on behalf of the protected cells of the sponsored captive insurer. The general assets of a sponsored captive insurer shall comprise the assets of the sponsored captive insurer which are not protected cell assets.

(b) The assets of a protected cell are comprised of assets representing the capital stock and reserves attributable to the protected cell or all other assets attributable to or held within the protected cell. For the purposes of this Section, "reserves" includes retained earnings, capital surplus, and paid-in capital.

365:25-15-21. Delinquency of sponsored captive insurance companies

(a) Upon any order of supervision, rehabilitation, or liquidation of a sponsored captive insurance company, the receiver shall manage the assets and liabilities of the sponsored captive insurance company pursuant to the provisions of this Subchapter.

(b) Notwithstanding any provision to the contrary:

(1) the assets of a protected cell may not be used to pay any expenses or claims other than those attributable to such protected cell; and

(2) a sponsored captive insurance company's capital and surplus shall at all times be available to pay any expenses of or claims against the sponsored captive insurance company; and

(3) in the event of an insolvency of a sponsored captive insurance company where the Commissioner determines that one or more protected cells remain solvent, the Commissioner may separate such cells from the sponsored captive insurance company, and may allow, on application of the sponsor, for the conversion of such protected cells into one or more new or existing sponsored captive insurance companies with a sponsor or sponsors, or one or moreother captive insurance companies, pursuant to such plan or plans of operation as the Commissioner deems acceptable.

365:25-15-22. Reinsurance of life insurance policies

(a) This Section establishes reserve requirements and the form of the annual report required of a captive insurance company that reinsures life insurance policies, including term, universal, and variable life policies, and related guarantees and riders (collectively, "Life Insurance Policies").

(b) A captive insurance company described in Section 20 of this Subchapter shall maintain reserves that are actuarially sufficient to support the liabilities incurred by the captive insurance company in reinsuring life insurance policies.

(c) For purposes of the annual report required by 36 O.S. § 6470.11:

(1) a captive insurance company described in Section 20 of this Subchapter that uses statutory accounting shall submit the annual report in the form of the annual statement approved by the National Association of Insurance Commissioners for life insurers, as modified or supplemented by the Commissioner, unless the Commissioner requires or approves a different form of annual report; and

(2) a captive insurance company described in Section 20 of this Subchapter that uses generally accepted accounting principles, including any appropriate or necessary modifications or adaptations thereto approved by the Commissioner, shall submit the annual report in the form approved by the Commissioner.

365:25-15-23. Dormant captive insurance companies

(a) As used in this Section, unless the context requires otherwise, "dormant captive insurance company" means a pure captive insurance company which has:

(1) at no time insured controlled unaffiliated business;

(2) ceased transacting the business of insurance, including the issuance of insurance policies;

(3) no remaining liabilities associated with insurance business transactions; and

(4) no unpaid premium taxes.

(b) A pure captive insurance company domiciled in Oklahoma which meets the criteria of paragraph (a) of this Section may apply to the Commissioner for a certificate of dormancy. The certificate of dormancy shall be subject to renewal every five years and shall be forfeited if not renewed within such time.

(c) A dormant captive insurance company which has been issued a certificate of dormancy shall:

(1) possess and thereafter maintain unimpaired, paid-in capital and surplus of not less than $25,000.00;

(2) prior to March 15 of each year, submit to the Commissioner a report of its financial condition, verified by oath of two of its executive officers, in a form as may be prescribed by the Commissioner; and

(3) pay a license renewal fee as provided in 36 O.S. § 6470.3.

(d) A dormant captive insurance company shall not be subject to or liable for the payment of any premium tax.

(e) A dormant captive insurance company shall apply to the Commissioner for approval to surrender its certificate of dormancy and resume conducting the business of insurance prior to issuing any insurance policies.

(f) A certificate of dormancy shall be revoked if a dormant captive insurance company no longer meets the criteria of paragraph (a) of this Section.

(g) The Commissioner may establish guidelines and procedures as necessary to carry out the provisions of this section.

365:25-15-24. Severability

If any provision of this Subchapter or the application thereof to any person or circumstance is for any reason held to be invalid, the remainder of the regulation and the application of such provisions to other persons or circumstances shall not be affected thereby.

SUBCHAPTER 19. ANNUITY DISCLOSURE REGULATION

365:25-19-3. Applicability and scope

This regulation applies to all group and individual annuity contracts and certificates except:

(1) **Registered or non-registered variable annuities.** Registered or non-registered variable annuities or other registered products;

(2) **Immediate and deferred annuities.** Immediate and deferred annuities that contain no nonguaranteed elements;

(3) **Annuities used to fund plans or ~~arrangments~~arrangements.**

(A) Annuities used to fund:

(i) An employee pension plan which is covered by the Employee Retirement Income Security Act (ERISA);

(ii) A plan described by Sections 401(a), 401(k) or 403(b) of the Internal Revenue Code, where the plan, for purposes of ERISA, is established or maintained by an employer,

(iii) A governmental or church plan defined in Section 414 or a deferred compensation plan of a state or local government or a tax exempt organization under Section 457 of the Internal Revenue Code; or

(iv) A nonqualified deferred compensation arrangement established or maintained by an employer or plan sponsor.

(B) Notwithstanding Paragraph (A), the regulation shall apply to annuities used to fund a plan or arrangement that is funded solely by contributions an employee elects to make whether on a pre-tax or after-tax basis, and where the insurance company has been notified that plan participants may choose from among two (2) or more fixed annuity providers and there is a direct solicitation of an individual employee by a producer for the purchase of an annuity contract. As used in this subsection, direct solicitation shall not include any meeting held by a producer solely for the purpose of educating or enrolling employees in the plan or arrangement;

(4) **Structured settlement annuities.** Structured settlement annuities;

(5) **Charitable gift annuities.** Charitable gift annuities;

(6) **Funding agreements.** Funding agreements~~.~~;

(7) **Annuities used to fund prepaid funeral benefits offered pursuant to 36 O.S. §§ 6121-6136.18.**

SUBCHAPTER 25. OKLAHOMA EMPLOYEE INJURY BENEFIT ACT

365:25-25-1. Purpose

The purpose of this Subchapter is to set forth the regulations and procedures for employers to secure compensation for their covered employees for work-related injuries under the Oklahoma Employee Injury Benefit Act, 85A O.S. §§ 200 et seq.

365:25-25-2. Scope

This Subchapter shall apply to all Oklahoma employers who voluntarily elect to be exempt from the Administrative Workers' Compensation Act and become a Qualified Employer under the Oklahoma Employee Injury Benefit Act. Employers seeking to self-insure under the Administrative Workers' Compensation Act are subject to the rules of the Oklahoma Workers' Compensation Commission in Title 810, Chapter 5 of the Oklahoma Administrative Code.

365:25-25-3. Authority

This Subchapter is promulgated under the authority granted to the Insurance Commissioner under the Administrative Workers' Compensation Act, 85A O.S. §§ 1 et seq., and the Oklahoma Employee Injury Benefit Act, 85A O.S. §§ 200 et seq.

365:25-25-4. Definitions

Unless otherwise specified in this Subchapter, defined terms in the Administrative Workers' Compensation Act shall have the same meaning herein. The following words and

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

"Benefit plan" means a plan established by a Qualified Employer under the requirements of 85A O.S. § 203.

"Commission" means the Workers' Compensation Commission under the Administrative Workers' Compensation Act.

"Commissioner" means the Insurance Commissioner of the State of Oklahoma.

"Covered employee" means the employee whose employment with a Qualified Employer is principally located within the state.

"Employer," except when otherwise expressly stated, means a person, partnership, association, limited liability company, corporation, and the legal representatives of a deceased employer, or the receiver or trustee of a person, partnership, association, limited liability company, corporation, department, instrumentality or institution of this state and divisions thereof and other political subdivisions of this state and public trusts employing a person included within the term employee as defined herein.

"Financial Statement" means an employer's audited financial statement or financial statement signed by two (2) company executives that includes a balance sheet and income statement.

"Occupational Injury" means an injury, including death, or occupational illness, causing internal or external harm to the body, which arises out of and in the course of employment.

"Qualified Employer" means an employer otherwise subject to the Administrative Workers' Compensation Act that voluntarily elects to be exempt from such act by satisfying the requirements under the Oklahoma Employee Injury Benefit Act.

"Statutory Limits" means an insurer's amount of liability under a specific excess insurance policy, capped at the maximum amount allowed by statute.

365:25-25-5. Election notification to the Oklahoma Insurance Department

(a) Each employer that elects to become a Qualified Employer shall electronically complete the Qualified Employer Election Form and provide all information requested at least sixty (60) days prior to the desired effective date of its election to become a Qualified Employer.

(b) If a Qualified Employer elects to renew its status as a Qualified Employer after the expiration of its initial one (1) year term as a Qualified Employer, or for any renewal thereafter, the Qualified Employer shall electronically complete the Qualified Employer Election Form and provide all information requested at least sixty (60) days prior to the expiration as a Qualified Employer.

(c) The Qualified Employer Election Form shall include complete answers to all questions therein and shall include satisfactory proof of the employer's ability to secure compensation for its covered employees for work-related injuries prior to being confirmed as a Qualified Employer by the Oklahoma Insurance Department.

(d) Upon written confirmation by the Oklahoma Insurance Department that the employer has satisfied all the requirements to be recognized as a Qualified Employer, the employer may proceed with its written benefit plan and notification of employees as provided in 365:25-25-8.

(e) Upon request by the Oklahoma Insurance Department, a Qualified Employer shall submit documentation to affirm its continued compliance with the Oklahoma Employee Injury Benefit Act and this Subchapter. In addition, a Qualified Employer shall notify the Oklahoma Insurance Department of any change in information required to be submitted to the Commissioner under this Subchapter within fourteen (14) days after the change. Upon a finding that a Qualified Employer is no longer in compliance with the Oklahoma Employee Injury Benefit Act or this Subchapter, the Oklahoma Insurance Department may withdraw its confirmation of the employer as a Qualified Employer.

365:25-25-6. Election fee

A nonrefundable fee of One Thousand Five Hundred Dollars ($1,500.00) is payable, via electronic funds transfer, upon filing an employer's initial Qualified Employer Election Form and upon filing a Qualified Employer Election Form for any annual renewal thereafter.

365:25-25-7. Written benefit plan

In addition to the Qualified Employer Election Form, the employer shall provide the following documents and information to the Oklahoma Insurance Department:

(1) A copy of the employer's written benefit plan;

(2) A written statement explaining the procedure used to notify the employer's covered employees that the employer has elected to become a Qualified Employer;

(3) The name, title, address, and telephone number for a covered employee to contact for injury benefit claims administration, and whether that party is in-house, a third-party administrator, or an insurance carrier; and

(4) A copy of the employer's Employee Notice.

365:25-25-8. Employee notice

No employer shall act as a Qualified Employer in this state until such employer provides written notification to its covered employees in substantially the same form as the "Notice To Employees Concerning Qualified Employer" notice as set forth in Appendix Z of this Chapter. Such notice shall be provided to all employees upon the employer's confirmation as a Qualified Employer by the Oklahoma Insurance Department. Subsequent newly hired employees shall receive the written notification upon the employees' date of hire. Such notice shall be necessarily posted at conspicuous locations at the Qualified Employer's places of business to provide reasonable notice to all employees that the employer is a Qualified Employer, that the employer does not carry workers' compensation insurance coverage, and that the employer's workers' compensation coverage has been terminated or cancelled.

365:25-25-9. Funding of Qualified Employer's benefit plan, liability, and other insurable risk

A Qualified Employer may self-fund or insure benefits payable under the benefit plan (which are in the nature of workers' compensation), the employer's liability under the Oklahoma Employee Injury Benefit Act, and any other insurable risk related to its status as a Qualified Employer.

365:25-25-10. Insuring Qualified Employer's benefit plan, liability, and other insurable risk

(a) A Qualified Employer that elects to insure benefits payable under the benefit plan, the employer's liability under the Oklahoma Employee Injury Benefit Act, and any other insurable risk related to its status as a Qualified Employer, shall obtain insurance coverage in an amount equal to the compensation obligation with an admitted insurance carrier, including property and casualty insurance carrier; life, health and accident insurance carrier; or surplus lines insurer; provided, however, that such admitted or surplus lines insurer has an AM Best Rating of B+ or better. The Oklahoma Insurance Department does not approve insurance rates for any type of coverage under the Oklahoma Employee Injury Benefit Act.

(b) Such insurance coverage pertains to Oklahoma covered employees only. Employers with employees working in state(s) other than Oklahoma shall arrange separate insurance coverage in compliance with that state(s)'s laws.

365:25-25-11. Self-Funding Qualified Employer's benefit plan, liability, and other insurable risk

A Qualified Employer that elects to self-fund the benefits payable under the benefit plan, the employer's liability under the Oklahoma Employee Injury Benefit Act, and any other insurable risk related to its status as a Qualified Employer, shall secure compensation to covered employees by furnishing satisfactory proof to the Oklahoma Insurance Department of the employer's financial ability to pay the compensation and must meet the following requirements:

(1) Provide the dollar amount and documentation to support its average of the yearly claims for the last three (3) calendar or fiscal years. Such documentation shall include the total incurred claims cost for the prior three (3) calendar or fiscal years and an attachment of the loss runs that include the total incurred amounts (all paid and reserved medical and indemnity) for Oklahoma occupational injury claims incurred during a three (3) calendar or fiscal year period ending not more than one hundred twenty (120) days prior to the employer's notification to the Oklahoma Insurance Department of its election to become a Qualified Employer;

(2) Attach employer's most recent financial statement which shall include a balance sheet and income statement;

(3) Furnish satisfactory proof to the Oklahoma Insurance Department of the employer's financial ability to pay the compensation as follows:

(A) An employer must have been continuously engaged in business for not less than three (3) years immediately preceding the employer's notification to the Oklahoma Insurance Department of its election to become a Qualified Employer, have at least one hundred (100) employees (all states included) and at least One Million Dollars ($1,000,000.00) in net assets, and must secure a surety bond payable to the Oklahoma Insurance Department or an irrevocable letter of credit, in an amount determined by the Commissioner equal to at least the greater of: (1) One Hundred Thousand Dollars ($100,000.00); or (2) the employer's average of its yearly incurred occupational injury claims for the last three (3) calendar or fiscal years ending not more than one hundred twenty (120) days prior to the employer's notification to the Oklahoma Insurance Department of its election to become a Qualified Employer; or (3) if the employer is renewing its status as a Qualified Employer, the amount of outstanding occupational injury claims reserves for the employer, as determined by an approved third-party administrator or benefits administrator; or

(B) An employer provides proof of excess coverage with such terms and conditions as is commensurate with the employer's ability to pay the benefits required by the provisions of the Oklahoma Employee Injury Benefit Act, as determined by the Oklahoma Insurance Department. Such excess insurance must be from an admitted or surplus lines insurer with an AM Best Rating of B+ or better. The self insured retention must be approved by the Oklahoma Insurance Department, and the excess carrier's limits of liability must be statutory. An amount less than Statutory Limits must be approved in advance by the Oklahoma Insurance Department. Aggregate excess insurance may be required by the Oklahoma Insurance Department if necessary; or

(C) An employer that does not satisfy the requirements of Subsection 3(A) of this Section, may petition the Oklahoma Insurance Department for a waiver of the requirements. The Oklahoma Insurance Department may waive some or all of the requirements for good cause, subject to such security deposit and/or excess insurance requirements in an amount, determined by the Oklahoma Insurance Department, to be commensurate with the ability of the employer to pay the benefits required by the provisions of the Oklahoma Employee Injury Benefit Act.

365:25-25-12. Surety bond and irrevocable letter of credit

Surety bonds must be from an admitted or surplus lines insurer with an AM Best Rating of B+ or better, and on a form prescribed by the Oklahoma Insurance Department. Irrevocable letters of credit shall contain such terms as may be prescribed by the Oklahoma Insurance Department, include an

automatic renewal clause, and cannot be non-renewed without at least sixty (60) days' prior written notice to the Oklahoma Insurance Department, and shall be issued for the benefit of the Oklahoma Insurance Department by a financial institution whose deposits are insured by the Federal Deposit Insurance Corporation (FDIC). The financial institution must be approved in advance by the Oklahoma Insurance Department. The Oklahoma Insurance Department may make demand and collect on the posted letter of credit in whole or in part, in the case of actual or imminent default of the employer to pay compensation liabilities, or the cancellation of the letter of credit without an adequate replacement.

365:25-25-13. Release of security deposit

(a) A security deposit posted with the Oklahoma Insurance Department as required by 365:25-25-11 must remain in place, at its existing amount, for two (2) years after a Qualified Employer ceases to self-insure its benefit plan. The Oklahoma Insurance Department may review the adequacy or excess of the security deposit in advance of the cessation date and require modifications to the security deposit amount as necessary.

(b) A security deposit may be reduced at the Oklahoma Insurance Department's discretion after the two (2) year waiting period upon application by the employer and submission of current financial statements and occupational injury loss runs.

(c) A security deposit may be released at the Oklahoma Insurance Department's discretion upon application by the employer and submission of current financial statements and a signed and notarized affidavit, from a duly authorized officer of the employer, affirming that all occupational injury claims incurred as a Qualified Employer have been permanently closed, and the statute of repose for reopening the claims has passed.

(d) The security deposit shall be released in full by the Oklahoma Insurance Department within a reasonable period following receipt of proof of an assumption agreement or equivalent, from a licensed insurance carrier, whereby the claims liability of the employer as a Qualified Employer is transferred to and assumed by the insurance company. The assumption agreement or equivalent may be entered into before expiration of the two (2) year period provided in Subsection (A) of this Section.

365:25-25-14. Oklahoma Option Self-Insured Guaranty Fund

Upon declaration by the Insurance Commissioner that a self-insurer has become an impaired insurer, the Insurance Commissioner shall petition the Commission for its approval that the Insurance Commissioner release the Qualified Employer's required security from the Office of State Treasurer and shall advise the Oklahoma Property and Casualty Insurance Guaranty Association of the impairment.

365:25-25-15. Severability

If any provisions of this Subchapter, or the application thereof to any person or circumstance, is held invalid, such invalidity shall not affect other provisions or application of this Subchapter which shall be given effect without the invalid provision or application, and to that end the provisions of the Subchapter are severable.

SUBCHAPTER 29. PHARMACY BENEFITS MANAGERS

365:25-29-1. Purpose

The purpose of this Subchapter is to set forth the regulations and procedures relating to the licensing and oversight of pharmacy benefits managers under 59 O.S. §§ 357-360.

365:25-29-2. Scope

This Subchapter shall apply to all pharmacy benefits managers which must be licensed pursuant to 59 O.S. § 358(A).

365:25-29-3. Authority

This Subchapter is promulgated under the authority granted to the Insurance Commissioner in 59 O.S. § 358(B).

365:25-29-4. Definitions

All definitions contained in 59 O.S. §§ 357-360 are applicable to this Subchapter and in addition:

(1) "Day" means a calendar day, unless otherwise defined or limited.

(2) The "act" means 59 O.S. §§ 357-360.

(3) Pharmacy benefits manager and PBM may be used interchangeably in this Subchapter.

365:25-29-5. Forms and contents of application for PBM license

An application for PBM License shall be on a form provided by the Commissioner and shall include:

(1) The identity of the PBM and any company or organization controlling the operation of the PBM, including the name, business address, and contact person for the PBM and the controlling entity. For purposes of this subsection, "control" or "controlling" means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of the PBM, whether through the ownership of voting securities, by contract or otherwise, unless the power is the result of an official position with or corporate office held by the person;

(2) The name and address of the corporate officers and directors, members and managers (if an LLC), or names of all partners (if a partnership) of the applicant PBM;

(3) A license fee in the amount of One Thousand Dollars ($1,000.00);

(4) A "Certificate of Incorporation" or comparable organizational document from the domiciliary state of the PBM;

(5) In the case of a PBM domiciled without the State of Oklahoma, a certificate that the PBM is in good standing in the state of domicile or organization;

(6) A report of the details of any suspension, sanction, penalty or other disciplinary action relating to the PBM and its officers and directors;
(7) The name and address of the agent of record for services of process in Oklahoma;
(8) The number of total covered individuals or lives served under all of the PBM's contracts or agreements in Oklahoma;
(9) The most recently concluded fiscal year-end financial statements for the PBM and its controlling entity, which statements have been audited by an independent certified public accountant (CPA) under U.S. generally accepted accounting principles (GAAP); and
(10) A certificate signed by an Executive Officer of the PBM attesting to the accuracy of the information contained in the filing.

365:25-29-6. Surety bond

(a) Prior to the issuance of a pharmacy benefits manager license, the PBM applicant shall file with the Commissioner and thereafter keep in effect, as long as the license remains in effect, a surety bond in an amount determined to be sufficient by the Commissioner. The bond shall be in a form acceptable to the Commissioner and for the purpose of securing conformity with the laws and regulations governing pharmacy benefits managers. The bond shall be for the benefit of parties protected by the provisions of 59 O.S. §§ 357-360.
(b) The surety bond must provide that no party may cancel the bond without first giving thirty (30) days written notice to the principal and the Commissioner.
(c) Absent a finding otherwise, a bond with limits of One Million Dollars ($1,000,000.00) per occurrence and Five Million Dollars ($5,000,000.00), annual aggregate, shall be deemed to be sufficient.

365:25-29-7. License term, renewals, fees

(a) An application fee shall not be refundable if the application is denied, withdrawn, cancelled, or refused for any reason by either the applicant or the Commissioner.
(b) The PBM license shall continue in force no longer than twelve (12) months from the original month of issuance. Upon filing a PBM license renewal application on a form provided by the Commissioner, a renewal license may be issued by the Commissioner to a PBM licensee which is in compliance with the act, has continuously maintained such license, and has paid a renewal fee of Five Hundred Dollars ($500.00).
(c) If the PBM fails to timely apply for renewal of its license or fails to pay any applicable fees or outstanding fines by the last day of the month in which the license was originally issued, the license shall expire automatically. After expiration, the PBM license may be reinstated for up to one (1) year following the expiration date upon filing a PBM license renewal application on a form provided by the Commissioner and the payment of a reinstatement fee of One Thousand Dollars ($1,000.00). If after the one-year date the license has not been reinstated, the licensee shall be required to apply for a license as a new PBM licensee applicant.
(d) In the event that the Commissioner declines to issue or renew a PBM license, the Commissioner shall notify the applicant or licensee of such declination and advise the applicant or licensee, in writing, of the reason for the declination. The applicant or licensee may make written demand upon the Commissioner within thirty (30) days of the date of notification by the Commissioner, for a hearing before the Commissioner or an independent hearing examiner appointed by the Commissioner to determine the existence of the grounds for the Commissioner's action. The hearing shall be held within a reasonable time period pursuant to the Oklahoma Administrative Procedures Act.

365:25-29-8. PBM to file certain financial statements with the Commissioner

(a) Before March 1 of each year, every PBM providing pharmacy benefits management shall submit to the Insurance Commissioner a report of its financial condition verified by the oath of an executive officer. The report shall be prepared using generally accepted accounting principles and consist of a balance sheet, income statement, and statement of cash flows. The report may be supplemented by any additional information required by the Insurance Commissioner.
(b) The Commissioner may extend the time prescribed for filing annual or other reports or exhibits of any kind for good cause shown. However, the Commissioner shall not extend the time for filing annual statements beyond sixty (60) days after the time prescribed by this Section.

365:25-29-9. Contractual requirements-maximum allowable cost

(a) Regarding maximum allowable cost, contracts between a PBM and a provider shall conform to the following requirements:
(1) Identify sources of information utilized by the PBM to create and modify the PBM's maximum allowable cost price specific to the pharmacy;
(2) The PBM shall provide an electronic process, including but not limited to e-mail, for providers to readily access the MAC list specific to that provider. Upon a provider's written request, a PBM shall furnish its MAC list to the provider in paper form or other agreed format;
(3) If a provider is unable to obtain a drug from a regional or national wholesaler at a price equal to or less than the PBM's MAC, the PBM shall provide a reasonable appeals procedure;
(4) A "reasonable appeals procedure" means a process which permits a provider or a provider's representative to contest a reimbursement amount based on the provider's contention that the drug is not generally available for purchase by pharmacies in the state at or below the PBM's Maximum Allowable Cost;
(5) A provider's appeal shall contain information including but not limited to the date of claim, National Drug Code number, and the identity of the national or regional

wholesalers from which the drug was found to be unavailable for purchase by the provider, at or below the PBM's Maximum Allowable Cost;

(6) Appeals filed under this subsection shall be presented to the PBM within ten (10) business days following the prescription claim date. The PBM must respond to a provider within ten (10) business days following the receipt by the PBM of the notice that the provider is contesting the reimbursement amount;

(7) If a provider's appeal is denied, the PBM shall provide the reason for the denial, including the National Drug Code number and the identity of the national or regional wholesalers from whom the drug was generally available for purchase at or below the PBM's Maximum Allowable Cost;

(8) If a provider's appeal is found to be justified, the PBM shall make the correction to its MAC, permit the provider to reverse and re-bill the claim in question, and make the MAC correction applicable prospectively for all similarly contracted Oklahoma providers.

(b) A PBM shall permit the submission of either paper or electronic documentation to perfect an appeal. A PBM shall not require the submission of appeals on an individual claim (non-batch) basis or refuse to accept appeals from a provider's designated representative or require procedures that have the effect of obstructing or delaying the appeal process. All MAC appeals shall be properly documented.

(c) Before beginning business, and as contracts are amended thereafter, each PBM shall submit to the Insurance Commissioner a certificate signed by an executive officer of the PBM attesting that the Oklahoma provider contracts utilized by such PBM satisfy the requirements of 59 O.S. § 360 and this Subchapter.

365:25-29-10. Penalty for noncompliance

(a) After notice and opportunity for hearing, and upon determining that the PBM has violated any of the provisions of 59 O.S. §§ 357-360 of the Oklahoma Statutes, or this Subchapter, or upon finding the existence of grounds to refuse the issuance or renewal of such license, the Commissioner may suspend or revoke a PBM's license or assess a civil penalty of not less than Five Hundred Dollars ($500.00) nor more than Five Thousand Dollars ($5,000.00) for each instance of violation, or both. Each day that a pharmacy benefits manager conducts business in the State of Oklahoma without a license shall be deemed to be an instance of violation. The payment of the penalty may be enforced in the same manner as civil judgments may be enforced.

(b) Every PBM upon receipt of any inquiry from the Commissioner or the Commissioner's representative shall, within thirty (30) days from the date of inquiry, furnish the Commissioner or the Commissioner's representative with an adequate response to the inquiry.

365:25-29-11. "Doing pharmacy benefits management business in this state" defined-venue-exceptions

(a) The venue of any act listed in this Section shall be Oklahoma County.

(b) Any one of the following acts, in this state, effected by mail or otherwise, is defined to be doing pharmacy benefits management business in this state:

(1) The making of or proposing to make, as a PBM, a contract with a covered entity for the provision of pharmacy benefits management services to covered individuals residing in Oklahoma;

(2) The provision of pharmacy benefit management services to covered individuals residing in Oklahoma;

(3) Directly or indirectly acting as an agent for, or otherwise representing or aiding on behalf of another, any person or PBM in:

(A) the solicitation, negotiation, procurement, or effectuation of pharmacy benefits management contracts or services to citizens of this state;

(B) the transaction of matters subsequent to effectuation of a contract providing pharmacy benefits management services and arising out of it; or

(C) any other manner representing or assisting a person in the transaction of the business of pharmacy benefits management to residents in this state.

(c) The provisions of this section do not apply to transactions in this state involving a contract between a covered entity and a PBM not contracted to any provider in this state, that is lawfully solicited, written, and delivered outside of this state, covering only pharmacy benefits provided to individuals or entities not residing or located in this state.

APPENDIX Z. NOTICE TO EMPLOYEES CONCERNING QUALIFIED EMPLOYER [NEW]

Your employer is a Qualified Employer pursuant to 85A O.S. §202 of the Oklahoma Employee Injury Benefit Act. Your employer does not carry workers' compensation insurance coverage under the Administrative Workers' Compensation Act, and that coverage has terminated or been cancelled. If injured on the job, your benefits are governed by a written benefit plan sponsored by your employer. Contact your employer if you have questions about your benefits, rights, and responsibilities under the benefit plan.

The name title, address, and telephone number of the person you should contact for injury benefit claims administration is:

Name: _____

Title: _____

Address: _____

Phone Number: _____

E-mail: _____

Effective Date: _____

[OAR Docket #15-677; filed 6-30-15]

TITLE 365. INSURANCE DEPARTMENT CHAPTER 40. HEALTH MAINTENANCE ORGANIZATIONS (HMO)

[OAR Docket #15-678]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 3. Financial
Part 1. HMO Forms and Instructions
365:40-3-2. Deposit of securities forms [AMENDED]
Subchapter 5. Life, Accident & Health Division and Consumer Assistance and Claims Division Rules
Part 11. Coordination of Benefits
365:40-5-51. Definitions [AMENDED]
365:40-5-58. ~~Retroactivity~~Applicability [AMENDED]
AUTHORITY:
Insurance Commissioner; 36 O.S. §§ 307.1
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
January 8, 2015
COMMENT PERIOD:
February 2, 2015 through March 4, 2015
PUBLIC HEARING:
March 5, 2015
ADOPTION:
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APPROVED BY GOVERNOR'S DECLARATION:
Approved by Governor's declaration on June 8, 2015
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June 8, 2015
EFFECTIVE:
September 15, 2015
SUPERSEDED EMERGENCY ACTIONS:
n/a
INCORPORATIONS BY REFERENCE:
n/a
ANALYSIS:
365:40-3-2 is amended to reflect a legislative change made by SB 1319 in 2014. Company deposits are no longer held at the State Treasurer's office, but are held at the Oklahoma Insurance Department. These amendments simply remove the references to the State Treasurer's office.

365:40-5-51 and 365:40-5-58 are amended to require coordination between individual and group health insurance products, as well as between group health insurance products, in order to prevent over-insurance of a person's health insurance risk. In turn, this will help keep premiums low for policyholders. An identical rule change was made in 2014 for PPOs. This rule brings HMOs in line with the same requirements.
CONTACT PERSON:
Buddy Combs, Director of Public Policy, Oklahoma Insurance Department, 3625 NW 56th St., Suite 100, Oklahoma City, OK 73112, (405) 522-4609

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 15, 2015:

SUBCHAPTER 3. FINANCIAL

PART 1. HMO FORMS AND INSTRUCTIONS

365:40-3-2. Deposit of securities forms

(a) **Deposit form.** The deposit form is used by all companies depositing securities with the Insurance Department~~ to be held by the State Treasurer's Office~~. A description of the securities and value must be itemized on this form and said form must accompany securities being deposited when presented to the Insurance Commissioner for approval. After completion of transaction, a copy of this form is sent to said company for use to obtain release of deposited securities. Prior to the withdrawal of said securities, the deposit form must be executed by a company official authorized to make such withdrawals and presented to the Insurance Commissioner for approval.

(b) **Deposits in the name of Insurance Commissioner and HMO.** Deposits with the Insurance Commissioner made pursuant to 36 O.S. § 6913(B) shall be in the name of the Insurance Commissioner and the HMO making the deposit, and shall not be released by any company holding such security without the signatures of the Insurance Commissioner and the authorized personnel of the HMO. The deposit shall be held by the ~~State Treasurer of Oklahoma~~Insurance Commissioner unless the Insurance Commissioner approves, pursuant to 36 O.S. § 6913(B), the holding of said deposit by an organization or trustee acceptable to the Insurance Commissioner through which a custodial or controlled account is utilized.

(c) **Resolution form.** Each company having securities on deposit with the Insurance Department must adopt a resolution and file it with the Insurance Commissioner's Office authorizing and empowering certain persons designated by said company to deal with the securities on deposit. Requests for exchange or withdrawal of deposited securities will not be honored unless made by designated persons.

SUBCHAPTER 5. LIFE, ACCIDENT & HEALTH DIVISION AND CONSUMER ASSISTANCE AND CLAIMS DIVISION RULES

PART 11. COORDINATION OF BENEFITS

365:40-5-51. Definitions

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

"Allowable expense" means, unless otherwise mandated by law, any necessary, reasonable, and customary item of expense at least a portion of which is covered under at least one of the Plans covering the person for whom claim is made except where a statute requires a different definition. However, items of expense under coverage such as dental care, vision care, prescription drug or hearing aid programs may be excluded from the definition of allowable expense. A plan which provides benefits only for any such items of expense may limit its definition of allowable expense to like items of expense. When a Plan provides benefits in the form of services rather than cash payments, the reasonable cash value of each service rendered shall be deemed to be both an Allowable Expense and a benefit paid. The difference between the cost of a private

hospital room and the cost of a semi-private hospital room shall not be deemed to be an "Allowable Expense," except for the period of time during which the patient's confinement to a private hospital room is deemed medically necessary in terms of generally accepted medical practice.

"Plan" ~~means~~includes the following:

~~(A) "Plan" means any plan providing benefits or services for or by reason of medical or dental care or treatment, which benefits or services are provided by:~~

~~(i) Group, blanket or franchise insurance coverage,~~

~~(ii) Service plan contracts, group practice, individual practice and other prepayment coverage,~~

~~(iii) Any coverage under labor-management trustee plans, union welfare plans, employer organization plans, or employee benefit organization plans, and~~

~~(iv) Any coverage under governmental programs, and any coverage required or provided by any statute.~~

~~(B) The term "Plan" shall be construed separately with respect to each policy, contract, or other arrangement for benefits or services and separately with respect to that portion of any such policy, contract, or other arrangement which reserves the right to take the benefits or services of other Plans into consideration in determining its benefits and that portion which does not.~~

~~(C) Individually underwritten and issued contracts which provide a contractual right to renewal regardless of membership in or connection with any particular organization or group shall not be considered group-type contracts, irrespective of the mode or channel of premium payment and regardless of any reduction in premium the covered person may receive by virtue of such method of premium collection.~~

~~(D) The definition of a "Plan" within the COB provision of group contracts enumerates the types of coverage which the insurer may consider in determining whether other insurance exists with respect to a specific claim. Such definition:~~

~~(i) May not include individual or family policies, or individual or family subscriber contracts, except as provided in (ii) of this subparagraph and in (E) of this definition.~~

~~(ii) May include all group or group subscriber contracts as well as such group-type contracts as are not available to the general public and can be obtained and maintained only because of the covered person's membership in or connection with a particular organization or group. Group-type contracts answering this description may be included in the definition, at the option of the insurer and its policyholder client, whether or not individual policy forms are utilized and whether the group-type coverage is designated as "franchise" or "blanket" or in some other fashion.~~

~~(E) The definition of "Plan" may include both group and individual automobile "no fault" contracts but, as to the traditional automobile "fault" contracts, only the medical benefits written on a group or group-type basis may be included.~~

~~(F) Interpretation of the definition of a "Plan" may not include group or group-type hospital indemnity benefits (written on a non-expense incurred basis) of $30 per day or less unless they are characterized as reimbursement type benefits but are designed to administer so as to give the insured the right to elect indemnity type benefits, in lieu of such reimbursement type benefits, at the time of claim. In any event, the amount of group and group-type hospital indemnity benefits which exceed $30 per day may be construed as being included under the definition of "Plan".~~

~~(G) School accident type coverages, written on either an individual, blanket, group or franchise basis should not be taken in to consideration in coordination of benefits. In this context, school accident type coverages are defined to mean coverage covering grammar school, middle school, and high school students for accidents only, including athletic injuries, either on a 24 hour basis or "to and from school" for which the parent pays the entire premium.~~

~~(H) If "Medicare" or similar governmental benefits are included in the definition of a "Plan", such benefits may be taken into consideration without expanding any of the definitions of this provision beyond the hospital, medical, and surgical benefits which may be provided by the governmental program.~~

~~(I) A Plan may not coordinate or design benefits so that the benefits payable are altered solely on the basis that:~~

~~(i) Another plan exists; or~~

~~(ii) Except with respect to Part B of Medicare, that the claimant is or could have been covered under another Plan, or~~

~~(iii) The claimant has elected an option under another Plan providing a lower level of benefits than another option for which the claimant was eligible.~~

(A) Group and nongroup insurance contracts and subscriber contracts;

(B) Uninsured arrangements of group or group-type coverage;

(C) Group and nongroup coverage through closed panel plans;

(D) Group-type contracts;

(E) The medical care components of long-term care contracts, such as skilled nursing care;

(F) The medical benefits coverage in automobile "no fault" and traditional automobile "fault" type contracts;

(G) Medicare or other governmental benefits, as permitted by law, except as provided in a state plan under Medicaid. That part of the definition of plan

may be limited to the hospital, medical and surgical benefits of the governmental program; and

(H) Group and nongroup insurance contracts and subscriber contracts that pay or reimburse for the cost of dental care.

"Plan" does not include:

(A) Hospital indemnity coverage benefits or other fixed indemnity coverage;

(B) Accident only coverage;

(C) Specified disease or specified accident coverage;

(D) Limited benefit health coverage;

(E) School accident-type coverages that cover students for accidents only, including athletic injuries, either on a twenty-four-hour basis or on a "to and from school" basis;

(F) Benefits provided in long-term care insurance policies for non-medical services, for example, personal care, adult day care, homemaker services, assistance with activities of daily living, respite care and custodial care or for contracts that pay a fixed daily benefit without regard to expenses incurred or the receipt of services;

(G) Medicare supplement policies;

(H) A state plan under Medicaid; or

(I) A governmental plan, which, by law, provides benefits that are in excess of those of any private insurance plan or other non-governmental plan.

"This plan" means that portion of the policy which provides the benefits that are subject to this subchapter.

365:40-5-58. ~~Retroactivity~~Applicability

(a) Group policies or contracts which are in force at the time of promulgation of this subchapter which contain an "excess" clause, "anti-duplication" provision, or any other provision by whatever name designated under which benefits would be reduced because of other existing coverages, other than the COB provisions established in this subchapter, shall be brought into compliance by the later of the next anniversary or renewal date of the group policy or contract or the expiration of the applicable collectively bargained contract, pursuant to which they are written, if any.

(b) The definition of "Plan" in Section 51 of this Subchapter applies to plans that are delivered, issued for delivery, or renewed on or after January 1, 2016. A contract that is in force on January 1, 2016, must be brought into compliance with the definition of "Plan" on the next anniversary date or renewal date of the contract, or the expiration of any applicable collective bargaining contract under which it was written.

[OAR Docket #15-678; filed 6-30-15]

TITLE 377. OFFICE OF JUVENILE AFFAIRS CHAPTER 3. ADMINISTRATIVE SERVICES

[OAR Docket #15-690]

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PERMANENT final adoption
RULES:
Subchapter 1. Office of the Executive Director
Part 3. Office of the Advocate General
377:3-1-34. Coordination with other monitoring entities [AMENDED]
AUTHORITY:
The Board of Juvenile Affairs, pursuant to 10A O.S. §2-7-101(H)(3) and 2-7-101(I)(1) and 75 O.S. § 302(A)(1).
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Gubernatorial approval:
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n/a
ANALYSIS:
Under new Oklahoma state law, as per House Bill 3496 (2014), effective November 1, 2014, every person, having reason to believe that a person or child-placing agency is engaging in the crime of trafficking in children, is required to make an immediate report to the Oklahoma Bureau of Narcotics and Dangerous Drugs Control (OBN). The rule revisions requires the reporting by all OJA employees to OBN, as well as the Advocate General, and further states the reporting by all OJA employees who have been informed by a youth, parent, guardian, or other person of a child trafficking allegation.
CONTACT PERSON:
Jlynn Hartman, Director of Government Relations, Office of Juvenile Affairs, 3812 N. Santa Fe Ave., Ste. 400, Oklahoma City, OK 73118, (405) 530-2866, JLynn.Hartman@oja.ok.gov

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 11, 2015:

SUBCHAPTER 1. OFFICE OF THE EXECUTIVE DIRECTOR

PART 3. OFFICE OF THE ADVOCATE GENERAL

377:3-1-34. Coordination with other monitoring entities

(a) The Advocate General shall coordinate with the Department of Human Services' Office of Client Advocacy, the Oklahoma Commission on Children and Youth's Office of Juvenile System Oversight, or such other government entities which possesses overlapping or concurrent jurisdiction of OJA juveniles or placements, in conducting the Advocate General's activities. The Advocate General shall perform the following functions with these entities:

(1) communicate and coordinate, whenever possible, the scheduling of on-site visits to programs and facilities to control disruptions of operations by monitoring entities;

(2) compare and consolidate program information and data needed to minimize duplicate requests;

(3) provide copies of Advocate General reports or grievances when requested;

(4) meet with staff to discuss issues that are of common concern to all offices; and

(5) receive reports from said agencies which raise issues of concern affecting OJA juveniles or policy.

(b) Title 21 O.S., § 870 requires every person having reason to believe that a person or child-placing agency is engaging in the crime of trafficking in children to make an immediate report to the Oklahoma Bureau of Narcotics and Dangerous Drugs Control. An employee who, in good faith and exercising due care, has reason to believe that a person or child-placing agency is engaging in the crime of trafficking in children shall make an immediate report, as required by 21 O.S., § 870 and to the OJA Office of Advocate General when:

(1) the employee has reason to believe that such crime has been committed, or

(2) a child, parent, guardian, or other person makes an allegation of such crime.

[OAR Docket #15-690; filed 7-6-15]

TITLE 377. OFFICE OF JUVENILE AFFAIRS CHAPTER 3. ADMINISTRATIVE SERVICES

[OAR Docket #15-691]

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PERMANENT final adoption
RULES:
Subchapter 11. Risk ~~Managment~~Management
Part 1. Drug Policy
377:3-11-10. Consequences of positive test results [AMENDED]
AUTHORITY:
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Part 1. Drug Policy
377:3-11-10. Consequences of positive test results [AMENDED]
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n/a
ANALYSIS:
Under Oklahoma state laws and the federal Controlled Substances Act, the use and possession of marijuana remains illegal in Oklahoma, even with the legalization in other states, such as the passage of Amendment 64 to the Colorado Constitution. The rule revisions clarify OJA's drug testing continues to apply, even if drugs found in the system were purchased and consumed legally in another state in which the controlled substance is legalized.
CONTACT PERSON:
Jlynn Hartman, Director of Government Relations, Office of Juvenile Affairs, 3812 N. Santa Fe Ave., Ste. 400, Oklahoma City, OK 73118, (405) 530-2866, JLynn.Hartman@oja.ok.gov

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 11, 2015:

SUBCHAPTER 11. RISK ~~MANAGMENT~~MANAGEMENT

PART 1. DRUG POLICY

377:3-11-10. Consequences of positive test results

(a) Any employee who has a positive test result will be subject to discipline up to and including discharge from employment. Such an employee will also be referred to the Administrator of Employee Assistance Program. After evaluation, the employee may be required to complete drug and alcohol education and/or treatment. Unsuccessful completion or refusal to participate will result in termination of employment.

(b) Any job applicant who has received a conditional offer of employment and who has a positive test result will not be hired by OJA.

(c) An employee discharged on the basis of a refusal to undergo drug or alcohol testing or a positive drug or alcohol test shall be considered to have been discharged for misconduct for

purposes of unemployment compensation benefits as provided for in Section 2-406 and 406.1 of Title 40.

(d) Any job applicant who has received a conditional offer of employment and any employee subject to OJA's drug testing policy shall be subject to the consequences set forth in this Rule even if the drugs found in the applicant's or employee's system were purchased and consumed in any state in which the controlled substance is legalized, as long as the drug in question remains illegal in Oklahoma.

[OAR Docket #15-691; filed 7-6-15]

TITLE 377. OFFICE OF JUVENILE AFFAIRS CHAPTER 3. ADMINISTRATIVE SERVICES

[OAR Docket #15-692]

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RULES:
Subchapter 11. Risk ~~Managment~~Management
Part 3. Safety and Risk Management
377:3-11-20. General provisions [AMENDED]
AUTHORITY:
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ANALYSIS:
The rule revisions correctly reference the applicable provisions for state and federal laws and regulations when developing internal policies and procedures.
CONTACT PERSON:
Jlynn Hartman, Director of Government Relations, Office of Juvenile Affairs, 3812 N. Santa Fe Ave., Ste. 400, Oklahoma City, OK 73118, (405) 530-2866, JLynn.Hartman@oja.ok.gov

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 11, 2015:

SUBCHAPTER 11. RISK ~~MANAGMENT~~MANAGEMENT

PART 3. SAFETY AND RISK MANAGEMENT

377:3-11-20. General provisions

(a) The purpose of this Part is to enable OJA staff to work in a safe and healthful environment.

(b) The Office of Safety and Risk Management shall assist OJA offices, institutions, and group homes to develop internal policies and procedures regarding:

(1) violence in the workplace;
(2) smoking in the workplace;
(3) worker compensation;
(4) Occupational Safety and Health (OSHA), including:
(A) blood borne pathogens; and
(B) toxic and hazardous substances; and
(5) general safety in the workplace.

(c) In developing internal policies and procedures, OJA shall comply with all applicable state and federal laws and regulations, including:

(1) 74 O.S.~~ Supp. 1986~~, §~~85.34~~85.58A;
(2) OSHA;
(3) 85 and 85A O.S.~~, the Workers' Compensation Bill~~; and
(4) other rules promulgated by Oklahoma Department of Labor.

[OAR Docket #15-692; filed 7-6-15]

TITLE 377. OFFICE OF JUVENILE AFFAIRS CHAPTER 3. ADMINISTRATIVE SERVICES

[OAR Docket #15-696]

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RULES:
Subchapter 13. Office of Public Integrity
Part 11. Requirements for Certification of Secure Juvenile Facilities
377:3-13-124.1. Executive Administration [NEW]
377:3-13-126. Policies and procedures [AMENDED]
377:3-13-127. Physical plant requirements [AMENDED]
377:3-13-131. Admission procedures [AMENDED]
377:3-13-132. Juvenile rights and grievance procedures [AMENDED]
377:3-13-133. Visitation procedures [AMENDED]
377:3-13-135. Personal hygiene provision [AMENDED]
377:3-13-136.1. Juvenile personal property [NEW]
377:3-13-136.2. Liability [NEW]
377:3-13-136.3. Records [NEW]
377:3-13-137. Disciplinary procedures [AMENDED]
377:3-13-138. Medical and health care programs [AMENDED]
377:3-13-138.1. [RESERVED]
377:3-13-138.2. Medical isolation [NEW]
377:3-13-138.3. Administration of medications [NEW]
377:3-13-138.4. Juvenile's refusal of medical services [NEW]
377:3-13-138.5. Emergency medical services [NEW]
377:3-13-140.1. Diagnostic evaluation [NEW]
377:3-13-141. Educational programs [AMENDED]
377:3-13-142. Recreational programs [AMENDED]
377:3-13-144. Security and control [AMENDED]
377:3-13-147.1. Background history records searches [NEW]
377:3-13-147.2. Sexual activity [NEW]
377:3-13-149. Food and nutrition requirements [AMENDED]

AUTHORITY:
The Board of Juvenile Affairs, pursuant to 10A O.S. § 2-7-101(H)(3) and 2-7-101(I)(1) and 75 O.S. § 302(A)(1).
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ANALYSIS:
The rule revisions correct inconsistencies between Chapter 3 certifying all secure facilities and Chapter 35 governing institutional services. The rule revisions ensure the safety of children by making all secure facilities be subject to the same provisions, whether operated by OJA, contracted with OJA, or those which are currently in no relationship with OJA.
CONTACT PERSON:
Jlynn Hartman, Director of Government Relations, Office of Juvenile Affairs, 3812 N. Santa Fe Ave., Ste. 400, Oklahoma City, OK 73118, (405) 530-2866, JLynn.Hartman@oja.ok.gov

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 11, 2015:

SUBCHAPTER 13. OFFICE OF PUBLIC INTEGRITY

PART 11. REQUIREMENTS FOR CERTIFICATION OF SECURE JUVENILE FACILITIES

377:3-13-124.1. Executive administration

(a) **Administration.** The administration of a secure juvenile facility shall:

(1) have responsibility for the program and services of the facility;

(2) review and approve all policies and policy changes;

(3) maintain a record of policy approvals in an organized form developed by the facility;

(4) obtain the required license for operation and continued compliance with Requirements for Certification of Secure Juvenile Facilities, as found in Part 11 of this Subchapter;

(5) assure proper operation of the facility; and

(6) have responsibility for the physical facility and its use by the juveniles and staff.

(b) **Facility Administrator.** The duties and qualifications of the facility administrator are described in (1) - (2) of this subsection.

(1) **Responsibilities.** The facility administrator is responsible for planning, directing, and coordinating the operation of a secure juvenile facility. The facility administrator establishes and implements programs for education, evaluation and diagnosis, treatment, residential care and custody, medical services, social rehabilitation, and social development.

(A) In the facility administrator's absence a person shall be designated to act as administrator and shall be available to staff in person or by telephone.

(B) A designated person of responsibility shall be at the secure juvenile facility at all times. The designated person is directly responsible to the administrator who is to be notified of any irregularities in the general operations of the facility and follow through with the administrator's directives.

(C) The duties of the facility administrator include, but are not limited to:

(i) preparing and presenting the budget for the appropriate authority to review and approve;

(ii) administering the budget and maintaining accurate financial and expenditure records;

(iii) ensuring that staff are employed and discharged in accordance with established personnel policies;

(iv) supervising, coordinating, and directing the program overall;

(v) holding staff meetings as necessary to discuss plans and interpret policies with the staff;

(vi) ensuring participation in a program for the continued training and development of staff;

(vii) establishing and maintaining working relationships with other social services agencies within the community; and

(viii) interpreting the program to professional and lay groups.

(2) **Qualifications.**

(A) The education, experience, and qualifications of the administrator shall include, at a minimum:

(i) bachelor's degree from an accredited college/university in social work, psychology, business, or public administration, or a closely related field;

(ii) two (2) years of experience in social services, guidance and counseling, intake or probation and parole; and

(iii) two (2) years of experience in a supervisory or administrative position with a social service institution or agency in a program providing services to children; or

(iv) an equivalent combination of education and experience.

(B) A facility administrator hired prior to October 1, 2015 shall be exempt from the rules set forth in (A) of this paragraph.

(3) **Location.** All facilities administrators or designee must maintain their primary office at the secure facility.

377:3-13-126. Policies and procedures

(a) Each facility shall have internal policies and staff procedures which support the orderly and secure functioning of the secure facility through a combination of:

(1) supervision;
(2) inspection;
(3) accountability; and
(4) clearly defined procedures for use of security in a manner which promotes safe and orderly operations.

(b) Each secure juvenile facility shall develop and maintain a written policies and procedures manual that is reviewed/approved initially by OJA Institutional Services Division Director or designee and annually by the facility's ~~superintendent~~administrator and changes shall be reviewed/approved by the OJA Institutional Services Division Director or designee. The manual shall outline the purpose of the secure juvenile facility and include, at a minimum, the following:

(1) physical plant requirements;
(2) fire safety procedures;
(3) general emergency procedures;
(4) intake/screening criteria;
(5) admission procedures;
(6) juvenile rights and grievance procedures;
(7) visitation procedures;
(8) clothing provision;
(9) personal hygiene provision;
(10) juvenile case records;
(11) disciplinary procedures;
(12) medical and health care programs;
(13) suicide prevention program/guidelines;
(14) treatment programs;
(15) educational programs;
(16) recreational programs;
(17) discharge procedure;
(18) security and control;
(19) transportation procedures;
(20) personnel practices/staff training;
(21) abuse/neglect reporting procedures;~~ and~~
(22) food and nutrition requirements;
(23) juvenile work;
(24) religious services; and
(25) access to courts/counsel.

377:3-13-127. Physical plant requirements

(a) The secure juvenile facility shall conform to applicable federal, state and/or local building codes and zoning ordinances.

(b) The secure juvenile facility shall be clean and sanitary and shall comply with ~~all applicable sanitation and health codes~~standards, rules and regulations promulgated by the Oklahoma State Department of Health.

(c) Each juvenile shall have at a minimum a bed, storage space for clothing and access to a writing area.

(d) Multiple-occupancy rooms, including open-bay dormitories, and single occupancy rooms shall provide at least 80 square feet per juvenile.

(e) Dayrooms are situated adjacent to sleeping areas and provide a minimum of 35 square feet per juvenile for the maximum number of juveniles who use the dayroom at one time (exclusive of lavatories, showers and toilets).

(f) Clean and sanitary bathrooms are convenient to sleeping rooms and dayrooms:

(1) One flush toilet, hand sink and bathtub or shower in good working order is available for each six juveniles.
(2) Flush urinals may be substituted for up to one-half the required number of toilets to serve male juveniles only.
(3) Hand sinks, bathtubs and showers have cold and hot water with temperatures between 100 and 120 degrees Fahrenheit.
(4) Toilet paper, soap and individual sanitary towels are provided to juveniles.

377:3-13-131. Admission procedures

(a) The secure facility shall have admission procedures that ensure juveniles are within the legally prescribed ages, and require a legal order of custody signed by the committing judge.

(b) Initial admission procedures. When a juvenile is received for admission, the facility administrator or designee shall review the order of commitment to determine if the juvenile is being properly admitted. In order to be admitted, the juvenile must be within the legally prescribed ages and the order committing him or her must be signed by the committing judge.

(c) A juvenile body disrobement search by gender appropriate staff and a complete search of the juvenile's property shall be conducted for contraband and facility prohibited items (FPI).

(~~b~~d) A nurse shall interview the juvenile, review immunization records, complete routine lab work, obtain medical consent signatures and fill out a nursing assessment form.

(~~c~~e) Staff shall make initial phone contact with the juvenile's family/guardian and the juvenile shall be allowed to speak with the contacted family member/guardian.

(~~d~~f) Pictures of the juvenile shall be taken and basic personal data verified for the establishment of the juvenile's file.

(~~e~~g) The juvenile shall be provided an orientation session that includes the issuance of the facility's juvenile handbook, with written receipt for the handbook retained in the juvenile's file.

(~~f~~h) The juvenile shall be issued appropriate clothing and personal hygiene items and allowed to shower, if necessary.

(~~g~~i) Upon completion of the admission process, an admission letter shall be sent to the juvenile's parents/guardian to acquaint them with the following secure facility information:

(1) ~~The~~the facility address and phone number;
(2) ~~Directions~~directions to the facility;
(3) ~~Visitation~~visitation days/hours/rules/procedures;
(4) ~~Telephone~~telephone and mail rules/procedures~~.~~;

(5) provide information about clothing and personal property; and

(6) other secure facility policies which may include parental involvement.

(~~h~~j) The juvenile shall have a health/medical assessment and a dental assessment, with x-rays and cleaning, conducted within fourteen (14) days of admission, unless there is documentation of a health/medical assessment within the previous ninety (90) days.

(~~i~~k) Within thirty (30) days of admission juveniles shall have a speech and hearing evaluation conducted, as well as a psychiatric evaluation for those juveniles taking psychotropic medications. The psychiatrist shall issue orders regarding the administration of psychotropic medications until the juvenile is psychiatrically evaluated.

(~~j~~l) All juveniles shall receive written health/medical clearance prior to participation in any physical training/recreational activities.

377:3-13-132. Juvenile rights and grievance procedures

(a) Juvenile rights shall be consistent with ~~Oklahoma Administrative Code (O.A.C.) 377:35-9-1~~10A O.S., §§ 2-5-212(D) and 2-7-603(B), and 377:10-1-2, where applicable.

(b) Juvenile grievance procedures shall conform to the provisions contained in O.A.C. 377:3-1-27 and 377:3-1-28.

(c) Juvenile rights and grievance procedures shall be included in the juvenile handbook issued to new juvenile admissions during orientation.

377:3-13-133. Visitation procedures

(a) Written policy and procedure shall:

(1) ~~Specify~~specify how many visitors the juvenile can receive;

(2) ~~Specify~~specify how often visitation is available;

(3) ~~Require~~require the maintenance of a log of persons allowed to visit; and

(4) ~~Designate~~designate the length of the visitation.

(b) Written policy and procedures shall also address the following:

(1) ~~Visits~~visits may be limited by the facility's schedule, space, and personnel constraints or where there are other substantial reasons to justify limiting visitations~~.~~;

(2) ~~Juveniles~~juveniles have the right to refuse visitation~~.~~;

(3) ~~A juvenile's legal counsel, or counsel's authorized representative, may visit the juvenile at any reasonable time a request is made.~~

~~(4) All~~all visitors are subject to searches~~.~~; and

(~~5~~4) ~~A~~a written record shall be maintained of visitation restrictions and the subsequent review of those restrictions.

377:3-13-135. Personal hygiene provision

(a) Juveniles shall have daily access to proper bathroom/shower facilities, assigned clean clothes, and personal hygiene supplies.

(b) The staff shall issue and supervise the use of facility-approved hygiene products.

(c) The hygiene products shall be securely stored and maintained separately from all other types of chemical supplies.

377:3-13-136.1. Juvenile personal property

(a) Juveniles shall be allowed to have a limited number of personal possessions as outlined in the juvenile handbook.

(b) The secure facility shall establish inventory and storage practices to assure accounting and safeguarding of juvenile property.

377:3-13-136.2. Liability

(a) The secure facility shall be responsible for reimbursing a juvenile whose personal property is lost after being accepted by the secure facility for storage and safekeeping. Reimbursement shall be in an amount equal to the item's fair market value.

(1) For any item accepted for safekeeping, the juvenile shall:

(A) estimate the property's value;

(B) request that the secure facility worker enter the value on the juvenile's inventory list; and

(C) initial the inventory.

(2) In instances where there is an obvious discrepancy between the juvenile's statement of the value of an item and that of the observation of the secure facility, the secure facility may refuse permission to keep the item at the secure facility.

(3) If an employee is identified as clearly negligent in the loss of items accepted for storage, the employee shall be responsible for reimbursing the loss to the secure facility.

(b) The secure facility shall not be responsible for reimbursing a juvenile whose personal property was kept by the juvenile.

(c) At the time of admission, staff shall screen personal items. Items not falling within policy should be sent to the parent, guardian or legal custodian by the end of the next working day.

377:3-13-136.3. Records

(a) Complete medical records shall be maintained separately at the secure facility in a secure location. Information contained in the records shall include:

(1) all treatment and medication administered;

(2) the juvenile's medical history; and

(3) periodic reports made by the physician as requested by the facility administrator.

(b) When a death occurs within the secure facility, the facility administrator shall:

(1) hold a formal review;

(2) sign a written summary of facts;

(3) submit all information to the executive administration of the secure facility and the OJA Executive Director; and

(4) request an autopsy by the State Medical Examiner's Office.

377:3-13-137. Disciplinary procedures

Secure facility staff members shall protect the safety and constitutional rights of juveniles and seek a balance between expression of individual rights and preservation of facility order. The facility's disciplinary process shall include:

(1) A list of prohibited acts and sanctions constituting minor rule violations and the following procedural safeguards:

(A) The procedure for addressing minor rule violations that is initiated by a staff report of an incident that includes the proper offense citation;

(B) A maximum time frame of five (5) days, excluding weekends and holidays, from the discovery of the offense to final disposition; and

(C) The list of minor rule violations that is included in the juvenile handbook issued to all juveniles during orientation.

(2) A list of prohibited acts and sanctions constituting major rule violations and the following procedural safeguards:

(A) The procedure for addressing major rule violations that is initiated by a staff report of an incident that includes the proper offense citation;

(B) Juveniles charged with major rule violations are scheduled for a hearing as soon as practicable, but no later than seven (7) days, excluding weekends and holidays, after being charged with a violation. Juveniles are notified in writing of the time and place of the hearing at least 24 hours in advance of the hearing;

(C) The list of major rule violations that is included in the juvenile handbook issued to all juveniles during orientation;

(D) A juvenile charged with a major violation of facility rules shall be given a written copy of the report containing the alleged rule violation(s) within 24 hours of the incident or within 24 hours of the facility staff's discovery of a violation. A hearing may be held within 24 hours of the violation notification providing the juvenile can prepare for the hearing with assistance, if needed, and furnishes written consent;

(E) A hearing is conducted with an opportunity to present evidence;

(F) The hearing officer shall issue a written decision within three (3) days excluding weekends and holidays; and

(G) An opportunity to appeal shall be provided.

(3) Medical staff shall not impose sanctions on juveniles for refusing to accept medical care.

(4) Rules regarding discipline are found in OAC 377:10-1-3.

377:3-13-138. Medical and health care programs

~~(a) Each facility shall have written health care policies approved by a designated physician, which include the following:~~

~~(1) The arrival of a new juvenile admission shall require a medical screening by a qualified health care professional or health trained personnel;~~

~~(2) all medical screening findings shall be recorded on a form approved by the physician;~~

~~(3) all medication and first aid supplies shall be accounted for during the receiving, storing, dispensing, administering and distributing process; and~~

~~(4) medical and dental instruments and supplies (i.e. syringes, needles, scalpel blades, and other sharps) shall be under maximum secure storage, controlled, and perpetually inventoried under the supervision of on-duty secure facility staff.~~

~~(b) Current credentials/licensures and job descriptions for health care providers shall be maintained at the facility.~~

~~(c) The facility shall prohibit the use of juveniles for medical, pharmaceutical or cosmetic experiments.~~

~~(d) The facility shall have a designated physician as a health care authority.~~

~~(e) The health care authority shall be authorized to make and shall be responsible for making decisions about the deployment of health resources and the day-to-day operations of the health care services program.~~

~~(f) Upon arrival at the secure facility, all juveniles shall receive health care services information as contained in the juvenile handbook issued during orientation.~~

~~(g) No member of the secure facility staff shall impede a juvenile's requests for access to health care services.~~

~~(h) A medical/health care assessment shall be conducted within fourteen (14) days of admission unless there is documentation of a medical/health assessment within the previous ninety (90) days.~~

~~(i) Upon discharge/release the facility's designated physician shall sign a medical summary that is included in the juvenile's medical file.~~

~~(j) The juvenile's medical and health care shall be provided in accordance with O.A.C. 377: 35-7-1, where not inconsistent with this rule.~~

~~(k) Medication is administered by a qualified nurse or by a staff member who has received approved medication administration training.~~

~~(l) The use of medication for punishment, control or program management shall be prohibited.~~

~~(m) Any medication administered to juveniles shall conform to the Medication Administration Recording System (MARS) standard for record keeping.~~

~~(n) When prescription medications are used, the juvenile, parent/guardian/ custodian, and appropriate staff members shall be made aware of the side effects of the medication and proof of said notification shall be maintained in writing.~~

~~(o) Psychotropic medication(s) administered to juveniles shall comply with applicable laws and regulations of the jurisdiction.~~

~~(p) Each facility shall have a written program addressing the management of communicable and infectious diseases in juveniles, to include tuberculosis, hepatitis, HIV, and Methicillin-resistant Staphylococcus aureus (MRSA).~~

~~(q) All medical/health care records are confidential and shall be maintained in a separate secure file.~~

(a) The facility shall have a designated physician as a health care authority.

(b) The health care authority shall be authorized to make and shall be responsible for making decisions about the deployment of health resources and the day-to-day operations of the health care services program.
(c) Current credentials/licensures and job descriptions for health care providers shall be maintained at the facility.
(d) Access to medical and dental records shall be restricted to authorized personnel.
(e) All medical/health care records are confidential and shall be maintained in a separate secure file.
(f) Each facility shall have written health care policy and procedures approved by a designated physician, which include the following:
(1) the arrival of a new juvenile admission shall require a medical and dental screening by a licensed nurse;
(2) all medical screening findings shall be recorded on a form approved by the physician;
(3) all medication and first aid supplies shall be accounted for during the receiving, storing, dispensing, administering and distributing process; and
(4) medical and dental instruments and supplies (i.e. syringes, needles, scalpel blades, and other sharps) shall be under maximum secure storage, controlled, and perpetually inventoried under the supervision of on-duty secure facility staff.
(g) Each secure facility shall have written policy and procedures for serious or common problems, including:
(1) drug toxicity and withdrawal,
(2) pregnancy,
(3) sexually transmitted disease (STD),
(4) suicide threats, and
(5) emotional problems.
(h) Each facility shall have written policy and procedures addressing the management of communicable and infectious diseases in juveniles, to include tuberculosis, hepatitis, HIV, and Methicillin-resistant Staphylococcus aureus (MRSA).
(i) Upon arrival at the secure facility, all juveniles shall receive health care services information as contained in the juvenile handbook issued during orientation.
(j) A medical/health care assessment shall be conducted within fourteen (14) days of admission unless there is documentation of a medical/health assessment within the previous ninety (90) days.
(k) No member of the secure facility staff shall impede a juvenile's requests for access to health care services.
(l) The use of medication for punishment, control or program management shall be prohibited.
(m) The facility shall prohibit the use of juveniles for medical, pharmaceutical or cosmetic experiments.
(n) If neurological problems are suspected in a case of learning disabilities, the medical services worker shall refer the juvenile for testing.
(o) The staff shall refer a juvenile with speech and hearing defects to a speech pathologist.
(p) The secure facility physician or licensed nurse shall review medical and dental records whenever possible prior to the juvenile's discharge or transfer. When a juvenile is transferred to another facility, the secure facility worker shall ensure that the juvenile's medical records or a summary of his or her medical records is forwarded to the receiving facility prior to or upon arrival.
(q) Upon discharge/release the facility's designated physician shall sign a medical summary that is included in the juvenile's medical file.

377:3-13-138.1. [RESERVED]

377:3-13-138.2. Medical isolation

The secure facility physician shall determine placement of any juvenile in medical isolation, according to the juvenile's diagnosis and medical risk.

377:3-13-138.3. Administration of medications

(a) Any medication administered to juveniles shall conform to the Medication Administration Recording System (MARS) standard for record keeping.
(b) Medications shall be administered only by the physician, registered nurse, or other staff who have received approved training in administration of medications.
(c) When prescription medications are used, the juvenile, parent/guardian/ custodian, and appropriate staff members shall be made aware of the side effects of the medication and proof of said notification shall be maintained in writing.
(d) Rules regarding administration of drugs shall not preclude the use, with informed consent, of drugs which are capable of relieving specifically identified psychiatric symptoms. If used, the individual plan of treatment must state the specific benefits expected for specific symptoms or complaints and must document observed benefits or other effects no less than monthly.
(e) Psychotropic medication(s) administered to juveniles shall comply with applicable laws and regulations of the jurisdiction.
(f) Medications such as stimulants, tranquilizers, or psychotropics shall be administered only as a part of a program of medically approved therapy. The administration of such drugs shall be periodically monitored by a licensed psychiatrist according to accepted medical standards.
(g) Telephone orders between a psychiatrist and a requesting nurse shall only occur when the nurse has had prior involvement in the case and the administration of any drugs and when the nurse has personal knowledge of the patient's medical needs. Telephone orders and the patient will be reviewed by a physician or psychiatrist within 48 hours of administration.
(h) When a juvenile is confined to medical isolation or the unit for medical reasons, the designated staff shall bring medications to be administered to the juvenile at that location.
(i) When a juvenile is placed in another setting, including community placement, another secure facility, or a contract facility, the designated staff member shall send a three-day supply of the juvenile's prescribed medications with the juvenile.

377:3-13-138.4. Juvenile's refusal of medical services

(a) A juvenile shall have the right to refuse non-necessary medical care.

(1) Non-necessary medical care, as determined by the physician, consists of procedures and treatments that do not pose a serious threat to the juvenile's health if not performed. If the physician determines that omission of the care poses a serious threat to the juvenile's health, the care shall be considered necessary.

(2) When a juvenile refuses non-necessary medical care, the juvenile shall complete, date, and sign the appropriate form indicating his or her refusal. The physician shall include a written explanation of the need for the care recommended and the probable consequences of not receiving the care.

(b) The secure facility shall have in place a policy that governs how to respond to a juvenile who refuses necessary medical services. It shall include the following:

(1) that the juvenile receive life sustaining emergency medical services; and

(2) that the juvenile shall receive counseling to accept necessary medical services.

(c) If the juvenile continues to refuse medical treatment, the facility administrator shall ensure that:

(1) the juvenile shall be hospitalized;

(2) the juvenile shall be referred to the court of jurisdiction as unmanageable in order to compel enforcement of necessary medical services; and

(3) the juvenile's parent or guardian shall be notified.

377:3-13-138.5. Emergency medical services

Each secure facility shall have a written arrangement for the use of one or more designated hospital emergency rooms to provide 24-hour emergency medical, dental, and mental health care. The secure facility shall have a written agreement with the hospital for evacuation of the juvenile from the facility by use of an emergency medical vehicle.

377:3-13-140.1. Diagnostic evaluation

Each juvenile placed in a secure facility shall receive diagnostic services except a juvenile who had a diagnostic evaluation immediately prior to admission. The diagnostic evaluation shall include:

(1) a complete medical examination;

(2) a complete dental examination;

(3) family and social summary;

(4) an educational and vocational evaluation;

(5) a psychological evaluation;

(6) a neurological appraisal; and

(7) a speech and hearing evaluation.

377:3-13-141. Educational programs

A secure juvenile facility shall maintain an educational program in accordance with state laws and the policies and procedures of the Oklahoma Department of Education. ~~The~~Unless otherwise provided by law, the secure facility shall verify there is a current teaching certificate on file for each educational instructor and that each instructor is teaching the course for which they are qualified.

377:3-13-142. Recreational programs

A secure facility shall ~~provide~~post a daily written schedule of offered recreational and physical exercise activities ~~that~~, which includes at least one hour of large muscle activity and may include one hour of structured leisure activity.

377:3-13-144. Security and control

(a) **Juvenile count.**

(1) At least one daily uninterrupted juvenile population count shall be conducted on each shift;

(2) The results of the population count shall be transmitted to central control were it is documented and available at all times; and

(3) No movement of juveniles shall be permitted during the population count.

(b) **Mail security.** The secure facility shall have a mail security policy that shall include the following:

(1) ~~Juveniles may send and receive mail in accordance with state law and rules promulgated by the Board of Juvenile Affairs; and~~

~~(2) All juveniles' mail shall be processed in accordance with O.A.C. 377:35-11-5.~~A child shall have constant access to writing materials and may send mail without limitation, censorship or prior reading, and may receive mail without prior reading, except that mail may be opened in the presence of the child, without being read, to inspect for contraband, as defined by 57 O.S., § 21 or as otherwise defined by rules promulgated by the Board of Juvenile Affairs, or to inspect for material harmful to minors, as defined by 21 O.S., § 1040.75. Provided that, when based on legitimate facility interests of order and security as determined by the facility administrator, mail addressed to a child or sent by a child may be read, censored, or rejected, except that mail addressed to a child from the attorney of the child or sent by the child to the attorney of said child shall not be opened, censored, or withheld in any way. The child shall be notified when incoming or outgoing mail is withheld in part or in full.

(A) Legitimate facility interests may include but are not limited to:

(i) for security reasons where a clearly documented reason exists, e.g., the correspondent has aided the juvenile in planning an escape or has used the mail to send the juvenile contraband items;

(ii) where it is clearly documented that the correspondence is from a person whose continued relationship poses a threat to the juvenile's treatment or rehabilitation; or

(iii) when the correspondence is from correctional facility inmates whose continued relationship poses a threat to the juvenile's treatment or rehabilitation.

(B) In any of the above cases, staff shall return the unopened mail to its point of origin, unless it is clearly documented that the correspondence is from a relative.

(c) **Control of contraband and Facility Prohibited Item (FPI).**

(1) Contraband is defined as any item introduced or found in the secure facility, the mere presence or possession of which shall constitute a violation of criminal law. Contraband discovery procedures require:

(A) confiscation by staff with the completion of a report prior to the end of the shift;

(B) a log entry by staff containing the contraband description and names of involved person(s);

(C) placement of the contraband into secure storage;

(D) a notification to the facility administration for the initiation of a criminal investigation; and

(E) the establishment of a timeline and procedures for storing and disposing of contraband;

(2) A Facility Prohibited Item (FPI) is defined as an item in an individual's possession or control, which is a violation of facility, or unit rules, but does not constitute a violation of criminal law. FPI discovery procedures require:

(A) The confiscation of the FPI by staff with the completion of a report prior to the end of the shift;

(B) a log entry by staff containing the FPI description and the names of involved person(s);

(C) non-perishable FPI confiscated from a juvenile shall be entered on the juvenile's personal property inventory and, if appropriate, returned upon the juvenile's release;

(D) all other non-perishable FPI confiscated from staff, visitors or others shall be inventoried and properly disposed of when no longer administratively necessary;

(E) all perishable FPI shall be photographed, if necessary, and immediately disposed of in an appropriate manner; and

(F) the opportunity for juveniles to challenge the confiscation of FPI through the established grievance procedure.

(d) **Searches.**

(1) **General area search** is defined as a random search of all areas of the secure facility for the security and safety of the juveniles and staff.

(A) The ~~superintendent~~facility administrator shall authorize the procedures through the distribution of a post order.

(B) The search shall be accomplished under the direction of a security shift supervisor by teams of two or more staff trained in conducting searches.

(C) The use of a canine may be authorized, if appropriate and available.

(D) Dates and times for the searches shall be at the discretion of the secure facility's ~~superintendent~~administrator.

(E) The objective of the searches shall be to discover and confiscate contraband and/or FPI.

(F) The completion of staff reports shall be required before the end of shift.

(2) **Specific area search** is defined as a search limited to a certain time and area involving juveniles' personal property in one or more juvenile living quarters.

(A) The search shall be based on reasonable suspicion that a juvenile(s) is in possession of contraband and/or FPI or without reasonable suspicion upon the routine transfer of a juvenile from one living area to another.

(B) A facility administrator shall authorize a search based upon reasonable suspicion while a shift supervisor or above shall authorize a search based on a routine transfer.

(C) The search shall be accomplished under the direction of a security shift supervisor by teams of two or more staff trained in conducting searches.

(D) The use of a canine may be authorized, if appropriate and available.

(E) The date and time for the search shall be specific to the event establishing reasonable suspicion or to the date, time and location of the routine juvenile transfer.

(F) The search objective shall be to discover and confiscate contraband and/or FPI and/or recover missing property and/or injurious item(s).

(G) The completion of staff reports shall be required prior to the end of shift.

(3) **Juvenile body search** is defined as observing and touching the body to discover contraband and/or FPI and is described from the least intrusive to the most intrusive types of search:

(A) **Pat search** is considered to be a routine search and the least intrusive type of search.

(i) It shall be routinely conducted based on suspicion of contraband and/or FPI on the juvenile's person.

(ii) It shall be routinely conducted:

(I) Upon the completion of work assignments (i.e. kitchen, maintenance, etc.); or

(II) At the conclusion of visitation;

(III) After returning from recreation or from school; or

(IV) Following a restraint.

(iii) The search shall be conducted by a minimum of two staff members trained in searches, one of whom shall be the same gender as the juvenile, except in an emergency situation.

(iv) Procedures for conducting the search include:

(I) The use of hands to pat the outside clothing covering the body;

(II) The back of the hands shall be used to pat the genitals, buttocks (males and females) and breasts (female); and

(III) The search may include the removal of coat, hat, gloves, shoes and socks.

(v) A written report shall be required by the end of the shift only when an illegal and/or prohibited item(s) is found.

(B) **Disrobement search** is considered intrusive and involves the complete removal of all clothing items from the body.

(i) This search requires reasonable suspicion that a juvenile(s) is in possession of contraband and/or injurious item(s) and shall be conducted pursuant to verbal or written authorization from the ~~superintendent~~facility administrator or designee.

(ii) The search shall be routinely conducted:

(I) During admission to the secure facility; or

(II) During discharge from the secure facility; or

(III) Upon return from a pass; or

(IV) Upon return from any appointment, court appearance, event or activity outside the perimeter fence of the secure facility.

(iii) The search shall be accomplished under the direction of a security shift supervisor by a minimum of two staff members trained in searches, both of whom are the same gender as the juvenile.

(iv) The search shall be conducted in a professional manner in an area that prevents observation by other staff and/or other juveniles and not covered by surveillance cameras.

(v) A written report is required by the end of the shift whether or not an illegal and/or prohibited item(s) is found.

(C) **Cavity search** is defined as a non-routine and intrusive search that involves medical personnel in searching the internal areas of body orifices.

(i) The search requires prior written authorization by the facility's ~~superintendent~~administrator or designee based on written facts that would lead a reasonable person to believe a juvenile is carrying contraband and/or injurious item(s) in a body cavity.

(ii) The search shall only be conducted by a physician at the secure facility or by medical personnel at a local hospital.

(iii) A written report shall be required by the end of the shift documenting the search, including the names of the medical personnel involved, whether or not an illegal and/or prohibited item(s) is found.

(4) Each facility shall maintain a stationary and mobile magnetometer in good working order. All juveniles, staff, and visitors shall be required to pass through the facility's magnetometer (metal detector), and hand-wand if necessary, prior to entry into the facility.

(e) **Staff ratios.**

(1) The ratio of staff to juveniles on a unit shall not be less than 1 to 10 during waking hours and 1 to 12 during sleeping hours. For units composed entirely of secure individual sleeping rooms the ratio shall not be less than 1 to 10 during waking hours and 1 to 14 during sleeping hours.

(2) At least one staff member of the same gender as the juveniles shall be on duty within the facility on each shift.

(3) Juveniles shall be supervised at all times. Each secure facility shall maintain a plan that details the frequency of visual checks of juveniles made by the staff.

(f) **Surveillance plan.**

(1) The secure facility shall have a plan for surveillance of all areas of the facility's perimeter. Outside lighting must be sufficient to provide visibility under all conditions with no blind spots.

(2) The facility shall maintain a camera system that is in working condition and monitored by staff in real time with recording capabilities to maintain a minimum of ninety (90) days of video.

(g) **Door security.**

(1) All perimeter security doors to the living units shall be locked and doors to vacant or unoccupied living units and storage rooms shall remain locked when not in use.

(2) The facility shall maintain a backup release system that allows for the immediate release of juveniles from locked areas in the event of an emergency.

(h) **Key control.**

(1) The facility's key control system shall include:

(A) The maintenance of a log of all keys with lock locations and names of employees possessing keys;

(B) Key storage that permits easy determination of the presence or absence of keys;

(C) The maintenance of at least one duplicate key for each lock in the facility;

(D) A central area from which keys are issued; and

(E) The labeling of all keys to include color-coding and touch identification of emergency keys.

(F) No keys shall be taken off the premises except as authorized by the ~~superintendent~~facility administrator.

(i) **Physical force.**

(1) ~~Physical force is never used as punishment or retaliation.~~

~~(2)~~ Use of force is ~~limited to:~~authorized, as provided in 10A O.S., § 2-7-604 and 377:10-1-4

~~(A) self-protection;~~

~~(B) separate juveniles who are fighting;~~

~~(C) restraining juveniles in danger of inflicting harm to themselves or other; and~~

~~(D) restraining juveniles who have escaped or are in the process of escaping~~.

(~~3~~2) Use of physical force requires a medical evaluation and photo(s) of the juvenile(s) immediately following the incident.

(~~4~~3) A written report is required prior to the end of shift following all uses of physical force.

(j) **Mechanical restraints.** The standards regarding mechanical restraints are found in 10A O.S., § 2-7-604 and 377:10-1-4.

~~(1) Mechanical restraints are applied according to facility procedures and are limited to incidents involving:~~

~~(A) self-protection;~~

~~(B) separate juveniles who are fighting;~~

~~(C) restraining of juveniles in danger of inflicting harm to themselves or other;~~

~~(D) escort/transfer of juveniles to crisis management or solitary confinement; and~~

~~(E) the restraining of juveniles who have escaped or are in the process of escaping.~~

~~(2) Mechanical restraints shall only be used by trained staff members.~~

~~(3) Juveniles shall not be restrained to immovable objects nor shall the juvenile's hands be restrained to the feet.~~

~~(4) Juveniles shall not be left unattended while in mechanical restraints.~~

~~(5) A written report is required following every use of mechanical restraints.~~

~~(6) Mechanical restraints shall never be used as punishment or retaliation.~~

(k) ~~**Firearms and tools.**~~

~~(1) Firearms shall not be permitted in the secure facility except for law enforcement officers during emergency situations.~~

~~(2) All tools and kitchen utensils shall be classified, controlled and stored based on their level of risk for death or serious injury~~**Oleoresin Capsicum.** The use of Oleoresin Capsicum (OC) spray shall conform to 377:10-1-4.1.

(l) **Solitary Confinement~~ and seclusion~~.**

(1) The use of confinement~~ and seclusion~~ as a method of intervention with juveniles shall be limited to the following:

~~(A) for self-protection;~~

~~(B) for separating juveniles who are fighting;~~

~~(C) for juveniles in danger of inflicting harm to themselves or others;~~

~~(D) for juveniles who have escaped or who are in the process of escaping;~~

~~(E) for juvenile's whose behavior incites other juveniles to jeopardize the safety of staff and/or juveniles; and~~

~~(F) for juveniles who request to be placed in protective care.~~Solitary confinement is the involuntary removal of a juvenile from contact with other persons by confinement in a locked room, including the juvenile's own room, except during normal sleeping hours. Solitary confinement is a serious and extreme measure to be imposed only in emergency situations. It may be imposed only upon a juvenile in a secure facility who is out of control and is a serious and immediate physical danger to him or herself or others, and only after less restrictive methods of control have failed.

(B) Solitary confinement shall not be used for punishment at any secure facility. No juvenile shall remain continuously in solitary confinement in excess of three (3) hours. As soon as the juvenile is sufficiently under control so as to no longer pose a serious and immediate danger to him or herself or others, the juvenile shall be released from solitary confinement. The use of such confinement is not limited to three (3) continuous hours within any twenty-four (24) hour period when the juvenile is out of control and poses a continuing serious and immediate physical danger to him or herself or others, provided that any juvenile who meets this required standard for such confinement for a period in excess of three (3) continuous hours must be examined by a licensed mental health professional at the conclusion of the 3-hour period.

(C) All rooms used for solitary confinement shall have at least eighty (80) square feet of floor space, and shall have toilets, potable water, and adequate lighting, heating/cooling, and ventilation for the comfort of the juvenile. Juveniles in solitary confinement shall have access to appropriate medical and psychological services.

(2) A facility shall establish procedures for solitary confinement~~ and seclusion~~ that include:

(A) a log of events to include date, time, location and rationale;

(B) staff visual observation of juvenile behavior as documented every fifteen minute period the juvenile is in solitary confinement~~ or seclusion~~; and

(C) reauthorization by the facility ~~superintendent~~administrator after every twenty-four (24) hour period of time the juvenile has been in solitary confinement~~ or seclusion~~.

(3) Juveniles are afforded living conditions and privileges based on their behavior.

~~(4) The juvenile placed in confinement or seclusion shall be released as soon as the juvenile demonstrates he/she is under control of his/her behavior and no longer a threat to self or others.~~

~~(5)~~ The establishment of a cool down period~~,~~ and time out period~~ and temporary seclusion~~ as appropriate types of interventions for inappropriate juvenile behaviors.

(m) **Firearms and tools.**

(1) Firearms shall not be permitted in the secure facility except for law enforcement officers during emergency situations.

(2) All tools and kitchen utensils shall be classified, controlled and stored based on their level of risk for death or serious injury.

(n) **Escape.** The facility shall develop procedures for apprehension of juveniles who escape from the facility to include notification of law enforcement agencies and OJA criminal investigators.

377:3-13-147.1. Background history records searches

(a) The facility shall conduct a records search for each applicant for employment, which shall include the following:

(1) a national criminal history records search based upon submission of fingerprints that shall be conducted by the Oklahoma State Bureau of Investigation (OSBI) and the Federal Bureau of Investigation (FBI) pursuant to Section 150.9 of Title 74 of the Oklahoma Statutes and National Child Protection Act, 42 U.S.C.A. § 5119a, provided both the OSBI and FBI act in their designated role;

(2) a search of the Oklahoma State Courts Network (OSCN) including Oklahoma District Court Records (ODCR);

(3) a search of the Department of Human Services (DHS) Child Care Restricted Registry, also known as Joshua's List;

(4) a search of the Department of Corrections (DOC) Sex Offender Registry;

(5) a search of the Department of Corrections (DOC) Violent Offender Registry, also known as the Mary Rippy Violent Crime Offenders Registry;

(6) a search of all applicable out-of-state child abuse and neglect registries if the applicant has not lived continuously in Oklahoma for the past five (5) years;

(A) The prospective applicant is not approved without the results of the out-of-state maintained child abuse and neglect registry checks, when a registry is maintained in the applicable state;

(B) When no child abuse and neglect registry is maintained in the applicable state, the facility shall request any information that can be provided; and

(7) a criminal history records search conducted by an authorized source, when an applicant has lived outside the United States within the last five (5) years.

(b) **Criminal history investigation.** The facility shall not employ or retain any person for whom there is documented evidence that the employee would endanger the health, safety, and/or well-being of juveniles.

(1) A facility shall not employ or retain an individual who has been:

(A) convicted of or entered a plea of guilty or nolo contendere to any felony involving:

(i) violence against a person;

(ii) child abuse or neglect;

(iii) possession, trafficking, manufacturing, sale or distribution of illegal drugs, or conspiracy to traffic, manufacture, sell, or distribute illegal drugs;

(iv) sexual misconduct;

(v) gross irresponsibility or disregard for the safety of others;

(vi) any crime against a child; or

(B) in the case of child abuse and neglect, identified as a perpetrator in a juvenile court proceeding and/or has made an admission of guilt to a person authorized by state or federal laws or regulations to investigate child abuse and neglect.

(2) As to a simple drug possession offender, the facility may, at its own discretion, make exceptions to the prohibition of employment if five years have passed from completion of the applicant's criminal sentence and the facility can document that the health, safety, and well-being of juveniles would not be endangered.

(A) The facility may consider, document, and submit to the Office of Public Integrity within 10 days of the employee's first day of work the:

(i) type of crime or offense for which the individual was convicted or a finding was made; and

(ii) reference letters concerning the individual in question.

(B) The Office of Public Integrity may make a recommendation to the facility administrator as to whether the applicant for employment should be approved or disapproved.

(3) If there is an allegation that a staff member has committed an act as described in OAC 377:3-13-147.1(b)(1), the facility shall determine and document whether the staff member shall be removed from contact with juveniles until the allegation is resolved.

(4) If the facility becomes aware of any person being formally charged with any of the criminal offenses described in OAC 377:3-13-147.1(b)(1), he or she must be removed from contact with juveniles until the charges are resolved.

377:3-13-147.2. Sexual activity

No staff member shall engage in any sexual activity with a juvenile. Violation of this rule shall result in termination and/or criminal prosecution.

377:3-13-149. Food and nutrition requirements

(a) All facilities shall comply with regulations promulgated by Oklahoma State Department of Health Rules and Regulations pertaining to food service establishments and applicable accreditation standards approved by OJA.

(b) A qualified nutritionist or dietician shall review and approve the facility's dietary menus at least annually to ensure nationally recommended, age- appropriate, daily allowances for basic nutrition are met. Food service supervisory staff shall verify adherence to the established basic daily servings and shall conduct menu evaluations at least quarterly.

(c) Therapeutic diets shall be prepared and served by written orders of a physician pursuant to federal and state law.

[OAR Docket #15-696; filed 7-6-15]

TITLE 377. OFFICE OF JUVENILE AFFAIRS
CHAPTER 3. ADMINISTRATIVE SERVICES

[OAR Docket #15-693]

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PERMANENT final adoption

RULES:
Subchapter 13. Office of Public Integrity
Part 3. Requirements for Secure Juvenile Detention Centers
377:3-13-39. Admission procedure and criteria [AMENDED]
AUTHORITY:
The Board of Juvenile Affairs, pursuant to 10A O.S. § 2-7-101(H)(3) and 2-7-101(I)(1) and 75 O.S. § 302(A)(1).
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ANALYSIS:
Under new Oklahoma state law, as per Senate Bill 929 (2014), effective May 28, 2014, an OJA extended youth may be held in detention and continue to receive services. The rule revision prevents the improper release of an extended OJA youth.
CONTACT PERSON:
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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 11, 2015:

SUBCHAPTER 13. OFFICE OF PUBLIC INTEGRITY

PART 3. REQUIREMENTS FOR SECURE JUVENILE DETENTION CENTERS

377:3-13-39. Admission procedure and criteria

(a) Juveniles shall be admitted to the secure detention facility only as provided by 10A O.S., §§ 2-3-101 et~~.~~ seq. and § 2-7-504.

(b) The facility's written policy and procedure for admitting juveniles includes, but is not limited to, provisions which require the facility to:

(1) verify legal authority to detain;
(2) search the individual and the juvenile's possessions;
(3) inventory the juvenile's clothing and personal possessions;
(4) distribute personal hygiene items;
(5) make provisions for shower and hair care;
(6) issue clean, laundered clothing;
(7) ensure that the juvenile's family, custodian or guardian is notified;
(8) assist the juvenile in notifying his or her family, guardian, or custodian of the juvenile's admission;
(9) supervise the juvenile while the juvenile makes two admission phone calls, if desired;
(10) conduct an admission interview of the juvenile to answer questions and obtain information;
(11) complete a medical history questionnaire;
(12) provide an orientation which includes:
(A) juvenile rights;
(B) program description;
(C) program rules;
(D) grievance process; and
(E) discipline policy;
(13) record basic personal data;
(14) review procedures for mail and visiting; and
(15) assign the juvenile to a sleeping unit.

[OAR Docket #15-693; filed 7-6-15]

TITLE 377. OFFICE OF JUVENILE AFFAIRS CHAPTER 3. ADMINISTRATIVE SERVICES

[OAR Docket #15-694]

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Part 3. Requirements for Secure Juvenile Detention Centers
377:3-13-43. Staff requirements [AMENDED]
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The rule revisions conform to the recommendations of the Oklahoma State Department of Health on Tuberculosis testing, and clarifies the requirements of background records searches for juvenile detention centers due to the 2013 amendment of 10 O.S., § 404.1, as per Senate Bill 917 (2013).
CONTACT PERSON:
Jlynn Hartman, Director of Government Relations, Office of Juvenile Affairs, 3812 N. Santa Fe Ave., Ste. 400, Oklahoma City, OK 73118, (405) 530-2866, JLynn.Hartman@oja.ok.gov

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 11, 2015:

SUBCHAPTER 13. OFFICE OF PUBLIC INTEGRITY

PART 3. REQUIREMENTS FOR SECURE JUVENILE DETENTION CENTERS

377:3-13-43. Staff requirements

(a) **General provisions.** The requirements for facility staff are set forth in this Section.

(1) **Personnel policy.** Every facility shall have written personnel policy which includes the maintenance of personnel records. The facility director shall make available to employees personnel policy and written job descriptions. The policy and job descriptions specify the person to whom the employee is responsible and the duties the employee is expected to perform.

(2) **Juveniles' tasks.** A juvenile in detention shall not be used as an employee. A juvenile in detention is permitted to perform tasks, if the tasks teach the juvenile responsibility and the juvenile is supervised. A juvenile shall be allowed to perform tasks (chores) in any area (restricted to the facility) in which adequate security exists. The facility administrator shall approve all work assignments.

(3) **Supervision.** Sufficient staff shall be available to provide continuous day and night supervision of the residents and protection of the facility as well as to allow staff relief from duty.

(4) **Auxiliary staff.** There shall be sufficient auxiliary staff to maintain adequate support services. Auxiliary staff are all staff that are not direct-care staff.

(5) **Health requirements.** Staff health requirements are given in (A)-(~~C~~B) of this paragraph.

(A) Each person employed shall have a physical examination by a licensed physician, within the first 90 days of employment. The physician shall verify in a written statement that the individual is physically able to perform his or her job-related functions.

(B) ~~Upon employment each employee who has not had a documented skin test within the past 12 months shall have a Mantoux tuberculin skin test unless he/she has had a previous positive skin test.~~

~~(C) An employee with a positive skin test reaction must have or provide documentation of a chest x-ray.~~

~~(i) Additional tests or x-rays are not required unless symptoms develop that are suggestive of tuberculosis.~~

~~(ii) Employees with a positive skin test reaction must submit annual documentation by medical personnel that signs or symptoms of tuberculosis are not present.~~Testing for tuberculosis is not required on a routine basis. Tuberculin skin testing shall be required when there is a local identified tuberculin exposure identified by the Oklahoma State Department of Health.

(i) When a tuberculin skin test is required, employees with a positive skin test reaction must submit documentation by medical personnel that signs or symptoms of tuberculosis are not present.

(ii) An employee who has ever had a positive skin test reaction must have or provide documentation of a chest x-ray. Additional tests or x-rays are not required unless symptoms develop that are suggestive of tuberculosis.

(6) **Background history records searches.** The facility shall conduct a records search for each applicant for employment, which shall include the following:

(A) a national criminal history records search based upon submission of fingerprints that shall be conducted by the Oklahoma State Bureau of Investigation (OSBI) and the Federal Bureau of Investigation (FBI) pursuant to Section 150.9 of Title 74 of the Oklahoma Statutes and National Child Protection Act, 42 U.S.C.A. § 5119a, provided both the OSBI and FBI act in their designated role;

(B) a search of the Oklahoma State Courts Network (OSCN) including Oklahoma District Court Records (ODCR);

(C) a search of the Department of Human Services (DHS) Child Care Restricted Registry, also known as Joshua's List;

(D) a search of the Department of Corrections (DOC) Sex Offender Registry;

(E) a search of the Department of Corrections (DOC) Violent Offender Registry, also known as the Mary Rippy Violent Crime Offenders Registry;

(F) a search of all applicable out-of-state child abuse and neglect registries if the applicant has not

lived continuously in Oklahoma for the past five (5) years;

(i) The prospective applicant is not approved without the results of the out-of-state maintained child abuse and neglect registry checks, when a registry is maintained in the applicable state;

(ii) When no child abuse and neglect registry is maintained in the applicable state, the facility shall request any information that can be provided; and

(G) a criminal history records search conducted by an authorized source, when an applicant has lived outside the United States within the last five (5) years.

(7) **Criminal history investigation.** ~~The facility shall comply with statutory requirements mandating a criminal history investigation for each applicant for employment [10 O.S. Section 404.1].~~ The facility shall not employ or retain any person for whom there is documented evidence that the employee would endanger the health, safety, and/or well-being of juveniles.

(A) A facility shall not employ or retain an individual who has been:

(i) convicted of or entered a plea of guilty or nolo contendere to any felony involving:

(I) violence against a person;

(II) child abuse or neglect;

(III) possession, trafficking, manufacturing, sale or distribution of illegal drugs, or conspiracy to traffic, manufacture, sale, or distribute illegal drugs;

(IV) sexual misconduct;

(V) gross irresponsibility or disregard for the safety of others;

(VI) any crime against a child; or

(ii) in the case of child abuse and neglect, identified as a perpetrator in a juvenile court proceeding and/or has made an admission of guilt to a person authorized by state or federal laws or regulations to investigate child abuse and neglect.

(B) As to a simple drug possession offender, the facility may, at its own discretion, make exceptions to the prohibition of employment if five years have passed from completion of the applicant's criminal sentence and the facility can document that the health, safety, and well-being of juveniles would not be endangered.

(i) The facility shall consider, document, and submit to the Office of Public Integrity within 10 days of the employees first day of work the:

(I) type of crime or offense for which the individual was convicted or a finding was made; and

(II) reference letters concerning the individual in question.

(ii) The Office of Public Integrity ~~shall~~may make a recommendation to the ~~Executive Director~~facility administrator as to whether the applicant for employment~~shall~~should be approved or disapproved.

(C) If there is an allegation that a staff member has committed an act as described in OAC 377:3-13-43(a)(~~6~~7)(A), the facility shall determine and document whether the staff member shall be removed from contact with juveniles until the allegation is resolved.

(D) If any person is formally charged with any of the offenses described in OAC 377:3-13-43(a)(~~6~~7)(A), he or she must be removed from contact with juveniles until the charges are resolved.

(E) No employee of the facility shall use or be under the influence of alcohol or illegal drugs during hours of work nor shall any employee use or possess illegal drugs at any time.

(~~7~~8) **Personnel records.** The facility shall keep on file a written personnel record available for review for every staff person employed by the facility.

(A) The personnel record includes, but is not limited to:

(i) an application, resume or staff information sheet that documents qualifications for the position, valid drivers license or other state ID, birth certificate, applicable educational diploma;

(ii) health records as required by the facility;

(iii) three written references and/or documentation of telephone interviews;

(iv) any reports and notes relating to the individual's employment with the facility and an annual job performance evaluations;

(v) dates of employment; and

(vi) date and reason for leaving employment.

(B) When employment is involuntarily terminated, a statement regarding the reason for termination is to be included in the personnel file.

(C) Personnel records are maintained for at least three years following a staff member's separation.

(D) All employees' records are kept confidential subject to existing state and federal statutes.

(E) Staff members shall have access to their personnel files for reviewing purposes if a request is made to the facility administrator.

(~~8~~9) **Staff training.** All staff shall be trained on facility policy and procedure and a training record be established for each staff member. A record of all annual training shall be maintained. At the end of the~~he~~ year, it shall become part of the personnel record.

(A) Each direct-care staff member shall be provided orientation before being allowed to work independently.

(B) Auxiliary staff shall receive orientation to the facility's policy and procedure and to their assigned duties.

(C) During orientation the trainer shall acquaint staff with the philosophy, organization, program practice, and goals of the secure juvenile detention facility.

(D) "Requirements for Secure Juvenile Detention Facilities" is reviewed as a part of the orientation process and is available to staff at all times.

(E) Within 90 days of employment, by a detention facility, all direct-care staff shall have successfully completed a specific course of instruction in first aid as established by the Red Cross, American Safety and Health Institute (ASHI), American Heart Association (AHA), and presented by a certified instructor, or by a certified instructor in an equivalent professionally recognized first aid training program. There shall be a certificate or card issued to the employee and this card must be signed by the certified instructor attesting to the employee's successful completion of the professionally recognized first aid training program. The Red Cross, American Safety and Health Institute (ASHI), American Heart Association (AHA), or its equivalent, first aid course of instruction, presented by a certified instructor shall be updated within the employee's third year of employment and each succeeding three-year increment. The first aid training may count towards the employee's required annual training hours.

(F) Within 90 days of employment by a detention facility, all direct-care staff shall be certified in have successfully completed a specific course of instruction in cardiopulmonary resuscitation (CPR) as established by the Red Cross, American Safety and Health Institute (ASHI), American Heart Association (AHA), or its equivalent. This training must be presented by a certified instructor, or by a certified instructor in an equivalent professionally recognized CPR training program. There shall be a certificate or card issued to the employee and this card must be signed by the certified instructor attesting to the employee's successful completion of the professionally recognized CPR training program. The Red Cross, American Safety and Health Institute (ASHI), American Heart Association (AHA), or its equivalent CPR course of instruction shall be presented by a certified instructor, and shall be updated on an annual basis. The CPR training may count towards the employee's required annual training hours.

(G) Full-time direct-care staff and administrators shall obtain at least 24 clock hours of training per employment year. Hours are prorated at two hours per month for staff who have not been employed for a full year.

(H) Part-time direct-care staff shall have training hours prorated based on the average number of hours of work per month.

(I) On-call staff shall have a minimum of 6 hours of training per year.

(J) Support staff shall obtain a minimum of 12 hours of training per employment year.

(K) The content of staff development courses for direct-care staff is relative to their roles and responsibilities. Content may include:

(i) crisis intervention;

(ii) child development;

(iii) behavior management;

(iv) discipline;

(v) stress management;

(vi) therapeutic relationship and intervention;

(vii) child abuse detection, reporting and prevention;

(viii) suicide prevention;

(ix) human sexuality;

(x) client grievance procedures;

(xi) communicable diseases, including sexually transmitted diseases; and

(xii) any other training deemed necessary to meet individual or group training needs.

(L) Attendance at professional conferences, workshops, seminars, formal education classes, or in-service training is counted toward the training requirements provided the training is documented and meets the content requirements.

(b) **Facility Administrator.** The duties and qualifications of the facility administrator are described in (1) - (2) of this subsection.

(1) **Responsibilities.** The facility administrator is responsible for implementing the policies adopted by the governing body, the ongoing operation of the facility, and compliance with the Requirements for Secure Juvenile Detention Facilities.

(A) In the facility administrator's absence a person shall be designated to act as administrator and shall be available to detention staff in person or by telephone.

(B) A designated person of responsibility shall be at the secure juvenile detention facility at all times. The designated person is directly responsible to the administrator who is to be notified of any irregularities in the general affairs of detention and follow through with directives given.

(C) The duties of the facility administrator include, but are not limited to:

(i) preparing and presenting the budget for the appropriate authority to review and approve;

(ii) administering the budget and maintaining accurate financial records;

(iii) employing and discharging staff according to the established personnel rules;

(iv) supervising the program overall;

(v) holding staff meetings on a monthly basis to discuss plans and interpret policies to the staff;

(vi) organizing a program for the continued training and development of staff;

(vii) establishing and maintaining working relationships with other social services agencies within the community; and

(viii) interpreting the program to professional and lay groups.

(2) **Qualifications.**

(A) The education, experience, and qualifications of the administrator of a large facility (20 beds or more) are specified in writing by the governing body of the facility and includes, at a minimum:

(i) bachelor's degree from an accredited college/university in an appropriate discipline;

(ii) two (2) years of experience working with juveniles; and

(iii) five (5) years in staff supervision and administration.

(B) The education, experience, and qualifications of the administrator of a small facility (less than 20 beds) are specified in writing by the governing body of the facility and includes, at a minimum:

(i) associate's degree from an accredited junior college/college/university in an appropriate discipline (i.e. social work, sociology, psychology, criminal justice, etc.); OR

(ii) 60 hours of credits from an accredited junior college/college/university of which 15 hours must be in the appropriate discipline as indicated in (i); and

(iii) two (2) years in staff supervision; and

(iv) one (1) year of experience working with juveniles.

(C) A facility administrator hired prior to January 1, 2000 shall be exempt from the rules set forth in (A) of this paragraph.

(3) **Location.** All facilities administrators must maintain their primary office at the detention facility.

(c) **Direct care staff.** The qualifications and hiring requirements for direct care staff are described in (1) - (2) of this subsection.

(1) **Qualifications.** All direct-care staff shall be at least 21 years of age and possess a high school diploma or its equivalent.

(2) **Hiring requirements.** A direct-care staff person can be hired when the person:

(A) has his or her character and fitness attested to by three satisfactory written references and a criminal history background check is conducted as required and in conformance with 377:3-13-43(a)(6);

(B) is qualified and capable of satisfactorily performing assigned job responsibilities; and

(C) does not pose a known risk to juveniles.

(d) **Support staff.** Support staff shall be able to read and write; demonstrate knowledge and skills necessary to the job assignments; and meet the requirements for direct-care staff if responsible for direct care of juveniles for any part of the day.

[OAR Docket #15-694; filed 7-6-15]

TITLE 377. OFFICE OF JUVENILE AFFAIRS CHAPTER 3. ADMINISTRATIVE SERVICES

[OAR Docket #15-695]

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377:3-13-88. Personnel [AMENDED]

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The rule revisions conform to the recommendations of the Oklahoma State Department of Health on Tuberculosis testing, and clarifies the requirements of background records searches for juvenile detention centers due to the 2013 amendment of 10 O.S., § 404.1, as per Senate Bill 917 (2013).
CONTACT PERSON:
Jlynn Hartman, Director of Government Relations, Office of Juvenile Affairs, 3812 N. Santa Fe Ave., Ste. 400, Oklahoma City, OK 73118, (405) 530-2866, JLynn.Hartman@oja.ok.gov

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 11, 2015:

SUBCHAPTER 13. OFFICE OF PUBLIC INTEGRITY

PART 7. REQUIREMENTS FOR COMMUNITY INTERVENTION CENTERS (CIC)

377:3-13-88. Personnel

(a) **CIC program director.**

(1) **Qualifications.** The qualifications (including education and experience), authority, and responsibilities of the program director shall be specified in writing by the CIC's governing body, and include:

(A) a bachelor's degree; and

(B) one year of experience working with juveniles or working in the juvenile justice system.

(b) **Direct-care staff qualifications.** All direct care staff shall be at least 21 years of age and possess a high school diploma or its equivalent.

(c) **Background history records searches.** The facility shall conduct a records search for each applicant for employment, which shall include the following:

(1) a national criminal history records search based upon submission of fingerprints that shall be conducted by the Oklahoma State Bureau of Investigation (OSBI) and the Federal Bureau of Investigation (FBI) pursuant to Section 150.9 of Title 74 of the Oklahoma Statutes and National Child Protection Act, 42 U.S.C.A. § 5119a, provided both the OSBI and FBI act in their designated role;

(2) a search of the Oklahoma State Courts Network (OSCN) including Oklahoma District Court Records (ODCR);

(3) a search of the Department of Human Services (DHS) Child Care Restricted Registry, also known as Joshua's List;

(4) a search of the Department of Corrections (DOC) Sex Offender Registry;

(5) a search of the Department of Corrections (DOC) Violent Offender Registry, also known as the Mary Rippy Violent Crime Offenders Registry;

(6) a search of all applicable out-of-state child abuse and neglect registries if the applicant has not lived continuously in Oklahoma for the past five (5) years;

(A) The prospective applicant is not approved without the results of the out-of-state maintained child abuse and neglect registry checks, when a registry is maintained in the applicable state;

(B) When no child abuse and neglect registry is maintained in the applicable state, the facility shall request any information that can be provided; and

(7) a criminal history records search conducted by an authorized source, when an applicant has lived outside the United States within the last five (5) years.

(d) **Criminal history investigation.** ~~The CIC shall comply with statutory requirements mandating a criminal history investigation for each applicant for employment [10 O.S., § 404.1, and 10A O.S., § 1-4-705].~~ An employee's criminal history investigation record must be kept in a secure location, separate from his or her personnel file.

(1) A facility shall not employ or retain an individual who has been convicted of or entered a plea of guilty or nolo contendere to any felony involving:

(A) violence against a person;

(B) child abuse or neglect;

(C) possession, trafficking, manufacturing, sale or distribution of illegal drugs, or conspiracy to traffic, manufacture, sale, or distribute illegal drugs;

(D) sexual misconduct; or

(E) gross irresponsibility or disregard for the safety of others;

(F) any crime against a child; or

(G) in the case of child abuse and neglect, identified as a perpetrator in a juvenile court proceeding and/or has made an admission of guilt to a person authorized by state or federal laws or regulations to investigate child abuse and neglect.

(2) No employee of the CIC shall use or be under the influence of alcohol or illegal drugs during the hours of work nor shall any employee use or possess illegal drugs at any time.

(3) As to a simple drug possession offender, the facility may, at its own discretion, make exceptions to the prohibition of employment if five years have passed from completion of the applicant's criminal sentence and the facility can document that the health, safety, and well-being of juveniles would not be endangered.

(A) The facility shall consider, document, and submit to the Office of Public Integrity within 10 days of the employees first day of work the;

(i) type of crime or offense for which the individual was convicted or a finding was made; and

(ii) reference letters concerning the individual in question.

(B) The Office of Public Integrity ~~shall~~may make a recommendation to the ~~Executive Director~~facility administrator as to whether the applicant for employment~~shall~~should be approved or disapproved.

(4) If any person is formally charged with any of the offenses described in OAC 377:3-13-88(~~c~~d)(1), he or she must be removed from contact with juveniles until the charges are resolved.

(5) If there is an allegation that a staff member has committed an act as described in OAC 377:3-13-88(d)(1), the facility shall determine and document whether the staff member shall be removed from contact with juveniles until the allegation is resolved.

(~~d~~e) **Health requirements.** An employee's health record must be kept in a secure location, separate from his or her personnel file.

(1) Each employee must have a pre-employment physical conducted by a licensed physician.

(2) ~~Upon employment, each employee who has not had a documented skin test within the past 12 months shall have a Mantoux tuberculin skin test unless he or she had a previous positive skin test.~~

~~(3) An employee with a positive skin test reaction must have or provide documentation of a chest x-ray.~~

~~(A) Additional tests or x-rays are not required unless symptoms develop that are suggestive of tuberculosis.~~

~~(B) Employees with a positive skin test reaction must submit annual documentation by medical personnel that signs or symptoms of tuberculosis are not present.~~Testing for tuberculosis is not required on a routine basis. Tuberculin skin testing shall be required when there is a local identified tuberculin exposure identified by the Oklahoma State Department of Health.

(A) When a tuberculin skin test is required, employees with a positive skin test reaction must submit documentation by medical personnel that signs or symptoms of tuberculosis are not present.

(B) An employee who has ever had a positive skin test reaction must have or provide documentation of a chest x-ray. Additional tests or x-rays are not required unless symptoms develop that are suggestive of tuberculosis.

(~~e~~f) **Personnel records.** Every staff person employed by the CIC shall have a written personnel record, which complies with personnel policies of the municipality or service provider. The CIC shall have written personnel policies. The program director shall make personnel policies, which include written job descriptions, available to all employees. Either the policy or job description specifies the person to whom the employee is responsible and the duties the employee is expected to perform.

(1) Each personnel record must include:

(A) an application, resume, or staff information sheet that documents qualifications for the position;

(B) three reference letters, or if the reference was interviewed by phone, documentation of telephone interview must contain the:

(i) content of the interview;

(ii) date and time of the interview; and

(iii) name of employee conducting the telephone inter-view;

(C) documentation that the staff member was provided a copy of personnel policies, including his or her job description.

(D) written disciplinary action forms and job performance evaluations;

(E) dates of employment; and

(F) date and reason for employment separation or termination.

(2) Personnel records shall be maintained for at least three (3) years following an employee's separation.

(3) All employee records shall be confidential subject to existing federal and state statutes.

(4) All employees shall have access to their personnel files for reviewing purposes upon request to the program director and according to agency policy.

(~~f~~g) **Staff orientation.**

(1) Each direct-care staff shall be provided orientation before being allowed to work independently In addition to a review of the certification standards and on-the-job training with an experienced staff member, the orientation must include a review of the CIC's:

(A) policies and procedures;

(B) philosophy and goals;

(C) organization;

(D) behavior management/crisis intervention training; and

(E) job expectations for the individual employee.

(2) Within 90 days of employment, each direct-care staff shall successfully complete first aid training. The training must be conducted by a certified instructor from the American Red Cross or its equivalent. The employee must be recertified in first aid every three years. First aid training may be counted as training hours. At least one staff person trained and certified in first aid shall be present in the CIC at all times.

(3) Within 90 days of employment, each direct-care staff shall be certified in cardiopulmonary resuscitation (CPR). The employee shall be recertified annually. CPR certification and recertification may be counted as training hours. At least one staff person trained and certified in CPR shall be present at all times.

(4) Within six (6) months of employment, each direct-care staff shall complete a certified class on behavior management; e.g., MAB, MANDT, CLEET, etc.

(5) The CIC must maintain written documentation of each area in which the employee received orientation.

(~~g~~h) **Staff training.**

(1) All direct-care staff and program administrators shall obtain at least 24 clock hours of training per employment year. Hours are prorated for staff who have not been employed for a full year or are part-time employees.

(2) Professional conferences, workshops, seminars, formal education classes, or in-service training are considered training.

(3) Documentation of the employee's training shall be maintained in the employee's file.

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TITLE 377. OFFICE OF JUVENILE AFFAIRS CHAPTER 3. ADMINISTRATIVE SERVICES

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Under new Oklahoma state law, as per Senate Bill 1781 (2014), effective November 1, 2014, OJA shall have access to all adult jails, lockups, and facilities, including all data, in order for OJA to accurately provide for federal reporting requirements relating to the health, safety, and welfare of youth who could be held in such facilities.

CONTACT PERSON:
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SUBCHAPTER 17. FEDERAL FUNDS DEVELOPMENT UNIT

PART 5. FEDERAL-STATE COORDINATION AND TECHNICAL ASSISTANCE SERVICES

377:3-17-29. Federal/state liaison

(a) FFDU staff shall maintain a depository of federal legislation and regulations, interpret federal requirements, and conduct policy analysis of the impact of mandates upon state juvenile justice programs and delinquency prevention initiatives.

(b) FFDU staff shall keep up with changes in mandates that accompany the:

(1) Department of Human Service's State Plans for:

(A) Titles IV-B, IV-E, and XX of the federal Social Security Act; and

(B) the Oklahoma State Plan for Temporary Assistance for Needy Families (TANF) block grant; and

(2) the Oklahoma Health Care's State Plan for Title XIX for the purpose of participation in the programs.

(c) OJA is included in State Plans for participation in every program mentioned in paragraph (b) of this section.

(d) A "Random Moment Time Study" methodology, Cost Allocation Plan, and eligible population rates are used to determine federal financial participation for administration, training, and program operations costs and expenditures.

(e) Whenever a juvenile is placed in any jail, adult lockup, or other detention facility, the Office of Juvenile Affairs shall have access to all facilities which detain such juveniles and shall have access to any data regarding such juveniles. The Office of Juvenile Affairs shall have access to all jails, adult lockups, or other adult facilities in this state, including all data maintained by such facilities, to assure compliance with this section.

[OAR Docket #15-697; filed 7-6-15]

TITLE 377. OFFICE OF JUVENILE AFFAIRS CHAPTER 5. ~~RELEASE FROM~~ INSTITUTIONAL PLACEMENT

[OAR Docket #15-698]

RULEMAKING ACTION:
PERMANENT final adoption

RULES:
Subchapter 7. Intensive Treatment Program Transfers [NEW]
377:5-7-1. Intensive Treatment Program Transfers [NEW]

AUTHORITY:
The Board of Juvenile Affairs, pursuant to 10A O.S. § 2-7-101(H)(3) and 2-7-101(I)(1) and 75 O.S. § 302(A)(1).

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SUPERSEDED EMERGENCY ACTIONS:
n/a

INCORPORATIONS BY REFERENCE:
n/a

ANALYSIS:
The rule revisions resolve conflicting provisions by moving the ITP Transfer Process from Chapter 35 to Chapter 5. The ITP transfer process only occurs within OJA-operated Institutions and is therefore not applicable to any other certified secure facility. The rule revisions modify the Chapter heading as the Chapter pertains to more than release, and creates a new subchapter 7 and a section for the ITP Transfer Process.

CONTACT PERSON:
Jlynn Hartman, Director of Government Relations, Office of Juvenile Affairs, 3812 N. Santa Fe Ave., Ste. 400, Oklahoma City, OK 73118, (405) 530-2866, JLynn.Hartman@oja.ok.gov

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 11, 2015:

SUBCHAPTER 7. INTENSIVE TREATMENT PROGRAM TRANSFERS

377:5-7-1. Intensive Treatment Program Transfer Process

(a) The Intensive Treatment Program (ITP) Transfer is an administrative process to determine whether the juvenile is dangerous and poses a threat in the current placement and should be transferred to a more secure and intensive treatment setting. In emergency transfers, such due process safeguards are instituted immediately following the transfer. The OJA Executive Director or designee shall authorize all emergency transfers.

(b) Following a confirmed finding of a qualifying rule violation, and prior to transfer, the following shall occur:

(1) completion of ITP screening;

(2) an ITP staffing where the Advocate Defender shall be present at the ITP staffing to assist the juvenile in representation; and

(3) a 2/3 vote of the ITP staffing committee members.

[OAR Docket #15-698; filed 7-6-15]

TITLE 377. OFFICE OF JUVENILE AFFAIRS CHAPTER 10. OFFICE OF JUVENILE AFFAIRS

[OAR Docket #15-699]

RULEMAKING ACTION:
PERMANENT final adoption

RULES:
Subchapter 1. Function and Structure of the Office of Juvenile Affairs
377:10-1-4.1. Use of chemical agents [AMENDED]
Subchapter 3. Placement
377:10-3-1. Purpose [AMENDED]
377:10-3-2. Placement process [AMENDED]

AUTHORITY:
The Board of Juvenile Affairs, pursuant to 10A O.S. § 2-7-101(H)(3) and 2-7-101(I)(1) and 75 O.S. § 302(A)(1).

SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
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n/a

ANALYSIS:
The rule revisions correct minor scrivener's errors and add a statute citation within the sections. The Oklahoma State Statute, as per Senate Bill 929 (2014), effective May 28, 2014, allows for an extended youth to be in detention and to receive services.

CONTACT PERSON:
Jlynn Hartman, Director of Government Relations, Office of Juvenile Affairs, 3812 N. Santa Fe Ave., Ste. 400, Oklahoma City, OK 73118, (405) 530-2866, JLynn.Hartman@oja.ok.gov

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 11, 2015:

SUBCHAPTER 1. FUNCTION AND STRUCTURE OF THE OFFICE OF JUVENILE AFFAIRS

377:10-1-4.1. Use of chemical agents

(a) Use of Oleoresin Capsicum (OC) spray in a secure facility is prohibited except in the following circumstances that allow for the lawful and justifiable use of force:

(1) for self-protection; or

(2) to separate juveniles who are fighting; or

(3) to restrain juveniles in danger of inflicting harm to themselves or others; or

(4) to restrain juveniles who have escaped or who are in the process of escaping.

(b) The deployment of Oleoresin Capsicum (OC) spray is considered a use of physical force. When the use of physical force is authorized, staff members who are assigned to work with juveniles shall employ the least force necessary under the circumstances.

(c) Under no circumstances shall OJA staff or contractors use Oleoresin ~~Capiscum~~Capsicum (OC) spray as punishment.

(d) Following the use of any OC spray, medical staff shall be notified promptly and shall evaluate all parties affected.

SUBCHAPTER 3. PLACEMENT

377:10-3-1. Purpose

The Placement Unit is designated by the Office of Juvenile Affairs to authorize and coordinate placements above the foster care level for all adjudicated juveniles and youthful offenders in custody of the Office of Juvenile Affairs. All commitments, recommitments, parole revocations and administrative transfers of custody youth must be processed through the Placement Unit. The Placement Unit shall make all placements in accordance with 10A O.S., §§ 2-5-212, 2-7-502, ~~and~~ 2-7-503, and 2-7-504.

377:10-3-2. Placement process

(a) When a juvenile is committed to the custody of the Office of Juvenile Affairs, the JSU worker shall conduct a review and assessment of the juvenile to determine the type of placement consistent with:

(1) the juvenile's treatment needs in the closest location to the juvenile's home; and

(2) if the juvenile is adjudicated delinquent, the protection of the public [10A O.S., § 2-2-803].

(b) The JSU worker shall make a recommendation to remove a juvenile from home after reasonable efforts to allow the parents to fulfill their roles have failed. In making a decision regarding moving a juvenile from the home, the JSU worker shall consider the best~~s~~ interests of the juvenile, as well as, the protection of the public.

(c) From intake to placement, the JSU worker shall collect information relating to the Uniform Child Custody Jurisdiction Act (UCCJA) (43 O.S., § 551-101 et seq.) or the Indian Child Welfare Act (ICWA) (10 O.S., § 40.1 et seq.).~~is~~as applicable. Placements of OJA-custody juveniles shall be made in accordance with UCCJA and ICWA when appropriate.

(d) All placements require authorization by the Placement Unit except changes of placement to:

(1) independent living (requires authorization by district supervisor);

(2) own home;

(3) relative's home; and

(4) foster care.

[OAR Docket #15-699; filed 7-6-15]

TITLE 377. OFFICE OF JUVENILE AFFAIRS CHAPTER 10. OFFICE OF JUVENILE AFFAIRS

[OAR Docket #15-700]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 1. Function and Structure of the Office of Juvenile Affairs
377:10-1-8. Agency records [AMENDED]
AUTHORITY:
The Board of Juvenile Affairs, pursuant to 10A O.S. § 2-7-101(H)(3) and 2-7-101(I)(1) and 75 O.S. § 302(A)(1).
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Superseded rules:
Subchapter 1. General Provisions
377:10-1-8. Agency records [AMENDED]
Gubernatorial approval:
November 17, 2014
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32 Ok Reg 399
Docket number:
14-1096
INCORPORATIONS BY REFERENCE:
n/a
ANALYSIS:
Under new Oklahoma state law, as per Senate Bills 929 and 1235 (2014), effective May 28 and November 1, 2014, OJA may disclose records only when provided for in 10A O.S., § 2-6-106(A). That statute has been expanded to include records may be given to the child upon attaining eighteen years of age or upon the termination of court jurisdiction of the case, whichever occurs later. The statute was further expanded to include records may be given to the Department of Mental Health and Substance Abuse Services in the course of their official duties.
CONTACT PERSON:
Jlynn Hartman, Director of Government Relations, Office of Juvenile Affairs, 3812 N. Santa Fe Ave., Ste. 400, Oklahoma City, OK 73118, (405) 530-2866, JLynn.Hartman@oja.ok.gov

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 11, 2015:

SUBCHAPTER 1. FUNCTION AND STRUCTURE OF THE OFFICE OF JUVENILE AFFAIRS

377:10-1-8. Agency records

(a) "**Agency record**" means records prepared, obtained, or maintained by a public or private agency with regard to a child who is or has been under its care, custody, or supervision or with regard to a family member or other person living in the home of such child and includes, but is not limited to:

(1) any study, plan, recommendation, assessment, or report made or authorized to be made by such agency for the purpose of determining or describing the history, diagnosis, custody, condition, care, or treatment of such child; or

(2) any records made in the course of any investigation or inquiry conducted by an agency to determine whether a child is a delinquent child or a child in need of supervision.

(b) The Office of Juvenile Affairs "agency records" are confidential and may not be inspected nor their contents disclosed without a court order, unless otherwise provided by state or federal law, except to the following persons [10A O.S., § 2-6-106(A)]:

(1) the judge having the child currently before the court in any proceeding pursuant to Title 10A O.S. and any judge of the district court or tribal court to which any proceedings may be transferred;

(2) employees and officers of the court in the performance of their duties, including but not limited to guardians ad litem, appointed by the court, and members of review boards established pursuant to the Oklahoma Children's Code;

(3) a district attorney and the employees of an office of a district attorney in the course of their official duties pursuant to ~~10 and~~ 10A O.S. or the prosecution of crimes against children;

(4) the attorney representing a child who is the subject of a juvenile proceeding pursuant to the provisions of Title 10A O.S. The attorney representing a child or an attorney considering representing a child in a juvenile proceeding may access other confidential records listed in 10A O.S., § 2-6-102 (A) for use in the legal representation of the child;
(5) employees of juvenile bureaus in the course of their official duties;
(6) employees of a law enforcement agency of this or another state and employees of a child protective service of another state or any federally recognized Indian tribe member in the course of their official duties pertaining to investigations of known or suspected child abuse or neglect or crimes against children or for the purpose of determining whether to place a child in protective custody;
(7) employees of a law enforcement agency in the course of their official duties pertaining to the investigation of a crime committed or alleged to have been committed by a person under 18 years of age. Records or information disclosed pursuant to this subparagraph may consist of summaries or may be limited to the information or records necessary for the purpose of the investigation;
(8) the Oklahoma Commission of Children and Youth;
(9) the Department of Human Services;
(10) any public or private agency or person authorized by the Office of Juvenile Affairs to diagnose or provide care, treatment, supervision, or other services to a child who is the subject of a report or record of delinquency, child abuse or neglect, or other adjudicatory category, provided the OJA may limit the disclosure to summaries or to information directly necessary for the purpose of the disclosure;
(11) any federally recognized Indian tribe or state or county child protective services or child welfare agency providing for or supervising the diagnosis, care, treatment, supervision, or other services provided such child;
(12) the parents of the child who is the subject of any records;
(13) the child upon attaining eighteen (18) years of age or upon the termination of court jurisdiction of the case, whichever occurs later;
(14) any person or agency for research purposes, if any of the following conditions are met:

(A) The person or agency conducting the research is employed by the State of Oklahoma or is under contract with the state and is authorized by the ~~Department of Human Services~~Office of Juvenile Affairs to conduct the research; and

(B) The person or agency conducting the research ensures that all documents containing identifying information are maintained in secure locations and access to any documents by unauthorized persons is prohibited; that no identifying information is included in documents generated from the research conducted; and that all identifying information is deleted from documents used in the research when the research is completed;

(~~14~~15) the Governor or to any person the Governor designates, in writing;
(~~15~~16) any federal official of the United States Department of Health and Human Services~~ or~~, the United States Social Security Administration, the United States Department of Justice, the United States Department of Homeland Security, or any employee of the United States Probation Office;
(~~16~~17) any member of the Legislature, upon the written approval of the Speaker of the House of Representatives or the President Pro Tempore of the Senate;~~ and~~
(~~17~~18) employees of the Department of Corrections in the course of their official duties~~ (10A O.S., § 2-6-106(A)(17))~~; and
(19) employees of the Department of Mental Health and Substance Abuse Services in the course of their official duties.

(c) Any person to whom the information is released shall show proper identifying credentials prior to release of the confidential information. The information disclosed remains confidential and must be used for the purposes for which the disclosure is authorized. It is unlawful for any person to furnish or disclose confidential records or information for commercial, political, or unauthorized purposes. Any unlawful disclosure or unlawful use of disclosed information is subject to criminal sanctions.

[OAR Docket #15-700; filed 7-6-15]

TITLE 377. OFFICE OF JUVENILE AFFAIRS CHAPTER 10. OFFICE OF JUVENILE AFFAIRS

[OAR Docket #15-701]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 7. Contract Programs and Services
Part 1. General Provisions and Foster Care
377:10-7-3.2. Criminal history records searches and disqualifying crimes [AMENDED]
AUTHORITY:
The Board of Juvenile Affairs, pursuant to 10A O.S. § 2-7-101(H)(3) and 2-7-101(I)(1) and 75 O.S. § 302(A)(1).
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Subchapter 7. Contract Programs and Services
Part 1. General Provisions and Foster Care
377:10-7-3.2. Criminal history records searches and disqualifying crimes [AMENDED]
Gubernatorial approval:
November 17, 2014
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32 Ok Reg 400
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14-1097
INCORPORATIONS BY REFERENCE:
n/a
ANALYSIS:
Under new Oklahoma state law, as per Senate Bill 1791 (2014), effective November 1, 2014, OJA may have access to Department of Human Services Child Welfare confidential records for OJA Foster Care applicant background records searches.
CONTACT PERSON:
Jlynn Hartman, Director of Government Relations, Office of Juvenile Affairs, 3812 N. Santa Fe Ave., Ste. 400, Oklahoma City, OK 73118, (405) 530-2866, JLynn.Hartman@oja.ok.gov

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 11, 2015:

SUBCHAPTER 7. CONTRACT PROGRAMS AND SERVICES

PART 1. GENERAL PROVISIONS AND FOSTER CARE

377:10-7-3.2. Criminal history records searches and disqualifying crimes

(a) **Background history records search.** OJA shall conduct a records search for every person living in the household who is or becomes 18 years of age or older, which shall include all of the following:

(1) a national criminal history records search based upon submission of fingerprints that shall be conducted by the Oklahoma State Bureau of Investigation (OSBI) and the Federal Bureau of Investigation (FBI) pursuant to Section 150.9 of Title 74 of the Oklahoma Statutes;

(2) a search of the Oklahoma State Courts Network (OSCN) which may include Oklahoma District Court Records (ODCR);

(3) a search of the Department of Human Services (DHS) Child Care Restricted Registry, also known as Joshua's List;

(4) a search of the Department of Corrections (DOC) Sex Offender Registry;

(5) a search of the Department of Corrections (DOC) Violent Offender Registry, also known as the Mary Rippy Violent Crime Offenders Registry;

(6) a Motor Vehicle Report obtained from the Department of Public Safety (DPS);

(7) a search of all applicable out-of-state child abuse and neglect registries for the foster parent and any adult household member who has not lived continuously in Oklahoma for the past five (5) years as required by 10A O.S., § 1-7-111;

(A) The prospective foster home is not approved without the results for the foster parent and adult household members of the out-of-state maintained child abuse and neglect registry checks, when a registry is maintained in the applicable state;

(B) When no child abuse and neglect registry is maintained in the applicable state, OJA shall request any information that can be provided;

(8) a criminal history records search conducted by an authorized source, when any adult household member has lived outside the United States within the last five (5) years; ~~and~~

(9) a request for a background check from Family Advocacy for the active or retired military applicant or adult household member; and

(10) a search of all Department of Human Services (DHS) Child Welfare records for history of child maltreatment for any adult household member.

(b) **Disqualifying crimes.** A prospective foster parent is not an approved placement for a juvenile if the prospective foster parent or any other person residing within the home has been convicted of any of the following felony offenses:

(1) any physical assault, battery, or a drug-related offense within a five-year period preceding the application date;

(2) child abuse or neglect;

(3) domestic abuse;

(4) a crime against a child, including, but not limited to, child pornography; or

(5) a crime involving violence, including, but not limited to, rape, sexual assault, or homicide, but excluding those crimes specified in paragraph (1) if such crime occurred outside of the five year period.

(c) **Placement restriction.** OJA shall not place a juvenile with an individual subject to the Oklahoma Sex Offenders Registration Act or an individual who is married to or living with an individual subject to the Oklahoma Sex Offenders Registration Act.

(d) **JOLTS record search.** A search of JOLTS shall be conducted by OJA on each minor over the age of thirteen (13) years residing in the home.

(e) **Early placement.** OJA may place a child pending completion of the national criminal history records search if the prospective foster parent and every adult residing in the foster family home has resided in this state for at least five years immediately preceding such placement and a preliminary name-based check of each person over the age of eighteen (18) years residing in the prospective foster family home has been conducted to determine whether any adult member of the household has been arrested for or convicted of any crime.

[OAR Docket #15-701; filed 7-6-15]

TITLE 377. OFFICE OF JUVENILE AFFAIRS CHAPTER 10. OFFICE OF JUVENILE AFFAIRS

[OAR Docket #15-702]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 7. Contract Programs and Services
Part 1. General Provisions and Foster Care
377:10-7-3.8. Informal and alternate care arrangements [AMENDED]
AUTHORITY:
The Board of Juvenile Affairs, pursuant to 10A O.S. § 2-7-101(H)(3) and 2-7-101(I)(1) and 75 O.S. § 302(A)(1).
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
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Subchapter 7. Contract Programs and Services
Part 1. General Provisions and Foster Care
377:10-7-3.8. Informal and alternate care arrangements [AMENDED]
Gubernatorial approval:
February 3, 2015
Register publication:
32 Ok Reg 583
Docket number:
15-186
INCORPORATIONS BY REFERENCE:
n/a
ANALYSIS:
Under new Oklahoma state law, as per Senate Bill 1791 (2014), effective November 1, 2014, OJA may have access to Department of Human Services Child Welfare confidential records for OJA Foster Care applicant background records searches, including alternate care providers.
CONTACT PERSON:
Jlynn Hartman, Director of Government Relations, Office of Juvenile Affairs, 3812 N. Santa Fe Ave., Ste. 400, Oklahoma City, OK 73118, (405) 530-2866, JLynn.Hartman@oja.ok.gov

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 11, 2015:

SUBCHAPTER 7. CONTRACT PROGRAMS AND SERVICES

PART 1. GENERAL PROVISIONS AND FOSTER CARE

377:10-7-3.8. Informal and alternate care arrangements

(a) **Informal care arrangements.** The foster parent may make informal care arrangements with friends, neighbors, or relatives for occasional care of the juvenile, including before and after school hours, and not to exceed 24 consecutive hours.

(1) The foster parent shall:

(A) ensure that informal care providers possess the maturity and skill to address the needs of the juvenile in foster care;

(B) secure prior authorization for informal care from OJA. Prior authorization may apply to multiple events when the same informal provider is used;

(C) not utilize a juvenile in foster care to babysit a younger child unless approved by OJA; and

(D) provide the informal provider information for contacting the foster parent and other emergency contacts.

(2) The informal provider must be at least 18 years of age.

(b) **Alternate care arrangements.** The foster family may develop a relationship with another family as an alternate provider who can provide care for the juvenile in foster care in excess of 24 hours, in case of family emergencies, family vacations, or when the provider needs respite care. OJA must approve the alternate care and have documentation that the alternate provider is at least 21 years of age, provides one reference, meets the foster home requirements listed in OAC 377:10-7-3.3, and complies with discipline and behavior management requirements in OAC 377:10-7-3.9.

(1) OJA shall conduct a records search for every person living in the household who is or becomes 18 years of age or older, which shall be assessed yearly, and shall include all of the following:

(A) a national criminal history records search based upon submission of fingerprints that shall be conducted by the Oklahoma State Bureau of Investigation (OSBI) and the Federal Bureau of Investigation (FBI) pursuant to Section 150.9 of Title 74 of the Oklahoma Statutes;

(B) a search of the Oklahoma State Courts Network (OSCN) which may include Oklahoma District Court Records (ODCR);

(C) a search of the Department of Human Services (DHS) Child Care Restricted Registry, also known as Joshua's List;

(D) a search of the Department of Corrections (DOC) Sex Offender Registry;

(E) a search of the Department of Corrections (DOC) Violent Offender Registry, also known as the Mary Rippy Violent Crime Offenders Registry;

(F) a Motor Vehicle Report obtained from the Department of Public Safety (DPS);

(G) a search of all applicable out-of-state child abuse and neglect registries for the applicant and any adult household member who has not lived continuously in Oklahoma for the past five (5) years as required by 10A O.S., Section 1-7-111;

(i) the prospective foster home is not approved without the results for the applicant and adult household members of the out-of-state maintained child abuse and neglect registry checks, when a registry is maintained in the applicable state;

(ii) When no child abuse and neglect registry is maintained in the applicable state, OJA shall request any information that can be provided;

(H) a criminal history records search conducted by an authorized source, when any adult household member has lived outside the United States within the last five (5) years; ~~and~~

(I) a request for a background check from Family Advocacy for the active or retired military applicant or adult household member; and

(J) a search of all Department of Human Services (DHS) Child Welfare records for history of child maltreatment for any adult household member.

(2) A search of JOLTS shall be conducted by OJA on each minor over the age of thirteen (13) years residing in the home.

[OAR Docket #15-702; filed 7-6-15]

TITLE 377. OFFICE OF JUVENILE AFFAIRS CHAPTER 10. OFFICE OF JUVENILE AFFAIRS

[OAR Docket #15-703]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 7. Contract Programs and Services
Part 5. Detention
377:10-7-30. Legal base [AMENDED]
AUTHORITY:
The Board of Juvenile Affairs, pursuant to 10A O.S. § 2-7-101(H)(3) and 2-7-101(I)(1) and 75 O.S. § 302(A)(1).
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Subchapter 7. Contract Programs and Services
Part 5. Detention
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32 Ok Reg 401
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14-1098
INCORPORATIONS BY REFERENCE:
n/a
ANALYSIS:
Under new Oklahoma state law, as per Senate Bill 929 (2014), effective May 28, 2014, an OJA extended youth may be held in detention and continue to receive services. The rule revision prevents the improper release of an extended OJA youth.
CONTACT PERSON:
Jlynn Hartman, Director of Government Relations, Office of Juvenile Affairs, 3812 N. Santa Fe Ave., Ste. 400, Oklahoma City, OK 73118, (405) 530-2866, JLynn.Hartman@oja.ok.gov

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 11, 2015:

SUBCHAPTER 7. CONTRACT PROGRAMS AND SERVICES

PART 5. DETENTION

377:10-7-30. Legal base

Title 10A O.S., §§ 2-3-101 et~~.~~ seq. and § 2-7-504, provides for the detention of juveniles. Title 10A O.S., § 2-5-204(D) provides for the detention of youthful offenders. Title 10A O.S. § 2-3-103(D) authorizes the Board of Juvenile Affairs to establish a plan for secure ~~and non-secure~~juvenile detention services and alternatives to secure detention.

[OAR Docket #15-703; filed 7-6-15]

TITLE 377. OFFICE OF JUVENILE AFFAIRS CHAPTER 15. COMMUNITY-BASED YOUTH SERVICES

[OAR Docket #15-704]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 11. Certification of Children's Shelters Operated by the Oklahoma Department of Human Services
377:15-11-3. Certification process [AMENDED]
AUTHORITY:
The Board of Juvenile Affairs, pursuant to 10A O.S. § 2-7-101(H)(3) and 2-7-101(I)(1) and 75 O.S. § 302(A)(1).
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n/a
ANALYSIS:
Under new state law, as per Senate Bill 1449 (2014), effective November 1, 2014, the Department of Human Services is authorized to contract with designated youth services agencies or designated child-placing agencies for the management and operation of the two DHS-operated children's shelters, now certified by the Office of Juvenile Affairs. OJA is interpreting Oklahoma state law for the purpose of certification to clarify that DHS would certify contracted shelters.
CONTACT PERSON:
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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 11, 2015:

SUBCHAPTER 11. CERTIFICATION OF CHILDREN'S SHELTERS OPERATED BY THE OKLAHOMA DEPARTMENT OF HUMAN SERVICES

377:15-11-3. Certification process

(a) **Definitions.**

(1) **"Board"** means the Board of Juvenile Affairs.

(2) **"Emergency"** means a situation that poses a direct and serious threat to the health, safety or welfare of any child cared for by the shelter.

(3) **"Operator or facility operator"** means the representative of the Department of Human Services who has been given authority to act on behalf of the state-operated children's shelter.

(4) **"State-operated children's shelter or facility"** means the Laura Dester Children's Shelter or the Pauline E. Mayer Children's Shelter or any other shelter that may be authorized by 10A O.S., § 1-9-111. <u>If the Department of Human Services contracts with designated youth services agencies or designated child-placing agencies for the management and operation of such shelters, then OJA shall not provide for the certification of such shelters.</u>

(b) **Types of issuances.**

(1) **Temporary certification.** State-operated children's shelters may be granted up to a six-month temporary certification if documentation does not show compliance with all certification requirements.

(2) **Certification.** State-operated children's shelters may be granted an operating certification that is valid for twelve months from the date of its issuance. OJA certification staff determines that the shelter is operating in compliance with current Oklahoma Department of Human Services Licensing Requirements for Residential Child Care Facilities and any additional Board requirements.

(c) **Case Management.**

(1) **Periodic visits.**

(A) The OJA certification staff shall annually conduct at a minimum one unannounced visit to each state-operated children's shelter to document compliance with all certification requirements and at a minimum two announced visits to monitor compliance with certification requirements.

(B) During each unannounced compliance visit, OJA certification staff shall:

(i) Observe the entire facility, including outdoor play space and vehicles used for transportation, if available, and

(ii) Check resident files and staff files, insurance verifications, and fire and health inspections within the preceding twelve months for compliance with certification requirements.

(C) During each announced monitoring visit, OJA certification staff shall:

(i) Provide technical assistance to facility personnel to meet and maintain certification requirements;

(ii) Consult with facility personnel to meet and maintain certification requirements and improve the quality of care at the facility.

(2) **Forms.** The OJA certification staff shall use standardized certification forms available for public inspection and copying at http://www.ok.gov/oja/.

(3) **Reports.** The OJA certification staff annually shall issue at a minimum two monitoring reports and at a minimum one compliance report to the operator within 30 days of a monitoring or compliance visit.

(4) **Oklahoma Department of Human Services, Office of Client Advocacy Reports (OCA).** The OJA certification staff shall review all referrals to OCA that concern the state-operated children's shelters and all investigation reports issued by the OCA to ensure compliance by the state-operated children's shelters with certification requirements.

(d) **Complaint procedure.** All complaints received by OJA concerning the state-operated children's shelters shall be referred to the OCCY Office of Juvenile System Oversight and DHS where appropriate.

(e) **Non-compliance with requirements.**

(1) **Documentation of non-compliance.** The OJA certification staff shall document on the monitoring reports and the compliance report areas of non-compliance and any discussion with the operator.

(A) The OJA certification staff shall request that the operator sign the monitoring reports and the compliance report, explaining that the operator's signature indicates acknowledgment of information recorded.

(B) If the person in charge refuses to sign, the refusal shall be documented on the report.

(C) The operator shall be given a copy of the completed report.

(D) The operator shall prepare a plan of correction addressing each area of non-compliance no later than 30 days from receipt of the monitoring or compliance report, unless an extension is authorized by OJA certification staff. The plan of correction shall be reviewed and approved by OJA certification staff.

(E) Immediate correction shall be required when the non-compliance has a direct impact on the health, safety, or well-being of a child or children in care. Failure to take immediate corrective action may result in a response to non-compliance as authorized by 10A O.S., § 2-7-202(D)(5) or any other provision of law.

(2) **Referrals to fire and health officials.** If non-compliance regarding fire or health requirements places children at risk of harm or remains uncorrected, OJA shall request an inspection by a fire, health, or Oklahoma Department of Environmental Quality (ODEQ) official.

(3) **Case management responses to non-compliant facilities.** When there is non-compliance with certification requirements, the OJA responses may include, but are not limited to:

(A) **Technical assistance.** Technical assistance is offered along with referrals to consultants or training resources, if necessary, to assist the operator in meeting and maintaining certification requirements.

(B) **Follow-up phone call.** Phone calls are documented on OJA standardized forms.

(C) **Non-compliance letter.** A non-compliance letter may be written to the operator. The OJA certification staff shall send a copy of the report and the non-compliance letter to the operator's supervising authority.

(D) **Return monitoring visit.** A return monitoring visit may be made for non-compliance with certification requirements or when non-compliance places children at imminent risk of harm. If the non-compliance is associated with a specific time of day, such as understaffing after school or a lack of early morning supervision, the return visit may be made at that approximate time or any other time deemed appropriate by the OJA certification staff.

(E) **Additional persons.** The OJA certification staff may be accompanied by additional persons during monitoring visits if the facility has areas of non-compliance or if denial or revocation of the license is being considered.

(F) **Increased monitoring visits.** The OJA certification staff may increase the frequency of monitoring when there have been areas of non-compliance or when the need for additional technical assistance is indicated.

(G) **Notice to comply when plan of correction is not approved.** The OJA certification staff may issue a notice to comply specifically addressing those areas where the plan of correction is insufficient or otherwise fails to address the areas of non-compliance or is unacceptable and not approved. The notice to comply shall state the time frame within which compliance by the operator must be accomplished. If compliance is not obtained within the time frames set forth within the notice to comply, then OJA may initiate the denial or revocation process. The operator may be required to take immediate action if the area of non-compliance places the health, safety, or well-being of a child or children in care at risk.

(H) **Office conference.** The OJA certification staff may schedule an office conference with the operator of the facility. Areas of non-compliance and progress toward meeting the plan(s) of correction shall be reviewed and technical assistance shall be offered. The conference and any plan of correction shall be documented.

(I) **Consent agreement.** OJA and the facility operator may enter into a consent agreement whereby the facility agrees to specific conditions in lieu of certification denial or revocation.

(J) **Certification Denial or Revocation.** The OJA certification staff may recommend that the certification be denied or revokeed when non-compliance with requirements has been observed and documented or the facility has failed to adequately protect children.

(4) **Case management responses when children are at risk.** If the OJA certification staff documents a situation where children may be at imminent risk of harm, or if the Office of Juvenile System Oversight is investigating a complaint that children may be at imminent risk of harm, the OJA certification staff may consider the following options:

(A) The operator shall be asked to immediately correct the situation where children may be at risk of harm.

(B) The operator may agree to enter into a consent agreement whereby the facility shall agree to specific conditions.

(C) The OJA certification staff may recommend that the certification be denied or revoked when the operator fails to take necessary steps to eliminate the situation giving rise to the imminent risk of harm.

(f) **Revocation or denial of certification.** The Office of Juvenile Affairs may revoke or deny the certification of any state-operated children's shelter found to be in violation of any of the rules of the Oklahoma Department of Human Services

Licensing Requirements for Residential Child Care Facilities, as set forth in 340:110-3-167, and any additional Board requirements.

(1) No certification shall be revoked or denied until such time as the facility operator or applicant shall have been given at least thirty (30) days notice in writing for the grounds of the proposed revocation or denial.

(2) Within one (1) business day of the facility's receipt of the notice of the proposed revocation or denial, the facility operator shall notify the parent, guardian, or legal custodian of any child residing in the facility. The notification to the parent, guardian, or legal custodian shall be given verbally, electronically, or in written form, as well as by the posting of an announcement in the facility.

(g) **Formal Protest.** When served with a notice of proposed revocation or denial, the facility operator may, within fifteen (15) days of receipt of notice, file a formal protest in writing addressed to the Executive Director of the Office of Juvenile Affairs. Upon the filing of the protest, the Executive Director shall set the matter for a hearing within thirty (30) days. Notice of the hearing shall be given to the facility operator by personal service or by delivery to the proper address by certified mail, return receipt requested, at least ten (10) days prior to the date of the hearing. If the facility operator does not file a protest, certification shall be revoked or denied effective upon the expiration of the thirty (30) day notice period set forth in (f)(1). The hearing will not be a full evidentiary proceeding and formal rules of evidence shall not apply. The purpose of the hearing is to provide the Executive Director with information from which a determination may be made as to whether or not reasonable grounds exist to support the revocation or denial. The hearing shall be recorded in its entirety, and a copy provided upon request to the facility operator.

(h) **Emergency action.**

(1) Whenever the Office of Juvenile Affairs finds, after an investigation, that an emergency exists requiring immediate action to protect the health, safety, or welfare of any child cared for by a facility, the Office of Juvenile Affairs may without notice or hearing issue an emergency order stating the existence of such an emergency and requiring that such action be taken by the facility operator as OJA deems necessary to meet the emergency, including when necessary, removing children from the shelter and prohibiting the facility from providing services to children.

(2) The emergency order shall remain in effect until the Executive Director determines that it is no longer necessary. The operator shall be provided with a written Notice of Emergency Action, which will include notice of a hearing before the Executive Director within fifteen (15) days of service of the notice. The Executive Director will make a determination at that time as to whether the emergency situation has been resolved, and may extend, modify, or rescind the order. The hearing will not be a full evidentiary proceeding and formal rules of evidence shall not apply. The hearing shall be recorded in its entirety, and a copy provided upon request to the facility operator.

(i) **Review of decision by the Board of Juvenile Affairs.** Any operator aggrieved by a decision of the Executive Director may file a written request for review of the decision with the Board of Juvenile Affairs within fifteen (15) days of the Executive Director's decision. The Board shall have access to all documents submitted to the Executive Director, as well as an audio recording or transcript of the hearing, and the decision of the Director. The matter shall be placed on the next available Board meeting agenda after the filing date. Upon consideration, the Board shall enter a decision affirming, modifying, or reversing the decision of the Executive Director. The decision shall be in writing and copies of the decision shall be promptly mailed to all parties of record in the case. The decision of the Board shall be final and binding.

[OAR Docket #15-704; filed 7-6-15]

TITLE 377. OFFICE OF JUVENILE AFFAIRS CHAPTER 25. JUVENILE SERVICES UNIT

[OAR Docket #15-705]

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PERMANENT final adoption
RULES:
Subchapter 3. Pre-Court
Part 1. Juvenile Detention
377:25-3-1. Legal Base [AMENDED]
377:25-3-2. Detention recommendations [AMENDED]
AUTHORITY:
The Board of Juvenile Affairs, pursuant to 10A O.S. § 2-7-101(H)(3) and 2-7-101(I)(1) and 75 O.S. § 302(A)(1).
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Subchapter 3. Pre-Court
Part 1. Juvenile Detention
377:25-3-1. Legal Base [AMENDED]
377:25-3-2. Detention recommendations [AMENDED]
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ANALYSIS:
Under new state law, as per Senate Bill 929 (2014), effective May 28, 2014, an OJA extended youth may be held in detention and continue to receive services. The adopted rules are necessary in order to prevent the improper release of an extended OJA youth.

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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 11, 2015:

SUBCHAPTER 3. PRE-COURT

PART 1. JUVENILE DETENTION

377:25-3-1. Legal base

Title 10A O.S., §§ 2-3-101 et seq. and § 2-7-504, provides for the detention of juveniles. Title 10A O.S., § 2-5-204(E) provides for the detention of youthful offenders. OJA derives its authority to establish plans for detention services from 10A O.S., § 2-3-103.

377:25-3-2. Detention recommendations

In counties in which JSU, pursuant to judicial directive, is responsible for detention screening, the JSU worker shall recommend to the judge that one of the actions listed in (1)-(3) of this Section occur when a juvenile is picked up for an alleged offense.

(1) **Release.** Release may be appropriate in the following circumstances:

(A) The parent, guardian, or responsible person can be located and is willing and able to accept responsibility for the juvenile;

(B) The juvenile is willing to go home and is likely to appear as requested for preliminary inquiry/court intake; and

(C) There is reasonable belief that the juvenile is not a threat or a danger to the public.

(2) **Non-secure detention.** A juvenile is eligible for non-secure detention services based on the criteria in (A)-(C) of this subsection:

(A) There is no record or history of seriously assaultive or destructive behavior by the juvenile to others; and

(B) The use of non-secure detention services is not likely to place the juvenile or community at risk; or

(C) The juvenile is being held as a runaway.

(3) **Secure detention services.** A juvenile is eligible for secure detention services based on the criteria found in 10A O.S., § 2-3-101~~(B)~~ et seq. and § 2-7-504.

[OAR Docket #15-705; filed 7-6-15]

TITLE 377. OFFICE OF JUVENILE AFFAIRS
CHAPTER 25. JUVENILE SERVICES UNIT

[OAR Docket #15-706]

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RULES:
Subchapter 7. Custody
Part 1. General Provisions
377:25-7-2. Grievance procedure [AMENDED]
Subchapter 11. Case Records and Reports
377:25-11-3. Reports for court reviews [AMENDED]
AUTHORITY:
The Board of Juvenile Affairs, pursuant to 10A O.S. § 2-7-101(H)(3) and 2-7-101(I)(1) and 75 O.S. § 302(A)(1).
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ANALYSIS:
The rule revisions correct references and minor scrivener's errors, as well as to remove a specific judicial review hearing document, an Individual Treatment and Service Plan, which is not required to be filed at review hearings [10A O.S., Sections 2-2-502(D) and 2-2-504].
CONTACT PERSON:
Jlynn Hartman, Director of Government Relations, Office of Juvenile Affairs, 3812 N. Santa Fe Ave., Ste. 400, Oklahoma City, OK 73118, (405) 530-2866, JLynn.Hartman@oja.ok.gov

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 11, 2015:

SUBCHAPTER 7. CUSTODY

PART 1. GENERAL PROVISIONS

377:25-7-2. Grievance procedure

The JSU worker shall inform all juveniles under formal supervision, court probation, or custody of the Office of Juvenile Affairs and the juvenile's family of the Office of Juvenile Affairs Grievance System (377:3-1-27 through 377:3-1-30). The JSU worker shall provide a Notice of Grievance Procedure to the juvenile and request that the juvenile sign the notice.

(1) The JSU worker shall review the grievance process with the juvenile and have the juvenile sign appropriate forms upon any subsequent placement in:

(A) the juvenile's own home;
(B) relative's home;
(C) foster care;
(D) therapeutic foster care;
(E) specialized community home care: or
(F) other out of home placements.

(2) When the juvenile is placed in an institution or an OJA-operated or contracted group home, the facility shall be responsible for explaining the grievance procedures and obtaining the juvenile's signature on appropriate forms.

SUBCHAPTER 11. CASE RECORDS AND REPORTS

377:25-11-3. Reports for court reviews

(a) The JSU worker shall submit a report to the court~~, including an Individual Treatment and Service Plan~~ for judicial review hearings at least every six months. The report must meet the requirements set forth in 10A O.S., § 2-2-504. The JSU worker shall be present at the review hearing.

(b) The JSU worker may also request a judicial review in situations which may necessitate action such as:

(1) change of placement;
(2) additional treatment resources;
(3) additional terms of probation or court supervision; or
(4) recommendation to the court for early release.

[OAR Docket #15-706; filed 7-6-15]

TITLE 377. OFFICE OF JUVENILE AFFAIRS CHAPTER 35. INSTITUTIONAL SERVICES [REVOKED]

[OAR Docket #15-707]

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PERMANENT final adoption

RULES:
Subchapter 1. General Provisions [REVOKED]
377:35-1-1. Legal Basis [REVOKED]
377:35-1-3. Purpose [REVOKED]
377:35-1-4. Sexual activity [REVOKED]
377:35-1-5. Fiscal management [REVOKED]
Subchapter 3. Security and Control [REVOKED]
377:35-3-1. Security and control [REVOKED]
377:35-3-2. Transportation of juveniles [REVOKED]
377:35-3-3. Injuries, fires, and assaults [REVOKED]
377:35-3-4. Discipline and control of juveniles [REVOKED]
377:35-3-5. Guidelines for use of physical force [REVOKED]
377:35-3-6. Use of restraints [REVOKED]
377:35-3-9. Closure of Unit/Facility [REVOKED]
377:35-3-10. Escape policies and procedures [REVOKED]
Subchapter 5. Food Services, Sanitation, Safety and Hygiene [REVOKED]
377:35-5-1. Food service and sanitation [REVOKED]
377:35-5-2. Sanitation and hygiene [REVOKED]
377:35-5-4. Building, fire, and safety codes [REVOKED]
377:35-5-5. Clothing [REVOKED]
377:35-5-6. Toiletries [REVOKED]
377:35-5-7. Grooming standards [REVOKED]
Subchapter 7. Medical and Health Care [REVOKED]
377:35-7-1. Medical and health care [REVOKED]
377:35-7-2. Surgery [REVOKED]
377:35-7-3. Records [REVOKED]
377:35-7-4. Sanctions/discipline [REVOKED]
377:35-7-5. Juvenile's refusal of medical services [REVOKED]
377:35-7-7. Emergency medical services [REVOKED]
377:35-7-8. Medical isolation [REVOKED]
377:35-7-9. Administration of medications [REVOKED]
Subchapter 9. Juvenile Rights [REVOKED]
377:35-9-1. Juvenile rights [REVOKED]
377:35-9-2. Grievance policy [REVOKED]
377:35-9-3. Child (Juvenile) abuse [REVOKED]
377:35-9-4. Access to courts/counsel [REVOKED]
377:35-9-5. Juvenile personal property [REVOKED]
377:35-9-6. Liability [REVOKED]
377:35-9-7. Juvenile work [REVOKED]
377:35-9-8. Use of tobacco products [REVOKED]
377:35-9-9. Property control and inventory [REVOKED]
Subchapter 11. Juvenile Rules/Discipline [REVOKED]
377:35-11-1. Juvenile rules and discipline [REVOKED]
377:35-11-3. Intensive Treatment Program Transfer Process [REVOKED]
377:35-11-4. Solitary confinement [REVOKED]
377:35-11-5. Juvenile correspondences [REVOKED]
377:35-11-6. Visitation on campus [REVOKED]
377:35-11-7. Access to telephone [REVOKED]
Subchapter 13. Reception, Classification, and Transfer [REVOKED]
377:35-13-1. Admissions [REVOKED]
Subchapter 15. Services [REVOKED]
377:35-15-1. Social services [REVOKED]
Subchapter 17. Ancillary Programs [REVOKED]
377:35-17-1. Education [REVOKED]
377:35-17-2. Recreation/exercise [REVOKED]
377:35-17-3. Religious services and counseling [REVOKED]
377:35-17-4. Crisis management [REVOKED]

AUTHORITY:
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ANALYSIS:
The rule revisions correct references and minor scrivener's errors, as well as to remove a specific judicial review hearing document, an Individual Treatment and Service Plan, which is not required to be filed at review hearings [10A O.S., Sections 2-2-502(D) and 2-2-504].

The rule revisions correct inconsistencies between Chapter 3 certifying all secure facilities and Chapter 35 governing institutional services. Many of the provisions of Chapter 3 were adopted in 2009 in whole or in part from provisions in Chapter 35. Over time, statutes have changed, provisions of the Terry D. Dismissal Order have been modified, and rules have been amended resulting in conflicting provisions between the two Chapters. OJA is revoking

Chapter 35, while amending Chapter 3 to include applicable certification provisions, as well as to correct conflicting provisions. The rule revisions ensure the safety of children by making all secure facilities be subject to the same provisions, whether operated by OJA, contracted with OJA, or those which may be in no relationship with OJA.

CONTACT PERSON:

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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 11, 2015:

SUBCHAPTER 1. GENERAL PROVISIONS [REVOKED]

377:35-1-1. Legal Basis [REVOKED]

~~The Office of Juvenile Affairs operates its institutions under the authority of Title 10AO.S., § 2-7-503(B)(1).~~

377:35-1-3. Purpose [REVOKED]

~~(a) The purpose of the OJA institution is to:~~

~~(1) provide temporary residential care;~~

~~(2) offer effective intervention into the juvenile's delinquent behaviors;~~

~~(3) provide for the safety of the public; and~~

~~(4) hold juveniles accountable for their behaviors.~~

~~(b) The institution shall be responsible for the juvenile's:~~

~~(1) care;~~

~~(2) treatment;~~

~~(3) training;~~

~~(4) education;~~

~~(5) rehabilitation; and~~

~~(6) control.~~

~~(c) Consistent with the necessary limitations imposed by an institutional setting, juveniles in institutions shall have access to all required services which would be available to them in the community. The institution shall provide or procure programs and services necessary to implement the juvenile's individual treatment and service plan (ITSP).~~

~~(d) The services and facilities operated by the Department shall be accredited by the American Correctional Association.~~

377:35-1-4. Sexual activity [REVOKED]

~~No staff member shall engage in any sexual activity with a juvenile. Violation of this rule may result in termination and/or criminal prosecution.~~

377:35-1-5. Fiscal management [REVOKED]

~~Institutional policies and procedures shall be in accordance with OJA Office of Finance's rules, policies, and procedures. Each institution shall have policies and internal procedures regarding:~~

~~(1) fiscal planning;~~

~~(2) budgeting;~~

~~(3) accounting procedures; and~~

~~(4) a system of regular reviews.~~

SUBCHAPTER 3. SECURITY AND CONTROL [REVOKED]

377:35-3-1. Security and control [REVOKED]

~~Each facility shall have internal policies and staff procedures which support the orderly and secure functioning of the institution through a combination of:~~

~~(1) supervision;~~

~~(2) inspection;~~

~~(3) accountability; and~~

~~(4) clearly defined procedures for use of security in a manner which promotes safe and orderly operations.~~

377:35-3-2. Transportation of juveniles [REVOKED]

~~The Superintendent or designee shall assign responsibility for transportation of juveniles to a specific staff member. At least one employee of the same sex shall accompany any transported resident.~~

377:35-3-3. Injuries, fires, and assaults [REVOKED]

~~(a) **Injuries, medical examination, and treatment.** The provisions in this section are in addition to the rules and regulations listed in 377:3-1-25. All persons, including juveniles and staff, injured in an accident or incident must receive an immediate medical examination and treatment.~~

~~(b) **Report of injuries, fires, assaults.** In the event of serious injury to or assault against a juvenile or staff member, or damage or destruction to property, a written report of the incident shall be submitted to the Division Administrator of Residential Services, by the end of the shift. If a juvenile is injured in a serious incident or accident, an accident report shall be completed. The designated institutional staff shall notify the parent or guardian of the accident and provide them with complete details and a report of the juvenile's condition at the time. The Division Administrator of Residential Services shall notify the Chief of Staff within four (4) hours of any serious incident or accident.~~

~~(c) **Assault by juveniles upon staff (institutions).** Title 21 O.S. §§ 650.2 and 650.8 provides that certain assaults upon staff shall result in a felony upon conviction.~~

377:35-3-4. Discipline and control of juveniles [REVOKED]

~~Rules regarding discipline are found in OAC 377:10-1-3.~~

377:35-3-5. Guidelines for use of physical force [REVOKED]

~~Rules regarding use of force are found in OAC 377:10-1-4.~~

377:35-3-6. Use of restraints [REVOKED]

~~Rules regarding the use of force are found in OAC 377:10-1-4.~~

377:35-3-9. Closure of Unit/Facility [REVOKED]

~~(a) Unit closure shall be a programmed response to significant unit/facility disorder or emergency.~~

~~(b) The Superintendent or the AOD shall authorize unit closure when necessary. The superintendent or AOD shall re-authorize the closure every four hours while in effect.~~

~~(c) The superintendent shall authorize facility closure when necessary. The Division Administrator of Institutional Services shall re-authorize facility closure every 24 hours while in effect.~~

377:35-3-10. Escape policies and procedures [REVOKED]

~~(a) **Institution responsibility.**~~

~~(1) After determining that a juvenile has escaped, the Institutional Superintendent or AOD shall place the juvenile on escape status and immediately notify:~~

~~(A) local law enforcement;~~

~~(B) the parents or guardian (if possible);~~

~~(C) the JSU worker;~~

~~(D) the Division Director of Institutional Services; and~~

~~(E) the Director of Media and Community Relations.~~

~~(2) No later than the next regular work day after a juvenile has escaped, the institutional staff, as designated by the Institutional Superintendent, shall provide written notification to the:~~

~~(A) Division Director of Institutional Services;~~

~~(B) parents or guardian;~~

~~(C) JSU worker; and~~

~~(D) committing court.~~

~~(3) The Institutional Superintendent or the AOD shall request local law enforcement officials to assist in the immediate apprehension of the juvenile.~~

~~(4) Institutional staff shall notify the parties listed in (1) and (2) of this subsection when the juvenile is returned to the institution.~~

~~(5) The Institutional Superintendent shall ensure the facility summary Critical Incident Report is completed and submitted to the Division Director within three working days of the escape.~~

~~(b) **Return of escapees.** When a juvenile who has escaped is apprehended within 10 days of the escape, the institutional staff member shall return the juvenile to the institution. If the juvenile is apprehended after 10 days, the JSU worker shall initiate the placement process through the Placement Unit.~~

~~(1) Official notification of the return of a juvenile from escape status shall be reported to all persons listed in (a)(1) of this section.~~

~~(2) The assigned medical personnel shall complete a physical examination of each juvenile returning from escape status.~~

~~(3) The Institutional Superintendent or AOD shall authorize use of a crisis management center for a juvenile returning from escape status on an individual basis.~~

SUBCHAPTER 5. FOOD SERVICES, SANITATION, SAFETY AND HYGIENE [REVOKED]

377:35-5-1. Food service and sanitation [REVOKED]

~~The institution food services staff shall serve meals which are:~~

~~(1) nutritionally balanced;~~

~~(2) well-planned; and~~

~~(3) prepared and served in a manner which meets established American Correctional Association (ACA) and governmental health and safety codes.~~

377:35-5-2. Sanitation and hygiene [REVOKED]

~~The institution's sanitation and hygiene program shall include compliance with standards of good practice to protect the health and safety of juveniles and staff. All areas of the facility must meet standards of cleanliness and sanitation as provided by the standards, rules, and regulations of the Oklahoma State Department of Health.~~

377:35-5-4. Building, fire, and safety codes [REVOKED]

~~(a) All institutions shall fully comply with:~~

~~(1) the 1981 or later applicable Life Safety Codes of the National Fire Protection Association;~~

~~(2) the applicable accreditation standards pertaining to fire safety; and~~

~~(3) any successor codes or standards.~~

~~(b) Each institution shall establish policy and procedure to provide:~~

~~(1) an adequate fire protection service;~~

~~(2) a system of fire inspections and testing of equipment at least quarterly;~~

~~(3) an annual inspection by local or state fire officials or other qualified person(s); and~~

~~(4) fire protection equipment throughout the institution at locations designated by the State Fire Marshal.~~

377:35-5-5. Clothing [REVOKED]

~~(a) Juveniles and staff shall be required by policy to wear uniforms. The policy must be approved by the Division Administrator of Institutional Services and included in the Juvenile Handbook.~~

~~(b) The institutional staff shall ensure that a juvenile has sufficient clean clothing.~~

~~(c) The superintendent or designee shall, when appropriate, permit a juvenile to wear the juvenile's own clothes if the clothes are practical and reasonable in style and price.~~

~~(d) Juveniles may not wear clothing which depicts alcohol, drugs, or gang affiliation or is otherwise inappropriate, as determined by the superintendent or his designee. Juveniles shall be prohibited from wearing gang "colors". Juveniles shall not wear articles of clothing in a manner that indicates gang affiliation.~~

377:35-5-6. Toiletries [REVOKED]

~~(a) Staff shall ensure that juveniles have access to toiletries and supplies.~~

~~(b) Staff shall ensure that articles necessary to maintain proper hygiene are provided to all juveniles.~~

~~(c) Items in metal, glass, or aerosol containers or products containing alcohol or other toxic agents which can be inhaled or ingested shall be kept in a central locked location and used only under supervision of unit staff at times specified for daily grooming.~~

377:35-5-7. Grooming standards [REVOKED]

~~A juvenile shall not be conspicuous in contrast to any juvenile outside of the institution. Barber and beautician facilities shall be provided so that a juvenile can obtain hair care services when needed. Institutional staff shall allow a juvenile to keep facial hair and determine the length and style of his or her hair as long as the juvenile's appearance does not conflict with the institution's health or safety policy or standards. Each juvenile shall have access to individualized clean clothing and daily access to showers.~~

SUBCHAPTER 7. MEDICAL AND HEALTH CARE [REVOKED]

377:35-7-1. Medical and health care [REVOKED]

~~(a) Each institution shall provide comprehensive health care services by qualified personnel to protect the health and well-being of juveniles.~~

~~(1) A qualified nurse shall conduct a medical, dental, and mental health assessment on each juvenile immediately upon the juvenile's arrival and discharge from a state institution. Access to medical and dental records shall be restricted to authorized personnel.~~

~~(2) The institutional physician shall review medical and dental records prior to the juvenile's discharge or transfer. When a juvenile is transferred to another facility, the institutional worker shall ensure that the juvenile's medical records or a summary of his or her medical records is forwarded to the receiving facility prior to or upon arrival.~~

~~(3) Each institution shall have procedures for serious or common problems, including:~~

~~(A) drug toxicity and withdrawal;~~

~~(B) pregnancy;~~

~~(C) sexually transmitted disease (STD);~~

~~(D) suicide threats; and~~

~~(E) emotional problems.~~

~~(4) If neurological problems are suspected in a case of learning disabilities, the medical services worker shall refer the juvenile for testing.~~

~~(5) The staff shall refer a juvenile with speech and hearing defects to the contracted speech pathologist.~~

~~(6) Institutional staff shall ensure that a juvenile's dental and visual needs are met. If services provided by institutional staff do not meet a juvenile's needs, the institution shall purchase these services. The superintendent shall either:~~

~~(A) retain specialists with a set monthly fee to perform all services; or~~

~~(B) buy the service on a per visit basis.~~

377:35-7-2. Surgery [REVOKED]

~~(a) **Non-Emergency.** When an Institutional Physician determines a juvenile requires non-emergency surgery, the physician shall refer the juvenile to a specialist for a second opinion. The Institutional Physician shall provide all information regarding the juvenile's treatment to the Institutional Superintendent and any further information provided by the specialist. If the specialist agrees that the juvenile requires surgery, the Institutional Superintendent shall request a documented medical consult. The Institutional Superintendent shall ensure that the Division Director and Chief of Staff have notification of all non-emergency surgery procedures prior to treatment. Prior to the surgery, the institutional JJS shall contact the juvenile's parent, guardian or legal custodian to request written authorization for hospitalization and for the doctor to perform the juvenile's surgery.~~

~~(b) **Emergency.** The Institutional Superintendent shall authorize surgery if the attending physician deems the surgery to be an emergency and the attending physician advises the Institutional Superintendent, that because of the emergency nature, the surgery should be done before the parent can be contacted. The Institutional Superintendent shall notify the Division Director within 24 hours after any emergency surgery. When the Institutional Superintendent authorizes emergency surgery, the institutional JJS shall make every effort to contact the juvenile's parent, guardian or legal custodian to:~~

~~(1) notify them of the action taken; and~~

~~(2) provide details concerning the surgery.~~

~~(c) **Secondary Medical Opinions.**~~

~~(1) In OJA operated institutions, every juvenile shall be first evaluated by the designated Institutional Physician. Routine medical procedures or illnesses of a minor nature, as determined by a Institutional Physician, require no second medical opinion.~~

~~(2) Any problem requiring a surgical procedure shall be referred to a specialist. In addition, any problem which is not within the realm of the Institutional Physician's expertise or responding to his/her treatment in an expected manner shall be referred to a specialist. When the juvenile is referred to a specialist by the Institutional Physician and both the Institutional Physician and specialist agree with a treatment protocol, an additional opinion shall not be warranted.~~

~~(3) A juvenile may request a second medical opinion when he/she believes the problem is not responding to the treatment which is afforded by the institutional physician. The Institutional Physician shall review the request to obtain a second medical opinion. If the Institutional Physician denies the request the juvenile may appeal the decision to the Institutional Superintendent. If the Institutional Superintendent thinks a second medical opinion request is frivolous or should be denied for other reasons, he/she shall make a recommendation to the Institutional Services Division Director, who may obtain assistance from a separate contracted licensed physician in resolving the matter.~~

~~(4) Issues regarding the delivery and procurement of medical services shall be addressed at a first level by the Institutional Superintendent and the involved physician. As a second level response, unresolved issues shall be forwarded to the Institutional Services Division Director, who may develop necessary policy or request a review by a separate contracted licensed physician.~~

377:35-7-3. Records [REVOKED]

~~(a) Complete medical records shall be maintained at the clinic. Information contained in the records shall include:~~

~~(1) all treatment and medication administered;~~

~~(2) the juvenile's medical history; and~~

~~(3) periodic reports made by the physician as requested by the superintendent or the State Office.~~

~~(b) When a death occurs within the institution, the superintendent shall:~~

~~(1) hold a formal review;~~

~~(2) sign a written summary of facts;~~

~~(3) submit all information to the Division Administrator of Institutional Services; and~~

~~(4) request an autopsy by the State Medical Examiner's Office.~~

377:35-7-4. Sanctions/discipline [REVOKED]

~~Medical staff shall not impose sanctions on juveniles for refusing to accept medical care.~~

377:35-7-5. Juvenile's refusal of medical services [REVOKED]

~~(a) A juvenile shall have the right to refuse non necessary medical care.~~

~~(1) Non necessary medical care, as determined by the physician, consists of procedures and treatments that do not pose a serious threat to the juvenile's health if not performed. If the physician determines that omission of the care poses a serious threat to the juvenile's health, the care shall be considered necessary.~~

~~(2) When a juvenile refuses non necessary medical care, the juvenile shall complete, date, and sign the appropriate form indicating his or her refusal. The physician shall include a written explanation of the need for the care recommended and the probable consequences of not receiving the care.~~

~~(b) Designated institutional staff shall respond to a juvenile who refuses necessary medical services as follows:~~

~~(1) The juvenile shall receive life sustaining and emergency medical services;~~

~~(2) The juvenile shall be counseled to accept necessary medical services;~~

~~(c) If the juvenile continues to refuse medical treatment, the Institutional Superintendent shall ensure that:~~

~~(1) The juvenile shall be hospitalized; or~~

~~(2) The juvenile shall be referred to the court of jurisdiction as unmanageable to enforce necessary medical services; and~~

~~(3) The juvenile's parent or guardian shall be notified.~~

377:35-7-7. Emergency medical services [REVOKED]

~~Each juvenile facility shall have a written arrangement for the use of one or more designated hospital emergency rooms to provide 24-hour emergency medical, dental, and mental health care. The institution shall have a written agreement with the hospital for evacuation of the juvenile from the facility by use of an emergency medical vehicle. Following the same procedures outlined in 377:35-7-2 for emergency surgery, the superintendent shall sign a consent for treatment of conditions requiring emergency treatment.~~

377:35-7-8. Medical isolation [REVOKED]

~~(a) If the institution does not have a medical isolation unit/area and medical isolation is required, the juvenile shall be immediately transferred to a hospital.~~

~~(b) The Institutional Physician shall determine placement of any juvenile in medical isolation, per the juvenile's diagnosis and medical risk.~~

377:35-7-9. Administration of medications [REVOKED]

~~Medications shall be administered only by the physician, registered nurse, or other staff who have received approved training in administration of medications. When a juvenile is confined to medical isolation or the unit for medical reasons, the designated staff shall bring medications to be administered to the juvenile at that location.~~

~~(1) When a juvenile is placed in another setting, including community placement, another institution, or a contract facility, the designated staff member shall send a three-day supply of the juvenile's prescribed medications with the juvenile.~~

~~(2) Medications (mind-altering drugs) such as stimulants, tranquilizers, or psychotropics shall be administered only as a part of a program of medically approved therapy. The administration of such drugs shall be periodically monitored by a licensed psychiatrist according to accepted medical standards. The use of medication for punishment, control, or program management shall be prohibited. Telephone orders between a psychiatrist and a requesting nurse shall only occur when the nurse has had prior involvement in the case and the administration of any~~

~~drugs and when the nurse has personal knowledge of the patient's medical needs. Telephone orders and the patient will be reviewed by a physician or psychiatrist within 48 hours of administration.~~

~~(3) Rules regarding administration of drugs shall not preclude the use, with informed consent (or if involuntary, with the same information provided as would be provided to consenting patients), of drugs which are capable of relieving specifically identified psychiatric symptoms. If used, the individual plan of treatment must state the specific benefits expected for specific symptoms or complaints and must document observed benefits or other effects no less than monthly.~~

SUBCHAPTER 9. JUVENILE RIGHTS [REVOKED]

377:35-9-1. Juvenile rights [REVOKED]

~~(a) **Legal basis.** Institutional staff members shall protect the safety and constitutional rights of juveniles and seek a balance between expression of individual rights and preservation of facility order. Juvenile rights shall be consistent with 10A O.S., §§ 2-2-504, 2-5-212 and 2-7-603, as well as with OAC 377:10-1-2.~~

~~(b) **Notice of availability of advocate defender.** The advocate defender shall advise the juvenile of the availability and function of the advocate defender within 30 days of admission to the institution. The name and duties of the advocate defender are posted in conspicuous places within the institution.~~

377:35-9-2. Grievance policy [REVOKED]

~~Grievance policy is found in OAC 377:3-1-27 and 377:3-1-28.~~

377:35-9-3. Child (Juvenile) abuse [REVOKED]

~~Rules regarding child (Juvenile) abuse are found in OAC 377:3-1-25.~~

377:35-9-4. Access to courts/counsel [REVOKED]

~~(a) Juveniles shall have the right to access the courts, counsel, and counsel substitutes. Juveniles have the right to:~~

~~(1) present any issue, including thelegality of their adjudications and commitments or placements;~~

~~(2) seek redress for illegal conditions or treatment;~~

~~(3) pursue legal remedies; and~~

~~(4) assert a claim against OJA or othergovernmental authority for any rights protected by constitutional or statutory provision or by common law.~~

~~(b) Institutional staff shall ensure and facilitate the right of juveniles to access attorneys and their authorized representatives. Institutional staff, when requested, shall assist the juveniles to contact the attorneys of record, court appointed attorneys, local bar associations, or other legal representative. A juvenile may communicate with counsel or the court by mail, in person, or by telephone. Institutional staff may impose reasonable restrictions on the time or place of these communications; however, communications shall be confidential.~~

~~(c) Written correspondence between juveniles and his/her courts, or legal representatives shall be unopened and uncensored. Incoming mail from courts or legal representatives shall be opened by the juvenile in the presence of a staff member in order to check for contraband.~~

~~(d) Phone calls between juveniles and their legal representatives shall be limited to one phone call per day unless otherwise requested by the legal representative. All telephone communications with legal representatives shall be unmonitored. Staff may not require that the subject of the communication be disclosed by the juveniles or counsel.~~

~~(e) Personal visits by legal representatives shall be confidential and undisturbed. Legal representatives may visit during regular visiting hours or, with approval of the superintendent, at other times.~~

~~(f) A juveniles who wants to call a court, attorney, or other legal representative shall request assistance from his/her juvenile justice specialist. The juvenile justice specialist shall:~~

~~(1) assist the juveniles in placing the call;~~

~~(2) verify the identity of the legal representative (for both outgoing and incoming calls); and~~

~~(3) verify whether the legal representative accepted a call. If a call has been accepted, the juvenile justice specialist shall determine whether consultation is complete or whether future contacts will be made. The juvenile justice specialist shall document information required by this Section, including any restrictions or other specific requests concerning future contacts made by the juvenile's legal representative.~~

~~(A) **Department provided legal services.** In the event a juveniles is unable to receive consultation/ assistance as given in subsections (b)-(f) of this section, the juvenile may contact the student defender to discuss whether he may be entitled to legal assistance through the Department. If the juvenile has not pursued administrative remedies, he/she will be encouraged to do so before the Department will purchase legal services for him/her. If the concern is not subject to administrative remedy or administrative remedies have been exhausted and the resolution is not to the juvenile's satisfaction, then the student defender shall request the juvenile justice specialist to assist the juvenile in contacting the appropriate resource. All rules regarding phone usage, written correspondence, and visitation shall be the same for Department provided legal services as for private attorneys. The Department has a contract for legal services, which are available to the juveniles of the institutions.~~

~~(B) **Resident orientation.** As part of the juvenile's orientation, the facility staff shall advise the juvenile of the procedures, rights, and responsibilities in regard to access to courts and attorneys. The Training Section shall assist in the development of this orientation.~~

377:35-9-5. Juvenile personal property [REVOKED]

~~Juveniles shall be allowed to have a limited number of personal possessions as outlined in the Juvenile Handbook.~~

~~(1) **Juveniles** may keep personal items: as outlined in the approved Juvenile Handbook.~~

~~(2) **Juveniles shall not keep:**~~

~~(A) items which by their design or construction are a safety hazard;~~

~~(B) items made of glass;~~

~~(C) items whose designs make them easily useable as weapons; or~~

~~(D) items which depict drugs, alcohol, or gang association.~~

377:35-9-6. Liability [REVOKED]

~~(a) The Office of Juvenile Affairs shall be responsible for reimbursing a juvenile whose personal property is lost after being accepted by the institution for storage and safekeeping. Reimbursement shall be in an amount equal to the item's fair market value.~~

~~(1) For any item accepted for safekeeping, the juvenile shall:~~

~~(A) estimate the property's value;~~

~~(B) request that the institutional worker enter the value on the r juvenile's inventory list; and~~

~~(C) initial the inventory.~~

~~(2) In instances where there is an obvious discrepancy between the juvenile's statement of the value of an item and that of the observation of the institution, the institution may refuse permission to keep the item at the institution.~~

~~(3) If an employee is identified as clearly negligent in the loss of items accepted for storage, the employee shall be responsible for reimbursing the loss to the Office of Juvenile Affairs.~~

~~(b) The Office of Juvenile Affairs shall not be responsible for reimbursing a juvenile whose personal property was kept by the juvenile.~~

~~(c) At the time of admission, staff shall screen personal items. Items not falling within policy should be sent to the parent, guardian or legal custodian by the end of the next working day.~~

~~(d) The admission letter, signed by the superintendent, shall be mailed to the parents/guardian to explain policies related to personal property.~~

377:35-9-7. Juvenile work [REVOKED]

~~(a) Juveniles shall not be required to participate in uncompensated work assignments unless the work is related to:~~

~~(1) the juvenile's treatment plan;~~

~~(2) housekeeping;~~

~~(3) maintenance of the facility or grounds;~~

~~(4) personal hygienic needs;~~

~~(5) a vocational or training program; or~~

~~(6) an approved community service.~~

~~(b) Work assignments shall be meaningful and essential and may not consist of purposeless or degrading tasks. Staff shall make an effort to provide each juvenile with a work assignment which the juvenile is capable of completing. When conflicts in scheduling arise, precedence shall be given to:~~

~~(1) programmed services;~~

~~(2) prescribed treatment activities; and~~

~~(3) vocational training.~~

~~(c) Juveniles assigned to special work areas or tasks shall have clothing and protective gear in accordance with the requirements of the work assignment.~~

~~(d) In coed facilities there is no discrimination in work assignments based on sex.~~

~~(e) Staff shall use advice and assistance of labor, business, and industrial organizations regarding juvenile training and work programs.~~

~~(f) When juveniles are employed in the community by public or private organizations in positions normally occupied by private citizens, juveniles shall be compensated at the prevailing rate.~~

377:35-9-8. Use of tobacco products [REVOKED]

~~Juveniles shall be prohibited from possessing or using any tobacco products. Such products shall be considered contraband and are subject to rules set forth in 377:35-3-7. The Office of Juvenile Affairs' institutions are "tobacco-free environments." As such, use of tobacco products on institutional grounds is prohibited.~~

377:35-9-9. Property control and inventory [REVOKED]

~~The institution shall establish inventory and storage practices to assure accounting and safeguarding of juvenile property.~~

SUBCHAPTER 11. JUVENILE RULES/DISCIPLINE [REVOKED]

377:35-11-1. Juvenile rules and discipline [REVOKED]

~~Institutional staff members shall protect the safety and constitutional rights of juveniles and seek a balance between expression of individual rights and preservation of facility order. Juvenile rights shall be consistent with 10A O.S., §§ 2-2-504 and 2-7-603, as well as with OAC 377:10-1-3.~~

377:35-11-3. Intensive Treatment Program Transfer Process [REVOKED]

~~(a) The Intensive Treatment Program (ITP) Transfer is an administrative process to determine whether the juvenile is dangerous and poses a threat in the current placement and should be transferred to a more secure and intensive treatment setting. In emergency transfers, such due process safeguards are instituted immediately following the transfer. The OJA Executive Director or designee shall authorize all emergency transfers.~~

~~(b) Following a confirmed finding of a qualifying rule violation, and prior to transfer, the following shall occur:~~

~~(1) completion of ITP screening;~~

~~(2) an ITP staffing. The Advocate-Defender shall be present at the ITP staffing to assist the juvenile in representation;~~

~~(3) a 2/3 vote of the ITP staffing committee members.~~

377:35-11-4. Solitary confinement [REVOKED]

~~(a) Solitary confinement is the involuntary removal of a juvenile from contact with other persons by confinement in a locked room, including the juvenile's own room, except during normal sleeping hours. Solitary confinement is a serious and extreme measure to be imposed only in emergency situations. Staff shall impose solitary confinement only when a juvenile in an OJA institution:~~

~~(1) is out of control;~~

~~(2) is a serious and immediate physical danger to himself or others; and~~

~~(3) has failed to respond to less restrictive methods of control.~~

~~(b) Solitary confinement shall not be used for punishment at any OJA institution. No juvenile shall remain in solitary confinement in excess of three hours. As soon as the juvenile is sufficiently under control so as to no longer pose a serious and immediate danger to himself or others, the juvenile shall be released from solitary confinement. The use of consecutive periods of solitary confinement to evade the spirit and purpose of this Section shall be prohibited. All rooms used for solitary confinement shall have at least 80 square feet of floor space, and shall have adequate lighting, heating/cooling, and ventilation for the comfort of the juvenile. Juveniles in solitary confinement shall have access to appropriate medical and psychological services.~~

377:35-11-5. Juvenile correspondences [REVOKED]

~~(a) Correspondence shall not be denied except:~~

~~(1) for security reasons where a clearly documented reason exists, e.g., the correspondent has aided the juvenile in planning an escape or has used the mail to send the juvenile contraband items;~~

~~(2) where it is clearly documented that the correspondence is from a person whose continued relationship poses a threat to the juvenile's treatment or rehabilitation; or~~

~~(3) when the correspondence is from correctional facility inmates whose continued relationship poses a threat to the juvenile's treatment or rehabilitation. In this case staff shall return the unopened mail to its point of origin unless it is clearly documented that the correspondence is from a relative.~~

~~(b) In the case of (a)(1) of this Section, where the primary focus is one of documentable obscenity, the Superintendent or designee shall send the material and an assessment of its impact on the juvenile to the Chief of Staff. The Chief of Staff shall seek legal consultation regarding any action to be taken. Staff shall deal with lesser issues of this nature by:~~

~~(1) counseling the juvenile; or~~

~~(2) the juvenile's refusing to accept mail.~~

~~(c) Delivery of incoming mail and posting of outgoing mail occurs within 24 hours excluding weekends and holidays. Staff may inspect incoming packages for contraband. Staff may not read or censor correspondence, except when based on legitimate facility interests of order and security as determined by the facility Superintendent, mail addressed to a child or sent by a child may be read, censored, or rejected, except that mail addressed to a child from the attorney of the child or sent by the child to the attorney of said child shall not be opened. All mail shall be opened for inspection, the juvenile shall open his or her mail in the presence of the juvenile justice specialist or designated staff member. The staff member shall document the incident.~~

~~(d) Staff shall not limit correspondence to or from the juvenile's attorney and committing court officials. Staff shall not open or inspect correspondence to/from Office of Juvenile Affairs officials, including the:~~

~~(1) advocate defender and staff; and~~

~~(2) members of the Parole Board.~~

~~(e) The institution shall not be obligated to purchase or subscribe to publications for individual juveniles. Staff shall give the juvenile any publications which:~~

~~(1) are received through the mail; and~~

~~(2) do not interfere with rehabilitative efforts.~~

~~(f) There shall not be a limit on the volume of mail a juvenile may send or receive. The institution shall provide unlimited writing materials. The institution shall also provide the current or equivalent postage for five (5), one ounce letters a week for each juvenile, and as necessary, for all legal correspondence. Juveniles may purchase additional postage or receive it from other sources. After a juvenile is transferred or released, all packages and first class letters shall be forwarded to him or her.~~

377:35-11-6. Visitation on campus [REVOKED]

~~As per 10A O.S., § 2-7-603(B)(5), each juvenile shall have opportunity, within reason, to communicate and visit with his or her family regularly and to communicate with persons in the community.~~

377:35-11-7. Access to telephone [REVOKED]

~~Each juvenile shall have access to the telephone subject to (1)-(5) of this subsection.~~

~~(1) Unless the phone use clearly threatens security, staff may not deny phone calls.~~

~~(2) Juveniles shall be permitted at least one outgoing, five minute phone call per week, at times selected by the institution to minimize disruption of institutional programs.~~

~~(3) Phone calls to or from the juvenile's attorney or officials of the committing court shall not be restricted, except that those calls are placed or returned at a reasonable time of the day to minimize disruptions of institutional programs.~~

~~(4) Institutional staff shall place all phone calls to assure acceptance of any collect or third party billed call.~~

~~Staff shall not monitor phone calls and shall allow juveniles to have a reasonable degree of privacy while on the phone.~~

~~(5) Permission to place or receive calls at times other than those specified may be given by the superintendent or designee as required by special or emergency family circumstances.~~

SUBCHAPTER 13. RECEPTION, CLASSIFICATION, AND TRANSFER [REVOKED]

377:35-13-1. Admissions [REVOKED]

~~(a) **Initial admission procedures.** When a juvenile is received for admission, the superintendent or designee shall review the order of commitment to determine if the juvenile is being properly admitted. In order to be admitted, the juvenile must be within the legally prescribed ages and the order committing him or her to the Office of Juvenile Affairs must be signed by the committing judge. If the admission seems questionable, the superintendent, deputy superintendent, or AOP shall contact the Placement Unit for clarification prior to admitting the juvenile.~~

~~(b) **Searches.** At the time of admission, designated staff shall search the juvenile and the juvenile's possessions for contraband. When conducting body searches, staff shall follow procedures set forth in 377:35-3-8. A body search may be conducted as a part of the entrance medical examination process.~~

~~(c) **Letter to parents.** Immediately upon admitting a juvenile to an institution, the superintendent shall send a letter to the parents or guardian summarizing the institution's program. The letter shall stress the institution's goal of meeting the juvenile's needs and assisting in his or her growth and development. The letter shall mention the availability and use of professional staff, both in the institution and in the community. The purpose of the letter shall be to:~~

~~(1) acquaint the parents or guardian with:~~

~~(A) visiting hours; and~~

~~(B) other institutional policies which may involve parental involvement; and~~

~~(2) provide information about:~~

~~(A) clothing; and~~

~~(B) personal items~~

SUBCHAPTER 15. SERVICES [REVOKED]

377:35-15-1. Social services [REVOKED]

~~(a) **General provisions.** Each institution shall provide all professional services necessary to meet the identified needs of juveniles. Services shall include:~~

~~(1) individual and family counseling;~~

~~(2) family planning and parent education; and~~

~~(3) programs for juveniles with drug and alcohol problems.~~

~~(b) **Diagnostic evaluation.** Each juvenile placed in an institution shall receive diagnostic services except a juvenile who had a diagnostic evaluation immediately prior to admission. The diagnostic evaluation shall include:~~

~~(1) a complete medical examination;~~

~~(2) a complete dental examination;~~

~~(3) family and social summary;~~

~~(4) an educational and vocational evaluation;~~

~~(5) a psychological evaluation;~~

~~(6) a neurological appraisal; and~~

~~(7) a speech and hearing evaluation.~~

SUBCHAPTER 17. ANCILLARY PROGRAMS [REVOKED]

377:35-17-1. Education [REVOKED]

~~As authorized by 10A O.S., § 2-7-603, the Office of Juvenile Affairs (OJA) shall operate and maintain an educational program by directly employing staff. Alternatively, OJA may contract to provide education. Every educational contract shall specifically prohibit corporal punishment.~~

~~(1) The Office of Juvenile Affairs shall provide facilities for educational purposes and assist local school districts in providing an education.~~

~~(2) Each educational, vocational supervisor, instructor or administrator must hold a valid certificate issued or recognized by the Oklahoma State Department of Education authorizing the individual to teach or administer the grades or subject matter for which the individual is employed. Such certificates must remain in effect during the term of the teacher, vocational supervisor, instructor or administrator's employment.~~

~~(3) The educational facilities, while subject to the regulations of the Oklahoma State Department of Education for accreditation, must be flexible enough to meet the wide range of needs found in the population of an institution. Each juvenile shall be evaluated, assessed for educational needs, and have access to appropriate teaching, educational materials, and books. The education program addresses basic literacy skills and reading, writing, mathematics, science, and vocational technical education. Juveniles shall be recognized for academic and vocational achievements.~~

377:35-17-2. Recreation/exercise [REVOKED]

~~Each juvenile shall have the opportunity to be involved in physical exercise daily.~~

377:35-17-3. Religious services and counseling [REVOKED]

~~Each institution shall develop policy and procedure governing the institution's religious programs for juveniles. Each program shall include:~~

~~(1) program coordination and supervision;~~

~~(2) opportunities to practice the requirements of one's faith; and~~

~~(3) use of community resources.~~

377:35-17-4. Crisis management [REVOKED]

~~Each institution's rules, policies, and procedures for violations shall be defined in writing and communicated to all staff and juveniles. Institutional staff shall promptly carry out disciplinary procedures, considering the juvenile's due process rights.~~

[OAR Docket #15-707; filed 7-6-15]

TITLE 380. DEPARTMENT OF LABOR CHAPTER 75. ALARM AND LOCKSMITH INDUSTRY RULES

[OAR Docket #15-709]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 3. License Requirements
380:75-3-2 [AMENDED]
Subchapter 5. Special Provisions
380:75-5-2 [AMENDED]
AUTHORITY:
Department of Labor; 59 O.S. § 1800.17, Alarm and Locksmith Industry Act
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
January 21, 2015
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n/a
INCORPORATIONS BY REFERENCE:
n/a
ANALYSIS:

The Oklahoma Department of Labor is amending OAC 380:75-3-2 to give licensees in the Alarm and Locksmith Industry a 30-day grace period in which to renew their license(s) without incurring additional expense. The Department heard from several licensees and small business owners who renewed their licenses after their expiration dates and incurred additional expense as a result. The Commissioner of Labor is authorized to amend this rule pursuant to 59 O.S. § 1800.17. The intended effect of this amendment is to give licensees a reasonable time in which to renew their licenses without incurring additional expense.

The amendment to 380:75-5-2 brings Oklahoma's fire sprinkler tagging requirements in line with the National Fire Protection Association's (NFPA) Pamphlet No. 25, the standard for the inspection, testing, and maintenance of water-based fire protection systems. The Department of Labor has adopted NFPA 25. The current rule conflicts with NFPA 25 in the treatment of "impairments" versus "deficiencies." The amendment provides that deficiencies, rather than impairments, can lead to placement of a yellow tag on a sprinkler system. The Department of Labor heard from members of the fire sprinkler industry who brought the conflict to the attention of the Department. The Commissioner of Labor is authorized to amend this rule pursuant to 59 O.S. § 1800.17. The intended effect of this amendment is to eliminate conflict between the rules and the accepted and adopted standard, NFPA 25.

CONTACT PERSON:
Daniel A. Mares, Assistant General Counsel, (405) 521-6186 or daniel.mares@labor.ok.gov or James Buck, Safety Standards Director, (405) 521-6111 or james.buck@labor.ok.gov.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 15, 2015:

SUBCHAPTER 3. LICENSE REQUIREMENTS

380:75-3-2. Application and license fees, period and display, and examination alternatives or prerequisites

(a) **Application and license fees.** The following fees apply to alarm and locksmith industry licensure:

(1) Initial application and licensing fees

(A) Company application and license - $250.00. A company that is owned and operated by the company manager, with only a locksmith category license and which employs no additional employees, shall be exempted from a company license fee. A company shall submit a list of employees licensed in accordance with the Alarm and Locksmith Industry Act, to the Department, with each application or renewal application for a company license.

(B) Company manager and plan and design - Application $70.00 and Licensing fee $100.00

(C) Inspector, technician, salesperson - Application $14.00 and Licensing fee $35.00

(D) Re-examination, per attempt - $50.00

(E) Technician trainee - Application $40.00 and License fee $35.00

(F) Fire Sprinkler Technician Trainee $20.00

(G) Duplicate or revised license - $25.00

(2) Renewal fees

(A) Company license - $250.00; A company that is owned and operated by the company manager, with only a locksmith category license and which employs no additional employees, shall be exempted from a company license fee.

(B) Company manager and plan and design - $100.00

(C) Inspector, technician, salesperson - $35.00

(D) Trainee - $25.00

(E) Fire Sprinkler Technician Trainee $15.00

(b) **License period.**

(1) All individual licenses shall expire annually on the last day of the licensee's birth month. Each such license shall be prorated in accordance with the licensing procedures adopted by the Department. All company licenses shall expire annually on the last day of the month the license was initially issued. A manager may choose

to renew the company license in the same month as the manager license. An expired license may be renewed by paying ~~double~~ the renewal fee no later than 30 days after the license's expiration date. An expired license may be renewed later than 30 days after the license's expiration date by paying double the renewal fee. Any individual license renewal shall require the licensee to be listed as an employee of a licensed company on the companies' renewal form or in a separate letter from the company which has been signed by the licensed manager of record. If an individual licensee cannot supply to the Department the required employment information, the licensee may request the Department to designate his or her license as inactive. The inactive designation of the license shall remain until the employment information is provided to the Department. The requirement of employment by an employer specifically licensed as a company under this Section shall not apply for individual licensees employed by a general services provider engaged by the Department of Defense for broad, general DOD facility services which would include fire sprinkler, locksmith, alarm, access control, nurse call or locksmith services.

(2) Initial applications for managers, technicians, salespersons, plan and design and trainees shall be submitted to the Department. Each applicant shall comply with the licensing procedures adopted by the Department. This registration shall be contingent on a security background investigation. Each license applicant shall provide either:

(A) An application and a current criminal history record check dated within thirty days of application from the Oklahoma State Bureau of Investigation. If the applicant has resided in any other state within the past ten (10) years, a current criminal history record check from each state of previous residence will be required. In addition, the applicant shall submit two (2) classifiable sets of fingerprints. The Commissioner may allow for the option of electronic submission of the applicant's fingerprints under licensing procedures adopted by the Department. The applicant shall be photographed by the Department of Labor or an entity approved by the Department in accordance with the licensing procedures adopted by the Department. (This provides for temporary licensure for trainees only.); or

(B) An application and two (2) classifiable sets of fingerprints. The Commissioner may allow for the option of electronic submission of the applicant's fingerprints under licensing procedures adopted by the Department. The applicant shall be photographed by the Department of Labor or an entity approved by the Department in accordance with the licensing procedures adopted by the Department. (This does not provide for temporary licensure.)

(3) A license which has been expired for more than two (2) years shall not be renewed. An individual may obtain a valid license by successful completion of the appropriate examination and/or certification and other licensure requirements.

(4) A temporary trainee license will be issued to an individual who has provided the documents required in 380:75-3-2(b)(2)(A). The temporary license will be valid for a period not to exceed (90) ninety days. An individual may be issued a second temporary license for good cause shown as determined by the Department.

(c) **Examination and re-examination.** Any applicant failing to pass the appropriate examination shall be required to retake the same category examination after payment of the appropriate retest fee. Any person who fails to appear for a scheduled examination shall forfeit his/her examination fee.

(d) **Company license display.** While actively engaged in any activity regulated by this Chapter, the state issued company license number, or a statement referring to a website or toll free phone number to obtain licensing information shall be placed on all advertising and marketing materials including but not limited to, letterhead stationery, business cards, invoices, statements, contracts, bids, estimates, printed advertisements, electronic media advertisements, decals and yard signs. The license number shall be prominently displayed on any publicly accessible website, either on the home page or on every page advertising a product or service regulated by this Chapter. The state issued license number shall be displayed in numerals of two (2) inches or more in height and shall be located on all vehicles that display the company name while actively engaged in any activity regulated by this Chapter. The license number shall be placed on every side of the vehicle which displays the company name. Display shall be in letters and numerals of two (2) inches or more in height. The required license number and company name shall be displayed in either a temporary or permanent manner on at least one company vehicle at any job site unless exempted by a specific written request of the customer.

(e) **Personal license display.** Each manager, technician, technician trainee, or salesperson, shall possess the state issued card any time the person is working in such capacity. The individual license shall be presented to any authorized representative of the Department of Labor or other authorities having jurisdiction. In addition the individual shall have a valid, state-issued photo I.D. in their possession while engaged in the licensed activity.

(f) **Personal license information.**

(1) Each individual license holder shall notify the Department of Labor, on a form specified and provided by the Department, within fourteen (14) days of the following:

(A) Any change in the home address.

(B) Any separation from an employer or change in employer.

(C) Any conviction for a felony or entry of a plea of guilty or nolo contendere to a felony charge.

(2) No individual licensed under this Chapter shall contract for his/her services as an independent contractor without applying for and being issued a company and manager license under this Chapter. No company shall contract for the independent services of a holder of an individual license under this Section.

SUBCHAPTER 5. SPECIAL PROVISIONS

380:75-5-2. Fire sprinkler tagging requirements

(a) **White Sticker.** The white sticker shall be made from water durable material and permanently affixed to the riser of the fire protection system. The white sticker shall be affixed at the time of acceptance. The sticker shall be completed with waterproof ink. The following additional requirements shall apply to the use of the White Sticker:

(1) The sticker shall be a permanently affixed sticker (glued back) that is completed by the contractor. This installation sticker shall be affixed to the riser directly adjacent to the data plate. This sticker will stay on the riser indefinitely. The sticker will be five inches (5") in height and four inches (4") in width.

(2) The sticker shall bear the following information:

(A) "DO NOT REMOVE BY ORDER OF THE FIRE CODE OFFICIAL";

(B) The contractor's name;

(C) The contractor's complete address;

(D) The contractor's phone number;

(E) The contractor's Oklahoma state license number;

(F) The applicable version of NFPA 13 which the system was installed under;

(G) The date of installation;

(H) The technician's name responsible for installation; and

(I) The name of the authority having jurisdiction (AHJ).

(3) All information shall be printed and be legible.

(4) Any subsequent addition(s) to the sprinkler shall require a new white sticker with the same data referenced above. The new sticker shall be placed on top of the previous sticker.

(b) **Traffic Light Bright Green Inspection/Service Tag.** The Traffic Light Bright Green Inspection/Service Tag shall be placed in a clear plastic sleeve and attached to the system after the system has been thoroughly inspected by a licensed fire sprinkler inspector or a licensed fire sprinkler company manager of a licensed sprinkler company and found to be operational. The following additional requirements shall apply to the use of the Traffic Light Bright Green Inspection/Service Tag:

(1) After annual inspection or initial installation of a sprinkler system the Traffic Light Bright Green Inspection/Service Tag shall be affixed to the riser when no impairments are found and the system appears to be operational.

(2) A Traffic Light Bright Green Inspection/Service Tag shall be attached to the riser each time the system is serviced or repaired and the appropriate block punched. Any necessary comments shall be printed in the provided space on the rear of the tag.

(3) The Traffic Light Bright Green Inspection/Service Tag shall bear the following information:

(A) "DO NOT REMOVE BY ORDER OF THE FIRE CODE OFFICIAL";

(B) The licensed fire sprinkler contractor's name and address;

(C) The licensed fire sprinkler contractor's Oklahoma state license number;

(D) The day, month and year inspected in print, and punched;

(E) The fire licensed sprinkler inspector or licensed fire sprinkler company manager's signature; and

(F) The type of work performed punched in the appropriate block for each type of work, installation, service and inspection performed.

(4) The tag shall be "traffic light bright" green in color, five and one fourth inches (5 1/4") in height and two and five-eighths inches (2 5/8") in width.

(5) The tag shall be printed with dates and may be established for any six-year period. After each printing a copy of the tag shall be sent to the State Fire Marshall and the Department of Labor.

(6) The tag can be removed only by a licensed sprinkler inspector or a licensed company manager of a licensed sprinkler company, an employee of the local or State Fire Marshal's office or an authorized representative of a governmental agency with regulatory authority. Unnecessary tags shall be removed and discarded each time a new tag is installed. The new tag shall be placed in the clear plastic sleeve.

(c) **Traffic Light Bright Yellow Inspection Tag.** The Traffic Light Bright Yellow Inspection Tag shall be placed in a clear plastic sleeve and be attached to the fire protection system after the system has been thoroughly inspected by a licensed fire sprinkler inspector or a licensed fire sprinkler company manager of a licensed sprinkler company and found to contain ~~impairments , but continues to be operational~~deficiencies. The application of this inspection tag requires notification to the fire code official within seventy-two (72) hours. The following additional requirements shall apply to the use of the Traffic Light Bright Yellow Inspection Tag:

(1) The Traffic Light Bright Yellow Inspection Tag cannot be removed and/or replaced by a Traffic Light Bright Green Inspection/Service Tag until the condition that caused or created the ~~impairment(s)~~deficiency or deficiencies has been corrected. The following are some examples of ~~impairments~~deficiencies where the use of the Traffic Light Bright Yellow Inspection Tag would be appropriate, provided the said ~~impairments~~deficiencies do not render the system inoperable:

(A) Minor loading of heads;

(B) Spare wrench or spare heads missing;

(C) Escutcheon rings missing;

(D) Minor head clearance violations (stock or storage);

(E) FDC cap missing;

(F) Glass on a gauge missing or broken;

(G) Stock piled within three feet of a riser;

~~(H) Ceiling tiles missing, where there are pendant head;~~

~~(I) Improper spacing of sprinkler heads (due to structural modifications by tenant);~~

~~(J) Incorrect head rating or type (due to hazard classification change);~~

~~(K) Water flow signaling devices missing;~~

~~(L) Valves not properly secured or supervised; and~~

~~(M) Water pressure up to 20% lower than design pressure.~~

(2) The tag shall be attached to the riser.

(3) The tag shall bear the following information:

(A) "DO NOT REMOVE BY ORDER OF THE FIRE CODE OFFICIAL";

(B) The licensed fire sprinkler contractor's name and address;

(C) The licensed fire sprinkler contractor's Oklahoma state license number;

(D) The day, month and year inspected in print, and punched; and

(E) The licensed fire sprinkler inspector or licensed sprinkler company manager's signature.

(4) The tag shall be "traffic light bright" yellow in color, five and one-fourth inches (5 1/4") in height and two and five-eighths inches (2 5/8") in width.

(5) The tag shall be printed with dates and may be established for any six-year period. After each printing a copy of the tag shall be sent to the State Fire Marshal and the Department of Labor.

(6) The tag can be removed only by a licensed fire sprinkler inspector or a licensed fire sprinkler company manager of a licensed sprinkler company, an employee of the local or State Fire Marshal's office or an authorized representative of a governmental agency with regulatory authority, after a determination of the system's condition has been made consistent with subsection (1) above. Unnecessary tags shall be removed and discarded each time a new tag is installed. The new tag shall be placed in the clear plastic sleeve.

(7) After the Traffic Light Bright Yellow Inspection Tag is placed on the sprinkler system the person or authority affixing the tag shall, in addition to notifying the fire code official within seventy-two (72) hours, notify the building owner or agent immediately or as soon as practicable. Notification to the fire code official shall be accomplished by transmission of a copy of the inspection form, preferably by telephonic facsimile transmission, that was completed by the person or authority affixing the tag. When the impairments are corrected the system shall be re-inspected and the appropriate colored tag placed upon the system.

(d) **Traffic Light Bright Red Inspection Tag.** The Traffic Light Bright Red Inspection Tag shall be placed in a clear plastic sleeve and be attached to the fire protection system after the system has been thoroughly inspected by a licensed fire sprinkler inspector or a licensed fire sprinkler company manager of a licensed sprinkler company and found to contain impairments that could, or do in fact, render it inoperable. The application of this inspection tag requires notification to the fire code official within twenty-four (24) hours. The following additional requirements shall apply to the use of the Traffic Light Bright Red Inspection Tag:

(1) The Traffic Light Bright Red Inspection Tag cannot be removed and or replaced by a Traffic Light Bright Yellow Inspection Tag or a Traffic Light Bright Green Inspection/Service Tag until the condition that caused it to be inoperable has been corrected. The following deficiencies are appropriate for the use of the Traffic Light Bright Red Inspection Tag:

(A) ~~Water pressure less than 80% of design pressure;~~

~~(B)~~ Water turned off to the system;

(~~C~~B) Frozen pipes;

(~~D~~C) Inability of a licensed contractor to test the system because of obstructed drains; or

~~(E) Severe head obstruction;~~

(~~F~~D) Inoperable fire department connection~~; or~~.

~~(G) Uncovered areas that the system was designed to cover.~~

(2) The tag shall be attached to the riser.

(3) The tag shall bear the following information:

(A) "DO NOT REMOVE BY ORDER OF THE FIRE CODE OFFICIAL";

(B) The licensed fire sprinkler contractor's name and address;

(C) The licensed fire sprinkler contractor's Oklahoma state license number;

(D) The day, month and year inspected in print, and punched;

(E) The licensed fire sprinkler inspector or licensed fire sprinkler company manager's signature; and

(F) The appropriate impairments check boxes and comment lines.

(4) The tag shall be "traffic light bright" red in color, five and one-fourth (5 1/4") inches in height and two and five-eighths (2 5/8") inches in width.

(5) The tag shall be printed with dates and may be established for any six-year period. After each printing, a copy of the tag shall be sent to the State Fire Marshal and the Department of Labor.

(6) The tag can be removed only by a licensed fire sprinkler inspector or a licensed fire sprinkler company manager of a licensed sprinkler company, an employee of the local or State Fire Marshal's office or an authorized representative of a governmental agency with regulatory authority, after a determination of the system's condition has been made consistent subsection (1) above. Unnecessary tags shall be removed and discarded each time a new tag is installed. The new tag shall be placed in the clear plastic sleeve.

(7) After the Traffic Light Bright Red Inspection Tag is placed on the sprinkler system the person or authority affixing the tag shall, in addition to notifying the fire code official within twenty-four (24) hours, notify the building owner or agent immediately or as soon as practicable but not later than twenty-four (24) hours. Notification to the fire code official shall be accomplished by transmission of a copy of the inspection form, preferably by telephonic facsimile transmission, that was completed by the person or authority affixing the tag. When the impairments are

corrected the system shall be re-inspected and the appropriate colored tag placed upon the system.

[OAR Docket #15-709; filed 7-6-15]

TITLE 390. COUNCIL ON LAW ENFORCEMENT EDUCATION AND TRAINING
CHAPTER 10. PEACE OFFICER CERTIFICATION

[OAR Docket #15-587]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
390:10-1-3 [AMENDED]
390:10-1-5 [AMENDED]
AUTHORITY:
Council on Law Enforcement Education and Training; 70 O. S., § 3311.2 through 3311.13.
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n/a
INCORPORATIONS BY REFERENCE:
n/a
ANALYSIS:
Amendments correct a statutory citation, as well as setting out format for agencies to submit address information for all commissioned employees. Last change requires all students, including those attending refresher or reciprocity training, to fully participate in the training and follow all CLEET rules and policies.
CONTACT PERSON:
Norma Floyd, Council on Law Enforcement Education and Training, 2401 Egypt Road, Ada, Oklahoma 74820-0669, 405-945-9153.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3 (5) AND 308 (E), WITH AN EFFECTIVE DATE OF SEPTEMBER 11, 2015:

390:10-1-3. Employment status reporting

(a) All state, county, and local law enforcement agencies affected by the rules of this chapter and 70 O.S. Section 3311, shall report to CLEET the employment and termination of any appointed or elected peace officer within ten (10) days of the date of employment or termination of employment of said officer. Such notification shall be in a format accepted by CLEET. Termination reports shall include resignations, discharges or dismissals, retirements, and deaths of officers covered under the rules of this chapter and laws. Failure to do so may disqualify a law enforcement agency from participating in training programs sponsored by the Council.

(b) Pursuant to 70 O.S., Section ~~3311(H)~~3311(H)(1) every law enforcement agency employing police, peace or tribal officers shall be required to submit on or before October 1 of each calendar year, a complete list of all commissioned employees, with a current mailing address and phone number for each such ~~employee.~~ employee in a format acceptable by CLEET.

390:10-1-5. Requirements for certification

(a) No person may be certified as a peace officer under the laws and the rules of this chapter until the following requirements have been met.

(1) The agency employing an officer seeking certification, or in the case of an elected official, the elected official himself must certify to CLEET that the employment standards set forth in 70 O.S. Section 3311 (E)(F)(G)(J) have been met. This certification shall be in a format accepted by CLEET.

(2) Having met the employment standards set forth herein, an officer must certify to CLEET that he or she is physically able to fully participate in and complete all phases of the CLEET Basic Peace Officer Certification Academy. This certification shall be in writing on forms to be provided by CLEET. CLEET shall reserve the right to refuse training to persons found to be physically unable to complete all phases of basic certification training.

(3) The head of the agency employing an officer enrolling in a CLEET Basic Certification Academy, shall first certify to CLEET that the officer's employing agency will fully assume all medical expenses incurred by said officers as a result of any injury or illness incurred during basic certification training.

(4) Any officer seeking peace officer certification must successfully complete all phases of a CLEET Basic Certification Academy, or a CLEET - approved basic certification academy.

(5) Every full-time peace officer, certified by the Council, who has not been employed as a full-time officer in Oklahoma for five or more years, upon re-entry to full-time status, must complete refresher training as prescribed by CLEET and successfully pass a written examination as prescribed by the Council, within one (1) year of employment.

(A) Trainees must achieve a passing score as determined by CLEET on the examination.

(B) Any trainee that fails the examination will be permitted to retake that examination within ten (10) business days of the first examination.

(C) If the trainee fails the retake examination, the trainee's agency head must petition the Director in writing, to receive additional training and examination opportunities.

(D) While attending refresher training, trainees will fully participate and follow all CLEET policies and rules.

(b) The Council on Law Enforcement Education and Training, pursuant to relevant provisions of the Americans With Disabilities Act, will not discriminate against persons capable of performing essential functions required in peace officer training programs with or without reasonable accommodation.

[OAR Docket #15-587; filed 6-18-15]

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

[OAR Docket #15-589]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 3. Collegiate Officer Program
390:15-3-10 [AMENDED]
Subchapter 5. Reserve Officer Bridge Academy
390:15-5-2 [AMENDED]
AUTHORITY:
Council on Law Enforcement Education and Training; 70 O.S., § 3311 through 3311.13; 20 O.S., § 1313.2.
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ANALYSIS:
Amendments include requirement that Collegiate Officer Program students who reenter the COP program must complete any course work that is more than five (5) years old. Outlines that eligible students for the reserve officer bridge academy, must have completed a CLEET 240 hour reserve officer academy.
CONTACT PERSON:
Norma Floyd, Council on Law Enforcement Education and Training, 2401 Egypt Road, Ada, Oklahoma 74820-0669, 405-239-5166.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3 (5) AND 308 (E), WITH AN EFFECTIVE DATE OF SEPTEMBER 11, 2015:

SUBCHAPTER 3. COLLEGIATE OFFICER PROGRAM

390:15-3-10. Student responsibilities

(a) All students admitted to a COP must meet the admission requirements of the sponsoring college or university.

(b) COP students, when commissioned, must meet the requirements set forth in 70 O.S., Section 3311 and the requirements set forth in 390:10-1-4.

(c) COP student class absences shall be recorded in accordance with individual university/college policies.

(d) COP tract students shall be accountable for 100 percent attendance in skills level courses.

(e) Prior to enrolling in a COP Firearms Training course, students shall request a current local records check from their county of residence and the Oklahoma State Bureau of Investigation, and shall submit the returns to the COP school Director prior to the first day of firearms training.

(f) COP students are responsible for submitting documentation to CLEET of COP course completion, and any other documents required by CLEET, prior to taking the qualification examination.

(g) COP students must present a picture identification when taking the qualification examination.

(h) COP students must successfully complete all COP course work and receive an associate or bachelor degree, and successfully pass the qualification examination at a standard established by CLEET to be eligible for peace officer certification.

(i) COP students who do not complete the COP curriculum and re-enter the program at a later date, must retake course work that is more than five years old.

SUBCHAPTER 5. RESERVE OFFICER BRIDGE ACADEMY

390:15-5-2. Eligibility

(a) Beginning January 1, 2014, any reserve officer who has completed ~~the~~ a CLEET two-hundred-forty-hour reserve peace officer certification program, and who has been in active service in a reserve capacity in the past two (2) years, shall be eligible to attend a Bridge Academy pursuant to 70 O.S., Section 3311(E)(2)(G) to become certified as a full-time police or peace officer.

(b) The individual officer must meet the full-time employment standards found in CLEET Rules 390:10-1-2.

[OAR Docket #15-589; filed 6-18-15]

TITLE 390. COUNCIL ON LAW ENFORCEMENT EDUCATION AND TRAINING
CHAPTER 20. RESERVE OFFICER CERTIFICATION AND TRAINING

[OAR Docket #15-590]

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RULES:
390:20-1-2 [AMENDED]
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AUTHORITY:
Council on Law Enforcement Education and Training; 70 O. S., § 3311 through 3311.13; 11 O.S., § 34-101; 19 O.S., § 547; 63 O.S., § 683.1 et. seq.
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
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SUPERSEDED EMERGENCY ACTIONS:
n/a
INCORPORATIONS BY REFERENCE:
n/a
ANALYSIS:
Amendments allow the Council or designee, the ability to grant extensions for certification for reserve peace officers. Also, changes the submission date of reserve academy schedule, list of instructors and list of guest instructors from 30 to 90 days prior to the start of the reserve academy.
CONTACT PERSON:
Norma Floyd, Council on Law Enforcement Education and Training, 2401 Egypt Road, Ada, Oklahoma 74820-0669, 405-239-5166.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3 (5) AND 308 (E), WITH AN EFFECTIVE DATE OF SEPTEMBER 11, 2015:

390:20-1-2. Reserve officer defined; employment standards

(a) For the purposes of this Chapter, and pursuant to 70 O.S., Section 3311, a reserve peace officer shall mean a law enforcement officer who:

(1) May be appointed by a municipality [11 O.S. 34-101], a duly elected sheriff [19 O.S. 547], or any other agency authorized by statute to appoint such reserve peace officers.

(2) May not work as a reserve peace officer more than one hundred forty (140) hours per month unless authorized by 11 O.S. 34-101 or 19 O.S. 547.

(3) May be paid a wage or salary, or may serve as a volunteer for the appointing agency.

(4) May be appointed by any political subdivision of this state to serve as an auxiliary police or peace officer pursuant to the Oklahoma Civil Defense Act [63 O.S. 683.1 et. seq].

(5) May have the same powers, duties, and functions as regular full-time peace officers, or as prescribed by state laws, or the ordinances of the appointing municipality.

(b) Employment standards for reserve peace officer certification shall be the same as the employment standards for full-time peace officers, as set forth in 70 O.S. Section 3311, and in 390:10-1-4.

(c) The Council, or its designee, may grant an extension of the time frame specified in Section 3311 of Title 70 of the Oklahoma Statutes, upon written application by the employing agency, and when good cause is shown, as determined by the Council or its designee. Peace officers granted an extension of time to attend and complete a reserve training academy are not permitted to work in the capacity of a peace officer during the extension period.

(~~c~~d) All peace officers, reserve peace officers and tribal officers are required to maintain with the Council, the current residential addresses and notify the Council, in writing of any change of name. Notification of change of name shall require certified copies of any marriage license or other court document which reflects the change of name.

(~~d~~e) Notice of change of address or telephone number must be made within ten (10) days of the effective change. Notices will not be accepted over the phone.

390:20-1-6. Duties of Reserve Academy Coordinator

~~Upon receipt of a Reserve Academy Coordinator's Manual, the Coordinator shall, thirty (30) days prior to commencement of the Reserve Academy, submit the following information to CLEET:~~ In addition to the letter of request found in 390:20-1-4, the following must be submitted to CLEET not less than ninety (90) days prior to the proposed opening date of the Basic Reserve Peace Officer Academy:

(1) An academy schedule, showing the dates and times of each class session, and the topics to be taught;

(2) A list of CLEET certified instructors to be used, and the topics each will teach; and

(3) A list of guest instructors to be used with the topics each will teach, and a resume' for each, showing their training, experience, or other qualifications for guest lecturer status.

(4) An instructor may not also be a trainee in the Reserve Academy.

[OAR Docket #15-590; filed 6-18-15]

TITLE 390. COUNCIL ON LAW ENFORCEMENT EDUCATION AND TRAINING
CHAPTER 27. POLICE OFFICER ANNUAL FIREARMS REQUALIFICATION

[OAR Docket #15-591]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
390:27-1-2 [AMENDED]
390:27-1-5 [AMENDED]
AUTHORITY:
Council on Law Enforcement Education and Training; 70 O.S., § 3311 through 3311.13;
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
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INCORPORATIONS BY REFERENCE:
n/a
ANALYSIS:
Amendments are necessary to specifically identify CLEET certified line safety officers as having the authority to re-qualify officers annually. Also requires specific information to be included in Firearms Qualification Report, and requires agency heads to validate the credentials of firearms instructor when not utilizing CLEET certified firearms instructors or certified line safety officers.
CONTACT PERSON:
Norma Floyd, Council on Law Enforcement Education and Training, 2401 Egypt Road, Ada, Oklahoma 74820-0669, 405-239-5166.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3 (5) AND 308 (E), WITH AN EFFECTIVE DATE OF SEPTEMBER 11, 2015:

390:27-1-2. Minimum requalification standards

(a) Requalification shall consist of successful completion of a course of fire approved by the Council and attaining a qualifying score of not less than seventy percent (70%).
(b) Requalification shall be accomplished with a handgun (revolver or semi-automatic) carried by the law enforcement officer as the primary duty weapon. Nothing shall preclude employing agencies from requiring requalification with additional handguns carried by the officer for special purposes.
(c) Requalification shall be conducted using a paper target of the same design currently used for firearms qualification in the CLEET basic academy, or of comparable design.
(d) Requalification must be successfully completed in the presence of a CLEET certified firearms ~~instructor or~~instructor, a certified firearms instructor approved by the employing ~~agency.~~agency, or a CLEET certified line safety officer.
(e) The Council will not be responsible for expenses incurred by officers to complete firearms requalification.

390:27-1-5. Proof of requalification

(a) Proof of successful firearms requalification shall be reported to CLEET by the employing agency in a format approved by CLEET. (Firearms Qualification Report.) The report shall contain the following information:
(1) Date and location of requalification
(2) Full name and CLEET number or last four digits of social security number of the officer requalifying
(3) Verification of a passing score
(4) The name of the employing agency
(5) The full name of the CLEET Certified Firearms Instructor and CLEET Firearms Instructor number, ~~or~~ the full name of the employing agency approved instructor, ~~the name of the agency or association granting firearms instructor status to the instructor providing the requalifying testing,~~ and telephone number of the ~~instructor.~~instructor, or the full name of the CLEET certified line safety officer and telephone number of the CLEET certified line safety officer.
(6) In the case of a certified firearms instructor approved by an employing agency, the employing agency head or their designee will certify they have validated the firearms instructor credentials of their approved instructor.
(b) Firearms requalification shall not be credited for purposes of meeting the annual peace officer training requirements of 70 O. S. Section 3311.4.
(c) Proof of firearms requalification may be submitted to CLEET throughout the year as the requalification event occurs.
(d) Reports for the ending calendar year shall be submitted to CLEET by December 31st of the year the training was received.

[OAR Docket #15-591; filed 6-18-15]

TITLE 390. COUNCIL ON LAW ENFORCEMENT EDUCATION AND TRAINING
CHAPTER 30. CDS DETECTOR DOG CERTIFICATION

[OAR Docket #15-592]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
390:30-1-5 [AMENDED]
AUTHORITY:
Council on Law Enforcement Education and Training; 70 O. S., § 3311 through 3311.13; 51 O.S., § 24.A.1 et seq,; and 75, O.S. §250 et seq.

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INCORPORATIONS BY REFERENCE:
n/a
ANALYSIS:
Amendment restricts CLEET employees from participating in the training or testing of any canine team.
CONTACT PERSON:
Norma Floyd, Council on Law Enforcement Education and Training, 2401 Egypt Road, Ada, Oklahoma 74820-0669, 405-239-5166.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3 (5) AND 308 (E), WITH AN EFFECTIVE DATE OF SEPTEMBER 11, 2015:

390:30-1-5. Standards for certification

(a) Testing for certification of CDS detector canine teams shall be conducted by qualified persons of the Oklahoma Bureau of Narcotics and Dangerous Drugs (OBNDD), and/or their designees, who have successfully completed an appropriate course of instruction, or who are currently certified in the training and handling of CDS Detector Dogs by the United State Custom Service.

(b) CLEET shall publish specific standards and guidelines governing the training and certification of canine teams. The standards and guidelines shall have the same effect as the rules published herein. Certification trials and testing criteria shall be consistent with the CLEET standards developed for the certification of CDS detector dogs.

(c) CDS detector canine teams shall be certified only in the detection of controlled dangerous substances for which the dog passes the certification test.

(d) CLEET relies on the test reports of OBNDD or their designee conducting the test for the purpose of determining whether the canine team passed the certification test.

(e) No CLEET employee may participate in the training or testing of any canine team.

[OAR Docket #15-592; filed 6-18-15]

TITLE 390. COUNCIL ON LAW ENFORCEMENT EDUCATION AND TRAINING
CHAPTER 31. BOMB DETECTOR DOG CERTIFICATION

[OAR Docket #15-593]

RULEMAKING ACTION:
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RULES:
390:31-1-6 [AMENDED]
AUTHORITY:
Council on Law Enforcement Education and Training; 70 O. S., § 3311 through 3311.13; 51 O.S., § 24.A.1 et seq,; and 75, O.S. §250 et seq.
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INCORPORATIONS BY REFERENCE:
n/a
ANALYSIS:
Amendment restricts CLEET employees from participating in the training or testing of any canine team.
CONTACT PERSON:
Norma Floyd, Council on Law Enforcement Education and Training, 2401 Egypt Road, Ada, Oklahoma 74820-0669, 405-239-5166.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3 (5) AND 308 (E), WITH AN EFFECTIVE DATE OF SEPTEMBER 11, 2015:

390:31-1-6. Application for certification

(a) Any person, group, or organization, public or private, that utilize canine teams for the purposes of detecting explosive substances, as a public service or for private gain, shall be required to annually obtain CLEET certification for such canine teams. Certification as to the demonstration abilities of any such canine team shall be based on evaluation of the canine team's performance by an approved testing organization.

(b) Persons seeking CLEET Bomb Detector Canine Team Certification may receive an application and instructions by calling or making a written request to CLEET administrative offices.

(c) Applicants must submit the application fee to CLEET with the application.

(d) All applications must be completed and be accompanied by two (2) full-body, color photographs of the applicant canine team and any other information required by CLEET. The photographs shall include the full side-body of the dog and the face of the handler.

(e) Upon completion of Bomb detector canine team testing CLEET shall be notified in writing that the canine team has successfully completed all Explosives Detection test requirements and the test examiner has documented evaluation of the canine team's performance.

(f) Canine teams that fail to successfully complete the Bomb detector tests in accordance with the required standards of performance may not be retested except as provided for by the standards for retesting established by the agency or organization which conducted the initial test.

(g) When CLEET has determined that all application procedures are complete; the applicant canine team has met all required performance standards; and the correct certification fee has been received, a Bomb Detector Canine Team Certificate shall be issued by CLEET. No CLEET employee may participate in the training or testing of any canine team.

(h) Any time a certified Bomb detector canine team is being employed or otherwise utilized in explosives detection activities, the CLEET Bomb Detector Canine Team Certificate, or a copy thereof, shall be immediately available for inspection by any interested party.

(i) CLEET Bomb Detector Canine Team certification shall remain effective for one (1) year from the date it was issued.

(j) Bomb Detector Canine Teams shall be recertified annually. Application for renewal and the process of testing and performance evaluation shall be conducted in the same manner as the original certification. Application for recertification should be initiated not less than fifteen (15) days prior to the expiration date of the previous certificate.

(k) All Bomb detector canine team certifications that are not renewed shall be inactivated by CLEET. If a renewal of an expired certification is not initiated by the canine team within thirty (30) days from the expiration date of the certificate, the canine team shall be required to remit the full certification test fee to reinstate the certification status of the canine team. Application and testing procedures in such cases shall be conducted in the same manner as an original certification.

(l) When any canine team certified under these laws and rules will no longer be utilized in the performance of explosives detection activities, the owner of such dog or the handler shall notify CLEET in writing.

(m) Bomb detector canine teams owned by or used solely by a bona fide law enforcement agency for Explosives detection activities in the service of the public shall be exempt from the certification fees herein as provided in 70 O.S. Section 3311 (L), but shall be required to certify such canine teams annually in accordance with the laws and the rules of this section, unless such canine teams are certified and annually recertified in the detection of explosives and materials by the United States Department of Defense.

[OAR Docket #15-593; filed 6-18-15]

TITLE 390. COUNCIL ON LAW ENFORCEMENT EDUCATION AND TRAINING
CHAPTER 35. REGULATION OF PRIVATE SECURITY INDUSTRY

[OAR Docket #15-594]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 1. General Provisions
390:35-1-3. [AMENDED]
Subchapter 5. License Requirements
390:35-5-1 [AMENDED]
390:35-5-2 [AMENDED]
Subchapter 7. Application Procedure
390:35-7-3 [AMENDED]
390:35-7-4 [AMENDED]
Subchapter 9. Violations and Investigations
390:35-9-4 [AMENDED]
Subchapter 15. Training Requirements
390:35-15-2 [AMENDED]
AUTHORITY:
Council on Law Enforcement Education and Training; 59 O.S., § 1350.1 et seq.; 59 O.S., § 1750.1 though 1750.14; 70 O.S., § 3311 et seq.
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INCORPORATIONS BY REFERENCE:
n/a
ANALYSIS:
Amendments include adding the "Alford" plea as a form of conviction to meet state statutes. Specifies that completed and expunged deferred sentences are not a conviction, and adds the definitions of Expungement and Publish. Reduces the number of years that an expired agency license must complete the entire application process, from five to three years. Additionally, states that defendants in a criminal case or subjects serving a deferred sentence, will not be licensed until completion. Language is added to specifically state that CLEET staff will not request nor gather documents for an applicant, nor will staff give advice or advisory opinions regarding whether or not a license will be issued. Applicants for a license will be required to provide all names used by the applicant and provide information related to any previous license issued in any state and any revocations or suspensions of such licenses. Verbal reports of criminal and civil proceedings must be followed up in writing within ten days after arrest or discovery. Lastly, requires instructors whose training, education, teaching or work experience allows them to teach in private security classes, to have been active in that capacity within the last five years.
CONTACT PERSON:
Norma Floyd, Council on Law Enforcement Education and Training, 2401 Egypt Road, Ada, Oklahoma 74820-0669, 405-239-5166.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED

FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3 (5) AND 308 (E), WITH AN EFFECTIVE DATE OF SEPTEMBER 11, 2015:

SUBCHAPTER 1. GENERAL PROVISIONS

390:35-1-3. Definitions

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

"Act" means the Oklahoma Security Guard and Private Investigator Act, Title 59, O.S., Section 1750.1, et seq.

"Agency" means a private security agency or private investigative agency, as defined in this Act.

"Applicant" means a person, or as it relates to an agency license, any of its owners, partners, directors, or in the case of a corporation, each officer and registered agent (branch manager), applying for a license under the provisions of the Act.

"Approved school" means an organization or institution authorized by CLEET to conduct private security training pursuant to the Act.

"Armored car" means any vehicle operated, in the normal course of business, by an armored car company, while such vehicle is engaged in the transportation and protection of cash, securities, negotiables and/or other items of unusual value.

"Armored car company" means a company that knowingly and willingly transports and protects cash, securities, negotiables and/or other items of unusual value for a fee or other ~~renumeration.~~remuneration.

"Armored car employee" means an individual who provides protection for cash, securities, negotiables and/or other items of unusual value transported by an armored car company.

"Armed private investigator" means an informal term, referring to a licensed private investigator who is also a licensed armed security guard, and who is authorized to carry a firearm.

"Armed security guard" means a security guard who is licensed to carry a firearm.

"CLEET" means the Council on Law Enforcement Education and Training, and its administrative officers and personnel.

"Client" means a real person or legal entity having a contract which authorizes services to be provided in return for financial or other considerations.

"Conditional license" means a temporary license issued, pending completion of a satisfactory background investigation and completion of required training.

"Conflict of interest" means a conflict or the appearance thereof between the private interests and public obligations of an individual, organization, or other legal entity authorized to conduct business pursuant to the Act.

"Contract," means, for the purposes of these rules, a contract is an agreement between a person or agency licensed under this Act and a client, to provide security or investigative services, including guards and/or investigators to the client, for a contract labor fee; and where the wages of the guards or investigators are paid by the contractor. Such contracts may be oral or written, or in any combination thereof.

"Contractor," means, for the purposes of these rules, a contractor is a person or business entity not employed in a direct employer-employee relationship, but instead contracts with a client to provide his services as a security guard or to provide security guards and their services to that client, for a contract labor fee. The term "contractor" shall include "sub-contractor".

"Conviction" means any final adjudication of guilt, whether pursuant to a plea of guilty or nolo contendere, or an "Alford" plea, or otherwise, and any deferred or suspended sentence or judgment. Conviction does not include any court action in which the court has deferred imposition of judgement and sentence, and the defendant has successfully completed the terms of the deferred judgment, and the court has allowed the defendant to withdraw a plea, and dismissed the case without a court judgment of guilt, and the pleas has been expunged by court order.

"Council" means the appointed members of the Council on Law Enforcement Education and Training, as defined in Title 70 O.S., Section 3311.

"Curriculum" means the collective, written documentation of the material content of a training course, or any particular phase of training prescribed by the Act, minimally consisting of course objectives, student objectives, lesson plans, training aids, and examinations.

"Director" means the Director of the Council on Law Enforcement Education and Training, or designated agent.

"Expungement" means a court order expunging any final adjudication of guilt, whether pursuant to a plea of guilty or nolo contendere, or an "Alford" plea, or any plea other than "not guilty," or otherwise. For purposes of these rules, expungement does not include a court order expunging a criminal record because no charges were filed or expunging a criminal record because the accused was acquitted at trial, or because the charges were dismissed on motion of the State prior to entry of any pleas other than "not guilty."

"Full-time employment" means any security guard, armed or unarmed, or private investigator, who is employed and paid for working twenty-five (25) hours or more per week on a regular basis.

"Instructor" means a person who directly facilitates learning through means of lecture, group participation, practical exercise, or other means, where there is a direct student-teacher relationship.

"License" means written authorization in the form of a certificate or identification card, issued by CLEET, under the provisions of the Act, permitting the holder to conduct business as a security guard, armed security guard, private investigator, security agency, or investigative agency.

"Licensee" means a person or as it relates to an agency license, any of its owners, partners, directors, or in the case of a corporation, each officer and registered agent (branch manager), authorized by CLEET under the provisions of this Act, to lawfully conduct business as a security guard, armed security guard, private investigator, security agency, or investigative agenc

"Over-payment" means monies in excess of the amount due for a license, permit or fine that is returned to the individual or agency.

"Person" means any corporation, company, association, operation, firm, partnership, institution, trust, or other form of business association, as well as a natural person.

"Private security" refers collectively to the fields of occupations described in the Act.

"Publish" means to make publically or generally known.

"Reciprocity" means the mutual recognition of standards and practices of another state, as related to qualifications, background investigation, training, and assessment, for the purposes of professional licensure granted pursuant to the Act.

"School coordinator" means a person certified by CLEET to coordinate and conduct private security training at an approved school, and arrange or administer psychological examinations to firearms training students.

"Special event status" means term denoting that an event has been approved as a special event pursuant to the Act.

"Training course" means a complete, multi-phase course of instruction required to qualify for a license under the provisions of the Act.

"Training phase" means a block of training units that comprises a distinct phase in the private security training course.

"Training unit" means a unit of instruction within a training phase.

SUBCHAPTER 5. LICENSE REQUIREMENTS

390:35-5-1. Agency license requirements

(a) All licensed security guard and private investigative agencies, shall maintain a place of business within the State of Oklahoma, and shall maintain an operative telephone having a published listing, in the agency name. The agency must also provide proof of published phone number in a format specified by CLEET. Every license issued under this chapter shall be posted conspicuously in the licensee's principal place of business in this state. The phone number shall be on file with CLEET. The office of such business may be maintained at the personal residence of the executive officer, manager, or supervisor of such office. Such notification shall include both the geographical location (street address) and the mailing address. Any changes in the above shall be submitted to CLEET within 10 days of the effective date of the change. Notice of change of address will not be accepted over the phone.

(b) The executive officer, manager, or other person in charge of supervising security guards and/or private investigators shall be a resident of the State of Oklahoma.

(1) The executive officer, manager, or other person in charge of supervising security guards in the performance of their duties shall be a licensed security guard.

(2) The executive officer, manager, or other person in charge of supervising private investigators in the performance of their duties shall be a licensed private investigator.

(c) Agency licenses are not transferrable upon the sale of a company. The Council may approve the transfer of a license to a new entity providing that one or more of the original licensees retain ownership in the new entity, and the new licensee meets the qualifications listed in (d) of this section. The licensee shall notify CLEET in writing within ten (10) days of any change of identity of the licensee, or as it relates to an agency license, any of its owners, partners, directors, or in the case of a corporation, officers and registered agents (branch managers); and any substitute in the person enumerated must satisfy the requirements listed in (d) of this section; and be approved by CLEET. CLEET retains the right to inform an agency that the Agency Name they are submitting is a duplicate or too similar to an existing agency name licensed in the state.

(d) Every applicant for an agency license, or any of its owners, partners, directors, or in the case of a corporation, each officer and registered agent (branch manager), shall meet the following qualifications before it may engage in any business licensed under this chapter:

(1) be 21 years of age;

(2) be a citizen of the United States or a resident alien;

(3) not have been convicted of a felony or crime involving moral turpitude unless waived by the Council pursuant to O.S. Title 59, Section 1750.5 (H);

(4) not have had his license revoked or application for such license denied by CLEET;

(5) be of good moral character; and

(6) in the case of a corporation, be incorporated under the laws of this state, or shall be duly qualified to do business within this state.

(e) Alarm Companies who respond to electrical, electronic or mechanical alarm signal devices, burglar alarms, television cameras or still cameras used to manually or automatically signal or detect burglary, fire, breaking or entering, shoplifting, pilferage, theft, or hold-up are required to be licensed as a Security Agency, and individually license employees as security guards, or armed security guards, who provide the response.

(f) Temporary employment agencies who provide guards or private investigators to its clients on a contractual basis falls within the definition of a contract security or investigative company and must be licensed pursuant to the Act, and individually license employees utilized in this service.

(g) Employee leasing services who provide an administrative service only for handling the
payroll, employee's salaries, and benefits, who do not make assignments, supervise or direct the work of the employee, or select the employees, but who lease the employee back to the licensed agency, do not fall within the definition of a contract security or investigative company and are not required to obtain an agency license. Licensed agencies who utilize the employee leasing services, are responsible for the duties such as reporting employments, terminations, address changes to our agency, providing appropriate liability insurance coverage, etc., as if the employee were paid by the agency.

(h) Agency licenses that have expired for a period of more than ~~five (5)~~three (3) years, must complete the entire application process.

390:35-5-2. Security guard, armed security guard, and private investigator licenses

(a) Applicants for security guard, private investigator, or armed security guard licenses must meet and satisfy the requirements set forth in 59 O.S., Section 1750.1 et seq., The Oklahoma Security Guard and Private Investigator Act.

(b) Applicants for Armed Security Guard or ~~firearms authorized~~armed private investigator licenses must further:

(1) Successfully pass a psychological evaluation by a licensed psychologist; provided that the applicant shall bear the cost of such evaluation.

(2) Successfully complete the firearms phase of private security training;

(3) Be twenty-one (21) years of age, and

(4) Applicants for an armed security guard license must submit an affidavit that they are gainfully employed as an armed security guard and that a firearm is required within the scope of their employment.

(c) An Armed Security Guard License grants no authority to carry a firearm when not acting directly in the course and scope of employment.

(d) No licensee shall brandish, point, exhibit, or otherwise display a firearm at any time, except as authorized by law, and the rules of this Chapter.

(e) If the applicant is the defendant in a criminal prosecution that is pending, no license will be issued until final resolution of the criminal prosecution.

(f) If the applicant is the subject of an order deferring imposition of judgment and sentence, no license will be issued until completion of the deferred sentence and dismissal of the criminal prosecution without a finding of guilt.

(~~e~~g) Continuing education training is required for renewal of an individual license.

(1) Private Investigators must complete a minimum number of hours of continuing education training from an approved source, during the licensing period to maintain their license, pursuant to Title 59, O.S., § 1750.3.

(2) Security Guards must complete a minimum number of hours of continuing education training from an approved source, during the licensing period to maintain their pursuant to Title 59 O.S., § 1750.3.

(3) A person holding both a security guard license and private investigator license or a combination license must complete a minimum number of hours of continuing education training during the licensing period to maintain their license, pursuant to Title 59, O.S., § 1750.3.

(4) Any expenses incurred for continuing education courses by any licensee shall be the responsibility of the licensee.

(5) Firearms requalification courses will not count towards mandate training. Approved sources for mandated training are:

(A) College credit hours. Fifteen hours of mandate training will be granted for each successfully completed college hour. Proof of attendance needed is a certified copy of the grade report. Requests for credit must be submitted within one (1) calendar year from the date the college credit is obtained;

(B) Established Entities (Recognized county, state, and federal associations, professional associations, vocational-technical schools). One hour of training will be granted for each hour attended in a topic which directly relates to the performance of duties under the respective license. Proof of attendance needed is a copy of a certificate, sign-in roster, electronic notification or other proof from the sponsor accepted by CLEET; or

(C) CLEET Accredited Schools, Seminars, and Conferences. One hour of mandate training credit will be granted for each hour of instruction. For approval to conduct mandate training, sponsors must:

(i) Submit a written request for program accreditation to CLEET;

(ii) Provide course outline, and course objectives;

(iii)Provide Resume for Instructors; and

(iv) After training, submit a roster of attendees completing the training to CLEET.

(D) Completion of training courses required for initial licensing will satisfy the continuing education requirements for the first licensing period of an initial license.

(6) Continuing education training may be reported to CLEET as it is completed or at the time of license renewal. Verification of the minimum hours of continuing education training will be made by CLEET when the licensee requests renewal. A licensee will be subject to the following disciplinary sanctions for failure to comply with the mandate training requirements:

(A) Written Reprimand

(B) Denial

(C) Suspension

(D) Revocation and/or

(E) Disciplinary penalty or fine

(7) A renewal license will be issued only after CLEET receives a request for renewal, the renewal fee, current photographs, verification of current insurance or bond coverage, verification of the minimum hours of continuing education training for the license period.

(8) A licensee who has timely submitted a request for renewal with payment and has failed to meet the minimum training requirements will be issued official notification of CLEET's intent to impose a disciplinary action for failure to meet the mandated training requirements in compliance with Chapter 2 of this Title.

(9) A licensee who has failed to meet the minimum training requirements and continues to work will be subject to disciplinary action under Chapter 2 of this Title.

(~~f~~h) Any person seeking an Oklahoma Security Guard or Private Investigators license, who has been licensed by a state whose training and standards have been deemed comparable to and approved by the Oklahoma Council on Law Enforcement Education and Training may obtain a license by reciprocity, under the following conditions:

(1) The applicant must meet the minimum license requirement standards set forth by Oklahoma Law including

fingerprint requirements. Such fingerprints requirement may be waived by CLEET where a verified records check has been made within a reasonable period of time in the context of existing law requiring fingerprint checks. The individual must also complete the "Legal Block" of Phase IV Firearms Training.

(2) The applicant must have an active license in the original licensing state, and not be subject to any administrative action regarding the active status in the licensing state. A letter of good standing must be received from the original licensing state.

(3) The applicant receiving a license by reciprocity in Oklahoma shall at all times while working as a security guard or private investigator in Oklahoma be subject to all laws regarding security guards and private investigators including all applicable fees for such license.

(4) Reciprocity may be granted only from the state in which the applicant was originally licensed and not from any intervening state by reciprocity to the original licensing state.

(5) The applicant must sign a statement of irrevocable consent that service of process, in any complaint or disciplinary action filed against the applicant, arising out of the applicant's private investigative activities in the reciprocating state, may be made by the delivery of such process on the administrator of the private investigation regulatory agency in his/her/its state of residence.

(6) An armored car employee who is primarily employed by an armored car company in another state, and is properly licensed by that state to carry a weapon while acting in the services of that company in the home state, and meets the minimum home state requirements, would be exempt from other requirements of 59 O. S. Section 1750.1 et seq. during such time as the armored vehicle from that state is actively engaged in interstate commerce within Oklahoma pursuant to 15 U.S.C. Section 5901, the "Armored Car Industry Reciprocity Act of 1993."

SUBCHAPTER 7. APPLICATION PROCEDURE

390:35-7-3. Accuracy and completeness of application

(a) All information on an application form or any related document must be accurate to the best of the applicant's knowledge.

(b) All sections of the application that are applicable to the applicant must be completed, and all applicable spaces must be filled in with the appropriate information.

(c) If an application is incomplete, CLEET will process any payments in accordance with statutory requirements, and will notify the applicant that the application is incomplete. No further action will be taken on the application until all required information is received by CLEET.

(d) CLEET will not give any person legal advice and will not request or gather documents for an applicant. Accuracy and completeness of the application is the obligation of the applicant.

(e) Since CLEET does not wish to deny any person the opportunity to apply for a license, CLEET will not give advisory opinions as to whether a person will or will not be licensed. Decisions on licensing will be made only after receipt of a completed application.

390:35-7-4. Background investigation of applicants

(a) The requirements of the Act will necessitate an investigation into the personal history, employment history, and moral character of each applicant. Local, state, and federal criminal indices will be examined in the normal processing of applications for evidence of any prior criminal record. In addition to those offenses set forth in the Statutes, convictions of crimes set forth in Appendix A of this Chapter, shall be deemed as disqualifying convictions.

(b) Failure to provide the information necessary to complete this background investigation, including certified copies of judgement and sentence, shall preclude any further processing and shall result in denial of said application.

(c) Fingerprint cards or electronically captured fingerprints submitted by an applicant which have been rejected by the Oklahoma State Bureau of Investigation (OSBI) or Federal Bureau of Investigation (FBI), have failed to meet the statutory requirement of 59 O. S. Section 1750.6 (A)(1) for providing "classifiable fingerprints to enable the search of criminal indices for evidence of prior criminal record".

(1) Upon notice to CLEET from the OSBI or FBI that fingerprints have been rejected, CLEET shall send written notice to the applicant requesting resubmission of fingerprints.

(2) Failure to resubmit fingerprints within thirty (30) days of the request for resubmittal shall preclude any further processing and shall result in denial, suspension or revocation of any license held by the applicant.

(3) Upon the third rejection of fingerprints by the OSBI or FBI or the expiration of one-hundred-eighty days (180) days, whichever occurs first, from the original date of issuance of any license, such license shall be suspended or revoked until such time that classifiable fingerprints have been submitted and criminal history reports have been received from OSBI and FBI.

(d) An applicant shall state any and all names previously used by the applicant, and the date of any name change.

(e) An applicant shall provide information on any previous licenses held as a private security guard or private investigator, whether in this state or other state, and any previous revocations or suspensions of any such license.

(f) No license shall be issued under the following circumstances:

(1) A felony or misdemeanor charge is pending in any court in this state, another state, in tribal court, or pursuant to the United States Code. The preclusive period shall be until the final determination of the matter.

(2) The applicant is subject to the provisions of a deferred sentence or deferred prosecution in this state or another state or pursuant to federal authority for the commission of a felony or misdemeanor offense. The preclusive

period shall be for three (3) years and shall begin upon the final determination of the matter.

SUBCHAPTER 9. VIOLATIONS AND INVESTIGATIONS

390:35-9-4. Notification of legal proceedings against licensee

(a) All criminal proceedings initiated against a licensee shall be reported by the affected licensee to CLEET immediately, upon arrest or discovery of the filing of such proceeding. All licensees shall be required to report when a Victim's Protective Order has been issued against the licensee, including such orders issued on an emergency basis and all Final Orders of Protection. Any verbal report of such proceedings shall be followed by a written report, bearing the original signature of the reporter, within ten (10) days after arrest or discovery of the filing of such proceeding.

(b) All civil proceedings initiated against a licensee related to matters under the purview of the Act shall be reported to CLEET no later than ten (10) days after the licensee is served with notice of said proceeding. Any verbal report of such proceedings shall be followed by a written report, bearing the original signature of the reporter, within ten (10) days after discovery of the filing of such proceeding.

(c) This notification shall provide the following information:

(1) Nature of the proceeding;

(2) Court in which proceeding has been filed;

(3) Docket or case number; and

(4) Parties to the proceeding.

(d) Failure to give notice pursuant to the rules of this Chapter may be cause to initiate an action against the licensee, by CLEET.

(e) Private Security Agencies shall be responsible to ensure that licensed employees comply with the provisions of the Act, and the rules of this Chapter, and the laws of the United States, the State of Oklahoma, and political subdivisions therein. Violations of the Act and/or the rules of this Chapter, committed by any employee or a private security agency, shall be cause to initiate an action against said agency's license, by CLEET, if said violation or offense occurred within the course and scope of employment with said agency.

SUBCHAPTER 15. TRAINING REQUIREMENTS

390:35-15-2. Schools, school coordinators, and instructors

(a) Unless otherwise provided in 390:35-15-2, CLEET shall recognize only those training courses that are conducted at approved schools. Approval to conduct private security training may be requested by making written application to the Director.

(b) Approval to conduct private security training courses shall be subject to the following requirements.

(1) Approved private schools must be licensed by the Oklahoma Board of Private Vocational Schools.

(2) Private security training courses must be conducted under the coordinating supervision of a person with professionally recognized training or experience in developing and managing training programs. School coordinators shall submit a resume of related education, training, instructional experience, and work experience. Coordinators may also be approved as instructors.

(3) Private Security student/instructor class ratios shall not exceed forty (40) to one (l); However, firearms instructor-to-shooter ratios shall be not less than one (l) to five (5).

(4) Training units (classes) must be taught by approved instructors.

(A) Instructor qualifications shall be based upon training, education, teaching experience, and work experience, but shall minimally include:

(i) One of the following:

(I) A minimum of two (2) years supervisory experience with a legally recognized security or investigative agency within the previous five (5) years; or

(II) A minimum of two (2) years experience as a full-time certified law enforcement officer within the previous five (5) years; or

(III) A minimum of one (1) year of experience as an instructor at an accredited educational institution in the subject matter for which approval is requested, or in a related ~~field.~~field within the last five (5) years.

(ii) Completion of a curriculum orientation workshop conducted by the State Department of Vocational and Technical Education.

(B) Firearms instructors must be currently certified as a law enforcement or private security firearms instructor, by CLEET, the Federal Bureau of Investigation, the National Rifle Association, or other professionally recognized organizations.

(C) Instructors for Phase 3 - "Private Investigator" courses shall submit additional evidence as to their training or experience relating to the Phase 3 curriculum.

(D) Instructors for Fire Safety must be certified by the accrediting authorities in those fields.

(c) Approved schools will be subject to review and inspection by CLEET staff. Training facilities shall meet local and state fire and safety standards. Facilities shall provide a comfortable environment for students and instructors, with minimal learning distractions. Facility and equipment standards shall be consistent with the standards set forth below:

(1) Classrooms of at least ten (10) square feet per student enrolled;

(2) Classrooms adequately heated and cooled;

(3) Classrooms adequately lighted;

(4) Telephones are accessible;

(5) Restrooms are accessible;

(6) Audio/visual equipment is available (projection equipment, chalkboards, etc.;

(7) Firearms training facilities shall minimally provide:
(A) Protective backstop;
(B) 5 firing points;
(C) 3, 5, 7, 15, and 25 yard firing lines;
(D) Public address system;
(E) Restroom facilities;
(F) Accessible telephone;
(G) First Aid supplies;
(H) Protective equipment for eyes and ears.

(8) Indoor firearms training facilities minimally provide:
(A) Protective backstop;
(B) 3 firing points;
(C) 3, 5, 7, 15, 25 yard firing lines. In those instances where the range does not permit firing at 25 yards, the NRA B-34 or Colt T6 target shall be used for shooting the 25 yard state at 50 feet;
(D) Meet the minimum requirements as set forth in the OSHA Code of Federal Regulations, lead standards;
(i) CRF 29 1910.1025 (C) Permissible Exposure Limit
(ii) CRF 29 1910.1025 (D) Exposure Monitoring
(iii) CRF 29 1910.1025 (D)(9) Accuracy of Measurement
(iv) CRF 29 1910.1025 (D)(5)(11) Mechanical Ventilation for Compliance
(E) An annual exposure monitoring report. The monitoring can be conducted by either private firms or by the OSHA Consultation Division of the Department of Labor;
(F) Public address system;
(G) Restroom facilities;
(H) Accessible telephone;
(I) First Aid supplies;
(J) Protective equipment for eyes and ears.

(d) Schools approved to conduct the private security and investigative training courses required for licensing purposes must:
(1) offer these courses as separate courses, independent of any other training course or hours;
(2) separately charge a fee for these courses, if a fee is charged;
(3) advise students that participation in other training programs is not required for licensing; and
(4) refrain from using any statements as training being "CLEET Certified".

[OAR Docket #15-594; filed 6-18-15]

TITLE 390. COUNCIL ON LAW ENFORCEMENT EDUCATION AND TRAINING
CHAPTER 60. REGULATING BAIL ENFORCERS

[OAR Docket #15-595]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Chapter 60. Regulating Bail Enforcers [NEW]
AUTHORITY:
Council on Law Enforcement Education and Training; 59 O.S., § 1301, 1303, 1327, 1328, 1329, 1332 and 1332.1.1; 59 O.S., §1350.1 through 1350.20; 59 O.S. §1750.1 through 1750.14; 70 O.S., § 3311 et seq.
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
January 6, 2015
COMMENT PERIOD:
January 6, 2015 through March 9, 2015
PUBLIC HEARING:
March 9, 2015
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APPROVED BY GOVERNOR'S DECLARATION:
Approved by Governor's Declaration on June 8, 2015
FINAL ADOPTION:
June 8, 2015
EFFECTIVE:
September 11, 2015
SUPERSEDED EMERGENCY ACTIONS:
Superseded rules:
Chapter 60. Regulating Bail Enforcers [NEW]
Gubernatorial approval:
April 1, 2014
Register Publication:
31 Ok Reg 563
Docket number:
14-418
INCORPORATIONS BY REFERENCE:
n/a
ANALYSIS:
These rules were approved as Emergency rules by Governor Mary Fallin on April 1, 2014. The Council finds it necessary to promulgate Permanent rules to insure the safety and welfare of individuals seeking training and licensing under this statute, and to implement certain provisions of The Bail Enforcement and Licensing Act.
CONTACT PERSON:
Norma Floyd, Council on Law Enforcement Education and Training, 2401 Egypt Road, Ada, Oklahoma 74820-0669, 405-239-5166.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3 (5) AND 308 (E), WITH AN EFFECTIVE DATE OF SEPTEMBER 11, 2015:

SUBCHAPTER 1. GENERAL PROVISIONS

390:60-1-1. Purpose

(a) The provisions of Chapter 2, Administrative Procedures, beginning at CLEET Rule 390:2-1-1, are incorporated by reference as if set out fully herein.

(b) The purpose of these Rules is to set forth the requirements and guidelines needed to implement and enforce the provisions of the Oklahoma Bail Enforcement and Licensing Act. Generally, these Rules are intended to implement standards and procedures to protect the interest of the public without placing undue burdens upon the operation of the bail enforcement business.

390:60-1-2. Statutory authority

Pursuant to the authority vested in the Council on Law Enforcement Education and Training by the Oklahoma Bail Enforcement and Licensing Act, the Rules of this Chapter have been promulgated. These Rules supplement existing state and federal laws, and being properly promulgated, the Rules contained in this Chapter have the force and effect of law so long as not in conflict with Oklahoma statutes.

390:60-1-3. Definitions

CLEET adopts for Rule purposes all definitions specifically set out in the Bail Enforcement and Licensing Act, 59 OS Section 1350 et seq and CLEET Rule 390:1-1-2.1. In addition, these words or terms shall have the following meaning unless the context clearly indicates otherwise:

"Act" means the Oklahoma Bail Enforcement and Licensing Act, Title 59, O.S., Section 1350, et seq.

"Applicant" means a person applying for a license under the provisions of the Act.

"Approved school" means an organization or institution authorized by CLEET to conduct bail enforcement training pursuant to the Act.

"Armed Bail Enforcer" means a Bail Enforcer having a valid license issued by the Council on Law Enforcement Education and Training authorizing the holder to carry an approved pistol or weapon in the recovery of a defendant pursuant to the Bail Enforcement and Licensing Act.

"Bail Enforcer" means a person who acts, engages in, solicits or offers services to execute a prior to breach recovery of a defendant on an undertaking or bail bond contract execute a recovery of a defendant for failure to appear on an undertaking or bail bond contract issued in this state, another state or the United States. The term "Bail Enforcer" does not include any law enforcement officer actively employed by a law enforcement Agency recognized in this state, or any of its political subdivisions, another state or the United States, while such officer is engaged in the lawful performance of duties authorized by his or her employing law enforcement Agency, a bondsman licensed in this state and acting under the authority of his or her undertaking or bail contract or a licensed bondsman appointed by an insurer in this state with regard to a defendant on a bond posted by that insurer.

"Bail Recovery Contract" or "Client Contract" means an agreement to perform the services of a Bail Enforcer for a client. Only a Bail Enforcer licensed by the Council may enter into a client contract to perform the services of a Bail Enforcer. A Bail Enforcer is liable for his or her acts and omissions while executing a recovery of a defendant pursuant to a client contract. **"Client"** means a bondsman or surety on an undertaking or bail bond contract issued in this state, another state or the United States that enters into a contract for the services of a Bail Enforcer.

"Conflict of interest" means a conflict or the appearance thereof between the private interests and public obligations of an individual, organization, or other legal entity authorized to conduct business pursuant to the Act.

"Contract" means, for the purposes of these Rules, an agreement between a person licensed under this Act and a client, to provide bail enforcement services, for a contract labor fee; and where the wages of the Bail Enforcer are paid by the contractor. Such contracts may be oral or written, or in any combination thereof.

"Contractor" means, for the purposes of these Rules, a contractor is a person or business entity not employed in a direct employer-employee relationship, but instead contracts with a client to provide his or her services as a Bail Enforcer and their services to that client, for a contract labor fee. The term "contractor" shall include "sub-contractor".

"Conviction" means any final adjudication of guilt, whether pursuant to a plea of guilty or nolo contendere, or an "Alford" plea, or otherwise, and any deferred or suspended sentence or judgment. Conviction does not include any court action in which the court has deferred imposition of judgement and sentence, and the defendant has successfully completed the terms of the deferred judgment, and the court has allowed the defendant to withdraw a plea, and dismissed the case without a court judgment of guilt, and the pleas has been expunged by court order.

"Currently undergoing treatment for a mental illness, condition, or disorder" means the person has been diagnosed by a licensed physician or psychologist as being afflicted with a substantial disorder of thought, mood, perception, psychological orientation, or memory that significantly impairs judgment, behavior, capacity to recognize reality, or ability to meet the ordinary demands of life and such condition continues to exist.

"Curriculum" means the collective, written documentation of the material content of a training course, or any particular phase of training prescribed by the Act, minimally consisting of course objectives, student objectives, lesson plans, training aids, and examinations.

"Defendant" means the principal on an undertaking or bail bond contract.

"Expungement" means a court order expunging any final adjudication of guilt, whether pursuant to a plea of guilty or nolo contendere, or an "Alford" plea, or any plea other than "not guilty," or otherwise. For purposes of these rules, expungement does not include a court order expunging a criminal record because no charges were filed or expunging a criminal record because the accused was acquitted at trial, or because the charges were dismissed on motion of the State prior to entry of any pleas other than "not guilty."

"Full-time employment" means any Bail Enforcer, who is employed and paid for working twenty-five (25) hours or more per week on a regular basis.

"Instructor" means a person who directly facilitates learning through means of lecture, group participation, practical exercise, or other means, where there is a direct student-teacher relationship.

"License" means authorization issued by the Council pursuant to the Bail Enforcement and Licensing Act permitting the holder to perform functions and services as a Bail Enforcer, and the documentary evidence of that authorization.

"Licensee" means a person authorized by CLEET under the provisions of this Act, to lawfully conduct business as a Bail Enforcer.

"Noxious Substance" means OC spray, pepper spray, mace or any substance used as a physiological irritant.

"Over-payment" means monies in excess of the amount due for a license, permit or fine that is returned to the individual or Agency.

"Person" means, in addition to any natural person, any corporation, company, association, operation, firm, partnership, institution, trust, or other form of business association.

"Red or blue lens" means any lens which emits the color red or the color blue.

"Recovery" or **"Surrender"** means the presentation of a defendant to the public officer competent to receive the defendant into custody.

"School coordinator" means a person certified by CLEET to coordinate and conduct private security and bail enforcement training at an approved school, and arrange or administer psychological examinations to firearms training students.

"Training course" means a complete, multi-phase course of instruction required to qualify for a license under the provisions of the Act.

"Training phase" means a block of training units that comprises a distinct phase in the private security or bail enforcement training course.

"Training unit" means a unit of instruction within a training phase.

"Weapon" means taser, stun gun, baton, night stick or any other device used to subdue a defendant, or any noxious substances as defined in the Bail Enforcement and Licensing Act.

390:60-1-4. Compliance with laws and rules

(a) All Licensees and approved schools shall be knowledgeable of and conduct operations in accordance with all federal, state, and local laws; and Rules and regulations of CLEET. The commission of any criminal offense, proven by clear and convincing evidence, may be grounds for an action against any person falling within the jurisdiction and purview of 59 O.S., Section 1350.1 et seq, if such offense reflects negatively on the Licensee's or school's moral character.

(b) Any statute of the United States or of the State of Oklahoma now in existence, or duly enacted in the future, shall supersede any conflicting provision of this Chapter to the extent of such conflict, but shall not affect the remaining provisions herein.

(c) Any violation of this Chapter and applicable Laws of the State of Oklahoma may result in a written reprimand or the denial, suspension, or revocation of a license, or disciplinary penalty, or fine.

(d) Interested parties may obtain information or submit comments related to this Chapter by writing to CLEET, Private Security Division, 2401 Egypt Road, Ada, Oklahoma, 74820-0669

390:60-1-5. Acting as a Bail Enforcer

(a) No person may perform, or assist in the performance of, any function or service as a Bail Enforcer if the person's license as a Bail Enforcer has been suspended, revoked, surrendered, or denied.

(b) A licensed Bail Enforcer may not assist, aid, or conspire with an unlicensed person (whether never licensed, or whose license as a Bail Enforcer or Bail Bondsman has been suspended, revoked, surrendered, or denied) to engage in any function or service as a Bail Enforcer.

(c) An active duty commissioned Peace Officer who is off duty may assist a Bail Enforcer if permitted by the Peace Officer's employing Agency. The assisting Peace Officer need not be a licensed Bail Enforcer for purposes of this rule.

390:60-1-6. Eligibility for licensing

(a) Applicants for Bail Enforcer licenses must meet and satisfy the requirements of The Oklahoma Bail Enforcement and Licensing Act.

(b) A Sheriff, Deputy Sheriff, Police Officer, or officer of the law who is not on duty and who assists in the apprehension of a defendant is not required to be licensed as a Bail Enforcer.

(c) The following persons are not eligible for licensing as a Bail Enforcer or as a Bail Enforcement Agency.

(1) Jailers;

(2) Police officers;

(3) Committing judges;

(4) District or Municipal judges;

(5) Prisoners;

(6) Sheriffs, deputy sheriffs and any person having the power to arrest or having anything to do with the control of federal, state, county or municipal prisoners.

(7) Any person who possesses a permit pursuant to the provisions of Section 163.11 of Title 37 of the Oklahoma Statutes or is an officer, director or stockholder of any corporation holding such a permit;

(8) Any person who is an agent or owner of any establishment at which low-point beer is sold for on-premises consumption;

(9) Any person who holds any license provided for in Section 518 of Title 37 of the Oklahoma Statutes or is an agent or officer of any such Licensee, except for an individual holding an employee license pursuant to paragraph 20 of subsection A of Section 518 of Title 37 of the Oklahoma Statutes;

(10) Any person who holds any license or permit from any city, town, county, or other governmental subdivision for the operation of any private club at which alcoholic beverages are consumed or provided;
(11) Any person or agent of a retail liquor package store;
(12) Any person whose bail bondsman license has been revoked by the Insurance Commissioner;
(13) Any person whose employment prohibits that person from being licensed as a bail bondsman;
(14) Any district attorney, or assistant district attorney, or employee of a district attorney; and
(15) Any employee of the Department of Corrections.

390:60-1-7. Release of records

(a) Except as specifically exempted by law, official records of the Council on Law Enforcement Education and Training are subject to the Oklahoma Open Records Act, and the Bail Enforcement and Licensing Act.
(1) CLEET may verify the current status of an applicant or a Licensee to the public on request.
(2) CLEET may release such information as necessary to perform CLEET duties or comply with statutes or Rules pursuant to the Bail Enforcement and Licensing Act.
(3) CLEET may release records to a bona fide law enforcement Agency or judicial authority, upon written request, for investigative purposes.
(4) CLEET may release records to an insurance company licensed in Oklahoma for the limited purposes of issuing a policy or bond for licensure, or for claims purposes.
(5) CLEET may provide the published name, address, and phone number of a licensed Bail Enforcer to the public on request.
(6) CLEET may provide records as required by a Court Order to Compel and Protective Order for Materials Produced by CLEET. CLEET must be provided with a certified copy of such order prior to release of records. A subpoena, other than a Grand Jury subpoena, without an Order to Compel and Protective Order for Materials Produced by CLEET, is not sufficient.
(b) Copies of public information may be obtained from the Council office during regular business hours upon receipt of a written request and payment of a fee to cover the cost of providing copies of the requested.
(c) There may be a charge of Twenty-Five Cents ($.25) per page for copies of public records of the Council.
(d) In the event a request for copies is for a commercial purpose or would cause disruption of the performance of the regular duties of the Council or Council staff, there may be an additional charge computed and assessed for locating and copying the requested materials based upon the cost of the lowest paid employee necessary to accomplish the copying request.
(e) Individual requests for records will be accepted only if received by Mail, with an original signature.
(f) All social security numbers except for the last four digits will be redacted from any documents supplied by CLEET.

SUBCHAPTER 3. [RESERVED]

SUBCHAPTER 5. APPLICATION REQUIREMENTS

390:60-5-1. Bail Enforcer applicant requirements

(a) Applicants for a License issued pursuant to the Act must:
(1) Be a citizen of the United States or an alien legally residing in the United States and have a minimum of six (6) months legal residence documented in this state;
(2) Be at least twenty-one (21) years of age;
(3) Provide proof of a high school diploma, GED or equivalent as recognized by state law, and proof of successful completion of the training and psychological evaluation requirements for the license applied for, and related testing, as prescribed by CLEET;
(4) Be of good moral character;
(5) Have no final victim protection orders issued in any state in which applicant is the respondent / defendant;
(6) Have no record of a felony conviction or any expungement or a deferred judgment or suspended sentence for a felony offense;
(A) If the applicant is the defendant in a criminal prosecution that is pending, no license will be issued until final resolution of the criminal prosecution.
(B) If the applicant is the subject of an Order Deferring Imposition of Judgment and Sentence, no license will be issued until completion of the deferred sentence and dismissal of the criminal prosecution without a finding of guilt.
(C) If the Applicant was convicted of a felony, and the sentence was completed more than fifteen (15) years prior to the date of application, and the Applicant otherwise meets the licensing requirements, a Bail Enforcer License may be issued, but an Armed Bail Enforcer License may not be issued to the Applicant. The Applicant must supply all documentation required by CLEET.
(7) Have no record of conviction for assault or assault and battery, aggravated assault and battery, larceny, theft, false pretense, fraud, embezzlement, false impersonation of an officer, any offense involving moral turpitude, any offense involving a minor as a victim, any nonconsensual sex offense, any offense involving the possession, use, distribution, or sale of a controlled dangerous substance, any offense of driving while intoxicated or driving under the influence of intoxicating substance, any offense involving a firearm, or any other offense as prescribed by the Council.
(b) If an applicant was convicted of a disqualifying crime, and the sentence was completed more than five (5) years prior to the application date and the Council is convinced the offense constituted an isolated incident and the applicant has been rehabilitated, the Council may, in its discretion, waive the conviction disqualification as provided for in this paragraph and issue an unarmed Bail Enforcer license, but shall not issue an armed Bail Enforcer license if the offense involved the use

of a firearm, was violent in nature, or was a felony offense other than a driving offense. The passage of five (5) years from completion of the sentence does not mean that the applicant is entitled to a license. The decision on whether the disqualifying conviction is waived is within the sole discretion of CLEET. The applicant must supply all documentation required by CLEET for consideration of a possible waiver.

(c) If it is discovered that a disqualifying conviction exists, the Council shall immediately revoke or deny any license;

(d) Under oath, the applicant shall certify that the applicant has no disqualifying convictions as specified in the Bail Enforcement and Licensing Act or by CLEET rule, or must disclose the disqualifying convictions and state that more than five (5) years have lapsed since the completion of the sentence for a disqualifying conviction.

(e) The applicant must provide CLEET and the Oklahoma State Bureau of Investigation with individual fingerprints for a state and national criminal history records search.

(f) The applicant must supply CLEET two (2) current individual passport - sized photographs with the completed CLEET application.

(g) The applicant must provide certified copies of all court documents showing the disposition of any criminal charges. If no certified copies are available, the applicant must provide a 'no records letter' from the appropriate court. Obtaining and providing certified copies is the responsibility of the applicant.

(h) The applicant must state, under oath, that the applicant is not currently undergoing treatment for a mental illness, condition, or disorder.

(i) The applicant must state, under oath, whether the applicant has ever been adjudicated incompetent or committed to a mental institution.

(j) The applicant must state, under oath, whether the applicant has any history of illegal drug use or alcohol abuse.

(k) Upon presentation by the Council of the name, gender, date of birth, and address of the applicant to the Department of Mental Health and Substance Abuse Services, the Department of Mental Health and Substance Abuse Services shall notify the Council within ten (10) days whether the computerized records of the Department indicate the applicant has ever been involuntarily committed to an Oklahoma state mental institution.

(l) The applicant must state, under oath, whether the applicant has ever been charged with any misdemeanor domestic violence offense.

(m) The applicant must provide proof of liability insurance or an individual bond in a minimum amount established by the Bail Enforcement and Licensing Act.

(n) The applicant must provide a statement of self-employment as a sole proprietor Bail Enforcer.

(o) The applicant must complete all the training requirements, and pass the appropriate examinations related to training.

(p) The signature of the applicant on the Application shall be considered an attestation that the Applicant has read these Rules, and agrees to obey these Rules.

(q) In addition to the requirements listed above, Applicants for an Armed Bail Enforcer license must provide with the application:

(1) Proof of successful completion of the firearms phase of private security / private investigator / Bail Enforcer training;

(2) An original document showing completion of a certified Taser training course;

(3) An original document showing completion of a certified stun gun training course;

(4) An original document showing completion of a certified noxious substance training course.

(r) A copy of every license issued under this chapter shall be posted conspicuously in the Licensee's place of business in this state.

(s) Bail Enforcer licenses are not transferrable.

(t) Any changes in Bail Enforcer information shall be provided to CLEET in writing within ten (10) days of the effective date of the change. Notice of changes of Licensee information will not be accepted over the phone.

390:60-5-2. License fees

(a) Individual license fees shall be determined as set forth in the Bail Enforcement and Licensing Act.

(b) Overpayment amounts will be returned to the remitter.

(c) Payment must be made in a method defined in CLEET Rule 390:1-1-13.

390:60-5-3. Requests for applications

(a) An application may be requested at the following address: CLEET, Bail Enforcement Division, 2401 Egypt Road, Ada, Oklahoma, 74820-0669.

(b) Requests will be handled in the most expeditious and cost effective manner.

390:60-5-4. Application process; sworn affidavit; penalty

The completed application form pursuant to the Act shall constitute a sworn affidavit. Willful, fraudulent application for a license pursuant to the Act shall result in denial or revocation of a license.

390:60-5-5. Accuracy and completeness of application

(a) All information on an application form or any related document must be accurate to the best of the applicant's knowledge.

(b) All sections that are applicable to the applicant must be completed, and all applicable spaces must be filled in with the appropriate information.

(c) If an application is incomplete, CLEET will process any payments in accordance with statutory requirements, and will notify the applicant that the application is incomplete. No further action will be taken on the application until all required information is received by CLEET.

(d) CLEET will not give any person legal advice and will not request or gather documents for an applicant. Accuracy and completeness of the application is the obligation of the applicant.
(e) Since CLEET does not wish to deny any person the opportunity to apply for a license, CLEET will not give advisory opinions as to whether a person will or will not be licensed. Decisions on licensing will be made only after receipt of a completed application.

390:60-5-6. Background investigation of applicants

(a) The requirements of the Act will necessitate an investigation into the personal history, employment history, and moral character of each applicant. Local, state, and federal criminal indices will be examined in the normal processing of applications for evidence of any prior criminal record. In addition to those offenses set forth in the Statutes, convictions of crimes set forth in Appendix A of this Chapter, shall be deemed as disqualifying convictions.
(b) Failure to provide the information necessary to complete this background investigation, including certified copies of Judgment and Sentence, shall preclude any further processing and shall result in denial of said application.
(c) One fingerprint fee is required of each applicant. The Applicant is responsible for paying any fees required.
(d) Fingerprint cards or electronically captured fingerprints submitted by an applicant which have been rejected by the Oklahoma State Bureau of Investigation (OSBI) or Federal Bureau of Investigation (FBI), have failed to meet the statutory requirement for providing "classifiable fingerprints to enable the search of criminal indices for evidence of prior criminal record".
(1) Upon notice to CLEET from the OSBI or FBI that fingerprints have been rejected, CLEET shall send written notice to the applicant requesting resubmission of fingerprints.
(2) Failure to resubmit fingerprints within thirty (30) days of the request for resubmittal shall preclude any further processing of the application and may result in denial, suspension or revocation of any license held by the applicant.
(3) Upon the third rejection of fingerprints by the OSBI or FBI or the expiration of one-hundred-eighty days (180) days, whichever occurs first, from the original date of issuance of any license, such license shall be suspended or revoked until such time that classifiable fingerprints have been submitted and criminal history reports have been received from OSBI and FBI.
(e) An applicant shall state any and all names previously used by the applicant, and the date of any change of name.
(f) An applicant shall provide information on any previous licenses held as a bail enforcer in this state or other state, and any previous revocations or suspensions of any such license.

390:60-5-7. Psychological evaluation and reporting

(a) Each applicant to be licensed as a Bail Enforcer shall be administered any current standard form of the Minnesota Multiphasic Personality Inventory (MMPI), or other psychological evaluation instrument approved by CLEET, and the instrument will be administered in conjunction with training in Phase I required by the Bail Enforcement and Licensing Act.
(1) The Bail Enforcer training school shall administer the instrument in accordance with the instructions of the instrument.
(2) The Bail Enforcer training school shall forward the response data to a psychologist of the applicant's choice, so long as the psychologist is licensed by the Oklahoma State Board of Examiners of Psychologists.
(b) The applicant shall pay the cost of the psychological evaluation.
(c) If the licensed psychologist is unable to certify the applicant's psychological capability to exercise appropriate judgment, restraint, and self-control, after evaluating the data supplied by the Bail Enforcer training school, the psychologist shall employ whatever other psychological measuring instruments or techniques deemed necessary to form a professional opinion. The use of any additional psychological measuring instruments or techniques requires a full and complete written explanation to CLEET, which must be received before a Bail Enforcer license may be issued.
(d) The evaluating psychologist will forward a written psychological evaluation, on a form prescribed by CLEET, to CLEET within fifteen (15) days of the evaluation, even if the applicant is found to be psychologically at risk.
(e) CLEET may utilize the results of the psychological evaluation for up to six (6) months from the date of the evaluation after which the applicant shall be reexamined.
(f) A person who has been found by the psychologist to be at risk in the exercise of appropriate judgment, restraint, or self-control may not reapply for a Bail Enforcer license until at least one (1) year after the date of being found psychologically at risk.
(g) Retired Peace Officers who have been certified by CLEET shall be exempt from the psychological evaluation requirement for a period of one (1) year from the date of retirement as determined by the law enforcement Agency from which the officer retired; provided there is no evidence of an inability to exercise appropriate judgment, restraint, and self-control during prior active duty as a law enforcement officer and upon subsequent retirement.
(h) Retired Peace Officers who are not exempt from this section and who have previously undergone treatment for a mental illness, condition, or disorder which required medication or supervision, as defined by paragraph 7 of Section 1290.10 of Title 21 of the Oklahoma Statutes, shall not be eligible to apply for a Bail Enforcer license except upon presentation of a certified statement from a licensed physician stating that the person is no longer disabled by any mental or psychiatric illness, condition, or disorder.

390:60-5-8. Additional testing and evaluation

(a) CLEET may require additional psychological or medical testing to be administered and evaluated by a state licensed psychologist, licensed psychiatrist or licensed medical doctor to determine an individual's ability to exercise judgment and safety for the type of license desired.

(1) The physician will complete a form prescribed by CLEET.

(2) The applicant shall bear the cost of additional testing and evaluation necessary to determine the suitability of the applicant for a license.

(b) Applicants must wait one year to be retested if found by the evaluating psychologist, psychiatrist, or medical doctor to be at risk.

SUBCHAPTER 7. DISCIPLINARY ACTIONS

390:60-7-1. Failure to obtain license

(a) Except as provided by law, no person, whether or not a resident of the State of Oklahoma, may be employed or operate as a Bail Enforcer until a license has been issued by CLEET.

(b) When it has been determined that a person coming under the purview of this Act has failed to obtain an appropriate license or licenses, CLEET may generally take the following actions found in Appendix B of this Chapter to ensure compliance:

(1) The person may be assessed a disciplinary penalty or fine, which shall be issued along with notification of non-compliance.

(2) The person shall submit properly completed application forms, associated materials, and the correct fees, within fifteen (15) days of receipt of the initial notification.

(3) If the person fails to comply with this section, CLEET shall notify the person of its intent to prosecute for non-compliance;

(4) CLEET shall then present the evidence of non-compliance to the appropriate District Attorney for consideration of prosecution.

(c) If the person complies with the requirements of subsection (b), above, and upon payment in full of any disciplinary penalty or fine, the application may be accepted for processing. The application is still subject to the Rules governing applications.

(d) Nothing in this Chapter shall be construed so as to prohibit or discourage CLEET, or any law enforcement Agency, from taking immediate, lawful action in the enforcement of the provisions of the Act, or other laws of the State of Oklahoma.

390:60-7-2. Grounds for actions

(a) CLEET may take a disciplinary action against a license issued under this Chapter, if the Licensee:

(1) violates any provisions of the Bail Enforcement and Licensing Act or CLEET Rules;

(2) practices fraud, deceit or misrepresentation;

(3) commits an act which would disqualify the Licensee;

(4) is convicted of a crime related to the practice of the occupation;

(5) is willfully or grossly negligent in failing to comply with substantial provisions of federal law or state statute governing the practice of the occupation;

(6) invades the privacy of a defendant without lawful authority;

(7) divulges any information gained by the Licensee in the course of employment, unless as directed by the client, as permitted by law, or as required by statute or rule;

(8) willfully makes a false report to any person;

(9) attempts to locate, recover, or surrender a defendant without having in the Licensee's possession a certified copy of the undertaking or bail bond contract;

(10) carries any firearm or weapon in the recovery of a defendant without a valid Armed Bail Enforcer license;

(11) carries any firearm or weapon when wearing Bail Enforcer apparel and not actively engaged in the recovery of a defendant, unless provided otherwise by the Act and these Rules;

(12) points, displays, brandishes, or discharges a firearm or weapon in the recovery of a defendant without lawful authority and training as provided by statute and Rules;

(13) administers a noxious substance without lawful authority and training as provided by statute and Rules;

(14) unlawfully enters the dwelling house, structure, property, or vehicle of a defendant or a third party;

(15) improperly uses force against a defendant or third-party;

(16) disobeys any local ordinance, state, federal, or tribal law, including traffic laws, in attempting to locate, recover, or surrender a defendant;

(17) makes any erroneous or false statement in an application for a license;

(18) fails to successfully complete any prescribed course of training and testing;

(19) is convicted of, or enters a plea of guilty or no contest, to any crime listed in the Bail Enforcement and Licensing Act;

(20) uses any beverage containing alcohol while armed with a firearm or other weapon;

(21) impersonates a law enforcement officer;

(22) is charged in a court of competent jurisdiction with any crime involving a minor.

(b) A certified copy of a Judgment and Sentence, or of an Order Deferring Imposition of Judgment and Sentence, or of a plea of guilty or no contest shall be considered clear and convincing evidence of the court proceedings set out in the document.

(c) A certified copy of an Information or Indictment shall be considered clear and convincing evidence of institution of criminal charges involving a minor.

(d) The involuntary commitment of a Licensee in a mental institution or licensed private mental health facility for any mental illness, condition or disorder that is diagnosed by a licensed physician or psychologist as a substantial disorder of

thought, mood, perception, psychological orientation, or memory that significantly impairs judgment, behavior, capacity to recognize reality, or ability to meet the ordinary demands of life. Provided, the license may be reinstated if at least one (1) year has passed since the date of involuntary commitment and upon the Council receiving notification of a psychological evaluation conducted by a licensed physician or psychologist which attests and states by affidavit that the Licensee and the evaluation test data of the Licensee have been examined and that, in the professional opinion of the physician or psychologist, the Licensee is psychologically suitable to return to duty as a Bail Enforcer.

390:60-7-3. Possible disciplinary actions against licensees

(a) Pursuant to the Act, CLEET shall have the responsibility and authority to investigate alleged violations of the Act and of the Rules of this Chapter. These investigations may result in one or more of the following classifications of actions to be taken against a Licensee:

(1) Written reprimand, without probation;
(2) Written reprimand, with probation;
(3) Suspension of license;
(4) Revocation of license;
(5) Denial of license application;
(6) Non-renewal of license;
(7) Arrest; and/or
(8) Disciplinary penalty or fine found in Appendix B of this Chapter.

(b) The following, in addition to all other laws, Rules and regulations shall constitute unacceptable practices for licensed Bail Enforcers possibly subjecting the violator(s) to administrative actions.

(1) Failure to provide written reports/summaries of activities to clients, when requested.
(2) Providing false or misleading information to a client, or to CLEET.
(3) Giving false statements, oral, written or otherwise to any member of the CLEET staff or any law enforcement officer in this state.
(4) Failing to maintain good moral character.

(c) Complaints of violations subject to investigation may be made in person, by telephone, or in writing to CLEET.

390:60-7-4. Disciplinary penalties and/or fines

(a) CLEET may impose a disciplinary penalty or fine, pursuant to Appendix B of this Chapter, for violations of the Bail Enforcement and Licensing Act, or the Rules promulgated hereunto, not to exceed five-thousand dollars ($ 5,000.00) per offense, if CLEET determines that such action better serves the purpose of this chapter than another disciplinary sanction.

(b) If, upon investigation, CLEET determines a violation has occurred, CLEET may issue a citation to the Licensee or other person. The citation shall be in writing and shall describe the nature of the violation, including specific reference to the provision of the law or rule determined to have been violated.

(c) The citation shall inform the Licensee or person that he or she is to contact CLEET within 15 days of receipt of the citation for disposition in one of the following manners:

(1) To pay any disciplinary penalty or fine.
(2) To contest the findings of the violation, and request a review by a Hearing Examiner, in accordance with statute and Rules provisions. Any request for a hearing must be in writing, with an original signature.

(d) Disciplinary penalties and fines will be assessed according to the schedule provided in Appendix B of this Chapter, or assessed by the Hearing Examiner on a case-by-case basis.

(e) If the Licensee or person does not make disposition within 15 days of receipt of the citation, CLEET may:

(1) initiate an action for revocation against the Licensee
(2) refer the matter to the appropriate District Attorney for consideration of charges.
(3) defer collection of the fine until the time of renewal of the license, and deny renewal of the license until all final fines are paid in full.

390:60-7-5. Notification of change of name or address or telephone number

(a) Bail Enforcers must maintain with CLEET current office and residential addresses and must notify CLEET in writing of any change of address.

(b) Bail Enforcers must notify CLEET of any change of name. Notification of change of name shall include certified copies of any marriage license or court document which reflects the change of name, and an original, signed, request that the name be changed in CLEET records.

(c) Notice of change of name or address or telephone number must be made within ten (10) days of the effected change. Notices will not be accepted over the phone.

(d) Any change in address must include both the physical location (Street Address) and the mailing address, if different.

(e) Failure to notify CLEET of business address changes, business telephone changes, or residential address changes, in accordance with the provisions of this Section, shall be considered a violation and may result in CLEET disciplinary action.

390:60-7-6. Reinstatement of license

(a) A Bail Enforcer license that has been revoked may not be reinstated.

(b) If a Bail Enforcer license has been suspended, the Licensee may apply for reinstatement after the term of suspension has passed.

(1) The applicant for reinstatement must show that all other qualifications for licensing have been met.
(2) An application for reinstatement must be accompanied by a non-refundable fee in the amount set out in the Bail Enforcement and Licensing Act.

390:60-7-7. Notification of legal proceedings against licensee

(a) All criminal proceedings initiated against a Licensee shall be reported by the affected Licensee to CLEET immediately, upon arrest or discovery of the filing of such proceeding. All Licensees shall be required to report when a Victim's Protective Order has been issued against the Licensee, including such orders issued on an emergency or ex parte basis and all Final Orders of Protection.

(b) All civil proceedings initiated against a Licensee related to matters under the purview of the Act shall be reported to CLEET no later than ten (10) days after the Licensee is served with notice of said proceeding.

(c) This notifications referenced above must be in writing and provide, at a minimum, the following information:

(1) name and license number of the reporting Licensee;
(2) nature of the proceeding;
(3) court in which proceeding has been filed;
(4) docket or case number;
(5) parties to the proceeding;
(6) original signature of the reporting Licensee.

(d) Failure to give notice pursuant to the Rules of this Chapter may be cause for CLEET to initiate a disciplinary against the Licensee.

390:60-7-8. Reporting the discharge of firearms

(a) The discharge of a firearm by a Licensee shall be reported by phone immediately by the Licensee to CLEET. If the discharge of a firearm happens at times other than during normal CLEET operating hours, calls and reports shall be made the next working day to CLEET. The telephonic report shall include:

(1) name and license number of Licensee discharging firearm;
(2) name and contact information of the entity who hired the licensee;
(3) location of incident;
(4) a brief narrative of what happened;
(5) whether death, personal injury, or property damage resulted;
(6) whether the incident is being or was investigated by a law enforcement Agency, and if known, the name of the investigating Agency.

(b) CLEET, when deemed appropriate, may immediately proceed to the scene and investigate.

(c) The involved Licensee must complete a separate written report, known as a "Report of Firearm Discharge", to be forwarded by the Licensee to CLEET within twenty-four (24) hours after the firearms discharge incident. This is an individual obligation of the Licensee and the Licensee may not rely on any other entity to submit the required reports.

SUBCHAPTER 9. LICENSE REQUIREMENTS

390:60-9-1. Insurance

(a) Licensed Bail Enforcers shall be individually responsible for obtaining and maintaining their own liability insurance or surety bond that allows persons to recover for actionable injuries, loss, or damage resulting from the willful, or wrongful acts or omissions of the licenses and protects this State, its agents, officers, and employees from judgments against the Licensee, and is further conditioned upon the faithful and honest conduct of the Licensee.

(b) The liability insurance policy or surety bond required in this subsection shall be in the minimum amount of ten thousand dollars ($10,000.00).

(c) No bail enforcement license shall be valid when the Licensee fails to maintain the prescribed liability coverage. A violation of the Rules of this subchapter will constitute cause for immediate suspension or revocation of a license, and/or a disciplinary penalty or fine.

(d) Proof of insurance shall be provided CLEET by submitting a certificate of insurance, such as the Accord Form; or a copy of the policy, or a copy of the bond; or a letter from the issuing company. Regardless of the method chosen, the proof submitted shall at least contain the following information:

(1) Name of insured
(2) Name and address of insurer
(3) Policy limits, coverages, and amounts
(4) Effective dates of policy
(5) If covered by a bond, the original bond proof of coverage must include an original or copy of the Notification of Bond and Power of Attorney. Proof of renewal of the bond does not require a copy of the Power of Attorney, only submission of the Notification of Bond.

(e) Any company providing insurance or surety bonds must be licensed and authorized to do business in the State of Oklahoma.

(f) Liability insurance policies or bonds issued pursuant to this subchapter shall not be modified or canceled unless ten (10) days' prior written notice is given to CLEET. It is the duty of each Licensee to see that the liability insurance policy or bond contain such a provision.

390:60-9-2. Renewal of license

(a) A renewal license will be issued only after CLEET receives a properly completed request for renewal, along with the renewal fee prescribed by the Bail Enforcement and Licensing Act, two (2) current passport-sized photographs, verification of current insurance or bond coverage, verification of the minimum hours of continuing education training for the license period, and any further documentation required by CLEET to assure compliance with the Act.

(b) A Licensee who has timely submitted a request for renewal with payment and has failed to meet the minimum training requirements will be issued official notification of CLEET's intent to impose a disciplinary sanction, possibly including non-renewal of the license, for failure to meet the mandated training requirements.

(c) A Licensee who has failed to meet the minimum training requirements and continues to work or perform services as a

Bail Enforcer will be subject to disciplinary action under the Act.

390:60-9-3. Inactive license

Upon written notice, with an original signature, any license may be placed on inactive status.

390:60-9-4. Individual identification cards or certificates

(a) An identification card or certificate will be issued to all Licensees. This card or certificate shall clearly indicate that the Licensee is authorized by the State of Oklahoma to conduct business as a Bail Enforcer or a Bail Enforcement Agency

(1) The identification card or other CLEET document shall not be altered or defaced in any manner.

(2) The Licensee shall not knowingly allow any other person to carry or use the Licensee's identification card or other CLEET document for any purpose.

(3) The Licensee shall carry the identification card on his or her person at all times while acting within the course and scope of employment as a Bail Enforcer.

(4) The Licensee shall present the identification card upon demand, for inspection by any person, unless the circumstances are such that showing the identification card would cause a danger to the Bail Enforcer or to another person. If presenting the identification card would cause a danger to the Bail Enforcer or to another person, the identification shall be presented at the next reasonably safe opportunity.

(5) The identification card must be presented, upon demand, for inspection by a law enforcement officer or by a representative of CLEET.

(6) All identification cards or licenses or certificates or other CLEET documents are the property of CLEET, and not the property of the Licensee, and the Licensee shall surrender the identification card to the Executive Director or designee upon written notice.

(7) The Bail Enforcer must carry on the person a valid driver license or a state-issued photo identification card and CLEET authorized badge when performing the functions and services of a Bail Enforcer.

(b) Licensees shall maintain a copy of the current individual identification card, and any correspondence to or from CLEET, at the place of business shown in CLEET records.

390:60-9-5. Lost or damaged licenses or identification cards

Duplicate licenses and identification cards may be issued to active, current Licensees upon written request, with an original signature, and payment of the fee as specified by the Bail Enforcement and Licensing Act. An applicant for a duplicate license must provide any documents required by CLEET.

390:60-9-6. Office and contact information requirements

(a) A Bail Enforcer must maintain an office at a physical address in this State and in the County where the Bail Enforcer will maintain his or her records.

(1) The location must have a physical address, be accessible to the public, and open for reasonable business hours. The Bail Enforcer shall supply CLEET a current photograph of the front of the business location.

(2) This individual Bail Enforcer office may be maintained at the personal residence of the Bail Enforcer. The fact that a business is located at a personal residence does not excuse compliance with these Rules. The address is a matter subject to disclosure as provided in these Rules, even if the office is located at the personal residence of the Bail Enforcer.

(3) A post office box is not considered a physical address for purposes of these Rules.

(b) A Bail Enforcer must have an operating telephone with a phone number, in the name of the Bail Enforcer, that is publically available and is published in a local directory in the city or county where the physical address is located. The correct phone number must be on file with CLEET. The telephone service for the Bail Enforcer must be primarily installed at the office location,

(c) The files related to the Bail Enforcer operations must be maintained at the office location, in a form readily accessible for inspection by CLEET as provided in these Rules.

390:60-9-7. Training requirements

(a) Training requirements for unarmed Bail Enforcers shall be not less than forty (40) hours of instruction, to be known as Phase V, which shall be in addition to the Phase I, II, and III training requirements.

(b) Training requirements for armed Bail Enforcers shall be the same as for unarmed Bail Enforcers plus Phase IV firearm and weapons training.

390:60-9-8. Continuing education

(a) Continuing education training (sometimes called 'mandated training' in these Rules) is required for renewal of a Bail Enforcer license.

(b) Bail Enforcers must complete a minimum of twenty four (24) hours of continuing education training from an approved source, during the licensing period, to maintain their license.

(c) A person holding a security guard license and private investigator license and a Bail Enforcer license or a combination license must complete a total of twenty four (24) hours of continuing education training from an approved source, during the licensing period, to maintain their license.

(d) All mandated training is to be reported to CLEET, on forms approved by CLEET. The entity offering the mandated training may report the attendance to CLEET, but it is still the personal responsibility of the individual Licensee to assure that mandated training is reported to CLEET.

(e) Any expenses incurred for continuing education courses by any Licensee shall be the responsibility of the Licensee.

(f) Firearms requalification courses will not count towards mandated training.

(g) Approved sources for mandated training are:

(1) College credit hours. Fifteen (15) hours of mandated training credit will be granted for each successfully completed college hour. The Licensee requesting credit must provide a certified copy of the grade report. Requests for credit must be submitted within one (1) calendar year from the date the college credit is obtained;

(2) Established Entities (Recognized county, state, and federal associations, professional associations, vocational-technical schools). One hour of training will be granted for each hour attended in a topic which directly relates to the performance of duties under the Bail Enforcer license;

(3) One hour of mandate training credit will be granted for each hour of instruction. For approval to conduct mandated training, sponsors must:

(A) Submit a written request for program registration to CLEET;

(B) Provide course outline, and course objectives, if requested by CLEET;

(C) Provide resume for instructors, if requested by CLEET; and

(D) Keep course outlines, and course objectives and resumes for instructors, for review by CLEET or others.

(E) No advertisement or roster may use the name 'Council on Law Enforcement Education and Training' or 'CLEET' except to note that the class is 'registered with CLEET for number of hours of mandated training credit.'

(F) All advertisements must include the disclaimer provided by CLEET.

(G) After training, the provider must submit a roster of attendees completing the training to CLEET. This provision does not remove or alter the requirement that the individual Licensee assure that mandated training is properly reported to CLEET.

(h) Completion of training courses required for initial licensing will satisfy the continuing education requirements for the first licensing period of an initial license.

(i) A Licensee will be subject to any of the following disciplinary sanctions for failure to comply with the mandate training requirements:

(1) Written Reprimand;

(2) Denial of a license or renewal of a license;

(3) Suspension of a license;

(4) Revocation of a license;

(5) Disciplinary penalty or fine.

(j) If a final fine is assessed and is not paid, CLEET will not renew the license until the past-due fine is paid in full, in addition to the sanctions set out above.

SUBCHAPTER 11. RESTRICTIONS

390:60-11-1. Advertising (59 O.S. § 1350.12)

(a) Licensees may use the phrase "Licensed by the State of Oklahoma" on stationery, business cards, and advertisements

(b) Licensees may not use any facsimile, reproduction, or pictorial, portion of the Great Seal of the State of Oklahoma on any badge, credentials, stationery, identification card, business card, advertisement, or other means of identification used in connection with any activities regulated under the Bail Enforcement and Licensing Act.

(c) Licensees may not use the words 'Council on Law Enforcement Education and Training' or the word 'CLEET' and may not use the CLEET Seal on any stationery, business cards, or advertising.

(d) Persons licensed solely as Bail Enforcers may not advertise their services under any name other than the name appearing on the Bail Enforcer license.

(e) Persons licensed solely as Bail Enforcers may not use stationery or business cards with any name other than the name appearing on the Bail Enforcer license.

(f) Persons licensed solely as Bail Enforcers may not use advertisements or stationery or business cards that include a telephone number that does not belong to the Bail Enforcer.

(g) Persons licensed solely as Bail Enforcers may not use advertisements or stationery or business cards that would appear to a reasonable person to be an advertisement for, or endorsement of, any bail bondsman.

(h) Any violation shall be a violation of the Bail Enforcement and Licensing Act which is punishable as provided in the act and CLEET Rules, or the violator may be prosecuted for false impersonation of an officer.

390:60-11-2. Uniforms and markings

All uniformed, licensed Bail Enforcement personnel shall conform to the following requirements regarding the bail enforcement uniform:

(1) The words "Bail Enforcer", shall be visibly displayed in a prominent manner.

(2) Licensees shall not wear a uniform, insignia, badge, etc., that would lead a reasonable person to believe that the Licensee is connected with federal, state, local, or tribal government.

(3) A Licensee may not use a fictitious name in the recovery of a defendant.

390:60-11-3. Badges

(a) Pursuant to the Bail Enforcement and Licensing Act, CLEET may designate an authorized badge. The intent of these requirements is to:

(1) Make the badge easily recognizable as designating a Bail Enforcer

(2) Make the badge easy to distinguish from a badge worn by a law enforcement officer

(3) Make the information on the badge legible.

(b) Badge Requirements:

(1) The badge must be made of sturdy metal, gold in color.

(2) The badge must be square, with sides of no less than two (2) inches in length, and no larger than three (3) inches in length.
(3) The badge may have a circle encompassing a scales of justice device in the middle of the badge.
(4) For a Bail Enforcer, the badge must have only the words 'Oklahoma Bail Enforcer' and the license number.
(5) For an armed Bail Enforcer, the badge must have only the words 'Oklahoma Armed Bail Enforcer' and the license number.
(6) All writing must be in block letters and easily readable
(7) A Licensee may not display any badge or identification card bearing the words "police", "deputy", "detective", "officer", "agent", "investigator", "fugitive agent", "recovery agent", "enforcement officer", "bounty hunter", "bail agent", or "recovery detective" or use any other words or phrases that imply that such person is associated with law enforcement or a government Agency.
(8) The badge must be in the possession of the Bail Enforcer, and visibly displayed, during the recovery of a defendant.
(c) Any violation shall be a violation of the Bail Enforcement and Licensing Act which is punishable as provided in the act and CLEET Rules, or the violator may be prosecuted for false impersonation of an officer.

390:60-11-4. Use of vehicles

Every Bail Enforcer vehicle shall conform to the following requirements:
(1) A Bail Enforcer vehicle may not be equipped with a siren, a lamp with a red or blue lens, or an overhead light or lights with red or blue lenses.
(2) If the Bail Enforcer vehicle is marked, the words "Bail Enforcer" shall appear on each side and the rear of the vehicle in letters of no less than three (3) inches in height, and readable from a reasonable distance.
(3) If the Bail Enforcer's vehicle is marked, the state license number shall be displayed on each side and the rear of the vehicle in characters of no less than three (3) inches in height and readable from a reasonable distance.
(4) A Bail Enforcer vehicle shall not bear any colors or markings or exterior equipment similar to colors or markings or exterior equipment of an authorized law enforcement vehicle in this State, or any political subdivision of this State.
(5) A Bail Enforcer vehicle may not be marked with any fictitious name.
(6) A Licensee may not mark any vehicle with the words "police", "deputy", "detective", "officer", "agent", "investigator", "fugitive agent", "recovery agent", "enforcement officer", "bounty hunter", "bail agent", or "recovery detective" or use any words or phrases that imply that such person is associated with law enforcement or a government Agency.

390:60-11-5. Authorized weapons

(a) The Bail Enforcer and licensing Act is not intended to be used as a means to obtain authority to carry a weapon except in the course and scope of gainful employment as an armed Bail Enforcer.
(1) When actively engaged in the recovery of a defendant an Armed Bail Enforcer may carry a firearm concealed or unconcealed.
(2) If carrying a firearm when engaged in the recovery of a defendant an Armed Bail Enforcer must comply with the following:
(A) the firearm must be the approved pistol.
(B) the Armed Bail Enforcer must be wearing apparel clearly marked to designate the person as a 'Bail Enforcer' as set out in the CLEET Rules.
(C) the CLEET authorized Bail Enforcer badge must be affixed to chest of the uniform or to the holster or belt immediately next to the firearm.
(b) When not actively engaged in the recovery of a defendant, an Armed Bail Enforcer is permitted to carry a concealed firearm.
(c) If carrying a concealed firearm when not actively engaged in the recovery of a defendant, an Armed Bail Enforce must have in his or her immediate possession the following:
(1) the CLEET authorized Bail Enforcer Badge
(2) the Armed Bail Enforcer License card
(3) a state-issued driver license or identification card
(d) An armed Bail Enforcer Licensee may not carry an inoperative, unsafe, or replica model firearm while on duty or any firearm in violation of a federal or state law, while in the course and scope of his or her employment.
(e) No armed Bail Enforcer shall carry a type of firearm which the Bail Enforcer has not been formally trained to handle and operate. Formal training must be conducted by an accredited and recognized firearms instructor and training program. Compliance with this requirement is incumbent upon the Licensee and notification to CLEET shall be required by submitting a certificate of training or a copy thereof upon completion of said training. Said notification shall include:
(1) Type of firearm
(2) Name of instructor, and entity, if any, providing training
(3) Number of training hours
(4) Qualification scores
(5) Date(s) of training
(f) The only firearms authorized by CLEET for use by armed Bail Enforcers are revolvers, and semi-automatic handguns. The prescribed revolver or semi-automatic handgun ammunition shall be "factory-loaded". Ammunition commonly referred to as "re-loads" is strictly prohibited for use as service ammunition.
(g) No Licensee shall brandish, point, exhibit, or otherwise display a firearm at anytime, except as authorized by law, and the Rules of this subchapter.

390:60-11-6. Use of force

(a) Since the use of force is limited by statute, a Bail Enforcer may use force only when:

(1) the Bail Enforcer has made a lawful command for the defendant to surrender and the defendant has refused to obey; OR

(2) the Bail Enforcer must use force to defend the Bail Enforcer or another from injury or threat or injury while recovering a defendant.

(b) Any force used may not be more than sufficient to prevent an offense.

(c) No force may be used which is more than sufficient to temporarily restrain a defendant who has refused to obey a lawful command to surrender to the licensed Bail Enforcer.

(d) The manner and duration of force used by a Bail Enforcer may not be more than that reasonably necessary to surrender the defendant to a public officer competent to receive the defendant into custody.

390:60-11-7. Entry into dwellings

(a) Any entry into a dwelling house of a defendant or a third-party, which violates the provisions of the Bail Enforcement and Licensing Act may be punished as burglary in the first degree as provided in Title 21 O.S. § 1436 (or amendments of said statute).

(b) A Bail Enforcer may enter a dwelling house for purposes of discovering or recovering a defendant when the Bail Enforcer has received consent to enter the dwelling house from a person who is capable and competent to give such consent. The Bail Enforcer must show the existence of lawful consent.

(c) A Bail Enforcer may also enter a dwelling house without consent for purposes of discovering or recovering a felony defendant only when:

(1) The Bail Enforcer has first-hand knowledge that the defendant has entered the dwelling house and the defendant has refused a lawful and reasonable request of the Bail Enforcer to surrender. (For purposes of entry into a dwelling house by a Bail Enforcer, the term 'First-hand knowledge' means 'information received from direct eye-witness testimony, actual visual contact with and confirmed identification of the defendant by a person who knows the defendant or resides at the dwelling house, or other factual evidence provided directly to the licensed Bail Enforcer that confirms the identity and presence of the defendant within the dwelling house'); OR

(2) the Bail Enforcer has knowledge beyond a reasonable doubt that the defendant is currently in the dwelling house and the defendant has refused a lawful and reasonable request of the Bail Enforcer to surrender.

SUBCHAPTER 13. PRIVATE BAIL ENFORCER SCHOOLS

390:60-13-1. Private school accreditation

(a) All schools, school coordinators, and instructors approved by CLEET to conduct Bail Enforcer training shall do so in accordance with the Act and all applicable CLET Rules.

(b) The CLEET approved curricula for Bail Enforcer training was developed and validated by the Oklahoma State Department of Vocational and Technical Education, under the direction of the Oklahoma Department of Public Safety, the Council on Law Enforcement Education and Training, and representatives from the fields of industrial security and private investigation and bail enforcement. No additions, deletions, or revisions shall be made to the approved curricula without first obtaining the express permission of CLEET.

(c) Training schools wishing to implement Bail Enforcer training must meet the minimum standards for school coordinators, instructors, training facilities, and curriculum, as set forth in these Rules, to ensure a consistent training program throughout the State of Oklahoma.

(d) Fees for training schools shall be as set in the Oklahoma Bail Enforcement and Licensing Act.

(e) The approved Bail Enforcer training program includes three (3) courses of instruction, each related to the type of license sought. These courses are divided into five (5) training phases:

(1) Phase 1 - A course of instruction related to general private security or bail enforcer tasks.

(2) Phase 2 - A course of instruction specifically related to the tasks of unarmed security guards and unarmed bail enforcers.

(3) Phase 3 - A course of instruction specifically related to the tasks of private investigators and bail enforcers.

(4) Phase 4 "Firearms" - A course of instruction and familiarization in the care, handling, and firing of revolvers or semi-automatic handguns.

(5) Phase 5 - A course of instruction specifically related to the tasks of Bail Enforcers.

(f) Specific instructional objectives, lesson plans, and examinations for each training phase are published by the Department of Vocational and Technical Education, in manual form.

(g) Bail Enforcer license applicants must successfully complete Phase 1 - and Phase 2 - "Security Guard", and Phase 3 - "Private Investigator", and Phase 5 - "Bail Enforcer". This shall be known as the Bail Enforcer Training Course.

(h) Armed Bail Enforcer License applicants must successfully complete Phase 1, Phase 2, Phase 3, Phase 4, and Phase 5. This shall be known as the Armed Bail Enforcer Training Course.

(i) Each Bail Enforcer must be trained on the use of force continuum and the Rules for use of force.

390:60-13-2. Schools, school coordinators, and instructors

(a) Unless otherwise provided in CLEET Rules, CLEET shall recognize only those training courses that are conducted at approved schools. Approval to conduct Bail Enforcer training may be requested by making written application to the Director.

(b) Approval to conduct Bail Enforcer training courses shall be subject to the following requirements.

(1) Approved private schools must be licensed by the Oklahoma Board of Private Vocational Schools.

(2) Private security training courses must be conducted under the coordinating supervision of a person with professionally recognized training or experience in developing and managing training programs. School coordinators shall submit a resume of related education, training, instructional experience, and work experience. School Coordinators may also be approved as instructors.

(3) Bail Enforcer student/instructor class ratios shall not exceed forty (40) to one (l); However, firearms instructor-to-shooter ratios shall be not less than one (l) to five (5).

(4) Training units (classes) must be taught by approved instructors.

(c) Instructor qualifications shall be based upon training, education, teaching experience, and work experience, but shall minimally include:

(1) One of the following:

(A) A minimum of two (2) years supervisory experience with a legally recognized security or investigative or Bail Enforcement Agency; or

(B) A minimum of two (2) years continuous experience as a full-time certified law enforcement officer; or

(C) A minimum of one (1) year of experience as an instructor at an accredited educational institution in the subject matter for which approval is requested, or in a related field.

(2) Completion of a curriculum orientation workshop conducted by the State Department of Vocational and Technical Education.

(d) Firearms instructors must be currently certified as a law enforcement or private security firearms instructor, by CLEET, the Federal Bureau of Investigation, the National Rifle Association, or other professionally recognized organizations.

(e) Instructors for Phase 3 - "Private Investigator" courses shall submit additional evidence as to their training or experience relating to the Phase 3 curriculum.

(f) Instructors for Fire Safety must be certified by the accrediting authorities in those fields.

(g) Use of force instructors must be currently certified as a defensive tactics instructor by CLEET, or other professionally recognized organizations.

(h) Approved schools will be subject to review and inspection by CLEET staff. Training facilities shall meet local and state fire and safety standards. Facilities shall provide a comfortable environment for students and instructors, with minimal learning distractions. Facility and equipment standards shall be consistent with the standards set forth below:

(1) Classrooms of at least ten (10) square feet per student enrolled;

(2) Classrooms adequately lighted, heated, and cooled;

(3) Telephones are accessible;

(4) Restrooms are accessible;

(5) Audio/visual equipment is available (projection equipment, chalkboards, etc.);

(6) Firearms training facilities shall minimally provide:

(A) Protective backstop;

(B) 5 firing points;

(C) 3, 5, 7, 15, and 25 yard firing lines;

(D) Public address system;

(E) Restroom facilities;

(F) Accessible telephone;

(G) First Aid supplies;

(H) Protective equipment for eyes and ears.

(7) Indoor firearms training facilities shall minimally provide:

(A) Protective backstop;

(B) A minimum of 3 firing points;

(C) 3, 5, 7, 15, 25 yard firing lines. An indoor firing range may include reduction targets for weapons fired at fifty (50) feet to simulate weapons fired at seventy-five (75) feet);

(D) Public address system;

(E) Restroom facilities;

(F) Accessible telephone;

(G) First Aid supplies;

(H) Protective equipment for eyes and ears.

(8) Firearms training facilities must meet the minimum requirements as set forth in the OSHA Code of Federal Regulations, lead standards;

(A) 29 CFR 1910.1025 (C) Permissible Exposure Limit

(B) 29 CFR 1910.1025 (D) Exposure Monitoring

(C) 29 CFR 1910.1025 (D)(9) Accuracy of Measurement

(D) CRF 29 1910.1025 (D)(5)(11) Mechanical Ventilation for Compliance.

(9) Firearms training facilities must supply an annual exposure monitoring report. The monitoring can be conducted by either private firms or by the OSHA Consultation Division of the Department of Labor;

(10) Firearms used for approved firearms training shall be consistent with those described in CLEET Rules. Handguns shall be limited to revolvers in a minimum of .38 and .357 or larger caliber or semi-automatic handguns in a minimum of 9mm or larger caliber.

(11) Approved schools which intend to conduct Phase 4 "Firearms" training must show proof that a firearm training facility is:

(A) Owned and managed by the school itself; or

(B) Being used pursuant to a written agreement with the owner of the facility.

(i) Schools approved to conduct the private security and investigative and Bail Enforcer training courses required for licensing purposes must:

(1) offer these courses as separate courses, independent of any other training course or hours;

(2) separately charge a fee for these courses, if a fee is charged;

(3) advise students that participation in other training programs is not required for licensing; and

(4) refrain from using any statements of training being "CLEET Certified".

(j) Completion of CLEET mandated Basic Peace Officer training or reserve officer training, pursuant to Title 70, Section

3311, may be considered as comparable training for firearms training purposes.

(k) Bail Enforcer training conducted by any school without the prior approval of CLEET shall be considered null and void, and not in compliance with the provisions of this Act, and these Rules and regulations.

390:60-13-3. Attendance and administrative requirements

(a) School coordinators shall provide the following information to CLEET, thirty (30) days in advance of each training course conducted, on forms to be provided by CLEET:

(1) Training facility location;

(2) Chief Administrative Officer of the school;

(3) School coordinator and resume;

(4) Course schedule, to include dates, hours and instructors for each unit of instruction; and

(5) Resumes on all Instructors.

(b) Any changes in an approved school curriculum, instructors, or training schedules, shall be reported to CLEET in advance of the changes.

(c) Bail Enforcers and Bail Enforcer applicants enrolled in an approved training school are required to attend all prescribed units of instruction. Tardiness and absenteeism will not be permitted. Students will be required to make up any training missed.

(d) Students enrolled at an approved school must comply with the Rules and policies promulgated by the school and any Rules established by, and within the authority of the school coordinator. If a school coordinator considers violations of such Rules to be detrimental to the welfare of the school, the school coordinator may expel offending individuals from the school. Notification of such actions shall be reported immediately to CLEET. School coordinators shall be responsible for ensuring compliance with the provisions of these Rules and regulations.

(e) At the end of each training course, each student shall be given the opportunity to evaluate the performance of the school coordinator and each instructor on a form provided by CLEET. CLEET staff may conduct these evaluations, at their discretion.

(f) School coordinators shall submit a roster of graduating students, certifying that each student has met the requirements of the course conducted. This certification shall be submitted to CLEET within seven (7) days after the completion of the course, on a form provided by CLEET.

(g) Each training school coordinator will be required to maintain class files for a period of five (5) years from the completion date of each course conducted. Class files shall contain the following:

(1) Roster of students who attended and/or successfully completed the course;

(2) Accurate attendance records;

(3) Examination scores (including firearms familiarization scores), and

(4) Unit instructors.

(h) Applicants must successfully complete a licensing examination administered by CLEET, based on the official curricula, prior to issuance of a license.

(1) Applicants will be given five opportunities to successfully complete the state licensing examination.

(2) If the applicant is unable to successfully pass the examination after three (3) attempts, the applicant must retake the course.

(3) After repeating the course, applicants will be given two opportunities to successfully pass the examination.

(i) Training costs will be paid by the applicant.

390:60-13-4. Revocation or suspension of private security school accreditation

CLEET may impose disciplinary penalties and fines and/or suspend or revoke the approved status of a school, a school coordinator, or an instructor for good cause, and upon written notification. Such notification shall contain the reasons for disciplinary penalties and fines and/or suspension or revocation. These reasons may include:

(1) Use of non-approved curricula or other instructional materials;

(2) Use of false or other misinformation in any application or other document submitted to CLEET;

(3) Failure to make timely reports as required by CLEET Rules;

(4) Failure to maintain records as required by CLEET;

(5) Use of non-approved instructors;

(6) Failure to cooperate fully with CLEET in its efforts to ensure compliance with the provisions with the Rules of this subchapter;

(7) Violations of the Rules of this subchapter and other acts or omissions as prescribed by CLEET;

(8) Falsification of student records or test information;

(9) Failure to obtain approval from CLEET for instructor discretionary materials (films, student handouts, etc.).

390:60-13-5. Appeals of suspension or revocation of approved school status

Appeals of actions described above may be made by petitioning the Director for a hearing. Such appeals shall be conducted in accordance with the Oklahoma Administrative Procedures Act, and CLEET Rules.

APPENDIX A. DISQUALIFYING CONVICTIONS [NEW]

In addition to those crimes specified in the Bail Enforcement and Licensing Act, the following is a list of additional crimes which may disqualify a person from obtaining or holding an unarmed or armed Bail Enforcer or Bail Enforcement Agency license:

1. Assault and Battery
2. Larceny (Petty or Grand)
3. Any sex offense
4. Any offense involving Controlled Dangerous Substances
5. Fraud
6. Extortion
7. Treason
8. Murder
9. Manslaughter
10. Forgery
11. Arson
12. Kidnapping
13. Perjury
14. Tax Evasion
15. Unauthorized use of a Motor Vehicle
16. Hijacking
17. Receiving or Possession of Stolen Property
18. Burglary
19. Smuggling contraband into a facility where prisoners are kept
20. Inciting or being involved with a riot
21. Any conviction of a civil rights violation
22. Desertion
23. Escape from jail, prison, or custody
24. Resisting Arrest
25. Assault or Assault and Battery upon Police Officer
26. False and Bogus Checks
27. Terrorist Activities
28. Assist in Suicide
29. An attempt to commit one of the above offenses.
30. Conspiracy to commit any of offenses listed herein
31. Accessory after the fact to any offenses listed herein
32. Entry of a Final Order of Protection against an applicant or Licensee.

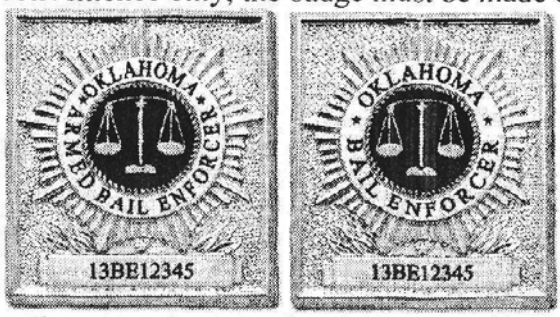
APPENDIX B. SCHEDULE OF FINES [NEW]

Description	1st	2nd	3rd
All violations subject to revocation			
General Civil Penalty/Fine Provision for Violation of Any Rule Adopted by the Council or Statute	$150.00	$300.00	$500.00
Allowing any other person to carry or use individual identification card	$250.00	$500.00	Revoke
Failure to carry identification card while working	$50.00	$75.00	$100.00
Failure to maintain physical address in Oklahoma	$50.00	$75.00	$100.00
Failure to notify of address or phone change	$50.00	$75.00	$100.00
Failure to Notify of Insurance Cancellation	$50.00	$75.00	$100.00
Failure to obtain approval for courses advertised as CLEET approved	$500.00	$1,000.00	$1,500.00
Failure to obtain mandated continuing education training	$50.00	$75.00	$100.00
Failure to provide proof of insurance by January 30th of the new year	$50.00	$75.00	$100.00
Failure to provide written reports or summaries to clients or the council	$500.00	$1,000.00	$1,500.00
Failure to report criminal proceedings initiated against a licensee	$50.00	$75.00	$100.00
Failure to show identification to law enforcement officer or CLEET official upon request	$500.00	$1,000.00	$1,500.00
Firearms violation: Brandishing, pointing, or exhibiting a firearm	$500.00	$1,500.00	Revoke
Firearms violation: Carrying unauthorized weapon or ammunition	$100.00	$500.00	$1,000.00
Firearms violation: Failure to report discharge within 24 hours	$100.00	$500.00	$1,000.00
Firearms violation: Inappropriate Discharge	$500.00	$1,000.00	$1,500.00
Firearms violation: Involving drugs or alcohol	$1,000.00	$2,000.00	Revoke
Impersonating a local, state, or federal government employee	$500.00	$1,000.00	Revoke
Impersonating a local, state, or federal government law enforcement officer	$1,000.00	Revoke	
Impersonating a private investigator or guard	$500.00	$1,000.00	$1,500.00
Insurance/Bond. Failure to obtain and maintain liability insurance or surety bond	$500.00	$1,500.00	$2,000.00
License Fee. Late filing fee for renewal of individual unarmed license	$50.00	$50.00	$50.00
License Fee. Late filing fee for renewal of individual armed license	$100.00	$100.00	$100.00
License Fee. Reinstatement fee of suspended armed individual license	$150.00	$150.00	$150.00

License Fee. Reinstatement fee of suspended unarmed individual license	$100.00	$100.00	$100.00
Performing service as a bail enforcer without a valid license	$100.00	Criminal	
Providing false or misleading information to a client or the council	$500.00	$1,000.00	Revoke
Schools. Failure to adhere to established standards.	$500.00	$1,000.00	Revoke
Schools. Failure to cooperate in efforts to ensure compliance	$500.00	$1,000.00	Revoke
Schools. Failure to maintain records required for 5 years	$100.00	$250.00	$500.00
Schools. Failure to obtain approved school status	$500.00	$1,000.00	Revoke
Schools. Failure to provide course completion notice within 7 days	$50.00	$75.00	$100.00
Schools. Falsification of documents submitted to CLEET	$1,000.00	Revoke	
Schools. Use of non-approved curriculum or other instructional materials	$500.00	$1,000.00	Revoke
Schools. Use of non-approved instructors	$500.00	$1,000.00	$1,500.00
State Seal. Improper use on badge, letterhead, or any display	$250.00	$500.00	Revoke
Uniform. Working without proper identifying markings	$50.00	$75.00	$100.00
Vehicle. Operating a vehicle with red or blue lens covers	$150.00	$300.00	$500.00
Vehicle. Violation of bail enforcer vehicle markings Rules	$150.00	$300.00	$500.00

APPENDIX C. BADGE EXAMPLES [NEW]

Here are examples of acceptable badges. These photos are provided for guidance and convenience only, the badge must be made of sturdy metal and gold in color.



A list of vendors offering the approved badge is available at CLEET.

[OAR Docket #15-595; filed 6-18-15]

TITLE 395. OKLAHOMA LAW ENFORCEMENT RETIREMENT SYSTEM CHAPTER 10. RETIREMENT AND PENSION BENEFIT PROGRAM

[OAR Docket #15-639]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
395:10-1-11. Deferred Option Plan [AMENDED]
AUTHORITY:
Oklahoma Law Enforcement Retirement Board; Title 47 §2-300- 2-315.
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
December 19, 2014
COMMENT PERIOD:
February 17, 2015 through March 19, 2015.
PUBLIC HEARING:
No public hearing was or requested.
ADOPTION:
March 23, 2015
SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:
March 31, 2015
APPROVED BY GOVERNOR'S DECLARATION:
Approved by Governor's declaration on June 8, 2015
FINAL ADOPTION:
June 8, 2015
EFFECTIVE:
September 11, 2015
SUPERSEDED EMERGENCY ACTIONS:
N/A
INCORPORATIONS BY REFERENCE:
N/A
ANALYSIS:
The purpose of these amendments is to get our rules in compliance with IRS regulations and to change the address of our physical location.
CONTACT PERSON:
Ginger Poplin, Executive Director, 421 NW 13th Street, Suite 100, Oklahoma City, OK 73103, 405-522-4931.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 11, 2015:

395:10-1-11. Deferred Option Plan

(a) **Forward DROP.**

(1) **Purpose.** The Oklahoma Law Enforcement Deferred Option Plan allows an active participating member of OLERS who has not less than twenty (20) years of participating service, who is eligible to receive a service retirement pension, to make an election to participate in the OLERS Deferred Option Plan. In lieu of terminating employment and accepting a service retirement pension, the eligible member defers the receipt of benefits in accordance with 47 O.S., 2-305.2A, B, C, D, E and F and the provisions of this section.

(2) **Definitions.** Reserved.

(3) **Application.**

(A) The applicant must have twenty (20) years or more of participating service with OLERS to be eligible.

(B) The applicant must submit his/her completed application to OLERS on forms provided by OLERS.

(C) OLERS must receive the application a minimum of thirty (30) days prior to the effective date.

(D) The effective date of membership will be the first day of the month.

(E) Once the Board has approved a member's application and the member's option account has been credited with the first contribution or benefit, the member's participation in the OLERS Deferred Option Plan is irrevocable as long as the member remains employed.

(F) OLERS will provide the applicant a Plan Summary. In addition, the applicant will be asked to sign a statement acknowledging receipt and understanding of the Plan Summary.

(4) **Contributions.**

(A) The final member contribution made to OLERS shall be for the last pay period prior to the first of the month in which the member becomes a participant in the OLERS Deferred Option Plan.

(B) The employer's contribution will continue to OLERS.

(C) The employer's contribution shall be credited as follows:

(i) fifty percent (50%) to the member's option account. The credit to the member's option account shall be made the same day as the monthly retirement benefit credit is made; and

(ii) fifty percent (50%) to OLERS.

(D) Neither the member nor anyone on his behalf may make any other contribution to the member's option account. Only the employer's contribution will be added to the member's option account.

(E) When a member has participated in the OLERS Deferred Option Plan for five (5) years, or if the member terminates employment prior to the end of five (5) years, contributions will no longer be credited to the member's option account.

(5) **Benefits.**

(A) The monthly retirement benefit that would have been payable had the member elected to cease employment and receive a service retirement shall be credited into the member's option account.

(B) The formula for calculating the pension benefit is two and one-half percent (2 1/2%) of the final average salary multiplied by the years of creditable service including partial years of service (based on completed months of service). Final average salary is the average paid base salary of the member for the highest salaried thirty (30) consecutive months, excluding pay for any accumulated leave or uniform allowance.

(C) The amount of the member's service retirement benefit is frozen at the inception of his participation in the OLERS Deferred Option Plan. No increase will be made to that benefit due to any changes in the member's salary whether for cost of living increases, promotions or otherwise, while still actively employed with the agency. The pension benefit may be increased, however, by cost of living increases as provided by the legislature for all retired members of OLERS.

(D) The monthly retirement benefit will be credited to the member's option account the last day of the month.

(6) **Interest.**

(A) The member's option account shall earn interest at a rate of two percentage (2%) points below the rate of return of the total investment portfolio of OLERS, but no less than the actuarial assumed interest rate ~~established at the beginning of the fiscal year as certified by the actuary and approved by the Board in the yearly evaluation report of the actuary. This report is on a fiscal year basis ending June 30~~. in accordance with 47 O.S., 2-305.2 (E)(2) at the beginning of the fiscal year. The fiscal year is July 1 through June 30.

(B) The Fund's rate of return shall be calculated monthly and certified by the Fund's Executive Director.

(i) For the purpose of calculating earnings for a member's account, deposits and withdrawals will be deemed to have occurred at the close of business on the last day of the month in which the transaction occurred in the system.

(ii) Earnings on a member's account will be calculated on a monthly basis using two methods.

(I) Method I Earnings I = Account balance at beginning of month times (the fund actual internal rate of return (less one twelfth (1/12) of 2%)).

(II) Method II Earnings II = Account balance at beginning of month times (Actuarial assumed earnings rate (divided by three hundred sixty-five days) times (the number of days in the month)).

(iii) Earnings credited to a member's account as of the fiscal year end shall be the greater of the sum of Method I or the sum of Method II calculated earnings.

(C) The interest shall be credited to the member's option account on an annual basis which is defined as fiscal year ending June 30. The amount of the interest credited shall be calculated at simple interest. The formula for calculating the interest shall be the amount of the deposit, times the applicable interest rate, less two percentage (2%) points, divided by 365 days, times the number of days the deposit was credited to the member's option account for the fiscal year.

(D) Each member shall receive an itemized statement on an annual basis each fiscal year.

~~(E)~~ If a member terminates employment, interest calculated and certified by the Fund's Executive Director will be credited no later than the end of the

following month to the member's option account for the partial year, provided the rate of return is greater than the actuarial assumed interest rate established in accordance with 47 O.S., 2-305.2(E)(2). If the rate of return is less than ~~the~~such actuarial assumed rate, then the member's option account will be credited at the assumed interest rate established in accordance wih 47 O.S., 2-305.2(E)(2).

(~~F~~E) When a member has participated in the OLERS Deferred Option Plan for five (5) years, or if the member terminates employment prior to the end of the five (5) years, the member's option account ceases to earn interest.

(~~G~~F) At the conclusion of a member's participation in the OLERS Deferred Option Plan, the member must terminate employment and shall start receiving the member's accrued monthly retirement benefit from OLERS. A member who terminates employment pursuant to the Deferred Option Plan will not be eligible for active participation in OLERS; provided, however that a member may be reemployed by a state agency in a position not covered under OLERS and receive in-service distributions of such member's accrued monthly retirement benefit from OLERS.

(7) **Payment.**

(A) The member must make payment selection in writing a minimum of thirty (30) days prior to termination of employment.

(B) The member may select a lump sum payment, equal to the member's option account, which will be paid directly to the member by OLERS. This payment will be made no later than the end of the month following the month the last contribution has been received following termination of employment.

(C) The member may select a direct rollover of his or her distribution in accordance with 47 O.S. §2 - 305.1A. ~~Chapter 395:10-1-11.1~~. ~~If the member does not select an Eligible Retirement Plan as described in Chapter 395:10-1-11.1, or a true annuity, the member shall receive a lump sum payment equal to the member's option account balance.~~

(D) The member may select a true annuity to be provided by a third party selected by the participant. OLERS shall not be subject to any fees or charges from the annuity provider.

(E) Once the member's option account has been paid to the member as a Direct Rollover or to the member's annuity provider, the member shall not have any recourse against OLERS its Executive Director (and his/her staff) and/or the OLERS Board.

(8) **Beneficiaries.**

~~(A)~~ Upon the death of a participant, a lump sum payment equal to the member's option account balance shall be paid to the designated beneficiary of the participant or if there is no designated beneficiary or if the designated beneficiary predeceases the participant, the payment shall be paid to the estate of the participant. If the member's spouse is not designated as the sole primary beneficiary, the member's spouse must sign consent. A designated beneficiary who is a surviving spouse of a member may elect a Direct Rollover of the account balance in accordance with 47 O.S. §2-305.1A. A designated beneficiary who is not a surviving spouse may elect a Direct Rollover in accordance with 47 O.S. §2-305.1A and 47 O.S. § 2-305.1B. ~~Chapter 395:10-1-11.1.~~

(b) **Back DROP.**

(1) **Purpose.** In lieu of participating in the Oklahoma Law Enforcement Deferred Option Plan pursuant to 47 O.S. § 2-305.2 A, B, C, D and E, a member may elect to participate in the Oklahoma Law Enforcement Deferred Option Plan pursuant to 47 O.S. § 2-305.2H ("Back DROP") and the provisions of this subsection.

(2) **Definitions.** For purposes of this subsection, the definitions as stated in 47 O.S. § 2-305.2(H)(1) shall apply.

(3) **Application for Back DROP / Conversion from Forward DROP.**

(A) The applicant must have twenty (20) years or more of participating service with OLERS to be eligible.

(B) The applicant must submit his/her completed application to OLERS on forms provided by OLERS.

(C) OLERS must receive the application a minimum of thirty (30) days prior to the effective date.

(D) The effective date of membership will be the first day of the month.

(E) Once the Board has approved a member's application, the member's participation in the OLERS Back DROP is irrevocable.

(F) OLERS will provide the applicant a Plan Summary. In addition, the applicant will be asked to sign a statement acknowledging receipt and understanding of the Plan Summary.

(4) **Contributions and Benefits.**

(A) At the termination date, a member's monthly pension benefit will be determined based on the earlier attained participating service and on the final average salary as of the back drop date.

(B) The member's individual deferred option account will be credited with an amount equal to the deferred benefit balance; the member will terminate employment and will start receiving the member's accrued monthly retirement benefit from OLERS.

(C) The member will, upon application filed with the Board, be refunded from the fund an amount equal to the accumulated contributions the member made to the fund from the back drop date to the termination date, but excluding any interest.

(D) Such member will not be eligible for active participation in OLERS. Termination has at all times included reemployment of a member by a state agency but only in a position not covered under OLERS.

(E) The provisions of 47 O.S. § 2-305.2B, C, E, F and G apply to the Back DROP.

(5) **Conversion to Back DROP from Deferred Option Plan.**

(A) A member may participate in the Back DROP even if the member has elected to participate in the Oklahoma Law Enforcement Deferred Option Plan pursuant to 47 O.S. § 2-305.2A, B, C, D, E and F.

(B) Such a member may select a back drop date which is up to five (5) years prior to the termination date but not before the date at which the member completes 20 years of participating service. Such a member's participation in the Oklahoma Law Enforcement Deferred Option Plan may not exceed five (5) years when combined with such a member's prior period of participation in the Oklahoma Law Enforcement Deferred Option Plan.

(C) The provisions of 47 O.S. § 2-305.2B, C, E, F and G apply to a member who converts from the Oklahoma Law Enforcement Deferred Option Plan to Back DROP.

(6) **Interest.** The methodology for computing interest described in Chapter 395:10-1-11(a)(6) applies with regard to this subsection.

[OAR Docket #15-639; filed 6-23-15]

TITLE 420. OKLAHOMA LIQUEFIED PETROLEUM GAS BOARD
CHAPTER 1. ADMINISTRATIVE RULES OF PROCEDURE

[OAR Docket #15-652]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
420:1-1-3. Location, office hours [AMENDED]
AUTHORITY:
Oklahoma Liquefied Petroleum Gas Board; Pursuant to statute 420.3. Oklahoma Liquefied Petroleum Gas Board - Rules, regulations and specifications. Subsection (G)(H).
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
January 22, 2015
COMMENT PERIOD:
February 17, 2015 through March 20, 2015
PUBLIC HEARING:
March 23, 2015
ADOPTION:
March 23, 2015
SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:
March 31, 2015
APPROVAL BY GOVERNOR'S DECLARATION:
Approved by Governor's declaration on June 8, 2015
FINAL ADOPTION:
June 8, 2015
EFFECTIVE:
September 11, 2015
SUPERSEDED EMERGENCY ACTIONS:
n/a
INCORPORATIONS BY REFERENCE:
n/a
ANALYSIS:
The proposed amendments to 420:1-1-3 simply update the new physical street address of the LP Gas Administration office and adds language to help clarify the office hours.
CONTACT PERSON:
Mr. Bill Glass, Administrator, (405)521-2458.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 11, 2015:

420:1-1-3. Location, office hours

(a) Any member of the public may obtain information or make submissions and requests to the Oklahoma Liquefied Petroleum Gas Administration, ~~Jim Thorpe Building B-45, 2101 N. Lincoln Boulevard~~3815 N. Santa Fe, Suite 117, Oklahoma City, Oklahoma ~~73105-4990~~73118. Office hours from 7:30 a.m. to 4:30 p.m., Monday through Friday, except for holidays legally declared by the State of Oklahoma.

(b) Any person seeking information, making submissions or requests shall contact the Administrator who shall act in behalf of the Administration.

[OAR Docket #15-652; filed 6-25-15]

TITLE 420. OKLAHOMA LIQUEFIED PETROLEUM GAS BOARD
CHAPTER 10. LIQUEFIED PETROLEUM GAS ADMINISTRATION

[OAR Docket #15-653]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
420:10-1-5. Permits [AMENDED]
420:10-1-14. Standards for the storage and handling of liquefied petroleum gas [AMENDED]
AUTHORITY:
Oklahoma Liquefied Petroleum Gas Board; Pursuant to statute 420.3. Oklahoma Liquefied Petroleum Gas Board - Rules, regulations and specifications. Subsection (G)(H).
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
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ADOPTION:
March 23, 2015
SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:
March 31, 2015
APPROVAL BY GOVERNOR'S DECLARATION:
Approved by Governor's declaration on June 8, 2015
FINAL ADOPTION:
June 8, 2015
EFFECTIVE:
September 11, 2015
SUPERSEDED EMERGENCY ACTIONS:
n/a
INCORPORATIONS BY REFERENCE:
Incorporated standards:
The standards for the storage and handling of liquefied petroleum gases adopted by the National Fire Protection Association and published in its

pamphlets No. 58, and the standards for the installation of gas appliances and gas piping adopted by said National Fire Protection Association published in its pamphlet No. 54 have been adopted by the legislature in 52 O.S. 1991, Section 420.3 (e) and shall be accepted standards for the State of Oklahoma.

Incorporating rules:

420:10-1-14

Availability:

Oklahoma liquefied Petroleum Gas Administration, 3815 N. Santa Fe, Suite 117, Oklahoma City, Oklahoma, 73118. Office hours are from 7:30 a.m., to 4:30 p.m., Monday through Friday, 405-521-2458.

ANALYSIS:

The proposed amendments to 420:10-1-5 add new language to the Class VI Permit that creates two new endorsements in order to clearly differentiate between the two requirements, while requiring specific testing based on each endorsement. This will ultimately allow the permit holder to operate an attended LP Gas motor fuel refueling dispenser and/or an unattended self-service LP Gas motor fuel dispenser station. The first endorsement relates to Attended Autogas (AAG), which means a state licensed and trained person would be required to fill the cylinders or the motor vehicle. The second endorsement relates to the Unattended Autogas (UAG) which allows the public to refuel their propane powered motor vehicle on a self-service basis. An initial inspection fee has been added to defray the cost and expenses of the LP Gas Administration inspecting the initial installation of the unattended LP Gas motor fuel dispenser station. An annual inspection fee has also been proposed to defray the cost and expense of an annual safety inspection of the dispenser station. There are also a couple of nonsubstantative amendments to clean up grammar/spelling and/or improve sentence structure.

The proposed amendments to 420:10-1-14 add new language that would require plans be submitted by a Class I permit holder on any dispenser, including the unattended self-service LP Gas motor fuel dispenser stations, to be approved by the LP Gas Administration. The plan review fee charged by the LP Gas Administration has been increased from $10.00 to $100.00. Also, updates and clarifies how DOT cylinders are to be charged. The proposed amendment also deletes the requirement that a cylinder exchange cabinet be located with a minimum five (5) feet distance away from any source of ignition. The rule instead defers to the National Fire Protection Association (NFPA) Pamphlet 58 as to the location requirements of the cabinet. The proposed rule adds language to establish minimum installation and performance standards of unattended self-service LP Gas motor fuel dispenser stations. The dispensers must meet the applicable rules and regulations of the LP Gas Administration and the National Fire Protection Association (NFPA) Pamphlet 58. The proposed minimum standards also outline the minimum gallons per minute dispensing rate, step by step operating instructions and signage requirements on the dispenser.

CONTACT PERSON:

Mr. Bill Glass, Administrator, (405)521-2458.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 11, 2015:

420:10-1-5. Permits

(a) **Permits required.** No person, firm, corporation, association or other entity shall engage in the manufacturing, assembling, fabrication, installing or selling of any system, container, or apparatus to be used in this State in or for the transportation, storing, dispensing, or utilization of LPG, nor shall any transporter, distributor, or retailer of LPG store, dispense and/or transport over the highways of this State any LPG for use in this State in any system, container, apparatus or appliance without having first obtained a permit to do so as provided in this section.

(b) **Permit classifications.** The permits required for engaging in business shall be divided into the following classifications:

(1) **Class I - Dealer permit.** The Class I Dealer Permit permits the holder to engage in any phase of the LP Gas business. A Class X Manager's permit must be secured for the person actually in charge of an LP Gas operation at each separate branch or base of operation of a Class I permit holder. The initial permit fee for a Class I is Five Hundred Dollars ($500.00). The annual fee for the Class I permit is Two Hundred Dollars ($200.00).

(A) Class I holder can go on inactive status, but will have to meet all the requirements of the permit, including paying the renewal fee, and having proper insurance requirements filed with the ~~administrator~~Administrator, before going back on active status. If requirements are not met the permit will then be revoked. All Class I holders, active and inactive, are required to pay the annual renewal fee.

(B) Applicant must furnish to the Board, evidence of the following insurance:

(i) A minimum of $500,000.00 general liability insurance, as per 420:10-1-18;

(ii) Worker's Compensation insurance shall be required as per state requirements;

(iii) Motor vehicle insurance must meet State and Federal requirements.

(C) Brokers/wholesalers selling LP Gas to anyone other than Class I permit holders or refinery/gas processing type facilities shall obtain a Class I permit and meet the requirements thereof, except for minimum storage and metering, when said sales are by transport bulkhead to bulkhead.

(D) Before testing for a Class I permit, an applicant must meet the following requirements as approved by the Board:

(i) Five (5) years experience as an active Class X Manager or equivalent; and

(ii) Forty (40) hours of specified training.

(2) **Class II - Truck Transporter permit.** The Class II Transporter Permit permits the holder to transport LP Gas as a common carrier or private carrier to another of the following: a person, firm, or corporation engaged in the production or manufacture of LP Gas and/or selling or reselling LP Gas to transporters, industrial consumers, processors, distributors, retailers, and/or to holders of Class I, III, or VI permits. A Class II permit shall not authorize the resale of LP Gas to an end-user. A Class II permit shall not be a substitute where a Class I is needed. A transport must meet all CFR 49 requirements. The initial permit fee for a Class II is Three Hundred Dollars ($300.00). The annual fee for a Class II permit is Two Hundred Dollars ($200.00).

(3) **Class III - DOT Cylinder Transporter Permit.** The Class III DOT Cylinder Transporter Permit permits the holder to operate DOT cylinder filling station and cylinder delivery service. The annual fee for a Class III permit is One Hundred Dollars ($150.00).

(4) **Class IV - Installer permit.**

(A) The Class IV Installer Permit permits the holder to install and service LP Gas systems, appliances, and other LP Gas equipment. The applicant is required to have immediate supervision for two (2) weeks with a Class IV, IV-D, Class X, or a person licensed by Oklahoma Construction Industries Board with a Mechanical License, and then shall be required to pass a written examination for each separate endorsement. The endorsements will be as follows:

(i) LP, Low Pressure systems covered by NFPA 54;

(ii) HP, High Pressure systems covered by NFPA 58;

(iii) RV, Recreational Vehicle systems covered by NFPA 1192;

(iv) MC, Meter Calibration systems covered by NIST Handbook 44;

(v) TI, Truck Inspections and Piping covered by NFPA 58 and CFR 49;

(vi) DO, Dispenser Operator for Class IV permit holders that also dispense propane.

(B) Exception from two (2) week training period would be anyone already licensed by Oklahoma Construction Industries Board with a Mechanical License. If the supervising person determines that the new applicant is properly trained, proper documentation of the training is on file, and a Class IV application has been forwarded to the LP Gas Administration, the applicant at that time may begin performing the duties of a Class IV permit holder until such time as the test is administered and the permit issued. This time shall not exceed thirty (30) days or the applicant shall cease to perform these duties. Current Class IV's, as of September 1, 1994, are not required to take a written exam. Upon renewal, endorsements will be based on services provided as authorized by the Administrator. The annual fee for a Class IV permit with one (1) endorsement is Fifty Dollars ($50.00). Each additional endorsement is Ten Dollars ($10.00).

(C) Class IV permit does not permit the holder to install or service LP-Gas carburetion systems.

(D) Any installer not under the personal and direct supervision of a Class X holder at the immediate time and location of installation shall be required to have a Class IV or IV-D permit.

(5) **Class IV-D - Driver/Installer Permit.**

(A) The Class IV-D Driver/Installer Permit permits the holder to deliver LP Gas by bobtail and install and service LP Gas systems, appliance, and other LP Gas equipment. Class IV-D permit can only be issued under a Class I permit. New applicants must be under immediate supervision from a current Class IV-D, or Class X while in a minimum of a two (2) week training period before testing. Permit holder shall be required to pass a written examination. The tests shall be given according to current policies of the ~~administration~~LP Gas Administration. If the supervising Class X determines that the new applicant is properly trained, proper documentation of the training is on file, and a Class IV-D application has been forwarded to the LP Gas Administration, the applicant at that time may begin performing the duties of a Class IV-D permit holder until such time as the test is administered and the permit issued. This time shall not exceed thirty (30) days or the applicant shall cease to perform these duties. Current Class IV permit holders, as of September 1, 1994, properly trained in delivery of LP Gas will not be required to take the test and will be issued a IV-D permit. The annual fee for a Class IV-D is Fifty Dollars ($50.00).

(B) Class IV-D permit does not permit the holder to install or service LP Gas carburetion systems.

(C) Any installer not under the personal and direct supervision of a Class X holder at the immediate time and location of installation shall be required to have a Class IV or IV-D permit.

(6) **Class VI - DOT Cylinder &/or LP Gas Motor Fuel Station Operator Permit.**

(A) The Class VI DOT Cylinder and/or LP Gas Motor Fuel Station Operator Permit permits the holder to operate DOT cylinder charging station and/or a motor fuel dispenser for public resale. Applicant shall be required to pass an approved written examination~~.~~ for each separate endorsement depending upon the type of LP Gas motor fuel dispenser to be installed. The endorsements will be as follows:

(i) AAG, This Attended Autogas "AAG" endorsement permits the holder to operate LP Gas dispenser stations that fill DOT cylinders and/or Attended LP Gas motor fuel refueling dispensers for resale.

(ii) UAG, This Unattended Autogas "UAG" endorsement permits the holder to operate Unattended self-service LP Gas motor fuel dispenser stations; however, these installations require more stringent regulations than those that are attended. In addition to the requirements in this section, the permit holder shall be required to install equipment that meets or exceeds the minimum installation and performance standards described in OAC Section 420:10-1-14(28). For the purpose of defraying the cost and expenses of administering and enforcing this rule, persons, firms and corporations shall pay at the time of initial inspection a fee of Three Hundred Dollars ($300.00) for each unattended LP Gas motor fuel dispenser station. Thereafter, the annual inspection fee is One Hundred Fifty Dollars ($150.00) for each unattended LP Gas motor fuel dispenser station.

(B) Examination shall be administered by a Safety Code Enforcement Officer, or by a Class X Manager. In either case, the test fee for the Class VI permit is Ten Dollars ($10.00). Permit holder is responsible for the safety of the dispensing operation and training and safety of the employees dispensing LP Gas. Class VI

locations may not become operational until a permit has been issued. A permit will not be issued until the proper fee has been paid and certificate of insurance is received by the LP Gas Administration. The annual fee for a Class VI permit is One Hundred Dollars ($100.00).

(7) **Class VI-A - LP Gas Dispensing Permit.** All employees involved in dispensing LP Gas must acquire a Class VI-A permit, except a Class IV, Class IV-D, Class VI, and Class X. Class VI-A applicants must be properly trained by a Class VI or Class X on proper filling of ASME tanks and DOT cylinders, and inspection thereof per NFPA 58. Applicants shall be required to pass an approved written examination. Test shall be administered by a Safety Code Enforcement Officer, or by Class X manager. In either case, the test fee for the Class VI-A permit is Ten Dollars ($10.00). Holder must carry permit and attend the annual safety school once every year. This does not prohibit any person, firm or corporation from filling his own equipment from his own supply line, or dispensing motor fuel from an approved limited access self-service dispenser. The annual fee for a Class VI-A permit is Twenty-Five Dollars ($25.00).

(8) **Class VII - Cylinder Exchange Program Permit.** The Class VII Cylinder Exchange Program Permit permits the holder to participate in the cylinder exchange program. A permit is required for each cylinder exchange location. Class VII locations may not become operational until a permit has been issued. Permits will not be issued until the proper fee has been paid and certificate of insurance is received by the LP Gas Administration. The annual fee for a Class VII permit is Fifty Dollars ($50.00).

(9) **Class VIII - Appliance Dealer Permit.** The Class VIII Appliance Dealer Permit permits the holder to sell LP Gas appliances. The annual fee for a Class VIII permit is Seventy Dollars ($70.00).

(10) **Class IX - LP Gas Container Sales Permit.** The Class IX Gas Container Sales Permit permits the holder to manufacture and/or sell LP Gas containers. This permit is required by both wholesalers and retailer. The annual fee for a Class IX permit is Seventy Dollars ($70.00).

(11) **Class IX-A - Mobile Homes and Recreation Sales Permit.**

(A) The Class IX-A Mobile Homes and Recreation Sales Permit permits the holder to manufacture, fabricate and sell all LP Gas facilities or systems used in mobile homes, campers, recreational vehicles and portable buildings whether such LP Gas system is manufacture, fabricated or sold separately or as an integral part of such trailer, camper, recreational vehicle or portable building. The annual fee for a Class IX-A is Seventy Dollars ($70.00).

(B) This shall not be construed to require a permit for a sale by the owner of a mobile home or recreational vehicle who is not engaged in such business on a commercial basis and does not make over two such sales in one year.

(12) **Class X - Manager's Permit.**

(A) A Class X Manager's permit is required for a person actively in charge of LP Gas operation for holder of Class I permit and at each separate branch or base of operation of a Class I permit. All Class X holders must be a full-time employee of said Class I holder. The annual fee for a Class X permit is One Hundred Fifty Dollars ($150.00).

(B) Before testing for a Class X permit, an applicant must meet the following requirements as approved by the Board:

(i) Hold an active Class IV or Class IV-D permit and employed under an active Class I Dealer for a minimum of three (3) years or equivalent; and

(ii) One (1) year of the minimum three (3) years required experience can be satisfied with forty (40) hours of specified training.

(C) Temporary exemptions for emergency conditions can be granted by the Administrator.

(13) **Additional permits required for employees of Class I dealers.** Class IV, IV-D, VI-A, and X permits are the only additional permits that may be required for the employees of a Class I dealer, or as may be required by future Board action.

(14) **Truck, Trailer or Cargo Tank inspections.** For the purpose of defraying the cost and expenses of administering and enforcing this act, persons, firms and corporations shall also pay at the time of inspection an annual inspection fee of One Hundred Fifty Dollars ($150.00) for each LP Gas truck, trailer or cargo tank belonging to a person who holds a permit authorizing the use of such truck, trailer or cargo tank and One Hundred Fifty Dollars ($150.00) for each such truck, trailer or cargo tank belonging to a person who does not hold a permit. All requirements imposed subsequent to these inspections must be met within thirty (30) days of the initial inspection. Failure to comply will necessitate a re-inspection at a charge of One Hundred Fifty Dollars ($150.00) for each inspection. The inspection fee shall increase to Three Hundred Dollars ($300.00) per vehicle if said inspection is not completed within sixty (60) days of the expiration date, or at the discretion of the Administrator.

(15) **Containers or cylinders.** There is hereby levied the following fee, to be paid to the Administrator, upon all first sales, purchases, rentals or uses in this state of liquefied petroleum gas containers or cylinders; on all Department of Transportation (DOT) cylinders, vehicle fuel containers, a fee of Three Dollars ($3.00) each, and on all other containers, a fee of Ten Dollars ($10.00) each.

420:10-1-14. Standards for the storage and handling of liquefied petroleum gas

(a) **NFPA standards.** The standards for the storage and handling of liquefied petroleum gases adopted by the National Fire Protection Association and published in its pamphlets No. 58, and the standards for the installation of gas appliances and gas piping adopted by said National Fire Protection Association published in its pamphlet No. 54 have been adopted by the Legislature in 52 O.S. 1991, Section 402.3 (e) and shall

be accepted standards for the State of Oklahoma. All Class I permit holders must have a current copy of NFPA 58 and 54 on file at each separate branch.

(b) **Supplemental standards.** The following standards are supplemental to NFPA pamphlet No. 58 and shall be part of the rules and regulations of the Oklahoma Liquefied Petroleum Gas Board:

(1) **Definitions.**

(A) The word "approved" as used in this section means acceptable to the State Liquefied Petroleum Gas Administrator. A device or system having materials or forms different from those detailed in this section may be examined and tested according to the intent of the regulations and if found equivalent, may be approved.

(B) In this section those provisions which are considered essential for adequate protection of life and property from fire are indicated by the words "shall" and "must. The words "should" or "preferably" indicate advisory provisions concerning which the State Liquefied Petroleum Gas Administrator of Oklahoma should be consulted.

(C) In each place mentioned in NFPA No. 54 and NFPA No. 58 where it refers to "the authority having jurisdiction" this would mean the Liquefied Petroleum Gas Administrator.

(D) An "important building" shall be any building, open to the public, or inhabited by people, in which any LP Gas system or any type is installed.

(2) **Submittal of plans.**

(A) Prior to the installation of new, or the modification of liquefied petroleum gas plumbing systems, excluding tank change outs, in school buildings, churches, courthouses, office building and other building to which the public is invited, such as cafes, dance halls, tourist courts and parks, plans and specifications for such installation in duplicate, shall be submitted to, and approved, by the State Liquefied Petroleum Gas Administrator, and before such systems are filled with liquefied petroleum gas, they shall be physically inspected and approved by a licensed installer and a report made by him to the State Liquefied Petroleum Gas Administrator on LPG Form 4, or its revision, furnished by the LP Gas Administrator's office.

(B) Plans must be submitted and approved on any dispenser used to fill DOT cylinders and/or ASME containers, and used for public resale of LP Gas,including unattended self-service LP Gas motor fuel dispenser stations. These plans must be submitted by a Class I permit holder to the Administration office along with the proper fee, and an onsite inspection must be performed by a Safety Code Enforcement Officer prior to final approval and before the dispenser can be placed into service. A ~~Ten Dollar ($10.00)~~One Hundred Dollar ($100.00) plan review fee must accompany all dispenser plans submitted. If a dispenser is taken out of service, written notice must be given to the Administration office within seven (7) working days. If a dispenser is moved to a new location, new plans must be submitted to the Administrator and onsite inspection performed by a Safety Code Enforcement Officer prior to final approval and dispenser being placed into service. A complete list of dispensers by location shall be submitted to the LP Gas Administration as indicated on Class I permit renewal forms.

(C) Plans must be submitted to, and approved, by the Administrator on any fixed installation with individual water capacity of 2,000 gallons or more, or aggregate water capacity exceeding 4,000 gallons.

(3) **Report of accident.** In case of accident or fire at any location where a liquefied petroleum gas system or equipment is involved, or any accident involving liquefied petroleum gas systems or equipment, the dealer owning, operating or servicing the equipment or installation shall notify the State Liquefied Petroleum Gas Administrator. This notification shall be forwarded as soon as feasibly possible after the dealer has knowledge of the accident in order that an inspection may be made by the State Liquefied Petroleum Gas Administrator before the site has been disturbed.

(4) **Piping - including pipe, tubing and fittings.**

(A) No person, firm, or corporation shall connect a liquefied petroleum gas tank to any piping without having first determined that such piping complies with the laws of the State of Oklahoma and the rules and regulations of the State Liquefied Petroleum Gas Administrator relative to liquefied petroleum gas piping.

(B) All installations, installed after July 1, 2002, of storage containers, with more than 4,000 gallon water capacity, shall have internal valves installed as per NFPA 58.

(C) On installations of stationary or portable storage, with an aggregate of more than 4,000 gallon water capacity, a bulkhead approved by the LP Gas Administrator shall be required on each liquid line of one and one-half (1-1/2) inch or larger and each vapor line of one and one-quarter (1-1/4) inch or larger.

(5) **Vaporizers and housings.**

(A) The minimum capacity of the storage container feeding the vaporizer shall not be less than ten (10) times the hourly capacity of the vaporizer in gallons.

(B) The minimum capacity of a storage container being heated by a direct fired tank heater shall not be less than ten (10) times the hourly vaporizing capacity of the tank heater in gallons.

(6) **Container charging.** ~~Containers, including~~ DOT cylinders~~,~~ with water capacity less than 300 pounds shall be charged by weight, except containers ~~covered by Ch. 4-4.3, 1998 Edition of~~as per NFPA 58 ~~or later revisions as made by NFPA 58~~.

(7) **Liquid metering systems.** Each bulk retail delivery of liquid LP Gas shall be measured by a suitable LP Gas liquid meter system, except those deliveries of liquid

LP Gas in cylinders which are filled by weight and deliveries of LP Gas vapor through vapor meters otherwise, are exempt from the requirements of this paragraph.

(A) LP Gas Liquid meters shall indicate deliveries in terms of gallons and to the nearest tenth of a gallon.

(B) The LP Gas liquid meter shall meet, in addition to the other requirements of this paragraph, the following requirements:

(i) The system shall include a device (such as a differential back-pressure regulator) so designed and installed that the product being measured will remain in a liquid state during passage through the meter.

(ii) No means shall be provided by which any measured liquid can be diverted from the measuring chamber, differential valve equipment or the discharge line therefrom.

(iii) Effective January 1, 1994, in accordance with the National Institute of Standards and Technology (NIST) Handbook 44, all LP Gas Liquid meters used for bulk delivery shall be designed with the necessary equipment for mechanically printing gallons on a delivery ticket and the customer served thereby shall be given a ticket mechanically imprinted by the printing device. The customer's name and Class I Dealer's name must be included on the metered ticket. Meters used for stationary dispensing of motor fuel will not be required to be equipped with such printing device.

(iv) All bulk metered sales of propane, via bobtail or transport, shall be made by temperature compensated measure. Except, any truck now operating without a temperature compensation meter shall be retrofitted by no later than July 1, 2003.

(C) All meters where product is sold to the public must be proved annually by an approved meter tester/inspector and have written certification on file at permit holders place of business. All meters and temperature compensators must be accurate within the manufacturers tolerance not to exceed + or -1% at any time. The LP Gas liquid meter system shall be designed and constructed to provide for applying lead-and-wire seals in such a manner that no modifications or adjustments which would affect the accuracy of deliveries, can be made without mutilating the seal or seals. If a seal is broken, notification must be made to the Administrator and resealed by a Safety Code Enforcement Officer, an approved meter tester, or a person approved by the Administrator. In addition, the Administrator at his discretion may require proving of metering system to determine the accuracy.

(D) No dealer or firm controlled or affiliated with a dealer may calibrate or certify its own meters. All meters must be tested with a volumetric meter prover.

(8) **Qualified personnel.** Each holder of an LP Gas permit shall be responsible for having qualified personnel operating and installing LP Gas equipment.

(9) **Filling unsafe or unapproved dispensing or storage tanks prohibited.** No person, firm, or corporation shall introduce liquefied petroleum gas into a dispensing or storage tank in the State with knowledge that such dispensing or storage tank or piping is known to be in an unsafe operating condition.

(10) **Basement installations.** No appliance shall be installed in any basement or semi-basement unless it is fully automatically controlled and properly vented and must have the approval of the State Liquefied Petroleum Gas Administrator.

(11) **Standards for containers.**

(A) In accordance with 52 O.S. Sec. 420.5, all first sales, rentals, purchases or uses of DOT cylinders and ASME tanks in this State, must have Oklahoma Identification tags attached to such cylinders or tanks. However, all DOT cylinders and ASME tanks in Oklahoma, with a manufacturers date prior to September 1, 1993, are not required to have Oklahoma Identification tags. These Oklahoma Identification tags are not transferable from one cylinder or tank to another.

(B) Any new container sold or installed in Oklahoma for use in this State shall carry a five year warranty covering workmanship and material. This warranty shall provide that any container not in compliance with this regulation must be repaired or replaced by the fabricator at no expense to the dealer or customer. This provision is to take care of "pin-hole" leaks in the weld that were not detected at the time of fabrication and does not apply to fittings.

(C) Containers shall be filled or used only upon authorization of the fee simple owner. The name of the fee simple owner, if other than the consumer, shall be conspicuously shown on the container.

(D) Any stationary storage container converted from anhydrous ammonia to propane shall be converted as follows:

(i) The container shall be purged of anhydrous ammonia by water flooding, steam or other methods described by the National Propane Gas Association's (NPGA) Recommendation for Prevention of Ammonia Contamination; and

(ii) It shall then be properly purged with propane vapor and tested with the red litmus paper as described in NFPA 58 or by any other test approved by the Board; and

(iii) The test shall be completed by the permit holder that performs the conversion; and

(iv) The results shall be documented and shall contain the container manufacturer, water capacity, serial number, the results of the test, the capacity of the relief valve, the date of the test, and the signature of the permit holder conducting the test. A copy of the results shall be provided to the owner of the container; and

(v) Any dealer filling a converted anhydrous ammonia container for the first time shall either be

provided a copy of the test or complete the test as described above; and

(vi) The container shall meet all requirements of NFPA 58.

(12) **Underground containers.**

(A) Underground containers before being reinstalled must be inspected by the State Liquefied Petroleum Gas Administrator, and a fee of $25.00 paid to the State Liquefied Petroleum Gas Administrator's office, and reinstalled by a licensed LP Gas installer.

(B) Underground containers shall be dug up at the expense of the owner at any time at the discretion of the State Liquefied Petroleum Gas Administrator.

(C) Any person installing an underground container must notify the Administrator prior to installation.

(13) **Minimum storage.** All new Class I permit holders must provide bulk propane storage capacity of not less than an aggregate of 18,000 water gallons. The minimum storage must be maintained and operational, with installation approved by the authority having jurisdiction, and within a fifty (50) mile radius of the corporate office or branch location. Any exceptions to the minimum storage requirement may be granted by the Board. Current active Class I permit holders, as of September 1, 1994, are not required to meet this minimum storage requirement. After a change of ownership the new Class I permit holder must secure the minimum storage requirement within one year.

(14) **Painting.** All bulk storage containers of a capacity 120 gallons water capacity or greater shall be painted a heat reflection color.

(15) **Lettering bulk storage and dispensers.**

(A) All bulk storage 2,000 gallons and above shall be lettered with the name of the contents, such as LP Gas, butane, propane, and a "No Smoking" sign in letters not less than six (6) inches high.

(B) In addition to subparagraph (A) of this paragraph, all bulk storage used for loading and unloading facilities, and all container filling storages (dispensers) shall include the name of the person, firm, or corporation operating the bulk storage or dispenser and their phone number in letters not less than two (2) inches high. This information shall be placed so as to be readily visible to the public.

(C) For all size bulk storage containers the name of the fee simple owners, if other than the consumer, shall be conspicuously shown on the container.

(16) **Extinguishers required.** Extinguishers of the dry chemical type, with a B:C or A:B:C rating, are required. Extinguishers shall have a net content of not less than the current NFPA 58 requirements and shall be inspected at least once each year by an authorized inspector such as Fire Departments or Fire Appliance Company representatives. Current weatherproof inspection tags shall be attached to the extinguisher.

(17) **Marking cargo vehicles.** Every tank vehicle used for transportation of liquefied petroleum gas shall be marked and placarded according to current DOT requirements. Each tank vehicle must also have the name of the person, firm or corporation on each side of the cargo tank in letters a minimum of two (2) inches in height. This information shall be placed so as to be readily visible to the public. This name shall be the same as permit holder has designated on the Class I or Class II permit.

(18) **Parking and garaging LP gas tank vehicles.** Any tank vehicle used for transportation of Liquefied petroleum gas shall not be parked beneath or adjacent to any electric transmission line in such position that there is a possibility of a conductor contacting the tank in event of breakage.

(19) **Filling unapproved truck, trailer or cargo tanks prohibited.**

(A) An inspection form, when properly completed, and a LPG registration decal (the serial number of which is shown on the inspection form), shall be evidence that the liquefied petroleum gas truck, trailer or cargo tank described on the inspection form by its serial number has been approved by the Liquefied Petroleum Gas Administrator for use in the transportation of liquefied petroleum gas. Such LPG registration decal and inspection form also shall authorize the person, firm or corporation whose name appears on the inspection form or its bona fide employees to operate the truck or trailer tank described on the inspection form, and further shall authorize the filling of such truck, trailer or cargo tank with liquefied petroleum gas.

(B) The LPG registration decal shall be displayed at all times in an easily visible location on the left front of the cargo tank, which is on the driver's side. A copy of the inspection form shall be retained, until the expiration date, in the office of the person, firm or corporation whose name appears thereon. It will not be necessary to keep or display a copy of the inspection form on the truck, trailer or cargo tank.

(C) No person, firm or corporation shall operate a truck, trailer or cargo tank in the transportation of liquefied petroleum gas in this State unless such person, firm or corporation has been issued a LPG registration decal and an inspection form certifying that such tank has been registered with and approved by the State Liquefied Petroleum Gas Administrator, or unless its operation has been specifically approved by a communication from the State Liquefied Petroleum Gas Administrator.

(D) The LPG registration decal and the inspection form required in this paragraph are not transferable by the person, firm or corporation to whom they are issued or from one truck, trailer or cargo tank to another, and they are not to be used after the expiration date of the fiscal year for which they were issued, or in the event the Class I permit becomes inactive.

(20) **Vaporizers.** Exhaust gases shall not be used as a direct means of heat supply for the vaporization of fuel.

(21) **Stationary engines in building.**

(A) All engine rooms shall be well ventilated at the floor level.

(B) When engines are installed below grade level, suitable floor level mechanical exhaust ventilation shall be provided and operated continuously or adequate means shall be provided to purge the room before the engine is started. In any case the mechanical ventilation shall be in operation when the engine is running. Before and during any repairs to the engine the room shall be ventilated.

(C) Automatic fire doors shall be provided at openings in the engine room that open into other sections of the building.

(D) Exhaust gases shall be discharged outside the building in a manner that will not create a fire or any other hazard.

(E) Regulators and pressure relief valves installed in buildings and engine rooms shall be vented to the outside and discharge at least five feet away from any building opening. Such venting will not be required for combination engine fuel vaporizing - fuel reducing - fuel metering devices providing an acceptable automatic shut-off valve is installed immediately ahead of such devices.

(22) **Storage outside of buildings.** Valves and safety relief devices shall be protected against accumulations of ice and snow. Protective caps shall be deemed adequate.

(23) **Appliances.** Any mobile home, travel trailer, camper or recreational vehicle shall be delivered to the buying public by the permit holder with the system properly installed and free of leaks.

(24) **Maximum vapor pressure and container working pressure.**

(A) The maximum vapor pressure of the product at 100 degree Fahrenheit which may be transferred to a container shall not exceed the design working pressure of the container. Exception: 200 psig ASME working pressure vessels in LP Gas service in Oklahoma prior to January 1, 1994, may be continued in service for commercial propane, provided that they are fitted with relief valves and meet the start-to-leak setting in relation to the design pressure of the container, shall be in accordance with NFPA 58. For the purpose of this exception, "commercial propane" is defined as having a vapor pressure not in excess of 210 psig at 100 degree Fahrenheit. This exception does not apply to LP Gas motor fuel and mobile fuel containers.

(B) Any stationary 200 psig ASME containers brought into Oklahoma from out of state and intended for stationary LP Gas installation in Oklahoma at any facility requiring submission of plans and specification must be tested by at least two (2) of the following nondestructive test methods recognized by ASME to determine if the container or assembly is safe for LP Gas use in Oklahoma. The following test results must be submitted to the Oklahoma LP Gas Administration for approval.

(i) Hydrostatic Test;

(ii) Ultrasonic thickness test;

(iii) Wet particle fluorescent or magnaflux.

(25) **Testing, leakage and visual inspection, and meter calibration.**

(A) Hydrostatic testers operating in Oklahoma that are hydrostatic testing cargo containers for LP Gas use in Oklahoma must be approved by the Oklahoma LP Gas Board and shall:

(i) Hold a Federal C.T. number;

(ii) Include in their testing the use of a calibrated pressure chart recorder;

(iii) Hold a Class IV installer permit.

(B) Leakage and visual inspectors operating in Oklahoma and performing this inspection on cargo containers and their systems for LP Gas use in Oklahoma must be approved by the Oklahoma LP Gas Board and meet the following requirements:

(i) Inspectors shall hold a Federal C.T. number;

(ii) If the inspection includes repairs that require the LP Gas system to be re-plumbed, a Class IV permit is required.

(C) Meter calibrators operating in Oklahoma that are calibrating meters for LP Gas use in Oklahoma must be approved by the Oklahoma LP Gas Board and meet the following requirements:

(i) Meters shall be tested in accordance to Oklahoma Rules and Regulations, Section 420:10-1-14(7);

(ii) Meter calibrators shall furnish the meter owner a copy of the calibration showing the correct gear numbers and temperature compensator settings;

(iii) Meter calibration results shall be on a form approved by the LP Gas Administrator and a copy of the completed form shall be furnished to the meter owner;

(iv) Meter calibrators shall hold a Class IV permit.

(v) Meter calibration testers shall test meters according to National Institute of Standards and Technology (NIST) standards.

(26) **Cylinder exchange stations.**

(A) Cylinder exchange cabinets shall be constructed as per NFPA 58.

(B) The cabinet shall have the following signs affixed to it and readily visible to the public:

(i) "Propane" or "Flammable Gas" and "No Smoking" in letters not less than two (2) inches high;

(ii) "Net Weight ____ lbs." with the net weight of the cylinders to be specified, all of which shall be displayed on the front of the cabinet in letters not less than two (2) inches high;

(iii) Name of Class I permit holder who supplies the cylinders;

(iv) 24-hour Emergency telephone number.

(C) The cabinet shall be located for distance and number of cylinders as per NFPA 58 ~~with a minimum five (5) feet distance away from any source of ignition~~.

(D) The cylinder storage area shall be kept free of wood, debris, and other combustible/flammable material not necessary to the storage for a distance of ten (10) feet, not to include the construction materials of the building itself.

(E) Protection against vehicle impact shall be provided in accordance with good engineering practice where vehicle traffic normally is expected at the location as per NFPA 58.

(F) A fire extinguisher shall be provided as per NFPA 58.

(G) A warning sign shall be posted at or near any entrance doorway stating the "LP GAS EXCHANGE CYLINDERS EMPTY OR FULL SHALL NOT BE TAKEN INDOORS FOR ANY REASON."

(H) The Class I permit holder shall provide safety training materials to the Class VII permit holder. The Class VII permit holder is responsible for providing appropriate safety information to the individual exchanging the cylinder. This documentation of training will be kept by the Class VII permit holder at the Class VII location.

(I) Automated cylinder exchange cabinets that include an automated vending system for exchanging cylinders shall comply with the following additional requirements:

(i) Electrical equipment installed in cylinder storage compartments shall comply with the requirements for Class I, Division 2 equipment in accordance with NFPA 70, National Electrical Code;

(ii) Cabinets shall be designed such that cylinders can be placed inside only in the upright position;

(iii) Door releases for access to stored cylinders shall be permitted to be pneumatic, mechanical or electrically powered;

(iv) A manual override control shall be permitted for use by authorized personnel;

(v) The vending system shall not be capable of returning to automatic operation after a manual override until the system has been inspected and reset by authorized personnel.

(J) A Class I permit shall be required in order to supply exchange cylinders for the cylinder exchange permit holder.

(K) A busy sidewalk and thoroughfare, as referenced in NFPA 58, shall be further defined as not being located on private property. A busy sidewalk is alongside a public road and a thoroughfare is a public road.

(27) **Recreational vehicles.** Installations or repairs on LP Gas systems on recreational vehicles shall be performed as per NFPA 1192, Standard on Recreational Vehicles.

(28) **Minimum installation and performance standards of unattended self-service LP Gas motor fuel dispenser stations.**

(A) Unattended self-service LP Gas motor fuel dispenser stations shall meet the applicable sections of the rules and regulations of the Oklahoma Liquefied Petroleum Gas Board and NFPA 58.

(B) Any unattended self-service LP Gas motor fuel dispenser shall also meet all Alternative Provisions for Installations of ASME containers found in NFPA 58 regardless of tank size. This includes Redundant Fail Safe Product Control and Low Emission Transfer requirements.

(C) The delivery valve and nozzle combination shall be designed, installed, and operated, so that LP Gas will not be released unless the valve is correctly attached to the filler coupling on the receiving valve of the LP Gas motor fuel container.

(D) To maintain minimum performance standards, the following shall be considered minimum system performance requirements:

(i) Dispensing rate minimum of eight (8) gallons per minute (GPM) per manufacturer's specifications;

(ii) Vehicle fueling area, ground where vehicle is parked, shall be reasonably level to allow for complete fuel fills.

(E) The dispenser shall have the following signs affixed to the dispenser and readily visible to the public:

(i) Step by step operating instructions, approved in advance by the Administrator;

(ii) A warning sign(s) stating, "WARNING, STATE LAW PROHIBITS FILLING ANY PORTABLE DOT CONTAINERS AT THIS DISPENSER" and "All vehicles refueling at this dispenser must have an appropriate ASME container fitted with an operational OPD valve" in letters not less than two (2) inches high;

(iii) Proper name of LP Gas being dispensed, as specified by federal regulations at CFR-Title 49, in letters not less than two (2) inches high;

(iv) "No Smoking" in letters not less than two (2) inches high;

(v) 24-hour emergency telephone number in letters not less than two (2) inches high;

(vi) Name of the Class 1 permit holder that services the dispenser, in letters not less than two (2) inches high.

[OAR Docket #15-653; filed 6-25-15]

TITLE 428. LONG-RANGE CAPITAL PLANNING COMMISSION CHAPTER 1. ADMINISTRATIVE OPERATIONS

[OAR Docket #15-667]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 1. General Provisions
428:1-1-1. Purpose and scope [AMENDED]
428:1-1-2. Official office [AMENDED]
428:1-1-4. Notice of meetings [AMENDED]
428:1-1-5. Agenda items [AMENDED]
428:1-1-6. Open records [AMENDED]
AUTHORITY:
62 O.S. §901; Director of the Office of Management and Enterprise Services.
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
November 24, 2014
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Approved by Governor's declaration on June 8, 2015
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SUPERSEDED EMERGENCY ACTIONS:
n/a
INCORPORATIONS BY REFERENCE:
n/a
ANALYSIS:
The purpose of this proposed rulemaking action is to update terminology, make the rules consistent with statutory changes, correct scrivener's errors, and improve clarity.
CONTACT PERSON:
Kimberlee Williams, Deputy General Counsel, OMES, (405) 522-3615 or Kimberlee.Williams@omes.ok.gov.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 11, 2015:

SUBCHAPTER 1. GENERAL PROVISIONS

428:1-1-1. Purpose and scope

The Long-Range Capital Planning Commission of the State of Oklahoma was created to implement the State Capital Improvement Planning Act found at 62 O.S., Section 900 et seq. The Commission has been charged with the annual preparation of a state capital plan which addresses state~~, regional and local~~ public capital facility needs for the ensuring ~~five~~eight years. In order to facilitate the business of the Commission and the ~~State Bond Advisor~~Office of Management and Enterprise Services, as well as the state governmental entities subject to the Act and the rules of this title, the rules of this Chapter establish the operations of the Commission and their staff.

428:1-1-2. Official office

The Long-Range Capital Planning Commission offices are located at ~~301 Northwest 63rd Street, Suite 225~~2401 North Lincoln Boulevard, Suite 206, Oklahoma City, OK ~~73116~~73105, within the offices of the ~~Oklahoma State Bond Advisor~~Office of Management and Enterprise Services - Division of Capital Assets Management. The ~~State Bond Advisor~~Division of Capital Asseets Management serves as staff to the Commission. The telephone number of the Commission is ~~405/521-6198~~(405) 522-0440 and the facsimile machine number is ~~405/848-3314~~(405) 521-6403. The office hours are from 8:00 a.m. to 5:00 p.m. Central Time, Monday through Friday, except legal holidays.

428:1-1-4. Notice of meetings

Notice of regular and special meetings of the Commission will be given in accordance with the provisions of the Oklahoma Open Meeting Act~~, supra~~.

428:1-1-5. Agenda items

The ~~State Bond Advisor~~Division of Capital Assets Management prepares an agenda on behalf of the Commission for each meeting of the Commission. The agenda is filed and posted in accordance with the Oklahoma Open Meeting Act~~, supra~~. Members of the public may request the Commission to place matters on the agenda for a meeting.

428:1-1-6. Open records

All requests for the public records of the Commission will be made through the ~~State Bond Advisor~~Division of Capital Assets Management, who will be charged with making the public records of the Commission available for inspection by, or copying to, the requesting party during normal business hours. The Commission will charge $0.25 per page for each copy of a public record ~~made upon written request~~with the dimension of 8-1/2 by 14 inches or smaller. For all other records, the Commission will charge the actual direct cost of reproduction. The ~~State Bond Advisor~~Division of Capital Assets Management will decide if the request is for a record not otherwise deemed confidential under Oklahoma Law. Except information that is confidential under Oklahoma or federal law, all documents or other records of the Commission will be open for public inspection and copying.

[OAR Docket #15-667; filed 6-29-15]

TITLE 428. LONG-RANGE CAPITAL PLANNING COMMISSION CHAPTER 10. ADMINISTRATION OF THE STATE CAPITAL IMPROVEMENT PLANNING ACT

[OAR Docket #15-668]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 1. General Provisions
428:10-1-1. Purpose and scope [AMENDED]
AUTHORITY:
62 O.S. §901; Director of the Office of Management and Enterprise Services.
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ANALYSIS:
The purpose of this proposed rulemaking action is to update terminology, make the rules consistent with statutory changes, correct scrivener's errors, and improve clarity.
CONTACT PERSON:
Kimberlee Williams, Deputy General Counsel, OMES, (405) 522-3615 or Kimberlee.Williams@omes.ok.gov.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 11, 2015:

SUBCHAPTER 1. GENERAL PROVISIONS

428:10-1-1. Purpose and scope

In order to provide guidelines for all state governmental entities as defined in 62 O.S., Section 695.3 and the Regents for Higher Education, which are subject to the provisions of the State Capital Improvement Planning Act, the rules of this Chapter establish the time frames, methods, evaluation criteria and information required to be prepared and submitted by state governmental entities and Regents for Higher Education in order to facilitate the business of the Commission. The Long-Range Capital Planning Commission of the State of Oklahoma was created to implement the State Capital Improvement Planning Act found at 62 O.S., Section 900 et seq. The Commission has been charged with the annual preparation of a state capital plan which address state~~, regional and local~~ public capital facility needs for the ensuing ~~five~~eight years.

[OAR Docket #15-668; filed 6-29-15]

TITLE 435. STATE BOARD OF MEDICAL LICENSURE AND SUPERVISION CHAPTER 10. PHYSICIANS AND SURGEONS

[OAR Docket #15-750]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 7. Regulation of Physician and Surgeon Practice
435:10-7-12. Establishing a physician/patient relationship; exceptions [AMENDED]
AUTHORITY:
Title 59 O.S., Sections 489; State Board of Medical Licensure and Supervision
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
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INCORPORATIONS BY REFERENCE:
n/a
ANALYSIS:
The Board of Medical Licensure and Supervision was approached by the Governor's Office and the Oklahoma Department of Mental Health and Substance Abuse with a request to add an exemption for physicians ordering opioid antagonists (naloxone) pursuant to 63 O.S. §1-2506.1. The amendments are needed to aid the Oklahoma Department of Mental Health and Substance abuse, families and physicians in the state combat opioid overdose deaths.
CONTACT PERSON:
Barbara J. Smith, Executive Secretary, Oklahoma State Board of Medical Licensure and Supervision, 101 N.E. 51st Street, Oklahoma City, Oklahoma 73105, bsmith@okmedicalboard.org

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S. SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 11, 2015:

SUBCHAPTER 7. REGULATION OF PHYSICIAN AND SURGEON PRACTICE

435:10-7-12. Establishing a physician/patient relationship; exceptions

A physician/patient relationship is established when a physician agrees by direct or indirect contact with a patient to diagnose or treat any condition, illness or disability presented by a patient to that physician, whether or not such a presenting complaint is considered a disease by the general medical community. The physician/patient relationship shall include a medically appropriate, timely-scheduled, face-to-face encounter with the patient, subject to any supervisory responsibilities established elsewhere in these rules except the following providers are not subject to the face-to-face encounter:

(1) Providers covering the practice of another provider may approve refills of previously ordered medications if they have access to the medical file of the patient.

(2) Hospice medical directors may initiate prescriptions based on requests from licensed health care providers and on information from Hospice records.

(3) Providers ordering appropriate medications for persons with laboratory-proven, sexually transmitted diseases and persons who have been in contact with certain infectious diseases.

(4) Telemedicine physicians who meet the criteria set out in OAC 435:10-7-13 of this Subchapter.

(5) Licensed healthcare providers providing medical immunizations, which may be implemented by means of standing order(s) and/or policies.

(6) Licensed providers ordering opioid antagonists pursuant to 63 O.S. §1-2506.2.

[OAR Docket #15-750; filed 8-4-15]

TITLE 435. STATE BOARD OF MEDICAL LICENSURE AND SUPERVISION CHAPTER 10. PHYSICIANS AND SURGEONS

[OAR Docket #15-749]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 11. Temporary and Special Licensure
435:10-11-3. Procedure for special licensure [AMENDED]
AUTHORITY:
Title 59 O.S., Sections 489 and 493.4; State Board of Medical Licensure and Supervision
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
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INCORPORATIONS BY REFERENCE:
n/a
ANALYSIS:
Highly specialized physicians, such as critical care specialists, are being recruited away from Oklahoma, given high demand and few resources available. The law at 59 O.S. § 493.4 allows the Board to issue special medical licenses. This amendment clarifies that these licenses will be issued only in situations of exceptional need and to medical doctors with extraordinary qualifications, such as those in the very specialized area of advanced transplant and mechanical cardiac support critical care.
CONTACT PERSON:
Barbara J. Smith, Executive Secretary, Oklahoma State Board of Medical Licensure and Supervision, 101 N.E. 51st Street, Oklahoma City, Oklahoma 73105, bsmith@okmedicalboard.org

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S. SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 11, 2015:

SUBCHAPTER 11. TEMPORARY AND SPECIAL LICENSURE

435:10-11-3. Procedure for special licensure

(a) ~~Effective~~Absent Board determination of exceptional qualifications and need to warrant special licensure, effective June 9, 2004 only special licenses for training will be issued by the Board. Persons issued special licenses prior to June 9, 2004 may continue to apply for renewal.

(b) No person granted a special license to practice medicine or surgery in this state shall practice outside the scope of the special license. Any practice outside the scope of a special license shall be deemed to be the unlicensed practice of medicine or surgery. The Secretary is authorized to seek injunctive action to prevent any person from violating terms or limitations of a special license granted by the Board.

(c) Upon application for renewal, the Secretary shall review all special licenses granted on an annual basis to determine if such license should be renewed by the Board or amended as to its terms or limitations. In addition, the Board may grant the holder of a special license a license without practice limitation when appropriate.

[OAR Docket #15-749; filed 8-4-15]

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

[OAR Docket #15-599]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 1. General Information
450:1-1-1.1. [AMENDED]
450:1-1-3. [AMENDED]
Subchapter 3. Contracts for Mental Health, Substance Abuse, and Residential Care Services
Part 1. Eligibility to Contract
450:1-3-5. [AMENDED]
Subchapter 5. Procedure in Individual Administrative Proceedings
450:1-5-17. [NEW]
Subchapter 9. Certification and Designation of Facility Services
450:1-9-5 [AMENDED]
450:1-9-5.1 [AMENDED]
450:1-9-5.3 [AMENDED]
450:1-9-6 [AMENDED]
450:1-9-6.1 [AMENDED]
450:1-9-7 [AMENDED]
450:1-9-7.1 [AMENDED]
450:1-9-7.2 [AMENDED]
450:1-9-7.3 [AMENDED]
450:1-9-7.4 [AMENDED]
450:1-9-9.2 [NEW]
450:1-9-12 [AMENDED]
AUTHORITY:
Oklahoma Department of Mental Health and Substance Abuse Services Board; 43A O.S. §§ 2-101, 3-110, 3-306, 3-306.1, 3-314.1, 3-315, 3-317, 3-318, 3-319 and 3-415; 74 O.S. §85.9G.
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INCORPORATIONS BY REFERENCE:
N/A
ANALYSIS:
In accordance with the Administrative Procedures Act the proposed rule revisions to Chapter 1 are part of the Department's review of Title 450. The proposed rules clarify existing and are intended to comply with statutory changes.

Proposed Revisions to Chapter 1 include removing the one year certification as an option for initial certification as a facility provider. Revisions also add provisions which would prohibit facilities who relinquish their certification in lieu of administrative sanction from reapplying for certification before 6 months have passed. A requirement is also added which would shift the cost of the investigation into an administrative sanction to the sanctioned party which must be paid before a reapplication for certification would be considered. Other revisions include updates to terminology based on previous rule changes as well as administrative changes to certain provider certification processes.

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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3 (5)AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 15, 2015:

SUBCHAPTER 1. GENERAL INFORMATION

450:1-1-1.1. Definitions

The following words or terms, as defined below, when used in Chapters 1, 15, 16, 17, 18, 21, 22, 23, 24, 27, 30, 50, 53, 55, 60, 65 and 70, shall have the following meaning, unless the context clearly indicates otherwise and will prevail in the event there is a conflict with definitions included elsewhere in Chapters 1, 15, 16, 17, 18, 21, 22, 23, 24, 27, 30, 50, 53, 55, 60, 65 and 70:

"Administrative Hearing Officer" means an individual who is an attorney licensed to practice law in the State of Oklahoma and is appointed by the Commissioner of ODMHSAS to preside over and issue a proposed order in individual proceedings.

"AOA" means American Osteopathic Association.

"Behavioral Health Aide (BHA)" means individuals must have completed sixty (60) hours or equivalent of college credit or may substitute one year of relevant employment and/or responsibility in the care of children with complex emotional needs for up to two years of college experience, and:

(A) must have successfully completed the specialized training and education curriculum provided by the ODMHSAS; and

(B) must be supervised by a bachelor's level individual with a minimum of two years case management experience or care coordination experience; and

(C) treatment plans must be overseen and approved by a LBHP or Licensure Candidate; and

(D) must function under the general direction of a LBHP, Licensure Candidate and/or systems of care team, with a LBHP or Licensure Candidate available at all times to provide back up, support, and/or consultation.

"Board" means the Oklahoma State Board of Mental Health and Substance Abuse Services.

"CARF" means Commission on Accreditation of Rehabilitation Facilities (CARF).

"Certification" means a status which is granted to a person or an entity by the Oklahoma State Board of Mental Health and Substance Abuse Services or the ODMHSAS, and indicates the provider is in compliance with minimum standards as incorporated in OAC 450 to provide a particular service. In accordance with the Administrative Procedures Act, 75 O.S. § 250.3(8), certification is defined as a "license."

"Certified Alcohol and Drug Counselor (CADC)" means Oklahoma certification as an Alcohol and Drug Counselor.

"Certified Behavioral Health Case Manager" or **"CM"** means any person who is certified by the ODMHSAS as a Behavioral Health Case Manager pursuant to Oklahoma Administrative Code, Title 450, Chapter 50.

"Certified facility" means any facility which has received a certification status by the Oklahoma State Board of Mental Health and Substance Abuse Services or the ODMHSAS.

"Certification report" means a ~~written notice of the deficiencies developed by ODMHSAS Provider Certification~~a summary of findings documented by ODMHSAS related to an applicant's compliance with certification standards.

"COA" means the Council on Accreditation of Services for Families and Children, Inc.

"Contractor" or **"contractors"** means any person or entity under contract with ODMHSAS for the provision of goods, products or services.

"Employment Consultant (EC)" means an individual who (i) has a high school diploma or equivalent; and (ii) successful completion of Job Coach training.

"Entities" or **"entity"** means sole proprietorships, partnerships and corporations.

"Facilities" or **"facility"** means entities as described in 43A O.S. § 1-103(7), community mental health centers, residential mental health facilities, community-based structured crisis centers, certified services for the alcohol and drug dependent, programs of assertive community treatment, eating disorder treatment, gambling addiction treatment, and narcotic treatment programs.

"Family Support and Training Provider (FSP)" means

(A) have a high school diploma or equivalent;

(B) be 21 years of age and have successful experience as a family member of a child or youth with serious emotional disturbance, or a minimum of 2 years experience working with children with serious emotional disturbance or be equivalently qualified by education in the human services field or a combination of work experience and education with one year of education substituting for one year of experience (preference is given to parents or care givers of child with SED);

(C) successful completion of Family Support Training according to a curriculum approved by the ODMHSAS;

(D) pass OSBI background check;

(E) treatment plans must be overseen and approved by a LBHP or Licensure Candidate; and

(F) must function under the general direction of a LBHP, Licensure Candidate or systems of care team, with a LBHP or Licensure Candidate available at all times to provide back up, support, and/or consultation.

"Individual proceeding" means the formal process employed by an agency having jurisdiction by law to resolve issues of law or fact between parties and which results in the exercise of discretion of a judicial nature.

"Institutional Review Board" or **"IRB"** means the ODMHSAS board established in accordance with 45 C.F.R. Part 46 for the purposes expressed in this Chapter.

"Intensive Case Manager (ICM)" means an individual who is designated as an ICM and carries a caseload size of not more than twenty-five (25) individuals. They are a LBHP, Licensure Candidate, CADC, or certified as a Behavioral Health Case Manager II, and have:

(A) a minimum of two (2) years Behavioral Health Case Management experience,

(B) crisis diversion experience, and

(C) successfully completed ODMHSAS ICM training.

"IRB approval" means the determination of the IRB that the research has been reviewed and may be conducted within the constraints set forth by the IRB and by other agency and Federal requirements.

"Levels of performance" or **"level of performance"** means units of service by types of service.

"Licensed Alcohol and Drug Counselor" or **"LADC"** means any person who is licensed through the State of Oklahoma pursuant to the provisions of the Licensed Alcohol and Drug Counselors Act.

"Licensed Behavioral Health Professional" or **"LBHP"** means:

(A) allopathic or osteopathic physicians with a current license and board certification in psychiatry or board eligible in the state in which services are provided, or a current resident in psychiatry;

(B) practitioners with a license to practice in the state in which services are provided ~~or those actively and regularly receiving board approved supervision, and extended supervision by a fully licensed clinician if board's supervision requirement is met but the individual is not yet licensed, to become licensed~~issued by one of the following licensing boards:

(i) Psychology;

(ii) Social Work (clinical specialty only);

(iii) Professional Counselor;

(iv) Marriage and Family Therapist;

(v) Behavioral Practitioner; or

(vi) Alcohol and Drug Counselor;

(C) advanced practice nurse (certified in a psychiatric mental health specialty), licensed as a registered nurse with a current certification of recognition from the board of nursing in the state in which services are provided; or

(D) a physician assistant who is licensed in good standing in the state and has received specific training for and is experienced in performing mental health therapeutic, diagnostic, or therapy functions.

"Licensed dietitian" means a person licensed by the Oklahoma Board of Medical Licensure and Supervision as a dietitian.

"Licensed mental health professional" or **"LMHP"** as defined in Title 43A §1-103(11).

"Licensed physician" means an individual with an M.D. or D.O. degree who is licensed in the state of Oklahoma to practice medicine.

"Licensed practical nurse" means an individual who is a graduate of an approved school of nursing and is licensed in the State of Oklahoma to provide practical nursing services.

"Licensure candidate" means practitioners actively and regularly receiving board approved supervision, and extended supervision by a fully licensed clinician if board's supervision requirement is met but the individual is not yet licensed, to become licensed by one of the following licensing boards:

(A) Psychology;
(B) Social Work (clinical specialty only);
(C) Professional Counselor;
(D) Marriage and Family Therapist;
(E) Behavioral Practitioner; or
(F) Alcohol and Drug Counselor.

"Minimal risk" means that the probability and magnitude of harm or discomfort anticipated in the research are not greater, in and of themselves, than those ordinarily encountered in daily life or during the performance of routine physical or psychological examination or tests.

"ODMHSAS" or **"Department"** means the Oklahoma Department of Mental Health and Substance Abuse Services.

"Oklahoma Administrative Code" or **"OAC"** means the publication authorized by 75 O.S. § 256 known as The Oklahoma Administrative Code, or, prior to its publication, the compilation of codified rules authorized by 75 O.S. § 256(A)(1)(a) and maintained in the Office of Administrative Rules.

"Paraprofessional" means a person who does not have an academic degree related to the scope of treatment or support services being provided but performs prescribed functions under the general supervision of that discipline.

"Peer Recovery Support Specialist" or **"PRSS"** means an individual certified by ODMHSAS as a Peer Recovery Support Specialist pursuant to requirements found in OAC 450:53.

"Probationary certification" means a certification status granted for a period less than three (3) years.

"Psychiatrist" means a licensed physician who specialized in the assessment and treatment of individuals having psychiatric disorders and who is fully licensed to practice medicine in the state in which he or she practices and is certified in psychiatry by the American Board of Psychiatry and Neurology, or has equivalent training or experience.

"Registered nurse" means an individual who is a graduate of an approved school of nursing and is licensed in the state of Oklahoma to practice as a registered nurse.

"Rehabilitative services" means face-to-face individual or group services provided by qualified staff to develop skills necessary to perform activities of daily living and successful integration into community life.

"Reimbursement rates" means the rates at which all contractors are reimbursed (paid) for services they provide under their ODMHSAS contract~~, and which are reported to ODMHSAS on the Integrated Client Information System ("ICIS")~~.

"Research" means a systematic investigation, including research development, testing and evaluation, designed to develop or contribute to generalizable knowledge. Activities which meet this definition constitute research for purposes of this Chapter, whether or not they are conducted or supported under a program that is considered research for other purposes. For example, some demonstration and service programs may include research activities.

"Respondent" means the person(s) or entity(ies) named in a petition for an individual proceeding against whom relief is sought.

"Service area" means a geographic area established by the Department of Mental Health and Substance Abuse Services for support of mental health [43A O.S. § 3-302(1)].

"Service Provider" means a person who is allowed to provide substance abuse services within the regulation and scope of their certification level or license.

"Site Review Protocol" means an ODMHSAS document developed as a work document in the certification site visit(s) that is based primarily upon the rules (standards/criteria) being reviewed. The Site Review Protocol is used in preparing the Certification Report, which is provided to the facility ~~, and in preparing recommendations regarding certification~~as well as to the Board for its consideration and action related to certification.

"Support Services Provider (SSP)" means an individual age eighteen (18) or older with a high school diploma or equivalent.

"TJC" means The Joint Commission formerly referred to as the Joint Commission on Accreditation of Healthcare Organizations or JCAHO.

"Volunteer" means any person who is not on the program's payroll, but provides services and fulfills a defined role within the program and includes interns and practicum students.

450:1-1-3. Compliance with laws and rules

(a) Any statute of the United States or of the State of Oklahoma now existing, or duly enacted in the future, shall supersede any conflicting provision of the rules of this and all subsequent chapters to the extent of such conflict, but shall not affect the remaining provisions therein.

(b) All persons and organizations affected by the rules of this and all subsequent chapters and related laws shall be knowledgeable of the conduct pertinent in operating in accordance with all such rules and laws.

(c) New or amended rules ~~that come into effect July 1 will~~promulgated through permanent rulemaking will be enforced as of November 1 of ~~that~~ the year in which they become effective. ~~Facilities can opt to be reviewed under the new or amended rules for Certification site visits scheduled after July 1 and prior to November 1.~~

SUBCHAPTER 3. CONTRACTS FOR MENTAL HEALTH, SUBSTANCE ABUSE, AND RESIDENTIAL CARE SERVICES

PART 1. ELIGIBILITY TO CONTRACT

450:1-3-5. Staff qualifications for contracted entities

(a) All staff who provide clinical or supportive services for an agency contracting with ODMHSAS shall have documented qualifications, licensing or training specific to the clinical services they provide.

(b) The following service providers, as defined in 450:1-1-1.1, may provide behavioral health treatment and support services as agreed upon per contract between ODMHSAS and the contractor:

(1) Behavioral Health Aide (BHA);
(2) Behavioral Health Case Manager (CM);
(3) Certified Alcohol and Drug Counselor (CADC);
(4) Employment Consultant (EC);
(5) Family Support and Training Provider (FSP);
(6) Intensive Case Manager (ICM);
(7) Licensed Behavioral Health Professional (LBHP);
(8) Licensure Candidate;
(~~8~~9) Licensed Mental Health Professional (LMHP);
(~~9~~10) Licensed Physician;
(~~10~~11) Licensed Practical Nurse;
(~~11~~12) Paraprofessional;
(~~12~~13) Psychiatrist;
(~~13~~14) Peer Recovery Support Specialist (PRSS);
(~~14~~15) Registered Nurse;
(16) Support Services Provider (SSP).

(c) Compliance with 450:1-3-5 shall be determined by a review of staff personnel files and other supporting documentation provided.

(d) Failure to comply with 450:1-3-5 will result in the initiation of procedures to deny, suspend and/or revoke certification.

SUBCHAPTER 5. PROCEDURE IN INDIVIDUAL ADMINISTRATIVE PROCEEDINGS

450:1-5-17. Costs of administrative sanction proceedings where sanction results

The cost of certification review, the record, and administrative sanction proceedings shall be advanced by ODMHSAS. Where a certification review results in an administrative sanction, the cost of the certification review, the record, and administrative sanction proceedings shall be surcharged against the sanctioned party. Costs of administrative sanction proceedings shall include costs of prosecution of the sanction imposed. Reapplication for consideration of certification will not be considered unless and until the sanctioned party pays such costs to ODMHSAS.

SUBCHAPTER 9. CERTIFICATION AND DESIGNATION OF FACILITY SERVICES

450:1-9-5. Qualifications for certifications of facilities and programs and individuals

(a) Qualifications for certification are as follows:

(1) Compliance with applicable Standards and Criteria as authorized within the authority of Title 43A of the Oklahoma Statutes including but not limited to those formally codified in the Title 450 regulating the area for which certification is sought Codified Standards and Criteria include but are not limited to:

(A) Chapter 16, Standards and Criteria for Community Residential Mental Health Facilities;
(B) Chapter 17, Standards and Criteria for Community Mental Health Centers;
(C) Chapter 18, Standards and Criteria for ~~Alcohol and Drug Treatment Programs~~Substance Related and Addictive Disorder Treatment Services;
(D) Chapter 21, Certification of Alcohol and Drug Substance Abuse Courses (ADSAC), Organizations and Facilitators;
(E) Chapter 22, Certification of Alcohol and Drug Assessment and Evaluations Related to Driver's License Revocation;
(F) Chapter 23, Standards and Criteria for Community Based Structured Crisis Centers;
(G) Chapter 24, Standards and Criteria for Comprehensive Community Addiction Recovery Centers;
(H) Chapter 27, Standards and Criteria for Mental Illness Service Programs;
(I) Chapter 50, Standards and Criteria for Certified Behavioral Health Case Managers;
(J) Chapter 53, Standards and Criteria for Certified Peer Recovery Support Specialists;
(K) Chapter 55, Standards and Criteria for Programs of Assertive Community Treatment;
(L) Chapter 60, Standards and Criteria for Certified Eating Disorder Treatment Programs;
(M) Chapter 65, Standards and Criteria for Gambling Treatment Programs; and
(N) Chapter 70, Standards and Criteria for Opioid Substitution Treatment Programs.

(2) ODMHSAS will designate specific standards in the Chapters listed above, that are applicable to facilities and programs, as Core Organizational Standards, Core Operational Standards, and Quality Clinical Standards and the requirements that must be present to determine minimal compliance with each type of standard

(A) Core Organization Standards will address requirements necessary to assure the public and consumers of services that essential organizational functions are substantially in place at the facility and the facility is prepared to initiate services for which certification is being requested. These can be verified prior to the initiation of services for which the organization is requesting certification.

(B) Core Operational Standards will address other essential conditions and processes that must be in place to assure basic safety and protection of consumer rights. Some of these can also be verified prior

to the initiation of service. Others must be verified when an organization begins providing services.

(C) Quality Clinical Standards will address actual services provided, qualifications of staff, clinical documentation, and processes designed to assure consistency in quality and efficacy of services. These can only be verified after a reasonable time during which services have been provided.

(3) For each Chapter listed above ODMHSAS will designate certain core organizational, core operational and clinical standards that will be considered critical to the protection of the health, safety and welfare of the clients. Failure to meet these will result in immediate suspension and/or revocation.

(4) An applicant for certification must also comply with all other applicable statutory licensing provisions, including but not limited to individual professional licensure, other licenses, or permits required of organizational entities.

(b) A certified Community Mental Health Center that provides alcohol and drug treatment services in the course of its outpatient or inpatient services, but has no designated or specialized alcohol and drug abuse treatment program component, shall not be subject to additional certification under the Certified Services for Alcohol- and Drug-Dependent Standards and Criteria in OAC 450, Chapter 18.

(c) A certified Community Mental Health Center providing alcohol and drug abuse treatment services as a designated or specialized program component shall be subject to certification under the Certified Services for Alcohol- and Drug-Dependent Standards and Criteria in OAC 450, Chapter 18 or Comprehensive Community Addiction Recovery Centers Standards and Criteria in OAC 450, Chapter 24.

450:1-9-5.1. Types and duration of certification status for facilities and programs

(a) The ODMHSAS may grant the following types of certification for the durations specified below.

(1) **Permit for Temporary Operations.** Permits for temporary operations may be granted upon ODMHSAS's verification that the organization has complied with all Core Organizational Standards and Core Operational Standards applicable to the related type of services for which certification is sought. In addition, for facilities that have provided services for 30 days or longer applicable to this type of certification ODMHSAS may review compliance with applicable Quality Clinical Standards. The Permit will expire at the end of six (6) months or if a subsequent certification is achieved by the organization and subsequently granted by ODMHSAS prior to the expiration of the Permit. ODMHSAS may extend a Permit for no more than 60 days in the event of extenuating circumstances as determined by ODMHSAS.

(2) **Probationary Certification.** Probationary Certification may be awarded for a one (1) year period by ODMHSAS in accordance with applicable chapters as stipulated in 450:1-9-5 and when ODMHSAS verifies that all conditions in 450:1-9-5.1(a)(3) exist but the program initiated operations prior to the awarding of a Permit for Temporary Operations for the services for which certification is statutorily required. Organizations awarded Probationary Certification must apply for and be awarded Probationary Certification for two additional one (1) year terms, prior to being considered for other categories of ODMHSAS Certification.

(3) **Certification.** ODMHSAS may award Certification for a one (1) year or two (2) year period beyond the period approved for a Permit for Temporary Operations or as a renewal of a previously awarded Certification in accordance with applicable chapters as stipulated in 450:1-9-5 and when ODMHSAS determines that the organization has met minimal compliance with each type of standard (i.e. Core Organizational Standards, Core Operational Standards, and Quality Clinical Standards). To qualify for Certification, programs must meet the following:

(A) Demonstrate compliance with all Core Organizational Standards and with all Core Operational Standards as verified by ODMHSAS and within timeframes stipulated by ODMHSAS; and,

(B) ~~For a one (1) year certification, demonstrate compliance with at least 51% of all Quality Clinical Standards on the initial site review, and file an acceptable plan of correction and demonstrate compliance with 100% of Quality Clinical Standards, as verified by ODMHSAS in accordance 450:1-9-7.1 and 450:1-9-7.3; or,~~

~~(C)~~ For a two (2) year certification, demonstrate compliance with at least 75% of all Quality Clinical Standards on the initial site review, and file an acceptable plan of correction and demonstrate compliance with 100% of Quality Clinical Standards, as verified by ODMHSAS in accordance 450:1-9-7.1 and 450:1-9-7.3.

(~~D~~C) Programs with fewer than five (5) active cases for which clinical records could be reviewed must meet the requirements in (B) above, but can be ~~recommended~~considered for no more than a one (1) year certification.

(~~E~~D) Community Residential Mental Health Programs can be ~~recommended~~considered for no more than a one (1) year certification.

(~~F~~E) Programs awarded a Probationary Certification are not eligible for Certification under the conditions described in 450:1-9-5.1(3) until all conditions of 450:1-9-5.1(2) have been satisfied.

(4) **Certification with Distinction.** Certification with Distinction may be awarded for up to three (3) years by ODMHSAS in accordance with applicable chapters as stipulated in 450:1-9-5 for programs seeking renewal of previously awarded certification when ODMHSAS verifies all of the following minimal conditions are satisfied.

(A) Programs must have provided services with an approved ODMHSAS Certification as described in 450:1-9-5.1(3) for one (1) year or longer in addition to the time services were provided under an approved

Permit for Temporary Operations or a Probationary Certification.

(B) Programs must demonstrate compliance with all Core Organizational Standards and with all Core Operational Standards as verified by ODMHSAS; and,

(C) Programs must also demonstrate compliance with at least 90% of all Quality Clinical Standards on the initial renewal site visit and review as verified by ODMHSAS. Compliance may be determined during initial site reviews or during additional site reviews following the implementation of a plan of correction as required ODMHSAS, in accordance 450:1-9-7.1 and 450:1-9-7.3.

(D) Programs for which ODMHSAS determines compliance with all standards as required in (a), (b), and (c) may be ~~recommended~~considered for Certification with Distinction for a three (3) year period.

(E) ODMHSAS may refund certification renewal application fees for organizations that demonstrate 100% compliance with all standards (i.e. Core Organizational Standards, Core Operational Standards, and Quality Clinical Standards) during the initial renewal site visit and review.

(F) Community Residential Mental Health Programs can be ~~recommended~~considered for no more than a one (1) year Certification with Distinction.

(G) Programs awarded a Probationary Certification are not eligible for Certification under the conditions described in 450:1-9-5.1(4) until all conditions of 450:1-9-5.1(2) have been satisfied.

(5) **Certification with Special Distinction.** Certification with Special Distinction may be awarded for up to three (3) years by ODMHSAS in accordance with applicable chapters as stipulated in 450:1-9-5 for programs seeking renewal of previously awarded certification when ODMHSAS verifies all of the following minimal conditions are satisfied.

(A) The program must meet all conditions for Certification with Distinction as outlined in ~~1-9-5.1(4)~~1-9-5.1(a)(4); and,

(B) The program has attained national accreditation (COA, CARF, or TJC) for the services to which ODMHSAS Certification applies.

(C) Certification with Special Distinction will be reduced by ODMHSAS to Certification with Distinction by ODMHSAS if during the certification period for which the Special Distinction was approved, the program fails to maintain national accreditation status.

(D) ODMHSAS may refund certification renewal application fees for organizations that demonstrate 100% compliance with all standards (i.e. Core Organizational Standards, Core Operational Standards, and Quality Clinical Standards) during the initial renewal site visit and review.

(E) Community Residential Mental Health Programs can be ~~recommended~~considered for no more than a one (1) year Certification with Distinction.

(F) Programs awarded a Probationary Certification are not eligible for Certification under the conditions described in ~~450:1-9-5.1(4)~~450:1-9-5.1(a)(4) until all conditions of ~~450:1-9-5.1(2)~~450:1-9-5.1(a)(2) have been satisfied.

(b) Permits for Temporary Operations granted to applicants for initial certification of a facility, location, or level of service shall be for a period of six (6) months and shall become effective immediately upon approval by the ODMHSAS Board, the Commissioner or designee.

(c) Certification, other than Permits for Temporary Operations, granted to an applicant shall become effective the first day of the month following the date of the action by the Board, provided however, the Board may waive this requirement and make the Certification effective immediately.

450:1-9-5.3. Additional conditions related to certification

(a) Certification granted by ODMHSAS is not transferable. A change of the ownership of a facility automatically terminates any certification status, requiring application for certification by the new ownership.

(1) If the certified facility is owned by a corporation the following applies:

(A) If the corporation is not-for-profit, a change in membership of the Board of Directors of more than fifty percent (50%) of the Directors in three (3) or less calendar months, unless such change was caused by the normal expiration of terms in accordance with the bylaws of the Board of Directors, shall require the facility to be recertified.

(B) If the corporation is other than not-for-profit, a change in the ownership of more than forty per cent (40%) of the stock in the corporation from the owners at the beginning of the period of certification shall require the facility to be recertified.

(2) It is the responsibility of the facility to notify the ODMHSAS of the occurrence of either of the conditions requiring recertification and to request the application materials for recertification.

(b) Organizations granted certification, including Permits for Temporary Operation, shall only publically refer to ODMHSAS Certification in relationship to the specific services, locations, and dates applicable to each currently granted ODMHSAS Certification. This includes all published materials, electronic media, and information posted within a facility. Failure to adhere to this restriction can be cause for action related to Certification in accordance with 1-5-4.

(c) ODMHSAS shall conduct at least one unannounced additional certification site visit during each one (1) year term of a program granted Probationary Certification and each program granted 1-Year Certification.

(1) A site visit report will be supplied to the program or facility within five (5) days of the site visit unless precluded by extenuating circumstances.

(2) If deficiencies are noted, the program or facility must file a Plan of Correction addressing all deficiencies within ten (10) days of receipt of the report.

(3) Deficiencies verified during the unannounced site visit that indicate danger to the health, safety and/or welfare of the clients will result in immediate suspension and/or revocation.

~~(d) Programs or facilities that score within a one-year Certification range, as described in 450:1-9-5.1 (3), for three successive years, may not be recommended hfor renewal of certification for the third year and may be recommended for initiation of revocation proceedings.~~

(~~e~~d) Certification may be suspended or revoked with the basis for such action being delineated in Section 450:1-9-9 of this Subchapter.

450:1-9-6. Procedures for application for certification

(a) Applications for certification as a community mental health center, community residential mental health facility, community-based structured crisis center, comprehensive community addiction recovery centers, mental illness service programs, eating disorder treatment program, alcohol and drug treatment program, program of assertive community treatment, gambling addiction treatment program, and narcotic treatment program must be made to ODMHSAS in writing on a form and in a manner prescribed by the Commissioner of ODMHSAS and include the following:

(1) A fully completed ODMHSAS application for certification form signed by authorized officials;

(2) The necessary written documentation or supporting evidence required on the application for certification form; and

(3) The required certification fee in the form of a check or money order, payable to the Oklahoma Department of Mental Health and Substance Abuse Services.

(4) The following fees are required:

(A) Application fee for all Treatment Programs is $300 per certification period.

(B) Application fee for Community Residential Mental Health Programs is $100 per certification period.

(5) The application for certification form, required written documentation and fee must be submitted to Oklahoma Department of Mental Health and Substance Abuse Services, Provider Certification Division, P.O. Box 53277, Oklahoma City, Oklahoma 73152-3277.

(6) The application may require a listing of all services provided by the applicant, as well as specifics about the applicant including but not limited to governing authority, administrative, fiscal, proof of status as a business entity recognized by the State of Oklahoma, Secretary of State, all locations or sites where applicant will provide services and types of services to be provided.

(7) The application ~~may require~~must include a listing of key personnel~~, including a clinical director, currently licensed in the clinical area(s) for which certification is sought~~ responsible for business and clinical operations of the facility. At a minimum, the application will require a listing of the following, along with current contact information:

(A) Agency director;

(B) Business director or financial officer;

(C) Clinical director, currently licensed in the clinical area(s) for which certification is sought.

(i) If both substance use disorder treatment and mental health treatment services will be provided by the entity, the Clinical Director must have evidence of dual license or additional training in the area for which they are not currently licensed.

(ii) The facility must also provide evidence that the Clinical Director will be employed to serve as Clinical Director a minimum of ten (10) hours per week.

(8) ODMHSAS may refund certification fees based on exemplary performance during the Certification process for which the application has been submitted and based on guidelines established by ODMHSAS.

(b) Applications for certification or credentials as individual must be made to ODMHSAS in writing on a form and in a manner prescribed by the Commissioner of ODMHSAS and, as applicable, in accordance with specific requirements stipulated in the following chapters of 450:21, 450:22, 450:50, and for Recovery Support Specialist, in accordance with application instructions stipulated by ODMHSAS.

(c) Failure to provide required materials within a timely manner or to the extent required will result in a denial of the application.

450:1-9-6.1. Expanding certification of facilities and programs to additional geographical areas; Adding new programs or levels of care

(a) A facility or program, after being certified, may request to add a service location within the geographic area in which the ~~facility's~~facility currently provides certified services.

(b) For purposes of ~~1.9-6.1~~1-9-6.1, the facility's or program's geographic area is limited to the county in which the currently certified program's or facility's main office is located or an immediately contiguous county. Except for a Certified Community Mental Health Center, the geographic area will be defined as the service area established by ODMHSAS in accordance with 43A O.2 § 3-302 (1).

(c) Approval may be granted by the Commissioner upon submission of the required documentation to the Provider Certification Division provided the organization is not certified under a Permit for Temporary Operations.

(1) The facility must notify ODMHSAS in writing of the plan to expand service locations on a form and in a manner prescribed by the Commissioner of ODMHSAS.

(2) The required written documentation or supporting evidence includes, but is not limited to:

(A) fire & safety inspection;

(B) facility policies and procedures;

(C) zoning compliance; and

(D) evidence of compliance with Title 43A O.S. §3-417.1, if applicable.

(d) At the time of the next review of the facility's main office certification, any location which extended service provision to a different geographic area will require a separate certification application and may be reviewed on a schedule separate and apart from the certification schedule of the main office.

(e) If after being certified, a facility desires to offer a new type of service or new level of care, for which certification is required, the facility must submit an application for certification, the required documentation and fee to the ODMHSAS Provider Certification Division, P.O. Box 53277, Oklahoma City, Oklahoma 73152-3277.

450:1-9-7. Procedures for completion of the Permit for Temporary Operations certification process

(a) Completion of the certification process for a Permit for Temporary Operations will be done in cooperation between the applicant and ODMHSAS staff, and consists of the following:

(1) Each organization pursuing ODMHSAS certification shall initially apply for a Permit for Temporary Operations.

(2) Upon receipt of an application ODMHSAS will provide all applicants for a Permit for Temporary Operations a document listing the Core Organizational Standards, Core Operational Standards and Quality Clinical Standards required for a Permit for Temporary Operations. For facilities or programs that have provided clinical services for 30 days or longer, at the time of the initial application, ODMHSAS may also review applicable Quality Clinical Standards.

(3) The application shall be reviewed for completeness by ODMHSAS staff. If the application is deemed complete, a site review of the facility or program will be scheduled and completed. Failure to provide required materials within a timely manner or to the extent required will result in a denial of the application.

(4) Any deficiencies of applicable Core Organizational Standards and Core Operational Standards, and Quality Clinical Standards cited as a result of the site visit or subsequent review(s) of documents requested by ODMHSAS will be identified and a report will provided to the facility by ODMHSAS within five (5) working days of the site visit unless precluded by extenuating circumstances.

(5) The facility will have ten (10) working days from receipt of the deficiency report to correct deficiencies related to Core Organizational and Core Operational Standards and provide to ODMHSAS proof of compliance. ODMHSAS may conduct an additional site visit(s) to verify proof of compliance.

(6) If any pending deficiencies in Core Organizational Standards and Core Operational Standards are identified following this ten (10) day correction period, the program will have five (5) additional working days from receipt of any subsequent report to correct and verify compliance with any pending deficiencies.

(7) The following additional procedures will apply to programs or facilities reviewed for Quality Clinical Standards pursuant to an application for Permit for Temporary Operation as referenced in 1-9-7 (2) above.

(A) The facility will also have ten (10) working days from receipt of the report to submit a plan for correction related to cited deficiencies in Quality Clinical Standards. The plan of correction will indicate the earliest date by which ODMHSAS should schedule an additional site visit or documentation review to determine compliance with Quality Clinical Standards for which deficiencies were cited but not more than twenty (20) working days from receipt of report as referenced in (5) above.

(B) Any deficiencies of applicable standards identified during the additional site visit or review referenced in (A) above will be identified by ODMHSAS and included in a report provided to the facility by ODMHSAS within three (3) working days of the site visit or review unless precluded by extenuating circumstances. Facilities for which ODMHSAS cannot determine compliance with all pending Clinical Standards during the follow up site visit or review referenced in (A) above may request ODMHSAS to complete one additional site visit or review prior to the finalization of a ~~recommendation related to~~ certification report. Facilities desiring this additional review must do so in writing to the Director of Provider Certification within three (3) working days of receipt of the follow up report referenced in (A) above and indicate the earliest date by which ODMHSAS should schedule the final review but not more than fifteen (15) working days from receipt of report as referenced in (A) above.

(8) Facilities for which ODMHSAS can verify compliance with all applicable Core Organizational Standards, Core Operational Standards, and Quality Clinical Standards, within the timeframes specified in (3) through (7) above may be ~~recommended~~considered for Permit for Temporary Operation in accordance with guidelines established in 450:1-9-5.1.

(9) Anytime, during the process outlined above, ODMHSAS may request one or more written plan(s) of correction in a form and within a timeframe designated by ODMHSAS.

(10) Failure of any applicant for a Permit for Temporary Operation to clear deficiencies of all applicable Standards within timeframes stipulated in (3) through (7), shall result in a notice of denial of the application for a Permit for Temporary Operations

(b) Additional certification procedures related to a Permit for Temporary Operations.

(1) Re-application for a Permit can be accepted no sooner than ~~ninety (90) days~~six months after issuance of a notification of denial.

(2) If an applicant fails a second time to satisfy requirements for a Permit for Temporary Operations as stipulated in 450:1-9-7(a)(8), ODMHSAS can accept an additional

re-application no sooner than twelve (12) months from time of the issue of the second notification of denial.

(3) Organizations granted a Permit for Temporary Operations must achieve a subsequent level of ODMHSAS certification prior to the expiration of a Permit for Temporary Operations. Failure to do so will result in a cancellation by ODMHSAS of the Permit for Temporary Operations. ODMHSAS will provide notice of the cancellation and stipulate to the organization that it is must discontinue services subject to any statutory provisions that mandate the applicable ODMHSAS Certification. Re-application for a Permit for Temporary Operations, following a cancellation by ODMHSAS or by the organization to which a Permit was issued, may occur after ~~ninety (90) days~~six months and in accordance with the requirements of 450:1-9-7 and 450:1-9-12.

450:1-9-7.1. Procedures for completion of additional certification processes subsequent to a Permit for Temporary Operations

(a) The following procedures apply for organizations awarded Permit for Temporary Operation pursuant to 450:1-9-7 that elect to progress to an additional certification by ODMHSAS. The process outline below will be done in cooperation between the applicant and ODMHSAS staff, and consists of the following:

(1) Ninety (90) days prior to the expiration of a Permit for Temporary Operations, ODMHSAS will notify the permitted facility that a supplemental certification application form must be completed so the organization can be reviewed for a new certification level. Along with a request for a supplemental certification application, ODMHSAS will provide a document listing Quality Clinical Standards applicable to the new certification level. The document will also indicate the Core Organization Standards and Core Operational Standards for which continued compliance must be verified.

(2) Each organization desiring to be considered for certification subsequent to being awarded a Permit for Temporary Operations will complete a supplemental certification application form at least sixty (60) days prior to the expiration of the Permit for Temporary Operations.

(3) In the event an organization, after being awarded a Permit for Temporary Operations, fails to supply the supplemental certification application in accordance with (1) and (2) above or elects to not pursue further ODMHSAS certification, the Permit for Temporary Operations will be allowed to expire.

(4) No additional fee, beyond that required for a Permit for Temporary Operation will be required along with the supplemental certification application.

(5) The application shall be reviewed for completeness by ODMHSAS staff. If the application is deemed complete, a site review of the facility or program will be scheduled and completed.

(6) Any deficiencies of applicable standards identified as a result of the subsequent certification site visit or documentation reviews requested by ODMHSAS will be identified and a report will provided to the facility by ODMHSAS within five (5) working days of the site visit unless precluded by extenuating circumstances.

(7) The facility will have ten (10) working days from receipt of the report to correct deficiencies of all Core Organizational Standards and Core Operational Standards and provide ODMHSAS proof of compliance with these standards. ODMHSAS may require an additional site visit(s) to determine of compliance with Core Organizational Standards and Core Operational Standards. The facility will have no more than twenty (20) working days from the certification site visit referenced in (6) above to achieve complete compliance with all Core Organizational Standards and Core Operational Standards.

(8) The facility will also have ten (10) working days from receipt of the report to submit a plan for correction related to deficiencies in Quality Clinical Standards. The plan of correction will indicate the earliest date by which ODMHSAS should schedule a site visit or documentation review to determine compliance with Quality Clinical Standards for which deficiencies were cited but not more than twenty (20) working days from receipt of report as referenced in (6) above. The site visit or review may or may not be conducted in conjunction with a review to verify compliance with pending Core Organizational Standards, and Core Operational Standards.

(9) Any deficiencies of applicable standards identified during the site visit or review referenced in (8) above will be identified by ODMHSAS and included in a report provided to the facility by ODMHSAS within three (3) working days of the site visit or review unless precluded by extenuating circumstances. Facilities for which ODMHSAS cannot determine compliance with all pending Clinical Standards during the follow up site visit or review referenced in (8) above may request ODMHSAS to complete one additional site visit or review prior to the finalization of a ~~recommendation related to~~ certification ~~as referenced in (10) below~~report. Facilities desiring this additional review must do so in writing to the Director of Provider Certification within three (3) working days of receipt of the follow up report referenced in (9) above and indicate the earliest date by which ODMHSAS should schedule the final review but not more than fifteen (15) working days from receipt of report as referenced in (9) above.

(10) Facilities for which ODMHSAS can verify compliance with all applicable Core Organizational Standards, Core Operational Standards, and Quality Clinical Standards, within the timeframes specified in 450:1-9-7.1 may be ~~recommended~~considered for a certification status in accordance with guidelines established in 450:1-9-5.1.

(11) Anytime, during the process outlined above, ODMHSAS may request one or more written plan(s) of correction in a form and within a timeframe designated by ODMHSAS.

(12) If the applicant fails to submit a plan of correction within a required time frame or fails to submit a timely

or adequate revised plan of correction, denial of the application for subsequent certification shall be sent to the applicant by the Commissioner or designee and the current Permit for Temporary Operations be allowed to expire. Likewise, if the applicant fails to request an additional site visit or documentation review in accordance with timeframes stipulated in (9) above denial of the application for subsequent certification shall be sent to the applicant by the Commissioner or designee and the current Permit for Temporary Operations be allowed to expire

450:1-9-7.2. Procedures for renewal of certification

(a) The following procedures apply to organizations previously awarded certification pursuant to 450:1-9-7.1 and organizations that have maintained Certification or Certification with Commendation awarded by ODMHSAS prior to November 1, 2010. The process outline below can result in an entity being awarded Certification, Certification with Distinction, or Certification with Special Distinction. The process will be done in cooperation between the applicant and ODMHSAS staff, and consists of the following:

(1) Ninety (90) days prior to the expiration of a current Certification, except a Permit for Temporary Operations, ODMHSAS will provide the certified ~~the~~ facility with a notice of certification expiration and advise the facility that a renewal certification application form must be completed so the organization can be reviewed for consideration for a renewal of certification. Along with the notice of certification expiration, ODMHSAS will provide a document listing Core Organization Standards, Core Operational Standards, and Quality Clinical Standards potentially applicable to the renewed certification.

(2) Each organization desiring to renew Certification must submit a completed certification application form, fees and other required materials in accordance with 450:1-9-6 and at least sixty (60) days prior to the expiration of the current Certification.

(3) In the event an organization, after being notified of the Certification expiration in accordance with (1) and (2) above fails to submit the renewal certification application, fees, or other materials as referenced in (2) above, the current Certification will be allowed to expire.

(4) The application shall be reviewed for completeness by ODMHSAS staff. If the application is deemed complete, a site review of the facility or program will be scheduled and completed.

(5) Any deficiencies of applicable standards identified as a result of the renewal site visit or subsequent review(s) of documents requested by ODMHSAS will be identified and a report will provided to the facility by ODMHSAS within five (5) working days of the initial renewal site visit unless precluded by extenuating circumstances.

(6) The facility will have ten (10) working days from receipt of the report to correct deficiencies of all Core Organizational Standards and Core Operational Standards and provide to ODMHSAS proof of compliance with these standards. ODMHSAS may require an additional site visit to verify proof of compliance of Core Organizational Standards and Core Operational Standards. If deficiencies continue, the facility will have no more than twenty (20) working days from the initial renewal site visit to achieve complete compliance with all Core Organizational Standards and Core Operational Standards.

(7) The facility will also have ten (10) working days from receipt of the report to submit a plan for correction related to cited deficiencies in Quality Clinical Standards. The plan of correction will indicate the earliest date by which ODMHSAS should schedule an additional site visit or documentation review to determine compliance with Quality Clinical Standards for which deficiencies were cited but not more than twenty (20) working days from receipt of report as referenced in (5) above. The site visit may or may not be conducted in conjunction with a site visit to verify compliance with pending Core Organizational Standards, and Core Operational Standards.

(8) Any deficiencies of applicable standards identified during the additional site visit or review referenced in (7) above will be identified by ODMHSAS and included in a report provided to the facility by ODMHSAS within three (3) working days of the site visit or review unless precluded by extenuating circumstances. Facilities for which ODMHSAS cannot determine compliance with all pending Clinical Standards during the follow up site visit or review referenced in (8) above may request ODMHSAS to complete one additional site visit or review prior to the finalization of a ~~recommendation related to~~ certification ~~as referenced in (10) below~~report. Facilities desiring this additional review must do so in writing to the Director of Provider Certification within three (3) working days of receipt of the follow up report referenced in (8) above and indicate the earliest date by which ODMHSAS should schedule the final review but not more than fifteen (15) working days from receipt of report as referenced in (8) above.

(9) Facilities for which ODMHSAS can verify compliance with all applicable Core Organizational Standards, Core Operational Standards, and Quality Clinical Standards, within the timeframes specified in 450:1-9-7.3 may be ~~recommended~~considered for renewal of Certification in accordance with guidelines established in 450:1-9-5.1.

(10) Anytime, during the process outlined above, ODMHSAS may request one or more written plan(s) of correction in a form and within a timeframe designated by ODMHSAS.

(11) If the applicant fails to submit a plan of correction within the required time frame, fails to submit a timely and adequate revised plan of correction, or fails to provide evidence of correction for all cited deficiencies, a recommendation to initiate revocation proceedings must be made to the Commissioner or designee. If the Commissioner or designee approves the initiation of revocation proceedings, the provisions of Subchapter 5 will be followed.

450:1-9-7.3. Additional certification procedures

(a) The following conditions will apply to site visits and other related certification reviews conducted by ODMHSAS.

(1) Initial, renewal or follow-up site reviews, based on the current certification status of the applicant, will be scheduled and conducted by designated representatives of the ODMHSAS at each location or site of the applicant.

(2) ODMHSAS may require materials be submitted to Provider Certification, in a form determined by ODMHSAS, prior to on-site visits to verify compliance with one or more applicable Core Organizational Standards, Core Operational Standards, and/or Quality Clinical Standards.

(3) One or more site review(s) may be conducted to determine compliance with prior deficiencies as well as with standards not applicable during the prior certification visit(s).

(4) A minimum number of consumer records, as determined by ODMHSAS, shall be made available for review to determine compliance with applicable Quality Clinical Standards. For organizations, unable to provide the required minimum of records, the current certification status, including a Permit for Temporary Operations, will be allowed to expire. ODMHSAS may require review of additional consumer records to assure a representative sample of records is evaluated to determine compliance with Quality Clinical Standards.

(5) A Site Review Protocol shall be completed during each certification review. Protocols shall contain the current ODMHSAS Standards and Criteria applicable to the facility.

(A) A facility must be prepared to provide evidence of compliance with each applicable standard.

(B) In the event the reviewer(s) identifies some aspect of facility operation that adversely affects consumer safety or health, the reviewer(s) shall notify the facility director and appropriate ODMHSAS staff. An immediate suspension of certification may be made by the Commissioner of ODMHSAS.

(b) **Accreditation status.** The ODMHSAS may accept accreditation granted by The Joint Commission (TJC), the Commission on Accreditation of Rehabilitation Facilities (CARF), the Council on Accreditation of Services for Families and Children, Inc. (COA), or the American Osteopathic Association (AOA) as compliance with certain specific ODMHSAS standards. For such to be considered, the facility shall make application and submit evidence to the ODMHSAS of current accreditation status. This evidence shall include documentation of the program or programs included in the most recent accreditation survey, including survey reports of all visits by the accrediting organization, any reports of subsequent actions initiated by the accrediting organization, any plans of correction, and the dates for which the accreditation has been granted.

(c) **Deficiencies.** A deficiency shall be cited for each rule not met by the facility.

(d) **Report to applicant and plan of correction.**

(1) During the course of the certification process, and prior to determination of certification status, ODMHSAS staff shall report the results of the certification review to the facility. The facility shall receive written notice of the deficiencies in a Certification Report in accordance with 450:1-9-7, 450:1-9-7.1, and 450:1-9-7.3.

(2) The facility may be required to submit a written plan of correction as determined by 450:1-9-7, 450:1-9-7.1, and 450:1-9-7.3. Approval of the plan of correction by Provider Certification may be required before a ~~recommendation for certification~~final report of findings can be presented to ODMHSAS or the Board.

(3) If a request for a revised plan of correction is necessary, the facility must submit an acceptable plan of correction within the required time frame to continue the certification process. Failure to submit a timely and adequate revised plan of correction shall result in either a notice of denial of the application, expiration of certification, or revocation of the certification status, as applicable.

(e) **Notification of ~~Departmental recommendation~~consideration and possible action for certification.**

(1) After consideration of materials requested by ODMHSAS pursuant to certification procedures, and completion of the necessary review(s), ODMHSAS staff shall prepare a ~~recommendation on the certification status or application~~report that summarizes findings related to compliance with applicable certification standards.

(2) ~~Recommendations~~Reports regarding applications for Permit for Temporary Operations will be forwarded to the ODMHSAS Board, the Commissioner, or designee.

(3) ~~Recommendations~~Reports for all other Certification applications will be forwarded to the ODMHSAS Board for consideration or in accordance with procedures outlined in 450:21, 450:22, or 450~~;~~:50.

(4) Prior to the ODMHSAS staff's presentation of its ~~recommendation of an~~report related to the applicant's certification to the Board or the Commissioner or designee the ODMHSAS staff shall notify the applicant of:

(A) the ~~recommendation~~findings included in the report, and

(B) the date and time of the Board meeting at which the facility's application, and the ~~recommended~~ certification will be ~~presented~~considered.

(5) Achievement of certain scores is a prerequisite for consideration of a specific certification status but may not be the sole determinant. Individual deficiencies that meet the criteria in 450:1-9-9 may be grounds for suspending or revoking certification or denying applications for certification.

(6) Consideration of certification may be deferred while additional information regarding a facility's compliance status is reviewed.

(7) The minimum conditions for compliance that must be verified by ODMHSAS for ~~recommendation~~consideration of a certification status shall be stipulated in 450:1-9-5.1.

(f) **Recommendations for revocation of certification.** In the event ODMHSAS can not ~~recommend certification~~verify compliance with applicable certification standards in accordance with 450:1-9-5.1, except for Permits for Temporary Operations, ODMHSAS shall forward recommendation for

revocation of certification to the Commissioner or designee. If the Commissioner or designee approves a recommendation to revoke certification, an individual proceeding shall be initiated pursuant to Subchapter 5. Applicants unable to demonstrate compliance with standards required for Permit for Temporary Operation are not subject to the provisions for revocation and are simply denied the Permit as stipulated in 450:1-9-7.

450:1-9-7.4. Actions on Non-Certified Providers

If at the initial site review it is found the facility is providing services prior to the granting of an ODMHSAS certification status, applicable for those services being provided and in violation of statutory requirements, including prior to the granting of a Permit for Temporary Operations, the following actions will be taken:

(1) The review will be continued and will include a review of all applicable Core Organizational Standards, Core Operational Standards, and Quality Clinical Standards.

(2) The facility must comply with the requirements cited in 450:1-9-5. to continue the certification process. An organization providing services statutorily subject to ODMHSAS Certification prior to the issuance of a Permit for Temporary Operations cannot be ~~recommended~~considered for a Permit for Temporary Operations specific to those services. Such organizations are eligible only for a ~~recommendation~~consideration of a Probationary Certification.

(3) The applicant must comply within twenty (20) working days of the initial certification visit, with all applicable Core Organizational Standards, Core Operational Standards, and Quality Clinical Standards for a ~~recommendation~~report for consideration of Probationary Certification to be made to the Board. Failure to achieve the required compliance level for Probationary Certification shall result in a denial for Certification and an Order issued to cease the provision of services, if applicable.

(4) If the applicant achieves the required compliance level within the required time frame, a ~~recommendation of~~ Probationary Certification may be ~~recommended~~considered for no more than one (1) year.

(5) Continued certification after the Probationary Certification period of one year will require the submission of a new application for each of the next two (2) years. The requirements in 450:1-9-5.1(a)(3)shall apply. If the applicant achieves the required compliance level within the required time frame, a ~~recommendation for~~ Probationary Certification can be considered for no more than one (1) year ~~will be made to the Board~~ for each of the next two years.

450:1-9-9.2. Voluntary relinquishment of certification

A facility that is the subject of an investigation into, or a pending proceeding involving an administrative sanction pursuant to 450:1-9-9 may voluntarily relinquish its ODMHSAS certification in lieu of a certification suspension or revocation.

450:1-9-12. Reapplication following denial, suspension ~~or~~, revocation or voluntary relinquishment of certification

(a) Reapplication for consideration of certification for any program for which certification has been suspended~~, or~~, revoked or voluntarily relinquished will not be accepted or considered unless at least six (6) months has passed since issuance of an Order of suspension or revocation.

(b) The cost of certification review, the record, and administrative sanction proceedings shall be advanced by ODMHSAS. Where a certification review results in an administrative sanction, the cost of the certification review, the record, and administrative sanction proceedings shall be surcharged against the sanctioned facility. Costs of administrative sanction proceedings shall include costs of prosecution of the sanction imposed. Reapplication for consideration of certification will not be considered unless and until the sanctioned facility pays such costs to ODMHSAS.

[OAR Docket #15-599; filed 6-18-15]

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

[OAR Docket #15-600]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 1. General Provisions
450:17-1-2. [AMENDED]
Subchapter 3. Required Services
Part 11. Case Management
450:17-3-106. [AMENDED]
Subchapter 5. Optional Services
Part 21. Gambling Disorder Treatment Services
450:17-5-132. [AMENDED]
Part 23. Behavioral Health Home [NEW]
450:17-5-140 through 450:17-5-163 [NEW]
Subchapter 21. Staff Development and Training
450:17-21-6. [AMENDED]
AUTHORITY:
Oklahoma Department of Mental Health and Substance Abuse Services Board; 43A O.S. §§ 2-101, 3-306, 3-306.1 and 3-315; 74 O.S. §85.9G.
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
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Approved by Governor's declaration on June 8, 2015
FINAL ADOPTION:
June 8, 2015

EFFECTIVE:
September 15, 2015
SUPERSEDED EMERGENCY ACTIONS:
Superseded rules:
Subchapter 1. General Provisions
450:17-1-2. [AMENDED]
Subchapter 5. Optional Services
Part 23. Behavioral Health Home [NEW]
450:17-450:17-5-140 through 450:17-5-163 5-141. [NEW]
Gubernatorial approval:
December 17, 2014
Register publication:
32 Ok Reg 456
Docket number:
15-28
INCORPORATIONS BY REFERENCE:
N/A
ANALYSIS:
In accordance with the Administrative Procedures Act the proposed rule revisions to Chapter 17 are part of the Department's review of Title 450. The proposed rules are intended to clarify existing rules, improve processes, and are intended to comply with statutory changes.

Proposed revisions to Chapter 17 are made to add standards and criteria for Health Home services as optional services within CMHCs. Health Homes will promote enhanced integration and coordination of primary, acute, behavioral health, and long-term services and supports for persons with chronic illness. The purpose of the Health Home is to improve the health status for consumers with Serious Mental Illness or Serious Emotional Disturbance by promoting wellness and prevention and to improve access and continuity in healthcare for these consumers by supporting coordination and integration of primary care services in specialty behavioral healthcare settings. Proposed revisions also create a distinction in terminology between Licensed Behavioral Health Professionals (LBHPs) and licensure candidates.
CONTACT PERSON:
Gretchen Geis, Administrative Rules Liaison, Department of Mental Health and Substance Abuse Services, Post Office Box 53277, Oklahoma City, Oklahoma 73152-3277, (405) 522-2053.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3 (5)AND 308 (E), WITH AN EFFECTIVE DATE OF SEPTEMBER 15, 2015:

SUBCHAPTER 1. GENERAL PROVISIONS

450:17-1-2. Definitions

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

"Abuse" means the causing or permitting of harm or threatened harm to the health, safety, or welfare of a consumer by a staff responsible for the consumer's health, safety, or welfare, including but not limited to: non-accidental physical injury or mental anguish; sexual abuse; sexual exploitation; use of mechanical restraints without proper authority; the intentional use of excessive or unauthorized force aimed at hurting or injuring the resident; or deprivation of food, clothing, shelter, or healthcare by a staff responsible for providing these services to a consumer.

"Adults who have a serious mental illness" means persons eighteen (18) years of age or older who show evidence of points of (A), (B) and (C) below:

(A) The disability must have persisted for six months and be expected to persist for a year or longer.

(B) A condition or serious mental illness as defined by the most recently published version of the DSM or the International Classification of Disease (ICD) equivalent with the exception of DSM "V" codes, substance abuse, and developmental disorders which are excluded, unless they co-occur with another diagnosable serious mental illness.

(C) The adult must exhibit either (i) or (ii) below:

(i) Psychotic symptoms of a serious mental illness (e.g. Schizophrenia characterized by defective or lost contact with reality, often hallucinations or delusions); or

(ii) Experience difficulties that substantially interfere with or limit an adult from achieving or maintaining one or more developmentally appropriate social, behavioral, cognitive, communicative, or adaptive skills. There is functional impairment in at least two of the following capacities (compared with expected developmental level):

(I) Impairment in self-care manifested by a person's consistent inability to take care of personal grooming, hygiene, clothes and meeting of nutritional needs.

(II) Impairment in community function manifested by a consistent lack of appropriate behavioral controls, decision-making, judgment and value systems which result in potential involvement or involvement with the criminal justice system.

(III) Impairment of social relationships manifested by the consistent inability to develop and maintain satisfactory relationships with peers.

(IV) Impairment in family function manifested by a pattern of disruptive behavior exemplified by repeated and/or unprovoked violence, disregard for safety and welfare of self or others (e.g., fire setting, serious and chronic destructiveness, inability to conform to reasonable limitations and expectations.

(V) Impairment in functioning at school or work manifested by the inability to pursue educational or career goals.

"Advance Practice Registered Nurse" means a registered nurse in good standing with the Oklahoma Board of Nursing, and has acquired knowledge and clinical skills through the completion of a formal program of study approved by the Oklahoma Board of Nursing Registration and has obtained professional certification through the appropriate National Board recognized by the Oklahoma Board of Nursing. Advance Practice Registered Nurse services are limited to the scope of their practice as defined in 59 Okla. Stat. § 567.3a and corresponding rules and regulations at OAC 485:10-5-1 through 10-16-9.

"AOA" means American Osteopathic Accreditation

"ASAM" means the American Society of Addiction Medicine.

"ASAM criteria" means the most current edition of the American Society of

Addiction Medicine's published criteria for admission to treatment, continued services, and discharge.

"Behavioral Health Home or BHH" means a specifically organized entity that functions within a currently ODMHSAS certified mental health treatment program organization to promote enhanced integration and coordination of primary, acute, behavioral health, and long-term services and supports for persons across the lifespan with chronic illness. BHHs ensure comprehensive team-based health care, meeting physical, mental health, and substance use disorder care needs. Health care is delivered utilizing a whole-person, patient-centered, coordinated care model for adults with serious mental illness (SMI) and children with serious emotional disturbance (SED). Care coordination is provided for all aspects of the individual's life and for transitions of care the individual may experience.

"Case management services" means planned referral, linkage, monitoring and support, and advocacy provided in partnership with a consumer to assist that consumer with self sufficiency and community tenure and take place in the individual's home, in the community, or in the facility, in accordance with a service plan developed with and approved by the consumer and qualified staff.

"CARF" means Commission on Accreditation of Rehabilitation Facilities

"Child with Serious Emotional Disturbance" or **"SED"** means a child under the age of 18 who shows evidence of points of (A), (B) and (C) below:

(A) The disability must have persisted for six months and be expected to persist for a year or longer.

(B) A condition or serious emotional disturbance as defined by the most recently published version of the DSM or the International Classification of Disease (ICD) equivalent with the exception of DSM "V" codes, substance use disorders, and developmental disorders which are excluded, unless they co-occur with another diagnosable serious emotional disturbance.

(C) The child must exhibit either (i) or (ii) below:

(i) Psychotic symptoms of a serious mental illness (e.g. Schizophrenia characterized by defective or lost contact with reality, often hallucinations or delusions); or

(ii) Experience difficulties that substantially interfere with or limit a child or adolescent from achieving or maintaining one or more developmentally appropriate social, behavioral, cognitive, communicative, or adaptive skills. There is functional impairment in at least two of the following capacities (compared with expected developmental level):

(I) Impairment in self-care manifested by a person's consistent inability to take care of personal grooming, hygiene, clothes and meeting of nutritional needs.

(II) Impairment in community function manifested by a consistent lack of age appropriate behavioral controls, decision-making, judgment and value systems which result in potential involvement or involvement with the juvenile justice system.

(III) Impairment of social relationships manifested by the consistent inability to develop and maintain satisfactory relationships with peers and adults.

(IV) Impairment in family function manifested by a pattern of disruptive behavior exemplified by repeated and/or unprovoked violence to siblings and/or parents, disregard for safety and welfare or self or others (e.g., fire setting, serious and chronic destructiveness, inability to conform to reasonable limitations and expectations which may result in removal from the family or its equivalent).

(V) Impairment in functioning at school manifested by the inability to pursue educational goals in a normal time frame (e.g., consistently failing grades, repeated truancy, expulsion, property damage or violence toward others).

"Children's Health Home Specialist" means an individual within the children's Behavioral Health Home interdisciplinary team that will provide support, coaching and activities that promote good physical and mental health to individuals, families and groups. The focus of the Children's Health Home Specialist will include nutrition, healthy living habits, exercise, and preventing and/or managing chronic health conditions. Children's Health Home Specialists must be certified by ODMHSAS as Behavioral Health Case Manager I or II and complete trainings as required by ODMHSAS including but not limited to Behavioral Health Aide and Well Power.

"Chronic Homelessness" refers to an individual with a disabling condition who has either: (a) been continuously homeless for a year or more, or (b) has had at least 4 episodes of homelessness in the past 3 years. For this condition, the individual must have been on the streets or in an emergency shelter (i.e. not transitional housing) during these episodes. Chronic homelessness only includes single individuals, not families. A disabling condition is a diagnosable substance abuse disorder, serious mental illness, or developmental disability, including the co-occurrence of two or more of these conditions.

"Clinical privileging" means an organized method for treatment facilities to authorize an individual permission to provide specific care and treatment services to consumers within well-defined limits, based on the evaluation of the individual's license, education, training, experience, competence, judgment, and other credentials.

"Clubhouse" means a psychiatric rehabilitation program currently certified as a Clubhouse through the International Center for Clubhouse Development (ICCD).

"Community living programs" means either transitional or permanent supported housing for persons not in crisis who

need assistance with obtaining and maintaining an independent living situation.

"Community-based Structured Crisis Center" or "CBSCC" means a program of non-hospital emergency services for mental health and substance abuse crisis stabilization as authorized by 43A O.S. §3-317, including, but not limited to, observation, evaluation, emergency treatment and referral, when necessary, for inpatient psychiatric or substance abuse services. This service is limited to CMHC's and Comprehensive Community Addiction Recovery Centers (CCARCs) who are certified by the Department of Mental Health and Substance Abuse Services or facilities operated by the Department of Mental Health and Substance Abuse Services.

"Community mental health center" or **"CMHC"** means a facility offering a comprehensive array of community-based mental health services, including but not limited to, inpatient treatment, outpatient treatment, partial hospitalization, emergency care, consultation and education; and, certain services at the option of the center, including, but not limited to, prescreening, rehabilitation services, pre-care and aftercare, training programs, and research and evaluation.

"Consumer" means an individual, adult, adolescent, or child, who has applied for, is receiving or has received evaluation or treatment services from a facility operated or certified by ODMHSAS or with which ODMHSAS contracts and includes all persons referred to in OAC Title 450 as client(s) or patient(s) or resident(s) or a combination thereof.

"Consumer advocacy" includes all activities on behalf of the consumer to assist with or facilitate resolution of problems in the acquisition of resources or services needed by the consumer.

"Consumer committee" or **"consumer government"** means any established group within the facility comprised of consumers, led by consumers and meets regularly to address consumer concerns to support the overall operations of the facility.

"Co-occurring disorder" (COD) means any combination of mental health symptoms and substance use disorder symptoms or diagnoses that affect a consumer and are typically determined by the current Diagnostic and Statistical Manual of Mental Disorders.

"Co-occurring disorder capability" means the organized capacity within any type of program to routinely screen, identify, assess, and provide properly matched interventions to consumers with co-occurring disorders.

"Co-occurring disorder enhanced" means that the program (or subunit of the program) provides a specialized service designed for individuals with co-occurring disorders, usually with a higher level of available service capacity or intensity for the co-occurring substance use disorder than would be the case in a comparable co-occurring disorder capable program.

"Crisis Diversion" means an unanticipated, unscheduled situation requiring supportive assistance, face-to-face or telephone, to resolve immediate problems before they become overwhelming and severely impair the individual's ability to function or maintain in the community.

"Crisis Intervention" means actions taken, and services provided to address emergency psychological, physiological, and safety aspects of alcohol, drug-related, and mental health crises.

"Crisis stabilization" means emergency, psychiatric, and substance use disorder treatment services for the resolution of crisis situations and may include placement of an individual in a protective environment, basic supportive care, and medical assessment, and, if needed, referral to an ODMHSAS certified facility having nursing and medical support available.

"Critical incident" means an occurrence or set of events inconsistent with the routine operation of a facility, service setting, or otherwise routine care of a consumer. Critical incidents specifically include but are not necessarily limited to the following: adverse drug events; self-destructive behavior; deaths and injuries to consumers, staff and visitors; medication errors; residential consumers that are absent without leave (AWOL); neglect or abuse of a consumer; fire; unauthorized disclosure of information; damage to or theft of property belonging to consumers or the facility; other unexpected occurrences; or events potentially subject to litigation. A critical incident may involve multiple individuals or results.

"Cultural competency" means the ability to recognize, respect, and address the unique needs, worth, thoughts, communications, actions, customs, beliefs and values that reflect an individual's racial, ethnic, religious, sexual orientation, and/or social group.

"DSM" means the most current edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association.

"Emergency detention" means the detention of a person who appears to be a person requiring treatment in a facility approved by the Commissioner of Mental Health and Substance Abuse Services as appropriate for such detention after the completion of an emergency examination, either in person or via telemedicine, and a determination that emergency detention is warranted for a period not to exceed one hundred twenty (120) hours or five (5) days, excluding weekends and holidays, except upon a court order authorizing detention beyond a one hundred twenty (120) hour period or pending the hearing on a petition requesting involuntary commitment or treatment as provided by 43A of the Oklahoma Statutes.

"Emergency examination" means the examination of a person who appears to be a mentally ill person, an alcohol-dependent person, or drug-dependent person and a person requiring treatment, and whose condition is such that it appears that emergency detention may be warranted by a licensed mental health professional to determine if emergency detention of the person is warranted.

"Face-To-Face" for the purposes of the delivery of behavioral health care, means a face-to-face physical contact and in-person encounter between the health care provider and the consumer, including the initial visit. The use of telemedicine shall be considered a face-to-face encounter.

"Facilities or Facility" means entities as described in Title 43A O.S. § 1-103(7), community mental health centers, residential mental health facilities, community based structured crisis centers, certified services for the alcohol and drug dependent, programs of assertive community treatment, eating

disorder treatment, gambling addiction treatment, and narcotic treatment programs.

"Gambling disorder treatment services" means treatment activities for consumers by a gambling treatment professional that include, but are not limited to, the following:

(A) Assessment and diagnostic impression, ongoing;

(B) Treatment planning and revision, as necessary;

(C) Individual, group and family therapy;

(D) Case management;

(E) Psychosocial rehabilitation; and

(E) Discharge planning.

"Gambling related disorders/problems" means persistent and recurrent problematic gambling behavior leading to clinically significant impairment or distress, as defined by the most recent edition of the DSM.

"Gambling disorder treatment professional" means:

(A) an individual holding a valid NCGC I or II certification;

(B) any clinician licensed in a behavioral health field with documented completion of at least thirty hours of ODMHSAS recognized core problem gambling training requirements and documented completion of ~~twelve~~ten hours of problem gambling specific continuing education every twelve months; or

(C) any individual under supervision for licensure by an individual who meets the requirements of (A) or (B), and has documented completion of at least thirty hours of ODMHSAS recognized core problem gambling training requirements and documented completion of ~~twelve~~ten hours of problem gambling specific continuing education every twelve months.

"General psychiatric rehabilitation" or **"PSR"** means a type of psychiatric rehabilitation program which focuses on long term recovery and maximization of self-sufficiency, role function and independence. General psychiatric rehabilitation programs may be organized within a variety of structures which seek to optimize the participants' potential for occupational achievement, goal setting, skill development and increased quality of life.

"Historical timeline" means a method by which a specialized form is used to gather, organize and evaluate information about significant events in a consumer's life, experience with mental illness, and treatment history.

"Home-based services to children and adolescents" means intensive therapeutic services provided in the home to children for the purpose of reduction of psychiatric impairment and preventing removal of the child to a more restrictive setting for care. Services include a planned combination of procedures developed by a team of qualified mental health professionals, including a physician.

"Homeless" refers to a person who is sleeping in an emergency shelter; sleeping in places not meant for human habitation, such as cars, parks, sidewalks, or abandoned or condemned buildings; spending a short time (30 consecutive days or less) in a hospital or other institution, but ordinarily sleeping in the types of places mentioned above; living in transitional/supportive housing but having come from streets or emergency shelters; being evicted within a week from a private dwelling unit and having no subsequent residence identified and lacking the resources and support networks needed to obtain access to housing; being discharged from an institution and having no subsequent residence identified and lacking the resources and support networks needed to obtain access to housing; or is fleeing a domestic violence situation and no subsequent residence has been identified and the person lacks the resources and support networks needed to obtain housing.

"Hospital liaison" means an individual within the Behavioral Health Home interdisciplinary team that works closely with hospital staff to assess the suitability of transition plans for consumers enrolled in a Behavioral Health Home. Hospital Liaisons will also work with other long term, residential facilities to plan for coordination of care during and after the consumer's residential stay. Hospital liaisons must be certified by ODMHSAS as a Behavioral Health Case Manager I or II and complete trainings as required by ODMHSAS.

"ICCD" means the International Center for Clubhouse Development.

"Independent living skills, assistance in development of" means all activities directed at assisting individuals in the development of skills necessary to live and function within the community, e.g., cooking, budgeting, meal planning, housecleaning, problem-solving, communication and vocational skills.

"Licensed Behavioral Health Professional" or **"LBHP"** means:

(A) Allopathic or Osteopathic Physicians with a current license and board certification in psychiatry or board eligible in the state in which services are provided, or a current resident in psychiatry;

(B) Practitioners with a license to practice in the state in which services are provided ~~or those actively and regularly receiving board approved supervision, and extended supervision by a fully licensed clinician if board's supervision requirement is met but the individual is not yet licensed, to become licensed~~ by one of the following licensing boards:

(i) Psychology;

(ii) Social Work (clinical specialty only);

(iii) Professional Counselor;

(iv) Marriage and Family Therapist;

(v) Behavioral Practitioner; or

(vi) Alcohol and Drug Counselor.

(C) Advanced Practice Nurse (certified in a psychiatric mental health specialty), licensed as a registered nurse with a current certification of recognition from the board of nursing in the state in which services are provided.

(D) A Physician Assistant who is licensed in good standing in the state and has received specific training for and is experienced in performing mental health therapeutic, diagnostic, or counseling functions.

"Licensed mental health professional" or **"LMHP"** as defined in Title 43A §1-103(11).

"Licensure candidate" means practitioners actively and regularly receiving board approved supervision, and extended

supervision by a fully licensed clinician if board's supervision requirement is met but the individual is not yet licensed, to become licensed by one of the following licensing boards:

(A) Psychology;
(B) Social Work (clinical specialty only);
(C) Professional Counselor;
(D) Marriage and Family Therapist;
(E) Behavioral Practitioner; or
(F) Alcohol and Drug Counselor.

"Linkage" refers to the communication and coordination with other service providers to assure timely appropriate referrals between the CMHC and other providers.

"Medical resident" means a physician who is a graduate of a school of medicine or osteopathy and who is receiving specialized training in a teaching hospital under physicians who are certified in that specialty.

"Medically necessary" means health care services or supplies needed to prevent, diagnose or treat an illness, injury, condition, disease or its symptoms and that meet accepted standards of medicine.

"Medication error" means an error in prescribing, dispensing or administration of medication, regardless if the error reached the consumer, e.g., omission of prescribed drugs, giving drugs not prescribed, prescribing inappropriate drugs, prescribing or administering incorrect dosages, incorrectly filling or labeling prescriptions, incorrectly transcribing medication orders.

"NCGC" means Nationally Certified Gambling Counselor, offered at levels I or II through the National Council on Problem Gambling.

"Nurse Care manager" means a Licensed Practical Nurse (LPN) or a Registered Nurse (RN).

"ODMHSAS" means the Oklahoma Department of Mental Health and Substance Abuse Services.

"Oklahoma Administrative Code" or **"OAC"** means the publication authorized by 75 O.S. § 256 known as The Oklahoma Administrative Code or, prior to its publication, the compilation of codified rules authorized by 75 O.S. § 256(A)(1)(a) and maintained in the Office of Administrative Rules.

"Peer Recovery Support Specialist" or **"PRSS"** means an individual who meets the qualifications and is certified as a PRSS pursuant to OAC 450:53.

"Performance Improvement" or **"PI"** means an approach to the continuous study and improvement of the processes of providing health care services to meet the needs of consumers and others. Synonyms, and near synonyms include continuous quality improvement, continuous improvement, organization-wide quality improvement and total quality management.

"Permanent supported housing" means a type of Community Living Program, either permanent scattered site housing or permanent congregate housing, where consumers are assisted with locating housing of their choice and are offered on-going support services based on need and choice to ensure successful independent living.

"PICIS System" means a management information system based on national standards for mental health and substance abuse databases. Information gathered through PICIS is used for prior authorizations, service utilization management and continuous quality improvement processes. PICIS data is reported throughout the treatment episode to ensure service recipients receive appropriate types and levels of care and are making satisfactory progress. Numerous reports are developed using PICIS data and are provided to clinicians, administrators and the general public.

"Primary Care Practitioner (PCP)" means a licensed physician, Advance Practice Registered Nurse (APRN), or Physician Assistant (PA) licensed in the State of Oklahoma.

"Program of Assertive Community Treatment" or **"PACT"** is a clinical program that provides continuous treatment, rehabilitation, and support services to persons with mental illness in settings that are natural to the consumer.

"Progress notes" mean a chronological written description of services provided to a consumer, resident, client, or patient that documents, utilizing acceptable documentation practices, the consumer's response related to the intervention plan or services provided.

"Psychological-Social evaluations" are in-person interviews conducted by professionally trained personnel designed to elicit historical and current information regarding the behavior and experiences of an individual, and are designed to provide sufficient information for problem formulation and intervention.

"Psychotherapy" or "Therapy" means a goal directed process using generally accepted clinical approaches provided face-to-face by a qualified service provider with consumers in individual, group or family settings to promote positive emotional or behavioral change.

"Rehabilitation Services" means face-to-face individual or group services provided by qualified staff to develop skill necessary to perform activities of daily living and successful integration into community life.

"Resident" means a person residing in a community living program certified by ODMHSAS.

"Residential treatment" means a structured, 24-hour supervised treatment program for individuals who are mentally ill with a minimum of twenty-one (21) hours of therapeutic services provided per week with the emphasis on stabilization and rehabilitation for transfer to a less restrictive environment. Stay in the program is time limited.

"Restraint" refers to manual, mechanical, and chemical methods that are intended to restrict the movement or normal functioning of a portion of an individual's body.

"Risk Assessment" means a clinical function that aims to determine the nature and severity of the mental health problem, determine which service response would best meet the needs of the consumer, and how urgently the response is required.

"Screening" means the process to determine whether the person seeking assistance needs further comprehensive assessment.

"Sentinel event" is a type of critical incident that is an unexpected occurrence involving the death or serious physical or psychological injury to a consumer, or risk thereof. Serious injury specifically includes loss of limb or function. The phrase "or risk thereof" includes a variation in approved processes which could carry a significant chance of a serious

adverse outcome to a consumer. These events signal the need for immediate investigation and response. Sentinel events include, but are not limited to: suicide, homicide, criminal activity, assault and other forms of violence, including domestic violence or sexual assault, and adverse drug events resulting in serious injury or death.

"Service area" means a geographic area established by the Department of Mental Health and Substance Abuse Services for support of mental health and substance abuse services [43A O.S.§3-302(1)].

"Service Intensity" means the frequency and quantity of services needed, the extent to which multiple providers or agencies are involved, and the level of care coordination required.

"Service plan" or "Treatment plan" means the document used during the process by which a qualified service provider and the consumer together and jointly identify and rank problems, establish agreed-upon immediate short-term and long-term goals, and decide on the treatment process and resources to be utilized.

"Socialization" means all activities, which encourage interaction and the development of communication, interpersonal, social and recreational skills and can include consumer education.

"SoonerCare" means Oklahoma's Medicaid program.

"Supportive services" refers to assistance with the development of problem-solving and decision-making skills to maintain or achieve optimal functioning within the community and can include consumer education.

"Systems of Care values" means a philosophy, which embraces a family-driven, child-centered model of care that integrates and coordinates the efforts of different agencies and providers to individualize care in the least restrictive setting that is clinically appropriate.

"TJC" means The Joint Commission formerly referred to as the Joint Commission on Accreditation of Healthcare Organizations or JCAHO.

"Transitional housing program" means a type of Community Living Program in which the consumer's stay in the residence is considered temporary and time-limited in nature. The actual program model may include a range of approaches, including but not limited to supervised transitional living programs and supervised transitional housing programs.

"Trauma informed capability" means the capacity for a facility and all its programs to recognize and respond accordingly to the presence of the effects of past and current traumatic experiences in the lives of its consumers.

"Vocational assessment services" means a process utilized to determine the individual's functional work-related abilities and vocational preferences for the purpose of the identification of the skills and environmental supports needed by the individual in order to function more independently in an employment setting, and to determine the nature and intensity of services which may be necessary to obtain and retain employment.

"Vocational placement services" means a process of developing or creating an appropriate employment situation matched to the functional abilities and choices of the individual for the purpose of vocational placement. Services may include, but are not limited to, the identification of employment positions, conducting job analysis, matching individuals to specific jobs, and the provision of advocacy with potential employers based on the choice of the individual served.

"Vocational preparation services" means services that focus on development of general work behavior for the purpose of vocational preparation such as the utilization of individual or group work-related activities to assist individuals in understanding the meaning, value and demands of work; to modify or develop positive work attitudes, personal characteristics and work behaviors; to develop functional capacities; and to obtain optimum levels of vocational development.

"Volunteer" means any person who is not on the program's payroll, but provides services and fulfills a defined role within the program and includes interns and practicum students.

"Walk through" means an exercise in which staff members of a facility walk through the program's treatment processes as a consumer. The goal is to view the agency processes from the consumer's perspective for the purpose of removing barriers and enhancing treatment.

"Wellness" means the condition of good physical, mental and emotional health, especially when maintained by an appropriate diet, exercise, and other lifestyle modifications.

"Wraparound approach" means a team-based planning and implementation process to improve the lives of children with complex needs and their families by developing individualized plans of care. The key characteristics of the process are that the plan is developed by a family centered team, is individualized based on the strengths and culture of the child and their family, and is driven by needs rather than services.

"Young Adults in Transition" are persons between sixteen to twenty-five (16-25) years of age who have a Serious Mental Illness (ages 18 - 25), or Serious Emotional Disturbance (ages 16 - 18).

SUBCHAPTER 3. REQUIRED SERVICES

PART 11. CASE MANAGEMENT

450:17-3-106. Case management services, staff credentials

(a) Individuals providing case management services shall be a LBHP, licensure candidate, CADC or certified as a behavioral health case manager pursuant to Oklahoma Administrative Code, Title 450, Chapter 50.

(b) Facility supervisors must be a certified behavioral health case manager pursuant to Oklahoma Administrative Code, Title 450, Chapter 50 if they directly supervise the equivalent of two (2) or more FTE certified behavioral health case managers who provide case management services as part of their regular duties.

(c) Compliance with 450:17-3-106 shall be determined by a review of the facility personnel records and credentialing files.

SUBCHAPTER 5. OPTIONAL SERVICES

PART 21. GAMBLING DISORDER TREATMENT SERVICES

450:17-5-132. Treatment services

(a) Any CMHC choosing to provide gambling disorder treatment services shall provide, at a minimum, the following:

(1) **Screening and Assessment.** ~~Each presenting consumer shall be assessed using the Southern Oaks Gambling Screen (SOGS). CMHCs must ensure that a consumer's refusal of a particular service does not preclude them from accessing other treatment services. The assessment shall be completed during the admission process and within specific timelines established by the CMHC, but no later than by the end of the fourth visit.~~

~~(2) **Biopsychosocial assessment.** A biopsychosocial assessment gathers sufficient information to assist the consumer in developing an individualized service plan. The assessment used shall contain, but not be limited to, the following:~~

~~(A) Identification of the consumer's strengths, needs, abilities, and preferences;~~

~~(B) History of the presenting problem;~~

~~(C) Previous treatment history to include mental health and substance related and addictive disorders;~~

~~(D) Health history and current biomedical conditions and complications;~~

~~(E) History of substance use, including past treatment, and history of other behavioral addictions and past treatment;~~

~~(F) Gambling history, including type, amount, frequency and duration of gambling activity, and family history of gambling disorders;~~

~~(G) History of trauma;~~

~~(I) Family and social history, including family history of alcohol and drug use;~~

~~(J) Educational attainment, difficulties, and history;~~

~~(K) Cultural and religious orientation;~~

~~(L) Vocational, occupational and military history;~~

~~(M) Sexual history, including HIV, AIDS and STD at-risk behavior;~~

~~(N) Marital or significant other relationship history;~~

~~(O) Recreational and leisure history;~~

~~(P) Legal history;~~

~~(Q) Present living arrangement;~~

~~(R) Economic resources;~~

~~(S) Level of functioning;~~

~~(T) Current support system including peer and other recovery supports;~~

~~(U) Current medications, if applicable, and shall include obtainable information regarding the name of prescribing physician, name of medication, strength and dosage, and length of time consumer was on the medication;~~

~~(V) Consumer's expectations in terms of service; and~~

~~(W) Assessment summary or diagnosis, and signature of the assessor and date of the assessment.~~See Sections 17-3-21 and 17-3-22 for requirements.

(2) **Service planning and revision.**

(3) **Individual therapy.** Individual therapy is a face-to-face therapeutic session conducted by a Gambling Treatment Professional (GTP) with one on one interaction between the GTP and a consumer to promote emotional or psychological change to alleviate disorders. Therapy must be goal directed and use a generally accepted approach to treatment such as cognitive behavioral treatment, narrative therapy, solution focused brief therapy or another widely accepted theoretical framework for treatment, in accordance with an individualized service plan.

(4) **Group therapy.** Group therapy is a face-to-face therapeutic session with a group of individuals and a GTP using the interaction of the GTP and two or more consumers to promote positive emotional or behavioral change. The focus of the group must be directly related to goals and objectives of the individual customer service plan and use a generally accepted framework for this modality of treatment. This service does not include social skill development or daily living skill activities. Group psychotherapy for adults is limited to eight total consumers. Group size is limited to a total of six consumers for all children. A group may not consist solely of related individuals.

(5) **Family therapy.** Family therapy is a face-to-face therapeutic session conducted by a GTP with family members/couples conducted in accordance with a documented service plan focusing on treatment family/marital problems and goals. The service must be provided to specifically benefit the consumer as identified in a service plan and use generally accepted treatment methods for this modality of treatment.

(6) **Case management.**

(7) **Education and/or educational groups.**

(8) **Discharge planning.**

(b) Compliance with this Section may be determined by a review of the following:

(1) Consumer records;

(2) Progress notes;

(3) Interviews with staff; and

(4) Other facility documentation.

PART 23. BEHAVIORAL HEALTH HOME

450:17-5-140. Program description and purpose

(a) The purpose of Behavioral Health Homes within the mental health delivery array is to promote enhanced integration and coordination of primary, acute, behavioral health, and long-term services and supports for persons across the lifespan with chronic illness, including adults with serious mental illness (SMI) and children with serious emotional disturbance (SED). Care must be delivered using an integrated team that

will comprehensively address physical, mental health, and substance use disorder treatment needs.

(b) The BHH must maintain facility polices and program descriptions that clearly describe that the purpose of the BHH is to improve the health status of individuals with Serious Mental Illness and/or Serious Emotional Disturbance by integrating behavioral and primary health care and promoting wellness and prevention.

(c) The BHH must provide program descriptions and demonstrate evidence that the following functions are implemented.

(1) Quality-driven, cost-effective, culturally appropriate, and person and family-centered health home services;

(2) Coordinated access to:

(A) High-quality health care services informed by evidence-based clinical practice guidelines;

(B) Preventive and health promotion services, including prevention of mental illness and substance use disorders;

(C) Mental health and substance abuse services;

(D) Comprehensive care management, care coordination, and transitional care across settings. Transitional care includes appropriate follow-up from inpatient to other settings, such as participation in discharge planning and facilitating transfer from a pediatric to an adult system of health care;

(E) Chronic disease management, including self-management support to individuals and their families;

(F) Individual and family supports, including referral to community, social support, and recovery services; and,

(G) Long-term care supports and services;

(3) Person-centered care plans for each individual that coordinates and integrates all of his or her clinical and non-clinical health care related needs and services;

(4) Proper and continuous use of health information technology to link services, facilitate communication among team members and between the health team and individual and family caregivers, and provide feedback to practices, as feasible and appropriate; and

(5) Quality improvement program, which collects and reports on data that permits an evaluation of increased coordination of care and chronic disease management on individual-level clinical outcomes, experience of care outcomes, and quality of care outcomes at the population level.

(d) Compliance with this Section will be determined by on-site observation, review of organizational documents, program descriptions, outcome monitoring and other performance improvement activity reports, and clinical records.

450:17-5-141. Target populations

(a) The BHH must be established to serve only the following target populations:

(1) Adults with a serious mental illness (SMI);

(2) Children with a serious emotional disturbance (SED); or

(3) Both.

(b) Organizational documents must clearly describe the target population(s) to be served by the BHH.

(c) Target population descriptions should not be interpreted as to limit access to individuals based on funding sources, including not limiting access to those who are uninsured but otherwise meet the target population criteria. Although not required, BHHs are encouraged to identify funding in order to provide BHH services to individuals who meet the target population criteria but do not have Medicaid.

(d) Compliance with this Section will be determined by on-site observation, review of organizational documents, program descriptions, outcome monitoring and other performance improvement activity reports, and clinical records.

450:17-5-142. Outreach and engagement

(a) The BHH must have policies and procedures to describe how outreach and engagement activities will occur to identify individuals within the target population(s) who could benefit from BHH services.

(b) The BHH must have memoranda of agreements to arrange for outreach and engage in settings outlined further in these rules in Section 450:17-5-160.

(c) Facility records will identify which staff members are responsible for specific elements of outreach and engagement.

(d) Compliance with this Section will be determined by on-site observation, review of organizational documents, program descriptions, outcome monitoring and other performance improvement activity reports, and clinical records.

450:17-5-143. Structure of Behavioral Health Home and administrative staff

(a) The BHH policies must describe how it is organized within one of the following structures:

(1) In-house model where the behavioral health agency is directly providing primary care performed by a qualified employee, or purchasing through a contract; or

(2) Co-located partnership model where the behavioral health agency arranges for primary care services to be provided onsite, establishing written agreements with external primary care providers; or

(3) Facilitated referral model, where most primary care services are not provided onsite at the facility; however, the facility has processes in place to ensure the coordination of care that is provided offsite.

(b) In the event the BHH does not directly provide the full array of required services, there must be organizational procedures and clinical records to document that the BHH has otherwise ensured the services are coordinated on behalf of each consumer.

(c) The facility operating the BHH will have policies and program descriptions to define how the BHH will operate a team dedicated to provide the range of specific services articulated elsewhere in this Subchapter.

(d) The facility shall verify the health home director for adults meets or exceeds the following qualifications:

(1) Possess a Bachelor's degree from an accredited university and have at least two years' experience in health administration;
(2) Possess a Master's degree from an accredited university in a health or social services related field;
(3) Be licensed as a Registered Nurse with the Oklahoma Board of Nursing; or
(4) Be licensed as a Physician or be licensed as a Nurse Practitioner.

(e) The BHH shall verify the Project Director for children possesses a Bachelor's degree in the field of social or human sciences from an accredited university, has at least three years' work experience in the social service field and has a minimum of one year experience in an administrative position.

(f) The BHH will adhere to the following ratios in terms of the full time equivalent (FTE) for the health home director.
(1) The BHH shall maintain a health home director at a ratio of 1 FTE per 500 BHH participants. BHHs with less than 500 participants shall maintain a health home director at a minimum of .5 FTE.
(2) A health home requiring a health home director and health home nurse care manager of .5 FTE each may employ 1 FTE individual to serve in both roles, provided that individual meets the requirements for both positions.
(3) A health home requiring more than .5 FTE health home director, may choose to designate a lead health home director and fulfill the additional FTE requirement with key management staff who meet the requirements of (1) and (2) above.

(g) Compliance with this Section will be determined by on-site observation, review of organizational documents, signed agreements, personnel records, job descriptions, outcome monitoring and other performance improvement activity reports, and clinical records.

450:17-5-144. Treatment team; general requirements

(a) The BHH must designate an interdisciplinary treatment team that is responsible, with each consumer's input and guidance, to direct, coordinate, and manage the care and services to be provided or arranged for by the BHH.

(b) The interdisciplinary team must, based on the comprehensive assessment, identify for each consumer a specific licensed behavioral health professional (LBHP) or licensure candidate on the interdisciplinary treatment team to lead the process of the initial comprehensive assessment and plan and to provide therapy services if indicated on the integrated plan. This will ensure that each consumer's needs are assessed, and that the active treatment plan is implemented as indicated.

(c) Compliance with this Section will be determined by on-site observation, review of organizational documents, signed agreements, activity reports, and clinical records.

450:17-5-145. Treatment team; adult team

(a) Each BHH team serving adults shall include the following positions, unless otherwise arranged as permitted in (b) below:
(1) Health Home Director;
(2) Nurse Care Manager;
(3) Consulting Primary Care Physician, Advance Practice Registered Nurse, or Physician Assistant;
(4) Licensed Psychiatric Consultant;
(5) Licensed Behavioral Health Professional or Licensure Candidate;
(6) Certified Behavioral Health Case Manager I or II;
(7) Hospital Liaison/Health Home Specialist; and
(8) Wellness Coach/Certified Peer Support Specialist.

(b) Variations from the above staff pattern on a continuous basis, must be approved in advanced by the ODMHSAS Commissioner or a designee.

(c) If the health team experiences difficulty in recruiting staff to fill any of the above positions, a recruitment and contingency plan to maintain essential services, will be submitted to the ODMHSAS Director of Provider Certification for approval.

(d) The facility must have written policies and procedures defining the program's plan for staff-to-consumer ratio for each adult BHH team and a plan for how exceptions will be handled.

(e) Staffing ratios must be regularly monitored and evaluated within the certified facility's performance improvement activities.

(f) Compliance with this Section will be determined by on-site observation, review of organizational documents, personnel records, staffing schedules, and clinical records.

450:17-5-146. Treatment team; children and adolescent team

(a) Each BHH team serving children and adolescents shall include the following positions, unless otherwise arranged as permitted in (b) below:
(1) Care Coordinator;
(2) Project Director;
(3) Licensed Psychiatric Consultant;
(4) Licensed Nurse Care Manager (RN or LPN);
(5) Peer to Peer Family /Youth Support Provider;
(6) Children's Health Home Specialist; and
(7) Consulting Primary Care Practitioner.

(b) Variations from the above staff pattern on a continuous basis, must be approved in advanced by the ODMHSAS Commissioner or a designee.

(c) If the health team experiences difficulty in recruiting staff to fill any of the above positions, a recruitment and contingency plan to maintain essential services, will be submitted to the ODMHSAS Director of Provider Certification for approval.

(d) The facility must have written policies and procedures defining the program's plan for staff-to-consumer ratio for each child and/or adolescent BHH team and a plan for how exceptions will be handled.

(e) Staffing ratios must be regularly monitored and evaluated within the facilities performance improvement activities.

(f) Compliance with this Section will be determined by on-site observation, review of organizational documents, personnel records, staffing schedules, and clinical records.

450:17-5-147. Required services

(a) The BHH must have policies and clear descriptions to delineate each specific service provided by the BHH.

(b) The BHH must provide the following services within the framework described in 450:17-5-140:

(1) Comprehensive Care Management;

(2) Care Coordination;

(3) Health Promotion;

(4) Comprehensive Transitional Care;

(5) Individual and Family Support services; and

(6) Referral to Community and Social Support Services.

(c) Program descriptions, personnel and privileging records, and other organizational documents will specify which staff members are qualified to provide each BHH service.

(d) Compliance with this Section will be determined by on-site observation, review of organizational documents, program descriptions, outcome monitoring and other performance improvement activity reports, and clinical records.

450:17-5-148. Access to specialists

(a) The facility must have procedures and agreements in place to facilitate referral for other medical services needed beyond the scope of the BHH.

(b) Referral documents and releases of information shall comply with applicable privacy and consumer consent requirements.

(c) Clinical documentation will track referrals to and use of specialists.

(d) Compliance with this Section will be determined by on-site observation, review of organizational documents, signed agreements, outcome monitoring and other performance improvement activity reports, and clinical records.

450:17-5-149. Admission

(a) The facility must determine the extent to which each consumer's needs and preferences can be adequately addressed within the array of required BHH services.

(b) An integrated screening approach in accordance with OAC 450:17-3-21 will be used to determine clinical eligibility for BHH services.

(c) Facility policies and procedures must assure that adults who meet the criteria for a SMI or children who meet the criteria for SED are eligible for BHH services. This includes individuals receiving Targeted Case Management (TCM). It will also include additional individuals who are not currently receiving care coordination.

(d) The facility must obtain informed consent specific to enrollment in the Behavioral Health Home.

(1) The consent must be specific to the extent that it permits the BHH team members to share information relevant to the delivery of BHH services.

(2) The process for obtaining consent must educate the consumer of their right to choose among qualified BHHs or to opt out of the BHH service.

(3) The BHH must obtain consent for a child in state custody from the Child Welfare or Juvenile Justice worker.

(e) Compliance with this Section will be determined by on-site observation, review of organizational documents, program descriptions, outcome monitoring and other performance improvement activity reports, and clinical records.

450:17-5-150. Initial assessment

(a) A Licensed Behavioral Health Professional (LBHP) or Licensure Candidate, acting within his or her state scope of practice requirements, must complete the initial assessment for health home services in accordance with the standard in OAC 450:17-3-21 for consumers who have not been assessed by the facility within the past 6 months.

(b) The initial assessment must include at a minimum, the following:

(1) The admitting diagnosis as well as other diagnoses;

(2) The source of referral;

(3) The reason for admission as well as stated by the client or other individuals who are significantly involved; and

(4) A list of current prescriptions and over-the counter medications as well as other substances the client may be taking.

(c) The BHH should provide access to an appropriate healthcare professional and a health screening within 72 hours of placement for children entering foster care.

(d) Compliance with this Section will be determined by on-site observation, review of organizational documents, program descriptions, outcome monitoring and other performance improvement activity reports, and clinical records.

450:17-5-151. Comprehensive assessment

(a) A comprehensive assessment must be completed by the interdisciplinary team performing within each team member's scope of practice consistent with each consumer's immediate needs and include a written narrative in each of the following areas:

(1) Psychiatric and substance abuse history, mental status, and a current DSM diagnosis;

(2) Medical, dental, and other health needs;

(3) Education and/or employment;

(4) Social development and functioning;

(5) Activities of daily living; and

(6) Family structure and relationships.

(b) The BHH must ensure access to a comprehensive medical and behavioral health assessment for children in foster care within 30 days of placement.

(c) The BHH must provide or arrange for a functional assessment for all children using a tool approved by ODMHSAS. Assignment to high intensity Wraparound or Resource coordination intensity of care must be determined by clinically informed decision-making by LBHP or licensure candidate.

(d) The comprehensive assessment must be updated as needed but no less than every six (6) months.

(e) Compliance with this Section will be determined by on-site observation, review of organizational documents, program descriptions, outcome monitoring and other performance improvement activity reports, and clinical records.

450:17-5-152. Integrated care plan

(a) The BHH team must develop a consumer directed, integrated active care plan for each enrolled consumer that reflects input of the team, (including the involvement of the consulting primary care physician or APRN in managing the medical component of the plan), and others the consumer chooses to involve.

(b) The plan shall clearly address physical and behavioral health goals, consumer preferences, and the overall health and wellness needs of the consumer.

(c) The plan must be documented and completed within thirty (30) working days of admission to the BHH.

(d) The BHH must provide for each consumer and primary caregiver(s), as applicable, education and training consistent with the consumer and caregiver responsibilities as identified in the active treatment plan and relative to their participation in implementing the plan of care.

(e) Compliance with this Section will be determined by on-site observation, review of organizational documents, personnel records, staffing schedules, and clinical records.

450:17-5-153. Integrated care plan; content

(a) The integrated care plan must address all services necessary to assist the client in meeting his or her physical and behavioral health goals, and include the following:

(1) Consumer diagnoses, relative to behavioral and physical health conditions assessed by and addressed by the BHH in terms of direct services provided and/or conditions for which the individual is referred elsewhere for treatment.

(2) Treatment goals, including preventive/primary care services;

(3) Interventions, including follow up with necessary medical providers;

(4) A detailed statement of the type, duration, and frequency of services, including primary medical and specialty care, social work, psychiatric nursing, counseling, and therapy services, necessary to meet the consumer's specific needs;

(5) Medications, treatments, and individual and/or group therapies;

(6) As applicable, family psychotherapy with the primary focus on treatment of the consumer's conditions; and

(7) The interdisciplinary treatment team's documentation of the consumer's or representative's and/or primary caregiver's (if any) understanding, involvement, and agreement with the care plan.

(b) Compliance with this Section will be determined by on-site review of clinical records and supported documentation.

450:17-5-154. Review of plan

(a) The BHH will review, revise, and document the individualized integrated care plan as frequently as the consumer's conditions require, but no less frequently than every six (6) months.

(b) A revised active plan must include information from the consumer's initial evaluation and comprehensive assessments and updates, the progress toward goals specified in the written care plan, and changes, as applicable, in goals.

(c) Compliance with this Section will be determined by outcome monitoring, performance improvement activity reports.

450:17-5-155. Intensive care coordination for children and adolescents; wraparound approach

(a) If the BHH serves children or adolescents with SED, care coordination must be delivered with a single point of accountability to ensure that medically necessary services and supports are accessed, coordinated, and delivered in strength based, individualized, family driven, youth guided, and ethnically, culturally and linguistically relevant manner.

(b) The BHH will document that delivery of specific services and supports are guided by the needs, strengths and culture of the child and family, developed through a wraparound care planning process consistent with System of Care values.

(c) Program policies and descriptions will define the wraparound approach and related values as identified in (a) and (b) above and stipulate these must be followed by staff to develop care coordination plans.

(d) Care plans and other clinical records reflect implementation of services based on the foundations described in (a) through (c).

(e) Compliance with this Section will be determined by review of policies and procedures, staff training logs, outcome monitoring, performance improvement activity reports, clinical records, and related documentation.

450:17-5-156. Behavioral Health Home medication monitoring

(a) When medication services are provided as a component of the BHH services, medication administration, storage and control, and consumer reactions shall be regularly monitored.

(b) Facilities shall assure proper storage and control of medications, immediate response if incorrect or overdoses occur, and have appropriate emergency supplies available if needed.

(1) Written procedures for medication administration shall be available and accessible in all medication storage areas, and available to all staff authorized to administer medications.

(2) All medications shall be kept in locked, non-consumer accessible areas. Conditions which shall be considered in medication storage are light, moisture, sanitation, temperature, ventilation, and the segregation and safe storage of poisons, external medications, and internal medications.

(3) Telephone numbers of the state poison centers shall be immediately available in all locations where medications are prescribed, administered and stored.

(c) Compliance with this Section will be determined by on-site observation and a review of the following: Written policy and procedures, clinical records, and PI records.

450:17-5-157. Behavioral Health Home pharmacy services

(a) When medication services are provided as a component of the BHH services, the facility shall make available access to pharmacy services to meet consumers' pharmacological needs that are addressed by the BHH physicians and other BHH licensed prescribers. Provision of services may be made through agreement with another program through a pharmacy in the community, or through their own Oklahoma licensed pharmacy.

(b) Compliance with this Section may be determined by a review of the following: Clinical records; written agreements for pharmacy services; on-site observation of in-house pharmacy; and State of Oklahoma pharmacy license.

450:17-5-158. Health promotion and wellness; consumer self-management

(a) The BHH must assist members to participate in the implementation of their comprehensive care plan.

(b) This must include, but not be limited to providing health education specific to a member's chronic conditions; development of self-management plans with the individual; support to improve social networks; and providing health-promoting lifestyle interventions. Health promoting lifestyle interventions include, but are not limited to substance use prevention, smoking prevention and cessation, nutritional counseling, obesity reduction and increasing physical activity; and assisting to understand and self-manage chronic health conditions.

(c) In addition, BHHs that serve children and adolescents must provide child-specific health promotion activities. These include but are not limited to education regarding the importance of immunizations and screenings, child physical and emotional development; linking each child with screening in accordance with the EPSDT periodicity schedule; monitoring usage of psychotropic medications through report analysis and follow up with outliers; identifying children in need of immediate or intensive care management for physical health needs; and providing opportunities and activities for promoting wellness and preventing illness, including the prevention of chronic physical health conditions.

(d) Compliance with this Section will be determined by review of organizational documents, program descriptions, outcome monitoring and other performance improvement activity reports, and clinical records.

450:17-5-159. Discharge or transfer from Behavioral Health Home

(a) The BHH shall, on behalf of any consumer that transfers to another facility, forward the following within fifteen (15) days as permitted by privacy and confidentiality and if requested:

(1) The BHH discharge summary; and

(2) The consumer's clinical record.

(b) For consumers who initiate BHH service and later decline those services, or are discharged from a BHH based on non-adherence to care plans, the BHH must forward to the primary health care provider of record, if any, and if requested by the consumer:

(1) The BHH discharge summary; and

(2) The consumer's clinical record.

(c) As applicable to (a) and/or (b) above, the BHH discharge summary shall include the following:

(1) A summary of the services provided, including the consumer's symptoms, treatment and recovery goals and preferences, treatments, and therapies.

(2) The client's current active treatment plan at time of discharge.

(3) The client's most recent physician orders.

(4) Any other documentation that will assist in post-discharge continuity of care.

(d) A completed discharge summary shall be entered in each consumer's record within fifteen (15) days of the consumer completing or discontinuing services.

(e) Compliance with this Section will be determined by on-site observation, review of organizational documents, program descriptions, outcome monitoring and other performance improvement activity reports, and clinical records.

450:17-5-160. Linkage and transitional care

(a) The BHH must have procedures and agreements in place to facilitate referral for other medical services needed by consumers beyond the scope of the BHH, as well as to assist the consumer to obtain services that are needed following discharge from the BHH.

(b) The BHH will also document referrals to community and social support services to facilitate access to formal and informal resources beyond the scope of services covered by SoonerCare, such as those which may be available from other parents, family members, community-based organizations, service providers, grants, social programs, funding options, school-based services, faith based organizations, etc.

(c) The BHH will develop contracts or memoranda of understandings (MOUs) with regional hospital(s), Psychiatric Residential Treatment Facilities (PRTF) or other system(s) to ensure a formalized structure for transitional care planning, to include communication of inpatient admissions and discharges of BHH participants.

(1) Transitional care will be provided by the BHH for existing BHH consumers who have been hospitalized or placed in other non-community settings, such as psychiatric residential treatment facilities, as well as to newly identified, potential BHH consumers who are entering the community.

(2) The BHH team will collaborate with all parties involved including the facility, primary care physician, and community providers to ensure a smooth discharge and transition into the community and prevent subsequent re-admission(s).

(3) Transitional care is not limited to institutional transitions, but applies to all transitions that will occur throughout the development of the enrollee and includes transition from and to school-based services and pediatric services to adult services.

(4) The BHH will document transitional care provided in the clinical records.

(d) Compliance with this Section will be determined by on-site observation, review of organizational documents, contracts, MOUs, and clinical records.

450:17-5-161. Consumer (Patient Care) Registries and Population Health Management

(a) The BHH must implement clinical decision support mechanisms, including but not limited to point-of-care reminders, following nationally published evidence-based guidelines for:

(1) A mental health or substance use disorder;

(2) A chronic medical condition;

(3) An acute condition;

(4) A condition related to unhealthy behaviors; and

(5) Well child or adult care.

(b) BHH must have descriptions of programs in place to demonstrate how it encourages healthier lifestyles for BHH members, including increased physical activity, better nutrition, avoidance of behavioral risks, and wider use of preventive care.

(c) The BHH shall electronically submit data to a health home information management system, subject to prior approval by the Director of ODMHSAS Provider Certification, which will act as a consumer registry, care management device and outcomes measurement tool.

(d) The BHH shall utilize information provided through the approved information system for the purpose of enrollment and discharge tracking, compliance, quality assurance, and outcome monitoring.

(e) Compliance will be determined by on-site observation, review of information available through an approved information system, and consultation with the ODMHSAS Decision Support Services and ODMHSAS Information Services Division.

450:17-5-162. Electronic health records and data sharing

(a) The BHH shall have a functioning electronic health record (EHR) system that meets Meaningful Use standards, as defined in the Medicare and Medicaid Incentive Programs, or have a facility approved written plan with timeframes to obtain one.

(b) The BHH shall document a plan to work with health information organizations to share referrals, continuity of care documents, lab results, and other health information and develop partnerships that maximize the use of Health Information Technology (HIT) across all treating providers.

(c) Compliance with (a) will be determined by review of documentation that certifies the electronic health record meets Meaningful Use standards or documentation of a plan to obtain one with implementation timeline.

(d) Compliance with (b) will be determined by on-site observation, review of information available through an approved information system documenting that BHH consumers' records have been accessed and shared through a Health Information Exchange (HIE), and consultation with the ODMHSAS Decision Support Services and ODMHSAS Information Services Division.

450:17-5-163. Performance measurement and quality improvement

(a) There shall be an ongoing performance improvement program designed to objectively and systematically monitor, evaluate and improve the quality of consumer care related to BHH operations.

(b) The BHH performance improvement activities must:

(1) Focus on high risk, high volume, or problem-prone areas.

(2) Consider incidence, prevalence, and severity of problems.

(3) Give priority to improvements that affect behavioral outcomes, client safety, and person-centered quality of care.

(c) Performance improvement activities must also track adverse client events, analyze their causes, and implement preventive actions and mechanisms.

(d) The program must use quality indicator data, including client care, and other relevant data in the design of its program.

(e) The BHH must use the data collected to monitor the effectiveness and safety of services and quality of care and identify opportunities and priorities for improvement.

(f) The functions and processes outlined in (a) through (e) shall be evidenced in an annual written plan for performance improvement activities. The plan shall include but not be limited to:

(1) Outcomes management processes which include measures required by CMS and the State and may also include measures from the SAMHSA National Outcomes Measures, NCQA, and HEDIS as required to document improvement in population health.

(2) Quarterly record review to minimally assess:

(A) Quality of services delivered;

(B) Appropriateness of services;

(C) Patterns of service utilization;

(D) Treatment goals and objectives based on assessment findings and consumer input;

(E) Services provided which were related to the goals and objectives;

(F) Patterns of access to and utilization of specialty care; and

(G) The care plan is reviewed and updated as prescribed by policy.

(3) Review of critical incident reports and consumer grievances or complaints.

(g) Compliance with this Section will be determined by a review of the written program evaluation plan, program goals and objectives and other supporting documentation provided.

SUBCHAPTER 21. STAFF DEVELOPMENT AND TRAINING

450:17-21-6. Clinical supervision

(a) Clinical supervision is a vital component of the provision of quality treatment. Clinical supervision shall be provided for those delivering direct services and shall be provided by persons knowledgeable of clinical services as determined by the program.

(b) All facilities shall have written policies and procedures, operational methods, and documentation of the provision of clinical supervision for all direct treatment and service staff. These policies shall include, but are not limited to:

(1) Credentials required for the clinical supervisor;

(2) Specific frequency for case reviews with treatment and service providers;

(3) Methods and time frames for supervision of individual, group, and educational treatment services; and

(4) Written policies and procedures defining the program's plan for appropriate counselor-to-consumer ratio, and a plan for how exceptions may be handled.

(c) Ongoing clinical supervision should address:

(1) The appropriateness of treatment selected for the consumer;

(2) Treatment effectiveness as reflected by the consumers meeting their individual goals; and

(3) The provision of feedback that enhances the clinical skills of service providers.

(d) Compliance with this Section may be determined by a review of the following:

(1) Policies and procedures;

(2) Clinical services manuals;

(3) Clinical supervision manuals;

(4) Documentation of clinical supervision;

(5) Personnel records;

(6) Interviews with staff; and

(7) Other facility documentation.

(~~c~~e) Failure to comply with this Section will result in the initiation of procedures to deny, suspend and/or revoke certification.

[OAR Docket #15-600; filed 6-18-15]

TITLE 450. DEPARTMENT OF MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES
CHAPTER 18. STANDARDS AND CRITERIA FOR SUBSTANCE RELATED AND ADDICTIVE DISORDER TREATMENT SERVICES

[OAR Docket #15-601]

RULEMAKING ACTION:
PERMANENT final adoption

RULES:
Subchapter 1. General Provisions
450:18-1-2 [AMENDED]
Subchapter 5. Organizational and Facility Management
450:18-5-2.2 [AMENDED]
Subchapter 7. Facility Clinical Records
Part 3. Screening, Intake, and Assessment
450:18-7-23 [AMENDED]
450:18-7-25 [AMENDED]
Part 7. Case Management
450:18-7-65 [AMENDED]
Subchapter 9. Services Support and Enhancement
Part 1. Staff Support
450:18-9-2 [AMENDED]
Subchapter 13. Substance Use Disorder Treatment Services
Part 11. Residential Treatment
450:18-13-101 [AMENDED]
450:18-13-101.1 [AMENDED]
Part 17. Residential Treatment for Adolescents
450:18-13-161 [AMENDED]
Part 19. Halfway House Services
450:18-13-181 [AMENDED]
Part 20. Adolescent Halfway House Services
450:18-13-190 [AMENDED]
Part 21. Halfway House Services for Persons with Dependent Children
450:18-13-201 [AMENDED]
Subchapter 15. Gambling Disorder Treatment Services
450:18-15-5 [AMENDED]

AUTHORITY:
Oklahoma Department of Mental Health and Substance Abuse Services Board; 43A O.S. §§ 2-101, 3-306, 3-306.1 and 3-315; 74 O.S. §85.9G.

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N/A

ANALYSIS:
In accordance with the Administrative Procedures Act the proposed rule revisions to Chapter 18 are part of the Department's review of Title 450. The proposed rules are intended to clarify existing rules, improve processes, and are intended to comply with statutory changes.

Proposed revisions to Chapter 18 are made to create a distinction in terminology between Licensed Behavioral Health Professionals (LBHPs) and Licensure Candidates. Provisions also add a requirement for facilities certified under this Chapter to report to ODMHSAS all claims and accomplishments by the facility which are subject to verification by the ODMHSAS Board. Changes are also made to allow more provider flexibility in creating the biopsychsocial assessment for consumers.

CONTACT PERSON:
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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3 (5)AND 308 (E), WITH AN EFFECTIVE DATE OF SEPTEMBER 15, 2015:

SUBCHAPTER 1. GENERAL PROVISIONS

450:18-1-2. Definitions

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

"Acute intoxication or withdrawal potential" means one dimension to be considered in consumer placement, continued stay, and discharge and is an evaluation of the consumer's withdrawal patterns and current level of intoxication and potential for withdrawal complications as it impacts level of care decision making.

"Admission" means the acceptance of a consumer by a treatment program to receive services at that program.

"Admission criteria" means those criteria which shall be met for admission of a consumer for services.

"Adult" means any individual eighteen (18) years of age or older.

"ASAM" means the American Society of Addiction Medicine.

"ASAM levels of care" means the different options for treatment as described in the current edition of the ASAM criteria that vary according to the intensity of the services offered. Each treatment option is a level of care.

"ASAM criteria" or means the most current edition of the American Society of Addiction Medicine's published criteria for admission to treatment, continued services, and discharge.

"Assessment" means those procedures by which a program provides an on-going evaluation process with the consumer as outlined in applicable rules throughout OAC 450 to collect pertinent information needed as prescribed in applicable rules and statutes to determine courses of actions or services to be provided on behalf of the consumer. Assessment may be synonymous with the term evaluation.

"Behavioral health services" means a wide range of diagnostic, therapeutic, and rehabilitative services used in the treatment of mental illness, substance use disorders, and co-occurring disorders.

"Biomedical condition and complications" means one dimension to be considered in placement, continued stay, and discharge and is an evaluation of the consumer's current physical condition and history of medical and physical functioning as it impacts level of care decision making.

"Biopsychsocial assessment" means face-to-face interviews conducted by a qualified service provider designed to elicit historical and current information regarding the behaviors, experiences, and support systems of a consumer, and identify the consumer's strengths, needs, abilities, and preferences for the purpose of guiding the consumer's recovery plan.

"Case management services" means planned referral, linkage, monitoring, support, and advocacy provided in partnership with a consumer to assist that consumer with self-sufficiency and community tenure and take place in the individual's home, in the community, or in the facility, in accordance with a service plan developed with and approved by the consumer and qualified staff.

"Certified Gambling Addiction Treatment" or **"CGAT"** means programs certified by ODMHSAS to provide treatment to individuals diagnosed with a gambling disorder.

"Child" or **"Children"** means any individuals under eighteen (18) years of age.

"Client" See "Consumer.

"Clinical supervision" means an organized process by which knowledgeable and skilled supervisors systematically and routinely provide ongoing and in-depth review of direct service providers' performance which leads to professional growth, clinical skills development, and increased self-awareness.

"Community-based Structured Crisis Center" or "CBSCC" means a program of non-hospital emergency services for mental health and substance use disorder crisis stabilization as authorized by 43A O.S. §3-317 including, but not limited to, observation, evaluation, emergency treatment, and referral, when necessary, for inpatient psychiatric or substance use disorder treatment services. This service is limited to CMHCs who are certified by the Department of Mental Health and Substance Abuse Services or facilities operated by the Department of Mental of Substance Abuse Services.

"Community education, consultation, and outreach" means services designed to reach the facility's target population, to promote available services, and to give information on substance-related and addictive disorders, domestic violence, sexual assault, and other related issues to the general public, the target population, or to other agencies serving the target population. These services include presentations to human services agencies, community organizations, and individuals, other than individuals in treatment, and staff. These services may take the form of lecture presentations, films or other visual displays, and discussions in which factual information is disseminated. These presentations may be made by staff or trained volunteers.

"Community mental health center" or **"CMHC"** means a facility offering a comprehensive array of community-based mental health services including, but not limited to, inpatient treatment, outpatient treatment, partial hospitalization, emergency care, consultation and education, and certain services at the option of the center including, but not limited to, prescreening, rehabilitation services, pre-care and aftercare, training programs, and research and evaluation.

"Consultation" means the act of providing information or technical assistance to a particular group or individual seeking resolution of specific problems. A documented process of interaction between staff members or between facility staff and unrelated individuals, groups, or agencies for the purpose of problem solving or enhancing their capacities to manage consumers or facilities.

"Consumer" means an individual, adult, adolescent, or child, who has applied for, is receiving or has received evaluation or treatment services from a facility operated or certified by ODMHSAS or with which ODMHSAS contracts and includes all persons referred to in OAC Title 450 as client(s) or patient(s) or resident(s) or a combination thereof.

"Consumer record" means the collection of written information about a consumer's evaluation or treatment that includes the intake data, evaluation, treatment or service plan, description of treatment or services provided, continuing care plan, and discharge information on an individual consumer.

"Continuing care" means providing a specific period of structured therapeutic involvement designed to enhance, facilitate, and promote transition from a current level of services to support ongoing recovery.

"Contract" means a document adopted by the governing authority of a treatment facility and any other organization, facility, or individual, which specifies services, personnel, or space to be provided by the program, as well as the monies to be expended in exchange.

"Co-occurring disorder"(COD) means any combination of mental health symptoms and substance use disorder symptoms or diagnoses that affect a consumer and are typically determined by the current Diagnostic and Statistical Manual of Mental Disorders.

"Co-occurring disorder capability" means the organized capacity within any type of program to routinely screen, identify, assess, and provide properly matched interventions to consumer's with co-occurring disorders.

"Co-occurring disorder enhanced" means that the program (or subunit of the program) provides a specialized service designed for individuals with co-occurring disorders, usually with a higher level of available service capacity or intensity for the co-occurring substance use disorder than would be the case in a comparable co-occurring disorder capable program.

"Correctional institution" means any penal or correctional facility, jail, reformatory, detention center, work farm, halfway house, or residential community program operated by, or under contract to, the United States, a state, a territory, a political subdivision of a state or territory, or an Indian tribe, for the confinement or rehabilitation of persons charged with or convicted of a criminal offense, or other persons held in lawful custody. Other persons held in lawful custody include juvenile offenders adjudicated delinquent, aliens detained awaiting deportation, persons committed to mental institutions through the criminal justice system, witnesses, or others awaiting charges or trial. Programs which are providing treatment services within a correctional facility may be exempt from certain services described in this chapter which cannot be provided due to circumstance.

"Crisis Diversion" means an unanticipated, unscheduled situation requiring supportive assistance, face-to-face or telephone, to resolve immediate problems before they become overwhelming and severely impair the individual's ability to function or maintain in the community.

"Crisis intervention" means actions taken and services provided to address emergency psychological, physiological, and safety aspects of alcohol, drug-related, and mental health crises.

"Critical incident" means an occurrence or set of events inconsistent with the routine operations of a facility, service setting, or otherwise routine care of a consumer. Critical incidents specifically include, but are not necessarily limited to the following: adverse drug events; self-destructive behavior; deaths and injuries to consumers, staff, and visitor; medication errors; residential consumers that have absent without leave (AWOL); neglect or abuse of a consumer; fire; unauthorized disclosure of information; damage to or theft of property belonging to consumers or the facility; other unexpected occurrences; or events potentially subject to litigation. A critical incident may involve multiple individuals or results.

"Cultural competency" means the ability to recognize, respect, and address the unique needs, worth, thoughts, communications, actions, customs, beliefs, and values that reflect an individual's racial, ethnic, religious, sexual orientation, and/or social group.

"Day school" means the provision of therapeutic and accredited academic services on a regularly scheduled basis.

"Department" or **"ODMHSAS"** means the Oklahoma Department of Mental Health and Substance Abuse Services.

"Detoxification" means the process of eliminating the toxic effects of drugs and alcohol from the body. Supervised detoxification methods include social detoxification and medical monitoring or medical management and are intended to avoid withdrawal complications.

"DHS" or **"OKDHS"** means the Oklahoma Department of Human Services.

"Diagnosis" means the determination of a disorder as defined by current DSM criteria and in accordance with commonly accepted professional practice standards.

"Dietitian" or **"Dietician"** means an individual trained and licensed in the development, monitoring, and maintenance of food and nutrition in accordance with the Oklahoma State Board of Medical Licensure and Supervision.

"Discharge criteria" means individualized measures by which a program and the consumer determine readiness for discharge or transition from services being provided by that facility. These may reference general guidelines as specified in facility policies or procedures and/or in published guidelines including, but not limited to, the current ASAM criteria for individuals with substance use disorders, but should be individualized for each consumer and articulated in terms of consumer behaviors, resolutions of specific problems, and attainment of goals developed in partnership with the participant and the provider.

"Discharge planning" means the process, begun at admission, of determining a consumer's continued need for treatment services and of developing a plan to address ongoing consumer post-treatment and recovery needs. Discharge planning may or may not include a document identified as a discharge plan.

"Dischargesummary" means a clinical document in the treatment record summarizing the consumer's progress during treatment, with goals reached, continuing needs, and other pertinent information including documentation of linkage to aftercare.

"DOC" or **"ODOC"** means the Oklahoma Department of Corrections.

"Documentation" means the provision of written, dated, and authenticated evidence to substantiate compliance with standards, e.g., minutes of meetings, memoranda, schedules, notices, logs, records, policies, procedures, and announcements.

"DSM" means the most current edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association.

"Education" means the dissemination of relevant information specifically focused on increasing the awareness of the community and the receptivity and sensitivity of the community concerning mental health, substance-related and addictive disorders, or other related problems and services related to the specific focus of treatment.

"Educational group" means groups in which information is provided to consumers or consumers in a teaching or instructional format and typically related to the current focus of treatment, designated to positively impact a consumer's recovery. Topics should be gender and age specific and should include, but not be limited to, information regarding their diagnosis or identified problems on their treatment plan. This service may involve teaching skills in communication, self-care, and social skills to promote recovery. Paraprofessionals and/or professionals in fields related to the education topic may facilitate education groups.

"Efficiency" means a program's measure of cost-benefit or cost effectiveness through a comparison to some alternative method.

"Emergency services" means a twenty-four (24) hour capability for assessment, intervention, and resolution of a consumer's crisis or emergency provided in response to unanticipated, unscheduled emergencies requiring prompt intervention to resolve immediate, overwhelming problems that severely impair the individual's ability to function or remain in the community and may include placement of the individual in a protective environment, detoxification, individual and group consultation, and medical assessment.

"Emotional, behavioral or cognitive conditions and complications" means one dimension to be considered in consumer placement, continued stay, and discharge and is an evaluation of the consumer's historical and current emotional, behavioral, or cognitive status including the presence and severity of any diagnosed mental illnesses, as well as, the level of anxiety, depression, impulsivity, guilt, and behavior that accompanies or follows these emotional states and historical information, as it impacts on level of care decision making.

"Evaluation" See "Assessment."

"Evidence based practice" means programs or practices that are supported by research methodology and have produced consistently positive patterns of results when replicated within the intent of the published guidance.

"Executive director" means the person hired by the governing authority to direct all the activities of the organization; may be used synonymously with administrative director, administrator, chief executive officer, and director.

"Face-To-Face" for the purposes of the delivery of behavioral health care, means a face-to-face physical contact and in-person encounter between the health care provider and the consumer, including the initial visit. The use of telemedicine shall be considered a face-to-face encounter.

"Facilities" or "facility" means entities as described in Title 43A O.S. § 1-103(7), community mental health centers, residential mental health facilities, community-based structured crisis centers, certified services for the alcohol and drug dependent, programs of assertive community treatment, eating disorder treatment, gambling disorder treatment, and narcotic treatment programs.

"Family" means the parents, brothers, sisters, other relatives, foster parents, guardians, and others who perform the roles and functions of family members in the lives of consumers.

"Follow-up" means the organized method of systematically determining the status of consumers after they have been discharged to determine post-treatment outcomes and utilization of post-treatment referrals.

"Gambling disorder treatment services" means treatment activities for consumers by a gambling treatment professional that include, but are not limited to, the following:

(A) Assessment and diagnostic impression, ongoing;
(B) Treatment planning and revision, as necessary;
(C) Individual, group and family therapy;
(D) Case management;
(E) Psychosocial rehabilitation; and
(E) Discharge planning.

"Gambling treatment professional" means:

(A) an individual holding a valid NCGC I or II certification;
(B) any clinician licensed in a behavioral health field with documented completion of at least thirty hours of ODMHSAS recognized core problem gambling training requirements and documented completion of ~~twelve~~ten hours of problem gambling specific continuing education every twelve months~~.~~; or
(C) any individual under supervision for licensure by an individual who meets the requirements of (A) or (B), and has documented completion of at least thirty hours of ODMHSAS recognized core problem gambling training requirements and documented completion of ~~twelve~~ten hours of problem gambling specific continuing education every twelve months.

"Gambling related disorders/problems" means persistent and recurrent problematic gambling behavior leading to clinically significant impairment or distress, as defined by the most recent edition of the DSM.

"Goals" means broad general statements of purpose or intent that indicates the general effect the facility or service is intended to have.

"Governing authority" means the individual or group of people who serve as the treatment facility's board of directors and who are ultimately responsible for the treatment facility's activities and finances.

"Guardian" means an individual who has been given the legal authority for managing the affairs of another individual.

"Halfway house" means low intensity substance use disorder treatment in a supportive living environment to facilitate the individual's reintegration into the community, most often following completion of primary treatment. Corresponding ASAM Treatment Level: Level III.1, Clinically managed Low Intensity Residential Services.

"Halfway house for persons with children" means a halfway house that includes services for the recovering person's children who will reside with him or her in the house.

Corresponding ASAM Treatment Level: Level III.1, Clinically managed Low Intensity Residential Services.

"Infant" means any child from birth up to 3 years of age.

"Initial contact" means a person's first contact with the facility, e.g., a request for information or service by telephone or in person.

"Inpatient services" means the process of providing care to persons who require twenty-four (24) hour supervision in a hospital or other suitably equipped medical setting as a result of acute or chronic medical or psychiatric illnesses and professional staff providing medical care according to a treatment plan based on documentation of need.

"Intake" means the overall process by which information is collected to determine the needs of the consumer.

"Intervention" means a process or technique intended to facilitate behavior change.

"Length of stay" means the number of days or number of sessions attended by consumers in the course of treatment.

"Licensed Behavioral Health Professional" or "LBHP" means:

(A) Allopathic or Osteopathic Physicians with a current license and board certification in psychiatry or board eligible in the state in which services are provided, or a current resident in psychiatry;

(B) Practitioners with a license to practice in the state in which services are provided ~~or those actively and regularly receiving board approved supervision, and extended supervision by a fully licensed clinician if board's supervision requirement is met but the individual is not yet licensed, to become licensed~~ by one of the following licensing boards:

(i) Psychology;
(ii) Social Work (clinical specialty only);
(iii) Professional Counselor;
(iv) Marriage and Family Therapist;
(v) Behavioral Practitioner; or
(vi) Alcohol and Drug Counselor.

(C) Advanced Practice Nurse (certified in a psychiatric mental health specialty), licensed as a registered nurse with a current certification of recognition from the board of nursing in the state in which services are provided.

(D) A Physician Assistant who is licensed in good standing in the state and has received specific training for and is experienced in performing mental health therapeutic, diagnostic, or counseling functions.

"Licensed physician" means an individual with an M.D. or D.O. degree who is licensed in the State of Oklahoma to practice medicine.

"Licensed practical nurse" means an individual who is a graduate of an approved school of nursing and is licensed in the State of Oklahoma to provide practical nursing services.

"Licensure" means the process by which an agency of government grants permission to persons or health facilities meeting qualifications to engage in a given occupation or business or use a particular title.

"Licensure Candidate" means practitioners actively and regularly receiving board approved supervision, and extended supervision by a fully licensed clinician if board's supervision requirement is met but the individual is not yet licensed, to become licensed by one of the following licensing boards:

(A) Psychology;
(B) Social Work (clinical specialty only);
(C) Professional Counselor;
(D) Marriage and Family Therapist;
(E) Behavioral Practitioner; or
(F) Alcohol and Drug Counselor.

"Life skills" means abilities and techniques necessary to function independently in society.

"Medical care" means those diagnostic and treatment services which, under the laws of the jurisdiction in which the facility is located, can only be provided or supervised by a licensed physician.

"Medical detoxification" means diagnostic and treatment services performed by licensed facilities for acute alcohol or drug intoxication, delirium tremens, and physical and neurological complications resulting from acute intoxication. Medical detoxification includes the services of a physician and attendant medical personnel including nurses, interns, and emergency room personnel, the administration of a medical examination and a medical history, the use of an emergency room and emergency medical equipment if warranted, a general diet of three meals each day, the administration of appropriate laboratory tests, and supervision by properly trained personnel until the person is no longer medically incapacitated by the effects of alcohol or drugs. [43 A O.S. § 3-403(5)] It is an organized service delivered by medical and nursing professionals that provides for twenty-four (24)-hour medically directed evaluation and withdrawal management in an acute care inpatient setting. Services are delivered under a defined set of physician-approved policies and physician-managed procedures or medical protocols. Corresponding ASAM Treatment Level: Level IV-D, Medically Managed Intensive Inpatient Detoxification.

"Medical services" means the administration of medical procedures by a physician, registered nurse, nurse practitioner, physician's assistant, or dentist and in accordance with a documented treatment plan and medical supervision available to provide the consumer with the service necessitated by the prevalent problem identified and includes physical examinations, detoxification from alcohol or drugs, methadone maintenance, dental services, or pharmacy services, etc.

"Medically supervised detoxification" means detoxification outside of a medical setting, directed by a physician who has attendant medical personnel including nurses for intoxicated consumers, and consumer's withdrawing from alcohol and other drugs, presenting with no apparent medical or neurological symptoms as a result of their use of substances that would require hospitalization as determined by an examining physician. Corresponding ASAM Treatment Level: Level III, 7-D, Medically Monitored Inpatient Detoxification. Detoxification is intended to stabilize and prepare consumers in accessing treatment.

"Medication" means any prescription or over-the-counter drug that is taken orally, injected, inserted, applied topically, or otherwise administered by staff or self- administered

by the consumer for the appropriate treatment or prevention of medical or psychiatric issues.

"Medication error" means an error in prescribing, dispensing, or administration of medication, regardless if the error reached the consumer, e.g., omission of prescribed drugs, giving drugs not prescribed, prescribing inappropriate drugs, prescribing or administering incorrect dosages, incorrectly filling or labeling prescriptions, or incorrectly transcribing medication orders.

"Medication-self administration" means the consumers administer their own medication to themselves, or their children, with staff observation.

"Minutes" means a record of business introduced, transactions and reports made, conclusions reached, and recommendations made during a meeting.

"NCGC" means Nationally Certified Gambling Counselor, offered at levels I or II through the National Council on Problem Gambling.

"Neglect" means:

(A) the failure of staff to provide adequate food, clothing, shelter, medical care or supervision which includes, but is not limited to, lack of appropriate supervision that results in harm to a consumer;

(B) the failure of staff to provide special care made necessary by the physical or mental condition of the consumer;

(C) the knowing failure of staff to provide protection for a consumer who is unable to protect his or her own interest; or

(D) staff knowingly causing or permitting harm or threatened harm through action or inaction that has resulted or may result in physical or mental injury.

"Non-medical detoxification" means detoxification services for intoxicated consumers and consumers withdrawing from alcohol or other drugs presenting with no apparent medical or neurological symptoms as a result of their use of substances. Corresponding ASAM PPC Treatment Level: Level III, 2-D, Clinically managed Residential Detoxification. Detoxification is intended to stabilize and prepare consumers in accessing treatment.

"Objectives" means a specific statement of planned accomplishments or results that are specific, measurable, attainable, realistic, and time-limited.

"ODMHSAS" means the Oklahoma Department of Mental Health and Substance Abuse Services.

"Oklahoma Administrative Code" or **"OAC"** means the publication authorized by 75 O.S. § 256 known as The Oklahoma Administrative Code or, prior to its publication, the compilation of codified rules authorized by 75 O.S. § 256(A)(1)(a) and maintained in the Office of Administrative Rules.

"OSDH" means the Oklahoma State Department of Health.

"Outpatient services" means an organized, nonresidential treatment service in regularly scheduled sessions intended for individuals not requiring a more intensive level of care or those who require continuing services following more intensive treatment regimens. For substance use disorder treatment services, the corresponding ASAM Treatment Level is Level I, Outpatient Treatment.

"Outreach" means the process of reaching into a community systematically for the purposes of identifying persons in need of services, alerting persons and their families to the availability of services, locating needed services, and enabling persons to enter into and accept the service delivery system.

"Paraprofessional" means a person who does not have an academic degree related to the scope of treatment or support services being provided, but performs prescribed functions under the general supervision of that discipline.

"Performance Improvement" or **"PI"** means an approach to the continuous study and improvement of the processes of providing health care services to meet the needs of consumers and others. Synonyms, and near synonyms, include continuous quality improvement, continuous improvement, organization-wide quality improvement, and total quality management.

"Personnel record" means a chart or file containing the employment history and actions relevant to individual employee or volunteer activities within an organization and may contain application, evaluation, salary data, job description, citations, credentials, etc.

"PICIS" is a comprehensive management information system based on national standards for mental health and substance abuse databases. It is a repository of diverse data elements that provide information about organizational concepts, staffing patterns, consumer profiles, program or treatment focus, and many other topics of interest to clinicians, administrators, and consumers. It includes unique identifiers for agencies, staff, and consumers that provide the ability to monitor the course of consumer services throughout the statewide ODMHSAS network. PICIS collects data from hospitals, community mental health centers, substance abuse agencies, community residential mental health facilities, prevention programs, and centers for the homeless which are operated or funded in part by ODMHSAS.

"Play therapy" means a form of action therapy that uses, but is not limited to, sand play, fairy tales, art and puppetry to encourage communication in children who have inadequate or immature verbalization skills or who verbalize excessively due to defensiveness.

"Policy" means statements of facility intent, strategy, principle, or rules in the provision of services; a course of action leading to the effective and ethical provision of services.

"Prevention" means the assessment, development, and implementation of strategies designed to prevent the adverse effects of mental illness, substance use disorders, addiction, and trauma.

"Procedures" means the written methods by which policies are implemented.

"Process" means information about what a program is implementing and the extent to which the program is being implemented as planned.

"Program" means a structured set of activities designed and structured to achieve specific objectives relative to the needs of the consumers or patients.

"Program effectiveness outcome" means a written plan and operational methods of determining the effectiveness of services provided that objectively measures facility resources, activities, and consumer outcomes.

"Progress notes" means a chronological written description of services provided to a consumer, resident, client, or patient that documents, utilizing acceptable documentation practices, the consumer's response related to the intervention plan or services provided.

"Psychiatrist" means a licensed physician who specializes in the assessment and treatment of individuals having psychiatric disorders and who is fully licensed to practice medicine in the state in which he or she practices and is certified in psychiatry by the American Board of Psychiatry and Neurology or has equivalent training or experience.

"Psychological-Social evaluations" are in-person interviews conducted by professionally trained personnel designed to elicit historical and current information regarding the behavior and experiences of an individual and are designed to provide sufficient information for problem formulation and intervention.

"Psychotherapy" or "Therapy" means a goal directed process using generally accepted clinical approaches provided face-to-face by a qualified service provider with consumers in individual, group, or family settings to promote positive, emotional, or behavioral change.

"Readiness to change" means one dimension to be considered in consumer placement, continued stay, and transition and is an evaluation of the consumer's current emotional and cognitive awareness of the need to change, coupled with a commitment to change.

"Recovery" means an ongoing process of discovery and/or rediscovery that must be self-defined, individualized, and may contain some, if not all, of the fundamental components of recovery as outlined by the Substance Abuse and Mental Health Services Administration (SAMHSA).

"Recovery/living environment" means one dimension to be considered in consumer placement, continued stay, and discharge and is an evaluation of the consumer's current recovery environment, current relationships, degree of support for recovery, current housing, employment situation, availability of alternatives, and historical information as it impacts on level of care decision making.

"Registered nurse" means an individual who is a graduate of an approved school of nursing and is licensed in the State of Oklahoma to practice as a registered nurse.

"Rehabilitation services" means face-to-face individual or group services provided by qualified staff to develop skills necessary to perform activities of daily living and successful integration into community life.

"Relapse" means the process which may result in the return to the use of substances after a period of abstinence.

"Relapse potential, continued use, or continued problem potential" means one dimension to be considered in consumer placement, continued stay, and discharge and is an evaluation of the consumer's attitudes, knowledge, and coping skills, as well as the likelihood that the consumer will relapse from a previously achieved and maintained abstinence and/or stable and healthy mental health function. If an individual has not yet achieved abstinence and/or stable and healthy mental health function, this dimension assesses the likelihood that the individual will continue to use alcohol or other drugs and/or continue to have mental health problems.

"Residential treatment-substance abuse" means treatment for a consumer in a live-in setting which provides a regimen consisting of twenty-four (24) treatment hours per week. This level of care should correspond with the ASAM Treatment Level: Level III.5, Clinically managed High-Intensity Residential Services.

"Residential treatment for persons with children-substance abuse" means a residential treatment facility that includes services for the recovering person's children who will reside with him or her in the residential facility. Corresponding ASAM PPC Treatment Level (Parent Only): Level III.5 Clinically Managed High-Intensity Residential Services.

"Safety officer" means the individual responsible for ensuring the safety policies and procedures are maintained and enforced within the facility.

"Screening" means the process to determine whether the person seeking assistance needs further comprehensive assessment.

"Sentinel event" is a type of critical incident that is an unexpected occurrence involving the death or serious physical or psychological injury to a consumer or risk thereof. Serious injury specifically includes loss of limb or function. The phrase "or risk thereof" includes a variation in approved processes which could carry a significant chance of a serious adverse outcome to a consumer. These events signal the need for immediate investigation and response. Sentinel events include, but are not limited to suicide, homicide, criminal activity, assault and other forms of violence, including domestic violence or sexual assault, and adverse drug events resulting in serious injury or death.

"Service plan" or "Treatment plan" means the document used during the process by which a qualified service provider and the consumer together and jointly identify and rank problems, establish agreed-upon immediate short-term and long-term goals, and decide on the treatment process and resources to be utilized.

"Service Provider" means a person who is allowed to provide treatment services within the regulation and scope of their certification level or license.

"Significant others" means those individuals who are, or have been, significantly involved in the life of the consumer.

"Socialization" means all activities, which encourage interaction and the development of communication, interpersonal, social, and recreational skills and can include consumer education.

"Staff privileging" means an organized method for treatment facilities to authorize an individual permission to provide specific care and treatment services to consumers within well-defined limits, based on the evaluation of the individual's license, education, certification, training, experience, competence, judgment, and other credentials.

"Substance-related and addictive disorders" means a substance-related disorder involving problems related to the

use of ten distinct classes of drugs: alcohol; caffeine; cannabis; hallucinogens; inhalants; opioids; sedatives, hypnotics and anxiolytics; stimulants; tobacco; and other (unknown) substances. Substance-related disorders fall into one of two categories, substance use disorders and substance induced disorders. A substance use disorder is a cluster of cognitive, behavioral and physiological symptoms indicating the consumer continues using the substance(s) despite significant substance-related problems. A substance-induced disorder is a reversible substance-specific syndrome due to the recent ingestion of a substance. Addictive disorders involve repetitive clusters of behaviors that activate reward systems similar to those activated by drugs and create behavioral symptoms comparable to those produced by substance use disorders such as compulsive gambling.

"Substance use disorder treatment services" means the coordination of treatment activities for consumers by service provider that includes, but is not limited to, the following:

(A) Intake including screening, diagnostic impression, and assessment.

(B) Treatment planning and revision, as necessary.

(C) Continuing care review to assure continuing stay and discharge criteria are met.

(D) Case management services.

(E) Reports and record keeping of consumer related data.

(F) Consultation that facilitates necessary communication in regard to consumers.

(G) Discharge planning that assists consumers in developing continuing care plans and facilitates transition into post-treatment recovery.

(H) Group and individual therapy.

(I) Education, as necessary.

"Substance-use disorders" means alcohol or drug dependence or psychoactive substance use disorder as defined by current DSM criteria or by other standardized and widely accepted criteria.

"Substance withdrawal" means a state of being in which a group of symptoms of variable clustering and degree of severity occur on cessation or reduction of use of a psychoactive substance that has been taken repeatedly, usually for a prolonged period and/or in high doses. The syndrome may be accompanied by signs of physiological disturbance. Onset and course of the withdrawal state are time-limited and are related to the type of substance and the dose being used immediately before abstinence.

"Supportive services" refers to assistance with the development of problem-solving and decision making skills to maintain or achieve optimal functioning within the community and can include consumer education.

"Therapeutic hour(s)" means the amount of time in which the consumer is engaged with a service provider identifying, addressing, and/or resolving issues that are related to the consumer's treatment plan.

"Trauma informed capability" means the capacity for a facility and all its programs to recognize and respond accordingly to the presence of the effects of past and current traumatic experiences in the lives of its consumers.

"Treatment" means the broad range of emergency, inpatient, intermediate and outpatient services and care including diagnostic evaluation, medical, psychiatric, psychological and social service care, vocational rehabilitation, and career counseling. [43A O.S. § 3-403(11)].

"Treatment hours - residential" means the structured hours in which a consumer is involved in receiving professional services to assist in achieving recovery.

"Treatment session-outpatient" means each face-to-face contact with a consumer in a therapeutic setting whether individually or in a group.

"Volunteer" means any person who is not on the program's payroll, but provides services and fulfills a defined role within the program and includes interns and practicum students.

"Walk through" means an exercise in which staff members of a facility walk through the program's treatment processes as a consumer. The goal is to view the agency processes from the consumer's perspective for the purpose of removing barriers and enhancing treatment.

"Wellness" means the condition of good physical, mental, and emotional health, especially when maintained by an appropriate diet, exercise, and other lifestyle modifications.

"Withdrawal Management" means the process of eliminating the toxic effects of substances from the body. Withdrawal management methods include social detoxification and medical monitoring or medical management and are intended to avoid withdrawal complications.

SUBCHAPTER 5. ORGANIZATIONAL AND FACILITY MANAGEMENT

450:18-5-2.2. Information analysis and planning

(a) The facility shall have a defined and written plan for conducting an organizational needs assessment which specifies the methods and data to be collected to include, but not limited to, information from:

(1) Consumers;

(2) Governing Authority;

(3) Staff;

(4) Stakeholders;

(5) Outcomes management processes;

(6) Quality record review; and

(7) Self-assessment tools to determine progress toward co-occurring, recovery oriented, trauma informed, and consumer driven capability.

(b) The facility shall have a defined ongoing system to collect data and information on a quarterly basis to manage the organization.

(c) Information collected shall be analyzed to improve consumer services and organizational performance.

(d) The facility shall prepare an end of year management report which shall include, but not be limited to:

(1) An analysis of the needs assessment process; ~~and~~

(2) Performance improvement program findings~~.~~; and

(3) Claims and accomplishments by facilities, including but not limited to consumer count and success rates, which may be verified by the ODMHSAS Board.

(e) The management report shall be communicated and made available to, among others:

(1) Governing authority;

(2) Facility staff; and

(3) ODMHSAS, as requested.

(f) Compliance with OAC 450:18-5-2.2 shall be determined by a review of the written program evaluation plans; written annual program evaluations; special or interim program evaluations; program goals and objectives; and other supporting documentation provided.

SUBCHAPTER 7. FACILITY CLINICAL RECORDS

PART 3. SCREENING, INTAKE, AND ASSESSMENT

450:18-7-23. Biopsychsocial assessment

(a) All programs shall complete a biopsychsocial assessment which gathers sufficient information to assist the consumer in developing an individualized service plan. The program shall develop a biopsychsocial evaluation which contains, but is not limited to, the following:

(1) ~~Identification of the consumer's strengths, needs, abilities, and preferences~~Behavioral, including substance use, abuse, and dependence as well as other addictive disorders;

(2) ~~History of the presenting problem~~Emotional, including issues related to past or current trauma;

(3) ~~Previous treatment history to include mental health and substance related and addictive orders~~Physical;

(4) ~~Health history and current biomedical conditions and complications~~Social and recreational; and

(5) ~~History of substance use, including past treatment, and history of other behavioral addictions and past treatment;~~Vocational.

~~(6) Gambling history, if applicable, including type, amount, frequency and duration of gambling activity, and family history of gambling disorder.~~

~~(7) History of trauma;~~

~~(8) Family and social history, including family history of alcohol and drug use;~~

~~(9) Educational attainment, difficulties, and history;~~

~~(10) Cultural and religious orientation;~~

~~(11) Vocational, occupational and military history;~~

~~(12) Sexual history, including HIV, AIDS and STD at-risk behaviors;~~

~~(13) Marital or significant other relationship history;~~

~~(14) Recreational and leisure history;~~

~~(15) Legal history;~~

~~(16) Present living arrangement;~~

~~(17) Economic resources;~~

~~(18) Level of functioning;~~

~~(19) Current support system including peer and other recovery supports;~~

~~(20) Current medications, if applicable, and shall include obtainable information regarding the name of prescribing physician, name of medication, strength and dosage, and length of time consumer was on the medication;~~

~~(21) Consumer's expectations in terms of service; and~~

~~(22) Assessment summary or diagnosis, and signature of the assessor and date of the assessment.~~

(b) Compliance with 450:18-7-23 may be determined by a review of the following:

(1) Policy and procedures;

(2) Biopsychsocial assessment instruments;

(3) Consumer records;

(4) Case management assessments;

(5) Interviews with staff and consumers; and

(6) Other facility documentation.

450:18-7-25. Biopsychsocial assessments of children accompanying a parent into treatment

(a) All programs shall document biopsychsocial assessments for the parent and for children accompanying their parent into treatment:

(1) Assessments of children (including infants) accompanying their parent into treatment (residential or halfway house levels of care) shall include~~, but not be limited to the assessment of~~ the following items in addition to the requirements in 450:18-7-23 :

(A) ~~substance use disorder issues;~~

~~(B) mental health issues;~~

~~(C)~~ parent-child relationship;

(~~D~~B) physical and psychological development;

(~~E~~C) educational needs;

(~~F~~D) parent related issues~~,~~; and

(~~G~~E) family issues related to the child~~,~~.

~~(H) history of trauma; and~~

~~(I) medical history/needs.~~

(2) Assessments of the parent bringing their children into treatment (residential or halfway house levels of care) shall include the following items, in addition to the requirements of 450:18-7-23:

(A) parenting skills (especially in consideration of the child's issues);

(B) knowledge of age appropriate behaviors;

(C) parental coping skills;

(D) personal issues related to parenting; and

(E) family issues as related to the child.

(b) Compliance with 450:18-7-25 may be determined by a review of the following:

(1) Policy and procedure;

(2) Biopsychsocial assessment instruments;

(3) Treatment records;

(4) Case management assessments;

(5) Interviews with staff and consumers; and

(6) Other facility documentation.

PART 7. CASE MANAGEMENT

450:18-7-65. Case management services, staff credentials

(a) Individuals providing case management services shall be an LBHP, Licensure Candidate, CADC or certified as a behavioral health case manager pursuant to OAC, Title 450, Chapter 50.

(b) Compliance with 450:18-7-65 shall be determined by a review of the facility personnel records and credentialing files.

SUBCHAPTER 9. SERVICES SUPPORT AND ENHANCEMENT

PART 1. STAFF SUPPORT

450:18-9-2. Clinical supervision

(a) Clinical supervision is a vital component of the provision of quality treatment. Clinical supervision shall be provided for those delivering direct services and shall be provided by persons knowledgeable of clinical services as determined by the program.

(b) All facilities shall have written policies and procedures, operational methods, and documentation of the provision of clinical supervision for all direct treatment and service staff. These policies shall include, but are not limited to:

(1) Credentials required for the clinical supervisor;

(2) Specific frequency for case reviews with treatment and service providers;

(3) Methods and time frames for supervision of individual, group, and educational treatment services; and

(4) Written policies and procedures defining the program's plan for appropriate counselor-to-consumer ratio, and a plan for how exceptions may be handled.

(c) Ongoing clinical supervision should address:

(1) The appropriateness of treatment selected for the consumer;

(2) Treatment effectiveness as reflected by the consumers meeting their individual goals; and

(3) The provision of feedback that enhances the clinical skills of service providers.

(d) Compliance with 450:18-9-2 may be determined by a review of the following:

(1) Policies and procedures;

(2) Clinical services manuals;

(3) Clinical supervision manuals;

(4) Documentation of clinical supervision;

(5) Personnel records;

(6) Interviews with staff; and

(7) Other facility documentation.

(~~e~~e) Failure to comply with 450:18-9-2 will result in the initiation of procedures to deny, suspend and/or revoke certification.

SUBCHAPTER 13. SUBSTANCE USE DISORDER TREATMENT SERVICES

PART 11. RESIDENTIAL TREATMENT

450:18-13-101. Residential treatment for adults

(a) Substance use disorder treatment in a residential setting shall provide a planned regimen of twenty-four (24) hours a day, seven (7) days a week of professionally directed evaluation, care, and treatment in a permanent program location. Consumers shall participate in at least twenty-four (24) treatment hours of substance use disorder treatment services per week. The facility shall provide beds, food service, and a safe, welcoming, and culturally/age appropriate environment.

(b) The facility shall maintain written programmatic descriptions and operational methods addressing the following:

(1) Support system:

(A) A licensed physician shall be available, at least by telephone, twenty-four (24) hours per day, seven (7) days per week;

(B) The facility shall maintain written policy and procedures for handling medical emergencies; and an emergency medical number shall be conspicuously posted for staff use; and

(C) The facility shall maintain written policies and procedures for the handling of clinical issues during times in which clinical staff are not at the facility.

(2) Staff:

(A) The facility shall maintain documentation that service providers are knowledgeable regarding the biopsychosocial dimensions of substance use disorders, evidenced-based practices, cultural, age, and gender specific issues, and co-occurring disorder issues.

(B) Staff shall be at least eighteen (18) years of age.

(C) The facility shall document in personnel records all education, training, and experience stated above prior to the provision of direct care services.

(D) The facility shall have staff members on site twenty-four (24) hours per day, seven (7) days per week.

(3) Treatment services. Daily (twenty-four [24] hours a day, seven [7] days a week) substance use disorder treatment services shall be provided to assess and address individual needs of each consumer. Services shall include, but are not limited to:

(A) **Therapy.** Therapy must be provided by a Licensed Behavioral Health Professional (LBHP) or Licensure Candidate who must use and document a generally accepted clinical approach to treatment such as cognitive behavioral treatment, narrative therapy, solution focused brief therapy or another widely accepted theoretical framework for treatment. The therapy must be goal directed utilizing techniques appropriate to the individual consumer's service plan and the consumer's developmental and cognitive

abilities. This service does not include social skill development or daily living skill activities. For adults, group therapy is limited to a total of eight adult individuals. For all children under the age of eighteen, the total group size is limited to six. Therapy must be provided at least one (1) hour per week.

(B) **Rehabilitation services.** Rehabilitation services must be provided by a LBHP, Licensure Candidate, or Certified Alcohol and Drug Counselor (CADC) or Certified Behavioral Health Case Manager II (CM II). These services includes educational and supportive services regarding independent living, self-care, social skills regarding development, lifestyle changes and recovery principles and practices (including relapse prevention). Services provided typically take the form of curriculum based education and skills practice, and should be goal specific in accordance with an individualized service plan. Rehabilitation services must be provided at least seven (7) hours per week. The maximum staffing ratio for group rehabilitation services is fourteen members for each qualified provider for adults and eight to one for children under the age of eighteen.

(D) **Educational groups.** Education groups must be conducted by a LBHP, Licensure Candidate, CADC, CM II or Peer Recovery Support Specialist (PRSS). Only seven (7) hours per week of education group may be counted toward the required treatment hours. Education groups may include but are not limited to learning experiences regarding living skills, budgeting, educational/vocational skills, etc.

(E) **Case Management.** Case management must be provided by a LBHP, Licensure Candidate, CADC, CM II or CM I as clinically indicated.

(F) **Crisis Intervention.** Crisis intervention services must be provided by a LBHP or Licensure Candidate. Crisis intervention services are provided as needed for the purpose of responding to acute behavioral or emotional dysfunction as evidenced by psychotic, suicidal, homicidal severe psychiatric distress, and/or imminent danger of substance relapse. The crisis situation including the symptoms exhibited and the resulting intervention or recommendations must be clearly documented in the consumer's record.

(4) Treatment documentation:

(A) Consumer records shall contain progress notes which outline any issues related to treatment and services provided. Progress notes shall document treatment services in a weekly summary to include the following:

(i) Date;

(ii) Specific problems, goals, and objectives addressed;

(iii) Summary of progress made toward goals and objectives, or lack of;

(iv) Consumer response to overall treatment services;

(v) Total number of treatment hours and types of services attended for the week;

(vi) Any new problems, goals, or objectives identified during the week;

(vii) List of all service providers providing treatment hours;

(viii) Signature and credentials of the service provider completing the documentation; and

(ix) Consumer's name.

(B) Documentation shall reflect each consumer has received a minimum of twenty four (24) hours of treatment services each week, including the treatment services required in 18-13-101(b)(3), in addition to life skills, recreational, and self-help supportive meetings.

(5) The program provides documentation of the following community living components:

(A) A written daily schedule of activities.

(B) Quarterly meetings between consumers and the program personnel.

(C) Recreational activities to be utilized on personal time.

(D) Personal space for privacy.

(E) Security of consumer's property.

(F) A clean, inviting, and comfortable setting.

(G) Evidence of individual possessions and decorations.

(H) Daily access to nutritious meals and snacks.

(I) Policy addressing separate sleeping areas for the consumers based on:

(i) Gender;

(ii) Age; and

(iii) Needs.

(c) Compliance with 450:18-13-101 may be determined by a review of the following:

(1) Licenses;

(2) Policies and procedures;

(3) Treatment protocols;

(4) Personnel record, documentation of professional licensure or certification, documentation of professional work experience, and ongoing in-service trainings;

(5) Treatment records; and

(6) Interviews with staff and consumers.

450:18-13-101.1. Intensive residential treatment for adults

(a) Intensive substance use disorder treatment in a residential setting shall provide a planned regimen of twenty four (24) hours a day, seven (7) days a week of professionally directed evaluation, care, and treatment in a permanent program location. Consumers shall participate in at least thirty-seven (37) treatment hours of substance use disorder treatment services per week. The facility shall provide beds, food service, and a safe, welcoming, and culturally/age appropriate environment.

(b) The facility shall maintain written programmatic descriptions and operational methods addressing the following:

(1) Support system:

(A) A licensed physician shall be available, at least by telephone, twenty-four (24) hours per day, seven (7) days per week;

(B) The facility shall maintain written policy and procedures for handling medical emergencies; and an emergency medical number shall be conspicuously posted for staff use; and

(C) The facility shall maintain written policies and procedures for the handling of clinical issues during times in which clinical staff are not at the facility.

(2) Staff:

(A) The facility shall maintain documentation that service providers are knowledgeable regarding the biopsychosocial dimensions of substance use disorders, evidenced-based practices, cultural, age, and gender specific issues, and co-occurring disorder issues.

(B) Staff shall be at least eighteen (18) years of age.

(C) The facility shall document in personnel records all education, training, and experience stated above prior to the provision of direct care services.

(D) The facility shall have staff members on site twenty-four (24) hours per day, seven (7) days per week.

(3) Treatment services~~:~~. Daily (twenty-four [24] hours a day, seven [7] days a week) substance use disorder treatment services shall be provided to assess and address individual needs of each consumer. Services shall include, but are not limited to:

(A) **Therapy.** Therapy must be provided by a Licensed Behavioral Health Professional (LBHP) or Licensure Candidate who must use and document a generally accepted clinical approach to treatment such as cognitive behavioral treatment, narrative therapy, solution focused brief therapy or another widely accepted theoretical framework for treatment. The therapy must be goal directed utilizing techniques appropriate to the individual consumer's service plan and the consumer's developmental and cognitive abilities. This service does not include social skill development or daily living skill activities. For adults, group therapy is limited to a total of eight adult individuals. For all children under the age of eighteen, the total group size is limited to six. Therapy must be provided at least four (4) hour per week.

(B) **Rehabilitation services.** Rehabilitation services must be provided by a LBHP, Licensure Candidate, Certified Alcohol and Drug Counselor (CADC) or Certified Behavioral Health Case Manager II (CM II). These services includes educational and supportive services regarding independent living, self-care, social skills regarding development, lifestyle changes and recovery principles and practices (including relapse prevention). Services provided typically take the form of curriculum based education and skills practice, and should be goal specific in accordance with an individualized service plan. Rehabilitation services must be provided at least seven (7) hours per week. The maximum staffing ratio for group rehabilitation services is fourteen members for each qualified provider for adults and eight to one for children under the age of eighteen.

(~~D~~C) **Educational groups.** Only eleven (11) hours per week of education group may be counted toward the required treatment hours. Education groups may include but are not limited to learning experiences regarding living skills, budgeting, educational/vocational skills, etc.

(~~E~~D) **Case Management.** Case management must be provided by a LBHP, Licensure Candidate, CADC, CM II or CM I as clinically indicated.

(~~F~~E) **Crisis Intervention.** Crisis intervention services must be provided by a LBHP or Licensure Candidate. Crisis intervention services are provided as needed for the purpose of responding to acute behavioral or emotional dysfunction as evidenced by psychotic, suicidal, homicidal severe psychiatric distress, and/or imminent danger of substance relapse. The crisis situation including the symptoms exhibited and the resulting intervention or recommendations must be clearly documented in the consumer's record.

(4) Treatment documentation:

(A) Consumer records shall contain progress notes which outline any issues related to treatment and services provided. Progress notes shall document treatment services in a weekly summary to include the following:

(i) Date;

(ii) Specific problems, goals, and objectives addressed;

(iii) Summary of progress made toward goals and objectives, or lack of;

(iv) Consumer response to overall treatment services;

(v) Total number of treatment hours and types of services attended for the week;

(vi) Any new problems, goals, or objectives identified during the week;

(vii) List of all service providers providing treatment hours;

(viii) Signature and credentials of the service provider completing the documentation; and

(ix) Consumer's name.

(B) Documentation shall reflect each consumer has received a minimum of thirty-seven (37) hours of treatment services each week, including the treatment services required in 18-13-101.1(b)(3), in addition to life skills, recreational, and self-help supportive meetings.

(5) The program provides documentation of the following community living components:

(A) A written daily schedule of activities.

(B) Quarterly meetings between consumers and the program personnel.

(C) Recreational activities to be utilized on personal time.

(D) Personal space for privacy.
(E) Security of consumer's property.
(F) A clean, inviting, and comfortable setting.
(G) Evidence of individual possessions and decorations.
(H) Daily access to nutritious meals and snacks.
(I) Policy addressing separate sleeping areas for the consumers based on:
(i) Gender;
(ii) Age; and
(iii) Needs.

(c) Compliance with 450:18-13-101.1 may be determined by a review of the following:
(1) Licenses;
(2) Policies and procedures;
(3) Treatment protocols;
(4) Personnel record, documentation of professional licensure or certification, documentation of professional work experience, and ongoing in-service trainings;
(5) Treatment records; and
(6) Interviews with staff and consumers.

PART 17. RESIDENTIAL TREATMENT FOR ADOLESCENTS

450:18-13-161. Residential treatment for adolescents

(a) Residential treatment for adolescents shall provide a planned regimen of twenty-four (24) hour, seven (7) days a week, professionally directed evaluation, care, and treatment for chemically dependent adolescents, under written policies and procedures in a permanent facility. Adolescents not attending academic training shall participate in at least twenty-one (21) substance use disorder treatment related hours per week. Adolescents attending academic training shall participate in at least fifteen (15) hours of substance use disorder treatment related hours per week. At a minimum, ten (10) hours shall be devoted to therapeutic treatment services including, but not limited to, group, individual, and family therapy provided by a qualified service provider. The remaining hours shall be devoted to life skills, prosocial skills, and recreational activities. Other activities such as self help support groups, meetings, and religious participation shall be in addition to required hours.

(b) The residential treatment program shall maintain written programmatic descriptions and operational methods addressing the following:
(1) Environment:
(A) The facility shall maintain an environment which is supportive of physical and emotional growth and development which is appropriate to the needs of adolescents;
(B) The facility shall provide space, both indoor and outdoor, for the recreational and social needs of adolescents;
(C) The facility shall group consumers appropriately by age, developmental level, gender, and treatment needs;
(D) The program may provide transportation to activities in the community as appropriate. Vehicles used for transportation should not be labeled in any way that calls attention to the facility or the vehicle's occupants;
(E) The program shall provide study areas within the facility and shall provide ancillary study materials such as encyclopedias, dictionaries, and educational resource texts and materials; and
(F) The facility shall provide a safe, welcoming, and culturally/age appropriate environment.
(2) Support systems:
(A) The facility shall make available a licensed physician by telephone twenty-four (24) hours per day, seven (7) days per week;
(B) The facility shall have specialized professional consultation or supervision available;
(C) The facility shall provide clinically appropriate public educational services in compliance with applicable Oklahoma laws; and
(D) The facility shall provide emergency services and crisis interventions.
(3) Staff:
(A) The facility shall document that service providers are knowledgeable regarding the biopsychsocial aspects of substance use disorder, cultural, gender, and age specific issues, co-occurring disorder issues, child and adolescent development and, evidenced based practices.
(B) Maintain documentation that service providers are knowledgeable regarding the identification of violence and domestic violence, spousal or partner abuse, child abuse and neglect, parent and sibling abuse, normal and abnormal adolescent development, and family dynamics;
(C) Ensure at least two (2) staff members are awake and on duty twenty-four (24) hours a day, seven (7) days a week;
(D) If educational services are provided, the facility shall maintain documentation to verify that providing staff meets all state requirements for education or special education;
(E) Staff shall be knowledgeable regarding the facility required education, and training requirements and policies;
(F) Staff shall be least eighteen (18) years of age; and
(G) The facility shall document in personnel records all education training and experience stated in above prior to the provision of direct care service.
(4) Treatment services:
(A) A multidisciplinary team approach shall be utilized in providing daily substance use disorder treatment services to assess and address the individual needs of each adolescent;
(B) Services shall include, but not be limited to:
(i) **Therapy.** Therapy must be provided by a Licensed Behavioral Health Professional (LBHP)

or Licensure Candidate who must use and document a clinical approach generally accepted as reliable in the relevant clinical community, such as cognitive behavioral treatment, narrative therapy, solution focused brief therapy or another widely accepted theoretical framework for treatment. The therapy must be goal directed utilizing techniques appropriate to the individual consumer's service plan and the consumer's developmental and cognitive abilities. This service does not include social skill development or daily living skill activities. For all children under the age of eighteen, the total group size is limited to six.

(ii) **Rehabilitation Services.** Rehabilitation services must be provided by a LBHP, Licensure Candidate, Certified Alcohol and Drug Counselor (CADC) or Certified Behavioral Health Case Manager II (CM II). This service includes educational and supportive services regarding independent living, self-care, social skills regarding development, lifestyle changes and recovery principles and practices (including relapse prevention). Services provided typically take the form of curriculum based education and skills practice, and should be goal specific in accordance with an individualized service plan. The maximum staffing ratio for group rehabilitation services is eight to one for children under the age of eighteen.

(iii) **Educational groups.** Education groups must be conducted by a LBHP, Licensure Candidate, CADC, CM II or Peer Recovery Support Specialist (PRSS).

(iv) **Case Management.** Case management must be provided by a LBHP, Licensure Candidate, CADC, CM II or CM I as clinical indicated.

(v) **Crisis intervention.** Crisis intervention services must be provided by a LBHP or Licensure Candidate. Crisis intervention services are provided as needed for the purpose of responding to acute behavioral or emotional dysfunction as evidenced by psychotic, suicidal, homicidal severe psychiatric distress, and/or danger of substance relapse. The crisis situation including the symptoms exhibited and the resulting intervention or recommendations must be clearly documented in the consumer's record.

(C) Services shall be provided in appropriate groups according to age, gender, developmental level, treatment status, and individual needs;

(D) The facility shall provide clinically appropriate public educational services in compliance with applicable Oklahoma law;

(E) Consumers shall participate in educational programs within the community, when clinically indicated, including extracurricular activities; and

(F) Service providers shall confer on a regular basis with school personnel, including the provision of necessary information, when appropriate, on the educational progress of the consumer, and shall assess and respond to the needs for changes in the educational plans.

(5) Assessments:

(A) A physical examination shall be conducted by a licensed physician, to include physical assessment, health history, immunization status, and evaluation of motor development and function, speech, hearing, visual, and language functioning; and

(B) The facility shall facilitate and document the involvement and participation of family members or significant others in the assessment, treatment, rehabilitation, and continuing treatment needs of each consumer;

(6) Treatment documentation:

(A) Consumer records shall contain progress notes which outline any issues related to treatment and services provided. Progress notes shall document treatment services in a weekly summary to include the following:

(i) Date;

(ii) Specific problems, goals and objectives addressed;

(iii) Summary of progress made toward goals and objectives, or lack of;

(iv) Consumer response to overall treatment services;

(v) Total number of treatment hours and types of services attended for the week;

(vi) Any new problems, goals, or objectives identified during the week;

(vii) List of all service providers providing treatment hours;

(viii) Signature and credentials of the service provider completing the documentation; and

(ix) The consumer's name.

(B) Progress notes in the consumer's record shall clearly reflect the implementation of treatment and case management plans and services provided;

(C) Progress notes shall include the consumer's name; and

(D) Documentation shall reflect that each consumer receives a minimum of twenty-one (21) hours of treatment-related hours each week or fifteen (15) or more treatment-related hours if participating in academic training.

(7) Documentation of the following community living components:

(A) A written daily schedule of activities.

(B) Quarterly meetings between consumers and the program personnel.

(C) Recreational activities to be utilized on personal time.

(D) Personal space for privacy.

(E) Security of consumer's property.

(F) A clean, inviting, and comfortable setting.

(G) Evidence of individual possessions and decorations.

(H) Daily access to nutritious meals and snacks.

(I) Policy addressing separate sleeping areas for the consumers based on:

(i) Gender;

(ii) Age; and

(iii) Needs.

(c) Compliance with 450:18-13-161 may be determined by a review of the following:

(1) Licenses;

(2) Policies and procedures;

(3) Treatment and service protocols;

(4) Personnel records, documentation of professional licensure, certification or licensure as an alcohol and drug counselor, documentation of professional work experience, ongoing in-service training(s);

(5) Treatment records;

(6) Interviews with staff and consumers; and

(7) Other facility documentation.

PART 19. HALFWAY HOUSE SERVICES

450:18-13-181. Halfway house services

(a) Halfway house services shall provide low intensity treatment in a supportive living environment to facilitate reintegration into the community. Major emphasis shall be on continuing substance use disorder care and follow-up, and community ancillary services in an environment supporting continued abstinence. Consumers shall participate in a minimum of six (6) hours of structured substance use disorder treatment per week.

(b) Each facility shall maintain written programmatic descriptions and operational methods addressing the following:

(1) Environment: The facility shall be a freestanding facility or portion of a related healthcare facility having at least one (1) each of toilet, lavatory, and bathing facilities for each eight (8) residents. The facility shall provide a safe, welcoming, and culturally/age appropriate environment.

(2) Support system:

(A) A licensed physician shall be available, by telephone twenty-four (24) hours a day, seven (7) days a week;

(B) The facility shall have a written plan for emergency procedures, approved by a licensed physician;

(C) The facility shall have supplies, as designated by the written emergency procedures plan, which shall be accessible to staff at all times; and

(D) Specialized professional consultation or professional supervision shall be available.

(3) Staff:

(A) Service providers shall be knowledgeable regarding biopsychsocial dimensions of substance use disorders, evidenced based practices, co-occurring disorder issues gender, cultural, and age-specific issues;

(B) Staff shall be knowledgeable regarding facility-required education, training, and policies;

(C) Staff shall be knowledgeable about emergency procedures as specified in the emergency procedures plan;

(D) The facility shall have staff members on site twenty-four (24) hours per day, seven (7) days per week;

(E) Staff shall be at least eighteen (18) years of age; and

(F) The facility shall document in personnel records all education, training, and experience stated above prior to the provision of direct care services.

(4) Treatment services. The facility shall have scheduled rehabilitation services to assess and address the individual needs of each consumer. Such services shall include, but not limited to:

(A) **Therapy.** Therapy must be provided by a Licensed Behavioral Health Professional (LBHP) or Licensure Candidate who must use and document a clinical approach generally accepted as reliable in the relevant community, such as cognitive behavioral treatment, narrative therapy, solution focused brief therapy or another widely accepted theoretical framework for treatment. The therapy must be goal directed utilizing techniques appropriate to the individual consumer's service plan and the consumer's developmental and cognitive abilities. This service does not include social skill development or daily living skill activities. For adults, group therapy is limited to a total of eight adult individuals. For all children under the age of eighteen, the total group size is limited to six.

(B) **Rehabilitation Services.** Rehabilitation services must be provided by a LBHP, Licensure Candidate, Certified Alcohol and Drug Counselor (CADC) or Certified Behavioral Health Case Manager II (CM II). This service includes educational and supportive services regarding independent living, self-care, social skills regarding development, lifestyle changes and recovery principles and practices (including relapse prevention). Services provided typically take the form of curriculum based education and skills practice, and should be goal specific in accordance with an individualized service plan. The maximum staffing ratio for group rehabilitation services is fourteen members for each qualified provider for adults and eight to one for children under the age of eighteen.

(~~D~~C) **Educational Groups.** Education groups must be conducted by a LBHP, Licensure Candidate, CADC, CM II or Peer Recovery Support Specialist (PRSS).

(~~E~~D) **Case Management.** Case management must be provided by a LBHP, Licensure Candidate, CADC, CM II or CM I as clinically indicated.

(~~F~~E) **Crisis Intervention.** Crisis intervention services must be provided by a LBHP or Licensure Candidate. Crisis intervention services are provided

as needed for the purpose of responding to acute behavioral or emotional dysfunction as evidenced by psychotic, suicidal, homicidal severe psychiatric distress, and/or imminent danger of substance relapse. The crisis situation including the symptoms exhibited and the resulting intervention or recommendations must be clearly documented in the consumer's record.

(~~G~~F) **Vocational services.** Any level of provider can provide vocational services (Employment consultants, or other staff who have completed some form of job coach training, are preferred). Vocational services include the process of developing or creating appropriate employment situations for individuals who desire employment to include, but not be limited to: the identification of employment positions, conducting job analysis, matching individuals to specific jobs, facilitating job expansion or advancement and communicating with employers about training needs.

(5) Treatment documentation:

(A) Consumer records shall contain progress notes which outline any issues related to treatment and services provided. Progress notes shall document treatment services in a weekly summary to include the following:

(i) Date;

(ii) Specific problem(s), goals, and objectives addressed;

(iii) Summary of progress made toward goals and objectives, or lack of;

(iv) Consumer response to overall treatment services;

(v) Total number of treatment hours and types of services attended for the week;

(vi) Any new problems, goals, or objectives identified during the week;

(vii) List of all service provider providing treatment hours;

(viii) Signature and credentials of the service provider completing the documentation; and

(ix) Consumer's name.

(B) Documentation shall reflect that the consumer works or attempts to find work while receiving halfway house services.

(c) Compliance with 450:18-13-181 may be determined by a review of the following:

(1) Licenses;

(2) Policies and procedures;

(3) Treatment protocols;

(4) Personnel records, documentation of professional licensure, certification or licensure as an alcohol and drug counselor, documentation of professional work experience, ongoing in-service trainings;

(5) Treatment records;

(6) Interviews with staff and consumers; and

(7) Other facility records.

PART 20. ADOLESCENT HALFWAY HOUSE SERVICES

450:18-13-190. Adolescent halfway house services

(a) Adolescent halfway house treatment shall provide low intensity substance use disorder treatment in a supportive living environment to facilitate reintegration into the home or community. Emphasis shall be on applying recovery skills, relapse prevention, independent living skills, and educational and vocational skills. Consumers shall participate in at least six (6) hours of structured substance use disorder treatment and rehabilitation services weekly. Self-help meetings are not included in the required hours.

(b) Each facility shall maintain written programmatic descriptions and operational methods addressing the following:

(1) Environment:

(A) The facility shall be a freestanding facility or portion of a related healthcare facility having at least one (1) each of toilet, lavatory, and bathing facilities for each eight (8) residents;

(B) The facility shall maintain an environment supportive of physical and emotional growth and development, and appropriate to the needs of adolescents;

(C) The facility shall provide space, both indoor and outdoor. In co-ed treatment, the facility shall maintain separate sleeping quarters for males and females;

(D) The program may provide transportation to activities in the community as appropriate. Vehicles used for transportation should not be labeled in any way that calls attention to the facility or the vehicle's occupants;

(E) The program shall provide study areas within the facility~~,~~ and shall provide ancillary study materials, such as encyclopedias, dictionaries, and educational resource texts and materials;

(F) The facility shall be licensed by the Oklahoma State Department of Human Services (OKDHS) as a "Residential Child Care Facility"; and

(G) The facility shall provide a safe, welcoming, and culturally/age appropriate environment.

(2) Support systems:

(A) A licensed physician shall be available by telephone twenty-four (24) hours per day, seven (7) days a week;

(B) Specialized professional consultation or supervision, emergency services, and crisis intervention shall be available;

(C) The facility shall provide clinically appropriate public educational services in compliance with applicable Oklahoma laws; and

(D) The facility shall have a written plan for emergency procedures and staff shall have access to supplies as designated in this plan.

(3) Staff:

(A) Service providers shall be knowledgeable regarding the biopsychsocial aspects of substance use disorders, evidenced based practices, co-occurring disorder issues, child and adolescent development issues, and gender, cultural, and age-specific issues.

(B) Service providers shall be knowledgeable regarding the identification of violence and domestic violence, spousal or partner abuse, child abuse and neglect, parent and sibling abuse, normal and abnormal adolescent development, and family dynamics;

(C) The facility shall have staff members on duty twenty-four (24) hours per day, seven (7) days a week;

(D) Staff shall be knowledgeable about emergency procedures as specified in the emergency procedures plan;

(E) If educational services are provided, documentation shall be maintained to verify providing staff meet all state requirements for education or special education;

(F) Staff shall be knowledgeable regarding the facility-required education, training requirements, and policies;

(G) Staff shall be at least eighteen (18) years of age; and

(H) The facility shall document in personnel records all education, training, and experience stated above prior to the provision of direct care services.

(4) Treatment services:

(A) The facility shall provide substance use disorder treatment services to assess and address the individual needs of each adolescent, to include, but not be limited to:

(i) **Therapy.** Therapy must be provided by a Licensed Behavioral Health Professional (LBHP) or Licensure Candidate who must use and document a clinical approach generally accepted as reliable in the relevant clinical community, such as cognitive behavioral treatment, narrative therapy, solution focused brief therapy or another widely accepted theoretical framework for treatment. The therapy must be goal directed utilizing techniques appropriate to the individual consumer's service plan and the consumer's developmental and cognitive abilities. This service does not include social skill development or daily living skill activities. For all children under the age of eighteen, the total group size is limited to six.

(ii) **Rehabilitation services.** Rehabilitation services must be provided by a LBHP, Licensure Candidate, Certified Alcohol and Drug Counselor (CADC) or Certified Behavioral Health Case Manager II (CM II). This service includes educational and supportive services regarding independent living, self-care, social skills regarding development, lifestyle changes and recovery principles and practices (including relapse prevention). Services provided typically take the form of curriculum based education and skills practice, and should be goal specific in accordance with an individualized service plan. The maximum staffing ratio for group rehabilitation services is eight to one for children under the age of eighteen.

(iii) **Educational groups.** Education groups must be conducted by a LBHP, Licensure Candidate, CADC, CM II or Peer Recovery Support Specialist (PRSS).

(iv) **Case Management.** Case management must be provided by a LBHP, Licensure Candidate, CADC, CM II or CM I as clinically indicated.

(v) **Crisis intervention.** Crisis intervention services must be provided by a LBHP or Licensure Candidate. Crisis intervention services are provided as needed for the purpose of responding to acute behavioral or emotional dysfunction as evidenced by psychotic, suicidal, homicidal severe psychiatric distress, and/or imminent danger of substance relapse. The crisis situation including the symptoms exhibited and the resulting intervention or recommendations must be clearly documented in the consumer's record.

(B) The facility shall provide services in appropriate groups according to age, gender, developmental level, and individual needs;

(C) The facility shall provide for clinically appropriate public educational services in compliance with applicable Oklahoma law;

(D) Consumers may participate in educational programs in the community, when clinically indicated, including extracurricular activities; and

(E) Service providers shall confer on a regular basis with school personnel, including the provision of necessary information when appropriate, on the educational progress of the consumer and shall assess and respond to the needs for changes in the educational plans.

(5) Assessment;

(A) A physical examination shall be conducted by a licensed physician to include physical assessment, health history, immunization status, and evaluation of motor development and functioning, speech, hearing, visual and language functioning, if no records are available on admission reflecting such examination within the previous year; and

(B) The facility shall facilitate involvement and participation of family members or significant others in the assessment, treatment, rehabilitation, and continuing treatment needs of each consumer.

(6) Treatment documentation:

(A) Consumer records shall contain progress notes which outline any issues related to treatment and services provided. Progress notes shall document treatment services in a weekly summary to include the following:

(i) Date;

(ii) Specific problems, goals and objectives addressed;

(iii) Summary of progress made toward goals and objectives, or lack of;

(iv) Consumer response to overall treatment services;

(v) Total number of treatment hours and types of services attended for the week;
(vi) Any new problems, goals, or objectives identified during the week;
(vii) List of all service providers providing treatment hours;
(viii) Signature and credentials of the service provider completing the documentation; and
(ix) Consumer's name.

(c) Compliance with the above may be determined by a review of the following:
(1) Licenses;
(2) Policies and procedures;
(3) Treatment protocols;
(4) Personnel records, documentation of professional licensure, certification or licensure as an alcohol and drug counselor, documentation of professional work experience, ongoing in-service trainings;
(5) Treatment records;
(6) Interviews with staff and consumers; and
(7) Other facility records.

PART 21. HALFWAY HOUSE SERVICES FOR PERSONS WITH DEPENDENT CHILDREN

450:18-13-201. Halfway house services for persons with dependent children

(a) Halfway house services for persons with dependent children shall provide substance use disorder treatment services in a residential setting and shall include a planned regimen of twenty-four (24) hour, seven (7) days a week, supervised living arrangements, to include professionally directed evaluation, care, and treatment, under a defined set of policy and procedures, in a permanent setting. Consumers shall participate in at least six (6) hours of treatment, supportive services, parenting, and child development services per week for adults, and six (6) therapeutic hours of services for children, excluding infants.

(b) Each facility shall maintain written programmatic descriptions and operational methods addressing the following:
(1) Environment: The facility shall be a freestanding facility providing family-style living arrangements, indoor recreational space for children and families, and safe, protected outdoor recreational space. The facility shall provide materials and space appropriate for ages of children receiving services. The facility shall provide a safe, welcoming, and culturally/age appropriate environment.
(2) Support system:
(A) A licensed physician shall be available by telephone twenty-four (24) hours per day, seven (7) days a week;
(B) The facility shall ensure children's access to the fullest possible range of medical services available, such as health screening, well-child health care, screening in speech, language, hearing, and vision, and verification of immunization records;
(C) The facility shall have access to emergency health care provided as necessary;
(D) The facility shall have access to public schools for school age children, and facilitation of the child's receiving the benefits of Public Laws 99-142; and
(E) The facility staff shall document a liaison with the local Oklahoma Department of Human Service (OKDHS) offices to:
(i) Promote preservation of families;
(ii) In cases of investigation of abuse, provide instruction in positive parenting behavior, if requested by the Oklahoma Department of Human Services (OKDHS) and with parental consent, provide daily observations of parent-child interaction;
(iii) Expedite investigations in a timely manner; and
(iv) Ensure prompt facility response to situations which require immediate intervention.
(3) Staff:
(A) Service providers shall be knowledgeable regarding Biopsychsocial dimensions of substance use disorder, evidenced-based practices, cultural, age, and gender specific issues, co-occurring disorder issues, and services for infants, toddlers, preschool, and school-age children.
(B) Service providers are minimally trained in:
(i) The identification of domestic violence, spousal or partner abuse, and child abuse and neglect, with special emphasis on failure to thrive and sexual abuse of children.
(ii) Child development and age appropriate behaviors.
(iii) Parenting skills appropriate to infants, toddlers, pre-school, and school age children.
(iv) The impact of substances and substance use disorders on parenting and family units.
(C) Service providers working with children shall be knowledgeable and demonstrate job appropriate functional comprehension of:
(i) The impact of prenatal drug and alcohol exposure on child development.
(ii) The effect of substance use disorders on parenting, children, and families.
(iii) Parenting skills appropriate to infants, toddlers, pre-school, and school age children.
(iv) Common child behavioral and developmental problems.
(v) Appropriate play activities according to developmental stage.
(vi) Recognition of sexual acting out behavior.
(vii) The substance use disorder recovery process, especially as related to family units.
(D) The facility shall have staff members on site and awake twenty-four (24)–hours per day, seven (7) days per week;
(E) Staff shall be knowledgeable regarding facility-required education and training requirements and policies.
(F) Staff shall be at least eighteen (18) years of age; and

(G) The facility shall document in personnel records all education, training, and experience stated above prior to the provision of direct care services.

(4) Treatment services:

(A) Daily (twenty-four [24] hours a day, seven [7] days a week) substance use disorder services shall be provided to assess and address individual needs of each consumer. Services shall include, but are not limited to:

(i) **Therapy.** Therapy must be provided by a Licensed Behavioral Health Professional (LBHP) or Licensure Candidate who must use and document a clinical approach generally accepted as reliable in the relevant clinical community, such as cognitive behavioral treatment, narrative therapy, solution focused brief therapy or another widely accepted theoretical framework for treatment. The therapy must be goal directed utilizing techniques appropriate to the individual consumer's service plan and the consumer's developmental and cognitive abilities. This service does not include social skill development or daily living skill activities. For adults, group therapy is limited to a total of eight adult individuals. For all children under the age of eighteen, the total group size is limited to six.

(ii) **Rehabilitation services.** Rehabilitation services must be provided by a LBHP, Licensure Candidate, Certified Alcohol and Drug Counselor (CADC) or Certified Behavioral Health Case Manager II (CM II). This service includes educational and supportive services regarding independent living, self-care, social skills regarding development, lifestyle changes and recovery principles and practices (including relapse prevention). Services provided typically take the form of curriculum based education and skills practice, and should be goal specific in accordance with an individualized service plan. The maximum staffing ratio for group rehabilitation services is fourteen members for each qualified provider for adults and eight to one for children under the age of eighteen.

(iii) **Educational groups.** Education groups must be conducted by a LBHP, Licensure Candidate, CADC, CM II or Peer Recovery Support Specialist (PRSS).

~~(iv) **Case Management.** Case management may be provided by a LBHP, CADC, CM II or CM I.~~

(~~v~~iv) **Crisis intervention.** Crisis intervention services must be provided by a LBHP or Licensure Candidate. Crisis intervention services are provided as needed for the purpose of responding to acute behavioral or emotional dysfunction as evidenced by psychotic, suicidal, homicidal severe psychiatric distress, and/or imminent danger of substance relapse. The crisis situation including the symptoms exhibited and the resulting intervention or recommendations must be clearly documented in the consumer's record.

(~~vi~~v) **Case Management.** Case management must be provided by a LBHP, Licensure Candidate, CADC, CM II or CM I as clinically indicated.

(~~vii~~vi) **Vocational services.** Any level of provider can provide vocational services (Employment consultants, or other staff who have completed some form of job coach training, are preferred. Vocational services include the process of developing or creating appropriate employment situations for individuals who desire employment to include, but not be limited to: the identification of employment positions, conducting job analysis, matching individuals to specific jobs, facilitating job expansion or advancement and communicating with employers about training needs.

(~~viii~~vii) **Parenting and child development.**

(B) Services for children shall be provided and include a minimum of six (6) hours per week of therapeutic units for each child consisting of, but not limited to, assessment, therapy via art and recreational activities, etc. according to the development of the child. Documentation of all needs identified for each child shall be identified on that child's case management service plan and/or service plan.

(C) Children's services, excluding infants, shall be provided which address the significant issues and needs documented in either or both the child's and the parent's assessment and shall utilize both structured and unstructured therapeutic activity. Services shall address the significant issues and needs documented in the parent's or child's assessment and create and enhance positive self image and feelings of self-worth, promote family unity, teach personal body safety and positive school interactions, and to prevent alcohol, tobacco, and other drug use;

(D) Infant services, ages birth to three (3) years of age, shall be provided and shall consist, at a minimum, of developmentally appropriate parent-child bonding (interactive) activities and play therapy as determined by mother's service plan; and

(E) Case management services for each adult and each child shall be provided, which include the assessment of and planning and arranging for recovery needs.

(5) Treatment documentation:

(A) Consumer records shall contain progress notes which outline any issues related to treatment and services provided. Progress notes shall document treatment services in a weekly summary to include the following:

(i) Date;

(ii) Specific problems, goals, and objectives addressed;

(iii) Summary of progress made toward goals and objectives, or lack of;

(iv) Consumer response to overall treatment services;

(v) Total number of treatment hours and types of services attended for the week;

(vi) Any new problems, goals, or objectives identified during the week;

(vii) List of all service providers providing treatment hours;

(viii) Signature and credentials of the service provider completing the documentation; and

(ix) The consumer's name.

(B) Progress notes in consumer's and his or her children's records shall clearly reflect case management assessments, plans, and implementation of plans, and implementation of the service plan and services provided, in addition to the consumer's, parent and child, response to treatment;

(C) Progress notes shall document observations of parent and child interactions especially those indicative of therapeutic need or progress; and

(D) Documentation shall reflect each consumer, adult, and child, has received a minimum of six (6) hours of service each week addressing issues and needs indicated in the assessments (parent or child).

(c) Compliance with 450:18-13-201 may be determined by a review of the following:

(1) Licenses;

(2) Policies and procedures;

(3) Treatment protocols;

(4) Personnel records, documentation of professional licensure, certification or licensure as an alcohol and drug counselor, documentation of professional work experience, and ongoing in-service trainings;

(5) Treatment records;

(6) Interviews with staff and consumers; and

(7) Other facility documentation.

SUBCHAPTER 15. GAMBLING DISORDER TREATMENT SERVICES

450:18-15-5. Treatment services

(a) Facilities providing gambling treatment services shall have a group of services herein designated as core services. Facilities certified under this Chapter may have specific additional services herein designated as optional gambling disorder treatment services. Required services include, but are not necessarily limited to:

(1) **Screening and Assessment.** See Sections 18-7-21 through 18-7-27 for requirements.

(~~3~~2) **Service planning and revision.** See Sections 18-7-81, 18-7-82 and 18-7-101 for requirements.

(~~4~~3) **Individual therapy.** Individual therapy is a face-to-face therapeutic session conducted by a Gambling Treatment Professional (GTP) with one on one interaction between the GTP and a consumer to promote emotional or psychological change to alleviate disorders. Therapy must be goal directed and use a generally accepted approach to treatment such as cognitive behavioral treatment, narrative therapy, solution focused brief therapy or another widely accepted theoretical framework for treatment, in accordance with an individualized service plan.

(~~5~~4) **Group therapy.** Group therapy is a face-to-face therapeutic session with a group of individuals and a GTP using the interaction of the GTP and two or more consumers to promote positive emotional or behavioral change. The focus of the group must be directly related to goals and objectives of the individual customer service plan and use a generally accepted framework for this modality of treatment. This service does not include social skill development or daily living skill activities. Group psychotherapy for adults is limited to eight total consumers. Group size is limited to a total of six consumers for all children. A group may not consist solely of related individuals.

(~~6~~5) **Family therapy.** Family therapy is a face-to-face therapeutic session conducted by a GTP with family members/couples conducted in accordance with a documented service plan focusing on treatment family/marital problems and goals. The service must be provided to specifically benefit the consumer as identified in a service plan and use generally accepted treatment methods for this modality of treatment.

(~~5~~6) **Case management.** See Sections 18-7-61 through 18-7-65 for requirements.

(~~6~~7) **Education and/or educational groups.** Education and educational groups can be provided by any level of provider.

(~~7~~8) **Discharge planning.** See Sections 18-7-121 through 18-7-123.

(b) Compliance with this Section may be determined by a review of the following:

(1) Consumer records;

(2) Progress notes;

(3) Interviews with staff; and

(4) Other facility documentation.

[OAR Docket #15-601; filed 6-18-15]

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

[OAR Docket #15-602]

RULEMAKING ACTION:
PERMANENT final adoption
PROPOSED RULES:
Subchapter 1. General Provisions
450:23-1-2 [AMENDED]
Subchapter 3. CBSCC Services
Part 1. Facility Based-Crisis Stabilization
450:23-3-2 [AMENDED]
450:23-3-3 [AMENDED]
450:23-3-5 [AMENDED]

450:23-3-7 [AMENDED]
Part 2. Urgent Recovery Clinic Services
450:23-3-20 through 450:23-3-23 [AMENDED]

AUTHORITY:
43A O.S. § 3-317; Board of Mental Health and Substance Abuse Services.

SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
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APPROVED BY GOVERNOR'S DECLARATION:
Approved by Governor's declaration on June 8, 2015

FINAL ADOPTION:
June 8, 2015

EFFECTIVE:
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SUPERSEDED EMERGENCY ACTIONS:
N/A

INCORPORATIONS BY REFERENCE:
N/A

ANALYSIS:
In accordance with the Administrative Procedures Act the proposed rule revisions to Chapter 23 are part of the Department's review of Title 450.

Proposed revisions to Chapter 23 include an update to the definition of "Emergency Examination" to correspond with definitions in 43A. Revisions are also made to allow Urgent Care Facilities to operate in conjunction with facility-based crisis centers or as stand-alone facilities. Other revisions are made to provide clarity to certification processes, standards and criteria.

CONTACT PERSON:
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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3 (5)AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 15, 2015:

SUBCHAPTER 1. GENERAL PROVISIONS

450:23-1-2. Definitions

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

"Abuse" means the causing or permitting of harm or threatened harm to the health, safety, or welfare of a resident by a staff responsible for the resident's health, safety, or welfare, including but not limited to: non-accidental physical injury or mental anguish; sexual abuse; sexual exploitation; use of mechanical restraints without proper authority; the intentional use of excessive or unauthorized force aimed at hurting or injuring the resident; or deprivation of food, clothing, shelter, or healthcare by a staff responsible for providing these services to a resident.

"Clinical privileging" means an organized method for treatment facilities to authorize an individual permission to provide specific care and treatment services to consumers within well-defined limits, based on the evaluation of the individual's license, education, training, experience, competence, judgment, and other credentials.

"Community-based Structured Crisis Center" or **"CBSCC"** means a program of non-hospital emergency services for mental health and substance use disorder crisis stabilization as authorized by O.S. 43A 3-317, including, but not limited to, observation, evaluation, emergency treatment and referral, when necessary, for inpatient psychiatric or substance use disorder treatment services. This service is limited to CMHC's and Comprehensive Community Addiction Recovery Centers (CCARCs) who are certified by the Department of Mental Health and Substance Abuse Services or facilities operated by the Department of Mental Health and Substance Abuse Services.

"Consumer" means an individual, who has applied for, is receiving or has received evaluation or treatment services from a facility operated or certified by ODMHSAS or with which ODMHSAS contracts and includes all persons.

"Co-occurring disorder" means any combination of mental health and substance use disorder symptoms or diagnoses in a client.

"Co-occurring disorder capability" means the organized capacity within any type of program to routinely screen, identify, assess, and provide properly matched interventions to individuals with co-occurring disorders.

"Crisis intervention" means an immediately available service to meet the psychological, physiological and environmental needs of individuals who are experiencing a mental health and/or substance abuse crisis.

"Crisis stabilization" means emergency psychiatric and substance abuse services for the resolution of crisis situations and may include placement of an individual in a protective environment, basic supportive care, and medical assessment and referral.

"Critical incident" means an occurrence or set of events inconsistent with the routine operation of the facility, or the routine care of a consumer. Critical incidents specifically include but are not necessarily limited to the following: adverse drug events; self-destructive behavior; deaths and injuries to consumers, staff and visitors; medication errors; consumers that are absent without leave (AWOL); neglect or abuse of a consumer; fire; unauthorized disclosure of information; damage to or theft of property belonging to a consumers or the facility; other unexpected occurrences; or events potentially subject to litigation. A critical incident may involve multiple individuals or results.

"Emergency detention" as defined by 43A § 5-206 means the detention of a person who appears to be a person requirement treatment in a facility approved by the Commissioner of Mental Health and Substance Abuse Services as appropriate for such detention after the completion of an emergency examination, either in person or via telemedicine, and a determination that emergency detention is warranted for a period not to exceed one hundred twenty (120) hours or five (5) days, excluding weekends and holidays, except upon a court order authorizing detention beyond a one hundred twenty (120) hour period or pending the hearing on a petition

requesting involuntary commitment or treatments provided by 43A of the Oklahoma Statutes.

"Emergency examination" For adults: means the examination of a person who appears to be a mentally ill person, an alcohol-dependent person, or drug-dependent person and a person requiring treatment, and whose condition is such that it appears that emergency detention may be warranted, by a licensed mental health professional to determine if emergency detention of the person is warranted. The examination must occur within twelve (12) hours of being taken into protective custody.

"Homeless" a homeless person is a person who; a) lacks a fixed, regular and adequate night time residence AND b) has a primary nighttime residence that is a supervised publicly or privately operated shelter designated to provide temporary living accommodations including welfare hotels, congregate shelters, half way houses, and transitional housing for the mentally ill; or an institution that provides a temporary residence for individuals intended to be institutionalized; or a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings, not limited to people living on the streets. Individuals are considered homeless if they have lost their permanent residence, and are temporarily living in a shelter to avoid being on the street.

"Initial Assessment" means examination of current and recent behaviors and symptoms of a person or minor who appears to be mentally ill or substance dependent.

"Intervention plan" means a description of services to be provided in response to the presenting crisis situation that incorporates the identified problem(s), strengths, abilities, needs and preferences of the individual served.

"Licensed mental health professional" or **"LMHP"** as defined in Title 43A § 1-103(11).

"Linkage services" means the communication and coordination with other service providers that assure timely appropriate referrals between the CBSCC and other providers.

"Minor" means any person under eighteen (18) years of age.

"Oklahoma Administrative Code" or **"OAC"** means the publication authorized by 75 O.S. § 256 known as The Oklahoma Administrative Code, or, prior to its publication, the compilation of codified rules authorized by 75 O.S. § 256(A)(1)(a) and maintained in the Office of Administrative Rules.

"ODMHSAS" means the Oklahoma Department of Mental Health and Substance Abuse Services.

"Performance Improvement" or **"PI"** means an approach to the continuous study and improvement of the processes of providing health care services to meet the needs of consumers and others. Synonyms, and near synonyms include continuous performance improvement, continuous improvement, organization-wide performance improvement and total quality management.

"Persons with special needs" means any persons with a condition which is considered a disability or impairment under the "American with Disabilities Act of 1990" including, but not limited to the deaf/hearing impaired, visually impaired, physically disabled, developmentally disabled, persons with disabling illness, persons with mental illness and/or substance abuse disorders. See "Americans with Disabilities Handbook," published by U.S. Equal Employment Opportunity Commission and U.S. Department of Justice.

"PICIS" means a comprehensive management information system based on national standards for mental health and substance abuse databases. It is a repository of diverse data elements that provide information about organizational concepts, staffing patterns, consumer profiles, program or treatment focus, and many other topics of interest to clinicians, administrators and consumers. It includes unique identifiers for agencies, staff and consumers that provide the ability to monitor the course of consumer services throughout the statewide DMHSAS network. PICIS collects data from hospitals, community mental health centers, substance abuse agencies, domestic violence service providers, residential care facilities, prevention programs, and centers for the homeless which are operated or funded in part by DMHSAS.

"Progress notes" mean a chronological description of services provided to a consumer, the consumer's progress, or lack of, and documentation of the consumer's response related to the intervention plan.

"Psychosocial evaluations" are in-person interviews conducted by professionally trained personnel designed to elicit historical and current information regarding the behavior and experiences of an individual, and are designed to provide sufficient information for problem formulation and intervention.

"Restraint" refers to manual, mechanical, and chemical methods that are intended to restrict the movement or normal functioning of a portion of the individual's body. For minors: mechanical restraints shall not be used.

"Sentinel event" is a type of critical incident that is an unexpected occurrence involving the death or serious physical or psychological injury to a consumer, or risk thereof. Serious injury specifically includes loss of limb or function. The phrase "or risk thereof" includes a variation in approved processes which could carry a significant chance of a serious adverse outcome to a consumer. These events signal the need for immediate investigation and response. Sentinel events include, but are not limited to: suicide, homicide, criminal activity, assault and other forms or violence, including domestic violence or sexual assault, and adverse drug events resulting in serious injury or death.

"Triage" means a dynamic process of evaluating and prioritizing the urgency of crisis intervention needed based on the nature and severity of consumers' presenting situations.

"Trauma Informed" means the recognition and responsiveness to the presence of the effects of past and current traumatic experiences in the lives of all consumers.

SUBCHAPTER 3. CBSCC SERVICES

PART 1. FACILITY BASED-CRISIS STABILIZATION

450:23-3-2. Facility based crisis stabilization

(a) The CBSCC shall provide crisis stabilization to individuals who are in crisis as a result of a mental health and/or substance use disorder related problem. Each crisis stabilization program must be specifically accessible to individuals who present with co-occurring disorders. The CBSCC must have the capability of providing services to individuals who are in emergency detention status. The CBSCC may provide services in excess of 24 hours during one episode of care.

(b) Crisis stabilization services shall be provided in the least restrictive setting possible. Services should be provided within, or as close to the community in which they reside as possible.

(c) A physician shall be available at all times for the crisis unit, either on-duty or on call. If the physician is on call, he or she shall respond by telephone or in person to the licensed staff on duty at the crisis unit within 20 minutes.

(d) Crisis stabilization services shall include, but not be limited to, the following service components and each shall have written policy and procedures and each shall be co-occurring disorder capable and trauma informed, with policies and procedures that support this capability:

(1) Triage ~~crisis response~~services;

(2) Co-occurring capable Psychiatric crisis stabilization; and

(3) Co-occurring capable Drug/alcohol crisis stabilization.

(e) The CBSCC shall have written policy and procedures addressing mechanical restraints for adults only, and these shall be in compliance with 450:23-9-4.

(f) Compliance with 450:23-3-2 shall be determined by on-site observation, and a review of the following: clinical records; ICIS information; and the CBSCC policy and procedures.

450:23-3-3. Crisis stabilization, triage ~~response~~

(a) Crisis stabilization services shall include twenty-four (24) hour triage ~~response~~services and emergency examination.

(b) Qualified staff providing triage ~~crisis response~~ services shall be:

(1) Clinically privileged pursuant to the CBSCC's privileging requirements for crisis stabilization services; and

(2) Knowledgeable about applicable laws, ODMHSAS rules, facility policy and procedures, and referral sources.

(c) Components of this service shall minimally include the capacity to provide:

(1) Immediate response, on-site and by telephone;

(2) ~~Integrated screening~~Screening for the presence of co-occurring disorders;

(3) ~~On site emergency~~ integrated Emergency mental health and/or substance use disorder examination on site or via telemedicine; and

(4) Referral, linkage, or a combination of the two services.

(d) The CBSCC shall have written policy and procedures minimally:

(1) Providing twenty-four (24) hour, seven (7) days per week, triage crisis ~~response~~ services; and

(2) Defining methods and required content for documentation of each triage ~~crisis response~~ service provided.

(3) Ensuring that individuals who present in crisis with co-occurring disorders are identified, and that there are no barriers to access triage crisis ~~response~~services based on arbitrary alcohol or drug levels, types of diagnosis or medications while remaining in compliance with facility certification, licensure, and medical standards. Nothing in this Section shall require a facility to treat a consumer is not medically stable pursuant to Title 43A.

(e) Compliance with 450:23-3-3 shall be determined by a review of the following: clinical privileging records; personnel files and job descriptions; policy and procedures, program description; on-site observation; and clinical documentation of services provided.

450:23-3-5. Crisis stabilization, psychiatric, substance use disorder and co-occurring services

(a) Crisis stabilization services shall provide continuous twenty-four (24) hour evaluation, observation, crisis stabilization, and social services intervention seven (7) days per week for consumers experiencing mental health or substance use disorder related crises; ~~consumers in need of assistance for emotional or mental distress~~; or those who present with co-occurring disorders.

(b) Licensed nurses and other support staff shall be adequate in number to provide care needed by consumers twenty-four (24) hours a day seven (7) days per week.

(c) Crisis stabilization services shall be provided by a co-occurring disorder capable multidisciplinary team of medical, nursing, social services, clinical, administrative, and other staff adequate to meet the clinical needs of the individuals served.

(d) Staff members assigned to a medical supervised detoxification component shall be knowledgeable about the physical signs of withdrawal, the taking of vital signs and the implication of those vital signs, and emergency procedures as well as demonstrating core competencies in addressing the needs of individuals receiving detoxification services who may have co-occurring mental health disorders and be on psychotropic medication.

(e) Services shall minimally include:

(1) Medically-supervised substance use disorder and mental health screening, observation and evaluation;

(2) Initiation and medical supervision of rapid stabilization regimen as prescribed by a physician, including medically monitored detoxification where indicated;

(3) Medically-supervised and co-occurring disorder capable detoxification, in compliance with procedures outlined in OAC Title 450, Subchapter 18;

(4) Intensive care and intervention during acute periods of crisis stabilization;

(5) Motivational strategies to facilitate further treatment participation for mental health and/or substance abuse needs; and,

(6) Providing referral, linkage or placement, as indicated by consumer needs.

(f) Crisis stabilization services, whether psychiatric, substance use disorder, or co-occurring, shall be utilized only after less restrictive community resources have been determined to be inadequate to meet the current needs of the consumer.
(g) Compliance with 450:23-3-5 shall be determined by a review of the following: personnel files and clinical privileges records; clinical records; ICIS information; policy and procedures; critical incident reports; staffing; census; and by on-site observation.

450:23-3-7. Linkage Services to higher or lower levels of care, or longer term placement

(a) Persons needing mental health services shall be treated with the least restrictive clinically appropriate methods.
(b) In cases where consumers are not able to stabilize in or are not appropriate for the CBSCC unit, linkage services shall be provided, including the following steps:

(1) Qualified CBSCC staff shall perform the crisis intervention and referral process to the appropriate treatment facility.
(2) The referral process shall ~~occur only after all other less restrictive community resources have been discussed~~require referral to the least restrictive service to meet the needs of the consumer. The referral shall be discussed with the consumer, the consumer's legal guardian, or both the consumer and legal guardian as applicable, and shall include a discussion of why a less restrictive community resource was not utilized if applicable. This discussion shall be documented in the consumer's record. If an adult consumer wishes to include family members in the decision making process, appropriate releases should be obtained.
(3) Staff shall make referral to an appropriate treatment facility to include demographic and clinical information and documentation. Appropriate releases should be obtained as indicated.

(c) If the CBSCC is referring an adult to a state-operated inpatient facility, the consumer must meet the criteria in OAC 450:30-9-3 and the CBSCC must comply with OAC 450:30-9-4.
(d) Compliance with 450:23-3-7 shall be determined by a review of the following: clinical records; psychiatric hospital information and admission records as applicable; ~~ICIS~~ consumer data required for submission to ODMHSAS; and PI monitoring information as available from both the CBSCC and the psychiatric inpatient hospital.

PART 2. URGENT RECOVERY CLINIC SERVICES

450:23-3-20. Applicability

The services in this Part are optional services. However, if the services in this Part are provided, either on the initiative of the facility, or as an ODMHSAS contractual requirement of the facility, all rules and requirements of this Part shall apply to the facility's certification. Urgent Recovery Clinics can operate in conjunction with a facility-based crisis stabilization unit or as a stand-alone facility.

450:23-3-21. Urgent Recovery Clinic services

(a) Urgent Recovery Clinics (URC) offer services aimed at the assessment and immediate stabilization of acute symptoms of mental illness, alcohol and other drug abuse, and emotional distress~~ or in response to acts of domestic violence or abuse/neglect~~. Each facility must be specifically accessible to individuals who present with co-occurring disorders. URCs shall not provide more than twenty-three (23) hours and fifty-nine (59) minutes of services to a consumer during one episode of care.
(b) URC services shall include, but not be limited to, the following service components and each shall have written policy and procedures and each shall be co-occurring disorder capable and trauma informed, with policies and procedures that support this capability:

(1) Triage crisis response;
(2) Crisis intervention;
(3) Crisis assessment;
(4) Crisis intervention plan development; and
(5) Linkage and referral to other services as applicable.

450:23-3-22. ~~Triage~~ Urgent Recovery crisis response

(a) URC services shall include twenty-four (24) hour ~~triage~~crisis response services and emergency examination.
(b) Qualified staff providing ~~triage~~ crisis response services shall be:

(1) Clinically privileged pursuant to the facility's privileging requirements for crisis stabilization services; and
(2) Knowledgeable about applicable laws, ODMHSAS rules, facility policy and procedures, and referral sources.

(c) Components of this service shall minimally include the capacity to provide:

(1) Immediate response, face to face, by telephone and by the provision of mobile services;
(2) ~~Integrated screening~~Screening for the presence of co-occurring disorders;
(3) ~~On site emergency integrated~~Emergency mental health and/or substance use disorder examination on site or via telemedicine;
(4) Referral, linkage, or a combination of the two services.

(d) The URC shall have written policy and procedures minimally:

(1) providing twenty-four (24) hour, seven (7) days per week, ~~triage~~ crisis response services;
(2) Defining methods and required content for documentation of each ~~triage~~ crisis response service provided; and
(3) Ensuring that individuals who present in crisis with co-occurring disorders are identified, and that there are no barriers to access ~~triage~~ crisis ~~response~~intervention services based on arbitrary alcohol or drug levels, types of diagnosis or medications.

(e) Compliance with this Section shall be determined by a review of the following: Clinical privileging records, personnel files and job descriptions; policy and procedures, program description; on-site observation; and clinical documentation of services provided.

450:23-3-23. URC Crisis intervention services

(a) URCs shall provide up to twenty-three (23) hours fifty-nine (59) minutes of evaluation, crisis stabilization, and social services intervention per consumer per episode of care and must be available seven (7) days per week for consumers experiencing substance abuse related crisis; consumers in need of assistance for emotional or mental distress; or those with co-occurring disorders.

(b) Licensed behavioral health professionals and other support staff shall be adequate in number to provide care needed by consumers twenty-four (24) hours a day seven (7) days per week.

(c) The URC shall provide or otherwise ensure the capacity for a practitioner with prescriptive authority at all times for consumers in need of emergency medication services.

(d) Crisis intervention services shall be provided by a co-occurring disorder capable team of social services, clinical, administrative, and other staff adequate to meet the clinical needs of the individuals served and make appropriate clinical decisions to:

(1) Determine an appropriate course of action;

(2) Stabilize the situation as quickly as possible; and

(3) Guide access to inpatient services or less restrictive alternatives, as necessary.

(e) Compliance with this Section shall be determined by a review of the following: personnel files and clinical privileges records; clinical records; PICIS information; policy and procedures; critical incident reports; staffing; census; and by on-site observation.

[OAR Docket #15-602; filed 6-18-15]

TITLE 450. DEPARTMENT OF MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES
CHAPTER 24. STANDARDS AND CRITERIA FOR COMPREHENSIVE COMMUNITY ADDICTION RECOVERY CENTERS

[OAR Docket #15-603]

RULEMAKING ACTION:
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RULES:
Subchapter 1. General Provisions
450:24-1-2. [AMENDED]
Subchapter 3. Required Services
Part 5. Emergency Services
450:24-3-43. [AMENDED]
Part 15. Case Management
450:24-3-144. [AMENDED]
Subchapter 5. Optional Services
Part 19. Gambling Disorder Treatment Services
450:24-5-166. [AMENDED]
Subchapter 13. Organizational and Facility Management
450:24-13-2. AMENDED]
AUTHORITY:
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ANALYSIS:
In accordance with the Administrative Procedures Act the proposed rule revisions to Chapter 24 are part of the Department's review of Title 450. The proposed rules clarify existing rules, improve existing processes and are intended to comply with statutory changes.

Proposed revisions to Chapter 24 include changes to create distinction in terminology between Licensed Behavioral Health Professionals (LBHPs) and licensure candidates. Provisions also add a requirement for facilities certified under this Chapter to report to ODMHSAS all claims and accomplishments by the facility which are subject to verification by the ODMHSAS Board. Changes are also made to allow more flexibility in creating the biopsychsocial assessment for consumers in gambling addiction programs.
CONTACT PERSON:
Gretchen Geis, Administrative Rules Liaison, Department of Mental Health and Substance Abuse Services, Post Office Box 53277, Oklahoma City, Oklahoma 73152-3277, (405) 522-2053.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3 (5) AND 308 (E), WITH AN EFFECTIVE DATE OF SEPTEMBER 15, 2015:

SUBCHAPTER 1. GENERAL PROVISIONS

450:24-1-2. Definitions

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

"Ambulatory Detoxification without extended on-site monitoring" means detoxification within an outpatient setting, directed by a physician and has attendant medical personnel including nurses for intoxicated consumers, and consumers withdrawing from alcohol and other drugs, presenting with no apparent medical or neurological symptoms as a result of their use of substances require ambulatory detoxification as determined by an examining physician. This corresponds to ASAM Treatment Level: Level I-D Ambulatory detoxification without extended on-site monitoring.

"ASAM criteria" or **"ASAM"** means the most current edition of the American Society of Addiction Medicine's published criteria for admission to treatment, continued services, and discharge.

"Case management services" means planned referral, linkage, monitoring and support, and advocacy provided in partnership with a consumer to assist that consumer with self sufficiency and community tenure and take place in the individual's home, in the community, or in the facility, in accordance with a service plan developed with and approved by the consumer and qualified staff.

"Clinical privileging" means an organized method for treatment facilities to authorize an individual permission to provide specific care and treatment services to consumers within well-defined limits, based on the evaluation of the individual's license, education, training, experience, competence, judgment, and other credentials.

"Comprehensive Community Addiction Recovery Center" or **"CCARC"** means a facility offering a comprehensive array of community-based substance use disorder treatment services, including but not limited to, outpatient services, Intensive outpatient services, ambulatory detoxification services, emergency care, consultation and education; and , certain services at the option of the center, including but not limited to, prescreening, rehabilitative services, aftercare, training programs, research and evaluation.

"Community-based Structured Crisis Center" or "CBSCC" means a program of non-hospital emergency services for mental health and substance use disorder crisis stabilization as authorized by 43A O.S. §3-317, including, but not limited to, observation, evaluation, emergency treatment and referral, when necessary, for inpatient psychiatric or substance use disorder treatment services. This service is limited to CCARC's who are certified by the Department of Mental Health and Substance Abuse Services or facilities operated by the Department of Mental Health and Substance Abuse Services.

"Consumer" means an individual, adult, adolescent, or child, who has applied for, is receiving or has received evaluation or treatment services from a facility operated or certified by ODMHSAS or with which ODMHSAS contracts and includes all persons referred to in OAC Title 450 as client(s) or patient(s) or resident(s) or a combination thereof.

"Consumer advocacy" includes all activities on behalf of the consumer to assist with or facilitate resolution of problems in the acquisition of resources or services needed by the consumer

"Co-occurring disorder" (COD) means any combination of mental health symptoms and substance use disorder symptoms or diagnoses that affect a consumer and are typically determined by the current Diagnostic and Statistical Manual of Mental Disorders.

"Co-occurring disorder capability" means the organized capacity within any type of program to routinely screen, identify, assess, and provide properly matched interventions to consumers with co-occurring disorders.

"Co-occurring disorder enhanced" means that the program (or subunit of the program) provides a specialized service designed for individuals with co-occurring disorders, usually with a higher level of available service capacity or intensity for the co-occurring substance use disorder than would be the case in a comparable co-occurring disorder capable program.

"Crisis Diversion" means an unanticipated, unscheduled situation requiring supportive assistance, face-to-face or telephone, to resolve immediate problems before they become overwhelming and severely impair the individual's ability to function or maintain in the community.

"Crisis Intervention" means actions taken, and services provided to address emergency psychological, physiological, and safety aspects of alcohol, drug-related, and mental health crises.

"Crisis stabilization" means emergency, psychiatric, and substance use disorder treatment services for the resolution of crisis situations and may include placement of an individual in a protective environment, basic supportive care, and medical assessment, and, if needed, referral to an ODMHSAS certified facility having nursing and medical support available.

"Critical incident" means an occurrence or set of events inconsistent with the routine operation of a facility, service setting, or otherwise routine care of a consumer. Critical incidents specifically include but are not necessarily limited to the following: adverse drug events; self-destructive behavior; deaths and injuries to consumers, staff and visitors; medication errors; residential consumers that are absent without leave (AWOL); neglect or abuse of a consumer; fire; unauthorized disclosure of information; damage to or theft of property belonging to consumers or the facility; other unexpected occurrences; or events potentially subject to litigation. A critical incident may involve multiple individuals or results.

"Cultural competency" means the ability to recognize, respect, and address the unique needs, worth, thoughts, communications, actions, customs, beliefs and values that reflect an individual's racial, ethnic, religious, sexual orientation, and/or social group.

"Emergency examination" means the examination of a person who appears to be a mentally ill person, an alcohol-dependent person, or drug-dependent person and a person requiring treatment, and whose condition is such that it appears that emergency detention may be warranted by a licensed mental health professional to determine if emergency detention of the person is warranted.

"Face-To-Face" for the purposes of the delivery of behavioral health care, means a face-to-face physical contact and in-person encounter between the health care provider and the consumer, including the initial visit. The use of telemedicine shall be considered a face-to-face encounter.

"Gambling disorder treatment services" means treatment activities for consumers by a gambling treatment professional that include, but are not limited to, the following:

(A) Assessment and diagnostic impression, ongoing;
(B) Treatment planning and revision, as necessary;
(C) Individual, group and family therapy;
(D) Case management;
(E) Psychosocial rehabilitation; and
(~~E~~F) Discharge planning.

"Gambling treatment professional" means:

(A) an individual holding a valid NCGC I or II certification;

(B) any clinician licensed in a behavioral health field with documented completion of at least thirty hours of ODMHSAS recognized core problem gambling training requirements and documented completion of ~~twelve~~ten hours of problem gambling specific continuing education every twelve months~~.~~; or

(C) any individual under supervision for licensure by an individual who meets the requirements of (A) or (B), and has documented completion of at least thirty hours of ODMHSAS recognized core problem gambling training requirements and documented completion of ~~twelve~~ten hours of problem gambling specific continuing education every twelve months.

"Gambling related disorders/problems" means persistent and recurrent problematic gambling behavior leading to clinically significant impairment or distress, as defined by the most recent edition of the DSM.

"Independent living skills, assistance in development of" means all activities directed at assisting individuals in the development of skills necessary to live and function within the community, e.g., cooking, budgeting, meal planning, housecleaning, problem-solving, communication and vocational skills.

"Intensive outpatient services" means an organized, non-residential outpatient treatment services with scheduled sessions that provide a range of nine (9) to fifteen (15) treatment hours per week for adults or six (6) to twelve (12) treatment hours per week for children. Intensive outpatient services may offer evening outpatient services several nights per week or be incorporated into an inpatient or residential treatment program in which the consumer participates in daytime treatment services but goes home at night. This corresponds to ASAM patient Placement Criteria Treatment Level: Level II.1 Intensive outpatient.

"Levels of care" means the different options for treatment as described in the current edition of the ASAM criteria that vary according to the services offered. Each treatment option is a level of care.

"Licensed Behavioral Health Professional" or **"LBHP"** means:

(A) allopathic or osteopathic physicians with a current license and board certification in psychiatry or board eligible in the state in which services are provided, or a current resident in psychiatry;

(B) practitioners with a license to practice in the state in which services are provided ~~or those actively and regularly receiving board approved supervision, and extended supervision by a fully licensed clinician if board's supervision requirement is met but the individual is not yet licensed, to become licensed~~ by one of the following licensing boards:

(i) Psychology;

(ii) Social Work (clinical specialty only);

(iii) Professional Counselor;

(iv) Marriage and Family Therapist;

(v) Behavioral Practitioner; or

(vi) Alcohol and Drug Counselor;

(C) advanced practice nurse (certified in a psychiatric mental health specialty), licensed as a registered nurse with a current certification of recognition from the board of nursing in the state in which services are provided; or

(D) a physician assistant who is licensed in good standing in the state and has received specific training for and is experienced in performing mental health therapeutic, diagnostic, or therapy functions.

"Licensed mental health professional" or **"LMHP"** as defined in Title 43A §1-103(11).

"Licensure Candidate" means practitioners actively and regularly receiving board approved supervision, and extended supervision by a fully licensed clinician if board's supervision requirement is met but the individual is not yet licensed, to become licensed by one of the following licensing boards:

(A) Psychology;

(B) Social Work (clinical specialty only);

(C) Professional Counselor;

(D) Marriage and Family Therapist;

(E) Behavioral Practitioner; or

(F) Alcohol and Drug Counselor.

"Linkage" refers to the communication and coordination with other service providers to assure timely appropriate referrals between the CCARC and other providers.

"Medication error" means an error in prescribing, dispensing or administration of medication, regardless if the error reached the consumer, e.g., omission of prescribed drugs, giving drugs not prescribed, prescribing inappropriate drugs, prescribing or administering incorrect dosages, incorrectly filling or labeling prescriptions, incorrectly transcribing medication orders.

"ODMHSAS" means the Oklahoma Department of Mental Health and Substance Abuse Services.

"Oklahoma Administrative Code" or **"OAC"** means the publication authorized by 75 O.S. § 256 known as The Oklahoma Administrative Code or, prior to its publication, the compilation of codified rules authorized by 75 O.S. § 256(A)(1) (a) and maintained in the Office of Administrative Rules.

"Outpatient services" means an organized, non-residential treatment service in regularly scheduled session intended for individuals not requiring a more intensive level of care or those who require continuing services following more intensive treatment regimens. This corresponds to ASAM criteria Treatment Level I, Outpatient Treatment. Services can address early intervention needs and increase in frequency and intensity up to 9 treatment hours per week.

"Peer Recovery Support Specialist" or **"PRSS"** means an individual who meets the qualifications and is certified as a PRSS pursuant to OAC 450:53.

"Performance Improvement" or **"PI"** means an approach to the continuous study and improvement of the processes of providing health care services to meet the needs of consumers and others. Synonyms, and near synonyms include continuous quality improvement, continuous improvement,

organization-wide quality improvement and total quality management.

"Progress notes" mean a chronological written description of services provided to a consumer, resident, client, or patient that documents, utilizing acceptable documentation practices, the consumer's response related to the intervention plan or services provided.

"Psychological-Social evaluations" are in-person interviews conducted by professionally trained personnel designed to elicit historical and current information regarding the behavior and experiences of an individual, and are designed to provide sufficient information for problem formulation and intervention.

"Psychotherapy" or "Therapy" means a goal directed process using generally accepted clinical approaches provided face-to-face by a qualified service provider with consumers in individual, group or family settings to promote positive emotional or behavioral change.

"Rehabilitation Services" means face-to-face individual or group services provided by qualified staff to develop skill necessary to perform activities of daily living and successful integration into community life.

"Screening" means the process to determine whether the person seeking assistance needs further comprehensive assessment.

"Sentinel event" is a type of critical incident that is an unexpected occurrence involving the death or serious physical or psychological injury to a consumer, or risk thereof. Serious injury specifically includes loss of limb or function. The phrase "or risk thereof" includes a variation in approved processes which could carry a significant chance of a serious adverse outcome to a consumer. These events signal the need for immediate investigation and response. Sentinel events include, but are not limited to: suicide, homicide, criminal activity, assault and other forms of violence, including domestic violence or sexual assault, and adverse drug events resulting in serious injury or death.

"Service area" means a geographic area established by the Department of Mental Health and Substance Abuse Services for support of mental health and substance use disorder treatment services [43A O.S.§3-302(1)].

"Service plan" or "Treatment plan" means the document used during the process by which a qualified service provider and the consumer together and jointly identify and rank problems, establish agreed-upon immediate short-term and long-term goals, and decide on the treatment process and resources to be utilized.

"Substance withdrawal" means a state of being in which a group of symptoms of variable clustering and degree of severity occur on cessation or reduction of use of a psychoactive substance that has been taken repeatedly, usually for a prolonged period and/or in high doses. The syndrome may be accompanied by signs of physiological disturbance. Onset and course of the withdrawal state are time-limited and are related to the type of substance and the dose being used immediately before abstinence.

"Supportive services" refers to assistance with the development of problem-solving and decision-making skills to maintain or achieve optimal functioning within the community and can include consumer education.

"Trauma informed capability" means the capacity for a facility and all its programs to recognize and respond accordingly to the presence of the effects of past and current traumatic experiences in the lives of its consumers.

"Vocational assessment services" means a process utilized to determine the individual's functional work-related abilities and vocational preferences for the purpose of the identification of the skills and environmental supports needed by the individual in order to function more independently in an employment setting, and to determine the nature and intensity of services which may be necessary to obtain and retain employment.

"Vocational placement services" means a process of developing or creating an appropriate employment situation matched to the functional abilities and choices of the individual for the purpose of vocational placement. Services may include, but are not limited to, the identification of employment positions, conducting job analysis, matching individuals to specific jobs, and the provision of advocacy with potential employers based on the choice of the individual served.

"Vocational preparation services" means services that focus on development of general work behavior for the purpose of vocational preparation such as the utilization of individual or group work-related activities to assist individuals in understanding the meaning, value and demands of work; to modify or develop positive work attitudes, personal characteristics and work behaviors; to develop functional capacities; and to obtain optimum levels of vocational development.

"Volunteer" means any person who is not on the program's payroll, but provides services and fulfills a defined role within the program and includes interns and practicum students.

"Walk through" means an exercise in which staff members of a facility walk through the program's treatment processes as a consumer. The goal is to view the agency processes from the consumer's perspective for the purpose of removing barriers and enhancing treatment.

"Wellness" means the condition of good physical, mental and emotional health, especially when maintained by an appropriate diet, exercise, and other lifestyle

SUBCHAPTER 3. REQUIRED SERVICES

PART 5. EMERGENCY SERVICES

450:24-3-43. Crisis Intervention, staffing

(a) Staff providing crisis intervention shall be an LBHP or Licensure Candidate which shall include core competency in emergency evaluation of co-occurring disorders and meet the CCARC's privileging requirements for the provision of emergency services, with the availability of an LMHP as defined in 43A O.S. § 1-103 for emergency examinations when warranted.

(b) Compliance with 450:24-3-43 shall be determined by a review of clinical privileging records and personnel records.
(c) Failure to comply with 450:24-3-43 will result in the initiation of procedures to deny, suspend and/or revoke certification.

PART 15. CASE MANAGEMENT

450:24-3-144. Case management services, staff credentials

(a) Individuals providing case management services shall be an LBHP, Licensure Candidate, CADC, or certified as a behavioral health case manager pursuant to Oklahoma Administrative Code, Title 450, Chapter 50.
(b) Facility supervisors must be a certified behavioral health case manager pursuant
to Oklahoma Administrative Code, Title 450, Chapter 50 if they directly supervise the equivalent of two (2) or more FTE certified behavioral health case managers who provide case management services as part of their regular duties.
(c) Compliance with 450:24-3-144 shall be determined by a review of the facility personnel records and credentialing files.

SUBCHAPTER 5. OPTIONAL SERVICES

PART 19. GAMBLING DISORDER TREATMENT SERVICES

450:24-5-166. Treatment services

(a) Any CCARC choosing to provide gambling disorder treatment services shall provide, at a minimum, the following:

(1) **Screening and Assessment.** ~~Each presenting consumer shall be assessed using the Southern Oaks Gambling Screen (SOGS). CCARCs must ensure that a consumer's refusal of a particular service does not preclude them from accessing other treatment services. The assessment shall be completed during the admission process and within specific timelines established by the CCARC, but no later than by the end of the fourth visit.~~

~~(2) **Biopsychosocial assessment.** A biopsychosocial assessment gathers sufficient information to assist the consumer in developing an individualized service plan. The assessment used shall contain, but not be limited to, the following:~~

~~(A) Identification of the consumer's strengths, needs, abilities, and preferences;~~
~~(B) History of the presenting problem;~~
~~(C) Previous treatment history to include mental health and substance related and addictive disorders;~~
~~(D) Health history and current biomedical conditions and complications;~~
~~(E) History of substance use, including past treatment, and history of other behavioral addictions and past treatment;~~
~~(F) Gambling history, including type, amount, frequency and duration of gambling activity, and family history of gambling disorders;~~
~~(G) History of trauma;~~
~~(I) Family and social history, including family history of alcohol and drug use;~~
~~(J) Educational attainment, difficulties, and history;~~
~~(K) Cultural and religious orientation;~~
~~(L) Vocational, occupational and military history;~~
~~(M) Sexual history, including HIV, AIDS and STD at risk behavior;~~
~~(N) Marital or significant other relationship history;~~
~~(O) Recreational and leisure history;~~
~~(P) Legal history;~~
~~(Q) Present living arrangement;~~
~~(R) Economic resources;~~
~~(S) Level of functioning;~~
~~(T) Current support system including peer and other recovery supports;~~
~~(U) Current medications, if applicable, and shall include obtainable information regarding the name of prescribing physician, name of medication, strength and dosage, and length of time consumer was on the medication;~~
~~(V) Consumer's expectations in terms of service; and~~
~~(W) Assessment summary or diagnosis, and signature of the assessor and date of the assessment.~~ See Section 24-3-21 for requirements.

(2) **Service planning and revision.**

(3) **Individual therapy.** Individual therapy is a face-to-face therapeutic session conducted by a Gambling Treatment Professional (GTP) with one on one interaction between the GTP and a consumer to promote emotional or psychological change to alleviate disorders. Therapy must be goal directed and use a generally accepted approach to treatment such as cognitive behavioral treatment, narrative therapy, solution focused brief therapy or another widely accepted theoretical framework for treatment, in accordance with an individualized service plan.

(4) **Group therapy.** Group therapy is a face-to-face therapeutic session with a group of individuals and a GTP using the interaction of the GTP and two or more consumers to promote positive emotional or behavioral change. The focus of the group must be directly related to goals and objectives of the individual customer service plan and use a generally accepted framework for this modality of treatment. This service does not include social skill development or daily living skill activities. Group psychotherapy for adults is limited to eight total consumers. Group size is limited to a total of six consumers for all children. A group may not consist solely of related individuals.

(5) **Family therapy.** Family therapy is a face-to-face therapeutic session conducted by a GTP with family

members/couples conducted in accordance with a documented service plan focusing on treatment family/marital problems and goals. The service must be provided to specifically benefit the consumer as identified in a service plan and use generally accepted treatment methods for this modality of treatment.

(6) **Case management.**

(7) **Education and/or educational groups.**

(8) **Discharge planning.**

(b) Compliance with this Section may be determined by a review of the following:

(1) Consumer records;

(2) Progress notes;

(3) Interviews with staff; and

(4) Other facility documentation.

SUBCHAPTER 13. ORGANIZATIONAL AND FACILITY MANAGEMENT

450:24-13-2. Information analysis and planning

(a) The CCARC shall have a defined and written plan for conducting an organizational needs assessment which specifies the methods and data to be collected, to include, but not limited to information from:

(1) Consumers;

(2) Governing Authority;

(3) Staff;

(4) Stakeholders;

(5) Outcomes management processes;

(6) Quality record review and

(7) Self-assessment tools to determine progress toward co-occurring, recovery oriented, trauma informed and consumer driven capability.

(b) The CCARC shall have a defined ongoing system to collect data and information on a quarterly basis to manage the organization.

(c) Information collected shall be analyzed to improve consumer services and organizational performance.

(d) The CCARC shall prepare an end of year management report, which shall include but not be limited to:

(1) an analysis of the needs assessment process, ~~and~~

(2) performance improvement program findings~~.~~, and

(3) claims and accomplishments by facilities, including but not limited to consumer count and success rates, which may be verified by the ODMHSAS Board.

(e) The management report shall be communicated and made available to, among others:

(1) the governing authority,

(2) facility staff, and

(3) ODMHSAS if and when requested.

(f) Compliance with OAC 450:17-13-2 shall be determined by a review of the written program evaluation plan(s); written annual program evaluation(s), special or interim program evaluations; program goals and objectives; and other supporting documentation provided.

[OAR Docket #15-603; filed 6-18-15]

TITLE 450. DEPARTMENT OF MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES
CHAPTER 27. STANDARDS AND CRITERIA FOR MENTAL ILLNESS SERVICE PROGRAMS

[OAR Docket #15-604]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 1. General Provisions
450:27-1-2 [AMENDED]
Subchapter 7. Clinical Services
Part 3. Additional or Optional Services
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450:27-7-33 [AMENDED]
Subchapter 9. Behavioral Health Home [NEW]
450:27-9-1 through 450:27-9-24 [NEW]
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ANALYSIS:
In accordance with the Administrative Procedures Act the proposed rule revisions to Chapter 27 are part of the Department's review of Title 450. The proposed rules clarify existing rules and are intended to comply with statutory changes.

Proposed revisions to Chapter 27 are made to add standards and criteria for Health Home services as optional services within Mental Illness Service Programs. Health Homes will promote enhanced integration and coordination of primary, acute, behavioral health, and long-term services and supports for persons with chronic illness. The purpose of the Health Home is to improve the health status for consumers with Serious Mental Illness or Serious Emotional Disturbance by promoting wellness and prevention and to improve access and continuity in healthcare for these consumers by supporting coordination and integration of primary care services in specialty behavioral healthcare settings. Revisions are also made to create a distinction in terminology between Licensed Behavioral Health Professionals (LBHPs) and licensure candidates.

CONTACT PERSON:

Gretchen Geis, Administrative Rules Liaison, Department of Mental Health and Substance Abuse Services, Post Office Box 53277, Oklahoma City, Oklahoma 73152-3277, (405) 522-2053.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3 (5) AND 308 (E), WITH AN EFFECTIVE DATE OF SEPTEMBER 15, 2015:

SUBCHAPTER 1. GENERAL PROVISIONS

450:27-1-2. Definitions

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

"Abuse" means the causing or permitting of harm or threatened harm to the health, safety, or welfare of a consumer by a staff responsible for the consumer's health, safety, or welfare, including but not limited to: non-accidental physical injury or mental anguish; sexual abuse; sexual exploitation; use of mechanical restraints without proper authority; the intentional use of excessive or unauthorized force aimed at hurting or injuring the resident; or deprivation of food, clothing, shelter, or healthcare by a staff responsible for providing these services to a consumer.

"Advanced Practice Registered Nurse or (APRN)" means a registered nurse in good standing with the Oklahoma Board of Nursing, and has acquired knowledge and clinical skills through the completion of a formal program of study approved by the Oklahoma Board of Nursing Registration and has obtained professional certification through the appropriate National Board recognized by the Oklahoma Board of Nursing. Advanced Practice Registered Nurse services are limited to the scope of their practice as defined in 59 Okla. Stat. § 567.3a and corresponding rules and regulations at OAC 485:10-5-1 through 10-16-9.

"Behavioral Health Home or BHH" means a specifically organized entity that functions within a currently ODMHSAS certified mental health treatment program organization to promote enhanced integration and coordination of primary, acute, behavioral health, and long-term services and supports for persons across the lifespan with chronic illness. BHHs ensure comprehensive team-based health care, meeting physical, mental health, and substance use disorder care needs. Health care is delivered utilizing a whole-person, patient-centered, coordinated care model for adults with serious mental illness (SMI) and children with serious emotional disturbance (SED). Care coordination is provided for all aspects of the individual's life and for transitions of care the individual may experience.

"Case management services" means planned referral, linkage, monitoring and support, and advocacy provided in partnership with a consumer to assist that consumer with self sufficiency and community tenure and take place in the individual's home, in the community, or in the facility, in accordance with a service plan developed with and approved by the consumer and qualified staff.

"Children's Health Home Specialist" means an individual within the children's Behavioral Health Home interdisciplinary team that will provide support, coaching and activities that promote good physical and mental health to individuals, families and groups. The focus of the Children's Health Home Specialist will include nutrition, healthy living habits, exercise, and preventing and/or managing chronic health conditions. Children's Health Home Specialists must be certified by ODMHSAS as Behavioral Health Case Manager I or II and complete trainings as required by ODMHSAS including but not limited to Behavioral Health Aide and Well Power.

"Clinical privileging" means an organized method for treatment facilities to authorize an individual permission to provide specific care and treatment services to consumers within well-defined limits, based on the evaluation of the individual's license, education, training, experience, competence, judgment, and other credentials.

"Community-based Structured Crisis Center" or "CBSCC" means a program of non-hospital emergency services for mental health and substance abuse crisis stabilization as authorized by 43A O.S. §3-317, including, but not limited to, observation, evaluation, emergency treatment and referral, when necessary, for inpatient psychiatric or substance abuse services. This service is limited to CMHC's and Comprehensive Community Addiction Recovery Centers (CCARCs) who are certified by the Department of Mental Health and Substance Abuse Services or facilities operated by the Department of Mental Health and Substance Abuse Services.

"Community mental health center" or **"CMHC"** means a facility offering a comprehensive array of community-based mental health services, including but not limited to, inpatient treatment, outpatient treatment, partial hospitalization, emergency care, consultation and education; and, certain services at the option of the center, including, but not limited to, prescreening, rehabilitation services, pre-care and aftercare, training programs, and research and evaluation.

"Consumer" means an individual, adult, adolescent, or child, who has applied for, is receiving or has received evaluation or treatment services from a facility operated or certified by ODMHSAS or with which ODMHSAS contracts and includes all persons referred to in OAC Title 450 as client(s) or patient(s) or resident(s) or a combination thereof.

"Consumer advocacy" includes all activities on behalf of the consumer to assist with or facilitate resolution of problems in the acquisition of resources or services needed by the consumer.

"Co-occurring disorder" (COD) means any combination of mental health symptoms and substance abuse symptoms

or diagnoses that affect a consumer and are typically determined by the current Diagnostic and Statistical Manual of Mental Disorders.

"Co-occurring disorder capability" means the organized capacity within any type of program to routinely screen, identify, assess, and provide properly matched interventions to consumers with co-occurring disorders.

"Co-occurring disorder enhanced" means that the program (or subunit of the program) provides a specialized service designed for individuals with co-occurring disorders, usually with a higher level of available service capacity or intensity for the co-occurring substance use disorder than would be the case in a comparable co-occurring disorder capable program.

"Crisis Diversion" means an unanticipated, unscheduled situation requiring supportive assistance, face-to-face or telephone, to resolve immediate problems before they become overwhelming and severely impair the individual's ability to function or maintain in the community.

"Crisis Intervention" means actions taken, and services provided to address emergency psychological, physiological, and safety aspects of alcohol, drug-related, and mental health crises.

"Crisis stabilization" means emergency, psychiatric, and substance abuse services for the resolution of crisis situations and may include placement of an individual in a protective environment, basic supportive care, and medical assessment, and, if needed, referral to an ODMHSAS certified facility having nursing and medical support available.

"Critical incident" or "Incident" means an occurrence or set of events inconsistent with the routine operation of a facility, service setting, or otherwise routine care of a consumer. Critical incidents specifically include but are not necessarily limited to the following: adverse drug events; self-destructive behavior; deaths and injuries to consumers, staff and visitors; medication errors; residential consumers that are missing or considered in to have eloped; neglect or abuse of a consumer; fire; unauthorized disclosure of information; damage to or theft of property belonging to consumers or the facility; other unexpected occurrences; or events potentially subject to litigation. An incident may involve multiple individuals or results.

"Cultural competency" means the ability to recognize, respect, and address the unique needs, worth, thoughts, communications, actions, customs, beliefs and values that reflect an individual's racial, ethnic, religious, sexual orientation, and/or social group.

"DSM" means the most current edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association.

"Emergency detention" means the detention of a person who appears to be a person requiring treatment in a facility approved by the Commissioner of Mental Health and Substance Abuse Services as appropriate for such detention after the completion of an emergency examination, either in person or via telemedicine, and a determination that emergency detention is warranted as defined in Title 43A O.S. Section 5-206.

"Emergency examination" means the examination of a person who appears to be a mentally ill person, an alcohol-dependent person, or drug-dependent person and a person requiring treatment, and whose condition is such that it appears that emergency detention may be warranted by a licensed mental health professional to determine if emergency detention of the person is warranted.

"Evidence based practice" means programs or practices that are supported by research methodology and have produced consistently positive patterns of results when replicated within the intent of the published guidance.

"Face-To-Face" for the purposes of the delivery of behavioral health care, means a face-to-face physical contact and in-person encounter between the health care provider and the consumer, including the initial visit. The use of telemedicine shall be considered a face-to-face encounter.

"Facilities or Facility" means entities as described in Title 43A O.S. § 1-103(7), community mental health centers, residential mental health facilities, community based structured crisis centers, certified services for the alcohol and drug dependent, programs of assertive community treatment, eating disorder treatment, gambling addiction treatment, and narcotic treatment programs.

"Hospital liaison" means an individual within the Behavioral Health Home interdisciplinary team that works closely with hospital staff to assess the suitability of transition plans for consumers enrolled in a Behavioral Health Home. Hospital Liaisons will also work with other long term, residential facilities to plan for coordination of care during and after the consumer's residential stay. Hospital liaisons must be certified by ODMHSAS as a Behavioral Health Case Manager I or II and complete trainings as required by ODMHSAS.

"Licensed Behavioral Health Professional" or **"LBHP"** means:

(A) allopathic or osteopathic physicians with a current license and board certification in psychiatry or board eligible in the state in which services are provided, or a current resident in psychiatry; the follow

(B) practitioners with a license to practice in the state in which services are provided by one of ing licensing boards:

(i) Psychology;
(ii) Social Work (clinical specialty only);
(iii) Professional Counselor;
(iv) Marriage and Family Therapist;
(v) Behavioral Practitioner; or
(vi) Alcohol and Drug Counselor;

(C) advanced practice nurse (certified in a psychiatric mental health specialty), licensed as a registered nurse with a current certification of recognition from the board of nursing in the state in which services are provided; or

(D) a physician assistant who is licensed in good standing in the state and has received specific training for and is experienced in performing mental health therapeutic, diagnostic, or therapy functions.

"Licensed mental health professional" or **"LMHP"** as defined in Title 43A §1-103(11).

"Licensure candidate" means practitioners actively and regularly receiving board approved supervision, and extended supervision by a fully licensed clinician if board's supervision

requirement is met but the individual is not yet licensed, to become licensed by one of the following licensing boards:

(A) Psychology;
(B) Social Work (clinical specialty only);
(C) Professional Counselor;
(D) Marriage and Family Therapist;
(E) Behavioral Practitioner; or
(F) Alcohol and Drug Counselor.

"Linkage" refers to the communication and coordination with other service providers to assure timely appropriate referrals between the CMHC and other providers.

"Medically necessary" means health care services or supplies needed to prevent, diagnose or treat an illness, injury, condition, disease or its symptoms and that meet accepted standards of medicine.

"Medication error" means an error in prescribing, dispensing or administration of medication, regardless if the error reached the consumer, e.g., omission of prescribed drugs, giving drugs not prescribed, prescribing inappropriate drugs, prescribing or administering incorrect dosages, incorrectly filling or labeling prescriptions, incorrectly transcribing medication orders.

"Nurse Care manager" means a Licensed Practical Nurse (LPN) or a Registered Nurse (RN).

"ODMHSAS" means the Oklahoma Department of Mental Health and Substance Abuse Services.

"Oklahoma Administrative Code" or **"OAC"** means the publication authorized by 75 O.S. § 256 known as The Oklahoma Administrative Code or, prior to its publication, the compilation of codified rules authorized by 75 O.S. § 256(A)(1) (a) and maintained in the Office of Administrative Rules.

"Performance Improvement" or **"PI"** means an approach to the continuous study and improvement of the processes of providing health care services to meet the needs of consumers and others. Synonyms, and near synonyms include continuous quality improvement, continuous improvement, organization-wide quality improvement and total quality management.

"Primary Care Practitioner (PCP)" means a licensed physician, Advanced Practice Registered Nurse (APRN), or Physician Assistant (PA) licensed in the State of Oklahoma.

"Program of Assertive Community Treatment" or **"PACT"** is a clinical program that provides continuous treatment, rehabilitation, and support services to persons with mental illness in settings that are natural to the consumer.

"Progress notes" mean a chronological written description of services provided to a consumer, resident, client, or patient that documents, utilizing acceptable documentation practices, the consumer's response related to the intervention plan or services provided.

"Psychological-Social evaluations" are in-person interviews conducted by professionally trained personnel designed to elicit historical and current information regarding the behavior and experiences of an individual, and are designed to provide sufficient information for problem formulation and intervention.

"Psychotherapy" or "Therapy" means a goal directed process using generally accepted clinical approaches provided face-to-face by a qualified service provider with consumers in individual, group or family settings to promote positive emotional or behavioral change.

"Recovery Support Specialist" or **"RSS"** means an individual who has completed the ODMHSAS RSS training and has passed the ODMHSAS RSS exam.

"Rehabilitation Services" means face-to-face individual or group services provided by qualified staff to develop skill necessary to perform activities of daily living and successful integration into community life.

"Resident" means a person residing in a community living program certified by ODMHSAS.

"Residential treatment" means a structured, 24-hour supervised treatment program for individuals who are mentally ill with a minimum of twenty-one (21) hours of therapeutic services provided per week with the emphasis on stabilization and rehabilitation for transfer to a less restrictive environment. Stay in the program is time limited.

"Restraint" refers to manual, mechanical, and chemical methods that are intended to restrict the movement or normal functioning of a portion of an individual's body.

"Risk Assessment" means a clinical function that aims to determine the nature and severity of the mental health problem, determine which service response would best meet the needs of the consumer, and how urgently the response is required.

"Screening" means the process to determine whether the person seeking assistance needs further comprehensive assessment.

"Sentinel event" is a type of incident that is an unexpected occurrence involving the death or serious physical or psychological injury to a consumer, or risk thereof. Serious injury specifically includes loss of limb or function. The phrase "or risk thereof" includes a variation in approved processes which could carry a significant chance of a serious adverse outcome to a consumer. These events signal the need for immediate investigation and response. Sentinel events include, but are not limited to: suicide, homicide, criminal activity, assault and other forms of violence, including domestic violence or sexual assault, and adverse drug events resulting in serious injury or death.

"Service Intensity" means the frequency and quantity of services needed, the extent to which multiple providers or agencies are involved, and the level of care coordination required.

"Service plan" or "Treatment plan" means the document used during the process by which a qualified service provider and the consumer together and jointly identify and rank problems, establish agreed-upon immediate short-term and long-term goals, and decide on the treatment process and resources to be utilized.

"Socialization" means all activities, which encourage interaction and the development of communication, interpersonal, social and recreational skills and can include consumer education.

"SoonerCare" means Oklahoma's Medicaid program.

"Supportive services" refers to assistance with the development of problem-solving and decision-making skills to

maintain or achieve optimal functioning within the community and can include consumer education.

"Systems of Care values" means a philosophy, which embraces a family-driven, child-centered model of care that integrates and coordinates the efforts of different agencies and providers to individualize care in the least restrictive setting that is clinically appropriate.

"Trauma informed capability" means the capacity for a facility and all its programs to recognize and respond accordingly to the presence of the effects of past and current traumatic experiences in the lives of its consumers.

"Volunteer" means any person who is not on the program's payroll, but provides services and fulfills a defined role within the program and includes interns and practicum students.

"Wellness" means the condition of good physical, mental and emotional health, especially when maintained by an appropriate diet, exercise, and other lifestyle modifications.

"Wraparound approach" means a team-based planning and implementation process to improve the lives of children with complex needs and their families by developing individualized plans of care. The key characteristics of the process are that the plan is developed by a family centered team, is individualized based on the strengths and culture of the child and their family, and is driven by needs rather than services.

SUBCHAPTER 7. CLINICAL SERVICES

PART 3. ADDITIONAL OR OPTIONAL SERVICES

450:27-7-21. Additional treatment services;

(a) If the facility provides the following additional services those shall be provided in accordance with related standards described within OAC 450:27 and other portions of OAC:450, as applicable.

(1) Case Management Services;

(2) Medication Services;

(3) Pharmacy Services; Peer Recovery Support Services;

(4) Wellness Activities and Supports;

(5) Behavioral Health Rehabilitation Services;

(6) Day treatment services for children and adolescents; and,

(7) Behavioral Health Home.

(b) If the facility provides the following services, in addition to those stipulated in 450:27-7-1. and 450:27-7-21, separate ODMHSAS certification will be required in accordance with OAC 450. including but not limited to the following:

(1) Community Residential Mental Health Facilities, per OAC 450:16;

(2) Alcohol and Drug Treatment Programs, per OAC 450:18;

(3) Community Based Structured Crisis Services, per OAC 450:23;

(4) Comprehensive Community Addiction Recovery Centers, per OAC 450:24;

(5) Programs of Assertive Community Treatment, per OAC 450:55;

(6) Eating Disorder Treatment Programs, per OAC 450:60;

(7) Gambling Treatment Programs, per OAC 450:65; and/or,

(8) Opioid Substitution Treatment Programs, per OAC 450:70

(c) Compliance with 450:27-7-21 is determined by review of program descriptions, clinical documentation, and review of ODMHSAS Certification findings additional applicable portions of OAC 450.

450:27-7-33. Behavioral health rehabilitation services, staff credentials

(a) Staff providing this service shall be a LBHP, Licensure Candidate, CADC or certified by ODMHSAS as a Behavioral Health Case Manager (CM) II pursuant to OAC 450:50.

(b) Compliance with 450:27-7-33 will be determined by a review of facility personal files, individual staff records, and verification with organizations providing required training.

SUBCHAPTER 9. BEHAVIORAL HEALTH HOME

450:27-9-1. Program description and purpose

(a) The purpose of this Subchapter is to set forth, in addition to all other applicable rules, rules regulating program requirements, activities, and services for Mental Illness Service Programs who opt to deliver services through a Behavioral Health Home model.

(b) The purpose of BHHs within the mental health delivery array is to promote enhanced integration and coordination of primary, acute, behavioral health, and long-term services and supports for persons across the lifespan with chronic illness, including adults with serious mental illness (SMI) and children with serious emotional disturbance (SED). Care must be delivered using an integrated team that will comprehensively address physical, mental health, and substance use disorder treatment needs.

(c) The BHH must maintain facility polices and program descriptions that clearly describe that the purpose of the BHH is to improve the health status of individuals with Serious Mental Illness and/or Serious Emotional Disturbance by integrating behavioral and primary health care and promoting wellness and prevention.

(d) The BHH must provide program descriptions and demonstrate evidence that the following functions are implemented.

(1) Quality-driven, cost-effective, culturally appropriate, and person- and family-centered health home services;

(2) Coordinated access to:

(A) High-quality health care services informed by evidence-based clinical practice guidelines;

(B) Preventive and health promotion services, including prevention of mental illness and substance use disorders;

(C) Mental health and substance abuse services;

(D) Comprehensive care management, care coordination, and transitional care across settings. Transitional care includes appropriate follow-up from inpatient to other settings, such as participation in discharge planning and facilitating transfer from a pediatric to an adult system of health care;

(E) Chronic disease management, including self-management support to individuals and their families;

(F) Individual and family supports, including referral to community, social support, and recovery services; and,

(G) Long-term care supports and services;

(3) Person-centered care plans for each individual that coordinates and integrates all of his or her clinical and non-clinical health-care related needs and services;

(4) Proper and continuous use of health information technology to link services, facilitate communication among team members and between the health team and individual and family caregivers, and provide feedback to practices, as feasible and appropriate; and

(5) A quality improvement program, which collects and reports on data that permits an evaluation of increased coordination of care and chronic disease management on individual-level clinical outcomes, experience of care outcomes, and quality of care outcomes at the population level.

(e) Compliance with this Section will be determined by on-site observation, review of organizational documents, program descriptions, outcome monitoring and other performance improvement activity reports, and clinical records.

450:27-9-2. Target populations

(a) The BHH must be established to serve only the following target populations:

(1) Adults with a serious mental illness(SMI);

(2) Children with a serious emotional disturbance (SED); or

(3) Both.

(b) Organizational documents must clearly describe the target population(s) to be served by the BHH.

(c) Target population descriptions should not be interpreted as to limit access to individuals based on funding sources, including not limiting access to those who are uninsured but otherwise meet the target population criteria. Although not required, BHHs are encouraged to identify funding in order to provide BHH services to individuals who meet the target population criteria but do not have Medicaid.

(d) Compliance with this Section will be determined by on-site observation, review of organizational documents, program descriptions, outcome monitoring and other performance improvement activity reports, and clinical records.

450:27-9-3. Outreach and engagement

(a) The BHH must have policies and procedures to describe how outreach and engagement activities will occur to identify individuals within the target population(s) who could benefit from BHH services.

(b) The BHH must have memoranda of agreements to arrange for outreach and engage in settings outlined further in these rules in Section 450:24-9-21.

(c) Facility records will identify which staff members are responsible for specific elements of outreach and engagement.

(d) Compliance with this Section will be determined by on-site observation, review of organizational documents, program descriptions, outcome monitoring and other performance improvement activity reports, and clinical records.

450:27-9-4. Structure of Behavioral Health Home and administrative staff

(a) The BHH policies must describe how it is organized within one of the following structures:

(1) In-house model where the behavioral health agency is directly providing primary care performed by a qualified employee, or purchasing through a contract; or

(2) Co-located partnership model where the behavioral health agency arranges for primary care services to be provided onsite, establishing written agreements with external primary care providers; or

(3) Facilitated referral model, where most primary care services are not provided onsite at the facility; however, the facility has processes in place to ensure the coordination of care that is provided offsite.

(b) In the event the BHH does not directly provide the full array of required services, there must be organizational procedures and clinical records to document that the BHH has otherwise ensured the services are coordinated on behalf of each consumer.

(c) The facility operating the BHH will have policies and program descriptions to define how the BHH will operate a team dedicated to provide the range of specific services articulated elsewhere in this Subchapter.

(d) The facility shall verify the health home director for adults meets or exceeds the following qualifications:

(1) Possess a Bachelor's degree from an accredited university and have at least two years' experience in health administration;

(2) Possess a Master's degree from an accredited university in a health or social services related field;

(3) Be licensed as a Registered Nurse with the Oklahoma Board of Nursing; or

(4) Be licensed as a Physician or be licensed as a Nurse Practitioner.

(e) The BHH shall verify the Project Director for children possesses a Bachelor's degree in the field of social or human sciences from an accredited university, has at least three years' work experience in the social service field and has a minimum of one year experience in an administrative position.

(f) The BHH will adhere to the following ratios in terms of the full time equivalent (FTE) for the health home director.

(1) The BHH shall maintain a health home director at a ratio of 1 FTE per 500 BHH participants. BHHs with less than 500 participants shall maintain a health home director at a minimum of .5 FTE.

(2) A health home requiring a health home director and health home nurse care manager of .5 FTE each may employ 1 FTE individual to serve in both roles, provided that individual meets the requirements for both positions.

(3) A health home requiring more than .5 FTE health home director, may choose to designate a lead health home director and fulfill the additional FTE requirement with key management staff who meet the requirements of (1) or (2) above.

(g) Compliance with this Section will be determined by on-site observation, review of organizational documents, signed agreements, personnel records, job descriptions, outcome monitoring and other performance improvement activity reports, and clinical records.

450:27-9-5. Treatment team; general requirements

(a) The BHH must designate an interdisciplinary treatment team that is responsible, with each consumer's input and guidance, to direct, coordinate, and manage the care and services to be provided or arranged for by the BHH.

(b) The interdisciplinary team must, based on the comprehensive assessment, identify for each consumer a specific licensed behavioral health professional (LBHP) or licensure candidate on the interdisciplinary treatment team to lead the process of the initial comprehensive assessment and plan and to provide therapy services if indicated on the integrated plan. This will ensure that each consumer's needs are assessed, and that the active treatment plan is implemented as indicated.

(c) Compliance with this Section will be determined by on-site observation, review of organizational documents, signed agreements, activity reports, and clinical records.

450:27-9-6. Treatment team; adult team

(a) Each BHH team serving adults shall include, the following positions, unless otherwise arranged as permitted in (b) below:

(1) Health Home Director;

(2) Nurse Care Manager;

(3) Consulting Primary Care Physician, Advanced Practice Registered Nurse, or Physician Assistant;

(4) Licensed Psychiatric Consultant;

(5) License Behavioral Health Professional;

(6) Certified Behavioral Health Case Manager I or II;

(7) Hospital Liaison/Health Home Specialist; and

(8) Wellness Coach/Certified Peer Support Specialist.

(b) Variations from the above staff pattern on a continuous basis, must be approved in advanced by the ODMHSAS Commissioner or a designee.

(c) If the health team experiences difficulty in recruiting staff to fill any of the above positions, a recruitment and contingency plan to maintain essential services, will be submitted to the ODMHSAS Director of Provider Certification for approval.

(d) The facility must have written policies and procedures defining the program's plan for staff-to-consumer ratio for each adult BHH team and a plan for how exceptions will be handled.

(e) Staffing ratios must be regularly monitored and evaluated within the facilities performance improvement activities.

(f) Compliance with this Section will be determined by on-site observation, review of organizational documents, personnel records, staffing schedules, and clinical records.

450:27-9-7. Treatment team; children and adolescent team

(a) Each BHH team serving children and adolescents shall include, the following positions, unless otherwise arranged as permitted in (b) below:

(1) Care Coordinator;

(2) Project Director;

(3) Licensed Psychiatric Consultant;

(4) Licensed Nurse Care Manager (RN or LPN);

(5) Peer to Peer Family /Youth Support Provider;

(6) Children's Health Home Specialist; and

(7) Consulting Primary Care Practitioner.

(b) Variations from the above staff pattern on a continuous basis, must be approved in advanced by the ODMHSAS Commissioner or a designee.

(c) If the health team experiences difficulty in recruiting staff to fill any of the above positions, a recruitment and contingency plan to maintain essential services, will be submitted to the ODMHSAS Director of Provider Certification for approval.

(d) The facility must have written policies and procedures defining the program's plan for staff-to-consumer ratio for each child and/or adolescent BHH team and a plan for how exceptions will be handled.

(e) Staffing ratios must be regularly monitored and evaluated within the facilities performance improvement activities.

(f) Compliance with this Section will be determined by on-site observation, review of organizational documents, personnel records, staffing schedules, and clinical records.

450:27-9-8. Required services

(a) The BHH must have policies and clear descriptions to delineate each specific service provided by the BHH.

(b) The BHH must provide the following services within the framework described in 450:27-9-1:

(1) Comprehensive Care Management;

(2) Care Coordination;

(3) Health Promotion;

(4) Comprehensive Transitional Care;

(5) Individual and Family Support services; and

(6) Referral to Community and Social Support Services.

(c) Program descriptions, personnel and privileging records, and other organizational documents will specify which staff members are qualified to provide each BHH service.

(d) Compliance with this Section will be determined by on-site observation, review of organizational documents,

program descriptions, outcome monitoring and other performance improvement activity reports, and clinical records.

450:27-9-9. Access to specialists

(a) The BHH must have procedures and agreements in place to facilitate referral for other medical services needed beyond the scope of the BHH.

(b) Referral documents and releases of information shall comply with applicable privacy and consumer consent requirements.

(c) Clinical documentation will track referrals to and use of specialists.

(d) Compliance with this Section will be determined by on-site observation, review of organizational documents, signed agreements, outcome monitoring and other performance improvement activity reports, and clinical records.

450:27-9-10. Admission

(a) The facility must determine the extent to which each consumer's needs and preferences can be adequately addressed within the array of required BHH services.

(b) An integrated screening approach in accordance with OAC 450:27-7-2 will be used to determine clinical eligibility for BHH services.

(c) Facility policies and procedures must assure that adults who meet the criteria for a SMI or children who meet the criteria for a SED are eligible for BHH services. This includes individuals receiving Targeted Case Management (TCM). It will also include additional individuals who are not currently receiving care coordination.

(d) The facility must obtain informed consent specific to enrollment in the BHH.

(1) The consent must be specific to the extent that it permits the BHH team members to share information relevant to the delivery of BHH services.

(2) The process for obtaining consent must educate the consumer of their right to choose among qualified BHHs or to opt out of the BHH service.

(3) The BHH must obtain consent for a child in state custody from the Child Welfare or Juvenile Justice worker.

(e) Compliance with this Section will be determined by on-site observation, review of organizational documents, program descriptions, outcome monitoring and other performance improvement activity reports, and clinical records.

450:27-9-11. Initial assessment

(a) A Licensed Behavioral Health Professional (LBHP) or Licensure Candidate, acting within his or her state scope of practice requirements, must complete the initial assessment for health home services in accordance with the standard in OAC 450:27-7-3 for consumers who have not been assessed by the facility within the past 6 months.

(b) The initial assessment must include at a minimum, the following:

(1) The admitting diagnosis as well as other diagnoses;

(2) The source of referral;

(3) The reason for admission as well as stated by the client or other individuals who are significantly involved; and

(4) A list of current prescriptions and over-the counter medications as well as other substances the client may be taking.

(c) The BHH should provide access to an appropriate healthcare professional and a health screening within 72 hours of placement for children entering foster care.

(d) Compliance with this Section will be determined by on-site observation, review of organizational documents, program descriptions, outcome monitoring and other performance improvement activity reports, and clinical records.

450:27-9-12. Comprehensive assessments

(a) A comprehensive assessment must be completed by the interdisciplinary team performing within each team member's scope of practice consistent with each consumer's immediate needs and include a written narrative in each of the following areas:

(1) Psychiatric and substance abuse history, mental status, and a current DSM diagnosis;

(2) Medical, dental, and other health needs;

(3) Education and/or employment;

(4) Social development and functioning;

(5) Activities of daily living; and

(6) Family structure and relationships.

(b) The BHH must ensure access to a comprehensive medical and behavioral health assessment for children in foster care within 30 days of placement.

(c) The BHH must provide or arrange for a functional assessment for all children using a tool approved by ODMHSAS. Assignment to high intensity Wraparound or Resource coordination intensity of care must be determined by clinically informed decision-making by LBHP or Licensure Candidate.

(d) The comprehensive assessment must be updated as needed but no less than every six (6) months.

(e) Compliance with this Section will be determined by on-site observation, review of organizational documents, program descriptions, outcome monitoring and other performance improvement activity reports, and clinical records.

450:27-9-13. Integrated care plan

(a) The BHH team must develop a consumer directed, integrated active care plan for each enrolled consumer that reflects input of the team, (including the involvement of the consulting primary care physician or APRN in managing the medical component of the plan), and others the consumer chooses to involve.

(b) The plan shall clearly address physical and behavioral health goals, consumer preferences, and the overall all health and wellness needs of the consumer.

(c) The plan must be documented and complete within thirty (30) working days of admission to the BHH.

(d) The BHH must provide for each consumer and primary caregiver(s), as applicable, education and training consistent with the consumer and caregiver responsibilities as identified

in the active treatment plan and relative to their participation in implementing the plan of care.

(e) Compliance with this Section will be determined by on-site observation, review of organizational documents, personnel records, staffing schedules, and clinical records.

450:27-9-14. Integrated care plan; content

(a) The integrated care plan must address all services necessary to assist the client in meeting his or her physical and behavioral health goals, and include the following:

(1) Consumer diagnoses, relative to behavioral and physical health conditions assessed by and addressed by the BHH in terms of direct services provided and/or conditions for which the individual is referred elsewhere for treatment.

(2) Treatment goals, including preventive/primary care services;

(3) Interventions, including follow up with necessary medical providers;

(4) A detailed statement of the type, duration, and frequency of services, including primary medical and specialty care, social work, psychiatric nursing, counseling, and therapy services, necessary to meet the consumer's specific needs;

(5) Medications, treatments, and individual and/or group therapies;

(6) As applicable, family psychotherapy with the primary focus on treatment of the consumer's conditions; and

(7) The interdisciplinary treatment team's documentation of the consumer's or representative's and/or primary caregiver's (if any) understanding, involvement, and agreement with the care plan.

(b) Compliance with this Section will be determined by on-site review of clinical records and supported documentation.

450:27-9-15. Review of plan

(a) The BHH will review, revise, and document the individualized integrated care plan as frequently as the consumer's conditions require, but no less frequently than every six (6) months.

(b) A revised active plan must include information from the consumer's initial evaluation and comprehensive assessments and updates, the progress toward goals specified in the written care plan, and changes, as applicable, in goals.

(c) Compliance with this Section will be determined by outcome monitoring, performance improvement activity reports.

450:27-9-16. Intensive care coordination for children and adolescents; wraparound approach

(a) If the BHH serves children or adolescents with SED, care coordination must be delivered with a single point of accountability to ensure that medically necessary services and supports are accessed, coordinated, and delivered in strength based, individualized, family driven, youth guided, and ethnically, culturally and linguistically relevant manner.

(b) The BHH will document that delivery of specific services and supports are guided by the needs, strengths and culture of the child and family, developed through a wraparound care planning process consistent with System of Care values.

(c) Program policies and descriptions will define the wraparound approach and related values as identified in (a) and (b) above and stipulate these must be followed by staff to develop care coordination plans.

(d) Care plans and other clinical records reflect implementation of services based on the foundations described in (a) through (c).

(e) Compliance with this Section will be determined by review of policies and procedures, staff training logs, outcome monitoring, performance improvement activity reports, clinical records, and related documentation.

450:27-9-17. Behavioral Health Home medication monitoring

(a) When medication services are provided as a component of the BHH services, medication administration, storage and control, and consumer reactions shall be regularly monitored.

(b) Facilities shall assure proper storage and control of medications, immediate response if incorrect or overdoses occur, and have appropriate emergency supplies available if needed.

(1) Written procedures for medication administration shall be available and accessible in all medication storage areas, and available to all staff authorized to administer medications.

(2) All medications shall be kept in locked, non-consumer accessible areas. Conditions which shall be considered in medication storage are light, moisture, sanitation, temperature, ventilation, and the segregation and safe storage of poisons, external medications, and internal medications.

(3) Telephone numbers of the state poison centers shall be immediately available in all locations where medications are prescribed, administered, and stored.

(c) Compliance with this Section will be determined by on-site observation and a review of the following: written policy and procedures, clinical records, and PI records.

450:27-9-18. Behavioral Health Home pharmacy services

(a) When medication services are provided as a component of the BHH services, the facility shall make available access to pharmacy services to meet consumers' pharmacological needs that are addressed by the BHH physicians and other BHH licensed prescribers. Provision of services may be made through agreement with another program through a pharmacy in the community, or through their own Oklahoma licensed pharmacy.

(b) Compliance with this Section may be determined by a review of the following: Clinical records; written agreements for pharmacy services; on-site observation of in-house pharmacy; and State of Oklahoma pharmacy license.

450:27-9-19. Health promotion and wellness; consumer self-management

(a) The BHH must assist members to participate in the implementation of their comprehensive care plan.

(b) This must include, but not be limited to providing health education specific to a member's chronic conditions; development of self-management plans with the individual; support to improve social networks; and providing health-promoting lifestyle interventions. Health promoting lifestyle interventions include, but are not limited to substance use prevention, smoking prevention and cessation, nutritional counseling, obesity reduction and increasing physical activity; and assisting to understand and self-manage chronic health conditions.

(c) In addition, BHHs that serve children and adolescents must provide child-specific health promotion activities. These include but are not limited to education regarding the importance of immunizations and screenings, child physical and emotional development; linking each child with screening in accordance with the EPSDT periodicity schedule; monitoring usage of psychotropic medications through report analysis and follow up with outliers; identifying children in need of immediate or intensive care management for physical health needs; and, providing opportunities and activities for promoting wellness and preventing illness, including the prevention of chronic physical health conditions.

(d) Compliance with this Section will be determined by review of organizational documents, program descriptions, outcome monitoring and other performance improvement activity reports, and clinical records.

450:27-9-20. Discharge or transfer from Behavioral Health Home

(a) The BHH shall, on behalf of any consumer that transfers to another facility, forward the following within fifteen (15) days as permitted by privacy and confidentiality and if requested:

(1) The BHH discharge summary; and

(2) The consumer's clinical record.

(b) For consumers who initiate BHH service and later decline those services, or are discharged from a BHH based on non-adherence to care plans, the BHH must forward to the primary health care provider of record, if any, and if requested by the consumer:

(1) The BHH discharge summary; and

(2) The consumer's clinical record.

(c) As applicable to (a) and/or (b) above, the BHH discharge summary shall include the following:

(1) A summary of the services provided, including the consumer's symptoms, treatment and recovery goals and preferences, treatments, and therapies.

(2) The client's current active treatment plan at time of discharge.

(3) The client's most recent physician orders.

(4) Any other documentation that will assist in post-discharge continuity of care.

(d) A completed discharge summary shall be entered in each consumer's record within fifteen (15) days of the consumer completing or discontinuing services.

(e) Compliance with this Section will be determined by on-site observation, review of organizational documents, program descriptions, outcome monitoring and other performance improvement activity reports, and clinical records.

450:27-9-21. Linkage and transitional care

(a) The BHH must have procedures and agreements in place to facilitate referral for other medical services needed by consumers beyond the scope of the BHH, as well as to assist the consumer to obtain services that are needed following discharge from the BHH.

(b) The BHH will also document referrals to community and social support services to facilitate access to formal and informal resources beyond the scope of services covered by SoonerCare, such as those which may be available from other parents, family members, community-based organizations, service providers, grants, social programs, funding options, school-based services, faith based organizations, etc.

(c) The BHH will develop contracts or memoranda of understandings (MOUs) with regional hospital(s), Psychiatric Residential Treatment Facilities (PRTF) or other system(s) to ensure a formalized structure for transitional care planning, to include communication of inpatient admissions and discharges of BHH participants.

(1) Transitional care will be provided by the BHH for existing BHH consumers who have been hospitalized or placed in other non-community settings, such as psychiatric residential treatment facilities, as well as to newly identified, potential BHH consumers who are entering the community.

(2) The BHH team will collaborate with all parties involved including the facility, primary care physician, and community providers to ensure a smooth discharge and transition into the community and prevent subsequent re-admission(s).

(3) Transitional care is not limited to institutional transitions, but applies to all transitions that will occur throughout the development of the enrollee and includes transition from and to school-based services and pediatric services to adult services.

(4) The BHH will document transitional care provided in the clinical records.

(d) Compliance with this Section will be determined by on-site observation, review of organizational documents, contracts, MOUs, and clinical records.

450:27-9-22. Consumer (patient care) registries and population health management

(a) The BHH must implement clinical decision support mechanisms, including but not limited to point-of-care reminders, following nationally published evidence-based guidelines for:

(1) A mental health or substance use disorder;

(2) A chronic medical condition;

(3) An acute condition;

(4) A condition related to unhealthy behaviors; and

(5) Well child or adult care.

(b) BHH must have descriptions of programs in place to demonstrate how it encourages healthier lifestyles for BHH members, including increased physical activity, better nutrition, avoidance of behavioral risks, and wider use of preventive care.
(c) The BHH shall electronically submit data to a health home information management system, subject to prior approval by the Director of ODMHSAS Provider Certification, which will act as a consumer registry, care management device and outcomes measurement tool.
(d) The BHH shall utilize information provided through the approved information system for the purpose of enrollment and discharge tracking, compliance, quality assurance, and outcome monitoring.
(e) Compliance will be determined by on-site observation, review of information available through an approved information system, and consultation with the ODMHSAS Decision Support Services and ODMHSAS Information Services Division.

450:27-9-23. Electronic health records and data sharing

(a) BHH shall have a functioning electronic health record (EHR) system that meets Meaningful Use standards, as defined in the Medicare and Medicaid Incentive Programs, or have a facility approved written plan with timeframes to obtain one.
(b) The BHH shall document a plan to work with health information organizations to share referrals, continuity of care documents, lab results, and other health information and develop partnerships that maximize the use of Health Information Technology (HIT) across all treating providers.
(c) Compliance with (a) will be determined by review of documentation that certifies the electronic health record meets Meaningful Use standards or documentation of a plan to obtain one with implementation timeline.
(d) Compliance with (b) will be determined by on-site observation, review of information available through an approved information system documenting that BHH consumers' records have been accessed and shared through a Health Information Exchange (HIE), and consultation with the ODMHSAS Decision Support Services and ODMHSAS Information Services Division.

450:27-9-24. Performance measurement and quality improvement

(a) There shall be an ongoing performance improvement program designed to objectively and systematically monitor, evaluate and improve the quality of consumer care related to BHH operations.
(b) The BHH performance improvement activities must:
(1) Focus on high risk, high volume, or problem-prone areas.
(2) Consider incidence, prevalence, and severity of problems.
(3) Give priority to improvements that affect behavioral outcomes, client safety, and person-centered quality of care.
(c) Performance improvement activities must also track adverse client events, analyze their causes, and implement preventive actions and mechanisms.
(d) The program must use quality indicator data, including client care, and other relevant data in the design of its program.
(e) The BHH must use the data collected to monitor the effectiveness and safety of services and quality of care and identify opportunities and priorities for improvement.
(f) The functions and processes outlined in (a) through (e) shall be evidenced in an annual written plan for performance improvement activities. The plan shall include but not be limited to:
(1) Outcomes management processes which include measures required by CMS and the State and may also include measures from the SAMHSA National Outcomes Measures, NCQA, and HEDIS as required to document improvement in population health.
(2) Quarterly record review to minimally assess:
(A) Quality of services delivered;
(B) Appropriateness of services;
(C) Patterns of service utilization;
(D) Treatment goals and objectives based on assessment findings and consumer input;
(E) Services provided which were related to the goals and objectives;
(F) Patterns of access to and utilization of specialty care; and
(G) The care plan is reviewed and updated as prescribed by policy.
(3) Review of critical incident reports and consumer grievances or complaints.
(g) Compliance with this Section will be determined by a review of the written program evaluation plan, program goals and objectives and other supporting documentation provided.

[OAR Docket #15-604; filed 6-18-15]

TITLE 450. DEPARTMENT OF MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES
CHAPTER 50. STANDARDS AND CRITERIA FOR CERTIFIED BEHAVIORAL HEALTH CASE MANAGERS

[OAR Docket #15-605]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 1. General Provisions
450:50-1-2. [AMENDED]
AUTHORITY:
Oklahoma Department of Mental Health and Substance Abuse Services Board; 43A O.S. §§ 3-318.
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Approved by Governor's declaration on June 8, 2015
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SUPERSEDED EMERGENCY ACTIONS:
N/A
INCORPORATIONS BY REFERENCE:
N/A
ANALYSIS:
In accordance with the Administrative Procedures Act the proposed rule revisions to Chapter 50 are part of the Department's review of Title 450. The proposed rules clarify existing rules and are intended to comply with statutory changes and legislative intent.

Proposed revisions to Chapter 50 include removing the definition of Licensed Behavioral Health Professional (LBHP) since the term is not used within the context of the Chapter.
CONTACT PERSON:
Gretchen Geis, Administrative Rules Liaison, Department of Mental Health and Substance Abuse Services, Post Office Box 53277, Oklahoma City, Oklahoma 73152-3277, (405) 522-2053.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3 (5) AND 308 (E), WITH AN EFFECTIVE DATE OF SEPTEMBER 15, 2015:

SUBCHAPTER 1. GENERAL PROVISIONS

450:50-1-2. Definitions

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

"Board" means the State Board of Mental Health and Substance Abuse Services.

"Case management" means the application of principles and practices of linking, advocacy and referral in partnership with a consumer to support the consumer in self-sufficiency and community tenure.

"Certified Behavioral Health Case Manager I (CM I)" means any person who is certified by the Department of Mental Health and Substance Abuse Services (ODMHSAS) to offer behavioral health case management services as an employee of a mental health facility or drug or alcohol treatment facility that is operated or certified by the Department or contracts with the State to provide behavioral health services.

"Certified Behavioral Health Case Manager II (CM II)" means any person who is certified by ODMHSAS to offer behavioral health case management services and behavioral health rehabilitation services (BHR) as an employee of a mental health facility or drug or alcohol treatment facility that is operated or certified by the Department or contracts with the State to provide behavioral health services.

"Commissioner" means the Commissioner of Mental Health and Substance Abuse Services.

"Consumer" means an individual who is receiving or has received services (evaluation or treatment) from a facility operated or certified by ODMHSAS or with which ODMHSAS contracts and includes all persons referred to in Title 450, Chapters 16, 17, 18, 19, 23, and 24 of the Oklahoma Administrative Code as client(s) or patient(s) or resident(s) or a combination thereof.

"Department" or **"ODMHSAS"** means the Oklahoma Department of Mental Health and Substance Abuse Services.

~~**"Licensed Behavioral Health Professional" or "LBHP"** means: 1) Allopathic or Osteopathic Physicians with a current license and board certification in psychiatry or board eligible in the state in which services are provided, or a current resident in psychiatry. 2) Practitioners with a license to practice in the state in which services are provided or those actively and regularly receiving board approved supervision, and extended supervision by a fully licensed clinician if board's supervision requirement is met but the individual is not yet licensed, to become licensed by one of the following licensing boards: (A) Psychology; (B) Social Work (clinical specialty only); (C) Professional Counselor; (D) Marriage and Family Therapist; (E) Behavioral Practitioner; or (F) Alcohol and Drug Counselor. 3) Advanced Practice Nurse (certified in a psychiatric mental health specialty), licensed as a registered nurse with a current certification of recognition from the board of nursing in the state in which services are provided. 4) A Physician Assistant who is licensed in good standing in the state and has received specific training for and is experienced in performing mental health therapeutic, diagnostic, or counseling functions.~~

"Licensed mental health professional" or **"LMHP"** as defined in Title 43A §1-103 (11).

"Web-Based Competency Exam" as prescribed by the Department is a competency exam certain individuals must pass to become certified as a Behavioral Health Case Manager.

"36-Months Experience" means twenty (20) or more hours work or volunteer experience per week over the course of time indicated with persons living with mental illness and/or substance abuse.

[OAR Docket #15-605; filed 6-18-15]

TITLE 450. DEPARTMENT OF MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES
CHAPTER 55. STANDARDS AND CRITERIA FOR PROGRAMS OF ASSERTIVE COMMUNITY TREATMENT

[OAR Docket #15-606]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 1. General Provisions
450:55-1-2 [AMENDED]
Subchapter 3. Program Description and Pact Services
450:55-3-7 [AMENDED]
Subchapter 25. Behavioral Health Home [NEW]

450:55-25-1 through 450:55-25-23 [NEW]
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15-30
INCORPORATIONS BY REFERENCE:
N/A
ANALYSIS:
In accordance with the Administrative Procedures Act the proposed rule revisions to Chapter 55 are part of the Department's review of Title 450. The proposed rules clarify existing rules and improve existing processes.

Proposed revisions to Chapter 55 are made to add standards and criteria for Health Home services as optional services within Programs of Assertive Community Treatment. Health Homes will promote enhanced integration and coordination of primary, acute, behavioral health, and long-term services and supports for persons with chronic illness. The purpose of the Health Home is to improve the health status for consumers with Serious Mental Illness by promoting wellness and prevention and to improve access and continuity in healthcare for these consumers by supporting coordination and integration of primary care services in specialty behavioral healthcare settings. Revisions also create distinction in terminology between Licensed Behavioral Health Professionals (LBHPs) and licensure candidates.
CONTACT PERSON:
Gretchen Geis, Administrative Rules Liaison, Department of Mental Health and Substance Abuse Services, Post Office Box 53277, Oklahoma City, Oklahoma 73152-3277, (405) 522-2053.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3 (5) AND 308 (E), WITH AN EFFECTIVE DATE OF SEPTEMBER 15, 2015:

SUBCHAPTER 1. GENERAL PROVISIONS

450:55-1-2. Definitions

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

"Advanced Practice Nurse" or **"APN"** means an individual who is a licensed registered nurse with current certification of recognition to practice as an Advanced Practice Nurse issued by the Oklahoma Board of Nursing.

"Behavioral Health Home or BHH" means a specifically organized entity that functions within a currently ODMHSAS certified mental health treatment program organization to promote enhanced integration and coordination of primary, acute, behavioral health, and long-term services and supports for persons across the lifespan with chronic illness. BHHs ensure comprehensive team-based health care, meeting physical, mental health, and substance use disorder care needs. Health care is delivered utilizing a whole-person, patient-centered, coordinated care model for adults with serious mental illness (SMI). Care coordination is provided for all aspects of the individual's life and for transitions of care the individual may experience.

"Certified behavioral health case manager" means any person who is certified by the Department of Mental Health and Substance Abuse Services to offer behavioral health case management services as one of the three (3) classifications of case manager within the confines of a mental health facility or drug or alcohol treatment facility that is operated by the Department or contracts with the State to provide behavioral health services.

"Community-based Structured Crisis Center" or **"CBSCC"** means a program of non-hospital emergency services for mental health and substance abuse crisis stabilization including, but not limited to, observation, evaluation, emergency treatment and referral, when necessary, for inpatient psychiatric or substance abuse services. This service is limited to CMHC's who are certified by the Department of Mental Health and Substance Abuse Services or facilities operated by the Department of Mental Health and Substance Abuse Services.

"Clinical privileging" means an organized method for treatment facilities to authorize an individual permission to provide specific care and treatment services to consumers within well-defined limits, based on the evaluation of the individual's license, education, training, experience, competence, judgment and other credentials.

"Consumer" means an individual who has applied for, is receiving, or has received services from a facility operated or certified by ODMHSAS or with which ODMHSAS contracts and includes all persons referred to in OAC Title 450 as client(s) or patient(s) or resident(s) or a combination thereof.

"Co-occurring disorder" means any combination of mental health and substance abuse symptoms or diagnoses in a client.

"Co-occurring disorder capability" means the organized capacity within any type of program to routinely screen, identify, assess, and provide properly matched interventions to individuals with co-occurring disorders.

"Credentialed Recovery Support Specialist" is a member of the PACT team who is working as a Recovery Support Specialist and has completed the ODMHSAS approved training and testing.

"Crisis intervention" means an immediately available service to meet the psychological, physiological and environmental needs of individuals who are experiencing a mental health or substance abuse crisis.

"Crisis stabilization" means emergency psychiatric and substance abuse services for the resolution of crisis situations and may include placement of an individual in a protective environment, basic supportive care, and medical assessment and, if needed, referral to an ODMHSAS certified facility having nursing and medical support available.

"Critical incident" means an occurrence or set of events inconsistent with the routine operation of the facility, or the routine care of a consumer. Critical incidents specifically include but are not necessarily limited to the following: adverse drug events; self-destructive behavior; deaths and injuries to consumers, staff and visitors; medication errors; consumers that are absent without leave (AWOL); neglect or abuse of a consumer; fire; unauthorized disclosure of information; damage to or theft of property belonging to a consumers or the facility; other unexpected occurrences; or events potentially subject to litigation. A critical incident may involve multiple individuals or results.

"Cultural competency" means the ability to recognize, respect, and address the unique needs, worth, thoughts, communications, actions, customs, beliefs and values that reflect an individual's racial, ethnic, religious, sexual orientation, and/or social group.

"DSM" means the current Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association.

"FTE" means an employee, or more than one, who work(s) the time equivalent to the number of hours per week, month or year of one (1) employee working full-time.

"Governing Agency" means the facility or specific community based behavioral health provider under which the PACT program is operated.

"Historical time line" means a method by which a specialized form is used to gather, organize and evaluate historical information about significant events in a consumer's life, experience with mental illness, and treatment history.

"Hospital liaison" means an individual within the Behavioral Health Home interdisciplinary team that works closely with hospital staff to assess the suitability of transition plans for consumers enrolled in a Behavioral Health Home. Hospital Liaisons will also work with other long term, residential facilities to plan for coordination of care during and after the consumer's residential stay. Hospital liaisons must be certified by ODMHSAS as a Behavioral Health Case Manager I or II and complete trainings as required by ODMHSAS.

"Individual Treatment Team" or **"ITT"** means the primary case manager and a minimum of two other clinical staff on the PACT team who are responsible to keep the consumer's treatment coordinated, monitor their services, coordinate staff activities and provide information and feedback to the whole team.

"Licensed Behavioral Health Professional" or **"LBHP"** means: 1) Allopathic or Osteopathic Physicians with a current license and board certification in psychiatry or board eligible in the state in which services are provided, or a current resident in psychiatry. 2) Practitioners with a license to practice in the state in which services are provided ~~or those actively and regularly receiving board approved supervision, and extended supervision by a fully licensed clinician if board's supervision requirement is met but the individual is not yet licensed, to become licensed~~ by one of the following licensing boards: (A) Psychology; (B) Social Work (clinical specialty only); (C) Professional counselor; (D) Marriage and Family Therapist; (E) Behavioral Practitioner; or (F) Alcohol and Drug Counselor. 3) Advanced Practice Nurse (certified in a psychiatric mental health specialty), licensed as a registered nurse with a current certification of recognition from the board of nursing in the state in which services are provided. 4) A Physician Assistant who is licensed in good standing in the state and has received specific training for and is experienced in performing mental health therapeutic, diagnostic, or counseling functions.

"Licensed mental health professional" or **"LMHP"** as defined in Title 43A §1-103 (11).

"Licensure candidate" means practitioners actively and regularly receiving board approved supervision, and extended supervision by a fully licensed clinician if board's supervision requirement is met but the individual is not yet licensed, to become licensed by one of the following licensing boards:

(A) Psychology;
(B) Social Work (clinical specialty only);
(C) Professional Counselor;
(D) Marriage and Family Therapist;
(E) Behavioral Practitioner; or
(F) Alcohol and Drug Counselor.

"Linkage services" means the communication and coordination with other service providers pursuant to a valid release that assure timely appropriate referrals between the PACT program and other providers.

"Longitudinal Face Sheet" means a process that is used to track a PACT consumer's specific demographic, personal contact, treatment history and other relevant information from the time of admission until discharge.

"Licensed Practical Nurse" or **"LPN"** means an individual who is currently licensed by the Oklahoma Board of Nursing to provide a directed scope of nursing practice.

"Medically necessary" means health care services or supplies needed to prevent, diagnose or treat an illness, injury, condition, disease or its symptoms and that meet accepted standards of medicine.

"Nurse Care manager" means a Licensed Practical Nurse (LPN) or a Registered Nurse (RN).

"ODMHSAS" means the Oklahoma Department of Mental Health and Substance Abuse Services.

"Oklahoma Administrative Code" or **"OAC"** means the publication authorized by 75 O.S. § 256 known as The Oklahoma Administrative Code, or, prior to its publication, the compilation of codified rules authorized by 75 O.S. § 256(A)(1)(a) and maintained in the Office of Administrative Rules.

"Performance Improvement" or **"PI"** means an approach to the continuous study and improvement of the processes of providing health care services to meet the needs of

consumers and others. Synonyms, and near synonyms include continuous performance improvement, continuous improvement, organization-wide performance improvement and total quality management.

"Persons with special needs" means any person with a condition which is considered a disability or impairment under the "American with Disabilities Act of 1990" including, but not limited to the deaf and hearing impaired, visually impaired, physically disabled, developmentally disabled, persons with disabling illness, persons with mental illness. See "Americans with Disabilities Handbook," published by U.S. Equal Employment Opportunity Commission and U.S. Department of Justice.

"PICIS" is a comprehensive management information system based on national standards for mental health and substance abuse databases. It is a repository of diverse data elements that provide information about organizational concepts, staffing patterns, consumer profiles, program or treatment focus, and many other topics of interest to clinicians, administrators and consumers. It includes unique identifiers for agencies, staff and consumers that provide the ability to monitor the course of consumer services throughout the statewide DMHSAS network. PICIS collects data from hospitals, community mental health centers, substance abuse agencies, domestic violence service providers, residential care facilities, prevention programs, and centers for the homeless which are operated or funded in part by DMHSAS.

"Primary Care Practitioner (PCP)" means a licensed physician, Advanced Practice Registered Nurse (APRN), or Physician Assistant (PA) licensed in the State of Oklahoma.

"Primary Case Manager" is a certified behavioral health case manager assigned by the team leader to coordinate and monitor activities of the ITT, has primary responsibility to write the treatment plan and make revisions to the treatment plan and weekly schedules.

"Program Assistant" is a member of the PACT team providing duties supportive of the Team and may include organizing, coordinating, and monitoring non-clinical operations of the PACT, providing receptionist activities and coordinating communication between the team and consumers.

"Program of Assertive Community Treatment" or **"PACT"** means a clinical program that provides continuous treatment, rehabilitation and support services to persons with mental illness in settings that are natural to the consumer.

"Progress notes" mean a chronological description of services provided to a consumer, the consumer's progress, or lack of, and documentation of the consumer's response related to the intervention plan.

"Recovery Support Specialist" is a member of the PACT team who is or has been a recipient of mental health services for a serious mental illness and is willing to use and share his or her personal, practical experience, knowledge, and first-hand insight to benefit the team and consumers.

"Risk Assessment" means a clinical function that aims to determine the nature and severity of the mental health problem, determine which service response would best meet the needs of the consumer, and how urgently the response is required.

"Service Intensity" means the frequency and quantity of services needed, the extent to which multiple providers or agencies are involved, and the level of care coordination required.

"SoonerCare" means Oklahoma's Medicaid program.

"Team Leader" is the clinical and administrative supervisor of the PACT team who also functions as a practicing clinician. The team leader is responsible for monitoring each consumer's clinical status and response to treatment as well as supervising all staff and their duties as specified by their job descriptions.

"Trauma informed" means the capacity for a facility and all its programs to recognize and respond accordingly to the presence of the effects of past and current traumatic experiences in the lives of its consumers.

SUBCHAPTER 3. PROGRAM DESCRIPTION AND PACT SERVICES

450:55-3-7. Staffing requirements

(a) The PACT team shall include individuals qualified to provide the required services while closely adhering to job descriptions as defined in the "PACT Start-up Manual, most recent edition as published by the National Alliance for the Mentally Ill."

(b) Each PACT team shall have the following minimum staffing configuration:

(1) One (1) full-time team leader who is the clinical and administrative supervisor of the team and also functions as a practicing clinician in the PACT team. The team leader shall be a Licensed Behavioral Health Professional or licensure candidate.

(2) A Board Certified or Board Eligible psychiatrist providing a minimum of 16 hours per week of direct care to minimally include: initial and psychiatric assessments, daily organizational staff meetings, treatment planning, home visits, pharmacological management, collaboration with nurses, crisis intervention, and liaison with inpatient facilities. In the initial build-up phase, a minimum of 8 hours per week shall be provided until the team is serving ten or more clients. For teams serving over 50 consumers, the Psychiatrist shall provide an additional three (3) hours per week for every fifteen (15) additional consumers admitted to the program. On-call time is not included; or An Advanced Practice Nurse (APN) currently certified in a psychiatric mental health specialty with current certification of recognition of prescriptive authority issued by the Oklahoma Board of Nursing, and who practices under the supervision of a licensed psychiatrist may perform the duties of the psychiatrist as allowed by State Law. The APN must provide a minimum of 16 hours per week of direct care to minimally include: initial and psychiatric assessments, daily organizational staff meetings, treatment planning, home visits, pharmacological management, collaboration with nurses, crisis intervention, and liaison with inpatient facilities. In the initial build-up phase, a minimum of 8 hours per week shall be provided until the

team is serving ten or more clients. For teams serving over 50 consumers, the APN shall provide an additional three (3) hours per week for every fifteen (15) additional consumers admitted to the program. On-call time is not included.

(3) At least two (2) full-time licensed practical nurses or registered nurses. Each nurse shall have at least one (1) year of mental health experience or work a total of forty (40) hours at a psychiatric medication clinic within the first three (3) months of employment.

(4) At least one (1) full-time Licensed Behavioral Health Professional or licensure candidate.

(5) At least two (2) full-time certified behavioral health case managers.

(6) At least one (1) staff member on the team, excluding the psychiatrist or APN, team leader and program assistant shall be qualified as a substance abuse treatment specialist, and at least one (1) staff member on the team, excluding the psychiatrist or APN, team leader and program assistant, shall be qualified as an employment specialist.

(7) A minimum of one (1) full-time or two (2) half-time (0.5 FTE) Recovery Support Specialist(s) or Credentialed Recovery Support Specialist(s). The Recovery Support Specialist(s) is/are to complete all qualifications to become a Credentialed Recovery Support Specialist within one (1) year of employment to the PACT team.

(8) A minimum of one (1) program assistant.

(c) Teams serving greater than 65 consumers shall include the following additional staff:

(1) A full-time assistant team leader who is the back-up clinical and administrative supervisor of the team and also functions as a practicing clinician in the PACT team.

(2) One (1) additional full-time nurse.

(3) One (1) additional full-time Licensed Behavioral Health Professional, licensure candidate or Case Manager II.

(4) One (1) additional full-time certified behavioral health case manager, when serving greater than 85 consumers on the team.

(d) The PACT program shall have policies and procedures addressing the use of students, medical residents, osteopathic residents, psychiatric residents and volunteers on the team.

(1) Psychiatric residents shall not replace the clinical work of the PACT psychiatrist or APN such as on-call coverage, pharmacological management, treatment planning or crisis intervention.

(2) The hours a psychiatric resident works on a PACT team shall not be counted towards the standard hours of the PACT psychiatrist or APN.

(e) Compliance with 450:55-3-6 shall be determined by on-site observation; and a review of the following: clinical records; PICIS information; and the PACT policy and procedures.

SUBCHAPTER 25. BEHAVIORAL HEALTH HOME

450:55-25-1. Program description and purpose

(a) The purpose of this Subchapter is to set forth, in addition to all other applicable rules, rules regulating program requirements, activities, and services for PACT Programs who opt to deliver services through a Behavioral Health Home model.

(b) The purpose of BHHs within the mental health delivery array is to promote enhanced integration and coordination of primary, acute, behavioral health, and long-term services and supports for persons across the lifespan with chronic illness, including adults with serious mental illness (SMI). Care must be delivered using an integrated team comprehensively address physical, mental health, and substance use disorder treatment needs.

(c) The BHH must maintain facility polices and program descriptions that clearly describe that the purpose of the BHH is to improve the health status of individuals with Serious Mental Illness by integrating behavioral and primary health care and promoting wellness and prevention.

(d) The BHH must provide program descriptions and demonstrate evidence that the following functions are implemented.

(1) Quality-driven, cost-effective, culturally appropriate, and person- and family-centered health home services;

(2) Coordinated access to:

(A) High-quality health care services informed by evidence-based clinical practice guidelines;

(B) Preventive and health promotion services, including prevention of mental illness and substance use disorders;

(C) Mental health and substance abuse services;

(D) Comprehensive care management, care coordination, and transitional care across settings. Transitional care includes appropriate follow-up from inpatient to other settings, such as participation in discharge planning and facilitating transfer from a pediatric to an adult system of health care;

(E) Chronic disease management, including self-management support to individuals and their families;

(F) Individual and family supports, including referral to community, social support, and recovery services; and,

(G) Long-term care supports and services;

(3) Person-centered care plans for each individual that coordinates and integrates all of his or her clinical and non-clinical health-care related needs and services;

(4) Proper and continuous use of health information technology to link services, facilitate communication among team members and between the health team and individual and family caregivers, and provide feedback to practices, as feasible and appropriate; and

(5) A quality improvement program, which collects and reports on data that permits an evaluation of increased coordination of care and chronic disease management on individual-level clinical outcomes, experience of care outcomes, and quality of care outcomes at the population level.

(e) Compliance with this Section will be determined by on-site observation, review of organizational documents, program descriptions, outcome monitoring and other performance improvement activity reports, and clinical records.

450:55-25-2. Target population

(a) The PACT BHH must be established to serve only adults with serious mental illness (SMI).

(b) Organizational documents must clearly describe the target population(s) to be served by the BHH.

(c) Target population descriptions should not be interpreted as to limit access to individuals based on funding sources, including not limiting access to those who are uninsured but otherwise meet the target population criteria. Although not required, BHHs are encouraged to identify funding in order to provide BHH services to individuals who meet the target population criteria but do not have Medicaid.

(d) Compliance with this Section will be determined by on-site observation, review of organizational documents, program descriptions, outcome monitoring and other performance improvement activity reports, and clinical records.

450:55-25-3. Outreach and engagement

(a) The BHH must have policies and procedures to describe how outreach and engagement activities will occur to identify individuals within the target population(s) who could benefit from BHH services.

(b) The BHH must have memoranda of agreements to arrange for outreach and engage in settings outlined further in these rules in Section 450:55-25-20.

(c) Facility records will identify which staff members are responsible for specific elements of outreach and engagement.

(d) Compliance with this Section will be determined by on-site observation, review of organizational documents, program descriptions, outcome monitoring and other performance improvement activity reports, and clinical records.

450:55-25-4. Structure of Behavioral Health Home and administrative staff

(a) The BHH policies must describe how it is organized within one of the following structures:

(1) In-house model where the behavioral health agency is directly providing primary care performed by a qualified employee, or purchasing through a contract; or

(2) Co-located partnership model where the behavioral health agency arranges for primary care services to be provided onsite, establishing written agreements with external primary care providers; or

(3) Facilitated referral model, where most primary care services are not provided onsite at the facility; however, the facility has processes in place to ensure the coordination of care that is provided offsite.

(b) In the event the BHH does not directly provide the full array of required services, there must be organizational procedures and clinical records to document that the BHH has otherwise ensured the services are coordinated on behalf of each consumer.

(c) The facility operating the BHH will have policies and program descriptions to define how the BHH will operate a team dedicated to provide the range of specific services articulated elsewhere in this Subchapter.

(d) The facility shall verify the health home director for adults meets or exceeds the following qualifications:

(1) Possess a Bachelor's degree from an accredited university and have at least two years' experience in health administration;

(2) Possess a Master's degree from an accredited university in a health or social services related field;

(3) Be licensed as a Registered Nurse with the Oklahoma Board of Nursing; or

(4) Be licensed as a Physician or be licensed as a Nurse Practitioner.

(e) The BHH will adhere to the following ratios in terms of the full time equivalent (FTE) for the health home director.

(1) The BHH shall maintain a health home director at a ratio of 1 FTE per 500 BHH participants. BHHs with less than 500 participants shall maintain a health home director at a minimum of .5 FTE.

(2) A health home requiring a health home director and health home nurse care manager of .5 FTE each may employ 1 FTE individual to serve in both roles, provided that individual meets the requirements for both positions.

(3) A health home requiring more than .5 FTE health home director, may choose to designate a lead health home director and fulfill the additional FTE requirement with key management staff who meet the requirements of (1) or (1) above.

(f) Compliance with this Section will be determined by on-site observation, review of organizational documents, signed agreements, personnel records, job descriptions, outcome monitoring and other performance improvement activity reports, and clinical records.

450:55-25-5. Treatment team; general requirements

(a) The BHH must designate an interdisciplinary treatment team that is responsible, with each consumer's input and guidance, to direct, coordinate, and manage the care and services to be provided or arranged for by the BHH.

(b) The interdisciplinary team must, based on the comprehensive assessment, identify for each consumer a specific licensed behavioral health professional (LBHP) on the interdisciplinary treatment team to lead the process of the initial comprehensive assessment and plan and to provide therapy services if indicated on the integrated plan. This will ensure that each consumer's needs are assessed, and that the active treatment plan is implemented as indicated.

(c) Compliance with this Section will be determined by on-site observation, review of organizational documents, signed agreements, activity reports, and clinical records.

450:55-25-6. Treatment team composition

(a) Each BHH team serving adults shall include, the following positions, unless otherwise arranged as permitted in (b) below:

(1) Health Home Director;
(2) Nurse Care Manager;
(3) Consulting Primary Care Physician, Advanced Practice Registered Nurse; or Physician Assistant;
(4) Licensed Psychiatric Consultant;
(5) License Behavioral Health Professional;
(6) Certified Behavioral Health Case Manager I or II;
(7) Hospital Liaison/Health Home Specialist; and
(8) Wellness Coach/Certified Peer Support Specialist.

(b) Variations from the above staff pattern on a continuous basis, must be approved in advanced by the ODMHSAS Commissioner or a designee.

(c) If the health team experiences difficulty in recruiting staff to fill any of the above positions, a recruitment and contingency plan to maintain essential services, will be submitted to the ODMHSAS Director of Provider Certification for approval.

(d) The facility must have written policies and procedures defining the program's plan for staff-to-consumer ratio for each adult BHH team and a plan for how exceptions will be handled.

(e) Staffing ratios must be regularly monitored and evaluated within the facilities performance improvement activities.

(f) Compliance with this Section will be determined by on-site observation, review of organizational documents, personnel records, staffing schedules, and clinical records.

450:55-25-7. Required services

(a) The BHH must have policies and clear descriptions to delineate each specific service provided by the BHH.

(b) The BHH must provide the following services within the framework described in 450:27-9-1:
(1) Comprehensive Care Management;
(2) Care Coordination;
(3) Health Promotion;
(4) Comprehensive Transitional Care;
(5) Individual and Family Support services; and
(6) Referral to Community and Social Support Services.

(c) Program descriptions, personnel and privileging records, and other organizational documents will specify which staff members are qualified to provide each BHH service.

(d) Compliance with this Section will be determined by on-site observation, review of organizational documents, program descriptions, outcome monitoring and other performance improvement activity reports, and clinical records.

450:55-25-8. Access to specialists

(a) The facility must have procedures and agreements in place to facilitate referral for other medical services needed beyond the scope of the BHH.

(b) Referral documents and releases of information shall comply with applicable privacy and consumer consent requirements.

(c) Clinical documentation will track referrals to and use of specialists.

(d) Compliance with this Section will be determined by on-site observation, review of organizational documents, signed agreements, outcome monitoring and other performance improvement activity reports, and clinical records.

450:55-25-9. Admission

(a) The facility must determine the extent to which each consumer's needs and preferences can be adequately addressed within the array of required BHH services.

(b) An integrated screening approach in accordance with 450:55-25-11 will be used to determine clinical eligibility for BHH services.

(c) Facility policies and procedures must assure that adults who meet the criteria for a SMI are eligible for BHH services. This includes individuals receiving Targeted Case Management (TCM). It will also include additional individuals who are not currently receiving care coordination.

(d) The facility must obtain informed consent specific to enrollment in the BHH.
(1) The consent must be specific to the extent that it permits the BHH team members to share information relevant to the delivery of BHH services.
(2) The process for obtaining consent must educate the consumer of their right to choose among qualified BHHs or to opt out of the BHH service.

(e) Compliance with this Section will be determined by on-site observation, review of organizational documents, program descriptions, outcome monitoring and other performance improvement activity reports, and clinical records.

450:55-25-10. Integrated screening, intake, and assessment services

(a) BHH policy and procedure shall require that a screening of each potential BHH consumer's service needs is completed in a timely manner. An integrated screening should be welcoming and culturally appropriate, as well as maximize recognition of the prevalence of co-occurring disorders among those who typically present for services.

(b) Upon determination of appropriate admission, consumer intake, and assessment information shall include, but not be limited to, the following:
(1) Behavioral, including substance use, abuse, and dependence;
(2) Emotional, including issues related to past or current trauma;
(3) Physical;
(4) Social and recreational; and
(5) Vocational.

(c) The consumer and family as appropriate shall be an active participant(s) in the screening, intake and assessment process.

(d) The facility shall have policy and procedures specific to each program service which dictate timeframes by when assessments must be completed and documented. In the event the consumer is not admitted and as a result the assessment is not included in the clinical record, the policy shall specify how screening and assessment information is maintained and stored.

(e) Compliance with this Section will be determined by a review of clinical records, and policy and procedures.

450:55-25-11. Initial assessment

(a) A Licensed Behavioral Health Professional (LBHP), acting within his or her state scope of practice requirements, must complete the initial assessment for health home services in accordance with the standard in OAC 450:55-5-4 for consumers who have not been assessed by the facility within the past 6 months.

(b) The initial assessment must include at a minimum, the following:

(1) The admitting diagnosis as well as other diagnoses;

(2) The source of referral;

(3) The reason for admission as well as stated by the client or other individuals who are significantly involved; and

(4) A list of current prescriptions and over-the counter medications as well as other substances the client may be taking.

(c) Compliance with this Section will be determined by on-site observation, review of organizational documents, program descriptions, outcome monitoring and other performance improvement activity reports, and clinical records.

450:55-25-12. Comprehensive assessment

(a) A comprehensive assessment must be completed by the interdisciplinary team performing within each team member's scope of practice consistent with each consumer's immediate needs and include a written narrative in each of the following areas:

(1) Psychiatric and substance abuse history, mental status, and a current DSM diagnosis;

(2) Medical, dental, and other health needs;

(3) Education and/or employment;

(4) Social development and functioning;

(5) Activities of daily living; and

(6) Family structure and relationships.

(b) The comprehensive assessment must be regularly updated, and no less than every six (6) months.

(c) Compliance with this Section will be determined by on-site observation, review of organizational documents, program descriptions, outcome monitoring and other performance improvement activity reports, and clinical records.

450:55-25-13. Integrated care plan

(a) The BHH team must develop a consumer directed, integrated active care plan for each enrolled consumer that reflects input of the team, (including the involvement of the consulting primary care physician or APRN in managing the medical component of the plan), and others the consumer chooses to involve.

(b) The plan shall clearly address physical and behavioral health goals, consumer preferences, and the overall all health and wellness needs of the consumer.

(c) The plan must be documented and complete within thirty (30) working days of admission to the BHH.

(d) The BHH must provide for each consumer and primary caregiver(s), as applicable, education and training consistent with the consumer and caregiver responsibilities as identified in the active treatment plan and relative to their participation in implementing the plan of care.

(e) Compliance with this Section will be determined by on-site observation, review of organizational documents, personnel records, staffing schedules, and clinical records.

450:55-25-14. Integrated care plan; content

(a) The integrated care plan must address all services necessary to assist the client in meeting his or her physical and behavioral health goals, and include the following:

(1) Consumer diagnoses, relative to behavioral and physical health conditions assessed by and addressed by behavioral heath home in terms of direct services provided and/or conditions for which individual is referred elsewhere for treatment.

(2) Treatment goals, including preventive/primary care services;

(3) Interventions, including follow up with necessary medical providers;

(4) A detailed statement of the type, duration, and frequency of services, including primary medical and specialty care, social work, psychiatric nursing, counseling, and therapy services, necessary to meet the consumer's specific needs;

(5) Medications, treatments, and individual and/or group therapies;

(6) As applicable, family psychotherapy with the primary focus on treatment of the consumer's conditions; and

(7) The interdisciplinary treatment team's documentation of the consumer's or representative's and/or primary caregiver's (if any) understanding, involvement, and agreement with the care plan.

(b) Compliance with this Section will be determined by on-site review of clinical records and supported documentation.

450:55-25-15. Review of plan

(a) The BHH will review, revise, and document the individualized integrated care plan as frequently as the consumer's conditions require, but no less frequently than every six (6) months.

(b) A revised active plan must include information from the consumer's initial evaluation and comprehensive assessments and updates, the progress toward goals specified in the written care plan, and changes, as applicable, in goals.

(c) Compliance with this Section will be determined by outcome monitoring, performance improvement activity reports.

450:55-25-16. Behavioral Health Home medication monitoring

(a) When medication services are provided as a component of the BHH services, medication administration, storage and control, and consumer reactions shall be regularly monitored.

(b) Facilities shall assure proper storage and control of medications, immediate response if incorrect or overdoses occur, and have appropriate emergency supplies available if needed.

(1) Written procedures for medication administration shall be available and accessible in all medication storage areas, and available to all staff authorized to administer medications.

(2) All medications shall be kept in locked, non-consumer accessible areas. Conditions which shall be considered in medication storage are light, moisture, sanitation, temperature, ventilation, and the segregation and safe storage of poisons, external medications, and internal medications.

(3) Telephone numbers of the state poison centers shall be immediately available in all locations where medications are prescribed, administered, and stored.

(c) Compliance with this Section will be determined by on-site observation and a review of the following: written policy and procedures, clinical records, and PI records.

450:55-25-17. Behavioral Health Home pharmacy services

(a) When medication services are provided as a component of the BHH services, the facility shall make available access to pharmacy services to meet consumers' pharmacological needs that are addressed by the BHH physicians and other BHH licensed prescribers. Provision of services may be made through agreement with another program through a pharmacy in the community, or through their own Oklahoma licensed pharmacy.

(b) Compliance with this Section may be determined by a review of the following: Clinical records; written agreements for pharmacy services; on-site observation of in-house pharmacy; and State of Oklahoma pharmacy license.

450:55-25-18. Health promotion and wellness; consumer self-management

(a) The BHH must assist members to participate in the implementation of their comprehensive care plan.

(b) This must include, but not be limited to providing health education specific to a member's chronic conditions; development of self-management plans with the individual; support to improve social networks; and providing health-promoting lifestyle interventions. Health promoting lifestyle interventions include, but are not limited to substance use prevention, smoking prevention and cessation, nutritional counseling, obesity reduction and increasing physical activity; and assisting to understand and self-manage chronic health conditions.

(c) Compliance with this Section will be determined by review of organizational documents, program descriptions, outcome monitoring and other performance improvement activity reports, and clinical records.

450:55-25-19. Discharge or transfer from Behavioral Health Home

(a) The BHH shall, on behalf of any consumer that transfers to another facility, forward the following within fifteen (15) days as permitted by privacy and confidentiality and if requested:

(1) The BHH discharge summary; and

(2) The consumer's clinical record.

(b) For consumers who initiate BHH service and later decline those services, or are discharged from a BHH based on non-adherence to care plans, the BHH must forward to the primary health care provider of record, if any, and if requested by the consumer:

(1) The BHH discharge summary; and

(2) The consumer's clinical record.

(c) As applicable to (a) and/or (b) above, the BHH discharge summary shall include the following:

(1) A summary of the services provided, including the consumer's symptoms, treatment and recovery goals and preferences, treatments, and therapies.

(2) The client's current active treatment plan at time of discharge.

(3) The client's most recent physician orders.

(4) Any other documentation that will assist in post-discharge continuity of care.

(d) A completed discharge summary shall be entered in each consumer's record within fifteen (15) days of the consumer completing or discontinuing services.

(e) Compliance with this Section will be determined by on-site observation, review of organizational documents, program descriptions, outcome monitoring and other performance improvement activity reports, and clinical records.

450:55-25-20. Linkage and transitional care

(a) The BHH must have procedures and agreements in place to facilitate referral for other medical services needed by consumers beyond the scope of the BHH, as well as to assist the consumer to obtain services that are needed following discharge from the BHH.

(b) The BHH will also document referrals to community and social support services to facilitate access to formal and informal resources beyond the scope of services covered by SoonerCare, such as those which may be available from other parents, family members, community-based organizations, service providers, grants, social programs, funding options, school-based services, faith based organizations, etc.

(c) The BHH will develop contracts or memoranda of understandings (MOUs) with regional hospital(s), Psychiatric Residential Treatment Facilities (PRTF) or other system(s) to ensure a formalized structure for transitional care planning, to include communication of inpatient admissions and discharges of BHH participants.

(1) Transitional care will be provided by the BHH for existing BHH consumers who have been hospitalized or placed in other non-community settings, such as psychiatric residential treatment facilities, as well as to newly identified, potential BHH consumers who are entering the community.

(2) The BHH team will collaborate with all parties involved including the facility, primary care physician, and community providers to ensure a smooth discharge

and transition into the community and prevent subsequent re-admission(s).

(3) Transitional care is not limited to institutional transitions, but applies to all transitions that will occur throughout the development of the enrollee and includes transition from and to school-based services and pediatric services to adult services.

(4) The BHH will document transitional care provided in the clinical records.

(d) Compliance with this Section will be determined by on-site observation, review of organizational documents, contracts, MOUs, and clinical records.

450:55-25-21. Consumer (patient care) registries and population health management

(a) The BHH must implement clinical decision support mechanisms, including but not limited to point-of-care reminders, following nationally published evidence-based guidelines for:

(1) A mental health or substance use disorder;

(2) A chronic medical condition;

(3) An acute condition;

(4) A condition related to unhealthy behaviors; and

(5) Well care.

(b) BHH must have descriptions of programs in place to demonstrate how it encourages healthier lifestyles for BHH members, including increased physical activity, better nutrition, avoidance of behavioral risks, and wider use of preventive care.

(c) The BHH shall electronically submit data to a health home information management system, subject to prior approval by the Director of ODMHSAS Provider Certification, which will act as a consumer registry, care management device and outcomes measurement tool.

(d) The BHH shall utilize information provided through the approved information system for the purpose of enrollment and discharge tracking, compliance, quality assurance, and outcome monitoring.

(e) Compliance will be determined by on-site observation, review of information available through an approved information system, and consultation with the ODMHSAS Decision Support Services and ODMHSAS Information Services Division.

450:55-25-22. Electronic health records and data sharing

(a) BHH shall have a functioning electronic health record (EHR) system that meets Meaningful Use standards, as defined in the Medicare and Medicaid Incentive Programs, or have a facility approved written plan with timeframes to obtain one.

(b) The BHH shall document a plan to work with health information organizations to share referrals, continuity of care documents, lab results, and other health information and develop partnerships that maximize the use of Health Information Technology (HIT) across all treating providers.

(c) Compliance with (a) will be determined by review of documentation that certifies the electronic health record meets Meaningful Use standards or documentation of plan to obtain one with implementation timeline.

(d) Compliance with (b) will be determined by on-site observation, review of information available through an approved information system documenting that BHH consumers' records have been accessed and shared through a Health Information Exchange (HIE), and consultation with the ODMHSAS Decision Support Services and ODMHSAS Information Services Division.

450:55-25-23. Performance measurement and quality improvement

(a) There shall be an ongoing performance improvement program designed to objectively and systematically monitor, evaluate and improve the quality of consumer care related to BHH operations.

(b) The BHH performance improvement activities must:

(1) Focus on high risk, high volume, or problem-prone areas.

(2) Consider incidence, prevalence, and severity of problems.

(3) Give priority to improvements that affect behavioral outcomes, client safety, and person-centered quality of care.

(c) Performance improvement activities must also track adverse client events, analyze their causes, and implement preventive actions and mechanisms.

(d) The program must use quality indicator data, including client care, and other relevant data in the design of its program.

(e) The BHH must use the data collected to monitor the effectiveness and safety of services and quality of care and identify opportunities and priorities for improvement.

(f) The functions and processes outlined in (a) through (e) shall be evidence in an annual written plan for performance improvement activities. The plan shall include but not be limited to:

(1) Outcomes management processes which include measures required by CMS and the State and may also include measures from the SAMHSA National Outcomes Measures, NCQA, and HEDIS as required to document improvement in population health.

(2) Quarterly record review to minimally assess:

(A) Quality of services delivered;

(B) Appropriateness of services;

(C) Patterns of service utilization;

(D) Treatment goals and objectives based on assessment findings and consumer input;

(E) Services provided which were related to the goals and objectives;

(F) Patterns of access to and utilization of specialty care; and

(G) The care plan is reviewed and updated as prescribed by policy.

(3) Review of critical incident reports and consumer grievances or complaints.

(g) Compliance with this Section will be determined by a review of the written program evaluation plan, program goals and objectives and other supporting documentation provided.

[OAR Docket #15-606; filed 6-18-15]

TITLE 450. DEPARTMENT OF MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES
CHAPTER 65. STANDARDS AND CRITERIA FOR GAMBLING TREATMENT PROGRAMS

[OAR Docket #15-607]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 1. General Provisions
450:65-1-2 [AMENDED]
Subchapter 3. Gambling Treatment Services and Documentation
450:65-3-3 [AMENDED]
AUTHORITY:
Oklahoma Department of Mental Health and Substance Abuse Services Board; 43A O.S. §§ 2-108 and 2-109.
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
January 8, 2015
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Approved by Governor's declaration on June 8, 2015
FINAL ADOPTION:
June 8, 2015
EFFECTIVE:
September 15, 2015
SUPERSEDED EMERGENCY ACTIONS:
N/A
INCORPORATIONS BY REFERENCE:
N/A
ANALYSIS:
In accordance with the Administrative Procedures Act the proposed rule revisions to Chapter 65 are part of the Department's review of Title 450. The proposed rules clarify existing rules and are intended to comply with statutory changes.

Proposed revisions to Chapter 65 are made to update the definition of Gambling Treatment Professional in order to be consistent with national standards. Revisions are also proposed in order to give providers more flexibility in creating the biopsychsocial assessment for consumers admitted to gambling addiction treatment programs.
CONTACT PERSON:
Gretchen Geis, Administrative Rules Liaison, Department of Mental Health and Substance Abuse Services, Post Office Box 53277, Oklahoma City, Oklahoma 73152-3277, (405) 522-2053.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3 (5) AND 308 (E), WITH AN EFFECTIVE DATE OF SEPTEMBER 15, 2015:

SUBCHAPTER 1. GENERAL PROVISIONS

450:65-1-2. Definitions

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

"Admission" means the acceptance of a consumer by a treatment program.

"Admission criteria" means those criteria which shall be met for admission of a consumer to gambling treatment.

"Assessment" means those procedures by which a gambling treatment program provides an on-going evaluation process with the consumer to collect his or her historical information, and identify strengths, needs, abilities, and preferences in order to determine a plan for recovery.

"Case management" means actions such as planned linkage, advocacy and referral assistance provided in partnership with a consumer to support that consumer in self sufficiency and community tenure and may occur in the consumer's home, in the community, or in the facility.

"Certified Gambling Addiction Treatment" or **"CGAT"** means programs certified by ODMHSAS to provide treatment to individuals diagnosed with a problem gambling disorder.

"Clinical supervision" means an organized process by which knowledgeable and skilled supervisors systematically and routinely provide ongoing and in-depth review of direct service providers' performance which leads to professional growth, clinical skills development and increased self-awareness.

"Community education, consultation and outreach" means services designed to reach the facility's target population, to promote available services, and to give information on problem gambling and other related issues to the general public, the target population or to other agencies serving the target population. These services include presentations to human services agencies, community organizations and individuals, other than individuals in treatment, and staff. These services may take the form of lecture presentations, films or other visual displays, and discussions in which factual information is disseminated. These presentations may be made by staff or trained volunteers.

"Consumer" means an individual, adult or adolescent, who is receiving evaluation or treatment services from a facility operated or certified by ODMHSAS or with which ODMHSAS contracts and includes all persons referred to in OAC Title 450 Chapters 16, 17, 18, 19, 23, and 65 as client(s) or patient(s) or resident(s) or a combination thereof.

"Consumer record" means the collection of written information about a consumer's evaluation or treatment that includes the intake data, evaluation, treatment or service plan, description of treatment or services provided, continuing care plan, and discharge information on an individual consumer.

"Continuing care" means providing a specific period of structured therapeutic involvement designed to enhance, facilitate and promote transition from primary treatment services to ongoing recovery.

"Contact" means any encounter with a consumer who is inquiring about or seeking services.

"Contract" means a document adopted by the governing authority of an approved treatment facility and any other organization, facility, or individual, which specifies services, personnel, or space to be provided by the program as well as the monies to be expended in exchange.

"Crisis intervention" means an immediately available service to meet the psychological, physiological and safety aspects of mental health, problem gambling, and substance abuse related crisis. These unscheduled face-to-face interventions are in response to emergencies to resolve acute emotional and physical dysfunction, secure appropriate placement in the least restrictive setting, provide crisis resolution, and stabilize functioning.

"Critical incident" means an occurrence or set of events inconsistent with the routine operation of a treatment facility, or the routine care of a consumer. Critical incidents specifically include but are not necessarily limited to the following: adverse drug events; self-destructive behavior; deaths and injuries to consumers, staff and visitors; medication errors; residential consumers that are absent without leave (AWOL); neglect or abuse of a consumer; fire; unauthorized disclosure of information; damage to or theft of property belonging to a consumer or a treatment facility; other unexpected occurrences or events potentially subject to litigation. A critical incident may involve multiple individuals or results.

"Cultural competency" means the ability to recognize, respect, and address the unique needs, worth, thoughts, communication, actions, customs, beliefs and values that reflect an individual's racial, ethnic, religious, sexual orientation, and/or social group.

"Department" or **"ODMHSAS"** means the Oklahoma Department of Mental Health and Substance Abuse Services.

"Diagnosis" means the determination of a disorder as defined by current DSM criteria.

"Discharge criteria" means general guidelines to inform the judgment of the gambling treatment professional which shall be considered in order for the consumer to be appropriately discharged from a treatment program.

"Discharge planning" means the process, begun at admission, of determining a consumer's continued need for treatment services and of developing a plan to address ongoing consumer post-treatment and recovery needs.

"Discharge summary" means a clinical document in the gambling treatment record summarizing the consumer's progress during treatment, with goals reached, continuing needs, and other pertinent information including documentation of linkage to community services.

"Documentation" means the provision of written, dated, and authenticated evidence to substantiate compliance with CGAT standards, e.g., minutes of meetings, memoranda, schedules, notices, logs, treatment records, policies, procedures, and announcements.

"DSM" means the most current edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association.

"Education" means the dissemination of relevant information specifically focused on increasing the awareness of the community and the receptivity and sensitivity of the community concerning gambling issues and services. A systematic presentation of selected information to impart knowledge or instructions, to increase understanding of specific issues or programs, and to examine attitudes or behaviors which may stimulate social action or community support of the program and the consumers.

"Educational group" means groups in which information focuses on topics that impact a consumer's recovery from problem and pathological gambling. Topics should be gender and age specific and should include, but not be limited to, information regarding their diagnosis or identified problems on their treatment plan. This service may involve teaching skills in communication, relapse prevention, self-care, and social skills to promote recovery. Paraprofessionals and/or professionals in fields related to the education topic may facilitate educational groups.

"Family" means the parents, brothers, sisters, other relatives, foster parents, guardians, and others who perform the roles and functions of family members in the lives of consumers.

"Follow-up" means the organized method of systematically determining the status of consumers after they have been discharged to determine post-treatment outcomes and utilization of post-treatment referrals.

"Gambling treatment services" means treatment activities for consumers by a gambling treatment professional that include, but are not limited to, the following:

(A) Assessment and diagnostic impression, ongoing;

(B) Treatment planning and revision, as necessary;

(C) Individual, group and family therapy;

(D) Case management;

(E) Discharge planning.

"Gambling treatment professional" means:

(A) an individual holding a valid NCGC I or II certification;

(B) any clinician licensed in a behavioral health field with documented completion of at least thirty (30) hours of ODMHSAS recognized core problem gambling training requirements and documented completion of ~~twelve (12)~~ten (10) hours of problem gambling specific continuing education every twelve (12) months; or

(C) any individual under supervision for licensure by an individual who meets the requirements of (A) or (B), and has documented completion of at least thirty hours of ODMHSAS recognized core problem gambling training requirements and documented completion of ~~twelve (12)~~ten (10) hours of problem gambling specific continuing education every twelve (12) months.

"Gambling related disorders/problems" means gambling related issues or problems which impact the normal functioning of an individual.

"Goals" means broad general statements of purpose or intent that indicate the general effect the facility or service is intended to have.

"Governing authority" means the individual or group of people who serve as the treatment facility's board of directors and who are ultimately responsible for the treatment facility's activities and finances.

"Group counseling" means a method of using various commonly accepted treatment approaches provided face-to-face by a treatment professional with two (2) or more consumers that does not consist of solely related individuals, to promote positive emotional or behavioral change. Services rendered in this setting should be guided by the consumer's treatment goals and objectives, and does not include social or daily skill development as described in educational group counseling.

"Individual therapy" means a method of using various evidence based/commonly accepted treatment approaches provided face-to-face by a gambling treatment professional with one consumer to promote positive emotional or behavioral change.

"Intake" means the overall process by which information is collected to determine the needs of the consumer.

"Intervention" means a process or technique intended to facilitate behavior change.

"Levels of care" means the different options for treatment that vary according to the intensity of the services offered. Each treatment option is a level of care.

"Licensed Alcohol/Drug Abuse Counselor" or **"LADC"** means an individual licensed to provide substance abuse counseling pursuant to Title 59 O.S., Chapter 43B, Licensed Alcohol and Drug Counselors Act.

"Licensed mental health professional" or **"LMHP"** as defined in Title 43A §1-1-3(11).

"Linkage" refers to the communication and coordination with consumers and other service providers to assure timely and appropriate referrals between the CGAT program and other providers.

"Mental health services" means a wide range of diagnostic, therapeutic, and rehabilitative services used in the treatment of problem and pathological gambling, and other mental disorders including substance abuse.

"NCGC" means Nationally Certified Gambling Counselor, offered at levels I or II through the National Council on Problem Gambling.

"Neglect" means a failure to provide adequate personal care or maintenance, or access to medical care that results or may result in physical or mental injury to a consumer.

"Objectives" means a specific statement of planned accomplishments or results that are specific, measurable, attainable, realistic, and time-limited.

"ODMHSAS" means the Oklahoma Department of Mental Health and Substance Abuse Services.

"Oklahoma Administrative Code" or **"OAC"** means the publication authorized by 75 O.S. § 256 known as The Oklahoma Administrative Code, or, prior to its publication, the compilation of codified rules authorized by 75 O.S. § 256(A)(1) (a) and maintained in the Office of Administrative Rules.

"OSDH" means the Oklahoma State Department of Health.

"Outpatient services" means an organized, nonresidential treatment service in regularly scheduled sessions intended for individuals not requiring a more intensive level of care or those who require continuing services following more intensive treatment regimens.

"Paraprofessional" means a person who does not have an academic degree related to the scope of treatment or support services being provided but performs prescribed functions under the general supervision of that discipline.

"Pathological gambling diagnosis" means a persistent and recurrent maladaptive gambling behavior that disrupts personal, family, or vocational pursuits, as defined by the most recent edition of the DSM.

"Performance improvement" means an approach to the continuous study and improvement of the processes of providing health care services to meet the needs of consumers and others.

"Personnel record" means a chart or file containing the employment history and actions relevant to individual employee activities within an organization and may contain application, evaluation, salary data, job description, citations, credentials and training information.

"PICIS" is a comprehensive management information system based on national standards for mental health and substance abuse databases. It is a repository of diverse data elements that provide information about organizational concepts, staffing patterns, consumer profiles, program or treatment focus, and many other topics of interest to clinicians, administrators and consumers. It includes unique identifiers for agencies, staff and consumers that provide the ability to monitor the course of consumer services throughout the statewide ODMHSAS network. PICIS collects data from hospitals, community mental health centers, substance abuse agencies, domestic violence service providers, residential care facilities, prevention programs, and centers for the homeless which are operated or funded in part by ODMHSAS.

"Policy" means statements of facility intent, strategy, principle, or rules in the provision of services; a course of action leading to the effective and ethical provision of gambling treatment services.

"Procedures" means the methods by which policies are implemented.

"Problem Gambling" means a persistent and recurrent maladaptive gambling behavior that disrupts personal, family, or vocational pursuits as defined by the most recent edition of the DSM.

"Program" means a structured set of treatment activities designed to achieve specific objectives relative to the needs of consumers served by the facility.

"Program effectiveness-outcome" means a written plan and operational methods of determining the effectiveness of services provided that objectively measures facility resources, activities and consumer outcomes.

"Progress notes" mean a complete chronological written description of services provided to a consumer and includes the

consumer's response and is written by the individual or clinical team delivering the gambling treatment services.

"Recovery" means an ongoing process of discovery and/or rediscovery that must be self-defined, individualized and may contain some, if not all, of the fundamental components of recovery as outlined by the Substance Abuse and Mental Health Services Administration (SAMHSA).

"Safety Officer" means the individual responsible for ensuring the safety policies and procedures are maintained and enforced within the facility.

"Screening" means the process to determine whether the person seeking assistance needs further assessment for problem or pathological gambling.

"Sentinel event" is a type of critical incident that is an unexpected occurrence involving the death or serious physical or psychological injury to a consumer, or risk thereof. Serious injury specifically includes loss of limb or function. The phrase "or risk thereof" includes a variation in approved processes which could carry a significant chance of a serious adverse outcome to a consumer. These events signal the need for immediate investigation and response. Sentinel events include, but are not limited to: suicide, homicide, criminal activity, assault and other forms or violence, including domestic violence or sexual assault, and adverse drug events resulting in serious injury or death.

"Significant others" means those individuals who are, or have been, significantly involved in the life of the consumer.

"Staff privileging" means an organized method for CGAT facilities to authorize an individual permission to provide specific care and treatment services to consumers within well-defined limits, based on the evaluation of the individual's license, education, certification, training, experience, competence, judgment, and other credentials.

"Treatment planning" means the process by which a gambling treatment professional and the consumer together and jointly identify and rank problems, establish agreed-upon immediate short-term and long-term goals, and decide on the treatment process and resources to be utilized.

"Treatment session-outpatient" means each face-to-face contact with a consumer in a therapeutic setting whether individually or in a group.

"Update" means a dated and signed review of a report, plan or document with or without revision.

"Volunteer" means any person providing direct consumer rehabilitative services and who is not on the facility payroll, but fulfills a defined role within the approved treatment facility. This includes, but is not limited to, court ordered community services, practicum students, interns, and ministers; it excludes professionals and entities with which the facility has a written affiliation.

"Walk through" means an exercise in which staff members of a facility walk through the CGAT program's treatment processes as a consumer. The goal is to view the agency processes from the consumer's perspective for the purpose of removing barriers and enhancing treatment.

SUBCHAPTER 3. GAMBLING TREATMENT SERVICES AND DOCUMENTATION

450:65-3-3. Assessment and diagnostic services

(a) CGAT providers' policies and procedures shall require that an assessment of each consumer's service needs is completed within four (4) sessions of initiation of services.

(b) The following information shall be collected by the CGAT provider and recorded in each consumer's assessment, to be completed prior to implementation of the treatment plan. This shall include, but not be limited to, an assessment of the following areas and needs:

(1) ~~Presenting problems;~~

~~(2) Medical health history including past and current medical problems and medication use;~~

~~(3) Mental health history, psychiatric medications (name, strength and dosage), and current mental health status;~~

~~(4) A financial evaluation and information, including current financial status, gambling debt, and any previous bankruptcy or repayment plans;~~

~~(5) Gambling history, including type, amount, frequency and duration of gambling activity, and family history of gambling problems or addiction;~~

~~(6) History of substance use, including past treatment, and history of other behavioral addictions and past treatment;~~

~~(7) Cultural and religious orientation;~~

~~(8) Social/relationship history;~~

~~(9) Educational/vocational history;~~

~~(10) Legal history;~~

~~(11) Recovery environment, including current present living arrangement and support system;~~

~~(12) Strengths, needs, abilities, and preferences;~~

~~(13) Diagnostic impression(s);~~

~~(14) Consumer's expectations in terms of service; and~~

~~(15) Recommendations for the type and intensity of treatment, including referrals to another treatment provider if necessary.~~Behavioral, including substance use, abuse and dependence as well as other addictive disorders;

(2) Emotional, including issues related to past or current trauma;

(3) Physical;

(4) Social and recreational; and

(5) Vocational.

(c) The consumer and family member(s), when appropriate, shall be an active participant(s) in the intake and assessment process.

(d) Assessments shall be on-going and performed by staff meeting the requirements for gambling treatment professionals.

(e) Compliance with 450:65-3-1, 450:65-3-2, and 450:65-3-3 may be determined by a review of the following:

(1) Policy and procedures;

(2) Consumer records;

(3) Interviews with staff and consumers;

(4) Other facility documentation.

[OAR Docket #15-607; filed 6-18-15]

TITLE 545. BOARD OF PODIATRIC MEDICAL EXAMINERS CHAPTER 35. FEE SCHEDULE

[OAR Docket #15-751]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
545:35-1-2. Fees [AMENDED]
AUTHORITY:
Title 59 O.S., Section 141; State Board Podiatric Medicine Practice Act
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
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APPROVED BY GOVERNOR'S DECLARATION:
Approved by Governor's declaration on June 8, 2015
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June 8, 2015
EFFECTIVE:
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SUPERSEDED EMERGENCY ACTIONS:
n/a
INCORPORATIONS BY REFERENCE:
n/a
ANALYSIS:
Senate bill 302 [2013] authorized the Board of Podiatric Medical Examiners to require renewal of licensure biennially. The amendments double the renewal fee to $150 but, since the renewal is changing from one year to two, the total amount does not change. The law at 59 O.S., Section 145, authorizes the Board to charge up to four times the renewal fee for reinstatement for those Podiatrists who do not renew their license by the June 30th deadline. However, the Board proposes to increase the reinstatement fee to $250 (a 25 percent increase) in order to dissuade late renewals. Senate bill 302 [2013] also authorized a Training License and a fee for that license is being added.
CONTACT PERSON:
Barbara J. Smith, Executive Secretary, Oklahoma State Board of Medical Licensure and Supervision, 101 N.E. 51st Street, Oklahoma City, Oklahoma 73105, bsmith@okmedicalboard.org

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S. SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 11, 2015:

545:35-1-2. Fees

(a) All fees are non-refundable.
(b) The following fees are collected by the Board:
(1) **Licensure**
(A) Application processing fee: $50.00
(B) Display certificate: $50.00
(C) State examination fee: $100.00
(D) Reprocessing fee: $100.00
(E) Training license
(i) Initial: $50.00
(ii) Renewal: $25.00
(2) **Renewal**
(A) ~~Annual~~Biennial renewal fee: ~~$75.00~~ $150.00
(B) Reinstatement fee (after October 1): ~~$200.00~~ $250.00
(3) **Miscellaneous**
(A) Verification of license: $10.00
(B) Duplication of display certificate: $50.00
(C) Duplication of proof of renewal of license: $10.00
(D) Certification of public records (per page): $1.00
(E) Duplication of public records (per page): $.25
(F) Probation fee:
(i) Level I (minimum per month): $125.00
(ii) Level II (minimum per month): $50.00
(iii) Level III (minimum per month): $30.00
(G) Investigations/prosecution.....Actual cost incurred
(4) **Filing of motions**
(A) Rehearing or reconsideration of any disciplinary case: $ 75.00
(B) Terminate or modify probation: $100.00
(C) Issuance of subpoena: $10.00

[OAR Docket #15-751; filed 8-4-15]

TITLE 565. OKLAHOMA BOARD OF PRIVATE VOCATIONAL SCHOOLS CHAPTER 1. ADMINISTRATIVE OPERATIONS

[OAR Docket #15-732]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 1. General Provisions
565:1-1-1. Purpose [AMENDED]
565:1-1-2. Organization [AMENDED]
565:1-1-3. Severability [AMENDED]
565:1-1-4. Meetings [AMENDED]
565:1-1-6. Location for information and for filing [AMENDED]
565:1-1-7. Records [AMENDED]
565:1-1-8. Forms and instructions [AMENDED]
Subchapter 3. Formal and Informal Procedures
565:1-3-1. Right of Director to initiate action [AMENDED]
565:1-3-2. Complaints [AMENDED]
565:1-3-3. Hearings for individual proceedings [AMENDED]
565:1-3-4. Requests for declaratory ruling [AMENDED]
AUTHORITY:
The Oklahoma Board of Private Vocational Schools; 70 O.S. 2014, Section 21-102.1(2).
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
January 15, 2015
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INCORPORATIOINS BY REFERENCE:
NA
ANALYSIS:
565:1-1-1, 565:1-1-2, 565:1-1-3, 565:1-1-4 565:1-1-6, 565:1-1-7, 565:1-1-8, 565:1-3-1, 565:1-3-2, 565:1-3-3, and 565:1-3-4.
CONTACT PERSON:
Nora Ann House, Director, Oklahoma Board of Private Vocational Schools, 3700 N. Classen Blvd. Ste. 250, Oklahoma City, OK 73118, 405-528-3370, nhouse@obpvs.ok.gov

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 11, 2015:

SUBCHAPTER 1. GENERAL PROVISIONS

565:1-1-1. Purpose

The purpose of this chapter is to explain the structure of the Oklahoma Board of Private Vocational Schools (OBPVS) and to establish policies to implement the authorities under the Enabling Statute.

565:1-1-2. Organization

(a) Board. The Oklahoma Board of Private Vocational Schools (OBPVS) is the governing agency and administrative authority for the enforcement of the laws governing licensing and regulating of private vocational schools. The statutory authority for the Board is ~~Title 70, Oklahoma Statutes, Section 21-102(A) [~~70 O.S. §21-102~~(A)]. The Board is comprised of nine (9) members of whom three shall be the Director of the State Department of Vocational and Technical Education, the Chancellor of the Oklahoma Regents for Higher Education and the State Superintendent of Public Instruction or their designated representatives and of whom six shall be appointed by the Governor of the State of Oklahoma subject to the advice and consent of the Senate. Four persons shall qualify to serve on the Board provided they occupy and have occupied for the past three (3) years executive or managerial positions in private schools located in this state of the type regulated under Sections 21-101 through 21-115 of this title. Two persons shall qualify to serve on said Board provided they occupy and have occupied for the past three (3) years executive or managerial positions in business or industry, not connected with private schools. Each of the six persons shall be appointed for a term of six (6) years. After July 1, 1970, the Governor shall appoint one member for a term of six (6) years, one member for a term of five (5) years, one member for a term of four (4) years, one member for a term of three (3) years, one member for a term of two (2) years and one member for a term of one (1) year. [70:21-102 (A)]~~

(b) Board staff. The Board is authorized to appoint and fix the compensation of a ~~director~~Director. The Director shall employ and fix the duties and compensation of such clerical or other assistants as are reasonably necessary to effectuate the provisions of the ~~Board's~~OBPVS' duties. ~~[70:21-102(B)] Inasmuch as~~Because the ~~Oklahoma Board of Private Vocational Schools~~Board is the final administrative authority for the administration of the ~~Law~~law, such administrative responsibilities necessary to carry out the duties of the Board may be assigned to the ~~director~~Director.~~,~~However, ~~except;~~ the Board shall be consulted and advised on a continuous basis by the ~~director~~Director on matters relating to the administration of the law. The Board ~~will~~ shall act in formal session on matters involving the administration of the law at such times as the Board and the ~~director~~Director may decide the gravity of a situation requires such action.

565:1-1-3. Severability

If a court of competent jurisdiction finds any rule or part of a rule in this ~~Title~~ title to be unenforceable, it shall not impair or invalidate the remaining rules.~~in this Title;~~ The remaining rules shall be valid and enforceable to the fullest extent allowed by law.

565:1-1-4. Meetings

The Board may hold regular, special, and emergency meetings. Meeting dates will be filed with the Secretary of State and agendas will be posted as required by the Open Meetings Act. A minimum of five members must be present to constitute a quorum for the transaction of business and a majority vote of those present shall be necessary to approve a motion before the Board. For the exclusive action of approving a prior ~~meeting's~~ meeting's Board minutes draft, only a simple majority vote of those Board members who attended both of the meetings is required. If a majority cannot be attained, the minutes draft shall be held over to a later meeting. All ~~meeting~~meetingsare open to the public.~~andmeetings~~ Meetings~~and notices~~ shall be held and notices posted in strict accordance with the Open Meeting Law [25 O.S. 301 et seq., as amended]. The ~~Chairperson~~ Chair, or ~~Vice-Chairperson~~Co-Chair in the absence of the ~~Chairperson~~Chair, may cancel or reschedule any meeting of the Board due to an anticipated lack of quorum, inclement weather, or other emergency. Notice of cancellation shall be posted as soon as reasonably possible.

565:1-1-6. Location for information and for filing

(a) **Location.** The address and telephone number for communication with the Oklahoma Board of Private Vocational Schools is: Oklahoma Board of Private Vocational Schools; 3700 N. Classen Boulevard, Suite 250; Oklahoma City, OK 73118-2864; Telephone (405) 528-3370

(b) **Hours of operation.** The normal business hours are 8:00 a.m. to 4:30 p.m., Monday through Friday.

(c) **Filing procedure.** Anyone may file a document by mail or hand-~~delivered~~delivery during normal business hours. The filing date is the date the document is received, not the date it is mailed or postmarked. ~~OBPVS does not accept facsimiles or "FAX's" instead of original documents.~~Except when an original document or original signature is required on a document, whenever possible, the OBPVS shall accept readable facsimile or electronically mailed documents. Generally, if an electronic submission is accepted, the original ~~will~~ shall not subsequently have to be mailed or hand-delivered unless the person submitting the electronic version is specifically advised, by the OBPVS staff, to file the original. However, due to unusual, rare, or odd circumstances, facsimile or electronic submissions shall be accepted by the OBPVS to stop the passage of time and to allow a person or entity to tentatively meet a deadline. In these cases, the original document(s) shall subsequently be provided within an additional reasonable period of time.

565:1-1-7. Records

(a) **Records retention and disposition.** Documents are retained by the OBPVS~~kept~~ for at least the minimum amount of time required by state law that applies to archives and records. A records disposition schedules listing retention ~~dates~~periods for each record is available upon request to the OBPVS ~~for inspection~~.

(b) **Confidential and open records.** Most records are available for public inspection and release, but some are not. The records that are not available for general public access are records that laws require or permit the Board to keep confidential. In general, only the financial statements of an applicant or licensed school are retained as confidential and may be released only upon presentation of a proper Subpoena and allowing the original filer to defend the confidential nature of the filing in hearing for individual proceeding or through declaratory ruling in accordance with 565:1-3-3 or 565::1-3-4, respectively.

(c) **Inspection and release of records.** People may inspect and request a copy of a ~~records~~record that ~~are~~is not confidential during regular business hours according to procedures that protect the integrity and organization of the records. All requests ~~will~~shall be given ~~immediate~~ prompt attention.~~;however~~ However, to prevent disruption of the ~~Board's~~OBPVS' essential functions, requests for copies ~~or files which would excessively disrupt the essential functions of the Board, may be scheduled to give the Board's staff a reasonable time to comply with the request~~ of large or extensive filesshall be scheduled for fulfillment, by staff, at a later date.

(d) **Copy fees.** The ~~Board~~OBPVS shall ~~only~~ charge fees that are consistent with ~~Title~~ 51, O.S. §~~Section~~ 24A.5 of the Oklahoma Statutes. ~~and the~~The amount of fee shall be clearly posted in the Board's office.

565:1-1-8. Forms and instructions

Other chapters in this title contain references to forms and instructions. Blank forms and completion and submission instructions ~~about completing and submitting them~~ may be obtained by contacting the ~~Board's~~~~OBPVS'~~OBPVS office. Provisions may include, but not be limited to, electronic transmission, referral to electronic availability on a website, or hard copy transmission via mail, courier pick-up at the expense of the ~~forms'~~ forms' requester, or facsimile.

SUBCHAPTER 3. FORMAL AND INFORMAL PROCEDURES

565:1-3-1. Right of Director to initiate action

The Director may take whatever action is authorized by the rules in this ~~Title~~title and the Oklahoma Statutes to carry out the duties and objectives of the Oklahoma Board of Private Vocational Schools (OBPVS). The Director may use formal or informal procedures, such as telephone calls, letters, meetings, investigations or other appropriate methods to resolve problems or concerns.

565:1-3-2. Complaints

(a) **Student complaints.** A student with a grievance against a school in which they are or have been enrolled, may file a complaint with the ~~Board~~OBPVS if they feel the school has not met the conditions outlined in the catalog or contract and the grievance cannot be settled through proper school officials. The complaint must be in writing and shall contain at least the following information.

(1) The name, address and telephone number of the person making the complaint;

(2) The name and address of the school;

(3) The course enrolled and starting date of class;

(4) A brief, clear description of the complaint(s) including detailed information regarding names of instructors, school officials, solicitor, type of equipment, class involved, or the specific part of catalog or enrollment agreement which may be involved in the complaint;

(5) Documents supporting the complaint, such as copies of the contract and enrollment agreement, receipts of payments made, letters or correspondence relating to the complaint;

(6) The remedy, if any, that the person is seeking;

(7) A statement authorizing the release of whatever information may be necessary to investigate the complaint;

(8) The signature of the person making the complaint and the date of the complaint.

(b) **Rejection of complaint.** If the complaint is repetitive or concerns a matter that has already been resolved, or a matter outside the ~~Board's~~ OBPVS' authority, the complaint may be rejected.

(c) **School response.** The Director may provide others with written notice of the complaint and ~~give them~~provide an opportunity to respond in writing. The response must contain the following information~~.~~:

(1) The name, and title of the person responding to the complaint;
(2) The name and address of the school;
(3) A specific admission, denial, or explanation of the ~~charges~~allegations made in the complaint;
(4) A clear description of the facts including specific information regarding names, dates, places, and previous actions relating to the complaint;
(5) Attachment(s) of beneficial supporting documentation, if any;
(~~5~~6) The signature of the person responding; and
(~~6~~7) The date the response is completed.

(d) **Methods of complaint ~~response~~investigation.** The Director may ~~refer~~assign the complaint to be investigated using~~for~~ informal procedures, such as telephone calls, or require letters, meetings, mediation, investigations or other appropriate procedures. Unless it is determined by the Director or the Board that a formal hearing (individual proceeding) is necessary, none will be conducted.

(e) **Filing period.** Complaints ~~will~~ shall be subject to the statute of limitations as allowed in the Oklahoma Statutes.

565:1-3-3. Hearings for individual proceedings

Hearing for individual proceedings shall be in accordance with the Administrative Procedures Act and the following procedures:

(1) **Notice of hearing.** Notice of all hearings shall be given by the Board not less than twenty days in advance thereof to all persons directly affected by such a hearing.

(2) **Contents of notice.**
(A) The time and place of hearing.
(B) A statement of the matters to be considered.
(C) A statement of the legal authority and jurisdiction under which the hearing is to be held.
(D) A short plain statement of the matters asserted. If such statement of the issues is not sufficient, upon application a more definite and detailed statement ~~will~~shall be furnished.
(E) A reference to the particular sections of the statutes and/or rules involved.

(3) **Witnesses.** The Board shall have the power to subpoena witnesses and administer oaths, or to subpoena documentary evidence in any cause before it. All subpoenas shall be served in the manner as if issued from district court. Any person or party to a hearing before the Board who may be adversely affected by the order of the Board shall have the right to have subpoenas issued to any witnesses in its behalf.

(4) **Hearings to be open.** All hearings shall be open to the public.

(5) **Right to counsel.** Any person affected by the hearing shall have the right to appear in person and by counsel, provided, however, that such counsel representing the party, must be duly licensed to practice law by the Supreme Court of Oklahoma and may be present during the giving of evidence, may have a reasonable opportunity to examine and inspect all documentary evidence, may examine witnesses, and present evidence in his own behalf.

(6) **Rules of evidence.** The formal rules of pleading and evidence need not be observed. Documentary evidence may be received in the form of copies or excerpts if the original is not readily available and upon request, a party shall be given an opportunity to compare the copy with the original. Notice may be taken of judicially cognizable facts and of generally recognized technical or scientific facts within the specialized knowledge of the Board. The Board's experience, technical competence and specialized knowledge shall be utilized in the evaluation of evidence.

(7) **Transcript of hearing.** Upon written request ~~seasonably~~reasonably made by any person affected by the hearing, and at such person's expense, a full stenographic record of the proceedings shall be made by a competent court reporter. When such transcription shall be made a part of the record of the Board, any other person having a direct interest therein shall be furnished with a copy of such stenographic record at their expense.

(8) **Content of the record.**
(A) All pleadings, motions and intermediate rulings.
(B) All evidence received or considered including a statement of matters officially noted.
(C) Questions or offers of proof, objections and rulings thereon.
(D) Proposed finding and exceptions.
(E) The decision, opinion, report or order of the Board.

(9) **Findings of fact.** All findings of fact shall be based exclusively on the evidence presented and on matters officially noticed. A final order adverse to a party in an individual proceeding shall be in writing or stated in the record. A final order shall include findings of fact and conclusions of law, separately stated. Findings of fact, if set forth in statutory language, shall be accompanied by a concise and explicit statement of the underlying facts supporting the findings. If, upon request, a party submits proposed findings of fact, the order shall include a ruling upon each proposed finding. Parties shall be notified either personally or by mail of any order. Upon request, a copy of the order shall be delivered or mailed forthwith to each party and to their attorney of record.

(10) **Rehearings.**
(A) At the discretion of the Board a rehearing may be granted to any party if a written request is made therefore within ten days after any order is mailed or delivered to the person entitled to receive same. In the request for rehearing the party shall set forth one or more of the following grounds:
(i) Newly discovered or newly available evidence relevant to the issues.
(ii) Need for additional evidence ~~adequately~~ to adequately develop the facts essential to a proper decision.
(iii) Probable error committed by the Board in the proceeding or in its decision such as would be ground for reversal on judicial review of the order.

(iv) Need for further consideration of the issues and the evidence in the public interest: or

(v) A showing that issues not previously considered by the OBPVS ought to ~~examined~~ be considered by the Board in order to properly ~~dispose~~ conclude~~of~~ the matter.

(B) Nothing in these rules shall prevent the Board from rehearing, reopening or reconsidering any matter in accordance with other statutory provisions applicable to the Board, or at any time, on the ~~ground~~grounds of ~~fraud~~ fraudulent ~~practice~~ practices by the prevailing party or of procurement of the order by perjured testimony or fictitious evidence.

(11) **Matter to be considered upon rehearings.** On rehearing, the hearing shall be confined to those grounds upon which the rehearing was granted.

565:1-3-4. Requests for declaratory ruling

(a) **Filing of petition for declaratory ruling.** All requests for declaratory rulings as to the applicability of any rule or order of the Board shall be made by filing a petition with the Board requesting such ruling.

(b) **Contents of petition for declaratory ruling.** The petition shall identify the rule or order questioned, the date on which such ~~role~~rule or order became effective, and shall set forth the contents of the rule or order. The petition shall include a brief statement of the issue or issues raised by the rule or order which caused such requests to be made, and a statement as to the petitioner's personal interest in the ruling of the Board and how such ruling by the Board will affect that interest.

(c) **Consideration by the Board.** Upon receipt of the petition, the Board shall consider the request at the next regularly scheduled Board meeting.

(d) **Presentation and argument.** The Board may entertain oral presentation or argument on the request of the petitioner and, on its own motion, may request such argument and presentation.

(e) **Decision of the Board.** On considering the petition, the Board may refuse to issue a declaratory ruling, may decide the issue and determine the validity of the rule or order or the applicability to the petitioner of the rule or order.

(f) **Appeals from declaratory rulings.** Appeals from declaratory rulings of the Board may be taken in a manner consistent with the State's Administrative Procedures Act.

[OAR Docket #15-732; filed 7-8-15]

TITLE 565. OKLAHOMA BOARD OF PRIVATE VOCATIONAL SCHOOLS CHAPTER 10. LICENSURE AND REGULATION OF PRIVATE VOCATIONAL SCHOOLS AND REPRESENTATIVES

[OAR Docket #15-733]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 1. General Provisions
565:10-1-1. Purpose [AMENDED]
565:10-1-2. Definitions [AMENDED]
565:10-1-3. Schools required to license [AMENDED]
565:10-1-4. Due date and duration of license [AMENDED]
Subchapter 3. Requirements for Licensure as Private Vocational School
565:10-3-1. Requirements for licensure as private vocational school [AMENDED]
Subchapter 5. Fees
565:10-5-1. School fees [REVOKED]
565:10-5-2. Representative fees [REVOKED]
565:10-5-3. Penalty [REVOKED]
565:10-5-4. Additional fees [REVOKED]
565:10-5-4.1. Workshop fees [REVOKED]
565:10-5-4.2. Licensing inquiry packet fee [REVOKED]
Subchapter 7. Facilities and Equipment
565:10-7-1. Facilities [AMENDED]
Subchapter 9. Surety Bonds
565:10-9-1. Bond requirement and amount [AMENDED]
565:10-9-2. Bond claim procedure [AMENDED]
565:10-9-3. Bond amount for new school [REVOKED]
565:10-9-4. Scope of coverage [REVOKED]
565:10-9-5. Certificate of deposit [AMENDED]
565:10-9-6. Surety items non-cancellable [NEW]
Subchapter 11. School Operation
565:10-11-1. School~~Personnel~~ personnel [AMENDED]
565:10-11-2. Course implementation and instruction [AMENDED]
565:10-11-3. Refunds [AMENDED]
565:10-11-4. Student records [AMENDED]
565:10-11-5. Placement [AMENDED]
565:10-11-6. Advertising [AMENDED]
565:10-11-7. Admission requirements [AMENDED]
565:10-11-8. Student ~~grievances~~ complaints [AMENDED]
565:10-11-9. Recruitment [AMENDED]
Subchapter 13. ~~Representative~~Solicitor license
565:10-13-1. ~~Representative~~Solicitor license [AMENDED]
Subchapter 15. Denial and Appeal
565:10-15-1. Grounds for denial of school license [AMENDED]
565:10-15-2. Grounds for denial of ~~representative~~Solicitor license [AMENDED]
565:10-15-3. Appeal of denial [AMENDED]
Subchapter 17. Revocation of License
565:10-17-1. Basis for revocation [AMENDED]
565:10-17-2. Revocation procedure [AMENDED]
Subchapter 19. Penalty
565:10-19-1. Penalties for violation and noncompliance [AMENDED]
565:10-19-2. Waiver of administrative penalties and fines [AMENDED]
Subchapter 21. Evaluation
565:10-21-1. School review [AMENDED]
565:10-21-2. Advisory council [AMENDED]
Subchapter 23. Seminars~~,~~ Or Workshops ~~And Short Courses~~
565:10-23-1. Items required for licensure of seminars; length of programs [AMENDED]
565:10-23-2. Advertising [AMENDED]
565:10-23-3. Student ~~grievance~~complaints [AMENDED]
565:10-23-4. Fees [AMENDED]
565:10-23-5. Duration and renewal of licenses [AMENDED]
565:10-23-6. Reports [AMENDED]
565:10-23-7. Grounds for revocation of license [AMENDED]
565:10-23-8. Procedure for suspension ~~suspension or~~ of licenses [AMENDED]

565:10-23-9. Penalty [AMENDED]
565:10-23-10. Mandatory school workshop [AMENDED]
Subchapter 27. Financial Statements and Financial Stability
565:10-27-1. Financial Statements [AMENDED]
565:10-27-2. Financial stability [AMENDED]
565:10-27-3. Special circumstances and waiver of requirements [AMENDED]

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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 11, 2015:

SUBCHAPTER 1. GENERAL PROVISIONS

565:10-1-1. Purpose

The rules of 565:10~~this chapter~~ have been adopted as provided in 70 O.S. §21~~-107~~-102.1.2(2), for the purpose of establishing minimum standards for the establishment, licensing and operation of private vocational schools and reasonable rules and regulations for the implementation of the minimum standards by the Oklahoma Board of Private Vocational Schools (OBPVS).

565:10-1-2. Definitions

The following words and terms, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise. In addition, statutory definitions are available in 70 O.S. §21-102.1(2).

"**~~Agents, Representative,~~ Solicitor~~, Salesman~~**" means any employee, owner, or other person who for remuneration, enrolls or seeks to enroll students through personal contact, at any location other than the ~~legal~~ school's legal facilities, in a course or courses of instruction or study offered or maintained by a private school, or who otherwise holds himself/herself out to the residents of this state as representing a private school for such purpose.

"Applicant" means a person that seeks to receive approval for licensing.

"Approval" means action taken by the Board,~~ordirector~~Director, or another employee of the OBPVS to indicate that an Applicant ~~the~~ school or Solicitor ~~agent~~ meets requirements for licensing.

"Authorized~~ administrative~~Administrative~~ official~~Official~~ of the school" means the highest authority ~~in~~for the school or seminar and/or the responsible person designated by school official with whom the Oklahoma Board of Private Vocational Schools does business.

~~**"Board"** means the Oklahoma Board of Private Vocational Schools created by 70 O.S. 21-102. Inasmuch as the Oklahoma Board of Private Vocational Schools is the final administrative authority for the administration of the Law, such administrative responsibilities are assigned under Title 70 Section 21 of the Oklahoma Statutes to the Oklahoma Board of Private Vocational Schools may be assigned to the director except; the Board shall be consulted and advised on a continuous basis by the director on matters relating to the administration of the law. The Board will act in formal session on matters involving the administration of the law at such times as the Board and the director may decide the gravity of a situation requires such action. [70:21-101(1)]~~

~~**"Contact hour"** means a unit of supervised instruction of not less than 50 (fifty) minutes in length within a 60 minute period. A school which is accredited by a national or regional accrediting body recognized by the U. S. Department of Education, may use that accrediting bodies definition.~~

~~**"Course"** means organized instruction offered in a subject matter.~~

~~**"Disapproval"**~~**"Denial"** means action taken by the Board or Director to disapprove or deny licensing privileges to a school or ~~an agent~~Solicitor in accordance with the Board's authority~~regulations~~ and the Administrative Procedures Act of Oklahoma.

"Director" means an official of a licensed school or seminar who will typically be present, on site, at the school or seminar facility.

"Enrollment" means the mutual obligation between a student and a school; which results from their joint agreement to the specifications contained in a written document whereon both parties have placed their signatures attesting acceptance of conditions for the student to enter and pursue training at the school. A student will not be considered enrolled until such

time as a written agreement has been signed by an authorized school official and the student or student's guarantor.

"Enrollment ~~contract~~Agreement" means the contractual document whereon ~~the~~a school indicates conditions governing the enrollment of a student in a specific program or individual course(s)~~or courses~~, and whereon the school and student obligations under the agreement are shown~~,~~. ~~and which has been endorsed by the student or student's guarantor and by the authorized official of the school; a copy of which is retained by each of the two parties.~~

"Person" means any individual, partnership, corporation, association, or public or private organization of any character.

"Prepaid tuition" means any tuition monies collected in advance of training.

~~**"Private school"** means any privately owned business school, trade school, or other school offering courses in, to residents of, or correspondence courses from Oklahoma in any business, professional, technical, trade, or industrial occupation for a consideration or remuneration.~~

~~(A) The definition of a "Private School" shall not include barber schools, beauty schools, or other schools which are regulated or licensed pursuant to any school licensing law of this state. However, any beauty school, barber school, or other school, or individual offering occupational instruction, may apply and be licensed if they meet the criteria for approval established by the Oklahoma Board of Private Vocational Schools.~~

~~(B) The definition of a "Private School" shall not include Parochial, private schools, or other nonpublic schools offering programs of general education accredited by the State Board of Education, or the State Board of Regents for Higher Education. [70:21-101(1)]~~

~~(C) In addition the definition shall not include:~~

~~(i) Education or training offered by a parochial, denominational, eleemosynary school or institution, which education or training is uniquely useful for and intrinsic to the propagation of a faith or the pursuit of the mission of the school or institution as determined by the Board.~~

~~(ii) A school or educational institution supported by taxation of a local or state source.~~

~~(iii) A school or training program which offers instruction solely in the field of an avocation, recreation, or entertainment, as determined by the Oklahoma Board of Private Vocational Schools.~~

~~(iv) A course or courses of study or instruction sponsored by recognized trade unions, professional organizations, as approved by the Board, for the instruction of the members of such an organization.~~

~~(v) Training given by an employer to their employees for which there is no expense to the employee, as approved by the Board.~~

"Quarter credit hour" means twenty (20) contact hours of supervised instruction. A school which is accredited by a national or regional accrediting body recognized by the U. S. Department of Education, or the Veteran's Administration, may use ~~that~~the accrediting ~~bodies~~ body's definition.

"~~Representative's~~~~permit~~Solicitor License" means a nontransferable, written authorization to a person by the Oklahoma Board of Private Vocational Schools to solicit any student to enroll in a course or courses of instruction or study offered or maintained by a private school.

"Semester credit hour" means thirty (30) contact hours of supervised instruction. A school which is accredited by a national or regional accrediting body recognized by the U. S. Department of Education, or the Veteran's Administration, may use that accrediting bodies definition.

"State agent for the school" means the person residing in Oklahoma who must be designated by the school to act for the school in the event service on the surety bond is required by any out of state school covered under the law.

"State agent for the surety company" means the person residing in Oklahoma who must be designated by the surety company to act for the surety company as the one to countersign the surety bond for any out of state surety company handling the blanket bond for a school to be licensed.

565:10-1-3. Schools required to license

(a) **In state.** Any person or persons ~~(partnerships, associations, or corporations)~~ desiring to operate a private school, as defined in 70 O.S. §21-101 ~~these regulations~~, in Oklahoma or offer vocational courses to persons residing in the State of Oklahoma, including private schools that deliver training via distance education, shall license with the Board.

(b) **Out of state.** Any out of state private school soliciting vocational training to residents of Oklahoma shall license with ~~this~~ the ~~Board~~ OBPVS, including private schools that deliver training via distance education.

565:10-1-4. Due date and duration of license

(a) **New school applications.** New applications ~~must~~shall be approved by the OBPVS ~~Board~~ before a school may operate or advertise its courses.

(b) **Renewal applications.** Renewal applications, including payment of the appropriate renewal fee(s) in accordance with 70 O.S. §21-106, must be received by the ~~Oklahoma Board of Private Vocational Schools~~OBPVS no later than ~~May~~June 1 of each year. The OBPVS ~~Oklahoma Board of Private Vocational Schools will~~shall send, by mail or electronic means notification, instructions and the application forms(s) to the school no later than April 1 of each year.

(c) **Expiration.** A license will expire on June 30 following the date of issue.

(d) **Sale of school and nontransferrability of license.** A person or persons purchasing a facility already operating as a licensed school shall comply with all the requirements for securing a new license. A license is not transferable to a new owner. All application forms and other data must provide adequate information.

SUBCHAPTER 3. REQUIREMENTS FOR LICENSURE AS PRIVATE VOCATIONAL SCHOOL

565:10-3-1. Requirements for licensure as private vocational school

Application shall be made either on forms provided by the ~~Board~~OBPVS or using substantially similar forms processed by the Applicant and shall include, but not be limited to, the following documents:

(1) A copy of the current school catalog, in a printed ~~or mimeographedform~~format, that shall be furnished to each student. For distance education, the catalog may be made available electronically but shall also have a printing option or contact information for delivery of a printed copy made clearly available. The final version of each catalog shall be ~~and~~ certified as true and correct in content and policy by an administrative official of the school and submitted to the OBPVS. The catalog ~~will~~ shall at least contain the following information.

(A) Name and address of the school,

(B) ~~effective~~ Effective date of the catalog.

(~~B~~C) Names and titles of the controlling owners and officials of the school~~, and with specific identification of the responsible administrative official or officials, duly authorized to act for the school in all matters relating to State approval and licensing.~~

(~~C~~D) A calendar for the school showing vacation periods, holidays, and beginning and ending dates for each school year, semester, quarter, term, and/or session observed by the school.

(~~D~~E) School policies and regulations covering leave, absences, missed classes and assignments,~~class cuts,~~ makeup work, tardiness, and the causes for school to terminate enrollment of student for ~~the above~~such reasons.

(~~E~~F) Enrollment prerequisites for each course offered, and policy of school relative to granting of credit for previous education, training, and/or work experience.

(~~F~~G) Detailed listing of tuition, fees, books, supplies, tools and instructional aids to be used and purchased by students for each course and the cost for each item.

(~~G~~H) Policy and regulations at the school relative to the refund of the unused portion of tuition, fees, and supplies. The Policy shall either comply with 565:10-11-3 or contain one or more provisions that are more beneficial to students. Unless the school provides a good faith rationale for another treatment, the policy shall state its applicability to both school-determined and student-caused enrollment terminations.

(~~H~~I) A topical outline of each course for which approval is requested showing subjects, units, skills, or jobs to be learned in the course, and the total number of contact, quarter, or semester hours to be spent by the student in each phase of the training program. Correspondence or distance learning courses shall show this information by using the number of lessons and estimated time of completion. A school that is accredited by a national or regional accrediting body recognized by the U. S. Department of Education~~,~~ may use quarter or semester hours to measure correspondence or distance learning courses.

(~~I~~J) ~~Institution~~School policy and regulations relative to standards of academic progress,~~required of the student by the institution. (~~This policy will define the grading system ~~of the institution~~, the minimum grades considered satisfactory, conditions for enrollment interruption based on~~for~~ unsatisfactory grades or progress, and a description of the probationary period, if any, allowed,~~by the institution~~ and conditions, if any, for ~~reentrance~~readmission for ~~those~~ students dismissed for unsatisfactory progress.

(~~J~~K) ~~Institution~~School policy and regulations relating to student conduct and conditions for dismissal for unsatisfactory conduct, and the conditions, if any, for readmission.

(~~K~~L) Any changes made to the catalog ~~will~~shall be approved in advance by the OBPVS ~~Board~~ and a copy of the published, final version of the replacement ~~new~~ catalog shall be submitted certified as to certified as true and correct in content and policy by an administrative official of the school.~~to the Board upon publication.~~

(~~L~~M) A catalog addendum may be used. If an addendum is used, there shall be a statement in the catalog that the catalog is not complete without the addendum.

(~~M~~N) Each addendum ~~will~~shall show ~~the~~its effective date and the effective date of the catalog to which it is related ~~an addendum~~.

(2) A financial statement which meets the requirements as stated in 565:10-27.

(3) A surety bond or certificate of deposit, which shall ~~be submitted for each main school location on the form provided by the Board and shall~~ meet the requirements in 565:10-9.~~as specified in Subchapter 9 of this Chapter.~~ Branch school locations shall be covered under the ~~main~~ Main school bond.

(4) ~~An~~ Instructor qualification details to include, at a minimum, an Instructor Qualification Form, with appropriate supporting documentation, a Form to attest to Felony Convictions, and Class assignment information~~which~~ shall be submitted for each proposed instructor to demonstrate compliance with~~. Each instructor shall meet standards asoutlined in~~ 565:10-11-1.

(5) A copy of the master enrollment ~~contract~~ agreement(s) in compliance with 565:11-4. ~~as described in Subchapter 11 of this Chapter.~~

(6) A copy of a current fire inspection, no more than three months old, showing that the school meets all requirements pertaining to local fire and safety codes.

(7) A copy of ~~the~~each master certificate, diploma, or ~~accredited~~ degree given by the school that, at a minimum,

creates field to identify ~~shows~~ the program, the date of completion and the full address of the school.

(8) Plans, blueprints, or line drawings which describe in detail the facilities in which the school will operate.

(9) A listing of key instructional equipment with a purchase price or replacement value of Five Hundred Dollars ($500.00) or more, per item.

(10) Payment of ~~The~~the appropriate application fee(s) in accordance with 70 O.S. §21-106 ~~as outlined in Subchapter 5 of this Chapter.~~

(~~10~~11) ~~Out of state schools must~~Schools locatedoutside Oklahoma, shall be licensed or approved in ~~the~~each state where ~~they are located for~~ the courses ~~they areoffering~~to be offered ~~in~~to ~~Oklahoma~~ Oklahomans will be provided. ~~and must~~Each school shall provide ~~the Board~~ a copy of ~~their approval or license listing the courses as verification.~~its non-Oklahoma licenses or approvals, if any.

(12) An organizational chart extending from the school's essential functions or departments upward to the ultimate owner and identifying all levels of ownership.

(13) A copy(ies) of the organizational or formational documents for the Applicant, including but not limited to, Articles of Incorporation, Bylaws, Articles of Organization or Management that are typically filed with a Secretary of State or similar agency. The copy(ies) need not be Certified Copies unless specifically requested by the OBPVS.

SUBCHAPTER 5. FEES

565:10-5-1. School fees [REVOKED]

~~(a) **Main school fee.** Private schools shall pay the following base fee per license issued by the Board: A fee of One Thousand Two Hundred Dollars ($1,200.00) shall be paid to the Board for the issuance of a new license under 70 O.S. § 21-103. For each renewal of a license, a fee based on the total tuition collected by the school as shown in the current financial statement of the school shall be paid to the Board. as follows: $50,000.00 or less the fee will be $700.00; 50,001.00 to $250,000.00 the fee will be $800.00; $250,001.00 to $500,000.00 the fee will be $950.00; $500,001.00 to $1,000,000.00 the fee will be $1,100.00; $1,000,001.00 to $3,000,000.00 the fee will be $1,300.00; $3,000,001' and above the fee will be $1,500.00. [70:21-106 (C)(1)]~~

~~(b) **Branch school fee.** In addition to the fees required for the main school location, each private school shall pay an additional fee of Three Hundred Dollars ($300.00) for each in state branch and a fee of Three Hundred Dollars ($300.00) for each out of state branch as defined by 70 O.S. § 21-101. Each branch which is not located in the same state as its main school or which does not offer substantially the same curriculum as is offered at the main school shall be considered to be a separate private school. Upon application for a license or renewal of license, each private school shall designate a main school location. [70:21-106 (C)(2)]~~

565:10-5-2. Representative fees [REVOKED]

~~"During the first licensing period of a school, a fee of Two Hundred Dollars ($200.00) shall be paid to the Board for the issuance of each solicitor's permit. After the first licensing year of a school a fee of One Hundred Dollars($100.00) shall be paid to the Board for the issuance of each permit under 70 O.S. § 21-104, and a fee of One Hundred Dollars ($100.00) shall be paid to the Board for each renewal of a permit." [70:21-106(C)(2)]~~

565:10-5-3. Penalty [REVOKED]

~~If the annual renewal fee is not paid on or before the first day of July, such fee shall become delinquent and the license shall not be renewed except upon payment of a delinquent annual renewal fee. The delinquent annual renewal fee may be assessed in an amount and manner prescribed by the Board not to exceed Five Hundred Dollars ($500.00). [70:21-106(D)]~~

565:10-5-4. Additional fees [REVOKED]

~~In addition to the licensing fees, the following fees will be charged for changes after a license is issued:~~

~~(1) Changes in the catalog or approval of new catalog, Fifty Dollars ($50.00).~~

~~(2) Change of school location, Twenty Five Dollars ($25.00)." [70:21-106(C)(3)]~~

565:10-5-4.1. Workshop fees [REVOKED]

~~*A fee of One Hundred Dollars ($100.00) shall be paid to the Board for attendance at a school workshop by any of the school's personnel.* [70:21-106 (C)(4)]~~

565:10-5-4.2. Licensing inquiry packet fee [REVOKED]

~~The fee for each licensing inquiry packet shall be Twenty-five dollars ($25.00). [70:21-106 (D)]~~

SUBCHAPTER 7. FACILITIES AND EQUIPMENT

565:10-7-1. Facilities

(a) **Physical requirements.** The building, classrooms, equipment, furniture, grounds, instructional devices, instructional facilities, and other physical requirements of the educational program shall be appropriate and shall contribute directly to the achievement of the educational objectives of the ~~institution~~school.

(b) **Health standards.** The physical plant shall meet all safety requirements and health standards and shall have adequate lighting, heating, and ventilation.

(c) **Fire, safety and sanitation.** The plant and facilities shall be in compliance with any local or state laws given, particularly with respect to fire, safety and sanitation.

(d) **Changes to school facility.** Extensive remodeling, repairs, or additions to existing buildings shall be delineated by plans and specifications submitted to the ~~Board~~ OBPVS.

(e) **Insurance.** Adequate insurance shall be maintained in force at all times covering buildings and equipment of the school.

(f) **Change of location.** The ~~Board~~OBPVS ~~must~~shall be notified of a change of location prior to moving and a copy of a new floor plan and fire department inspection ~~must~~shall be submitted for the new location. In addition, the school ~~must~~shall submit a revised catalog and enrollment agreement, with checklists, and the payment of appropriate ~~fee~~fee(s) in accordance with 70 O.S. §21-106.~~in Subchapter 5 of this Chapter.~~

SUBCHAPTER 9. SURETY BONDS

565:10-9-1. Bond requirement and amount

(a) Bond ~~amount~~requirements. Before the ~~Oklahoma Board of Private Vocational Schools~~OBPVS issues a license to a school or a Solicitor ~~representative thereof,~~ the school shall have filed ~~with the Board~~ an acceptable~~corporate~~ surety bond using the Bond form supplied by the OBPVS. ~~and such~~The bond shall cover all branches operated by the private school, and shall reflect dates of coverage that are congruent with the yearly licensing period of July 1 through June 30 of the following year. The bond shall be a blanket type document covering all activities of the school, its officials, and its Solicitors. Properly executed bond continuances or riders may be used in lieu of an annual, original replacement bond. The bond shall inure to any student of a school who suffers loss by reason of any unlawful act of the school.

(b) **Bond amount.** For an entirely new Main or Branch School, the initial Bond amount is Five Thousand Dollars ($5,000.00). Conditioned that the private school will faithfully perform its agreements and contracts with its students, the subsequent ~~amount~~amounts of the required~~corporate~~ surety bond ~~will~~shall be based on ten percent (10%) of the amount of student payments collected by the school, rounded upwards to the nearest thousand dollars, with a maximum bond of $50,000.00. Determination of the required bond amount for each school will be based on the total amount of Main and Branch(es) student payments contained in the school's financial statement of the last fiscal year, submitted for relicensing~~licensing~~. If the school does not meet the standards for financial stability in ~~OAC~~ 565:10-27, the Board may increase the amount of the surety bond required by the school to a maximum of Two Hundred Fifty Thousand Dollars ($250,000.00) for each Main School or the Main and Branch(es) combined.

~~(c)~~ **Signature of surety.** The Bond~~surety~~ shall be ~~signed~~issued by a solvent surety company authorized to do business in Oklahoma and shall be made payable to the State of Oklahoma.

565:10-9-2. Bond claim procedure

Each student submitting a claim against a surety bond of a licensed school, shall be reimbursed a pro rata portion of the tuition paid by him or her, subject to a computation of a proportionate percentage between the aggregate bond and the total amount of claims properly submitted. If the Board is able to ascertain from the records of the school the exact number and identity of students affected by the default of said school under this bond, the Board shall, within fifteen (15) days of such determination, notify each student in writing of his or her right to submit a claim hereunder. Any student receiving such notice, who desires to make such claim, must do so by completing the claim form prescribed by the Board within thirty (30) days of receipt of the notice. If the Board is unable to ascertain the exact number and identity of students affected by default of said school under this bond, the Board shall provide for newspaper publication of notice to students of their right to submit a claim hereunder. Such publication shall be made once a week for two (2) consecutive weeks in a newspaper of general circulation in the county where said school is located, and the expense thereof shall be borne by the Board. When newspaper publication is given, any student making a claim must do so by completing the claim form prescribed by the Board within sixty (60) days of the last publication of said notice. The Board ~~will~~shall not consider any claim not meeting the above requirements.

565:10-9-3. Bond amount for new school [REVOKED]

~~In the case of a new school, the amount of a surety bond shall be determined by the Board and if the board deems necessary, adjusted quarterly until one calendar year has been completed.~~

565:10-9-4. Scope of coverage [REVOKED]

~~The surety bond shall be a blanket type document covering activities of the school and all representatives thereof who propose to offer vocational type courses to residents of Oklahoma.~~

565:10-9-5. Certificate of deposit

In lieu of the corporate surety bond, a school may provide a certificate of deposit made out in favor of the OBPVS ~~Board~~that is drawn on a state or federal bank or savings and loan association located in Oklahoma and which is authorized to conduct business in the State of Oklahoma. Such certificate of deposit shall be subject to all of the requirements, uses and purposes applicable to the surety bond under these regulations and applicable provisions of law. Any interest received on such certificate of deposit shall be the property of the school providing the certificate, and the Board shall execute the appropriate instruments to assign or transfer such interest to the school. The certificate of deposit shall be held in safe keeping by the bank or savings and loan and shall not be released without the written permission of the Board. The OBPVS shall provide a Collateral Agreement form for execution by a school official, the bank or savings and loan association and the Director of the OBPVS.

565:10-9-6. Surety items non-cancellable

The bond shall be non-cancellable or the certificate of deposit non-redeemable for the period of time for which the license to the application applies. Release of a bond or certificate of deposit requires written authorization from the Director and may not occur until the bond claim procedure is completed or a proper replacement instrument is submitted and approved by the OBPVS.

SUBCHAPTER 11. SCHOOL OPERATION

565:10-11-1. School~~Personnel~~ personnel

(a) **Submission of training or work experience.** The school's Authorized Administrative Official, Director, ~~administrators, directors,~~ owners, Solicitors and instructors shall be qualified by reason of preparation and experience. Evidence of such training, preparation, and experience shall be submitted on forms provided by the OBPVS ~~Boardon~~ for the Authorized Administrative Official, the Director, and each ~~administrator, director, and~~ instructor. The accuracy of such information shall be attested to by the person responsible for the operation of the school. The Authorized Administrative Official and the Director roles may be filled by the same individual or by separate individuals. It is not an OBPVS requirement that the Authorized Administrative Official be present at a school or seminar's facility.

(b) **Reputation and character.** The school's owners, Authorized Administrative Official, Director, and Solicitors ~~administrators, directors, owners, agents and instructors~~ shall be of good reputation and moral character. The Board may consider a conviction or a plea of guilty or nolo contendere to a felony or to a crime involving moral turpitude, whether or not any appeal or other proceeding is pending to have the conviction or plea set aside, to constitute a violation of this rule. A copy of the record of conviction, certified by the clerk of the court entering the conviction, shall be conclusive evidence of conviction.

(c) **Director qualification.** The~~director~~ Director ~~or manager~~serves as the on-campus primary contact for the OBPVS during site visits to ~~of~~ the school and must be familiar with educational administration and methods, organization of classes, as well as sound ~~business~~ educational practices, including:

(1) The development of a curriculum capable of preparing students for specific job entry levels.

(2) The selection and employment or contracting of an instructional staff competent in subject matter and teaching techniques to implement the curriculum.

(d) **Responsibility for school operations.** The Director shall also be directly responsible for selection and employment of Solicitors and other school employees, maintenance of facilities, advertising, maintenance of administrative and overall student and classroom records, business professional ethics, development of policies, and the one who is directly responsible for the school meeting its obligations under the terms of licensure.

(~~d~~e) **Instructor qualifications.** Instructors shall ~~must be found to be qualified by education and experience background, and must~~ meet at least one of the following qualifications ~~as~~at a minimum: ~~requirements.~~

~~(1) Be a person of good character.~~

(~~2~~1) Be a graduate of a recognized college or university and hold a baccalaureate degree with a minimum of 12 credit hours in a field directly related to the subject(s) he/she is teaching or,

(~~3~~2) Have two years minimum full time work experience within the last seven years in the field in which he/she is teaching or,

(~~4~~3) Have a license issued by a state or the federal government in the field in which he/she is teaching, or have a nationally recognized professional certification in the field he/she is teaching, as approved by the Board.

(~~5~~4) The Board may waive these requirements if the school presents evidence that the instructor has met other requirements sufficient to provide adequate instruction in the subjects being taught, as approved by the Board.

(~~6~~5) Schools that offer instruction outside of Oklahoma ~~must~~ may provide documentation that those instructors meet the requirements of the states where the instruction is offered in lieu of OBPVS instructor qualifications

(~~e~~f) **Instructor changes and terminations.** The ~~Board~~OBPVS ~~will~~shall be notified of any terminations or changes of instructors within thirty (30) days.

(~~f~~g) **Authorized ~~administrative~~Administrative~~official~~ Official.** One person must be designated as the ~~authorized~~Authorized~~administrative~~ Administrative ~~official~~Official of the school and shall serve as the primary contact for the OBPVS, except during on-site visits. Such duly designated official shall have sole authority to represent the school and act in all matters involving the school's responsibilities under the law.

~~(g) Responsible for school operation. The school director or administrator should be recognized as the authorized administrative official who is directly responsible for the school program, including methods of instruction, selection and employment of teachers, representatives, and/or other school employees organization of classes, maintenance of facilities, advertising, maintenance of administrative and overall classroom records, business professional ethics, development of policies, and the one who is directly responsible for meeting school obligations under terms of its license.~~

(h) **Additional qualifications of ~~authorized~~Authorized~~administrative~~ Administrative ~~official~~Official.** ~~The authorized administrative official of the school must be a person of good moral character~~ He or~~/~~she ~~should~~shall be a graduate of an approved college or university with a major in the general field related to the direct objectives of the school's efforts, or have suitable experience as a school administrator or as an~~teacher~~ instructor in one or more of the major subjects offered by the school.~~,~~ In ~~or in~~ lieu of such specific educational qualifications, ~~thereof,~~ he or ~~/~~she may ~~must~~ possess other qualifications which are ~~considered~~approved by the Board as being substantially equivalent.

(i) **Employment status of ~~authorized~~Authorized~~administrative~~ Administrative**

official Official. The ~~authorized~~Authorized~~administrative~~ Administrative ~~official~~Official ~~or the administrative official's designated representativemust~~ shall devote a sufficient amount of his or her ~~full~~ time to the operations of the school while it is in session.

(j) **Mandatory school workshop.** The ~~Board~~OBPVS shall develop and ~~administer~~present an annual workshop(s)~~workshop~~ which emphasize rules relating to relicensing,~~and~~compliance, daily operation of a school, legislative changes, and emerging issues. ~~[70:21-106 (C)(4)].~~

(1) At least one person from each school who is responsible for the operation of the school shall be required to participate in an annual workshop.~~conducted by the Board. [70:21-106 (C)(4)]~~

(2) The ~~Board~~OBPVS shall notify each school of the date, time, and location the workshop is scheduled at least thirty (30) days prior to the workshop.

(3) Workshop registration forms and fees ~~must~~shall be submitted to the ~~Board~~OBPVS not less than ~~15~~7 working days prior to ~~the~~a live workshop or webinar.

(4) Workshops may be conducted in a live format or via webinar or other electronic means.

(5) For the first three years of a license, a school located in Oklahoma shall be required to participate at a live workshop and must justify attendance by a representative other than the school's OBPVS approved Director or Authorized Administrative Official.

(~~4~~6) Schools that do not properly submit ~~the~~a workshop/webinar registration form with the appropriate fee ~~in accordance with the Board's rules~~ or who do not arrange for an appropriate level representative to participate in the workshop, may be fined in accordance with 565:10-19-1(b) and 70 O.S. ~~70~~ §21-~~103(B)~~111.

565:10-11-2. Course implementation and instruction

(a) **Courses offered.** ~~The~~A school shall offer only those programs and individual courses ~~and special subjects~~ which it ~~has been~~is licensed to offer.

(b) **Discontinuation of class.** When a school discontinues any program or course ~~or courses of instruction~~, for whatever reasons, the school shall remove the program or course ~~or courses~~ from the ~~approved school~~ catalog and submit a catalog change to the OBPVS, or ~~they shall~~ stamp the discontinued program or course as, ~~it~~ "Not Offered", or "No longer offered".

(c) **Course content.** A program or an individual course must provide the necessary instructions to qualify the student upon completion to satisfactorily perform the objective of the program or course.

(d) **Course outlines.** The school shall maintain an outline for each subject being taught.

565:10-11-3. Refunds

(a) **Termination date.** The termination date for refund computation purposes is the last date of actual attendance by the student. The school may require notice of cancellation or withdrawal to be given by certified mail provided this requirement is stated in the ~~enrollment~~Enrollment ~~agreement~~Agreement. The school may require that notice be made by parent or guardian if the student is below legal age. If a penalty is charged for failure to notify the school in writing such penalty may not exceed $25.00.

(b) **Refund policy.** Details of the school's own definite and established refund policy for cancellations and terminations shall be documented in both the catalog and the enrollment agreement and ~~must~~ shall, ~~as~~at a minimum, comply with the following requirements:

(1) **Rejection.** An applicant rejected by the school shall be entitled to a refund of all monies paid minus any stated application fee, not to exceed $25.00.

(2) **Three day cancellation.** All monies paid by an applicant ~~will~~shall be refunded if requested within three days after signing an enrollment agreement and making an initial payment.

(3) **Other cancellation.** An applicant subsequently requesting cancellation shall be entitled to a refund of all monies paid minus a registration fee of 15% of the contract price of the course, but in no event may the school retain more than $150.00.

(4) **First week.** For a student terminating training after entering school and starting the course of training but within the first week, the tuition retained by the school shall not exceed 10% of the contract price of the course plus $150.00 but in no event more than $350.00. The Board may waive this requirement upon written request by the school if it feels the request is justified.

(5) **After first week.** For a student terminating training after one week but within the first 25% of the course, the tuition retained by the school shall not exceed 25% of the contract price of the course plus $150.00.

(6) **After 25%.** For a student terminating training after completing over 25% but within 50% of the course, the tuition retained by the school shall not exceed 50% of the contract price of the course plus $150.00.

(7) **After 50%.** A student completing more than 50% of the course is not entitled to a refund of any tuition.

(8) **Special cases.** In case of student prolonged illness or accident, death in the family, or other circumstances that make it impractical to complete the course, the school shall make a settlement which is reasonable and fair to both.

(9) **Discontinued class.** If a class is discontinued by a school while students are still enrolled in that class, and the school is still offering training in other areas, all monies (student loan, grant, and etc.) paid the school for students enrolled in the class at the time it is discontinued ~~will~~shall be refunded to the entity legally entitled to the refund. A school ~~will~~shall have thirty (30) days to restart the class or pay the refund.

(c) **Application of policy.** A period of enrollment shall not exceed 12 months. Tuition includes application or registration fees. Refunds are to be calculated for the period(s) of enrollment.

(1) For courses longer than one period of enrollment in length, the cancellation and settlement policy shall apply

to the stated course price attributable to each period of enrollment.

(2) Percentage of course completion shall be computed on the basis of the amount of time in the course as expressed in contact, quarter or semester hours as listed in the catalog. If the catalog and enrollment agreement also show the course length in weeks, the refund may be computed using the number of weeks completed in lieu of contact, quarter, or semester hours.

(3) Any refund due shall be paid within 60 days after cancellation or termination, unless the refund is payable directly to the applicant or student, in which case it shall be paid within 30 days after cancellation or termination.

(4) Students shall not be liable for periods of enrollment which they did not attend.

(d) **Extra expenses.** Items of extra expense to the student such as housing, board, instructional supplies or equipment, tools, student activities, laboratory fees, service charges, rentals, deposits and all other extra charges need not be considered in tuition refund computations provided they are separately shown in the enrollment agreement and catalog. When items of major expense are separately shown for this purpose, the school must also state its policy for reasonable settlement of such charges in the event of early termination.

(e) **Refund policy for accredited Schools.** If a school is accredited by a national or regional accrediting agency that is recognized by the U.S. Secretary of Education, or the Veteran's Administration, the Board may approve the school to use that accrediting agency's refund policy ~~or~~ a refund policy issued by the U.S. Department of Education (USDE) or the Veteran's Administration in lieu of the policy in this section. If a school requests approval under this provision, it must provide evidence that its policy has been accepted by or is in compliance with the accrediting agency or USDE.

(f) **Application.** A school's refund policy shall state its applicability to both school-determined and student driven enrollment terminations, unless good faith rationale is provided to the OBPVS to permit handling by the school in a different manner.

(g) **Severability of refund policy.** The provisions of this section are severable and the invalidity of one shall not impair the enforceability of the remaining provisions.

(~~g~~h) **~~Cancellation~~Refund policy for individual courses of an approved program.** A student enrolling in a course which is part of a program approved by the Board and is less than 100 contact hours in length shall be subject to the following refund policy:

(1) The School shall issue a 100% refund minus $10.00 if the student withdrawal is made prior to second class meeting.

(2) ~~No refund if withdrawing after beginning of second class meeting.~~The School is not required to issue any refund:

(A) If the student withdrawal is made after the beginning of second class meeting, or

~~(3) No refund will be made on books or supplies issued.~~

(B) on books or supplies issued.

565:10-11-4. Student records

(a) **Required student records.** The school shall maintain individual records for each student enrolled, which are current, complete and accurate, ~~and will reveal~~to provide the following information:

(1) An ~~enrollment~~Enrollment~~agreement~~ Agreement for which the student and school shall retain a copy containing, but not limited to, the following information:

(A) Student ~~Name~~name and address.

(B) Starting date.

(C) Student and school official signatures and date signed.

(D) Title of the course enrolled.

(E) Total instructional hours.

(F) Payment schedule and total cost.

(G) Refund policy.

(H) A statement to the effect that the individual signing the contract or application has read and understands all aspects of the agreement.

(I) The holder in due course rule.

(J) Three day cancellation notice in accordance with ~~OAC~~ 565:10-11-3(b)(2).

(K) Signature and date of signing by the student or student's guarantor.

(2) ~~Date~~Dates the student enrolled, began classes, and ~~date~~ completed enrollment or graduated.

(3) Grades received on completed assignments, for a completed individual course(s), or additional program requirements, as appropriate, in order to justify an ultimate programmatic grade point average, if any.

(4) All monies owed and/or paid by the student to the school.

(5) Student attendance, which shall be kept daily indicating present or absent.

(6) ~~Counseling~~Guidance or other records, including, but not limited to academic, conduct, financial, or placement matters.

(7) A transcript ~~will~~shall be maintained permanently. When a school closes, the notice to the OBPVS must include details for the ongoing retention of student transcripts.

(8) A school which gives credit toward a course based on prior experience or previous training shall record such credit on the school's records and the student's official transcript as satisfactory and list the portion of the course for which the student is given credit. A copy of the transcript reflecting courses for which a student is given credit shall be attached to the school's official transcript and shall be retained as part of the student's permanent records.

(9) Written advertising and endorsement records as described in further detail at 565:10-11-6,

(10) Other records which may have a direct bearing on factors involving continued approval of the school.

(b) **Inspection of records.** Records of students shall be open for inspection by properly authorized officials of the OBPVS. ~~Oklahoma Board of Private Vocational Schools.~~

(c) **Availability of student records.** Student records shall be easily available and readily accessible for use and review

by ~~authorized~~appropriate school officials of the school and authorized representatives of the Board.

~~(d) **Credit for previous training.** A school which gives credit toward a course based on prior experience or previous training shall record such credit on the school's records and the student's official transcript as satisfactory and list the portion of the course for which the student is given credit. A copy of the transcript reflecting courses for which a student is given credit shall be attached to the school's official transcript and shall be retained as part of the student's permanent records.~~

(~~e~~d) **Completion certificate.** The school shall award a completion certificate or diploma to each student who satisfactorily completes a course. If the student has not met all financial obligations to the school, the certificate of completion or diploma may be held until the debt is paid.

(~~f~~e) **Official transcript.** The school shall maintain a permanent transcript for each student showing the name of the course, all subjects within the course attempted or completed and the grade received for each, and the date the student graduated or ~~dropped.~~ ceased to be enrolled. The school shall make available to each student a copy of their official transcript. If a fee is charged by the school, such fee shall be clearly stated in the school catalog. For a period of two (2) years after graduation or cessation of enrollment, the cost of a transcript shall not exceed the cost shown in the specific catalog under which the student was enrolled. If the student has not met all financial obligations to the school, the transcript may be held until the debt is paid.

565:10-11-5. Placement

(a) **Employment guarantee.** ~~A~~No school or representative thereof, including a Solicitor, shall ~~not~~ guarantee or promise ~~to~~ any prospective student employment of any type, for any period of time, nor for any rate of pay, unless such is clearly stated in the enrollment ~~contract~~agreement signed by ~~the~~an authorized ~~administrative~~school official ~~of the school~~ and the prospective student or guarantor.

(b) **Placement assistance requirements.** If the institution offers placement assistance or implies that placement assistance is given, the school shall:~~following will apply:~~

(1) ~~The school shall offer~~Offer and attempt to provide adequate placement services to graduates in locating full time positions relating to the training objectives of the ~~institution.~~school or the program under which the student was enrolled.

(2) ~~The school shalldesignate~~Designate at least one person whose responsibility, wholly or in part, shall be the administration of the placement assistance services. This person and their official position shall be publicized and made known to the student body.

(3) ~~The school shallmaintain~~Maintain accurate records of full time job orders identifying employers, job descriptions, salaries, and other pertinent information relating to the particular order.

(4) ~~The school shallmaintain~~Maintain evidence that it has attempted to obtain information with regard to student interviews, job descriptions, salaries and other pertinent facts relating to the placement assistance and/or employment of the student.

(5) ~~The school shallmaintain~~Maintain~~on file~~ a record of all transactions relating to the placement assistance provided.

565:10-11-6. Advertising

(a) A ~~licensed~~ school shall not advertise through any medium that it offers a program(s) or an individual ~~course~~courses(s) that the school has not been licensed to offer.

(b) Printed catalogs, bulletins, or prospectus information distributed in any manner ~~must~~shall be specific if references are made to entrance requirements, curricula, description of courses, tuition, fees, refund policies, or graduation requirements. Such references when made shall not be so stated as to reflect information which may be interpreted as different than that which is covered under the license issued by the Oklahoma Board of Private Vocational Schools.

(c) Schools holding a franchise to offer specialized courses or subjects not open to other schools shall not advertise such courses in any manner as to impugn the value and scope of courses offered by other schools that do not hold such franchise. Such advertising of special subjects or courses offered under a franchise shall be limited to the subject or courses offered.

(d) Schools shall not use any name, title, or other designation by way of advertising or otherwise, that is misleading or deceptive as to character of the institution, its course of instruction, or its influence in obtaining employment for students.

(e) Schools shall not use a photograph, cut, engraving, or illustration in catalogs, sales literature, or otherwise in such a manner as to convey a false impression as to the size, importance, or location of the school or its equipment.

(f) Schools shall not use endorsements, commendations, or recommendations by students ~~in favor of the schoolunless with~~ without the written consent of the writer and ~~without~~with any offer of ~~financial compensation~~ remuneration. ~~Such material~~All written endorsement records shall be ~~kept on file~~maintained by the school.

(g) Schools shall publish ~~their~~ schedules of tuition rates, methods of payment, and refund ~~policy~~ policies in ~~their~~a catalog or ~~on a separate rate sheet which must be an addendum to the catalog~~ catalog addendum and shall not deviate from such published rates and policies.

(h) Schools shall not make or cause or permit to be made or publish any false, untrue, or deceptive statement of representation by way of advertising or otherwise, concerning other private schools or their activities in attempting to enroll students, or concerning the character, nature, quality, value or scope of any course of instruction or educational service offered, or in any other material respect. An employee or representative of the school shall not at any time, nor in any willful manner, advertise or otherwise furnish to prospective students information regarding another licensed school which is considered by the OBPVS to be adversely critical and/or untruthful of the quality, content, length, cost or objective of a program or individual course(s) offered by the other school,

or of the professional, financial, or moral qualifications or standings of the school or its personnel whether on a local community, state, or national level.

(i) A school shall not solicit students to enroll by means of "blind" advertisement or advertisements in the "help wanted" or other employment columns of newspapers and publication.

(j) Schools shall not make false, untrue or deceptive statements of representation regarding the opportunities for employment in any vocation or field of activity which may be available to a student or prospective student upon completion of any given course of instruction or educational service.

(k) The title of the course as advertised must be specifically identifiable in the current approved catalog and neither the skill objective nor the salary prospective shall be exaggerated.

(l) Published catalogs and any or all other ~~Advertising~~ advertising by licensed schools that is placed in any media shall clearly indicate that the school is licensed with the inclusion of the statement, "Licensed by the Oklahoma Board of Private Vocational Schools", "Licensed by the O.B.P.V.S.", or "Lic OBPVS". This requirement may be waived if the school presents evidence that the wording does not meet the media specifications and the actual verbiage used is not construed as misleading.

~~(m) The authorized administrative official or any of their representatives shall not at any time, nor in any willful manner, advertise or otherwise furnish to prospective students such information regarding another licensed school which is considered by the Board to be adversely critical and/or untruthful of the quality, content, length, cost or objective of a course offered by such school, or of the professional, financial, or moral qualifications or standings of the school, its administrators, director, instructors or representatives at the community, state, or national level.~~

565:10-11-7. Admission requirements

(a) **Publication.** The admission requirements of a private ~~vocational~~ school must be published and administered as written.

(b) **Minimum education requirements.** A school shall establish entrance requirements which ~~will~~shall reasonably ensure that a student entering a ~~course/~~program or individual course has the ability to satisfactorily complete the training. ~~The school shall ensure as~~As part of the entrance process, the school shall make its best efforts to ensure that the student will be eligible or qualified to meet the requirements or standards in the field of training, ~~for which they are training (i.e.~~Such efforts shall include, but not be limited to, school consideration of~~age,~~ physical activity or other occupational requirements of jobs, if any, and the student's ability to pass a certification exam, criminal background check, ~~record,~~or drug/alcohol testing or review of convictions.~~, etc.).~~

(c) ~~**SPECIAL CASES:**~~**Special Admission Cases.** If a student does not meet the entrance requirements, the student may still enroll by signing ~~if they sign~~ a notarized statement prepared by the school. The statement shall ~~detailing~~ detail why or how ~~they do not meet~~ the entrance requirements or employment standards~~,~~were not met. The statement shall also document~~and~~ that the student understands that ~~these~~the disclosed ~~circumstances~~ circumstance(s) may prevent ~~them fromcompleting~~completionof the training or being eligible for employment after graduation. This statement ~~will~~shall be made a permanent part of the student's record file. At no time ~~will~~ shall more than ten percent (10%) of the students in any course/program be "special cases" students.

(~~c~~d) **Enrollment tests.** The school may admit only those students who have demonstrated through pre-enrollment tests or counseling ~~their~~ capability of satisfactorily pursuing the prescribed training from beginning to completion of a course during the time allotted. If an entrance exam is used the school shall set a minimum passing score for entrance to the school and shall maintain a copy in the students records.

565:10-11-8. Student ~~grievances~~ complaints

~~In the event a student should have to quit school for reasons beyond the student's control, be dismissed from the school or drop out because of improper treatment or extreme dissatisfaction with the school and its offerings and if the student feels that the student did not receive proper refund or treatment, according to contract or agreement, the student may file a written complaint to this Board.~~ Student complaints~~grievancesmust~~ may be submitted to the OBPVS ~~filed~~, and ~~will~~shall be investigated by the OBPVS, in accordance with 565:1-3-2.

565:10-11-9. Recruitment

All school recruitment practices shall comply with the following requirements:

(1) The school's recruitment efforts shall be designed to locate and inform students and student groups of the programs and benefits available at the institution.

(2) ~~Theserecruitment~~Recruitment efforts ~~will~~shall be conducted in a sophisticated manner on a professional level free from high-pressure techniques.

(3) The school shall provide adequate training for all admission representatives to ~~insure~~ ensure that ~~they can~~satisfactory ~~fulfill~~ fulfillment ~~their~~of responsibilities in a professional manner.

(4) Loans, grants, scholarships, discounts and other such items shall not be used as a recruitment device, where such use will result in unfair or unethical trade practices.

(5) A school shall not permit its admission ~~representatives~~representative, Solicitor, recruiter, or other school personnel to encourage a~~ny~~a student to leave ~~an~~the educational institution ~~where they are in attendance,~~currently being attended. ~~nor~~Nor shall any school personnel seek to induce a student to change ~~their~~ plans to attend a different school after the student has signed an ~~enrollment~~Enrollment ~~form~~Agreement and paid a registration fee to ~~an~~the other school.

(6) A school and its representatives shall refrain from all statements relating to the character, nature, quality, value, or scope of educational programs offered by other schools, or the resources or ability of such schools to fulfill their obligation.

(7) A schools must shall prohibit sales representatives an admission representative, solicitor, recruiter, or other school personnel from portraying themselves as a guidance counselors or using any other title that is false, misleading, or deceptive. used to disguise the sales function.

SUBCHAPTER 13. REPRESENTATIVESOLICITOR LICENSE

565:10-13-1. RepresentativeSolicitor license

(a) **Application.** Each Solicitorrepresentative, as defined by 565:10-1-2, shall file with the Board an application for a representative's license on forms provided by the Board. Solicitor applications are to be submitted to the OBPVS by the school the Solicitor, if licensed, will represent.

(b) **Effective date for selling courses.** The Solicitor representativewillshall not sell courses market a school's program(s) or an individual course(s) until such time as the application is approved and the physical license is in their possession.

(c) **Fee.** Each Solicitor representative application shall include a check for thepayment of the appropriate licensing fee required by 70 O.S. §21-106.as covered by Subchapter 5 of this Chapter.

(d) Surety bond. The Solicitor representative shall be covered by the school's surety bond as described in 565:10-9 Subchapter 9 of this Chapter.

(e) **Policies.** RepresentativesSolicitors shall comply with the Board's enabling statute, 70 O.S. §21, 101, et seq. regulationsand 565:1 and 565:10 concerning school operation and Solicitor conduct.

(f) **Return of License Card.** Following termination of employment, the Solicitor shall return the physical license card either to the school or directly to the OBPVS.

SUBCHAPTER 15. DENIAL AND APPEAL

565:10-15-1. Grounds for denial of school license

The new or renewal application of a school may be disapproveddenied when the school or its application doesnot meet one or more of the following:

(1) Has not met one or more of theFailure to comply with standardscriteria established in 565:10 this Chapter.

(2) Has not submittedFailure to submit all licensing requirements application elements within one hundred twenty (120) days from the time of the initial application submission submitting an application.

(3) If it can be shown that the schoolThe applicant has not operated within the requirements of the Oklahoma Statutes or 565:10 Board's rules or the Oklahoma Statutes.

(4) IftheThe school, its directorDirectoror Authorized Administrative Official, or a person having a ten percent 10%(10%) or more ownership or control has been disciplined by a licensing or disciplinary authority of a state or a national or regional accrediting body when such disciplinary action resulted in revocation of a school's license or accreditation. A certified copy of the adverse action shall be conclusive evidence thereof.

565:10-15-2. Grounds for denial of representativeSolicitor license

The new or renewal application for approval and licensing of a representativeSolicitor may be disapproveddenied by the Oklahoma Board of Private Vocational SchoolsOBPVS when one or more of the following conditions exists:

(1) The applicant and/or the school fails, within thirty (30), days to satisfactorily answer within (30) days the OBPVS'questions and/or to provide items required by shown on the application form.

(2) At such times as the BoardOBPVS receives an incomplete application form, such form shall be returned not more than two separate times during the thirty (30) days to the applicantapplicant's school for more complete information.

(3) The school must sign an affidavit that the person being they aresubmitting submitted for licensing approval as arepresentative has been adequately screened and the school understands that it is responsible for the actions of the sales representative Solicitor.

(4) When theThe applicant fails to meet other conditions required by law or regulation, including but not limited to, the requirement of the Oklahoma Tax Commission that Oklahoma residents applying for license owe no monies to the State of Oklahoma in accordance with 68 O.S. §238 and §238.1.

(5) The school listed on the application is not currently licensed.

565:10-15-3. Appeal of denial

(a) **Right to hearing.** If a relicensingrenewal application is disapproved denied, the school or representative has the right to request a formal hearing.

(b) **Hearing notice.** The notice of denial letter sent to the applicantApplicant by certified mail letterin which they areadvised of the action by the Board shall contain a statement clearly indicating the reason(s)reason for such the disapprovaldenial and give opportunity for the applicant to be heard, provided he/she notifies the Board in writing of such desire within fifteen (15) days after the mailing receipt date of the disapproval letter denial notice.

(c) **Scheduling of hearing.** Upon receipt of the request for a hearing, the directorDirectorwill shall set a date which will be not more than sixty (60) days from the date the applicant's request for a hearing was received. The applicant shall be notified by certified letter of such date for the hearing.

SUBCHAPTER 17. REVOCATION OF LICENSE

565:10-17-1. Basis for revocation

A license may be revoked when it is found that the school or ~~representative~~Solicitor has failed to comply with the requirements of the law and the rules ~~and regulations adopted by~~of the ~~Oklahoma Board of Private Vocational Schools~~OBPVS.

565:10-17-2. Revocation procedure

A license cannot be revoked unless the school or ~~representative~~Solicitor has been given a chance to be heard in accordance with ~~OAC~~ 565:1-3-3.

SUBCHAPTER 19. PENALTY

565:10-19-1. Penalties for violation and noncompliance

(a) **General penalties.** Any person violating any of the provisions of the Private Schools Licensing Act shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than One Hundred Dollars ($100.00), nor more than Two Thousand Five Hundred Dollars ($2,500.00), or by imprisonment of not more than thirty (30) days. ~~[70:21-111]~~

(b) **Board imposed penalties.** Except as is otherwise provided by law, the Board is authorized, subject to the provisions of the Administrative Procedures Act, to prescribe such penalties as it may deem proper for the enforcement of 70 O.S. § 21-101through 21-112, 565:1, or 565:10. A Board imposed penalty shall ~~to~~ not exceed One Thousand Dollars ($1,000.00). ~~[70:21-103(B)]~~

565:10-19-2. Waiver of administrative penalties and fines

In accordance with 75 O.S. §506, the Board may waive or reduce any administrative penalty or fine for violation of the ~~Board's rules or applicable statutes~~ law or rules by a small business, as defined in 75 O.S. §502. ~~[75:506]~~

SUBCHAPTER 21. EVALUATION

565:10-21-1. School review

The ~~Board~~ OBPVS shall have the ~~authority~~authority(ies) to investigate, appraise, and evaluate ~~from time to time,~~an Applicant or ~~any~~ licensed private school ~~now~~ located in the state of Oklahoma~~, or which may hereafter be located in this state.~~ or another state. The investigation, appraisal, and evaluation shall be for the purpose of determining whether the private school is maintained and operated, or in the event of a new private school, whether the new private school can be reasonably maintained and operated in compliance with the ~~provision~~provisions of ~~Title~~ 70 O.S. §~~Section~~ 21-101 et seq. and 565:10~~of the Oklahoma Statutes~~. Evaluation may include, but not be limited to, request of additional information, paperwork reviews, or an on-site visit or inspection during operating hours of the Applicant or school.

565:10-21-2. Advisory council

The Board shall have the right to use an expert or advisory council of experts to advise the Board concerning curriculum and equipment or any other topic related to a new or renewal license or a school's compliance, ~~before approving a new school or courses or for reevaluation of a currently approved course.~~

SUBCHAPTER 23. SEMINARS~~,~~OR WORKSHOPS ~~AND SHORT COURSES~~

565:10-23-1. Items required for licensure of seminars; length of programs

A seminar or workshop that does not meet the requirements for exemption from licensing in 70 O.S. §21-101.1(9) may be licensed as a seminar type of a school upon OBPVS verification and the filing of a proper attestation that ~~Upon determination by the Board that an applicant for licensure~~the entity ~~will~~shall offer courses of either not more than 32 contact hours in length or less than 4 seminars annually. Rules in other sections of 565:1 and 565:10 apply to seminar-type schools unless a different requirement is listed for a seminar. ~~the applicant~~The Applicant~~,~~ shall ~~provide~~ submit ~~the Board with~~ the following items for review and consideration by the OBPVS: ~~which the Board shall consider in deciding whether to issue a license.~~

(1) ~~The applicant shall submitan~~An application to conduct a seminar ~~course~~course(s)~~of instruction~~ on a~~form~~ form(s) provided by the Board or substantially similar to Board forms and provide all required attachments to the application.

(2) ~~The applicant shall file with the Board a~~A surety bond or certificate of deposit which meets the requirements of 565:9. ~~as outlined in Subchapter 9 of this Chapter and executed by a surety company authorized to transact businessin the State of Oklahoma as surety thereon and the State of Oklahoma as obligee. The bond shall be conditioned that the applicant will faithfully comply with all the provisions of law and that the bond shall be noncancellable for a period of time for which the license to the application is issued. The bond shall inure to any person who suffers loss by reason of any unlawful act of the licensee.~~

(3) ~~The applicant shall submit a~~A copy of the ~~institution's~~ entity's bulletins or other descriptive material which clearly provides information concerning the entity and the program(s) or individual course(s) ~~institution~~to be offered to include, but not be limited to, ~~specifically as~~the ~~to~~ purpose and objective of the program(s) or individual course(s) , ~~objective,~~ tuition, method to enroll or cancel enrollment and other pertinent information.

(4) ~~The applicant shall submit a~~A current financial statement in accordance with ~~OAC~~ 565:10-27.

(5) ~~The applicant shall submitevidence~~Evidence that the ~~institution's~~ Director, Authorized Administrative Official, ~~directors~~ and instructors shall be qualified by reason of education, experience or training in accordance

with 565:11-1. ~~. Evidence of such education, experience, or training shall be submitted on forms provided by the Board for each director and instructor. The accuracy of such information shall be attested to by the person responsible for the operation of the institution. The institution's owners, directors, agents, and instructors shall be of good reputation and moral character.~~

(6) ~~The applicant shall submitevidence~~Evidence that a suitable ~~facilies~~facility are engaged for the entire period of instruction.

(A) Seminars or ~~,workshops~~Workshops, ~~or Short Courses~~ offered in a fixed location, either owned, leased, or operated by the ~~licensing~~applicant Applicant, shall submit a copy of a current fire inspection, no more than three months old, showing that the location meets all requirements pertaining to local fire and safety codes. Further, the ~~applicant~~Applicant shall submit plans, blueprints, or line drawings which describe in detail the ~~facilities~~facility(ies) in which the seminar ~~school~~ will operate.

(B) ~~Licensing applicants offering instruction~~Seminars or workshops offered in a non-fixed location, such as hotel/motel conference rooms, convention halls, or other public facilities, shall submit ~~as evidence~~ copies of contracts, agreements, or letters of confirmation from ~~such~~the ~~facilities~~facility(ies), reflecting the address and dates engaged for the period of instruction.

(7) ~~The applicant shall submitevidence~~Evidence that adequate liability insurance covering each attendee against accident or injury has been arranged and paid. The liability insurance shall be maintained in force at all times the seminar offers a program(s) or an individual course(s). ~~covering each attendee against accident or injury.~~

(8) ~~The applicant shall submitcopies~~Copies of the proposed enrollment ~~forms~~form(s), ~~contractscontract(s)~~, or ~~tickets~~ticket(s). Such enrollment ~~forms~~ form(s), ~~contracts~~ contract(s), or ~~tickets~~ticket(s) ~~must~~shall include the following information, at a minimum:

(A) Title of the program or individual ~~courseor courses~~ course(s). ~~within a curriculum.~~

(B) Total contact hours.

(C) Total cost and payment schedules, if applicable.

(D) Cancellation penalty or refund policy.

565:10-23-2. Advertising

(a) **Misleading advertising.** Advertising for seminars, workshops ~~or short coursesmust~~shall be factual~~. It~~ and ~~must~~shall not mislead prospective attendees either by direct statement or implication. Examples of misleading statements are:

(1) That "anyone" regardless of ability, prior experience, or training, can succeed in the field.

(2) That securing jobs for attendees is the primary function of the institution.

(b) **Required name, address and phone number.** All printed advertising must include the ~~institutions's~~ entity's name, permanent address, and telephone number.

(c) **Submission of advertising to the ~~Board~~OBPVS.** The ~~Board~~OBPVS ~~can~~may require ~~an~~ a ~~institution~~seminar to submit all advertising for approval prior to use.

565:10-23-3. Student ~~grievance~~complaints

~~Student grievances must be filed in accordance with 565:1-3-2.~~ Seminar student complaints may be submitted to the OBPVS, and shall be investigated by the OBPVS, in accordance with 565:1-3-2.

565:10-23-4. Fees

(a) **Amount of fees.** Fees for licensure of seminars or, workshops~~, or short courses~~ shall be paid in accordancewith 70 O.S. §21-106 ~~as outlined in Subchapter 5 of this Chapter~~.

~~(b) Fees non-refundable. Licensing fees are not refundable.~~

(b) **No Catalog Change Fee.** A seminar or workshop need not pay a catalog change fee to revise, remove, or add an additional program(s) or individual course(s).

565:10-23-5. Duration and renewal of licenses

Duration and renewal of licenses for seminars or~~,~~ workshops~~, or short courses~~ shall be the same as provided in 565:10-1-4.

565:10-23-6. Reports

The seminar or workshop~~licensed institution will~~shall notify the ~~Board~~ OBPVS of each subsequent program or individual course session~~offered,~~ by submission of a copy of the newspaper advertisement, flyer, brochure, or pamphlet used, no less than ten days prior to release or use in Oklahoma.

565:10-23-7. Grounds for revocation of license

Grounds for revocation of a license for seminars or~~,~~ workshops~~, or short courses~~ shall be as provided in 565:10-17 ~~Subchapter 17 of this Chapter~~.

565:10-23-8. Procedure for ~~suspension or~~ revocation of licenses

Procedure for ~~suspension or~~ revocation of a license for seminars or~~,~~ workshops~~, or short courses~~ shall be the same as provided in 565:10-17~~Subchapter 17 of this Chapter~~.

565:10-23-9. Penalty

Penalty shall be as provided in 70 O.S. §21-111 and 565:10-19~~-1~~.

565:10-23-10. Mandatory school workshop

At least one person from each seminar or workshop ~~school~~ who is responsible for the operation of the school shall be required to participate in an annual workshop or webinar

conducted by the ~~Board~~OBPVS in accordance with ~~the rules established in~~ 565:10-11-1(j). ~~[70:21-106 (C)(4)]~~

SUBCHAPTER 27. FINANCIAL STATEMENT AND FINANCIAL STABILITY

565:10-27-1. Financial ~~statements~~ Statements

(a) **~~Format.~~Type or format of Statement.** Each school shall submit a financial statement which has been prepared by a licensed Certified Public Accountant or licensed Public Accountant in accordance with Statements on Standards for Accounting and Review Services issued by the American Institute of Certified Public Accountants. The statement ~~will~~shall be a "Compilation", "Reviewed", or "Audited" statement depending on the school type, gross tuition level and whether or not an audit is required by another specified entity ~~or report~~. A ~~compilation~~ Compilation~~will~~ shall be ~~required~~submitted for schools that collected less than Two Hundred and Fifty Thousand Dollars ($250,000) in gross tuition for the year reported. ~~,~~Seminars or workshops ~~schools licensed as Seminars, Workshops, and ShortCourses~~ as ~~stated~~described in 565:10-23, and new schools not participating in "Title IV Programs" through the U.S. Department of Education. The ~~compilation~~Compilation~~report~~ must be certified by the school owner or proper executive officer as true and correct in content and the OBPVS shall provide an attestation sample available. All other schools ~~must~~ shall submit a ~~reviewed~~Review~~statement~~. If a school, seminar or workshop is required by another licensing, accrediting, or approving body to submit an audited statement, than that statement shall be submitted to this Board in lieu of a compilation or review. ~~other financial reporting required by this section.~~However, a~~A~~ school, seminar or workshop that is required to submit a compilation may choose to submit a reviewed or audited statement instead.

(1) Financial ~~statements~~Statements~~, for other than a new school,~~ must include:

(A) A cover letter signed by the CPA or PA ~~from the preparer~~on the CPA's or PA's letterhead showing at a minimum, a complete address and contact telephone number.

(B) A Balance ~~sheet~~Sheet.

(C) An ~~income~~Income ~~statement~~Statement or Statement of Operations that includes a separate line ~~item~~item(s) showing the total tuition collected by the school as opposed to combining all possible revenue sources, and should be broken down between the Main School and each Branch(es), if any.

(2) ~~In addition,Audited~~Audit and ~~Reviewed~~Reviewed statements ~~must~~ shall include the following additional elements:

(A) A ~~statement~~Statement of ~~changes~~Changes in ~~shareholders'/~~Shareholders'/ ~~owners'~~Owners'~~equity~~Equity.

(B) A ~~statement~~Statement of ~~cash~~Cash~~flows~~Flows.

(C) Proper and complete Notes to the ~~financial~~Financial~~statements~~Statements.

(b) **Balance ~~sheet~~Sheet.** All Compilation statements ~~must carry as~~shall report separate line items on the ~~balance~~Balance~~sheet~~Sheet or provide ~~on~~in a notarized statement signed by the school owner or corporate financial officer, ~~and attached as part of the financial statement~~ as an attachment, the following:

(1) Unearned tuition.
(2) Unpaid, past due taxes.
(3) Unpaid, past due tuition refunds.
(4) Unpaid fines and assessments.
(5) Unpaid judgments against the institution.

(c) **Period of coverage.** The school shall submit a Financial Statement ~~report~~ covering their most recent fiscal year. The report shall cover a twelve (12) month period unless the school has not been in business for a full year. Schools which submit a statement for a fiscal year ending more than six (6) months prior to filing shall submit a quarterly report for their most recent quarter. ~~A new school~~An Applicant shall submit a Financial ~~statement~~ Statement which reflects their financial position at the time of application.

565:10-27-2. Financial stability

A school shall have a ratio of current assets to current liabilities of not less than 1:1 and the school shall have adequate financial resources to meet its responsibilities and to ensure the continuity of services. Upon the failure of either of these requirements, the Board may require the school bond or certificate of deposit to be increased as provided in ~~OAC~~ 565:10-9-1(a). To further assure adequate financial resources, the owners(s) may be permitted or required to file a personal financial statement along with a notarized statement stating that the owner(s) ~~will~~shall take financial responsibility for the school and ~~will~~shall furnish adequate financial resources for its operation.

565:10-27-3. Special circumstances and waiver of requirements

The Board shall have the authority to request additional financial information. Schools that can show extenuating circumstances that prevent them from complying with the requirements Financial Statement or financial stability requirements ~~of this subchapter~~ may request the Board to waive ~~any~~some or all of the provisions. ~~part of this subchapter.~~ Waiver of any ~~part of this subchapter~~requirement does not exempt the school from having to have adequate financial resources to properly operate the school or from submitting a statement prepared by a CPA or PA.

[OAR Docket #15-733; filed 7-8-15]

TITLE 575. STATE BOARD OF EXAMINERS OF PSYCHOLOGISTS
CHAPTER 1. ORGANIZATION OF BOARD AND PROCEDURES FOR HANDLING COMPLAINTS

[OAR Docket #15-719]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
575:1-1-2 [AMENDED]
575:1-1-3 [AMENDED]
575:1-1-4 [AMENDED]
AUTHORITY:
Oklahoma State Board of Examiners of Psychologists; 59, O.S., 2001, Section 1352.1(8).
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
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Approved by Governor's declaration on June 8, 2015
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SUPERSEDED EMERGENCY ACTIONS:
n/a
INCORPORATIONS BY REFERENCE:
n/a
ANALYSIS:
The amendments to these rules will update and clarify the procedures for requests and update statute references.
CONTACT PERSON:
Teanne Rose, Executive Officer, Oklahoma State Board of Examiners of Psychologists, 421 N.W. 13th Street, Suite 180, Oklahoma City, OK 73103, 405-522-1333.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 11, 2015:

575:1-1-2. Organization and proceedings of the Board; petitions for rule making declaratory rulings

(a) **Meetings.** In accordance with the 1977 Open Meeting Law [Title 25, Sections 301 thru 314, of state statutes], all meetings of the Board are open to the public and votes of each member are to be publicly cast and recorded.

(1) **Regularly scheduled meetings.** The Secretary of State shall be given notice of all regularly scheduled meetings by December 15 of each calendar year, showing the date, time and place of such meetings for the following calendar year. If any change is to be made in the date, time, or place of regularly scheduled meetings, then notice in writing shall be given to the Secretary of State not less than 10 days prior to the implementation of such change. At least 24 hours prior to regularly scheduled meetings, excluding Saturdays, Sundays, and holidays legally declared by the State of Oklahoma, public notice will be given setting forth thereon the date, time, place, and agenda for said meeting. Such notice shall not preclude the consideration of new business providing such was not known about or could not have been reasonably foreseen prior to the time of posting. If a meeting is to be continued or reconvened, public notice of the date, time, and place shall be given by announcement at the original meeting, and only matters appearing on the agenda of the meeting which is continued may be discussed at the continued or reconvened meeting.

(2) **Special meetings.** Special meetings shall not be held without public notice, indicating the date, time, and place, being given to the Secretary of State at least 48 hours prior to said meeting. In addition, at least 24 hours prior to such a meeting, public notice giving the time, place, and agenda shall be posted in prominent public view in the building containing the office of the Board. In exceptional circumstances, emergency meetings without public notice may be called.

(3) **Minutes.** The proceedings of all meetings shall be kept in the form of written minutes and shall be open to public inspection.

(b) **Official office; Board records.** The official office of the Board shall be designated by the Board and all records of the Board shall be kept at the official office. ~~Information may be obtained by making written request to said office, the address of which shall be listed in the Annual Directory.~~

(c) **Submissions to the Board to be in writing.** ~~All submissions to the Board, or requests of the Board, shall be made in writing to said office.~~ All communications with the Board must be in writing~~written form as a matter of record~~ before official consideration will be given to issues, requests, or submissions brought before the Board.

(d) **Board monies.** The monies received by the Board shall be kept in the Psychologists Licensing Fund, No. 200. Expenditures from said fund shall be subject to the approval of the Board.

(e) **Reimbursement for travel expenses.** Each Board member, staff member, or other persons who are performing substantial and necessary services for the Board may be reimbursed for expenses incurred under authorized official travel [Pursuant to 74 O.S. ~~74~~, Section 500.2 et seq].

(f) **Formal and informal procedures.** The Board shall have both formal and informal procedures for use, as appropriate, in conducting the business of the Board. Such procedures may involve, but are not limited to, hearings for individuals, questions of legal policy, inquiries concerning Board policies or decisions, or other Board business.

(g) **Forms.** The Board shall have such forms as are required for the conduct of Board business. Such forms shall include, but are not limited to, application for licensure, application for private practice under supervision, and applications for a psychologist to hire a psychological technician in his/her private practice.

(h) **Petitions regarding rules; declaratory rulings.** Any interested person may petition the Board requesting the promulgation, amendment, or repeal of a rule. Petitions requesting declaratory rulings as to the applicability of any rule or order of the Board may also be submitted. The Board shall make prompt disposition of all such petitions.

(i) **Distribution of rules and regulations; annual directory.** The Board shall distribute all regulations and procedures established by the Board to each licensed psychologist and psychologist practicing under supervision. Such distribution shall occur not less than annually, and may be accomplished by inclusion of said rules in the Annual Directory. The Annual Directory shall contain, in addition to those items required by law [59 O.S., Section 1369], a verbatim copy of the licensing law as well as all rules and regulations duly established by the Board.

(j) **Board secretary.** The secretary of the Board, as described in 59 O.S., Sections 1358 and 1360, shall be employed by the Board.

(k) **Psychological consultant.** A qualified individual may be employed by the Board to perform certain activities to further the purposes of the Board. Such activities may include, but are not limited to: issues concerning training, credentialing, professional practice, regulation, ethical matters, and receiving and/or reviewing requests for inquiries; advising the chair in the informal conduct of the Board's procedures and providing consultation to the Board during its regular and special meetings.

575:1-1-3. Investigation of requests for inquiry

(a) **Choice of investigative mode when unlicensed individuals are involved.** When violations of the law by unlicensed individuals are brought to the attention of the Board, the Board may conduct an investigation in its own behalf, request investigation by appropriate state agencies, and/or refer the matter to the Office of the Attorney General. The choice of an investigative mode shall depend on the circumstances of the case and shall be made at the discretion of the Board.

~~(b) **Notification of the disposition of requests for inquiry against licensed psychologists and investigations of them.** At the point at which any request for inquiry and/or investigation is resolved, the Board shall inform the requesting party and the psychologist of the disposition of the matter as well as the supporting rationale based on known facts and applicable laws or rules. The Board shall also notify the Attorney General's Office.~~

(~~c~~b) **Investigative procedure.** The following is the procedure for investigation of requests for inquiry against licensed psychologists:

(1) **Requirements for requests for inquiry.** The investigation of a request for inquiry about a licensed psychologist may be initiated only when the request for inquiry is in writing, signed, notarized, and filed with the Board. The notarized request for inquiry must contain a brief statement setting forth the allegations of fact and naming the licensee or licensees about whom the request for inquiry is filed. The request for inquiry provides the basis for the chairperson and/or vice chairperson of the Board to request an informal meeting with the licensee, whose participation is voluntary, and/or for appointment of an investigator for the case. The Board may receive, accept, process, investigate, act upon, and otherwise dispose of written requests for inquiry which are not in substantial compliance with this subsection if the Board, in its discretion, determines that the request for inquiry otherwise contains sufficient indicia of reliability and/or the allegations can be independently verified by the Board.

(2) **Independently verified allegations - written request for inquiry may not be required.** In all inquiries, the Board shall require the request for inquiry to be in writing, signed, and notarized. However, alleged violations of the Psychologists Licensing Act which can be independently verified by the Board may not require written request for inquiry.

(3) **Selection of investigator.** The Board shall select a member or other qualified individual to investigate any request for inquiry regarding any psychologist~~s~~. This selection may be by majority vote of the Board or by appointment by the chairperson or vice chairperson.

(4) **Compensation for expenses.** The investigator shall be compensated by the Board for necessary and prudent expenses which are properly documented and approved by the Board.

(5) **Investigator's gathering of information.** The Board member or other individual authorized to receive and investigate requests for inquiry shall gather all information necessary to adequately apprise a Probable Cause Committee. The investigation may include interviews with the requesting party, the licensee named in the request for inquiry, and others as appropriate. The licensee will have the opportunity during the investigator's interview to show compliance with all lawful requirements for the retention of the license. The gathering of information to assist the Board in its disposition of requests for inquiry is the only designated function of the investigator during the conduct of the investigation. Any investigative reports prepared and submitted to the Board's Probable Cause Committee, the prosecutorial arm of the Board, are to be used solely to determine whether or not to recommend the pursuit of disciplinary action, and thus constitute confidential and privileged work product material, not subject to disclosure. The investigator shall not offer his/her opinions to the requesting party and/or to the licensee. Such opinions shall include but not be limited to the merits of the request for inquiry and/or whether an ethical violation has occurred.

(6) **Subpoenas Investigative.** The Board may issue subpoenas for the purpose of investigating a request for inquiry following the same procedure as set forth at 575:1-1-4.

(~~6~~7) **Presentation of Probable Cause Committee's summary and recommendation.** The Probable Cause Committee, comprised of the investigator, counsel to the Board and other appropriate individuals, is an advisory body whose function is to summarize the requests for inquiry and to make an informed recommendation regarding

disposition of the requests for inquiry to the Board. The Probable Cause Committee's recommendation will be presented at an open meeting of the Board. The requesting party and the licensee will be given prior written notification ~~by mail~~ of the date, time, and place of that meeting. ~~Notice shall be served as specified in Section 1370(C and E) of the Psychologists Licensing Act.~~ During the Probable Cause Committee's presentation, no questions will be posed by or to the licensee or the complaining witness pertaining to the substance of the case. Such questions may be submitted in writing to the representative of the Attorney General's office following the Board meeting.

(~~7~~8) **Dismissal of request for inquiry by majority vote.** Upon consideration of the recommendation of the Probable Cause Committee, the Board may decide not to pursue further the allegations, and may dismiss the request for inquiry by an approving vote of a majority of the members present in open meeting.

(~~8~~9) **Informal disposition of certain requests for inquiry.** In some situations including, but not limited to, cases where the inquiry does not allege conduct as described in the Psychologists Licensing Act in Section 1370 or conduct punishable by suspension or revocation of a license, probation, or formal reprimand, the matter may be handled informally. However, no matter can be considered closed until so voted by a majority of the Board in open meeting.

(~~9~~10) **Recusal of Board member.** A Board member, acting as the appointed investigator or Probable Cause Committee member, shall be recused from all Board decisions relating to the request for inquiry.

(c) **Notification of the disposition of requests for inquiry against licensed psychologists and investigations of them.** At the point at which any request for inquiry and/or investigation is resolved, the Board shall inform the requesting party and the psychologist in writing of the disposition of the matter as well as the supporting rationale based on known facts and applicable laws or rules. The Board shall also notify the Attorney General's Office.

575:1-1-4. Hearings for psychologists

(a) **Issuance of formal complaint; setting date for formal hearing.** If the request for inquiry and/or the summary and recommendation of the Probable Cause Committee appear to the Board to warrant and support such action, and upon the affirming vote of a majority of the members present in open meeting, the Board shall file its own complaint (the Board vs. the licensee) and the Chair of the Board or Executive Officer shall set the date, time, and place for a formal hearing. Notice shall be served as specified in Section 1370 (~~B~~C and ~~D~~E) of the Psychologists Licensing Act, except that notice shall be served twenty (20) days before the date of the hearing.

(b) **Purpose of formal hearing.** The formal hearing will be an administrative proceeding held to determine whether or not a licensee should be disciplined due to alleged improper conduct. The purpose of the proceeding will be that of insuring the overall public interest inherent in such matters and not that of vindicating a private wrong alleged to have occurred to the complaining witness. As such, the complaining witness will become a witness only in the Board's proceedings and is not a party to the Board's action.

(c) **Notice to licensee.** The chairperson or vice chairperson of the Board shall then notify the licensee named in the Board's complaint by certified or registered mail. This notification shall include a copy of the Board's complaint, an explanation of rights, and the date, time, and location of the Board meeting at which the Board will hold its formal hearing regarding the complaint. The notice shall also include other information as required in the Administrative Procedures Act. The explanation of rights shall include the following alternatives regarding the licensee's response to the Board's complaint: The licensee may be represented at the hearing in writing, in person, or by counsel. If the licensee does not so appear, the Board may, within its discretion, summarily revoke or suspend the accused's license or may issue a formal reprimand. The Board shall record its findings and order in writing.

(d) **Notice to other persons.** The Board shall also notify other persons whose presence is required of the date, time, and place of the hearing. Notice shall be served as specified in Section 1370 (~~B~~C and ~~D~~E) of the Psychologists Licensing Act.

(e) **Discovery.** Discovery by either the Board or the licensee shall be limited to the forms of discovery permitted by the Oklahoma Administrative Procedures Act. Requests for discovery under this section must be made at least 10 days before the hearing.

(f) **Subpoenas.**

(1) **Issuance of subpoenas for witnesses and physical evidence.** The Board may compel the attendance of witnesses, and the production of physical evidence before it from witnesses, upon whom process is served by subpoena anywhere within the state. Such subpoenas will be issued over the signature of the chairperson or vice chairperson and the seal of the Board.

(2) **Service of subpoenas.** From the institution of formal Board proceedings, subpoenas will be issued on behalf of the licensee or the Board as specified in Section 1370(~~D~~E) of the Psychologists Licensing Act. Service of the subpoena will be the responsibility of the requesting party. Subpoenas shall be served and return made in the manner prescribed by general civil law.

(g) **Order of procedure.** The order of procedure at the hearing shall be as follows:

(1) Opening statements by legal counsel of both parties;

(2) Presentation of evidence by both parties followed by cross-examination of witnesses, and questions by State Board members;

(3) Closing arguments by legal counsel of both parties; and

(4) Submission of case to the Board for decision.

(h) **Rules of evidence.** Formal rules of evidence shall not apply. Rules of evidence shall be those specified in the Administrative Procedures Act.

(i) **Hearing officer.** In accordance with 1370 (~~C~~D), the Board or the presiding member of the Board may direct that the board utilize a hearing officer to hear matters specified by the

Board or by the presiding member. The duties of the hearing officer shall be specified in writing prior to the assumption of the duties. The duties may include, but are not limited to, any of the following:

(1) to hear and rule upon pretrial discovery disputes.

(2) to hear and rule on Motions in Limine.

(3) to review Motions to Dismiss in order to advise the Board on questions of law therein.

(4) to hear and rule on Motions for Continuance of a hearing.

(5) to hear and rule on other preliminary motions.

(6) to hear and rule on motions to have a Board member recused from a hearing.

(7) to mark, identify and admit or deny exhibits.

(8) to rule upon objections made during the hearing.

(j) **Questioning of witnesses.** Notwithstanding subsection (i), a quorum of the Board shall be present at the hearing and may, in accordance with the procedures noted in the Administrative Procedures Act, direct questions to the witnesses.

(k) **Administration of oaths.** The Board may administer oaths through the chairperson, vice chairperson, or the hearing officer.

(l) **Evidentiary rulings.** Subject to subsection (i), the presiding member of the Board shall rule on the admissibility of evidence. The rulings of the presiding member shall be the rulings of the Board unless reversed by a majority vote of the Board.

(m) **Attorneys.** A representative of the Attorney General's Office or, if the Board chooses, a private attorney licensed in the State of Oklahoma and engaged by the Board, shall serve as the prosecutor of the Board's case. The respondent psychologist may be represented by a personally engaged attorney.

(n) **Majority vote.** Disciplinary action to be taken as a result of the hearing shall require a majority vote of the Board members present.

(o) **Record of hearing.** A record of the formal hearing will be made by audio recording~~tape and/~~or by a court reporter. A written transcript shall be provided by the secretary of the Board upon written application and a deposit sufficient in amount to have the record transcribed or copied, the deposit to be paid by the individual requesting the written transcript. The audio file ~~tape~~ and/or transcript shall be kept on file in the Board office for one year.

(p) **Order setting forth findings of fact and conclusions of law.**

(1) The Board shall establish the findings of fact and conclusions of law in summarizing the outcome of a hearing. The Board will issue and record its order as authorized in Section 1370(~~C~~D) of the Psychologists Licensing Act.

(2) The order of the Board will be effective immediately.

(3) The Board may revoke a license, suspend it for a period of time, place the psychologist on probation with specific conditions of time, place the psychologist on probation with specific conditions of probation, reprimand the psychologist, or impose a combination of such sanctions. The Board may revoke the probation for failure to comply with the conditions and exact the penalty.

~~(4) As authorized in Section 1370(A) of the Psychologists Licensing Act, the Board may impose a financial penalty not to exceed $10,000.00, and/or may assess the psychologist the reasonable costs of the proceedings against him or her.~~

(~~5~~4) Copies of the order shall be sent by certified mail to the licensee and to the licensee's attorney, kept in the permanent Board file, and made available to other psychologist licensing jurisdictions.

(q) **Petitions for rehearing.** A petition for rehearing, reopening, or reconsideration of an adverse final order may be filed with the Board within 10 days from the day upon which the licensee is served with the written order of the Board. It must be signed by the penalized licensee, or that licensee's attorney, and must set forth with particularity the statutory ground upon which it is based. However, a petition for rehearing based upon fraud by any party or procurement of the order by perjured testimony or fictitious evidence may be filed at any time. Such petition must be accompanied by sworn affidavit. Upon receipt of such petition, it shall be turned over to the Board member or other authorized individual responsible for complaints, who shall proceed to investigate in the manner prescribed in 575:1-1-3 for investigation of complaints.

(r) **Monitoring compliance with Board order.** The Board shall be responsible for monitoring compliance with an order of the Board.

(s) **Procedure for appeal of Board rulings.** A psychologist who feels aggrieved by reason of the suspension or revocation of his/her license, or of a probation or reprimand, may file suit within thirty (30) days after receiving notice of the Board's order in the district court of Oklahoma County, or in the district court of the county of his residence, to annul or vacate the order of the Board. The suit shall be filed against the Board as defendant, and service of process shall be upon either the chairperson or secretary of the Board. The suit shall be tried by the court without a jury and shall be a review of the record, but the burden of proof and the cost of transcribing the record are upon the plaintiff assailing the order of the Board. The judgment of the district court may be appealed to the Supreme Court of Oklahoma in the same manner as other civil cases.

[OAR Docket #15-719; filed 7-7-15]

TITLE 575. STATE BOARD OF EXAMINERS OF PSYCHOLOGISTS
CHAPTER 10. LICENSURE OF PSYCHOLOGISTS

[OAR Docket #15-720]

RULEMAKING ACTION:
PERMANENT final adoption

RULES:
575:10-1-2 [AMENDED]
575:10-1-3 [AMENDED]

575:10-1-4 [AMENDED]
575:10-1-5 [AMENDED]
575:10-1-7 [AMENDED]
575:10-1-8 [AMENDED]
575:10-1-10 [AMENDED]

AUTHORITY:
Oklahoma State Board of Examiners of Psychologists; 59, O.S., 2001, Section 1352.1(8).

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FINAL ADOPTION:
June 8, 2015

EFFECTIVE:
September 11, 2015

SUPERSEDED EMERGENCY ACTIONS:
n/a

INCORPORATIONS BY REFERENCE:
n/a

ANALYSIS:
The amendments to these rule changes modify the application process, requirements regarding Board Certified Behavior Analyst Psychological Technicians, continuing professional education requirements.

CONTACT PERSON:
Teanne Rose, Executive Officer, Oklahoma State Board of Examiners of Psychologists, 421 N.W. 13th Street, Suite 180, Oklahoma City, OK 73103, 405-522-1333.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 11, 2015:

575:10-1-2. Requirements to become licensed as a psychologist

(a) **Application.** Persons desiring licensure as a psychologist may obtain official application information from either the Board office or the Official Board Website. Applicants are required to submit a non-refundable four hundred dollar ($400.00) application fee in the form of a personal or certified check or acceptable money order. ~~The application fee is non-refundable. The completed application and all necessary papers must be at the board office at least 30 days prior to a regularly scheduled Board meeting.~~ A minimum of three references from licensed psychologists shall be required for each applicant. Board members shall not serve as references for applicants except to verify portions of completed training or experience.

(b) **Consideration of application.** The Board may appoint a committee to consider and approve, the request of each applicant to take the examination for licensure as a psychologist under 59 O.S. ~~59~~, Section 1362(1). In instances where the applicant fails to complete the requirements for licensure within five years of the date of approval, the Board may destroy the application and all related documents.

(c) **Doctoral programs.** All applicants for licensure as a psychologist shall have a doctoral degree based upon a curriculum from an institution regionally accredited by an organization recognized by the U.S. Department of Education consisting of at least three academic years, which shall be defined as 90 semester hours (excluding internship credit), leading to said degree. The applicant's doctoral degree must be from a program accredited by the American Psychological Association or meet all of the following criteria. By January 1, 1997, applicants for licensure shall have completed a doctoral program in psychology that is accredited by the American Psychological Association, or the Canadian Psychological Association, or designated as a psychology program by the Designation Committee of the National Register of Health Service Providers in Psychology and the Association of State and Provincial Psychology Board, and meet all of the following criteria:

(1) The doctoral program, wherever it may be administratively housed, must be clearly identified and labeled as a psychology program. Such a program must specify in pertinent institutional catalogs and brochures its intent to educate and train psychologists.

(2) The psychology program must stand as a recognizable coherent organizational entity within the institution.

(3) There must be clear authority and primary responsibility for the core and specialty areas whether or not the program cuts across administrative lines.

(4) The program must be an integrated, organized sequence of study.

(5) The program must have an identifiable psychology faculty and a psychologist responsible for the program.

(6) The program must have an identifiable body of students who are matriculated in that program for a degree.

(d) **Practica and internship required.** The assessment of mental, emotional, or behavioral disorders and/or the treatment of individuals, couples, families, or groups with such disorders, by psychologists, requires a doctoral degree from an academic program designed to train psychologists to provide these services which integrates coursework and other experiences toward the goal of training psychologist practitioners. Practica and an internship experience are required.

(e) **Evaluating doctoral programs.** The doctoral program shall be documented in writing to the Board. The institution is to document the name of the department granting the degree, the date of completion of the degree requirements, and the major program of study such as, but not limited to, clinical, counseling, developmental, educational, experimental, industrial-personnel, psychometrics, school, or social-personality, unless this information is indicated on the applicant's official transcript. A certified letter from the Registrar may be submitted as documentation of the date of completion of the degree requirements. This academic program will then be evaluated by the following criteria:

(1) Except in school psychology, the three academic years leading to the doctoral degree must include a minimum of two years of full-time, on campus, graduate

study (excluding internship). In school psychology, the three academic years leading to the doctoral degree must include a minimum of one year of full-time postmaster's graduate study as defined by the institution (excluding internship).

(2) At least forty-two (42) hours of the specified course work must be primarily psychological in content. The applicant must have a minimum of three (3) or more graduate semester hours in each of the following substantive content areas, for a total of twenty-one (21) hours:

(A) scientific and professional ethics and standards,

(B) research design and methodology,

(C) statistics and psychometrics,

(D) biological bases of behavior [e.g. physiological psychology, comparative psychology, neuropsychology, sensation, psychopharmacology].

(E) cognitive-affective bases of behavior [e.g. learning, memory, perception, cognition, thinking, motivation, emotion].

(F) social bases of behavior [e.g. social psychology, cultural, ethnic, and group processes, sex roles, organization and systems theory], and

(G) individual behavior [e.g. personality theory, human development, individual differences, abnormal psychology].

(3) The remaining twenty-one (21) hours of specified course work may be in the foregoing basic areas or in courses pertaining to the specific program of study.

(f) **Doctoral degree in area related to psychology not sufficient.** The possession of a doctoral degree from an area related to psychology does not qualify one for licensure as a psychologist. This includes, but is not limited to, applicants with degrees in special education, pastoral psychology (or counseling), counseling and guidance, speech and hearing, and counselor education.

(g) **Supervised experience.** An applicant for licensure as a psychologist must have two years of supervised experience satisfactory to the Board. Supervisors may not be members of the psychologist's immediate family or other individuals with whom the necessary level of objectivity cannot be maintained. This will include, but is not limited to, spouses, children, siblings, and parents or anyone with whom the psychologist has an emotionally or sexually intimate relationship. Any experience gained under such supervision will be disallowed. This two years of experience must be as a psychologist and in line with the applicant's major program of study for the doctoral degree as determined according to the procedure stated in 575:10-1-2(e). Applicants in the areas of clinical, counseling, and school psychology must have an internship experience. Applicants from psychology programs other than clinical, counseling, or school psychology, who assert the program's purpose to be the training of individuals to provide professional psychological services to the public, must have an internship experience. Internships of applicants from psychology programs with titles other than clinical, counseling, or school psychology programs will be evaluated using the same rules as those used to evaluate applicants with degrees from either clinical, counseling, or school psychology programs, depending upon which the Board deems is the most appropriate corollary based upon the program's training goals and objectives. A predoctoral internship may be used to partially fulfill the two-year experience requirement for licensure. Under no circumstances may more than one year of predoctoral experience as an intern be accepted. The internship must be consistent with the major program of study in the doctoral program which was documented in writing to the Board by the accredited institution [see 575:10-1-2(e)]. Internships in clinical psychology require a full-time experience (40 hours per week) either for one calendar year, or for two years of half-time experience. Counseling and school psychology internships require either a full-time experience (40 hours per week) for one calendar year or one academic contract year or a half-time experience for two calendar years or two academic contract years. An academic contract year means the school year of the elementary or secondary school setting in which an intern is fulfilling the internship requirement. If the counseling or school psychology internship is completed in other than an elementary or secondary school setting, the one calendar year requirement shall apply.

(h) **General requirements for internships.** Internships must be designed to provide a planned, programmed sequence of training experience. The primary focus and purpose of the internship must assure breadth and quality of training. An internship is an organized program of planned experiences in contrast to simply supervised experience or on-the-job training. The internship must provide training in a range of assessment and treatment activities conducted directly with patients or clients seeking psychological services. At least 25 percent of the trainee's time must be in direct patient or client contact. Internship training is at the post-coursework, post candidacy, post-clerkship, post-practicum, post-externship level. A written statement or brochure must be available which describes the goals and content of the internship, states clear expectations for the quantity and quality of trainee's work, and is furnished to prospective interns.

(i) **Supervision in internships.** A clinical or counseling psychology internship agency must have a clearly designated staff psychologist, who is responsible for the integrity and quality of the training program and who is licensed. In a counseling or clinical psychology internship, the basic supervision must be conducted by a staff psychologist who is trained in the applicant's major program of doctoral study, or a closely related program, and who is licensed. While additional experience with professionals in other disciplines is highly desirable, it is required that clinical and counseling psychology interns have experience with multiple (three or more) supervisors who are licensed as psychologists. Supervision of counseling and clinical psychology interns shall consist of an average of at least 10 percent of the full-time or half-time intern's week. At least half of the supervision of clinical and counseling psychology interns must be regularly scheduled, formal, face-to-face, individual supervision by one or more licensed psychologists with the intent of dealing with psychological services rendered directly by the intern. The remaining half of the supervision may be conducted individually or in a group

by licensed psychologists or by other licensed professionals as appropriate to the internship experience. The counseling or clinical psychology internship agency should ordinarily have a minimum of two interns at the internship level of training during the applicant's training period.

(j) **School psychology internships.** School psychology internships must have a clearly designated psychologist who is responsible for the integrity and quality of the training program and who is licensed. In a school psychology internship, the basic supervision must be conducted by a psychologist who is trained in the applicant's major program of doctoral study, or a closely related program, who is licensed, and who may be employed in a setting other than the school district in which the internship is situated. While additional experience with professionals in other disciplines is highly desirable, it is required that school psychology interns have experience with multiple (two or more) supervisors who are licensed as psychologists. Supervision of school psychology interns shall consist of an average of at least 10 percent of the full-time or half-time intern's week. At least half of the supervision of school psychology interns must be regularly scheduled, formal, face-to-face, individual supervision by one or more licensed psychologists with the intent of dealing with psychological services rendered directly by the intern. The remaining half of the supervision may be conducted individually or in a group by licensed psychologists or by other licensed professionals as appropriate to the internship experience.

(k) **Postdoctoral experience.** At least one year of the two-year experience requirement must be postdoctoral experience as a psychologist and in line with the applicant's major program of doctoral study as determined according to the procedure stated in 575:10-1-2(e). The postdoctoral experience must be a full time (40 hours per week) for at least one calendar year (50 weeks), or a total of 2000 hours of appropriate experience, or equivalent, for a period not to exceed three years, except in school psychology. The postdoctoral experience in school psychology must be full time (40 hours per week) for at least one calendar year (50 weeks) or one academic contract year, or a total of 2000 hours (or the number of hours in an academic contract year) of appropriate experience, or equivalent, for a period not to exceed three years. The postdoctoral experience must be under the supervision of a licensed psychologist(s) who was trained in the applicant's major program of doctoral study, or a closely related program, and who is currently engaged in rendering psychological services relevant to that training. The applicant must have received and accumulated 75 hours of regularly scheduled, formal, face-to-face, individual supervision from his/her supervisor(s) reasonably distributed throughout each 12 months of the postdoctoral experience. The postdoctoral experience does not have to be in a private setting.

(l) **Examination process.** The full examination for licensure shall consist of ~~three~~two component examinations:

(1) **Objective examination.** An objective examination in basic psychology, known as the Examination for Professional Practice in Psychology ("EPPP"). ~~, shall be administered each year at sites, dates and times approved by the Board.~~

(2) **Jurisprudence examination.** A jurisprudence examination based on the Rules of the Board, Psychologists Licensing Act, Code of Ethics and applicable Oklahoma Mental Health Law. ~~, will be administered at a time and place determined by the Board. Additional exams may be scheduled for reciprocity applicants at a time and place determined by the chair.~~

~~(3) **Oral examination.** An oral examination concerning ethics, professional problems, and any other subject matter the Board shall deem appropriate for the examination will be administered at a time and place determined by the Board. The examinee must pass both the objective and jurisprudence examinations before being admitted to the oral examination.~~

(m) **Passing scores on examinations.** An applicant is deemed to have passed the objective examination if he/she has obtained at least the minimum pass point designated by the developer of the examination. An applicant is deemed to have passed the jurisprudence examination if he/she has 70 percent of the total items correct. ~~An applicant must pass both the objective and jurisprudence examinations before being eligible for the oral examination. An applicant is deemed to have passed the oral examination when a majority of the examining committee, voting by secret ballot, judges the performance of the applicant as satisfactory for licensure.~~

(n) **Notification of results.** All applicants will be notified by mail of the results of each component examination within 30 days of the examination date. At the request of the applicant, specific information about his/her performance on any component examination will be provided to the extent the integrity of the exam is not violated.

(o) **Re-examination.** ~~If any of the three component examinations is failed on the first attempt, the applicant will be allowed to retake the failed component at sites, dates, and times approved by the Board. No special examination time shall be scheduled. If any of the component examinations is failed a second time, the applicant shall not be allowed to retake the failed component for a period of 6 months. The failed component may be taken two additional times.~~ If ~~any~~ either of the two component examinations is failed a total of four times, the application process shall cease. The former applicant may reapply for licensure by submitting a new application for consideration by the Board in accordance with the requirements to become licensed as a psychologist.

(p) **Waiver of portion of examination or re-examination.** Failure on ~~any~~either portion of the licensing examination will be considered failure of the entire examination for purposes of licensing; however, satisfactory performance on the objective examination or jurisprudence examination will be grounds for waiver of that portion of the examination for future re-examination.

(q) **Licensing by reciprocity.** Applicants for licensure under the reciprocity provisions of this act may only be licensed if they meet the requirements in 59 O.S. Section 1366(2).

575:10-1-3. Private Practice Under Supervision

(a) **Purpose.** The purpose of this provision is to provide an opportunity for individuals to fulfill the experience requirements for licensure in psychology in other than academic, governmental, or institutional settings. The applicant for such approval is considered to be requesting entrance into the established practice of a licensed psychologist for the purpose of gaining supervised experience.

(b) **Not an independent practitioner.** The applicant, if approved to conduct Private Practice Under Supervision, is not authorized to represent him/herself as an independent practitioner of psychology to the public.

(c) **Application; eligibility; approval.** Application for approval to Practice Psychology Under Supervision shall be made in the same manner, and on the same forms that are used to apply for licensure. A ~~notarized~~ statement, signed by both the applicant and proposed supervisor, must be submitted with the application. ~~Said notarized~~The statement shall contain an explicit statement indicating that the supervisor agrees to supervise the practice of psychology of the applicant, and that the supervisor has read, understands and agrees to the provisions of the law with respect to practice under supervision, 59 O.S. ~~59~~, Section 1353(d) to wit, that the supervisor accepts complete and full responsibility for the psychological activities and services of the applicant. Permission to practice under supervision will be granted only after the applicant has completed all requirements for the doctorate and the Board has been so notified by the university awarding the degree. Approval will be extended only to those whose training and experience would qualify them for licensure after completion of the experience requirements of the law, except for the second year of supervised experience as required in 575:10-1-2(g), and has been approved by the Board or a committee selected by the Board to sit for examination. Approval for practice under this provision shall be for a period of one calendar year dating from the date of approval by the Board of the application for Private Practice Under Supervision or until date of licensure. Extension of this approval shall be considered only upon written request of the supervisee and such request must be received prior to the end of the one-year period of previous approval.

(d) **Written agreement between applicant and supervisor.** Applications for approval to engage in Private Practice Under Supervision shall include a written agreement, co-signed by the applicant and his/her supervisor, describing the terms of the supervisory arrangement. Said terms must include supervision time amounting to at least 90 minutes weekly and a statement of fees charged for supervisory time, the extent of the applicant's services rendered to the public while practicing under supervision, and an evaluation of the quality of the applicant's professional and interpersonal skills for rendering services to the public.

(e) **Notice of decision.** The individual applicant for approval for Private Practice Under Supervision ~~and his/her proposed supervisor~~ shall be notified in writing ~~by mail~~ as to the decision of the Board or committee with respect to said application.

(f) **Preparation and distribution of certain announcements forbidden.** Persons approved for the private practice under supervision are not authorized to represent themselves as independent practitioners of psychology. Preparation or distribution of announcements of practice, independent telephone listings, or other such notices shall be in violation of the authorization to practice under supervision and will lead to automatic revocation of the approval for practice under supervision.

(g) **Terminate responsibilities and obligations.** Any individual practicing psychology under supervision must take the Examination for Professional Practice in Psychology (EPPP)~~,~~ and Jurisprudence Examination. ~~and Oral Examination~~ no later than one calendar year after the day permission to practice under supervision is granted. Failure to take the examination within the designated time period shall result in automatic revocation of the approval to practice under supervision. An individual approved for Private Practice Under Supervision who fails all or part of the examination for licensure, may be granted an extension of the approval for Private Practice Under Supervision; however, such approval shall be automatically revoked if the individual does not attempt re-examination within one calendar year from the date of the completion of the last part of the examination which was previously attempted. Under unusual circumstance, such as military service or major illness, an applicant may be granted an extension of the approval to practice until the next examination which the supervisee might reasonably be expected to attempt. If the applicant fails any of the three portions of the licensing examination three times then approval for practice under supervision will automatically be revoked.

(h) **Requirements for supervisors.** Permission to practice psychology under supervision shall be granted to applicants who otherwise qualify, only if the supervisor for their practice is:

(1) A ~~licensed~~ psychologist who has been licensed for two years and in good standing.

(2) Trained in the same major program of study as the applicant's doctoral training and who will supervise the candidate in work consistent with that major program of study.

(3) Currently engaged in a private practice rendering psychological services to the public on at least a 10-hour weekly basis.

(4) Is not a member of the psychologist's immediate family nor an individual with whom the necessary level of objectivity can be maintained. This will include, but is not limited to, a spouse, children, siblings, and parents or anyone with whom the psychologist has an emotionally or sexually intimate relationship.

(i) **Board members not eligible.** Board members shall not be authorized as supervisors under this provision.

(j) **Supervisor's responsibility.** As per 59 O.S. ~~59~~, Section 1353(6), the supervising psychologist accepts full and complete responsibility for all professional conduct of the supervisee; all professional responsibility resides with the supervisor, not with the supervisee. The supervisee will be considered to have joined the practice of the supervisor. The supervisory psychologist will normally be expected to accept no more than three supervisees under the provision of this

section. Exceptions to this limit may be approved by the Board if the Board determines that adequate supervision will be provided by the proposed relationship.

575:10-1-4. Fees for applicants

(a) **Application fee.** The application fee for licensure as a psychologist shall be four hundred dollars ($400.00), and shall be submitted with the application for licensure.

(b) **Re-examination fee.** The fee for each written re-examination for licensure as a psychologist shall be two hundred dollars ($200.00). ~~The fee for each oral re-examination shall be two hundred dollars ($200.00).~~

(c) **Fee required to engage in private practice under supervision.** The fee for applicants for licensure as psychologists authorized to conduct private practice under supervision shall be two hundred dollars ($200.00) per year. Such fee shall be submitted with the application for approval to conduct such practice. The fee for each additional year of practice, if continued practice under supervision is authorized, shall also be two hundred dollars ($200.00) and shall be due on the anniversary date of approval for Private Practice Under Supervision. These fees may not be used to reduce or eliminate the fee for licensing.

(d) **Fee required to engage in institutional practice under supervision.** The fee for applicants for licensure as psychologists authorized to conduct Institutional practice under supervision shall be two hundred dollars ($200.00) per year. Such fee shall be submitted with the application for approval to conduct such practice. The fee for each additional year of practice, if continued practice under supervision is authorized, shall also be two hundred dollars ($200.00) and shall be due on the anniversary date of approval for Institutional Practice Under Supervision. These fees may not be used to reduce or eliminate the fee for licensing.

575:10-1-5. Psychologists' licenses; license status; public inquiries

(a) **License issued by Board.** The license shall be issued to each applicant found to meet the requirements for licensure as a psychologist established by the Board. All licensees shall be required to practice only within their major program of doctoral study and supervised experience.

(b) **Status of licenses.** There shall be three types of status for licenses of psychologists:

(1) **Active license.** An active license is a license which has been issued or renewed by the Board for the current calendar year by payment of the appropriate fee. The renewal fee shall not exceed four hundred dollars ($400.00) each year and is due prior to January 1 of each year. The active status shall be the only status which is valid for the practice of psychology. It is the responsibility of each licensed psychologist to keep the Board informed of his/her current address.

(2) **Inactive license.** A license may be placed on inactive status by payment of a one-time fee of twenty-five dollars ($25.00). Licenses on inactive status shall not be valid for the practice of psychology; however, active status may be re-established upon payment of the current renewal fee, without penalty, if the board establishes that there are no known impediments to licensure [pursuant to 59 O.S. ~~59~~, Section 1370(A)] and there are no unresolved complaints on file with this Board or the Board of another state. Inquiries concerning the credentials of psychologists whose licenses are on inactive status shall be honored by the Board.

(3) **Invalid license.**

(A) **Invalid license for nonpayment of renewal fee.** A license shall be on invalid status when the renewal fee or inactive fee has not been received by the Board by December 31 of the year the license was issued or last renewed. When this occurs, the license is invalid for the practice of psychology until it is again renewed. Payment of the current renewal fee, plus penalty, shall reinstate the license to active status if the Board establishes that there are no known impediments to licensure [pursuant to 59 O.S. ~~59~~, Section 1370(A)]. Inquiries to the Board concerning the credentials of psychologists whose licenses are invalid shall be answered with the statement that the licensee does not hold a valid license to practice in the state of Oklahoma.

(B) **Invalid license for noncompletion of continuing professional education requirement.** A license shall be on invalid status as of December 31 of the year the license was issued, or last renewed, if the psychologist has not completed the required twenty (20) hours of acceptable continuing professional education. When this occurs, the license is invalid for the practice of psychology until it is again renewed. Completion of 20 hours of acceptable continuing professional education, together with verification ruled acceptable to the Board, shall reinstate the license to active status if the Board establishes that there are no known impediments to licensure [pursuant to 59 O.S. ~~59~~, Section 1370(A)]. Inquiries to the Board concerning the credentials of psychologists whose licenses are invalid shall be answered with the statement that the licensee does not hold a valid license to practice in Oklahoma.

(c) **Public inquiries regarding licensees.** Inquiries to the Board concerning the credentials of a psychologist shall be answered by providing information about the status of the psychologist's license and whether or not there are any known impediments to licensure and/or unresolved Board complaints with this Board or the Board of another state.

575:10-1-7. Hiring of psychological technicians by psychologists

(a) **Application to hire a psychological technician.**

(1) A licensed psychologist may apply for approval to employ a technician by ~~submitted~~submitting the following information in writing to the Board of Examiners:

(A) the name and address of the proposed technician, and

(B) the qualifying academic training and work experience of the technician, and

(C) the specific activities and services to be perform by the technician, and

(D) the arrangements and extent of continuing supervision to be provided.

(2) The information in (1) of this subsection must be supplied by submitting:

(A) an agreement form

(B) a vita, and

(C) complete academic transcripts for the technician.

(3) The licensed psychologist must also pay the one hundred and fifty dollar ($150.00) fee for hiring the technician and the one hundred dollar ($100.00) renewal fee.

(b) **Non-exempt hospital or clinic settings.** Psychologists working in settings other than state agencies must also provide the Board with a written statement from the appropriate administrator(s) acknowledging the psychologist's authority to hire and, if necessary, to terminate the technician's employment, and to regulate the activities and services of the technician. The written statement must also indicate that hospital or clinic policies will not prevent the licensed psychologist from abiding by all of the conditions specified in this section.

(c) **Use of certain individuals as psychological technicians forbidden.** Psychologists may not hire or continue to use as psychological technicians, members of their immediate families or any other person whose employment might affect detrimentally the psychologist's objectivity. This will include, but is not limited to, spouses, children, siblings, parents, or anyone with whom the psychologist is having an intimate emotional or sexual relationship.

(d) **Limitation on activities of psychological technicians.**

(1) All activities and services performed by a psychological technician must be under the direct and continuing professional supervision of the licensed psychologist. The licensed psychologist must notify the Board and all concerned parties in writing should conditions change so that the licensed psychologist is no longer assuming the role of supervisor. In such case, the status of the individual who was a psychological technician and the psychological activities performed by that individual must cease since the condition of the agreement are no longer being met.

(2) Activities performed by the technician are not to be used to fulfill postdoctoral requirements for licensure.

(3) Activities performed by the technician are not to be used to develop a private practice for the technician.

(4) Activities and services exempt from licensure are limited to those activities of the technician that provide assistance to the licensed psychologist in the conduct of that psychologist's practice.

(5) Work assignments shall be commensurate with the skills of the technician and procedures shall under all circumstances be planned in consultation with the supervisor.

(6) Technicians shall work in the same physical setting as the supervisor and provide services only at those times when the licensed psychologist is on the premises and available for emergency consultations.

(7) Psychological technicians who hold a master's degree in psychology or behavior analysis and~~are completing their 1000 hour traineeship or~~ who have achieved and maintain certification as a ~~Qualified Mental Retardation Professional (QMRP)~~Board Certified BehaviorAnalyst(BCBA) as approved by the Behavior Analyst Certification Board (BACB)~~status as verified and periodically updated by the Developmental Disabilities Services Division, Oklahoma Department of Human Services~~, may be exempted from the requirement that they shall work in the same physical setting as the supervising psychologist. All other limitations on activities and services performed by a ~~QMRP~~BCBA qualified psychological technician remain in force, and this exemption is limited to services provided for clients of the Developmental Disabilities Services ~~Division~~(DDS), Oklahoma Department of Human Services. A copy of the BCBA certificate should be included annually with the application to renew the employment of the psychological technician with BCBA certification. At least one hour of supervision by the Licensed Psychologist is required for each ten hours of billed service by the BCBA Psychological Technician. This supervision must include face-to-face contact with all clients sufficient to plan effective and appropriate services and to define procedures. As appropriate, supervision may also include:

(A) Observing the BCBA Psychological Technician providing direct services to clients.

(B) Observing the BCBA Psychological Technician training direct-contact staff.

(C) Observing direct-contact staff implementing the services trained by the BCBA Psychological Technician.

(D) Reviewing client records and data that reflect the services of the BCBA Psychological Technician.

(E) Reviewing materials developed and written by the BCBA Psychological Technician.

(F) Face-to-face and phone discussion of client cases with the Psychological Technician.

(G) Phone, face-to-face, and onsite contact during behavioral emergencies.

(H) Co-attendance at inter-disciplinary team meetings.

(8) The following are exceptions to rule 575:10-1-7(d)(7)

(A) The board will not require the BCBA certification for psychological technicians that have been continuously employed by a DDS contracted psychologist, and who were previously reviewed/approved by the board under the previously named QMRP exemption, on or before January 15, 2010. The date of approval by the Board must be January 15, 2010 or before. The psychologist must apply for this exception by November 1, 2015. This exception is applied to the psychologist, not the technician. Once the technician is no longer in the psychologist's employment, he or she will have to meet the requirement of

575:10-1-7(d)(7) to be approved to work for a different licensed psychologist.

(B) Any current psychological technician reviewed/approved by the Board on or after January 16, 2010, and any new psychological technicians hired on or before January 15, 2016, must be a BCBA as approved by the BACB by January 15, 2018. The psychologist must apply for this exception on or before January 15, 2016. If the psychologist that hired a psychological technician that was approved under this exemption does not submit their psychological technician's BCBA certificate to the Board by January 15, 2018 his or her previous approval under this exemption is no longer valid and he or she is no longer Board approved to work as a psychological technician.

(C) At least three hours of supervision by the Licensed Psychologist is required for each ten hours of billed service by the psychological technician with off-site exemption approved under 575:10-1-7(d)(8)(A) or 575:10-1-7(d)(8)(B). This supervision must include face-to-face contact with all clients sufficient to plan effective and appropriate services and to define procedures. As appropriate, supervision may also include:

(i) Observing the Psychological Technician providing direct services to clients.

(ii) Observing the Psychological Technician training direct-contact staff.

(iii) Observing direct-contact staff implementing the services trained by the Psychological Technician.

(iv) Reviewing materials developed and written by the Psychological Technician.

(v) Face to face and phone discussion of client cases with the Psychological Technician.

(vi) Phone, face-to-face, and on-site contact during behavioral emergencies.

(vii) Co-attendance at inter-disciplinary team meetings.

(9) The Board can approve or deny any application for psychological technician at the Board's discretion.

(e) **Supervisory responsibility of licensed psychologist; maximum number of technicians allowed.**

(1) The licensed psychologist is accountable for the planning, course, and outcome of the work of a psychological technician. The conduct of the supervision shall insure the professional, ethical, and legal protection of the client and the technician.

(2) The supervisor shall have competence in the specific area of practice in which supervision is being given.

(3) The supervisor shall have sufficient face-to-face contact with all clients to plan effective and appropriate services and to define procedures.

(4) The progress of the work shall be sufficiently monitored to insure that full professional responsibility can be accepted by the supervisor for services rendered.

(5) The supervisor shall establish and maintain a level of supervisory contact consistent with professional standards, and be fully accountable in the event that ethical or legal issues are raised.

(6) The maximum number of psychological technicians that a psychologist may hire is two~~.~~, except as provided below: A psychologist may hire a third or fourth psychological technician that is a Board Certified Behavior Analyst (BCBA) if all of the following conditions are met.

(A) All technicians employed by the psychologist hold a BCBA certification. No psychological technician can currently be under the approval granted in 575:10-1-7(d)(8)(A) or 575:10-1- 7(d)(8)(B),

(B) The psychologist currently has two psychological technicians that both hold BCBA certifications as approved by the Behavior Analyst Certification Board (BACB) as defined in 575:10-1- 7(d)(7),

(C) The psychologist has five or more years of experience supervising psychological technicians serving the Developmental Disabilities (DDS) population (previously approved through the QMRP exemption), and

(D) The psychologist currently holds certification as a BCBA approved by the BACB. However, psychologists with ten (10) years of experience supervising psychological technicians working with the DDS population (previously QMRP psychological technicians) are exempt from this requirement.

(7) The licensed psychologist assumes full responsibility for the activities and services of the psychological technician.

(8) The technician must have the background, training, and experience appropriate to the functions performed. The supervisor is responsible for determining the adequacy of the technician's preparation and must be adequately trained to supervise any function performed by the technician.

(9) An ongoing record of supervision shall be maintained which details the types of activities in which the assistant is engaged, the level of competence in each, and the type and outcome of all procedures.

(f) **Representation to the public.**

(1) Public announcement of services and fees, and contact with the lay or professional community shall be offered only by or in the name of the licensed psychologist.

(2) The technician's name is not to appear on any announcements, telephone listings, or other such notices.

(3) Users of the technician's services shall be informed as to the technician's qualifications and functions.

(4) The supervisor shall not permit the technician to represent him/herself as an independent practitioner to the public.

(g) **Psychologist's responsibility for financial arrangements.**

(1) The licensed psychologist assumes responsibility for all financial arrangements relating to the supervision of a psychological technician.

(2) Setting and collecting of fees shall remain the sole domain of the supervisor except in non-governmental, non-charitable hospitals or clinics in which fees are determined by administrative policy. Under no circumstances, however, shall the technician be responsible for setting or collecting fees.

(3) Employment of a technician on a fee-for-service or a fee-splitting basis is not acceptable.

(4) Technicians shall be employed on a salaried basis, i.e., a predetermined, set, weekly or monthly rate.

575:10-1-8. Continuing professional education for psychologists

(a) **Purpose.** The purpose of continuing professional education requirements for psychologists is to assure that licensees update and advance their skills such that the public shall benefit from the most current and effective standards of professional practice. To further the goal of public benefit, all psychologists are encouraged to fulfill a portion of their continuing professional education requirements in the areas of ethics, professional conduct, and related legal issues. ~~Beginning with renewal of the license to practice on January 1, 1998, a~~A minimum of three (3) of the twenty (20) continuing professional education credits required for yearly licensure renewal shall be earned by licensees with HSP certification in activities that are specific to ethics, relevant laws and legal issues, and/or applicable professional practice guidelines and standards.

(b) **Credits required for annual license renewal.** The minimum of twenty (20) credits of acceptable continuing professional education will be required for renewal of a license to practice psychology for the following year (one clock hour equals one credit). The continuing professional education year is a calendar year and~~extends from October 1 through September 30 for licensure in the following calendar year.~~ all~~Continuing~~ continuing professional education hours must be submitted online on the Board's official website by the close of business on December 31~~November 1~~. For licenses issued after ~~October~~January 1 of a given year, the required credits of continuing professional education will be adjusted for the initial continuing professional education year only, to require 1.5 credits of continuing professional education per full month of licensure for the initial renewal of the license. Continuing professional education hours attained in a calendar year in excess of the minimum annual requirements may be carried forward for credit in the succeeding year up to twelve (12) hours of credit.

(c) **Preapproval of continuing professional education activities required.**

(1) Continuing professional education credits may be granted for acceptable educational activities at the graduate level which are preapproved by the Board, or by a committee appointed by the Board. No credits will be granted for any activities or categories of activities that have not been preapproved. ~~Approval may be made at a regularly scheduled open meeting of the Board, or at a special meeting of either the Board or its appointed committee convened for the specific purpose.~~

(2) A provider of educational activities may apply to the Board for preapproval of an activity. The provider shall be responsible for compliance with the standards for approval of the activity, verification of participation, and for the provision of the necessary verification of attendance forms to all participants. This verification of attendance form shall include:

(A) The participant's name.

(B) The presenter's name, academic degree, profession, and whether licensed.

(C) The presentation topic.

(D) The program sponsor agency.

(E) The location of the presentation.

(F) The dates of presentation.

(G) The total number of clock hours presented.

(d) **Exceptions to the requirements.** Exceptions to the requirements of (c) of this section may be granted at the discretion of the Board for programs presented by recognized sponsors whose programs have been preapproved by the Board. The university academic hour is equal to fifteen (15) credits, and shall be verified by the presentation of an official graduate transcript showing course or audit credits. The licensee is ultimately responsible for providing all information necessary for the Board to make final determination concerning the acceptability of any requested continuing professional education credits.

(e) **Fee for preapproval.** Providers of educational activities may be charged a fee for the review and preapproval of their program. This fee shall be set by the Board.

(f) **Kinds of educational activities for which credit may be received.** Continuing professional education credits may be earned through formal organized learning experiences, scientific publications, attendance at regularly scheduled meetings of international, national, regional, or state professional associations, or through presentations to appropriate groups not related to the psychologist's regular employment. The same kinds of educational activities, when the subject matter is so designated, may be used to fulfill the mandatory three (3) hours of credit in the areas of ethics, relevant laws and legal issues and/or applicable professional practice guidelines and standards. Other acceptable activities include attendance at Board meetings and serving the Board as an appointed investigator, tutor, practice monitor or supervisor, or oral examination committee member.

(g) **Credits allowed.** Continuing professional education activities, whether received or presented by the psychologist, must be targeted toward a professional audience. In those instances when the psychologist is teaching in programs such as institutes, seminars, workshops, and conferences which have been granted preapproval by the Board, three (3) credits will be given for each one (1) hour that is taught, provided that such teaching is not a part of the psychologist's regular employment. Publication of a scientific book or chapter in a book, or publication of a scientific article in a refereed journal, shall be equal to ten (10) credits. Examination by the American Board of Professional Psychology shall be equal to twenty (20) credits.

(h) **List of approved Continuing Professional Education Recognized Sponsors.** This list shall be reviewed and approved by the Board.

(i) **Verification of continuing professional education.** Continuing professional education records shall be maintained in the Board files for two years. Individual psychologists are to keep verification of all continuing professional education credits claimed for a period of two years. In ~~November~~February of each year, the Board will randomly select from two (2) to twenty-five (25) percent of the number of psychologists on active status the previous year for an audit of their claimed continuing professional education credits. These selected psychologists must then provide the Board with verification of all credits claimed on their continuing professional education form within thirty (30) days following receipt of the audit notice.

(j) **Board audit.** The Board may, at its discretion, audit and require verification of any continuing professional education credits claimed which it may consider questionable or fraudulent. In either condition, selected psychologists who do not furnish verification of claimed continuing professional education credits to the Board within thirty (30) days following receipt of the audit notice shall as of December 31 have their licenses invalidated for the practice of psychology, with possible suspension or revocation of the license to practice psychology.

(k) ~~**Petition for extension of continuing professional education year and/or late**~~**Late fee for late filing.** A psychologist who has not completed and reported the required twenty (20) credits of continuing professional education by ~~September 30~~December 31, ~~may, by submitting an individual review fee, petition the Board for an extension of the continuing professional education year to December 31, provided that any credits earned in this extension period may be applied only to the continuing professional education year for which the extension was granted. This fee shall be set by the Board. A psychologist who has completed the required twenty (20) credits of continuing professional education credits by September 30, but has not returned his or her continuing professional education form by November 1,~~ shall pay a late fee which will be set by the Board.

(l) **Petition for relief for previous years.** Under the extraordinary circumstances of incapacitation or serious illness of the licensed psychologist, or of an immediate family member, and upon the presentation of acceptable evidence thereof, a psychologist who is otherwise in full compliance with all renewal requirements, may petition the Board for partial or complete relief of the previous year's continuing professional education requirement. A petition requested under these circumstances must be filed by November 1.~~in lieu of the continuing professional education form~~. There shall be no fee for a psychologist who petitions the Board for compassionate relief of continuing professional education requirements under this subsection.

(m) **License rendered invalid for failure to comply.** A licensed psychologist who is not in compliance with the required twenty (20) credits (hours) of continuing professional education by ~~September 30~~December 31~~,~~ and/or who has not ~~returned~~completed and reported his/her continuing professional education hours~~form~~ by ~~November 1~~December 31, ~~and who has not petitioned the Board for an extension under (k) of this section or~~ and who has not petitioned the Board for compassionate relief under (l) of this section, shall as of December 31 have his or her license invalidated for the practice of psychology, with possible suspension of the license to practice psychology.

575:10-1-10. A Code of Ethics for psychologists

(a) **Adoption of "Ethical Principles of Psychologists and Code of Conduct."** The current "Ethical Principles of Psychologists and Code of Conduct," ~~2002 revision,~~ of the American Psychological Association (APA) is adopted by the Board in its entirety as part of its Code of Ethics.

(b) **Adoption of "ASPPB Code of Conduct."** The current "ASPPB Code of Conduct," ~~2005,~~ of the Association of State and Provincial Psychology Boards, is adopted by the Board as part of its Code of Ethics. The ASPPB Code is adopted in its entirety with the exception of III. Rules of Conduct (A) (7) (b) Maintenance and Retention of Records, with the exception being that the Board will require all records be retained for a period of six years after the last date on which service was rendered or for a longer period of time if required by law.

(c) **Penalty for violation of the Code of Ethics.** A violation of the Board's Code of Ethics is considered unprofessional conduct and may be grounds for imposing sanctions as specified in 59 O.S., Section 1370(A).

(d) **Requirement for compliance with ethical principles and code of conduct.** The Board's Code of Ethics applies to all licensees and applicants, including an applicant's conduct during the period of education, training, and employment which is required for licensure.

(e) **Distinction between good personal moral character and professional ethical character.** "Good Character" as referenced in 59 O.S. 1362 of the Oklahoma Psychologists Licensing Act shall mean an applicant's personal moral character as distinguished from an applicant's professional ethical character. The Board may inquire into an applicant's professional ethical character in determining whether an applicant has met the requirements to become licensed as a psychologist pursuant to 59 O.S. 1362 and Board Rule 575:10-1-2.

[OAR Docket #15-720; filed 7-7-15]

TITLE 590. OKLAHOMA PUBLIC EMPLOYEES RETIREMENT SYSTEM CHAPTER 10. PUBLIC EMPLOYEES RETIREMENT SYSTEM

[OAR Docket #15-686]

RULEMAKING ACTION:
PERMANENT final adoption

RULES:
Subchapter 1. General Provisions
590:10-1-16. Facsimile copies; electronic signatures [AMENDED]
Subchapter 3. Credited Service
590:10-3-8. Actuarial cost for purchases; delinquent service cost [AMENDED]
Subchapter 7. Retirement Benefits

590:10-7-15. Post-retirement employment - calculation of benefits and service [AMENDED]
Subchapter 11. Transported and State Portable Service Credit
590:10-11-7. Funds transfer [AMENDED]
590:10-11-15. Funds transfer for portable service [AMENDED]

AUTHORITY:
Oklahoma Public Employees Retirement System Board of Trustees; 74 O.S., §§ 909, 913.5, 914

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N/A

INCORPORATIONS BY REFERENCE:
N/A

ANALYSIS:
The amendments to 590: 10-1-16, 10-11-7 and 10-11-15 allow OPERS to accept electronic signatures. This is necessary as OPERS moves toward more online transactions.

The amendment to 590:10-3-8 provides for a method to calculate the cost for delinquent service for members of OPERS who are no longer actively contributing. This method allows OPERS to charge only contributions plus interest instead of charging actuarial cost. The second part of the amendment allows OPERS to use available payroll records closest to the date of missing or unavailable payroll records to bill an agency for delinquent service costs.

The amendment to 590-10-7-15 ensures that an OPERS retiree who has returned to work with a participating employer will receive the credit for his or her post-retirement employment in the year in which the hours were actually worked instead of the year in which the contributions were received by OPERS.

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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 11, 2015:

SUBCHAPTER 1. GENERAL PROVISIONS

590:10-1-16. Facsimile copies; electronic signatures

An original document containing a member's, joint annuitant's or beneficiary's signature is generally required on all System forms, applications or requests for confidential information except as provided herein or in 590:10-1-3. Retirement notice forms, beneficiary designation forms, Step-Up election forms, and any form which requires a notarized signature, must always be provided as original signed documents. Electronic signatures may be accepted if the System provides for means of electronic submission with an electronic signature. At the sole discretion of the System, a facsimile copy of certain types of other documents may be accepted if the copies are clear, legible and sufficient for imaging purposes. In some instances, these other documents may be accepted by facsimile only if followed by later delivery of an original document. The decision to accept facsimile copies shall be made on a case-by-case basis upon request of the member, joint annuitant or beneficiary. It is the member, joint annuitant or beneficiary's responsibility to verify that the System has received the facsimile copy and that it is legible and acceptable to the System. This rule is applicable to any plan or account managed or administered by the Board.

SUBCHAPTER 3. CREDITED SERVICE

590:10-3-8. Actuarial cost for purchases; delinquent service cost

(a) **Actuarial Costs.** Effective January 1, 1991, all purchases of service credit, including incentive credit pursuant to 74 O.S. §913.5, or employer error costs pursuant to 74 O.S. §917(7), shall be based upon the actuarial cost of the incremental projected benefits to be purchased.

(1) The actuarial cost and any tables formulated for the purpose of determining such cost, shall be based on the actuarial assumptions utilized in the actuarial valuation report for the Fiscal Year ending June 30 of the prior year.

(2) The actuarial value shall be based upon the member's age, salary and contribution level at the time of purchase, together with the earliest age for retirement with maximum benefits and actuarially assumed salary at the time of retirement. If purchase is not made by the due date on the billing statement, the purchase must be recalculated and the actuarial cost may increase.

(3) For purposes of determining this actuarial cost, the member's exact age in months shall be used in the calculation.

(4) For purposes of determining this actuarial cost, the mortality tables shall be formulated as a unisex table assuming a 50% male and a 50% female population, based upon the actuarial assumptions in paragraph (1) of this section.

(5) In the event a member who chooses to purchase service has been employed less than twelve (12) months, his salary shall be averaged based upon the most current month's payroll information.

(6) In the event that the actuarial cost is less than the contributions that would have been required by law, the member and/or the employer shall pay the actual contributions cost.

(b) **Delinquent service costs.** The cost for purchases of delinquent service credit for service of one (1) month or less which is based on employer error and which is one (1) or more years past due shall be calculated at employer and employee contributions plus ten percent (10%) simple interest per annum. If delinquent service of one (1) year or less is identified and paid for within one (1) year from the beginning service

date, the cost will be calculated at employer and employee contributions only. The cost for delinquent service credit for service of more than one (1) month and which is over one (1) year past due shall be calculated at actuarial cost. The cost for any delinquent service credit for a retiree returning to work shall be calculated at employer and employee contributions plus ten percent (10%) simple interest per annum. If an employee is no longer a participating member of the System and payment of delinquent service will not result in a change of the employee's eligibility for retirement or eligibility for any other purposes and will not change the number of years of service, the cost for delinquent service shall be calculated at contributions plus ten percent (10%) simple interest per annum. When the employer is responsible for the cost of delinquent service based on employer error pursuant to 74 O.S. § 917(7), the employer shall provide records documenting the salary, hours and contribution level of such member during the time period for which the delinquent service is to be billed. If the employer is unable to locate or otherwise provide the required records within a reasonable time as determined by the System, the System may use the available payroll records nearest the time of such delinquency for that member.

(c) **Remittance errors.** In the event a participating employer timely remits contributions for an individual member which are determined to be insufficient as a result of being based on an incorrect contribution rate or incorrectly-reported compensation, the employer shall be notified and pay the amount of the insufficiency plus ten percent (10%) simple interest per annum. The provisions of this paragraph shall not be applicable to employer remittances not received in a timely manner and which are subject to the provisions of paragraphs (a) and (b) of this section and 74 O.S. §920B.

SUBCHAPTER 7. RETIREMENT BENEFITS

590:10-7-15. Post-retirement employment - calculation of benefits and service

A year of post-retirement service shall be determined as 2076 hours of participation. All retired members who have post-retirement service with a participating employer and are eligible for an additional monthly benefit on or after January 1, 2000, pursuant to 74 O.S. § 914(E) shall have ~~said~~the additional benefit calculated using the actual hours worked and reported and the actual compensation reported for which contributions have been paid for each 2076 hour period. Each 2076 hour period shall be calculated separately and benefits added each January 1 as appropriate. All applicable option and early retirement reductions selected by the member at the time of retirement shall be applied to the additional benefit. Contributions received on such service shall be credited for the fiscal year in which the hours were actually worked.

(b) The initial addition of post-retirement benefits shall be made effective with the January, 2000 benefit payment. The additional benefits shall be cumulative and paid for the initial period to the extent OPERS can identify and verify post-retirement participation. Post-retirement employment for which the retired member has previously been granted additional benefits or for which a refund of contributions has been made will not be included.

(c) The addition of post-retirement benefits shall be available to retired members who remain members on or after July 1, 1999. Joint Annuitant benefits shall be increased only if the member would have otherwise been eligible for the increase in benefits.

(d) For those retired members who have returned to employment with a participating employer and waived receipt of their monthly retirement benefit pursuant to 74 O.S. § 914(E), retirement benefits will be recalculated only upon termination of employment after completion of thirty-six (36) consecutive months of full-time-equivalent employment, as that term is defined under 590:10-3-6 of these rules.

SUBCHAPTER 11. TRANSPORTED AND STATE PORTABLE SERVICE CREDIT

590:10-11-7. Funds transfer

No retirement funds shall be transferred or accepted for transported service until receipt of the signed ~~written~~ final election form. The amount of funds transferred by OPERS shall be based upon the service credit accepted by Teachers' Retirement System.

590:10-11-15. Funds transfer for portable service

No retirement funds shall be transferred or accepted for transferred state portable service until receipt of the signed ~~written~~ final election form. Funds shall be credited to the member in the same manner as they were held in the sending system. For example, employer contributions in the sending system shall be maintained as employer contributions in the receiving system and pre-tax employee contributions in the sending system shall be maintained as pre-tax employee contributions in the receiving system.

[OAR Docket #15-686; filed 7-2-15]

TITLE 590. OKLAHOMA PUBLIC EMPLOYEES RETIREMENT SYSTEM CHAPTER 20. INVESTMENTS

[OAR Docket #15-687]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
590:20-1-1. Purpose [AMENDED]
590:20-1-4. Deferred Compensation~~ and~~, Savings Incentive Plan, and Defined Contribution System assets [AMENDED]
590:20-1-5. Self-directed brokerage investments [AMENDED]
AUTHORITY:
Oklahoma Public Employees Retirement System Board of Trustees; 74 O.S., §§ 909
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
December 4, 2014
COMMENT PERIOD:
January 2, 2015 - February 18, 2015

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APPROVED BY GOVERNOR'S DECLARATION:
Approved by Governor's declaration on June 8, 2015
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June 8, 2015
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September 11, 2015
SUPERSEDED EMERGENCY ACTIONS:
N/A
INCORPORATIONS BY REFERENCE:
N/A
ANALYSIS:
The amendment to 590:20-1-1 includes the Oklahoma State Employees Deferred Compensation Plan, the Oklahoma State Employees Savings Incentive Plan and the Defined Contribution System in the purpose for this Chapter.

The amendment to 590:20-1-4 adds the Defined Contribution System to the investments over which the Board of Trustees has responsibilities.

The amendment to 590:20-1-5 adds the Defined Contribution System to the plans in which the Board may offer participants a self-directed brokerage investment option. The amendments are necessary as a result of changes created by Enrolled HB 2630 and Enrolled SB 2120 enacted by the 2014 legislature.
CONTACT PERSON:
Dessa Baker-Inman, General Counsel, Oklahoma Public Employees Retirement System, 5801 N. Broadway Extension, Suite 400, Oklahoma City, Oklahoma 73118, 405-858-6737

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 11, 2015:

590:20-1-1. Purpose

The rules in this Chapter are designed to implement the policies and procedures necessary to insure the efficient, prudent and diversified investments of the funds of the Oklahoma Public Employees Retirement System~~ and~~, the Uniform Retirement System for Justices and Judges, the Oklahoma State Employees Deferred Compensation Plan, the Oklahoma State Employees Savings Incentive Plan, and the Defined Contribution System.

590:20-1-4. Deferred Compensation~~ and~~, Savings Incentive Plan, and Defined Contribution System assets

The Board shall have the responsibility to determine appropriate investment options for the assets of the Deferred Compensation ~~and~~Plan, the Savings Incentive Plan~~s~~, and the Defined Contribution System composed of defined contribution plans pursuant to Sections 401(a) and 457(b) under the Internal Revenue Code. The Board shall adopt an investment policy, guidelines and objectives in the same manner as provided in Sections 2 and 3 of this ~~Subchapter and~~ Chapter~~ of these Rules~~. This investment policy shall also contain the procedure for selection, retention, or elimination of the investment options and service providers for ~~the Plans~~each plan.

590:20-1-5. Self-directed brokerage investments

The Board may offer to participants in the Deferred Compensation ~~and~~Plan, the Savings Incentive ~~Plans~~Plan, and the Defined Contribution System a self-directed brokerage investment option for the selection of additional mutual funds. The Board may establish the program structure, limits and maximums on investments in this option, as may be set forth in the investment policy or by the recordkeeper. The Board has no responsibility to review the mutual funds available in this option or to determine the appropriate investment choices for participants selecting this option. The Board further has no responsibility to determine if the selection of the self-directed brokerage option is appropriate for any particular participant. The self-directed brokerage option is designed for knowledgeable investors and any participant selecting this option will be required to sign an election form containing at least the following:

(1) That the participant understands and accepts any and all risks associated with this selection;

(2) That the participant understands and accepts that none of the mutual funds available in the self-directed brokerage option have been reviewed for suitability or endorsed by the Board;

(3) That the participant is solely responsible for determining the suitability or appropriateness of any selected mutual fund; and

(4) That the participant agrees to hold the Plan and the Board harmless against any claims, damages or other causes of actions which may arise as a result of any negative consequences resulting from use of the self-directed brokerage option.

[OAR Docket #15-687; filed 7-2-15]

TITLE 590. OKLAHOMA PUBLIC EMPLOYEES RETIREMENT SYSTEM
CHAPTER 40. DEFINED CONTRIBUTION SYSTEM

[OAR Docket #15-688]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Chapter 40. Defined Contribution System [NEW]
AUTHORITY:
Oklahoma Public Employees Retirement System Board of Trustees; 74 O.S., §§ 909, 935.3, 935.6, 935.11
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SUPERSEDED EMERGENCY ACTIONS:
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INCORPORATIONS BY REFERENCE:
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ANALYSIS:
The addition of Chapter 40 is necessary to comply with Enrolled House Bill 2630 and Enrolled Senate Bill 2120 enacted by the 2014 legislature and codified in the Oklahoma Statutes as Section 935.1-935.11 of Title 74. These bills created a defined contribution system for members who are first hired on or after November 1, 2015. The rules in Chapter 40 are designed to help the agency implement the defined contribution system and have the system recognized as a tax-qualified plan by the Internal Revenue Service.
CONTACT PERSON:
Dessa Baker-Inman, General Counsel, Oklahoma Public Employees Retirement System, 5801 N. Broadway Extension, Suite 400, Oklahoma City, Oklahoma 73118, 405-858-6737

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 11, 2015:

SUBCHAPTER 1. GENERAL PROVISIONS - APPLICABLE TO THE 401(A) PLAN AND THE 457(B) PLAN

590:40-1-1. Purpose

(a) **Policies, procedures and guidelines.** The rules in this Chapter are adopted to ensure the efficient and orderly administration of the Defined Contribution System, to establish policies and procedures for implementing and administering the DC System, and to provide guidelines for the investment of funds which have been contributed for the benefit of Employees.

(b) **Establishment of Defined Contribution System.** The Defined Contribution System has been established by statute to be composed of defined contribution plans pursuant to the Code Sections 401(a) and 457(b). The Board of Trustees is authorized to create a plan under Section 401(a) of the Code, which is intended to qualify as a tax-qualified money purchase governmental plan within the meaning of Code Section 414(d). The Board is authorized to take the necessary action to obtain a determination letter for the 401(a) plan. The Board is also authorized to establish a plan under Section 457(b) of the Code, which is intended to meet the requirements for an eligible governmental plan and to take the necessary action to obtain confirmation from the Internal Revenue Service that the 457(b) plan is consistent with the requirements of Code Section 457(b). The Plans are not subject to the Employee Retirement Income Security Act of 1974 ("ERISA"). The Plans and related Trust or Trusts are intended to meet the requirements of Code Sections 401(a), 457(b), and 501(a) respectively.

590:40-1-2. Statutory citations

The rules contained in this Chapter are adopted in accordance with 74 O.S. Supp. 2014, §§ 935.1 through 935.11, and as authorized by Code Sections 401(a) and 457(b). The plan documents for the Plans consist of 74 O.S. Supp. 2014, §§ 935.1 through 935.11 and this Chapter, and are applicable to each Employee who enrolls in the Plans.

590:40-1-3. Definitions

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

"401(a) plan" means the defined contribution money purchase plan that is qualified under Section 401(a) of the Code as a governmental plan.

"457(b) plan" means the defined contribution plan that is an eligible governmental plan under Section 457(b) of the Code.

"Account" or **"Accounts"** means any of the accounts established for a Participant under the Plans, as described in 74 O.S. Supp. 2014, §935.6, 590:40-7-1 and 590:40-9-10.

"Beneficiary" means the persons or entities designated by the Participant on forms prescribed by OPERS.

"Board" or**"Board of Trustees"** means the Oklahoma Public Employees Retirement System Board of Trustees.

"Code" means the Internal Revenue Code of 1986, as amended.

"Compensation" means:

(A) Taxable gross income from the Employer and shall include amounts deferred pursuant to Code Sections 125, 402(h), 402(a)(8), 457(b), 414(h), and 403(b). For purposes of the Plans, only compensation from the Employer that is attributable to services performed for the Employer may be includable in gross income.

(B) Compensation also means all salary and wages, including amounts deferred under the Plans, payable to a Participant for personal services performed for a participating employer.

(C) Despite any provision to the contrary, the compensation taken into account for any Employee in determining the contribution or benefit accruals for any plan year shall be limited to the annual compensation limit under Section 401(a)(17) of the Code.

(D) Compensation, as determined by the Board of Trustees, shall be limited to salary and wages as follows:

(i) **"Salary"** means a predetermined or fixed amount of cash remuneration that is made payable by the participating employer to the employee in exchange for services rendered personally by the Employee for the Employer but excluding any type of overtime payments paid to an Employee for service rendered in excess of full-time;

(ii) **"Wages"** means cash remuneration, dependent upon the hours of work, that is made payable by the Employer to the Employee in exchange for services rendered personally by the

employee for the Employer excluding any type of overtime payments paid to an employee for service rendered in excess of full-time.

(E) Subject to the limitations contained elsewhere in the Chapter, salary and wages include, by way of example and not by limitation, the following:

(i) any longevity payments made to Employees based upon a standardized plan which recognizes length of service to the Employer,

(ii) pay differential which is paid to Employees in return for special or hazardous shifts or in return for additional training or duties,

(iii) amounts deducted from the Employee's paycheck for retirement and deferred compensation contributions,

(iv) pre-tax cafeteria purchases which are not funded by the Employer or the employee's benefit allowance,

(v) performance, skill, or mission critical based pay adjustments.

(F) Any payments made by an Employer to an Employee which do not meet the definition of salary or wages as set forth in this section are not to be considered compensation for purposes of the Plan, including but not limited to the following:

(i) payments which are for reimbursement for expenses incurred by the Employee,

(ii) payments for maintenance or allowances, including, but not limited to, uniform allowances, clothing allowances, or housing allowances,

(iii) any payments or amounts made available to an Employee for insurance benefits or benefits allowances, including any amounts paid directly to the Employee,

(iv) illegal payments made to an Employee by an Employer,

(v) payments made in error to an Employee,

(vi) payments made by the Employer for services rendered by the Employee, which services are not part of the Employee's job duties and responsibilities of his or her job position with the Employer,

(vii) payments in the form of tips or commissions paid to an Employee in the course of his or her employment,

(viii) payments made to other than the Employee by the Employer which are not deducted from the Employee's paycheck,

(ix) workers compensation benefit payments,

(x) any payments made by an Employer to a non-Employee, such as compensation to board or commission members,

(xi) payments made in anticipation of employment, such as signing bonuses,

(xii) any payments which are excluded from retirement compensation by law.

(G) It shall be the responsibility of the Employer to ensure that the appropriate contributions are deducted or paid correctly and in accordance with this definition.

"Contribution" means a contribution by the Employer or by a Participant to the 401(a) plan.

"Deferral" or **"Deferred compensation"** means that portion of the Participant's Compensation which is withheld and invested in the 457(b) plan.

"Defined Contribution System" or **"DC System"** means the program established under 74 O.S. Supp. 2014, §§ 935.1 through 935.11 and this Chapter that consists of the 401(a) plan and the 457(b) plan.

"Disability" or **"Disabled"** means a Participant who is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or to be of long-continued and indefinite duration, or as defined by Code Section 72(m)(7). A Participant shall not be considered to be disabled unless proof of the existence of the disability is provided in such manner as OPERS may require.

"Emergency withdrawals" means withdrawals of funds because of an unforeseeable emergency and are only permitted under the 457(b) plan to the extent reasonably needed to satisfy the emergency need.

"Employee" means

(A) any person who first becomes employed by any participating employer in OPERS, as defined by paragraph (25) of Section 902 of Title 74 of the Oklahoma Statutes, on or after November 1, 2015. Employee shall also include any statewide elected official or legislator whose first service as an elected official occurs on or after November 1, 2015. Employee shall not include:

(i) Employees who are initially employed in the positions described in divisions (i), (ii), and (iii) of subparagraph (d) of paragraph (24) of Section 902 of Title 74 of the Oklahoma Statutes;

(ii) County elected officials, or any employee of a county, county hospital, city or town, conservation district, circuit engineering district, and any public or private trust in which a county, city or town participates and is the primary beneficiary; and

(iii) District attorneys, assistant district attorneys, or other employees of the district attorney's office.

(B) Any person first licensed by the Department of Rehabilitative Services as a vending stand operator or managing operator on or after November 1, 2015, as defined by Section 929 of Title 74 of the Oklahoma Statutes, shall be considered an Employee for purposes of this Chapter and eligible for participation in the Defined Contribution System.

"Employer" means the State of Oklahoma, its agencies, any duly constituted authority or instrumentality of the State of Oklahoma, and any participating employer in OPERS as defined by paragraph (25) of Section 902 of Title 74 of the Oklahoma Statutes.

"Employer contribution" means the amount contributed to the 401(a) plan by the Employer on behalf of each Participant.

"Fiscal Year" means the fiscal year of the State of Oklahoma, which is July 1 to June 30.

"Normal Retirement" means the first date upon which each of the following shall have occurred: separation from service and attainment of Normal Retirement Age under the applicable Plan.

"OPERS" means the Oklahoma Public Employees Retirement System.

"Participant" means an Employee who is eligible and participating in a Plan or who has funds invested in accordance with its provisions or any former Employee who has not received a distribution of his or her entire interest under the Plan. Participant also includes the Employee's surviving beneficiary and an alternate payee who has been awarded a separate account in accordance with Subchapter 11 of this Chapter.

"Plan Year" means the twelve month period ending on June 30.

"Plans" refers collectively to the 401(a) plan and the 457(b) plan.

"Recordkeeper" means the company designated by the Board of Trustees to perform recordkeeping, administrative, and investment services to the DC System.

"Termination of Service" means the bona fide separation, severance, or termination of the Participant's employment or service in which the Employer and Employee relationship is completely severed prior to Normal Retirement, Disability, or death.

"Trust" means the trusts established under Subchapters 7 and 9 of this Chapter.

"Trust Fund(s)" means the funds established under the Trusts created in Subchapters 7 and 9 of this Chapter, with the Board of Trustees as trustee, and held by the Board in accordance with these Plans and Trusts, to which deposits and contributions under these Plans and Trusts will be made and out of which benefits under these Plans and Trusts will be provided.

"Trustee" means the individuals appointed to the Board of Trustees to administer the Trust Funds in accordance with this Plan and includes persons selected by the Board of Trustees to act as a trustee of the Trust Fund(s).

"Valuation Date" means each business day of the calendar year, and on each such day, the Recordkeeper shall determine the value of the Trust Funds.

SUBCHAPTER 3. ADMINISTRATION OF DEFINED CONTRIBUTION SYSTEM - APPLICABLE TO THE 401(A) PLAN AND THE 457(B) PLAN

590:40-3-1. General

(a) **Administration by Board.** The Board of Trustees shall be responsible for the policies, rules, and overall general administration of the Defined Contribution System in accordance with 74 O.S. Supp. 2014, §§ 935.1 through 935.11.

(b) **Responsibilities of OPERS.** OPERS, subject to (a) of this Section, shall operate and administer the Defined Contribution System and shall have all powers necessary to accomplish that purpose and will determine all questions arising under or in connection with the Defined Contribution System. Whenever directions, designations, applications, requests, or other notices are to be given by a Participant under the Plans, they shall be on forms prescribed by OPERS and shall be filed when and in such manner as shall be specified by OPERS. Determinations on all questions arising out of or in conjunction with the provisions of the Plans, not herein required to be determined by the Board of Trustees, shall be made by OPERS. Any such determination shall be conclusive and binding upon all persons having an interest in or under the Plans, subject to the administrative hearing procedures set forth in Subchapter 3 of Chapter 1 of this Title.

(c) **Powers of OPERS.** Without limiting the powers set forth in (a) of this Section, OPERS shall have the power to:

(1) meet special circumstances not anticipated or covered in this Chapter or 74 O.S. Supp. 2014, §§ 935.1 through 935.11;

(2) employ such agents, assistants, administrative service providers, legal counsel, clerical, actuarial, and other services as OPERS may require in carrying out the provisions of the Plans; and

(3) authorize one or more of its employees, or any agent, to execute or deliver any instrument on behalf of OPERS.

(d) **Executive Director.** The Executive Director of OPERS shall provide oversight and assistance in the general administration of the Plans. The Executive Director, and such other persons designated by the Executive Director, shall be authorized to sign all vouchers or warrants issued for the Plans.

590:40-3-2. Defined contribution system coordinator

(a) **Appointment.** Coordinators shall be appointed by each Employer to serve as a liaison among the Participant, OPERS, and the Employer.

(b) **Responsibilities.** Coordinators shall be responsible for the enrollment, assistance in completion of forms, and instructions to the Participants on behalf of the Employer relating to the Defined Contribution System and the Plans.

(c) **Notice to Participants; Plan information.** The coordinator shall be responsible for ensuring each Participant is provided basic information about the Plans, including publications and official notices from OPERS or the Recordkeeper. The coordinator shall also direct the Participant to the website of OPERS or the Recordkeeper for more specific information about the Plans. Each coordinator shall establish and maintain sufficient documentation to verify compliance with this section, and shall furnish the verification upon request by OPERS.

(d) **Employment; training; liability.** The coordinator shall be employed by and under the authority of each Employer and shall not be an employee of OPERS. OPERS will make available information and training opportunities. However, it shall be the responsibility of the coordinator to become familiar with the Plans' provisions and keep abreast of all changes and amendments. Neither OPERS nor the Board shall be liable

for or bound by any mistakes, errors, or misrepresentations of the coordinators.

590:40-3-3. Plan forms

All forms for participating in the Plans shall be available to the Participant from the coordinator, OPERS, the Defined Contribution System website, or the Recordkeeper. The coordinator will assist Participants in the preparation and submission of the necessary forms. The coordinator shall inform Employees and Participants concerning the Plans' benefits and the rules applicable to enrollment, participation, and termination. The coordinator shall assist the Participant if any explanations of payment are needed. The coordinator may contact OPERS as needed for assistance.

590:40-3-4. Applicable law

Oklahoma law shall apply in determining the construction and validity of the Plans.

590:40-3-5. Tax consequences

The Employer and the Board of Trustees shall not represent or guarantee that any particular federal or state income, payroll, personal property, or other tax consequence will occur because of the Participant's participation in the Plans. The Participant must consult with his or her own representative regarding all questions on federal or state income, payroll, personal property, or other tax consequences arising from participation in the Plans.

590:40-3-6. Protected rights

The rights of the Participant under the Plans shall not be subject to the rights of creditors of the Participant or any Beneficiary, and shall be exempt from execution, attachment, prior assignment, or any other judicial relief or order for creditors or other third persons. However, these rights do not include protection from federal levies and judgments resulting from unpaid federal tax assessment or other federally required payment, payments actually paid by the Plans to the Participant or his or her Beneficiary, and as set forth in Subchapter 11 of this Chapter. The Participant, the Participant's Beneficiary, or any other designee shall not have any right to commute, sell, assign, pledge, encumber, transfer, or otherwise convey the right to receive any payments under these Plans, which payments and right to such payments are expressly declared to be nonassignable and nontransferable, except as provided in Subchapter 11 of this Chapter.

590:40-3-7. Amendment

The Board of Trustees may amend or modify these Plans and Trusts with or without the consent of the Participant or any Beneficiary thereof provided that:

(1) All amendments shall be accomplished under the Administrative Procedures Act. No amendments shall deprive the Participant of any of the benefits to which he or she is entitled under the Plans and Trusts regarding contributions credited to his or her Account prior to the effective date of the amendment;

(2) Each Plan and Trust alone, and any properly adopted amendment thereof, shall constitute the total Plan and Trust or contract between the Employer and the Participant regarding the Plan and Trust; no oral statement regarding the Plan and Trust may be relied upon by the Participant;

(3) Each Plan and Trust and any properly adopted amendment shall be binding on the parties subject to the Plan and Trust and their respective heirs, administrators, trustees, successors, and assigns, and on all designated Beneficiaries of the Participant; and

(4) No amendment shall authorize or permit any part of the Trust Funds for the Plans to be used for or diverted to purposes other than for the exclusive benefit of the Participants and their Beneficiaries.

590:40-3-8. Discontinuance of contributions; termination; tax qualification

(a) **Discontinuance of Plans.** It is the present intention of the State of Oklahoma to maintain these Plans. Nevertheless, the State reserves the right, at any time, to discontinue or terminate either one or both of the Plans, to terminate the Employer's liability to make further contributions to this Plan, and to suspend contributions for a fixed or indeterminate period of time.

(b) **Duties of Board.** If either of the Plans is curtailed, terminated, or the contributions suspended permanently, the Board of Trustees shall nonetheless be responsible for the supervision and the payment of the benefits resulting from amounts contributed and received by OPERS prior to the amendment, modification or termination in accordance with this Subchapter.

(c) **Notice of termination.** Either one or both of the Plans and related Trust or Trusts may be terminated at any time by the State, by giving notice in writing to the Board of Trustees, which notice shall recite the date upon which the termination shall be effective. After receipt of such notice, the Board of Trustees shall continue to hold, invest and administer the Plan or Plans and related Trusts until the assets are liquidated and distributed to the Participants and Beneficiaries. The distribution of assets shall occur as soon as administratively practicable after the termination of the Plan or Plans. The Trust shall terminate only when no assets of the Trust remain in the possession of the Board of Trustees.

(d) **Tax qualification of 401(a) plan.** The Trust created under Subchapter 7 of this Chapter is designated as constituting a part of the Plan intended to continue to qualify and to be tax exempt under Code Sections 401(a) and 501(a). Until advised otherwise, the Board of Trustees may conclusively assume this Trust is qualified under Code Section 501(a) and this Trust is exempt to that extent from federal income taxes. Anything herein to the contrary notwithstanding, if a determination letter is issued by the Internal Revenue Service to the effect that the Plan and Trust do not meet the requirements of Code Sections 401(a) and 501(a), the Employer shall be entitled, at its option, to withdraw all contributions made, in which event the

Plan and the Trust shall then terminate and all rights of the Participants shall terminate effective as of the date of the adverse determination letter.

(e) **Tax status of the 457(b) plan.** The Trust created under Subchapter 9 of this Chapter is designated as constituting a part of the Plan intended to be tax exempt under Code Sections 457 and 501(a). Until advised otherwise, the Board may conclusively assume this Trust is tax exempt under Code Section 501(a) and is exempt from federal income taxes. Anything herein to the contrary notwithstanding, if a ruling is issued by the Internal Revenue Service to the effect that the Plan and Trust do not meet the requirements of Code Section 457(b), the Employer shall be entitled, at its option, to withdraw all contributions made, in which event the Plan and Trust shall then terminate and all rights of the Participants shall terminate as of the date of the ruling.

590:40-3-9. Payment of expenses

(a) **Forfeitures to pay expenses - 401(a) plan.** Forfeitures under 590:40-7-21 and 590:40-7-22 shall be used to pay 401(a) plan and/or Trust expenses. To the extent not paid by the Employer, all costs and expenses incurred in administering the 401(a) plan and the Trust shall be paid by the Plan and Trust through the reduction of each Participant's Account.

(b) **Fees payable from Trust Fund.** The fees payable for consulting, legal, accounting, or other reasonable and necessary services relating to the administration of each of the Plans and Trusts, as provided for, including expenses for the Board of Trustees, shall be payable by the Board of Trustees out of the Trust Funds, and until so paid shall constitute a first and prior charge and lien against the Trust Funds, to the extent not paid by the Employer.

(c) **Allocation of expenses.** The administrative expenses paid by OPERS on behalf of the each of the Plans, including operating expenses, depreciation expense, and investment related expenses other than fees for investment manager services, shall be allocated as of June 30 each year. An allocation percentage shall be calculated based on the amounts included in the audited financial statements from the prior year for the OPERS defined benefit plan, the Uniform Retirement System for Justices and Judges ("URSJJ"), the Oklahoma State Employees Deferred Compensation Plan ("DCP"), the Oklahoma State Employees Deferred Savings Incentive Plan ("SIP"), the 401(a) plan and the 457(b) plan using the following factors: 1) benefits; 2) contributions; and 3) average investments. The ratio of each factor to the total for the individual plans will be calculated and the average of the sum of these ratios by plan will be the percentage used to allocate the expenses for reimbursement by each of the Plans, USRJJ, DCP, and SIP to OPERS defined benefit plan for the payments made on their behalf effective for the succeeding year beginning July 1.

590:40-3-10. Records

Subject to the provisions of 590:10-1-18, all information, documents and copies thereof contained in a Participant's Plan file shall be given confidential treatment and shall not be made public by OPERS without prior written consent of the Participant to which it pertains, but shall be subject to subpoena or court order.

SUBCHAPTER 5. ELIGIBILITY AND PARTICIPATION - APPLICABLE TO THE 401(A) PLAN AND THE 457(B) PLAN

PART 1. ELIGIBILITY AND PARTICIPATION - APPLICABLE TO THE 401(A) PLAN AND THE 457(B) PLAN

590:40-5-1. Participation in 401(a) plan and 457(b) plan

(a) **Eligibility.** Each Employee shall become a Participant on the entry date of employment with an Employer for the mandatory contributions as set forth in 74 O.S. §935.5 and 590:40-5-5. Participants may participate in voluntary deferrals to the 457(b) plan set forth in 74 O.S. §935.5 and 590:40-5-6 beginning the first day of the month following the entry date of employment. An Employee shall participate in the DC System if the Employee is employed in a full-time-equivalent position or any position which is less than full-time but more than a half-time position and includes employee benefits such as health insurance and leave time. The determination of whether an Employee is in an employment position which is more than a half-time position shall be made by the Employer and such determination shall be exclusively relied upon by OPERS.

(b) **Participation upon reemployment.** A former Participant or former Employee who satisfies the eligibility requirements in this section shall become a Participant immediately in the DC System upon the date of reemployment.

(c) **Change in employment status.** In the event a Participant is no longer a member of an eligible class of Employees and becomes ineligible to participate in the DC System, the individual will participate immediately upon returning to an eligible class of Employees.

(d) **Previous participation in defined benefit plan.** Any employee first employed by an Employer prior to November 1, 2015, and was a participating member in OPERS defined benefit plan set forth in 74 O.S. §§ 901 et seq. shall not be a Participant in the DC System. Such employees shall participate in OPERS defined benefit plan set forth in 74 O.S. §§ 901 et seq. regardless of whether the individual maintained membership in the OPERS defined benefit plan. If an employee is first employed by an Employer on or after November 1, 2015, in a position in which the employee is eligible to participate in OPERS defined benefit plan, and such employee subsequently terminates service with such Employer and becomes employed in a position which is eligible under the DC System, the employee shall no longer participate in OPERS defined benefit plan but shall participate in the DC System.

590:40-5-2. Termination of Participation

A Participant shall cease to be eligible under the Plans upon the Participant's Termination of Service, Normal Retirement, Disability, or death. A Participant's participation in the Plans shall cease upon the complete distribution of a Participant's Account balance.

PART 3. CONTRIBUTIONS - APPLICABLE TO THE 401(A) PLAN AND THE 457(B) PLAN

590:40-5-5. Employee mandatory contributions to the 401(a) plan

Each Participant shall participate in the 401(a) Plan at a minimum contribution rate of 3% of the Employee's Compensation. These funds, designated as Employee contributions, shall be paid by the Employer for all Participants and picked up in order to be treated as Employer Contributions under the provisions of Code Section 414(h)(2) and 74 O.S. §935.8. The Employer shall remit the contributions to OPERS for deposit into an Account or Accounts maintained on behalf of the Participant. The mandatory 3% Employee contribution shall be placed by OPERS in the Code Section 401(a) plan as set forth by the Board of Trustees and in accordance with this Chapter.

590:40-5-6. Employee additional contributions to the 457(b) Plan.

(a) **Additional contributions; deposit of funds.** In the month following employment and enrollment in the Plan, Participants may contribute additional voluntary deferrals, above the 3% required contribution rate, in 1% increments up to a maximum combined rate, including both the required and voluntary deferrals, of 7%. Participants may not contribute at a fractional or percentage rate different from the rates set forth in this Section or in Section 935.5 of Title 74 of the Oklahoma Statutes. All deferrals above the mandatory 3% contribution rate shall be considered voluntary deferrals and shall be matched by the Employer up to but not exceeding 7%. Participants may contribute more than 7% of compensation, but any such amount over the 7% rate shall not be eligible for Employer matching amounts. All voluntary deferrals shall be subject to the maximum deferral limits allowed under the Code and as set forth in Subchapter 9 of this Chapter. Voluntary deferrals shall be paid and remitted in the same manner as the mandatory contributions. All voluntary deferrals are intended to meet the requirements of Code Sections 457(b). All voluntary deferrals over the 3% mandatory contribution shall be placed by OPERS in the 457(b) plan as set forth by the Board of Trustees and in accordance with Subchapter 9 of this Chapter.

(b) **Change in deferral rate.** A Participant may change the voluntary contribution rate once per calendar year only during the option period as set forth by the Board. The Participant shall give notice to OPERS of such change prior to or during the option period. Any request for a change in the amount of the voluntary deferral subject to Employer matching received by OPERS after the close of the option period shall not be granted until the next option period. The contribution rate selected by the Participant shall be continuous and remain in effect until a change is made by the Participant during the next option period. A Participant shall be permitted to change voluntary deferrals above the 7% rate, which deferrals are not matched by the Employer, outside of the option period but not more than once per month.

(c) **Notice.** Any notice required under this Section means communication on forms approved by OPERS or the Recordkeeper, through the website of OPERS or the Recordkeeper, or through a dedicated telephone service of OPERS or the Recordkeeper.

590:40-5-7. Employer matching contributions to the 401(a) plan

(a) **Employer contributions.** The Employer shall contribute to the Trust Fund the amount referred to as Employer contributions. The Employer contributions shall consist of the funds the Employer uses to match the contributions paid by the Participant. Employer contributions shall not be less than three percent (3%) of compensation, but may be 4%, 5%, 6%, or 7% of compensation if the Participant elects additional voluntary deferrals. Payment of matching contributions shall be made by the Employer to OPERS within five (5) business days of the payroll date for the Participant.

(b) **Placement in accounts.** All Employer matching contributions shall be placed by OPERS in Accounts established for the Participant under the 401(a) plan as set forth in Subchapter 7 of this Chapter. In no event shall any Employer matching contributions be placed in the 457(b) plan.

590:40-5-8. Employer remittance of contributions for the 401(a) plan and the 457(b) plan

(a) **State agencies.** The State shall remit both Employee and Employer contributions within five (5) business days of the Employee's payroll pay date.

(b) **Other Employers.** Employers whose deferrals and Employer contributions are not remitted to OPERS through the Office of Management and Enterprise Services shall either send the remittances by electronic funds transfer or place such remittances in a bank account from which OPERS can debit the amount due. In both cases, the remittance must occur within five (5) business days of the payroll pay date of the Participant.

(c) **Deposit by System.** OPERS shall deposit the contributions as soon as possible in the proper Account or Accounts maintained on behalf of the Participant in accordance with Subchapters 7 and 9 of this Chapter.

PART 5. VESTING - APPLICABLE TO THE 401(A) PLAN AND THE 457(B) PLAN

590:40-5-15. Vesting

(a) **Employee deferrals and contributions.** Each Participant shall acquire a vested interest in his or her accounts in the 401(a) plan and the 457(b) plan of one hundred percent

(100%) of the Participant's contributions or deferrals, including any gains or losses on such contributions or deferrals, at all times.

(b) **Employer matching amounts.** Each Participant shall acquire a vested interest in his or her Employer contributions in the 401(a) plan in accordance with the following vesting schedule:

(1) At the end of the first full year of participation, the Participant shall be vested in 20% of the Employer's matching contributions;

(2) At the end of the second full year of participation, the Participant shall be vested in 40% of the Employer's matching contributions;

(3) At the end of the third full year of participation, the Participant shall be vested in 60% of the Employer's matching contributions;

(4) At the end of the fourth full year of participation, the Participant shall be vested in 80% of the Employer's matching contributions; and

(5) At the end of the fifth full year of participation and thereafter, the Participant shall be vested in 100% of the Employer's matching contributions.

(c) **Full or partial termination.** In the event of a full or partial termination of a Plan, or a complete discontinuance of Employer contributions to the Plan, the accounts of affected Participants under the Plan shall be 100% vested and nonforfeitable to the extent required by federal law.

590:40-5-16. Years of service for vesting; forfeiture - 401(a) plan

(a) **Full years.** Only full years of participation by the Participant with an Employer shall be counted toward vesting. A full year of participation shall mean a period of twelve (12) consecutive months beginning on the participant's participation date and each anniversary thereof. Participants must complete a full year of participation to be vested according to the schedule set forth in 590:40-5-15. Partial years shall not round up but shall round down to the nearest full year of participation. For example, a Participant with 3 years and 10 months of participation shall be vested in 100% of his or her Employee contributions, and 60% of the Employer contributions, and any investment gains or losses on such amounts.

(b) **Breaks in service.** For purposes of determining the vested interest of a Participant, all full years of participation shall be credited toward vesting without regard to any breaks in service, unless there is a Termination of Service. The determination of whether a Participant has completed a full year of participation for vesting purposes shall be made by OPERS.

(c) **Withdrawal from Plan; forfeiture.** If a Participant withdraws all vested contributions in the 401(a) plan as a result of Termination of Service with an Employer or otherwise becomes ineligible to participate in the 401(a) plan, the portion of Employer contributions which are not vested shall be forfeited to the 401(a) plan. If a Participant ceases to be eligible under the 401(a) plan or terminates service with an Employer but does not withdraw all vested contributions, the Participant shall remain eligible to receive the portion of Employer contributions which were previously not vested if the Participant returns to employment with an Employer, continues participation in the Plan, and becomes vested in such contributions. Upon reemployment with an Employer and satisfying the eligibility requirements to become a Participant, the reemployed Participant shall receive credit for the previously vested years of service and be vested at the same percentage the Participant was vested when service was previously terminated. However, under no circumstances shall the Participant be entitled to any previously forfeited Employer contributions.

590:40-5-17. Normal retirement age - applicable to the 401(a) plan and the 457(b) plan

(a) **Normal retirement age for the 401(a) plan.** The normal retirement age for participants under the 401(a) plan is age 65. Upon attaining age 65, the Participant is vested in the Employer contributions as set forth in 590:40-5-15 and no change can be made in that vesting schedule for the Participant.

(b) **Normal retirement age for the 457(b) plan.** A Participant in the 457(b) plan is allowed to designate a normal retirement age under the 457(b) plan for purposes of the special section 457 catch-up under Code Section 457(b)(3) that is no earlier than age 65 and no later than age 70 $\frac{1}{2}$.

PART 7. BENEFICIARIES - APPLICABLE TO THE 401(A) PLAN AND THE 457(B) PLAN

590:40-5-20. Beneficiaries

(a) **Designating a beneficiary.** A Participant may file with OPERS a beneficiary or change of beneficiary form designating the person or persons to receive any amounts which may be distributed in the event of death of the Participant prior to complete distribution of benefits. The Participant shall have the option to designate the same or different beneficiaries for amounts in the 401(a) plan and the 457(b) plan. If a Participant dies without having a beneficiary form on file in both the 401(a) plan or 457(b) plan, or is not survived by a designated beneficiary, payments shall be made to the beneficiary designated by the Participant in either the 401(a) plan or 457(b) plan, whichever is applicable.

(b) **Beneficiary designation; rights to payment.** Following the death of the Participant, the Beneficiary may file with OPERS a beneficiary or change of beneficiary form designating the person or persons to receive any amounts which may be distributed in the event of death of the Beneficiary prior to complete distribution of benefits. The Beneficiary shall have the right to apply to OPERS to amend the payment option as previously elected by the Participant.

(c) **Multiple beneficiaries.** If more than one designated beneficiary survives the Participant, or the Beneficiary in the event of death of the Participant, distributions shall be made equally to the surviving beneficiaries unless otherwise set forth in the beneficiary form. A Participant, or the Beneficiary in the event of death of the Participant, may designate primary and contingent beneficiaries.

590:40-5-21. Death without beneficiary

(a) **Participant.** If a Participant dies without filing a beneficiary form with OPERS or is not survived by a designated Beneficiary under either the 401(a) plan or the 457(b) plan, the distribution of remaining benefits shall be made to the properly appointed administrator, executor, personal representative, or other fiduciary of the estate of the Participant. If there is no estate, or if no administrator, executor, personal representative, or other fiduciary of estate of the Participant has been appointed and qualified within one hundred twenty (120) days after death, the distribution of benefits may be made to first of the following:

(1) surviving spouse;
(2) surviving children in equal shares;
(3) surviving parents in equal shares; or
(4) surviving siblings in equal shares.

(b) **Surviving Beneficiary.** If, after the death of the Participant, a Beneficiary dies without having a beneficiary form on file or is not survived by a designated Beneficiary, the distribution of remaining benefits shall be made to the properly appointed administrator, executor, personal representative, or other fiduciary of the estate of the Beneficiary. If there is no estate of the Beneficiary, the distribution of the Beneficiary's benefits shall be in the same manner as the distribution of the Participant's benefits as set forth in (a) of this Section.

590:40-5-22. Beneficiary forms

(a) **Requirements for acceptance.** The beneficiary form shall be provided by OPERS and shall have no effect until it is signed by the Participant, or in the event of death of the Participant, signed by the Beneficiary. Additionally, the beneficiary form must be filed and accepted by OPERS before it shall be considered effective.

(b) **Burden to file form.** The Participant, or the Beneficiary in the event of death of the Participant, accepts and acknowledges that he or she has the burden for executing and filing with OPERS a proper beneficiary designation form.

(c) **Failure to file or accept.** If OPERS does not accept a beneficiary form for any reason, the previous beneficiary form which was properly filed and accepted by OPERS shall control the distribution of benefits.

(d) **Options for each plan.** OPERS shall provide a beneficiary form which distinguishes the 401(a) plan and 457(b) plan, and the Participant, or the Beneficiary in the event of death of the Participant, shall have the option to designate the same or different beneficiaries for the amounts in the 401(a) plan and the 457(b) plan.

SUBCHAPTER 7. DEFINED CONTRIBUTION 401(A) PLAN

PART 1. ACCOUNTS

590:40-7-1. Establishment of Accounts

OPERS shall establish Accounts for each Participant to reflect the Participant's mandatory three percent (3%) contribution and the matching Employer Contribution. Each Account shall be subdivided further and separate records shall be maintained showing the manner in which each Account is invested. Separate records also shall be maintained with respect to each Account showing the amount of contributions, distributions, vested balance, and the amount of income, expenses, gains, and losses attributable thereto. All subaccounts shall be referred to as a Participant's Account. The interest of each Participant shall comprise the amount in the Account, as determined under 590:40-7-3, plus credits, representing the Participant's allocable share of contributions, profits, income, and other increments attributable to such contributions, and minus debits, representing the Participant's proportionate share of losses and other decrements or expenses under the Plan and all distributions under the Plan made to or regarding that Participant. These records shall be maintained by the Plan on a calendar quarter-end basis only and available for seven (7) years.

590:40-7-2. Statement of a Participant's Account

The Recordkeeper, as soon as practicable after the end of each calendar quarter of the year, or more frequently, as OPERS may determine, shall mail or distribute to each Participant (including those who have incurred a Termination of Service) a statement setting forth the Account of such Participant as of the end of such period. Such statement shall be deemed to have been accepted as correct unless written notice to the contrary is received by OPERS and/or Recordkeeper within sixty (60) days after the mailing or distribution of such statement to the Participant.

590:40-7-3. Valuation of Accounts

The Recordkeeper shall value the investments each business day. On each Valuation Date, there shall be allocated to the Accounts of each Participant the proportionate share of the increase or decrease in the fair market value of the Participant's Accounts in each of the investments, based on the beginning balance of such Accounts for such day. The Recordkeeper for the Plan may determine the increase or decrease in the fair market value of the Participant's Account in each of the investments on a cash, share or unit accounting basis. Whenever an event requires a determination of the value of the Participant's Accounts, the value shall be computed as of a Valuation Date coincident with or following the date of the event. The Recordkeeper shall be the final authority on the value of a Participant's Account. These daily valuation records shall be maintained by the Recordkeeper for a period of one (1) year. Thereafter, Account information will be available on a quarter-end basis as provided in 590:40-7-1.

PART 3. CONTRIBUTIONS

590:40-7-10. Rollover contributions

(a) **Rollovers into Plan.** Participants who maintain an Account in the Plan may make rollover contributions to this Plan, provided such rollover contributions meet the requirements under Code Sections 402(c)(4), 403(a)(4), or 408(d)(3), or any other applicable section of the Code or regulations.

(b) **Acceptance of rollovers from eligible employer plans.** The Plan shall accept direct rollovers of eligible pre-tax rollover distributions excluding after-tax employee contributions from the following types of plans:

(1) a qualified plan described in Code Section 401(a) or 403(a);

(2) an annuity contract described in Code Section 403(b); and

(3) an eligible plan under Code Section 457(b) which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state.

(c) **Acceptance of pre-tax rollover distribution.** The Plan shall accept a Participant contribution of an eligible pre-tax rollover distribution excluding after-tax employee contributions, from the following types of plans:

(1) a qualified plan described in Code Section 401(a) or 403(a);

(2) an annuity contract described in Code Section 403(b); and

(3) an eligible plan under Code Section 457(b) which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state.

(d) **Acceptance of pre-tax distribution from IRA or annuity.** The Plan shall accept a Participant rollover contribution of the portion of a pre-tax distribution from an individual retirement account or annuity described in Code Section 408(a) or 408(b) that is eligible to be rolled over and would otherwise be includable in gross income.

590:40-7-11. Mistaken Employer contribution

(a) **Allocation error.** If an Employer contribution has been allocated to an Account in error, the Recordkeeper shall reallocate the contributions, plus any gain or less any loss, from such Account to a suspense account as soon as administratively possible but not later than the Plan Year immediately following the Plan Year in which the mistaken Employer Contribution was made.

(b) **Suspense account.** Amounts so reallocated to a suspense account shall be used to reduce the Employer Contribution.

PART 5. ALLOCATIONS AND VESTING

590:40-7-20. Allocation of Employer contributions

Each business day the Recordkeeper receives Employer contributions before the close of the market, the Recordkeeper shall allocate the contribution to the Account of each Participant on whose behalf such contribution was made.

590:40-7-21. Vesting

A Participant shall at all times be vested at one hundred percent (100%) in his or her account containing solely the Participant's contributions, and the investment gains and losses on those contributions. A Participant shall be vested in the Employer's matching contributions, and the gains and losses on those contributions, in accordance with the vesting schedule set forth in 590:40-5-15. All matching Employer contributions in the Participant's Account that are not vested at the time the Participant terminates participation in the Plan shall be subject to forfeiture.

590:40-7-22. Forfeitures

Matching contributions in the Account of a Participant may be forfeited pursuant to Section 24.1 of Title 51 of the Oklahoma Statutes. To the extent any forfeiture occurs, such forfeiture shall be retained and used by the Plan under 590:40-3-9.

PART 7. INVESTMENTS

590:40-7-25. Investment contracts

Employer and Participant contributions shall be delivered by the Employer to OPERS to be invested in one or more of the following types of contracts or accounts issued or made available by a company or companies approved by the Board:

(1) savings account in an institution or institutions as determined by the Board;

(2) deferred fixed interest contract or other type of investment;

(3) deferred variable interest contract or other types of investment;

(4) mutual fund or common trust fund;

(5) any combination of the investment options in paragraphs (1) through (4) of this Section.

590:40-7-26. Investment authority

The investment options shall be selected by the Board in accordance with 74 O.S. Supp. 2014, § 935.9 and 590:20-1-4, provided such investment options satisfy the requirements of the Code for qualified plan investments. All Plan assets which have not been directed by the Participant shall be invested by the Board in accordance with the default investment option selected by the Board as set forth in 590:40-7-28.

590:40-7-27. Participant directed investments

A Participant's Account shall be invested in accordance with the investment direction of the Participant under the limitations established by the Board of Trustees under this Chapter, the investment policy or any pertinent contractual or investment fund provisions. The Employer, Board, OPERS, coordinator, and Recordkeeper shall be under no duty to question any investment direction of a Participant, to review any directed investments, or to make suggestions to the Participant, nor shall they be held responsible in any manner for investment loss or depreciation in asset value of any directed investment.

590:40-7-28. Default options

(a) **Failure to select.** In the event a Participant fails to select any investment option upon enrollment in the Plan, the Board shall, by resolution, establish a default investment option for contributions received from the Participant and a default option for matching Employer contributions. Contributions invested in the default option shall remain in such option until the Participant directs the contributions to be invested in another investment option offered by the Plan.

(b) **Termination or elimination of options.** In the event of termination or elimination of any investment option from continued offering under the Plan, the Board may select default investment options for placement of affected funds. The Board may also designate periods where Participants may have no access to select investment options.

PART 9. BENEFITS AND DISTRIBUTIONS

590:40-7-30. Commencement

(a) **Events initiating benefits.** In the event of a Participant's separation from service as a result of Termination of Service, Normal Retirement, Disability, or death, the Participant shall be entitled to receive a distribution of the vested funds in his or her Account under the Trust Fund. In the event that a Participant dies before the entire balance of the Account is distributed, 590:40-7-34 shall apply.

(b) **Electing time for commencing of benefits.** The Participant may elect, on forms prescribed by OPERS, the time at which distributions under the Plan are to commence by designating the month and year during which the first distribution is to be made; however, in no event shall payment begin later than the required beginning date, which is the later of the April 1 following the calendar year in which the Participant attains the age of 70 $\frac{1}{2}$ years of age, except as provided in 590:40-7-32, or the April 1 of the year following the calendar year in which the Participant terminates. The payment of benefits shall begin no earlier than thirty (30) days after the occurrence of the event that gives rise to the beginning of the payment of benefits. If the Participant fails to apply for benefits after the required beginning date, the Board shall begin distribution of the Participant's entire interest as required by these rules in the form provided in 590:40-7-35.

590:40-7-31. Benefit totals

The Participant shall be entitled to the vested benefits created by participation in this Plan in accordance with the provisions of this Chapter. Generally, the vested benefits payable to the Participant will be the equivalent of the market value of the total vested benefits created by the investment selection made by the Participant, taking into consideration market losses and gains.

590:40-7-32. Late retirement

If the Participant continues employment after attaining 70 $\frac{1}{2}$ years of age, all benefits payable under the Plan may be deferred until the Participant retires, terminates employment, or dies. If the Participant is not an active Employee, the payment of benefits must begin no later than April 1 of the calendar year following the calendar year in which the Participant attained age 70 $\frac{1}{2}$.

590:40-7-33. Disability retirement

If a Participant becomes Disabled and provides proof to OPERS of such disability, the Participant shall be deemed to be retired and will be paid the benefits as set forth in this Subchapter.

590:40-7-34. Death

(a) **Payment to beneficiary.** If the Participant dies prior to receiving Plan benefits, or the Participant dies while benefits are being paid to the Participant under the Plan and before such benefits have been exhausted, the benefits payable under this Plan shall be paid to the designated Beneficiary of the Participant in accordance with the distribution option selected by the Participant or the Beneficiary.

(b) **Distribution method.** Distributions must be made primarily for the benefit of the Participant (or former Participant). Therefore, distribution which begins prior to the death of a Participant must be in a form such that the total benefit amount will be paid over a period not to exceed the life expectancy of the Participant and a designated Beneficiary. Any amount not distributed to the Participant during his or her lifetime shall be distributed after the death of the Participant at least as rapidly as under the method of distribution used as of the date of his or her death. In addition, if the Participant dies prior to the commencement of distributions, the Participant's Account shall be distributed to the Beneficiary, commencing within one year of the employee's death, over the life of such Beneficiary (or over a period not extending beyond the life expectancy of such Beneficiary) but not to exceed 15 years; provided however if such Beneficiary is the surviving spouse of the Participant, then (i) such distributions shall, in all events, commence no later than December 31 of the calendar year in which the Participant would have attained age 70 $\frac{1}{2}$ (or such other date as may be permitted under applicable Treasury Regulations), and (ii) benefits payable to such spouse shall be completed during a period not in excess of such spouse's life expectancy. Life expectancies will not be recalculated annually.

590:40-7-35. Payment and distribution options

Subject to the provisions of 590:40-7-30, a Participant, or Beneficiary where applicable, may elect within the period and on the forms prescribed by OPERS, to receive the balance of his or her Account in the form of:

(1) a lump sum, payable in cash;
(2) substantially level periodic installments;
(3) any other form approved by OPERS or the Trustees.

590:40-7-36. Rollovers to eligible retirement plan

(a) **Election to rollover.** Notwithstanding any provision of the Plan to the contrary that would otherwise limit a distributee's election under this Section, a distributee may elect, at the

time and in the manner prescribed by OPERS, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover.

(b) **Definitions.** As used in this section:

(1) "Eligible rollover distribution" means any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include: any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary, or for a specified period of 10 years or more; any distribution to the extent such distribution is required under Code Section 401(a)(9); the portion of any other distribution(s) that is not includible in gross income, except to the extent provided by paragraph (c) of this section; and any amount that is distributed on account of hardship shall not be an eligible rollover distribution and the distributee may not elect to have any portion of such a distribution paid directly to an eligible retirement plan.

(2) "Eligible retirement plan" means an individual retirement account described in Code Section 408(a), an individual retirement annuity described in Code Section 408(b), or a qualified trust described in Code Section 401(a), or Roth individual annuity (if the individual is eligible for a Roth rollover) described in Code Section 408(A)(e), that accepts the distributee's eligible rollover distribution. An eligible retirement plan shall also mean an annuity contract described in Code Section 403(b) and an eligible plan under Code Section 457(b) which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such plan from this Plan. The definition of eligible retirement plan shall also apply in the case of a distribution to a surviving spouse, or to a spouse or former spouse who is the alternate payee under a qualified domestic relation order, as defined in Code Section 414(p).

(3) "Distributee" means a Participant. In addition, the Participant or the Participant's surviving spouse are distributees with regard to the interest of the spouse. For the limited purposes set forth in paragraph (d) of this section, distributee means a non-spouse beneficiary.

(4) "Direct rollover" means a payment by the Plan to the eligible retirement plan specified by the distributee.

(c) **After-tax contributions.** A portion of a distribution shall not fail to be an eligible rollover distribution merely because the portion consists of after-tax employee contributions which are not includible in gross income. However, such a portion may be transferred only to an individual retirement account or an individual retirement annuity described in section Code Section 408(a) or (b) of the Code, a qualified plan described in section Code Sections 401(a) or 403(a) of the Code, or to an annuity contract described in section Code Section 403(b) of the Code, that agrees to separately account for amounts so transferred, including separately accounting for the portion of such distribution which is includible in gross income and the portion of such distribution which is not so includible.

(d) **Non-spouse beneficiary.** A non-spouse beneficiary pursuant to section Code Section 402(c)(11) of the Code may elect to have any portion of an eligible rollover distribution paid directly to an individual retirement account described in section Code Section 408(a) of the Code, or an individual retirement annuity described in section Code Section 408(b) of the Code, established for the purpose of receiving the distribution. Such account or annuity shall be treated as an "inherited" individual retirement account or annuity. A rollover pursuant to this paragraph shall be treated as a rollover of an eligible rollover distribution only for purposes of Code Section 402(c).

590:40-7-37. Minimum distribution requirements

(a) **Application.** Notwithstanding anything herein to the contrary, the following minimum distribution requirements will apply.

(b) **Compliance with Code.** The Plan will make all distributions in accordance with a good faith interpretation of the requirements of Code Section 401(a)(9) and the Treasury Regulations thereunder, as applicable to governmental plans within the meaning of Code Section 414(d), including the minimum distribution incidental benefit requirement of Code Section 401(a)(9)(G) and Section 1.401(a)(9)-2 of the proposed Treasury Regulations, or any successor rules or regulations.

(c) **Time of distribution.** The entire interest of a Participant must be distributed or begin to be distributed no later than the Participant's Required Beginning Date.

(d) **Limits on distribution periods.** As of the first Distribution Calendar Year, distributions, if not made in a single lump sum, may be made over one of the following periods (or a combination thereof):

(1) the life of the Participant,

(2) the life of the Participant and a designated Beneficiary

(3) a period certain not extending beyond the Life Expectancy of the Participant, or

(4) a period certain not extending beyond the joint and last survivor expectancy of the Participant and a designated Beneficiary.

(e) **Distributions other than lump sum.** If the Participant's interest is to be distributed in other than a single lump sum, the following minimum distribution rules shall apply on or after the Required Beginning Date:

(1) If a Participant's benefit is to be distributed over (i) a period not extending beyond the life expectancy of the Participant or the joint life and last survivor expectancy of the Participant and the Participant's designated Beneficiary or (ii) a period not extending beyond the life expectancy of the designated Beneficiary, the amount required to be distributed for each calendar year, beginning with distributions for the first Distribution Calendar Year must at least equal the quotient obtained by dividing the Participant's benefit by the Applicable Life Expectancy.

(2) The amount to be distributed each year, beginning with distributions for the first Distribution Calendar Year shall not be less than the quotient obtained by dividing the Participant's benefit by lesser of (i) the Applicable Life Expectancy or (ii) if the Participant's Spouse is not the designated Beneficiary, the applicable divisor determined from the table set forth in Q&A-4 of Section 1.401(a)(9)-2 of the Treasury Regulations. Distributions made after the death of the Participant shall be distributed using the Applicable Life Expectancy in (1) above as the relevant divisor without regard to Treasury Regulations Section 1.401(a)(9)-2.

(3) The minimum distribution required for the Participant's first Distribution Calendar Year must be made on or before the Participant's Required Beginning Date. The minimum distribution for other calendar years, including the minimum distribution for the Distribution Calendar Year in which the Participant's Required Beginning Date occurs, must be made on or before December 31 of that Distribution Calendar Year.

(f) **Insurance company annuity.** If the Participant's benefit is distributed in the form of an annuity purchased from an insurance company, distributions thereunder shall be made in accordance with the requirements of Code Section 401(a)(9) and the Treasury Regulations thereunder. OPERS or the Board shall assume no liability after distribution if Participant's benefit is distributed in the form of an annuity purchased from an insurance company or converted into an annuity by an insurance company.

(g) **Definitions.** For purposes of this Section, the following terms shall have the meanings as set forth below:

(1) **"Applicable Life Expectancy"** means the life expectancy (or joint and last survivor expectancy) calculated using the attained age of the Participant (or designated Beneficiary) as of the Participant's (or designated Beneficiary's) birthday in the applicable calendar year reduced by one for each calendar year which has elapsed since the date life expectancy was first calculated. Life expectancies will not be recalculated annually. If annuity payments commence before the Required Beginning Date, the applicable calendar year is the year payments commence. If distribution is in the form of an immediate annuity purchased after the Participant's death with the Participant's remaining interest, the applicable calendar year is the year of purchase.

(2) **"Distribution Calendar Year"** means a calendar year for which a minimum distribution is required. For distributions beginning before the Participant's death, the first Distribution Calendar Year is the calendar year immediately preceding the calendar year which contains the Participant's Required Beginning Date. For distributions beginning after the Participant's death, the first Distribution Calendar Year is the calendar year in which distributions are required to begin pursuant to this Section.

(3) **"Participant's Benefit"** means the Participant's Account as of the last Valuation Date in the calendar year immediately preceding the Distribution Calendar Year ("Valuation Calendar Year") increased by the amount of any contributions allocated to the Account as of dates in the Valuation Calendar Year after the Valuation Date and decreased by distributions made in the Valuation Calendar Year after the Valuation Date. If any portion of the minimum distribution for the first Distribution Calendar Year is made in the second Distribution Calendar Year on or before the Required Beginning Date, the amount of the minimum distribution made in the second Distribution Calendar Year shall be treated as if it has been made in the immediately preceding Distribution Calendar Year.

(4) **"Required Beginning Date"** means the later of the first day of April of the calendar year following the calendar year in which the Participant (i) attains age 70 $\frac{1}{2}$ or (ii) retires.

590:40-7-38. Military service.

Notwithstanding any provision of the Plan to the contrary, contributions, benefits, and service credit with respect to qualified military service will be provided in accordance with the Uniformed Services Employment and Reemployment Rights Act of 1994 ("USERRA"), the Heroes Earnings Assistance and Relief Tax Act of 2008 ("HEART"), and Section 414(u) of the Code.

(1) To the extent required by section 414(u)(12) of the Code, an individual receiving differential wage payments (as defined under section 3401(h)(2) of the Code) from an employer shall be treated as employed by that Employer, and the differential wage payment shall be treated as compensation for purposes of applying the limits on annual additions under Section 415(c) of the Code. This provision shall be applied to all similarly situated individuals in a reasonably equivalent manner.

(2) While a Participant is performing qualified military service (as defined in chapter 43 of title 38, United States Code), to the extent required by Section 401(a)(37) of the Code, survivors of the Participant, are entitled to any additional benefits that the Plan would provide if the Participant had resumed employment and then died, such as accelerated vesting or survivor benefits that are contingent on the Participant's death while employed. In any event, a deceased Participant's period of qualified military service must be counted for vesting purposes.

PART 11. LIMITATIONS ON ANNUAL ADDITIONS

590:40-7-45. General

(a) **Account limitations.** In no event shall the Annual Addition for any Limitation Year to the Accounts of any Participant exceed the lesser of (i) $40,000 (as adjusted pursuant to Code Section 415(d) or (ii) one hundred percent (100%) of the Compensation, as defined below. For purposes of applying Code Section 415(c) and for no other purpose, the definition of compensation where applicable shall be compensation actually paid or made available to the Participant by the Employer during the Limitation Year ("Maximum Permissible Amount"), except as noted below and as permitted by Treasury

Regulation Section 1.415(c)-2, or successor regulation; provided, however, that Participant contributions picked up under Code Section 414(h) shall not be treated as Compensation. The Compensation limitation referred to in (2) below shall not apply to any contribution for medical benefits (within the meaning of Code Sections 401(h) or 419A(f)(2)) which is otherwise treated as an Annual Addition under Code Sections 415(*1*)(1) or 419A(d)(2). Participant contributions are determined without regard to rollover contributions. The 415(c) limit with respect to any Participant who at any time has been a Participant in any other defined contribution plan as defined in Code Section 414(i) maintained by the Participant's Employer in this Plan shall apply as if the total annual additions under all such defined contribution plans in which the Participant has been a Participant were payable from one (1) plan.

(b) **Contribution or allocation limits.** Except to the extent permitted under Code Section 414(v), if applicable, the Annual Addition that may be contributed or allocated to a Participant's Account under the Plan for any Limitation Year shall not exceed the Maximum Permissible Amount, the lesser of:

(1) Forty Thousand Dollars ($40,000), as adjusted for increases in the cost-of-living under Code Section 415(d), or

(2) One hundred percent (100%) of the Participant's Compensation, within the meaning of Code Section 415(c)(3), for the Limitation Year.

(c) **Annual Addition limits.** The amount of Annual Addition which may be allocated under this Plan on a Participant's behalf for a Limitation Year shall not exceed the Maximum Permissible Amount, reduced by the sum of any Annual Additions allocated to the Participant's Account for the same Limitation Year under any other qualified defined contribution plan, under any welfare benefit fund, as defined in Code Section 419(e), or under any individual medical benefit account, as defined in Code Section 415(l)(2); as maintained by the Employer and which provide an Annual Addition during any Limitation Year.

590:40-7-46. Definitions

The following words or terms, when used in this Part 11 of this Subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

"Annual addition" means the sum for any Plan year of the following amounts allocated on behalf of a Qualified Participant for a Limitation Year:

(A) All Employer contributions;

(B) All Participant contributions determined without regard to any rollover contributions (as defined in Code Sections 402(c), 403(a)(4), 403(b)(8), and 408(d)(3)) without regard to Participant contributions to a simplified employee pension which are excludable from gross income under Code Section 408(k)(6);

(C) All forfeitures;

(D) Amounts allocated to an individual medical account, as defined in Code Section 415(l)(2), which is part of a pension or annuity plan maintained by the Employer; and

(E) Amounts derived from contributions which are attributable to post-retirement benefits allocated to the separate account of a key employee, as defined in Code Section 419A(d)(3), under a welfare benefit fund, as defined in Code Section 419(e), maintained by the Employer. The compensation limit in (ii) of Section 590:40-7-45(a) shall not apply to any contribution for medical benefits (within the meaning of Code Section 401(h) or 419A(f)(2)) after separation from service which is treated as an Annual addition. For purposes of this Subchapter, excess amounts reapplied to reduce Employer contributions under Section 590:40-7-47 in the Limitation Year shall also be included as an Annual Addition for such Limitation Year.

"Compensation" means:

(A) For purposes of applying the limitation of Code Section 415, a Participant's wages, salaries, fees for professional services, and other amounts received (without regard to whether or not an amount is paid in cash) for personal services actually rendered in the course of employment with the Employer maintaining this Plan to the extent that the amounts are includable in gross income (including, but not limited to, commissions paid salesmen, compensation for services on the basis of a percentage of profits, commissions on insurance premiums, tips, bonuses, fringe benefits, and reimbursements or other expense allowances under a nonaccountable plan (as described in Treasury Regulation Section 1.62-2(c)), and excluding the following:

(i) Distributions from a plan of deferred compensation, regardless of whether such amounts are includable in the gross income of the Participant when distributed; and

(ii) other amounts which receive special tax benefits, such as premiums for group-term life insurance (but only to the extent that the premiums are not includable in the gross income of the Participant). Compensation shall also include contributions made pursuant to a salary reduction agreement which are not includable in the gross income of the Participant under Code Sections 125, 132(f)(4), 401(k), 408(k), 403(b) or 457. For purposes of applying the limitation of this Subchapter, Compensation for a Limitation Year is the Compensation actually paid or made available to the Participant within the Limitation Year. Notwithstanding the preceding sentence, Compensation for a Participant who is permanently and totally disabled (as defined in Code Section 22(e)(3)) is the Compensation such Participant would have received for the Limitation Year if such Participant had been paid at the rate of Compensation paid immediately before becoming permanently and totally disabled. If the Plan provides for the continuation of such contributions on behalf of all Participants who are permanently

and totally disabled for a fixed or determinable period, then imputed Compensation may be taken into account for a disabled Participant. Such contributions on behalf of a permanently and totally disabled Participant must be nonforfeitable when made.

(B) Payments made by the later of 2 $\frac{1}{2}$ months after severance from employment or the end of the Limitation Year that includes the date of the Participant's severance from employment shall be included in compensation if they are payments that, absent a severance from employment, would have been paid to the Participant while the Participant continued in employment with the Employer and are:

(i) Regular compensation for services during the Participant's regular working hours, or compensation for services outside the Participant's regular work hours (such as overtime or shift differential), commissions, bonuses, or other similar payments, and the compensation would have been paid to the Participant prior to a severance from employment if the Participant had continued employment with the Employer; or

(ii) payments for unused accrued bona fide sick, vacation or other leave, but only if the Participant would have been able to use the leave if employment had continued; or

(iii) payments pursuant to a nonqualified unfunded deferred compensation plan, but only if the payments would have been paid to the Participant at the same time if the Participant had continued employment with the Employer and only to the extent that the payment is includible in the Qualified Participant's gross income.

(C) Any payments not described in paragraph (B) of this definition are not considered compensation if paid after severance from employment, even if they are paid within 2 $\frac{1}{2}$ months following severance from employment. However, payments to the individual who does not currently perform services for the Employer by reason of qualified military service (within the meaning of Code Section 414(u)(1)) to the extent these payments do not exceed the amounts the individual would have received if the individual had continued to perform services for the Employer rather than entering qualified military service.

(D) An Employee who is in qualified military service (within the meaning of Code Section 414(u)(1)) shall be treated as receiving compensation from the Employer during such period of qualified military service equal to

(i) the compensation the Employee would have received during such period if the Employee were not in qualified military service, determined based on the rate of pay the employee would have received from the employer but for the absence during the period of qualified military service, or

(ii) if the compensation the Employee would have received during such period was not reasonably certain, the Employee's average compensation from the employer during the twelve month period immediately preceding the qualified military service (or, if shorter, the period of employment immediately preceding the qualified military service).

(E) For purposes of Code Section 415(c) and this subchapter, compensation of each Participant taken into account in determining allocations for any Plan Year shall not exceed the applicable limit established by Code Section 401(a)(17) as of the first day of the calendar year, as increased for the cost-of-living adjustment.

"Limitation Year" means the calendar year.

590:40-7-47. Adjustments for excess amount

If there is an Annual Addition in excess of the limitation under Code Section 415(c) as set forth in this Part 11 or any other excess amount subject to correction under the Employee Plan Compliance Resolutions System (or other similar Internal Revenue Service correction program), such amount will be corrected as permitted under the Employee Plan Compliance Resolutions System (or other similar Internal Revenue Service correction program).

PART 13. TRUST

590:40-7-50. Establishment and acceptance of Trust

There shall be created a Trust under this Subchapter 7 for all contributions paid into the 401(a) plan. The Board of Trustees shall act as trustee of the Trust. The Board shall take, hold, invest, administer, and distribute in accordance with this Plan and Trust, all contributions and assets paid or delivered to the Board pursuant to the Plan for the uses and purposes herein expressed. The Board shall be accountable for all contributions received, but shall have no duty to require any contributions to be made or to determine that the amounts received comply with the Plan, or to determine that the Trust Fund is adequate to provide the benefits payable under the Plan.

590:40-7-51. Payments from Trust Fund

(a) **Duties of Recordkeeper.** The Recordkeeper shall make payments from the Trust Fund to such persons in such manner, at such times and in such amounts as the Board of Trustees, acting through OPERS, shall direct. The Recordkeeper shall be fully protected in making, discontinuing, or stopping payments from the Trust Fund in accordance with the directions of the Board of Trustees or OPERS. The Recordkeeper shall have no responsibility to see to the application of payments so made or to ascertain whether the directions of the Board of Trustees or OPERS comply with the Plan. When the Board of Trustees or OPERS directs that any payment is to be made only during or until the time a certain condition exists regarding the payee, any payment made by the Recordkeeper in good faith, without

actual notice or knowledge of the changed status or condition of the payee, shall be considered to have been properly made by the Recordkeeper and made in accordance with the direction of the Board of Trustees or OPERS.

(b) **Administrative expenses.** To the extent permitted by law, the Board of Trustees shall be reimbursed for its expenses, if any, that are reasonable and necessary for the administration of the Plan and the Trust pursuant to 74 O.S. § 935.6 and 590:40-3-9.

(c) **Taxes.** The Board of Trustees, acting through OPERS or Recordkeeper is authorized, to the extent required under applicable law, to withhold from distributions to any payee such sum as the Board of Trustees determines is necessary to cover federal and state taxes for which the Board of Trustees may be liable, which are, or may be, assessed with regard to the amount distributable to such payee. Upon discharge or settlement of such tax liability, the Board of Trustees shall pay the balance of such sum, if any, to such payee or to his or her estate. Prior to making any payment or distribution, the Board of Trustees may require such releases or other documents from any lawful taxing authority and may require such indemnity from any payee or distributee as the Board of Trustees shall reasonably deem necessary for its protection.

(d) **Limits on Trust Fund payments.** No amounts shall be payable to the Employer from the Trust Fund except as provided in the Plan.

590:40-7-52. Investment of Trust Fund; standard of care

(a) **Limitations on corpus or income.** The corpus or income of the Trust Fund may not be diverted to or used for other purpose than the exclusive benefit of the Participants or their Beneficiaries.

(b) **Standard of care.** The Board of Trustees shall perform all acts within its authority under this Plan and the assets shall never inure to the benefit of an Employer and shall be for the exclusive purpose of providing benefits to Participants and their Beneficiaries and defraying reasonable expenses of administering the Plan and Trust, and shall perform such acts with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims. Subject to the preceding sentence, the Board of Trustees shall diversify the investments of the Trust Fund to minimize the risk of large losses by offering diverse investment options to Participants, unless under the circumstances it is prudent not to do so.

(c) **Powers and duties.** To the extent applicable for this Plan and Trust, provisions of the Oklahoma Statutes which reference the powers and duties of the Board of Trustees are incorporated.

590:40-7-53. Trust accounts

At least each quarter, the Recordkeeper shall provide a written account to the Board of Trustees setting forth all transactions effected by it subsequent to the end of the period covered by its last previous account, and listing the assets of the Trust Fund at the close of the period covered by such account. Each year, the Board of Trustees shall publish an annual report presented in simple and easily understood language. The annual report shall cover the operation of the Plan and Trust, during the past year, including income, disbursements, and the financial condition of the Plan and Trust and any other information deemed relevant by the Board of Trustees. The annual report shall be written in such a manner as to permit a readily understandable means for analyzing the financial condition and performance of the Plan and Trust.

590:40-7-54. Miscellaneous

(a) **Limitation in interest.** The creation of this Trust shall not be construed as giving any person entitled to benefits or other employees of the Employer, who are not Participants of the Plan, any equity or other interest in the assets, business, or affairs of the Employer.

(b) **Bond or surety.** No additional bond, surety or security shall be required of the Board of Trustees except as required by law or by the Employer.

(c) **Insurance.** The Board of Trustees may procure insurance indemnifying the members of the Board of Trustees from personal loss or accountability from liability resulting from a member's action or inaction as a member of the Board of Trustees.

(d) **Severability.** If any provision or provisions of this Plan and/or Trust shall be held illegal or invalid, the illegality or invalidity shall not affect the remaining provisions of this Plan and/or Trust, but shall be fully severable and the Plan and/or Trust shall be construed and enforced as if the illegal or invalid provisions had never been inserted.

(e) **Enforcement of Trust.** The Employer and the Board shall have the authority, but shall be under no duty, to enforce this Trust on behalf of all persons having or claiming any interest in the Trust Fund. In any action or proceeding affecting the Trust Fund or the administration thereof, or for instructions to the Board of Trustees, the Employer and the Board of Trustees shall be the only necessary parties, and no employees of the Employer or their beneficiaries, or any other person having or claiming to have an interest in the Trust Fund shall be entitled to any notice of process. Any judgment that may be entered in such action or proceeding shall be binding on all persons having or claiming to have any interest in the Trust Fund.

(f) **No employment contract.** Entering into this Plan and Trust by the Employer and the Participant shall not be construed to give a contract of employment to the Participant or to alter or amend an existing employment contract of the Participant, if one exists, nor shall the entering into this Plan and Trust be construed as affording the Participant any representation or guarantee regarding his or her continued employment.

(g) **Prohibited transaction.** The Board may not engage in a transaction prohibited by Code Section 503(b).

SUBCHAPTER 9. DEFINED CONTRIBUTION 457(B) PLAN

PART 1. ELECTION TO DEFER

590:40-9-1. Maximum deferrals

The maximum amount of the Deferral under the Plan for any calendar year shall not exceed the lesser of (i) the "Applicable Dollar Amount" or (ii) the Participant's "Includible Compensation" for the calendar year. For purposes of this Section, the Applicable Dollar Amount is the amount established under Section 457(e)(15) of the Code; and the Participant's Includible Compensation has the same definition as "Compensation" in 590:40-7-46.

590:40-9-2. Catch-up election

(a) **Limited catch-up election.** The Plan shall provide for a limited catch-up election which will permit a Participant to defer the lesser of two times the applicable IRS limit for the year or the alternate catch-up limit.

(b) **Availability.** This election is only available once. A Participant may use the catch-up limitation only if not previously used under this or any other plan. The election may be made no sooner than the last three taxable years immediately preceding the taxable year in which the Participant reaches normal retirement age as defined in 590:40-5-17. The election can be made with respect to all three (3) years.

590:40-9-3. Over Age 50 Catch-up Limits

In addition to the maximum limits under 590:40-9-1, the Plan provides for a special catch-up for all employees who have attained age 50 before the close of the plan year. Such additional contributions shall be in accordance with, and subject to the limitations of Section 414(v) of the Code. Such catch-up contributions shall not be taken into account for purposes of the provisions of the plan implementing the required limitations of Section 457 of the Code. This catch-up may not be used in the same years the employee is using the election under 590:40-9-2.

PART 3. ACCOUNTS

590:40-9-10. Establishment of Accounts

OPERS shall establish Accounts for each Participant to reflect such Participant's Deferred Compensation. Each Account shall be subdivided further and separate records shall be maintained showing the manner in which each Account is invested. Separate records also shall be maintained regarding each Account showing the Deferred Compensation, distributions, and the income, expenses, gains, and losses. All subaccounts are referred to as a Participant's Account. The interest of each Participant shall be the amount in the Account, as determined under 590:40-9-12, plus credits, representing the Participant's Deferred Compensation, profits, income, and other increments attributable to such Deferred Compensation, and minus debits representing the Participant's proportionate share of losses and other decrements or expenses under the Plan and all distributions under the Plan made to or regarding that Participant. These records shall be maintained by the Plan on a calendar quarter-end basis only and available for seven (7) years.

590:40-9-11. Statement of a Participant's Account

The Recordkeeper, as soon as practicable after the end of each calendar quarter of the year, or more frequently as OPERS may determine, shall mail or distribute to each Participant (including those who have incurred a Termination of Service) a statement setting forth the Account of such Participant as of the end of such period. Such statement shall be deemed to have been accepted as correct unless written notice to the contrary is received by OPERS or the Recordkeeper within sixty (60) days after the mailing or distribution of such statement to the Participant.

590:40-9-12. Valuation of Accounts

The Recordkeeper shall value the investments each business day. On each Valuation Date, there shall be allocated to the Accounts of each Participant the proportionate share of the increase or decrease in the fair market value of the Participant's Accounts in each of the investments, based on the beginning balance of such Accounts for such day. The Recordkeeper for the Plan may determine the increase or decrease in the fair market value of the Participant's Account in each of the investments on a cash, share or unit accounting basis. Whenever an event requires a determination of the value of the Participant's Accounts, the value shall be computed as of a Valuation Date coincident with or following the date of the event. The Recordkeeper shall be the final authority on the value of a Participant's Account. These daily valuation records shall be maintained by the Recordkeeper for a period of one (1) year. Thereafter, Account information will be available on a quarter-end basis as provided in 590:40-9-10.

590:40-9-13. Deemed deferrals

If an Employee has been properly enrolled in the Plan on a timely basis but the deferral is not made at the first available payroll period through no fault of the Employee, the deferral amount may be increased, upon approval of OPERS, in the first possible payroll following discovery of the error in order to establish participation as originally intended. Solely for purposes of determining eligibility for any Employer contribution, the Employee's participation in the Plan is deemed to have begun on the payroll for which that deferral should have originally occurred. The deemed deferral provision of this section shall not alter any tax ramifications that otherwise apply.

PART 5. INVESTMENTS

590:40-9-20. Investment contracts

The deferred amount shall be delivered by the Employer to OPERS to be invested in one or more of the following types of contracts or accounts issued or made available by a company or companies approved by the Board:

(1) savings account in an institution or institutions as determined by the Board;
(2) deferred fixed interest contract or other type of investment;
(3) deferred variable interest contract or other type of investment;
(4) mutual fund or common trust fund;
(5) any combination of the investment options in paragraphs (1) through (4) of this Section.

590:40-9-21. Investment authority

The investment options shall be selected by the Board in accordance with Section 74 O.S. §935.9 and 590:20-1-4. All Plan assets which have not been directed by the Participant shall be invested by the Board in accordance with the default investment option selected by the Board as set forth in 590:40-9-23.

590:40-9-22. Participant directed investments

A Participant's Account shall be invested under the investment direction of the Participant pursuant to the limitations established by the Board of Trustees under this Chapter, the investment policy, or any pertinent contractual or investment fund provisions. The Employer, Board, OPERS, coordinator, and Recordkeeper shall be under no duty to question any investment direction of a Participant, to review any directed investments, or to make suggestions to the Participant, nor shall they be held responsible in any manner for investment loss or depreciation in asset value of any directed investment.

590:40-9-23. Default options

(a) **Failure to select.** In the event a Participant fails to select any investment option upon enrollment in the Plan, the Board shall, by resolution, establish a default investment option for contributions received from the Participant and a default option for matching Employer contributions. Contributions invested in the default option shall remain in such option until the Participant directs the contributions to be invested in another investment option offered by the Plan.
(b) **Termination or elimination of options.** In the event of termination or elimination of any investment option from continued offering under the Plan, the Board may select default investment options for placement of affected funds. The Board may also designate periods where Participants may have no access to select investment options.

PART 7. BENEFITS

590:40-9-25. Commencement of benefits

The payment of amounts deferred under the Plan shall become payable:
(1) No earlier than thirty (30) days after the Participant separates from service with the Employer, through termination or retirement; or
(2) Distribution of a Participant's account must begin no later than the required beginning date, which is the later of the April 1 following the calendar year in which the Participant attains the age of 70 $\frac{1}{2}$ years of age, except as provided in 590:40-9-28, or the April 1 of the year following the calendar year in which the Participant terminates. If a Participant fails to apply for distribution by the later of either of those dates, the Board shall begin distribution of the Participant's entire interest as required by this Section in the form provided in 590:40-7-35.
(3) The Participant's entire interest must be distributed over the Participant's life or the lives of the Participant and a designated beneficiary, or over a period not extending beyond the life expectancy of the Participant or of the Participant and the designated beneficiary.

590:40-9-26. Distribution schedule

Distributions shall be made primarily for the benefit of the Participant. A distribution which begins prior to the death of a Participant shall be in a form so the total benefit amount will be paid over a period not to exceed the life expectancy of the Participant and a designated beneficiary.

590:40-9-27. Benefit totals

The Participant shall be entitled to the benefits created by participating in the Plan in accordance with the provisions of this Subchapter. The benefits payable to the Participant shall be the equivalent of the total benefits created by the investment selection made by the Participant considering market losses and gains where applicable.

590:40-9-28. Late retirement

If the Participant continues employment after attaining 70 $\frac{1}{2}$ years of age, all benefits payable under the Plan may be deferred until the Participant retires, terminates employment, dies, or when the Participant is faced with an unforeseeable emergency. If the Participant is not an active Employee, the payment of benefits must begin no later than April 1 of the calendar year following the calendar year in which the Participant attained age seventy (70) years and six (6) months. No additional deferrals under this Plan may be made by the Participant after termination of employment.

590:40-9-29. Disability retirement

If a Participant becomes Disabled and provides proof to OPERS of such disability, the Participant shall be deemed to be retired and will be paid the benefits as set forth in this Subchapter.

590:40-9-30. Termination of employment

If a Participant terminates employment with an Employer before reaching Normal Retirement Age, the total accumulated benefits under the Plan will be payable in accordance with the election by the Participant under 590:40-9-33.

590:40-9-31. Death

If the Participant dies prior to receiving Plan benefits, the benefits payable under this Plan shall be paid to his or her designated beneficiary under the distribution option selected by the designated beneficiary. If the Participant dies while benefits are being paid to the Participant under the Plan and before such benefits have been exhausted, the benefits payable under this Plan shall be paid to the designated Beneficiary under the distribution option selected by the Participant unless the Beneficiary selects a different distribution option under Plan provisions.

590:40-9-32. Method of payment

The payment of benefits shall begin no earlier than thirty (30) days after the event that gives rise to the beginning of the payment of benefits. The Board may direct that the method of payment be directly from the company that issues the contracts in which investments have been made, directly to the Participant or a designated Beneficiary under the payment option elected by the Participant.

590:40-9-33. Payment and distribution options

The payment, method of payment, and any distribution options shall be available under the benefit payment elections on the appropriate distribution request form. If the Participant elects to receive a deferred payout, the date selected for payouts to begin may be changed upon written notice to OPERS prior to the previously selected payout date subject to any minimum distribution requirements. The method of payment may be changed upon written notice to OPERS.

590:40-9-34. Emergency withdrawals

(a) For purposes of this Section, "unforeseeable emergency" means severe financial hardship to the Participant, resulting from a sudden and unexpected illness or accident of the Participant or of a dependent of the Participant, loss of the Participant's property due to casualty, or other similar extraordinary and unforeseeable circumstances arising as a result of events beyond the control of the Participant. The circumstances that will constitute an unforeseeable emergency will depend upon the facts of each case, but, in any case, payment may not be made to the extent that such hardship is or may be relieved:

(1) Through reimbursement or compensation by insurance or otherwise.

(2) By liquidation of the Participant's assets, to the extent the liquidation of these assets would not itself cause severe financial hardship, or

(3) By cessation of deferrals under the Plan.

Foreseeable personal expenditures which may normally be subject to a budget, such as a down payment for a home, mortgage payments, rent, credit card debt, the purchase of an automobile, college or other schooling expense, etc., shall not constitute an unforeseeable emergency.

(b) Notwithstanding any other provisions of this Subchapter, if an unforeseeable emergency or financial hardship occurs and is beyond the control of the Participant, a Participant may request OPERS to pay benefits to him or her immediately. If the application and justification for payment is approved by OPERS, payment will be processed by the Recordkeeper within ten (10) business days upon authorization from the Plan. Benefits to be paid shall be limited strictly to that amount needed to meet the emergency situation constituting financial hardship. Any remaining benefits shall be paid in accordance with this Subchapter. Two (2) or more emergency withdrawals paid from Participant's Account under this Subchapter will result in cancellation of that Participant's voluntary deferrals into the Plan for a period of not less than six (6) months following payment of the second emergency withdrawal. For purposes of this Section, any emergency withdrawals since the Participant's initial enrollment into the Plan will be considered when applying this Section except that no cancellation will occur until the Participant has had a subsequent emergency withdrawal. The Participant will be responsible for re-establishing a voluntary deferral amount upon completion of the six-month cancellation period.

590:40-9-35. Plan-to-plan transfers

The Plan will accept Deferred Compensation of an individual under another eligible state or municipal Code Section 457 plan, unless the transferring Code Section 457 account includes funds previously transferred or rolled-over which require tax accounting or distribution rules different from those contained in this Plan. The Plan will also permit transfers to another Code Section 457 plan if the employers receiving such amounts permit the acceptance of these monies.

590:40-9-36. Employee transfers

If the Participant separates from service with an Employer in order to accept employment with another Employer and such separation from service is for thirty (30) days or less, payout will not begin upon separation from service regardless of any provision of the Plan to the contrary.

590:40-9-37. Taxation

Benefits paid from the Plan are subject to the applicable federal and state withholding tax rules and apply to all payments except those authorized for transfer to another Code Section 457 plan or rollover to an eligible retirement plan. Pursuant to 590:40-9-51, the Board may withhold amounts necessary to cover federal and state taxes from such payments. All payments will be reported on Internal Revenue Service Form 1099-R.

590:40-9-38. Rollovers from other plans

The Plan will accept Participant rollover contributions and/or direct rollovers of distributions from an eligible plan under Section 457(b) of the Code which is maintained by a state, political subdivision of a state, or agency or instrumentality of a state or political subdivision of a state, unless the prior Code Section 457 account includes funds previously transferred or rolled-over which require tax accounting or distribution rules that are different from those contained in this Plan.

590:40-9-39. Rollovers to other plans

(a) **Election to rollover.** Notwithstanding any provisions of the Plan to the contrary that would otherwise limit a distributee's election under this Section, a distributee may elect, at the time and the manner prescribed by OPERS, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover.

(b) **Definitions.** As used in this section:

(1) **"Eligible retirement plan"** shall mean a qualified trust described in Section 401(a) of the Code, an individual retirement account described in Section 408(a) of the Code, an individual retirement annuity described in Section 408(b) of the Code, or a Roth individual annuity (if the individual is eligible for a Roth rollover) described in Section 408(A)(e) that accepts the distributee's eligible rollover distribution. An eligible retirement plan shall also mean an annuity contract described in Section 403(b) of the Code and an eligible plan under Section 457(b) of the Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such plan from this Plan. The definition of eligible retirement plan shall also apply in the case of a distribution to a surviving spouse, or to a spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in Section 414(p) of the Code.

(2) **"Eligible rollover distribution"** means any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include (i) any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the designated beneficiary of the distributee, or for a specified period of 10 years or more; any distribution to the extent such distribution is required under Section 401(a)(9) of the Code; or any other distribution which the Internal Revenue Service does not consider eligible for rollover treatment, such as certain corrective distributions necessary to comply with the provisions of Code Section 457 or any distribution that is reasonably expected to total less than $200 during the year.

(3) **"Distributee"** includes a Participant or a Participant's surviving spouse, or, for the limited purposes set forth in paragraph (c) of this section, a non-spouse beneficiary as described in (c) below, as defined by Code Section 401(a)(9)(E).

(4) **"Direct rollover"** means a payment by the Plan to the eligible retirement plan specified by the Distributee.

(c) **Non-spouse beneficiary.** A non-spouse beneficiary pursuant to Section 402(c)(11) of the Code may elect to have any portion of an eligible rollover distribution paid directly to an individual retirement account described in Section 408(a) of the Code, or an individual retirement annuity described in Section 408(b) of the Code, established for the purpose of receiving the distribution. Such account or annuity shall be treated as an "inherited" individual retirement account or annuity. A rollover under this paragraph shall be treated as a rollover of an eligible rollover distribution only for purposes of Section 402(c) of the Code.

590:40-9-40. Direct transfers

A Participant may request a direct trustee to trustee transfer to a defined benefit governmental plan to purchase permissive service credit.

590:40-9-41. Transfers and rollover completion

Any elections for plan-to-plan transfers or rollovers are contingent upon completion and acceptance of all necessary forms and documents. The forms for this purpose shall be provided by OPERS and will have no effect until it is signed, filed, and accepted by OPERS. The Participant or the Beneficiary accepts and acknowledges that he or she has the burden for executing and filing the proper beneficiary designation form.

590:40-9-42. Federal qualified military service

(a) **Qualified service.** Notwithstanding any provisions of this Plan to the contrary, contributions, benefits, and service credit regarding qualified military service shall be provided under the Uniformed Services Employment and Reemployment Rights Act of 1994 ("USERRA"), the Heroes Earnings Assistance and Relief Tax Act of 2008 ("HEART"), and Section 414(u) of the Code.

(b) **Election of additional deferrals.** A Participant whose employment is interrupted by qualified military service under Section 414(u) of the Code or who is on a leave of absence for qualified military service under Section 414(u) may elect to make additional deferrals to the Plan upon resumption of employment with the Employer equal to the maximum annual deferrals that the Participant could have elected during that period if the Participant's employment with the Employer had continued (at the same level of Compensation) without the interruption or leave, reduced by the annual deferrals, if any, actually made for the Participant during the period of the interruption or leave. This right applies to five (5) years following the resumption of employment, if sooner, for a period equal to three times the period of the interruption or leave. The Employer, in accordance with 74 O.S. §935.6, will make the Employer Contribution for such Participant for the equivalent period.

(c) **Differential wage payments.** To the extent required by Sections 3401(h) and 414(u)(12) of the Code, an individual receiving differential wage payments (while the individual is performing qualified military service as defined in Chapter 43 of Title 38, United States Code) from an employer shall be treated as employed by that employer and the differential wage payment shall be treated as earned compensation. This provision shall apply to all similarly situated individuals in a reasonable equivalent manner.

(d) **Death benefits.** Death benefits payable under this Plan shall be paid in accordance with Section 401(a)(37) of the Code, which provides that in the case of a Participant who dies

while performing qualified military service (as defined in Section 414(u) of the Code), the survivors of the Participant are entitled to any additional benefits (other than benefit accruals relating to the period of qualified military service) that the Plan would otherwise provide had the Participant resumed and then terminated employment with the Employer on account of death.

PART 9. TRUST

590:40-9-50. Establishment and acceptance of Trust

There shall be created a Trust under this Subchapter 9 for all Deferrals into the Code Section 457(b) plan. The Board of Trustees shall act as trustee of the Trust. The Board shall take, hold, invest, administer, and distribute, in accordance with this Plan and Trust, all Deferred Compensation and assets paid or delivered to the Board pursuant to the Plan for the uses and purposes herein expressed. The Board shall be accountable for all Deferred Compensation received, but shall have no duty to require any compensation to be deferred or to determine that the amounts received comply with the Plan, or to determine that the Trust Fund is adequate to provide the benefits payable under the Plan.

590:40-9-51. Payments from Trust Fund

(a) **Payments by Recordkeeper.** The Recordkeeper shall make payments from the Trust Fund to such persons in such manner, at such times, and in such amounts as the Board, acting through OPERS, shall direct. The Recordkeeper shall be fully protected in making, discontinuing, or stopping payments from the Trust Fund in accordance with the directions of the Board or OPERS. The Recordkeeper shall have no responsibility to ascertain whether the directions of the Board or OPERS comply with the Plan or to determine whether the application of payments so made comply with the Plan. When the Board or OPERS directs that any payment is to be made only during or until the time a certain condition exists regarding the payee, any payment made by the Recordkeeper in good faith, without actual notice or knowledge of the changed status or condition of the payee, shall be considered to have been properly made by the Recordkeeper and made in accordance with the direction of the Board or OPERS.

(b) **Administrative expenses.** To the extent permitted by law, the Board shall be reimbursed for its expenses, if any, that are reasonable and necessary for the administration of the Plan and the Trust pursuant to 74 O.S. § 935.6 and 590:40-3-9.

(c) **Taxes.** The Board, acting through OPERS or the Recordkeeper is authorized, to the extent required under applicable law, to withhold from distributions to any payee such sum as the Board determines is necessary to cover federal and state taxes for which the Board may be liable, which are, or may be, assessed with regard to the amount distributable to such payee, in accordance with 590:40-9-37. Upon discharge or settlement of such tax liability, the Board shall pay the balance of such sum, if any, to such payee or to the estate of the payee. Prior to making any payment or distribution hereunder, the Board may require such releases or other documents from any lawful taxing authority and may require such indemnity from any payee or distributee as the Board shall reasonably deem necessary for its protection.

(d) **Employer payments prohibited.** No amounts shall be payable to the Employer hereunder from the Trust Fund except as provided in the Plan.

590:40-9-52. Investment of Trust Fund

(a) **Use of corpus.** The corpus or income of the Trust Fund may not be diverted to or used for any other purpose than the exclusive benefit of the Participants or their Beneficiaries.

(b) **Duties of the Board.** The Board shall perform all acts within its authority under this Plan for the exclusive purpose of providing benefits to Participants and their beneficiaries and defraying reasonable expenses of administering the Plan and Trust. The Board shall further perform such acts with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims. Subject to the terms of the preceding sentence, the Board shall diversify the investments of the Trust Fund so as to minimize the risk of large losses by offering diverse investment options to Participants, unless under the circumstances it is clearly prudent not to do so. To the extent applicable for this Plan and Trust, provisions of the Oklahoma Statutes which reference the powers and duties of the Board are incorporated.

590:40-9-53. Trust Accounts

At least once each quarter, the Recordkeeper shall provide a written account to the Board setting forth all transactions subsequent to the end of the period covered by its last previous account, and listing the assets of the Trust Fund at the close of the period covered by such account. Each year, the Board shall publish an annual report presented in simple and easily understood language. The annual report shall cover the operation of the Plan and Trust, during the past year, including income, disbursements, and the financial condition of the Plan and Trust and any other information deemed relevant by the Board. The annual report shall be written in such a manner as to permit a readily understandable means for analyzing the financial condition and performance of the Plan and Trust.

590:40-9-54. Miscellaneous

(a) **Equity in Employer.** The creation of this Trust shall not be construed as giving any person entitled to benefits hereunder or other employees of the Employer, who are not Participants of the Plan, any equity or other interest in the assets, business, or affairs of the Employer.

(b) **Additional bond for Board.** No additional bond, surety or security shall be required of the Board except as may be required by law or by the Employer.

(c) **Insurance for Board.** The Board may procure insurance indemnifying the members of the Board from personal loss or accountability from liability resulting from a member's action or inaction as a member of the Board.

(d) **Severability.** If any provision or provisions of this Plan or Trust shall be held illegal or invalid for any reason, the illegality or invalidity shall not affect the remaining provisions of this Plan or Trust, but shall be fully severable and the Plan and/or Trust shall be construed and enforced as if the illegal or invalid provisions had never been inserted herein.

(e) **Enforcement of Trust Fund.** The Employer shall have the authority, but shall be under no duty, to enforce this Trust on behalf of any and all persons having or claiming any interest in the Trust Fund. In any action or proceeding affecting the Trust Fund or the administration thereof, or for instructions to the Board, the Employer and the Board shall be the only necessary parties, and no employees of the Employer or their beneficiaries, or any other person having or claiming to have an interest in the Trust Fund shall be entitled to any notice of process. Any judgment that may be entered in such action or proceeding shall be binding on all persons having or claiming to have any interest in the Trust Fund.

(f) **Employment contract.** Entering into this Plan and Trust by the Employer and the Participant shall not be construed to give a contract of employment to the Participant or to alter or amend an existing employment contract of the Participant, if in fact one exists, nor shall the entering into this Plan and Trust be construed as affording the Participant any representation or guarantee regarding continued employment.

(g) **Prohibited transaction.** The Board may not engage in a transaction prohibited by Code Section 503(b).

SUBCHAPTER 11. QUALIFIED DOMESTIC RELATIONS ORDERS - APPLICABLE TO THE 401(A) PLAN AND THE 457(B) PLAN

590:40-11-1. Purpose

(a) **Establish policies and procedures.** The rules of this Subchapter have been adopted to establish policies and procedures for the process of approving qualified domestic relations orders, setting standards for such orders and administering the payment of benefits to alternate payees from each of the Plans.

(b) **Code requirements.** If all or a portion of a Participant's account in the Plans may be assigned to an alternate payee pursuant to a qualified domestic relations order that meets the requirements of a domestic relations order as defined in Code Section 414(p), then the applicable requirements of Code Section 414(p) shall be followed by the Plan.

590:40-11-2. Definitions

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

"Qualified Domestic Relations Order" means an order issued by a district court of the State of Oklahoma pursuant to the domestic relations laws of this state which relates to the provision of marital property rights to a spouse or former spouse of a Participant or provision of support for a minor child or children and which creates or recognizes the existence of an alternate payee's right to, or assigns to an alternate payee the right to receive a portion of the benefits payable with respect to a Participant of the Plan.

590:40-11-3. Filing a qualified domestic relations order

A Participant, a Participant's former spouse, or the legal representative of either may file a qualified domestic relations order with OPERS. In not more than ninety (90) days of such filing, OPERS will acknowledge receipt and notify all parties listed in the order that the order has been accepted or that clarification of the order must be provided. All qualified domestic relations orders filed with OPERS must be in accordance with Oklahoma Statutes and this Subchapter. No rights or benefits shall be enforceable until the order is accepted by OPERS. Upon acceptance, OPERS shall send the order to the Recordkeeper for processing and payment in accordance with the order. The Recordkeeper may charge the Participant, the alternate payee, or both a fee for processing the order. Such fee may be deducted by the Recordkeeper from the accounts of the Participant and the alternate payee.

590:40-11-4. Contents of qualified domestic relations order

(a) **Requirements for acceptance.** For a qualified domestic relations order to be accepted and binding on OPERS, the order must meet the requirements as set forth in this Section.

(b) **Contents.** The order must clearly specify the following:

(1) the name, mailing address, and Social Security number of the Participant and the alternate payee covered by the order;

(2) the dollar amount or exact percentage of the Participant's benefits to be paid to the alternate payee;

(3) the characterization of the benefit as to marital property rights or child support, and whether the benefit ceases upon the death or remarriage of the alternate payee;

(4) the order applies to the Participant's accounts in the 401(a) plan, the 457(b) plan, or both;

(5) the date of marriage and the date of commencement of divorce proceedings giving rise to the order for division of marital property;

(6) if the order is for child support, the name, date of birth, and Social Security number of each child covered by the order;

(7) if the order is for child support, the exact amount (if any) awarded in continuing child support for each child and the exact amount (if any) awarded for arrearages; and

(8) any conditions that will cause the order to terminate.

(c) **Contents not permitted.** The order meets the requirements of this Section only if such order:

(1) does not require OPERS to provide any type or form of benefit or any option not otherwise provided under the state law as related to this Plan or OPERS;

(2) does not require OPERS to provide increased benefits;

(3) does not require the payment of benefits to an alternate payee which are required to be paid to another alternate payee pursuant to another order previously determined to be a qualified domestic relations order by OPERS; and

(4) does not require payment of benefits to an alternate payee prior to the earliest date permitted under the terms of the Plan.

(d) **Amounts required.** The order must provide an exact dollar amount or percentage of total benefit. The order may not provide for a percentage of the benefit accrued on a given date. The order may not provide a formula which requires OPERS to calculate the amount payable to an alternate payee.

590:40-11-5. Payment to alternate payee

(a) **Amount of award.** The benefit awarded to the alternate payee under the order shall be credited with any interest and investment income or losses attributable to the Participant's account from the valuation date, or closest valuation date, of the account, until the date of total distribution to the alternate payee.

(b) **Commencement date; form of payment.** If the alternate payee so elects, the benefits shall be paid to the alternate payee as soon as administratively feasible following the date the order is approved by OPERS, or at the earliest date permitted under the Code. The benefits payable to the alternate payee shall be in any form or permissible option otherwise available to the Participant under the terms of the Plan. The alternate payee's portion of the benefits payable shall be allocated on a prorata basis from all the accounts or investment options maintained under the Plan on behalf of the Participant. Unless the alternate payee elects an immediate distribution that is permitted under the Plan at the time the order is submitted to and approved by OPERS, such benefits shall be segregated and separately maintained in a nonforfeitable account established on behalf of the alternate payee. This account shall initially be established in the same fund mix percentages as the Participant account. The alternate payee shall be responsible for paying any applicable withdrawal charges imposed under any investment account with respect to the alternate payee's share under the Plan.

(c) **Taxes.** The alternate payee who is the spouse or former spouse of the Participant shall be treated as a distributee of any distributions or payments made to the alternate payee under the order, and as such, Federal and Oklahoma state income taxes will be withheld from the payment to the alternate payee in accordance with applicable federal and state statutes.

(d) **Change of address.** It is the responsibility of the alternate payee to notify OPERS of any change in the alternate payee's address.

590:40-11-6. Alternate payee's rights

After the order has been accepted by OPERS, but before the alternate payee receives a total distribution under the Plan, the alternate payee shall be entitled to all of the rights and privileges afforded to Plan beneficiaries, including but not limited to, the rules regarding the right to designate a beneficiary for death benefit purposes and the right to direct Plan investments, but only to the extent permitted under the Plan.

590:40-11-7. Death of Participant or alternate payee

(a) **Death of Participant.** If the Participant predeceases the alternate payee, the Participant's death shall not affect the alternate payee's right to the portion of benefits as set forth in the order.

(b) **Death of alternate payee.** In the event of the alternate payee's death prior to receiving the full amount of benefits assigned under the order and under the benefit option chosen by the alternate payee, the alternate payee's beneficiaries, as designated on the appropriate form, shall receive the remainder of any unpaid benefits under the terms of the order. In the absence of a beneficiary designation, the unpaid benefits shall be paid the alternate payee's estate. If there is no estate, the distribution of benefits may be made to the first of the following:

(1) surviving spouse;

(2) surviving children in equal shares;

(3) surviving parents in equal shares;

(4) surviving siblings in equal shares.

590:40-11-8. Termination of a qualified domestic relations order

(a) **Termination.** A qualified domestic relations order, whether for provision of marital property or child support, will terminate when OPERS has fully met the provisions of the order.

(b) **Remarriage of alternate payee.** In the event a qualified domestic relations order requires the benefits payable to an alternate payee to terminate upon the remarriage of the alternate payee, OPERS shall terminate the benefit only upon the receipt of a certified copy of a marriage license, or a copy of a certified order issued by the court that originally issued the qualified domestic relations order declaring the remarriage of the alternate payee.

(c) **Termination of child support.** If the qualified domestic relations order is for continuing child support obligations, the order shall cease upon the death of a minor child. If the qualified domestic relations order is for arrearages owed for child support, the order shall not cease upon the death of a minor child.

590:40-11-9. System not subject to ERISA

For purposes of this Subchapter, the Plan shall not be subject to the provisions of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C.A. Section 1001, et seq., as amended from time to time, or rules and regulations promulgated thereunder, and court cases interpreting said act. The order should not reference ERISA.

[OAR Docket #15-688; filed 7-2-15]

TITLE 595. DEPARTMENT OF PUBLIC SAFETY
CHAPTER 1. GENERAL RULES OF THE DEPARTMENT OF PUBLIC SAFETY

[OAR Docket #15-612]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 9. Inspection and Copying of Final Orders, Decisions, Opinions and Open Records
595:1-9-3.1. Retention and destruction of department records [NEW]
595:1-9-4. Fees ~~established by the Department pursuant to law~~ [AMENDED]
595:1-9-5. Obtaining open records [AMENDED]
AUTHORITY:
Commissioner of Public Safety; 47 O.S. § 6-101, et seq
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
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Approved by Governor's declaration on June 8, 2015
FINAL ADOPTION:
June 8, 2015
EFFECTIVE:
September 11, 2015
SUPERSEDED EMERGENCY ACTIONS:
n/a
INCORPORATIONS BY REFERENCE:
n/a
ANALYSIS:
Theses amended rules will clarify definitions pertaining to records of the Department. The amendments provide direction to the agency as to the time limits of Department records are to be maintained prior to being destroyed. They further instruct citizens in obtaining said records.
CONTACT PERSON:
Kimberly D. Dammen, DPS Legislative Services Manager, Department of Public Safety, 3600 N. Martin Luther King Ave., PO Box 11415, Oklahoma City, OK 73136-0415. Phone: 405.425.2757. E-mail: kdammen@dps.state.ok.us

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 11, 2015:

SUBCHAPTER 9. INSPECTION AND COPYING OF FINAL ORDERS, DECISIONS, OPINIONS AND OPEN RECORDS

595:1-9-3.1. Retention and destruction of department records

(a) **General.** Records that are no longer of value to the Department in carrying out the powers and duties of the Department may be destroyed pursuant to the conditions specified in this subsection; provided, nothing in this subsection shall compel the Department to destroy any record. In the event there is uncertainty or ambiguity regarding what category or retention period applies to a particular record, the Commissioner of Public Safety, or the Commissioner's designee, shall make the final determination.

(b) **Records retention and disposal schedule.**

(1) **Conviction.**

(A) Any record of conviction of a holder of a Class D license or of an unlicensed operator of a Class D motor vehicle shall be retained for ten (10) years after the date of conviction.

(B) Any record of conviction of a holder of a Class A, B, or C commercial driver license or of an operator of a Class A, B, or C commercial motor vehicle who is not licensed to operate such vehicle shall be retained for ten (10) years; provided, any conviction for a major offense, as defined in 47 O.S. §6-205.2, shall be retained for fifty-five (55) years after the date of conviction.

(2) **Department action.** A record of Department action against any operator of a motor vehicle shall be retained for ten (10) years after the date of reinstatement or similar action; provided, any Department action against a holder of a Class A, B, or C commercial driver license or against an operator of a Class A, B, or C commercial motor vehicle who is not licensed to operate such vehicle shall be retained for fifty-five (55) years after the date of reinstatement or similar action.

(3) **Collision reports and incident reports.** A collision report or an incident report created or submitted by a law enforcement officer shall be retained for five (5) years after the date the investigation of the collision or incident is completed.

(4) **Other records related to driving privileges.** Any other record related to the driving privileges of a person shall be retained for ten (10) years after the date of the last activity relating to the record.

(5) **Personnel records.** Personnel records of a Department employee shall be retained for the term of employment plus an additional ten (10) years, unless a different time period is specified.

(A) **Applications, resumes and materials submitted for Employment-Not Hired.** Records shall be retained for one (1) year after receipt by the Department.

(B) **Applicant/Employee Drug Testing Records.** Records shall be retained for five (5) years after the date the test was administered to the applicant/employee.

(C) **Discipline Records.** Records of the final imposition of informal and formal discipline shall be retained for the term of employment plus an additional ten (10) years.

(D) **Graded examinations.** Examinations administered to Department employees, and the results of such examinations, shall be retained for the term of

employment of the person tested plus an additional five (5) years.

(6) **Fitness for Duty Evaluations.** Records shall be retained for the term of employment plus an additional ten (10) years.

(7) **Audio and video recordings of the Department.**

(A) Audio and video recordings of, or created solely for (1) training events, (2) maintenance or testing purposes, or (3) capability demonstrations, may be destroyed when no longer of value to the Department.

(B) Audio and video recordings other than those listed in subsection 7(A) above, shall be maintained for three (3) years after the recorded event was captured.

(8) **Ancillary records.** may be destroyed when no longer of immediate value to the Department.

(9) **Records relating to aircraft.** Records specified in 17 CFR § 91.417, such as records of maintenance, preventive maintenance, and inspections, shall be retained for the life of the aircraft.

(A) All records specified in 14 CFR § 91.417(a)(1) shall be retained until the work is repeated or superseded by other work or for one (1) year after the work performed.

(B) All records specified in 14 CFR § 91.417(a)(2) shall be retained and transferred with the aircraft at the time the aircraft is sold. The Department shall retain a copy of such records for five (5) years after the date of sale.

(10) **Property records.**

(A) **Inventory.** Records relating to physical property, equipment, and materials shall be retained until the property is properly transferred or disposed of, plus an additional five (5) years.

(B) **Evidentiary or Asset Forfeiture.** Records shall be retained until the case is closed plus an additional ten (10) years.

(C) **Seized/confiscated property.** Records shall be retained until all seized property has been disposed of plus an additional one (1) year.

(11) **Use of Force Reports.** Records shall be retained for three (3) years after the date the report is created.

(12) **Administrative investigations.** Records relating to administrative or internal investigations conducted by the Department shall be retained until the investigation is closed plus an additional three (3) years.

(13) **Criminal investigative files.** Records relating to criminal investigations conducted by the Department shall be retained until the investigation is closed plus an additional five (5) years.

(14) **Commercial motor vehicle enforcement records.** Records shall be retained for three (3) years after the date the record is created.

(15) **Driver license/identification card.** Records relating to the application or issuance of a driver license or identification card, to include original application, issuance and history related information, compliance and enforcement actions, driver license photo files, driver license updates, medical and vision files; waivers, etc. shall be retained for fifty-five (55) years from the date of the last activity relating to the record.

(16) **Training records.** Instructional materials, such as curricula, outlines, syllabuses, audio or visual training aids, handouts, computer presentations and other records associated with in-house training of Department personnel on policies and procedures, operations, job performance and other activities relating to the Department's programs, services, or projects, shall be retained until superseded plus an additional ten (10) years.

(17) **Instructor certification.** Records shall be retained for the term of employment of the instructor plus an additional five (5) years.

(18) **Graded examinations.** Examinations administered to the public by the Department, whether graded or in the nature of a pss/fail examination, shall be retained until no longer needed by the Department.

(19) **Policies and procedures.** Records relating to any internally posted or distributed manuals, guidelines, or similar records concerning the personnel, activity and operations of the Department, shall be retained until the record is superseded plus an additional ten (10) years.

(20) **Speed trap.** Records relating to the investigation of a speed trap shall be retained for three (3) years after the investigation is complete.

(21) **Grant administration information for federal Grant awards.** Grant awards, sub recipient agreements, expenditure details and approvals, reimbursement details and approvals, federal waiver requests, monitoring reports, and all other grant related documentation shall be retained for the current federal fiscal year plus three (3) years.

(22) **Contracts and leases.** Records relating to contracts, leases and other binding instruments to include bid specifications, affidavits of publication of calls for bids, accepted and rejected bids, performance bonds, contracts, purchase orders, inspection reports, and correspondence, shall be retained until expiration or termination of the instrument according to its terms plus an additional seven (7) years.

(23) **Correspondence.** Records or copies of general or administrative correspondence shall be retained for one (1) year after the creation, receipt or transmittal of the record, whichever is a longer period of time.

(24) **Meeting agenda, minutes and notes.** Administrative records relating to meetings held or attended by Department personnel, to include personally created notes, shall be retained for one (1) year after the meeting is held.

(25) **Government Publications.** Internal Department publications and publications of the state or other governmental entities shall be retained until superseded or when obsolete.

(26) **Material safety data sheets.** Records shall be retained until superseded or when the hazardous item is no longer stored by the Department.

(27) **Open record requests.** Requests for records and all related correspondence shall be retained until such request is fulfilled or denied plus an additional two (2) years. The original of any record provided in response to a record request shall be retained for the time period specified in these rules for that particular record, or for two (2) years after the request is fulfilled, whichever is longer.

(28) **Subpoenas.** Subpoenas and all related correspondence shall be retained until the subpoena has been routed to the correct custodian of records, fully complied with, withdrawn by the issuing entity, or quashed by a court. The original of any record provided in response to a subpoena shall be retained for the time period specified in these rules for that particular record, or for two (2) years after the subpoena is complied with, whichever is longer.

(29) **Public relations records.** Media or press releases issued by the Department shall be retained for three (3) years after being issued.

(30) **Other records.** Any other record of the Department not identified specifically herein, shall be retained for ten (10) years after the last activity related to the record.

595:1-9-4. Fees ~~established by the Department pursuant to law~~

~~Pursuant to state statutes, as shown, the following fees are established by the Department of Public Safety:~~

~~(1) **Request for Motor Vehicle Report (MVR).**~~

~~(A) Request for a Motor Vehicle Report, $25.00 (per report) [47 O.S.§6-117(D)].~~

~~(B) Certified Motor Vehicle Report, $28.00 (per report) [47 O.S. §§ 2-110(B) and 6-117(D)].~~

~~(C) As used in this paragraph, "Motor Vehicle Report":~~

~~(i) shall include only pertinent data relating to a single person's record of traffic and driving offenses for the past three (3) years, as required by 47 O.S. §6-117(D),~~

~~(ii) shall not include any driving index required to be prepared and maintained bythe Department pursuant to 47 O.S. §6-117(A), and~~

~~(iii) shall include a report which indicates that no driving record is on file with theDepartment based on the information in the request for the Motor Vehicle Report [47O.S., §6-117(D)].~~

~~(2) **Collision report.**~~

~~(A) Collision report filed by an officer, $7.00 (per report) [47 O.S. §6-117(C)].~~

~~(B) Certified collision report filed by an officer, $10.00 (per report) [47 O.S. §§ 2-110(B) and 6-117(C)].~~

~~(3) **Other record.** Copy of a written or printed record, other than a record named in (1) or (2) of this section, no more than $0.25 per page [51 O.S. §24A.5.(3)].~~

~~(4) **Certification.** Certifying a copy of a record, other than a record named in (1) or (2) of this Section, $3.00 (per record), which shall be in addition to the copy fee per page in (3) of this Section [47 O.S.§2-110(B)].~~

~~(5) **Copy in a format other than written.** Copy of a record in a format which is not written may cost whatever is the direct cost to the Department of Public Safety for labor and expendable supplies actually used in copying [51 O.S. §24A.5.(3)].~~

(a) **General.** A fee shall be assessed for each individual record, or portion thereof, for recovery of the reasonable, direct costs of record copying, or mechanical reproduction.

(b) **Search fees.** If a request for records is either solely for commercial purposes or would clearly cause excessive disruption of the essential functions of the Department, a search fee may be charged to recover the direct cost of record search and copying.

(c) **Fee amounts.**

(1) A record produced on a single sheet of paper with dimensions of eight and one-half (8 1/2) by fourteen (14) inches or smaller: $0.25 per page. [51 O.S. §24A.5(3)]

(2) Motor vehicle report: $25.00 per report. [47 O.S. § 6-117(D)]. Persons sixty-five (65) years of age or older shall not be required to pay a fee for their own Motor Vehicle Report furnished by the Department or tag agent.

(3) Certified Motor Vehicle Report: $28.00 per report. [47 O.S. §§ 2-110(B) and 6-117(D)]

(4) Collision report on file with the Department: $7.00 per report. [47 O.S. § 6-117(C)]

(5) Certified collision report on file with the Department: $10.00 per report. [47 O.S. §§ 2-110(B) and 6-117(C)]

(6) Certified copy of a record, other than a Motor Vehicle Report or a Collision report: $3.00 per report. [47 O.S. § 2-110(B)]

(7) Compact disc (CD), DVD or similar optical storage disc: $2.50 per disc.

(8) Search fee: The amount of the fee shall be for the cost of materials and labor directly attributable to fulfilling the request. [51 O.S. § 24A.5(3)(b); Okl. Atty. Gen. Opinion 1996 OK AG 26]

(9) For any other record not specified herein, a fee may be assessed for recovery of the reasonable, direct costs of record copying or mechanical reproduction.

(d) **Motor vehicle report.** As used in this Chapter, **"Motor Vehicle Report"** is defined as:

(1) A summary of the driving record of the person, including the enumeration of any motor vehicle collisions, reference to convictions for violations of motor vehicle laws, and any action taken against the privilege of the person to operate a motor vehicle, as shown by the files of the Department for the three (3) years preceding the date of the request. [Ref. 47 O.S. § 6-117(D)]

(2) "Motor Vehicle Report" shall also include a report which indicates that no driving record is on file with the Department of Public Safety based on the information in the request for a Motor Vehicle Report.

(3) "Motor Vehicle Report" shall not include any driving index required to be prepared and maintained by the Department pursuant to 47 O.S. § 6-117(A).

(4) Persons sixty-five (65) years of age or older shall not be required to pay a fee for their own Motor Vehicle Report furnished by the Department or tag agent.

(e) **Format.** The final format in which a record will be produced shall be determined by the Department. If the Department does not maintain a record in an electronic or computerized format, the Department shall not be required to convert a record to any particular electronic format for the convenience of the person requesting record. [Okl. Atty. Gen. Opinion 2006 OK AG 35].

595:1-9-5. Obtaining open records

~~(a) **In person.** Open records may be obtained from 8:00 A.M. to 4:00 P.M., Monday through Friday, excluding holidays, from the Records Management Division, Room 206, Department of Public Safety, 3600 North Martin Luther King Avenue, Oklahoma City, Oklahoma. A Motor Vehicle Report may be obtained from a motor license agent.~~

~~(b) **Written requests.** To ensure accuracy of a record request, a request for any Department open record shall be submitted in writing to the Records Management Division, in one of the following manners:~~

~~(1) **United States mail.** Mailing address is: Department of Public Safety, Records Management Division, P.O. Box 11415, Oklahoma City, Oklahoma 73136-0415.~~

~~(2) **Other mail delivery service.** Mailing address is: Department of Public Safety, Records Management Division, 3600 North Martin Luther King Avenue, Oklahoma City, Oklahoma 73111.~~

~~(c) **Mailing records.** The Department will provide copies of records by first class United States mail unless the person requesting the record provides to the Department an alternative pre-paid return mail delivery service. Pre-payment must be guaranteed and verifiable with the mail delivery service. The Department reserves the right to provide copies of records by first class United States mail if pre-payment is not guaranteed or verifiable.~~

~~(d) **Electronic delivery of records.** The Department may provide certain records by electronic electronic, at its discretion. For the purposes of this subsection, "electronic delivery" shall mean delivery of a digitized or computerized file to the requesting person, entity, or agency by e-mail, hypertext transfer protocol, or file transfer protocol, or on physical media.~~

(a) **General guidelines.** Requests for records of the Department, as defined in 595:1-9-3, will be made available in accordance with rules 595:1-9-1 through 595:1-9-6. In the event there is a conflict between these rules and any applicable state or federal law, state or federal law will govern access. The Department requires persons making a request to inspect or obtain a copy of a record to submit such request in writing and describe the records with reasonable specificity. Requests may be submitted to the Department in person, by mail, facsimile, or email. Fees and charges may be collected for copies, certification, searches and other activities relating to records as allowed by law and in accordance with these rules. Requests that do not comply with these rules may not be fulfilled.

(b) **Subpoena.** Records sought pursuant to a subpoena or other court order will be processed in accordance with applicable state and federal law and court rules.

(c) **Principal place of business.** Records may only be obtained from the principal place of business of the Department of Public Safety, located at 3600 North Martin Luther King Avenue, Oklahoma City, OK 73111. However, a Motor Vehicle Report may be obtained from either the Department or from a motor license agent.

(d) **Availability.** Requests will be processed, and records will be made available, only during regular business hours. Regular business hours shall include only those dates and times that the Department is open to the public, between the hours of 9:00 a.m. and 4:00 p.m., Monday through Friday. Requests are processed in the order they are received by the Department; however, certain records may not be available until they have undergone a review by the Department's Legal Division.

(e) **Written requests.** A request for any Department record made pursuant to the Oklahoma Open Records Act, 51 O.S. § 24A.1, et seq., shall be submitted in writing to the Department, describing in as much detail as possible, the nature and extent of the record(s) being sought. Requests that are not in writing or that fail to provide sufficient information to allow the Department to identify the record will not be fulfilled. Requests may be submitted by one of the following methods:

(1) **Hand delivery.** Requests may be presented in-person to the Department of Public Safety, 3600 North Martin Luther King Avenue, Oklahoma City, OK 73111.

(2) **United States mail.** Requests may be mailed to: Department of Public Safety, Attn: Legal Division, P.O. Box 11415, Oklahoma City, OK 73136-0415

(3) **Facsimile.** Requests shall be faxed to (405) 425-2660. Requestors shall clearly mark the facsimile with "Open Record Request."

(4) **Electronic Mail (email).** Requests may be sent to the Department via electronic mail (email) to: recdmgmt@dps.state.ok.us. Requestors shall put "Open Record Request" in the subject line.

(f) **Delivery of records.**

(1) Any applicable costs or fees charged pursuant to these rules shall be paid prior to the delivery of any record. The Department will not fulfill a request until all applicable fee and costs have been paid.

(2) Records will be delivered to the requestor via U.S. Mail or may be made available for pick up at the Department's principal place of business. Some records may be made available through a third-party web-based service and may involve a fee for the use of such service.

(A) **Records less than seven (7) pages.** Records consisting of less than seven (7) pages will be delivered at no cost via U.S. Mail, to the address provided by the requestor.

(B) **Record seven (7) pages or more.** Records consisting of seven (7) or more pages, and records produced on an optical disc (CD or DVD) or similar storage media, must be picked up in person from the Department's principal place of business, unless the

requestor provides the Department with a self-addressed, postage paid envelope or container.

(C) **Electronic delivery of records.** At its discretion, the Department may make certain records available via electronic means. For the purpose of this subsection, "electronic delivery" shall mean delivery of a digitized or electronic file to the requestor via email or by providing access to the record through a hyperlink.

(D) **Third-party web service.** Some records may be made available to authorized recipients through a third-party web service. Use of this service may require payment of a fee or charge that is separate from any fee or charge imposed by the Department.

[OAR Docket #15-612; filed 6-18-15]

TITLE 595. DEPARTMENT OF PUBLIC SAFETY
CHAPTER 10. CLASS D DRIVER LICENSES AND IDENTIFICATION CARDS AND MOTOR LICENSE AGENT PROCEDURES

[OAR Docket #15-618]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 1. Procedures for Obtaining and Maintaining a Driver License or Identification Card
Part 2. Application for Initial Driver License
595:10-1-3. Procedures for obtaining an initial driver license [AMENDED]
Part 3. Driver License Renewal
595:10-1-10. Procedure for obtaining a renewal driver license~~.~~ [AMENDED]
Part 13. Motor License Agents
595:10-1-51. Operational procedures [AMENDED]
595:10-1-52. Photographic procedures [AMENDED]
595:10-1-56. Renewal of driver license or identification cards [AMENDED]
Part 21. Identity Verification Unit
595:10-1-101. Identity fraud or theft [AMENDED]
AUTHORITY:
Commissioner of Public Safety; 47 O.S. § 6-101, et seq.
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
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n/a
INCORPORATIONS BY REFERENCE:
n/a

ANALYSIS:

595:10-1-3: The amendment updates the list of secondary proofs of identification accepted by the Department and to clean up grammatical and spelling errors.

595:10-1-10: HB1082 amended 47 O.S. § 6-115(D) to reflect that an Oklahoma driver license that is not more than one year past the date of expiration shall be a valid form of identification for the purposes of renewing the Oklahoma driver license. The rule amendment is required to reflect that statutory change.

595:10-1-51: Amendment increases the security of the driver license process to reduce the risk of driver license or identification fraud.

595:10-1-52: Amends the rule for clarification on requirements for the photograph taken for driver licenses and identification cards.

595:10-1-56: HB1082 amended 47 O.S. § 6-115(D) to reflect that an Oklahoma driver license that is not more than one year past the date of expiration shall be a valid form of identification for the purposes of renewing the Oklahoma driver license. The rule amendment is required to reflect that statutory change.

595:10-1-101: Amended will provide a way of detailing specific information to records regarding each case of identity fraud.

CONTACT PERSON:

Kimberly D. Dammen, DPS Legislative Services Manager, Department of Public Safety, 3600 N. Martin Luther King Ave., PO Box 11415, Oklahoma City, OK 73136-0415. Phone: 405.425.2757. E-mail: kdammen@dps.state.ok.us

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 11, 2015:

SUBCHAPTER 1. PROCEDURES FOR OBTAINING AND MAINTAINING A DRIVER LICENSE OR IDENTIFICATION CARD

PART 2. APPLICATION FOR INITIAL DRIVER LICENSE

595:10-1-3. Procedures for obtaining an initial driver license

(a) **Application.** Every applicant for an initial Oklahoma driver license shall appear before a Driver License Examiner [47 O.S. §6-110]. An application for a driver license must be completed either by the applicant at the Driver License Examination Station or online, when an electronic process is made available by the Department of Public Safety, prior to the commencement of the required examination. An emergency contact name, address and phone number may be included on the application, which emergency contact may be changed or removed at any time by the licensee or by the emergency contact. The emergency contact information shall be for use by the Department and law enforcement officers only. Upon submitting a completed and approved application, providing proof of identity as provided for in (b) of this Section~~[see (b) regarding required identification documents]~~ and proof that the applicant is a United States citizen, foreign national or a legal permanent resident alien [21 O.S., § 1550.42(B)]~~,~~ meeting all statutory requirements~~,~~ and successfully completing every required examination [~~see~~ Subchapter 3. Examination of this Chapter ~~relating to examinations~~], the applicant may then proceed

to a motor license agent or the Department of Public Safety Headquarters, Driver License Examining Division, and present ~~with a~~the DL-10 form issued by the Driver License Examiner ~~with~~ along with the same primary and secondary identification presented to the examiner, ~~issued by the Driver License Examiner,~~ and paying the required fees, ~~and~~the applicant will be issued ~~a~~an Oklahoma driver license. A person who has been declared to be a disabled veteran ~~in receipt of~~receiving compensation at the 100% rate for a permanent disability shall receive an original, renewal, or replacement driver license or identification card at no charge, upon presentation of one of the following documents:

(1) proof of 100% status from the U.S. Department of Veterans Affairs, or

(2) a tax exempt card from the Oklahoma Tax Commission showing exemption from state tax based upon 100% status.

(b) **Required identification.** Every applicant must furnish both primary documentary proof of identity [47 O.S.~~,~~ § 6-106(A)(3)], to include whether the applicant is a United States citizen, foreign national or a legal permanent resident alien [21 O.S.~~,~~ § 1550.42(B)], and secondary documentary proof of identity [47 O.S.~~,~~ § 6-106(A)(3)] and proof of full legal name and birth date beyond any reasonable doubt when applying for an initial Oklahoma driver license [47 O.S. § 6-101(L)]. Any document furnished must be either a certified or original copy and issued by the proper authority; notarized documents will not be accepted. Any document presented shall be unexpired unless otherwise noted in this Section. Any document that has been or appears to have been duplicated, traced over, mutilated, defaced, tampered with, or altered in any manner or that ~~can not~~cannot be read by the Driver License Examiner shall not be accepted or used for identification purposes. All identification documents must be approved by the Examiner before acceptance. The Examiner may, at his or her discretion, request additional identification documentation of the applicant.

(1) **Primary proof of identification for original issuance to a United States citizen.** The following shall be presented by the applicant as primary proof of identification for a citizen of the United States:

(A) A certified birth certificate, as issued by the appropriate state agency from the state of birth. A certified birth certificate issued by a city or county may be accepted if it is issued on secure document paper and if the certificate either is from a state which the Department has verified authorizes the issuance of birth certificates certified by a city or county or contains a statement indicating the record is a copy of the facts on file with the state agency responsible for maintaining and certifying vital records. The birth certificate shall include the person's name, date of birth, and sex, shall be signed and sealed, and shall include the certificate number. The following documents are not acceptable:

(i) a hospital birth certificate or record,

(ii) a birth registration, or

(iii) an abstract of birth, unless the abstract is issued on secure document paper and contains the following statement "I hereby certify that this abstract of birth facts has been provided to this office by the Department of Health, Bureau of Vital Statistics, from a document officially in its custody",

(B) A United States passport,

(C) For a United States citizen who is born in another country, a certification issued by the United States Department of State,

(D) For a naturalized citizen of the United States, a Certificate of Naturalization issued by the United States Citizenship and Immigration Service. The name on the document must be the same as the name used by the applicant on the driver license or identification card, and for every person born in another country and adopted as a minor child by a United States citizen parent, a Certificate of Citizenship issued by the United States Citizenship and Immigration Service,

(E) An Oklahoma driver license originally issued by Department of Public Safety on or after November 1, 2007,

(F) A State of Oklahoma identification card originally issued by the Department of Public Safety on or after November 1, 2007, or

(G) If none of the forms of identification listed in this paragraph are available, any other documentation as approved by the Driver License Examiner Supervisor, Administrative Officer or Director~~,~~. The Driver License Examiner shall list~~ed~~the approved documentation on the DL-10 form ~~by the Driver License Examiner~~.

(2) **Primary proof of identification for renewal or replacement issuance to a United States citizen.** The following shall be presented by the applicant as primary proof of identification for a citizen of the United States:

(A) Finger image comparison, if a Department-generated finger image algorithm is already on file with the Department, or

(B) Any primary proof of identification listed in (1) of this subsection.

(3) **Primary proof of identification for original, renewal, or replacement issuance to a foreign national or legal permanent resident alien.** The following shall be presented by the foreign national or legal permanent resident alien applicant as primary proof of identification and proof of lawful presence in the United States ~~for a foreign national or legal permanent resident alien~~:

(A) A passport issued by a country other than the United States and I-94 card, when applicable. The name on the passport shall be the same as the name used by the applicant on the driver license or identification card. An I-94 card, which shall be accompanied by the applicant's passport when applicable, shall not be considered a separate identification document. The following documents or passport classifications

shall be accepted for the purpose of issuing a driver license or identification card:

(i) I-688 Temporary Resident Card,

(ii) I-688A/B Employment Authorization Card,

(iii) I-766 Employment Authorization Card,

(iv) I-551 Resident Alien/Permanent Resident Card [see (B)],

(v) Temporary I-551,

(vi) A-1,

(vii) A-2,

(viii) A-3,

(ix) DA,

(x) E-1,

(xi) E-2,

(xii) F-1, with Form I-20,

(xiii) F-2, with Form I-20,

(xiv) G-1,

(xv) G-2,

(xvi) G-3,

(xvii) G-4,

(xviii) G-5,

(xix) H-1A,

(xx) H-2A,

(xxi) H-1B,

(xxii) H-2B,

(xxiii) H-3,

(xxiv) H-4,

(xxv) I,

(xxvi) J-1, with IAP-66 or DS-2019,

(xxvii) J-2 (dependent of J-1 holder, must be accompanied by J-1 holder),

(xxviii) K-3,

(xxix) K-4,

(xxx) L-1(a/b),

(xxxi) L-2,

(xxxii) M-1, with I-20,

(xxxiii) M-2 (dependent of M-1 holder, must be accompanied by M-1 holder),

(xxxiv) NATO-1,

(xxxv) NATO-2,

(xxxvi) NATO-3,

(xxxvii) NATO-4,

(xxxvii) NATO-5,

(xxxix) NATO-6,

(xl) NATO-7,

(xli) O-1

(xlii) O-2

(xliii) O-3

(xliv) P-1

(xlv) P-2

(xlvi) P-3

(xlvii) P-4

(xlviii) Q-1

(xlix) R-1

(l) R-2

(li) T-1

(lii) T-2

(liii) T-3

(liv) T-4

(lv) TC, with I-94 or letter form I-797,

(lvi) TN-1,

(lvii) TN-2,

(lviii) TD,

(lix) V-1,

(lx) V-2,

(lxi) V-3; or

(B) A permanent resident alien registration card issued by the United States Citizenship and Immigration Service (USCIS) which shall include the full, legal name, sex, and date of birth of the person identified ~~in~~on the card. The full, legal name, sex, and date of birth on the card shall be the full, legal name, sex, and date of birth used by the applicant on the driver license or identification card. A permanent resident alien registration card holder shall be allowed to renew his or her driver license or identification card at a motor license agency, provided, no changes are made to the full, legal name, sex, or date of birth. If, pursuant to 8 C.F.R., Section 264.5, a permanent resident alien registration card holder requests a name, sex, or date of birth change to his or her driver license or identification card, the changes shall be made at a driver license exam site with the applicant showing approved documentation provided by USCIS verifying the changes; or

(C) If none of the forms of identification listed in this paragraph are available, any other documentation as approved by the Driver License Examiner Supervisor, Administrative Officer or Director~~,~~. The Driver License Examiner shall ~~listed~~list the approved documentation on the DL-10 form~~ by the Driver License Examiner~~.

(4) **Secondary proof of identification.** The following shall be presented by the applicant as secondary proof of identification and shall contain the name of the applicant:

(A) Any primary proof of identification listed in (1), (2), or (3), as applicable, of this subsection which is not used as the primary identification document of the applicant,

(B) For any person under the age of 18, an affidavit provided by the Department and signed by the parent or legal guardian,

(C) Photo identification card that is issued by an Oklahoma:

(i) public, private, or parochial secondary school,

(ii) institution of higher education,

(iii) technology center school, or

(iv) employer,

(D) Oklahoma gun permit,

(E) Pilot license,

(F) Oklahoma lifetime hunting or fishing license,

(G) Oklahoma voter identification card,

(H) Social Security card,

(I) Health insurance card,

(J) Motor vehicle registration or title,
(K) Marriage certificate,
(L) Separation or divorce judgment,
(M) High school, technology center school, college, or university diploma
(N) Professional degree, certificate, or license,
(O) Deed or title to property in Oklahoma, including a burial plot deed,
(P) Health, life, or home insurance policy issued to the applicant,
(Q) Automobile insurance policy or security verification form issued to the applicant,
(R) A valid U.S.D.O.T. health card, as required by 49 C.F.R. Part 391,
(S) Digital photograph comparison, if a Department-generated digital photograph is already on file with the Department,
(T) Identification documents issued by the United States Armed Services:
(i) Military discharge (DD-214), unless specified not to be used for identification,
(ii) Military identification card, or
(iii) Military dependent identification card,
(U) United States Bureau of Indian Affairs identification card or a Oklahoma tribal photo identification card, approved by the Department of Public Safety (the Department shall maintain on its website a list of tribes which comply with this provision), which identifies the person and includes the following information:
(i) color photograph of the person,
(ii) full legal name of the person,
(iii) birth date of the person,
(iv) signature of the person,
(v) signature of person who verifies records, and
(vi) tribal seal,
(V) Expired Oklahoma Driver License,
(W) Expired Oklahoma Identification Card,
(X) Oklahoma Tax Commission Agricultural Exemption Permit (tax exempt card),
(Y) Department of Corrections cards including:
(i) Department of Consolidated Record Card
(ii) Department of Corrections Inmate Identification Card,
(Z) Transportation Worker Identification Credential (TWIC card)~~, or~~
(AA) Out-of-State driver license, or
(~~AA~~BB) If none of the forms of identification listed in this paragraph are available, any other documentation as approved by the Driver License Examiner Supervisor, Administrative Officer or Director~~,~~. The Driver License Examiner shall list~~ed~~ the approved documentation on the DL-10 form~~ by the Driver License Examiner~~.

(5) **Additional identification requirements.** The Department may require additional identification documents:
(A) when the Department is unable to determine the reliability or validity of the identification document(s) presented, or
(B) as provided in OAC 595:10-1-35.
(C) All persons acting as an interpreter must be eighteen (18) years of age or older and must supply proof of legal presence in the United States and a driver license or identification card issued by any state and must sign an affidavit provided by and filled out by Department personnel.

(c) **Driver license numbers.**
(1) Driver license numbers shall be assigned by computer. Use of the applicant's Social Security number as the driver license number is prohibited [47 O.S. § 6-106(B)]; provided, every applicant shall provide the Department with the Social Security number of the applicant [47 O.S.~~,~~ § 6-106(B),12], which shall be verified before a driver license shall be issued to the applicant. Verification shall be accomplished using the Social Security On-line Verification (SSOLV) system. The Department shall refer any applicant to the Social Security Administration whenever the Social Security number ~~can not~~cannot be verified for the applicant.
(2) Any licensee may request to change his or her driver license number to any nine-digit number which is not in use or has not been previously used by making a written request to the Department. Upon approval by the Department, the licensee shall obtain a replacement driver license from a motor license agent, and the licensee shall pay the required fee for the replacement license [~~see~~ OAC 595:10-1-18 ~~regarding replacement driver licenses~~]

PART 3. DRIVER LICENSE RENEWAL

595:10-1-10. Procedure for obtaining a renewal driver license~~.~~

(a) **General requirements.** During the month of expiration or as provided in (d) of this Section, each licensee shall present proper identification and pay the required fee to a Motor License Agent or to the Driver License ~~Services~~Examining Division of the Department of Public Safety for renewal of the driver license of the licensee. Failure to renew a driver license by the end of the month of expiration shall not relieve the person of the obligation to renew his or her driver license under the provisions required by law and this Section if the person whishes to keep his or her driver license in force.

(b) **Required identification.**
(1) **Renewal with valid and unexpired driver license.** The valid and unexpired Class D license provided as the primary identification may be retained by the licensee, after the motor license agent has first punched a hole through the identification number of the license. The person shall provide secondary identification as prescribed in OAC 595:10-1-3(b)(4).
(2) **Renewal with an expired driver license.** The expired Class D driver license provided as the primary identification may be retained by the licensee, after the

motor license agent has first punched a hole through the identification number of the license. The person shall provide primary identification as prescribed in OAC 595:10-1-3(b)(2), as appropriate. Any applicant with a license expired more than one (1) year past the expiration date and the original issue date was before 11/01/2007 must show proof of legal presence in this country. If the motor license agent's operator is not Birth Certificate certified the applicant must go to an agent who is certified or they must see a Driver License Examiner.

(3) **Renewal without driver license.** Any person who does not have the valid and unexpired driver license shall provide both primary and secondary identification as prescribed in OAC 595:10-1-3(b).

(c) **Vision examination.** Persons holding a commercial driver license shall, upon renewal, meet the vision standards established in OAC 595:10-5-7 and 49 C.F.R. § 391.41.

(d) **Limitations to issuance of a renewal driver license.**

(1) A renewal driver license will be issued only to an individual whose driving privilege is not under suspension, revocation, disqualification, cancellation or denial and who complies with this Section.

(2) Any applicant who requests a renewal of his or her driver license when the license has been expired in excess of three (3) years is required to appear before a Driver License Examiner~~, pursuant to OAC 595:10-1-2~~.

(e) **Early renewal of a driver license.** Any licensee may renew his or her driver license no more than one (1) year prior to the expiration date. A renewal which occurs more than one (1) year prior to the expiration date shall be treated as a replacement under the provisions of OAC 595:10-1-18.

(f) **Change of driver license number.**

(1) Use of the licensee's Social Security number as the driver license number is prohibited. At the time of renewal, any licensee whose driver license number is his or her Social Security number shall inform the Department or the motor license agent of that fact. If the numbers are the same, a new driver license number will be assigned for the licensee by computer [47 O.S. § 6-106(B)].

(2) Any licensee may request, at the time of renewal or when replacing his or her driver license, to change his or her driver license number to any nine-digit number by making a written request to the Department. Upon approval by the Department, the licensee shall obtain a replacement driver license from a motor license agent, and the licensee shall pay the required fee for the replacement or renewal license ~~[see OAC 595:10-1-18 regarding replacement driver licenses]~~.

(g) **Persons who may appear before a motor license agent.** An individual who has previously held an Oklahoma Class D driver license that has been surrendered to another state in exchange for the other state's license and whose Oklahoma Class D license has not been expired for more than three (3) years, may apply directly to a motor license agent for reactivation of the previous Oklahoma Class D license, upon establishing Oklahoma residence and following the applicable procedure for renewal. The agent shall call the Driver License Services Division and request clearance to issue the license. Any applicant with a license expired more than one (1) year past the expiration date and the original issue date was before 11/01/2007 must show proof of legal presence in this country. If the motor license agent's operator is not Birth Certificate certified the applicant must go to an agent who is certified or they must see a Driver License Examiner. If the clearance is given by the Department, the person shall surrender the out of state license to the agent, and the agent shall issue the Oklahoma license. If the out of state license has been lost or destroyed, the person shall provide to a motor license agent a notarized affidavit of that fact. In no case shall the out of state driver license be retained by the person when an Oklahoma license has been issued to the person. The agent shall retain the license and submit it to the Department with the agent's report. If clearance is not given, the person shall be informed to contact the state whose action is causing the clearance to be withheld.

(h) **Persons unable to appear due to medical situation.** An individual, who is an Oklahoma resident and who is located within the state, may declare in writing to the Department that, because of a medical reason or condition, he or she is unable to appear in person to renew his or her driver license, in which case the Department shall issue by mail an identification card to the person and shall not issue a driver license. The driver license shall be surrendered by the individual to the Department prior to issuance of the identification card. The individual shall provide both primary and secondary identification as prescribed in OAC 595:10-1-3(b).

PART 13. MOTOR LICENSE AGENTS

595:10-1-51. Operational procedures

(a) The driver license computer, camera, printer, and other hardware, software, and supplies (which may be referred to as ~~driver license~~document issuance equipment) used in the production of driver licenses and identification cards shall be used solely for the issuance of Oklahoma driver licenses or identification cards. Driver licenses or identification cards shall be issued if the motor license agency is open for business. If the motor license agency is unable to issue licenses, the agent shall immediately notify the ~~Department~~Driver License Examining Division to report why the agency is not issuing licenses.

(b) At the close of business each day, the agent shall remove the ~~top~~ "~~clam shell~~ Security Laminate", PVC card stock, and security key and lock ~~it~~them in a safe place and shall also destroy, by shredding or burning, all used color print ribbon. In addition, all printer supplies, DL10 and MVR consent forms shall be locked in a safe place. "To lock in a safe place", as used in this Section, is defined as a burglar safe that cannot be picked up and carried out. If the safe is under 250 pounds, it shall be anchored to a permanent fixture to prevent removal. The safe shall have a combination lock, key lock, or both combination and key lock.

(c) The Department will maintain a database showing all current and past motor license agency driver license or identification card issuance employees. All criminal history investigations for each issuance employee will be stored in a Department database.

(d) Motor License agencies are prohibited from sharing driver license or identification card issuance consumables. Each motor license agency is responsible for all consumables obtained by its agency. Agents shall maintain correct inventory levels in the Secure Inventory Management System (SIMS).

(e) All issuing employees must pass a limited criminal history background investigation conducted by the Oklahoma Highway Patrol, Investigation Division, to be issued a temporary personal access code and complete a state criminal history background investigation conducted by the Oklahoma State Bureau of Investigation and national FBI criminal history background investigation to be issued a permanent personal access code. The motor license agent is responsible for incurring the cost for any criminal history background investigation.

(1) Only persons who have been issued a personal access code by the Department of Public Safety shall be authorized to operate ~~driver license~~document issuance equipment and issue or make changes to driver licenses or identification cards.

(2) ~~Agents shall not submit applications for personal access codes for employees who are not at least eighteen (18) years of age.~~ Personal access codes shall not be assigned to anyone under the age of eighteen (18) or to any employee whose driver license is suspended, revoked, cancelled or denied.

(3) ~~On and after the Commissioner's approval of this rule, each~~Each application for a personal access code shall be submitted by ~~an agent~~the motor license agent to the ~~Department~~Driver License Examining Division. A limited criminal history background investigation shall be conducted by the Oklahoma Highway Patrol, Investigations Division prior to the issuance of a temporary personal access code. ~~, and the~~The Department shall give temporary approval to the applicant to issue driver licenses and identification cards, pending an investigation of the applicant's complete national and state criminal history background investigation~~records which must be completed within 90 days of the temporary approval~~. The motor license agent shall submit the necessary criminal history background investigation requests within ten (10) business days of the issuance of the temporary access code, and submit proof of the request to the Driver License Examining Division within five (5) business days thereafter.

(4) ~~All completed documents necessary for the state background check shall be submitted by the agent to the Oklahoma State Bureau of Investigation and results of the investigation shall be forwarded to the Department indicating compliance with this requirement.~~ The Department shall cancel the access code to issue driver licenses or identification cards upon determination the person's ~~state~~ criminal history background investigation does not warrant certification, based upon ~~the presence in the history of~~ a ~~high~~ misdemeanor conviction for larceny, theft, fraud, perjury, or if the applicant is found to have made false statements on the application within the ten (10) years immediately preceding the application and/or~~of~~ any felony conviction.

(5) If no record of a conviction for the specified misdemeanors in (e)(4) of this Section, or of a felony~~is found~~ within ~~state~~ limited criminal history background investigation conducted by the Oklahoma Highway Patrol,~~records,~~ the temporarily approved applicant shall be issued a temporary access code. Upon notification of the issuance of the temporary access code to the motor license agent, the agent shall submit to a national criminal history background investigation ~~records search~~, as defined by 74 O.S. § 150.9~~Section 150.9 of Title 74~~ of the Oklahoma Statutes within ten (10) business days of said notification. If the national criminal history background investigation is not completed within ninety (90) days of the request for the national criminal history background investigation, the temporary personal access code may be revoked.

(6) The Department shall cancel the access code to issue driver ~~license~~licenses or identification cards upon determination the person's national criminal history background investigation~~history~~ does not warrant certification, based upon ~~the presence in the history of~~ a ~~high~~ misdemeanor conviction for larceny, theft, fraud, perjury, or if the applicant is found to have made false statements on an application with the ten (10) years immediately preceding the application and/or~~of~~ any felony conviction.

(7) If no record of a conviction for the misdemeanors in (e)(4) of this Section or of a felony conviction is found within the national criminal history background investigation~~records~~, the applicant shall be given ~~regular~~a permanent access code number ~~approval~~ to issue driver licenses and identification cards.

(8) If, during either the state criminal history background investigation or the national criminal history background investigation, it is discovered the applicant has pending charges that could result in the applicant being convicted of a misdemeanor for larceny, theft, fraud, or perjury or any felony, or if the applicant has a deferred sentence for the misdemeanors listed in (e)(4) or any felony the temporary personal access code shall be revoked pending the disposition of the court proceedings.

(9) ~~Persona~~Personal access codes shall be kept confidential by the employee and motor license agent. Personal access codes shall be used only by the person to whom the code has been assigned. ~~New employees whose duties are intended to include the issuance of driver licenses and identification cards shall first apply for a personal access code from the Department of Public Safety as provided for in this subsection; provided, an employee shall not be authorized operate driver license equipment and to issue driver licenses and identifications cards unless approved~~

~~by the Department and a personal access code has been issued to the employee by the Department.~~

(10) A current national criminal history background investigation shall be required if:

(A) an employee has any break in service and the result of the previous state criminal history investigation on file with the Department for the employee is more than one (1) year old, or

(B) if the employee changes motor license agents and it has been more than one (1) year since the last national criminal history background investigation was ~~done~~completed, or

(C) if a national criminal history background investigation was not previously required of the employee.

(11) The Department may, at its discretion, require a current national criminal history background investigation of any individual operating the driver license equipment. Such national criminal history background investigation shall be at the motor license agency's expense.

(~~3~~12) The motor license agent shall be responsible for training new employees. The Department may offer periodic training programs as needed.

(~~4~~13) The motor license agent shall be responsible for the conduct of ~~the~~its employees.

(f) Any motor license agent in possession of document issuance equipment will be subject to unannounced inspections by Department personnel to verify compliance with the Department's Administrative Rules as well as Departmental policy. Employees operating the document issuance equipment shall produce proof of identity if requested by Department personnel.

(~~d~~g) Any substitution of equipment or alteration in the making of a driver license or identification card is prohibited~~,~~ and may be subject to criminal prosecution. Driver ~~Licenses~~licenses or identification cards shall be made in accordance with specifications as determined by the Department. If they do not meet these specifications, the agent or the employee shall not issue the license or card.

(~~e~~h) Motor license agent's ~~Reports~~reports required by the Department shall be forwarded to the Driver License ~~Services~~Examining Division in accordance with the rules of the Oklahoma Tax Commission or as prescribed by law.

(~~f~~i) If the motor license ~~agency~~agent plans to relocate its business~~relocates~~, the agent shall immediately notify the ~~Department of Public Safety~~ Driver License Examining Division in writing to make arrangements to have the document issuance equipment relocated. The motor license agent shall also immediately notify the Driver License Examining Division in writing of its ~~of the~~ new address and telephone number. ~~The Department will contact the agent and schedule a time to set up the agency at the new location and provide any training necessary to the agency.~~ The motor license agent shall bear the cost of moving the document issuance equipment, unless the move is due to a natural disaster or for reasons beyond the control of the motor license agent.

(~~g~~j) In the event of loss, theft, or misuse of any of the document issuance equipment, supplies, or documents, or any violation of state law, Department rule, or other improper conduct related to the issuance of driver license or identification cards, the Department of Public Safety, Driver License Examining Division, shall be notified immediately by telephone at (405) 425-7745. In case of loss or theft the motor license agent shall take an immediate inventory of all driver license documents and/or consumables on hand and list all missing items and equipment by number~~, when applicable~~. A copy of the missing inventory list, the police investigation, and/or incident report shall be immediately forwarded to the Department of Public Safety, Driver License Examining Division. In cases of misuse, the motor license agent must immediately contact the Driver License Examining Division by telephone at (405) 425-7745~~, Identity Verification Unit of the Department of Public Safety by telephone at (405) 425-2477. If the agent is unable to contact this unit, then the Driver License Examining Division shall be notified by telephone at the number listed above~~. If the incident occurs after the Department's normal business hours, the motor license agent shall contact the Driver License Examining Division no later than the next normal business day of the Department.

(~~h~~k) Agents are prohibited from accepting an altered driver license application (DL-10 form) or any other altered or unapproved document for the issuance of an Oklahoma driver license or identification card.

(~~i~~l) When ~~an~~a motor license agency ~~closes~~ goes out of business, any equipment, supplies, and documents issued to the agent by the Department of Public Safety must be accounted for and returned to the Department of Public Safety.

(~~j~~m) Each employee of the motor license agency is to be made aware by the motor license agent of the penalties for misuse of driver license documents~~,or~~ identification cards, or document issuance equipment and any production of fraudulent and erroneous driver licenses or identification cards.

(~~k~~n) When it comes to the attention of the Department of Public Safety that any motor license agent or an employee of ~~an~~a motor license agency is in violation of any statute, ~~or~~ rule or policy, or has committed any fraudulent act regarding the issuance of driver licenses or identification cards, and after consultation with the Commissioner's office, the Director of the Driver License Examining Division may notify the motor license agent and the Tax Commissioner that the access code number(s) issued to that motor license agent and its employees may be canceled or suspended and~~/or~~ the ~~camera~~document issuance equipment may be removed.

(1) In accordance with the Administrative Procedures Act, a hearing before the Commissioner or the Commissioner's designee ~~will be offered,~~may be requested by the motor license agency~~provided the Director of the Driver License Services Division is notified~~ in writing within fifteen (15) calendar days of ~~receipt~~the date of the notification of the cancellation or suspension of access code number(s) for that motor license agency.

(A) The issues at the hearing will be whether or not a violation occurred, and

(B) the severity of the sanction which should be imposed.

(2) If the suspected violation is upheld in the administrative hearing, the motor license agency shall have its ability to issue driver licenses or identification cards suspended for six (6) months for the first offense, one (1) year for the second offense, and permanently for third offense. However, the Department may issue a permanent suspension for any offense if the findings of the administrative hearing conclude the offense was criminal or grossly negligent in nature. Suspension time shall include the time pending the administrative hearing.

(~~l~~o) The following changes or activities to a driver license or identification card are not authorized ~~an~~by any motor license agency without ~~other authority~~ the authorization from the Driver License Examining Division director or his or her designee:

(1) Driver license number or identification card number change, except when changing to a computer generated number,

(2) Sex,

(3) Eye color,

(4) Race,

(5) Date of birth,

(6) Class of license,

(7) Endorsement,

(8) Extension of expiration on driver license or identification card,

(9) Temporary receipt or authorization to drive ~~for lost license while application is in process~~,

(10) The use of issuance equipment for ~~Taking~~taking photographs for other identification cards (for example: police, fire, sheriff, passport, etc.),

(11) Adding titles to names, such as Sheriff, Police Officer, Judge, Senator, Representative, Dr., Rev., Fireman, etc., or information to indicate professional status on the face of the driver license or identification card such as JOHN DOE, OKLAHOMA HIGHWAY PATROL, or ROBERT DOE, M.D.

(12) Adding addresses ~~or information to indicate professional status on the face of the driver license or identification card such as JOHN DOE, OKLAHOMA HIGHWAY PATROL or ROBERT DOE, M.D~~. All addresses shall be the legal Oklahoma residence address or Oklahoma mailing address [47 O.S. § 6-106]. Display of both the residence address and mailing address, or any combination thereof, is prohibited; provided, this paragraph shall not be construed to prohibit display of a residence address if it is also the mailing address,

(13) Placing anything on a driver license or identification card, such as stickers of civic clubs, medical symbols, etc., except those approved by the Department of Public Safety,

(14) Producing more than one (1) driver license or identification card for the applicant at the time of application,

(15) Adding service charges to an application fee for any reason ~~other than actual cost for telephone calls made for the applicant to obtain approval to issue the driver license or identification card~~, or

(16) Providing information from the driver license or identification card application to private businesses, government agencies, or persons other than the Department of Public Safety, unless authorized by the Department.

(~~m~~p) No documents shall be removed from the office of the motor license agent by anyone unless authorized by the Driver License Examining Division. If a situation arises which warrants removal of documents required or authorized by the Department, the motor license agent shall telephone the Division at (405) 425-7745 to explain the circumstances and obtain authority.

(~~n~~q) During the issuance process for an original, renewal or replacement driver license or identification card, ~~the motor license agency shall ask~~ the applicant shall be offered the opportunity ~~if he or she would like~~ to donate One Dollar ($1.00) to the Oklahoma Organ Donor Education and Awareness Program [63 O.S.~~,~~ § 2220.5]. If the applicant consents to the donation, the ~~agency shall add the~~ One-Dollar donation will be added to the amount collected with the cost of the license or card. Each One-Dollar donation shall be recorded and shall be reflected on the semi-monthly reports of the motor license agency. The applicant shall be given the option to become or to decline becoming an organ donor by marking either the "Yes" or "No" box~~, as appropriate,~~ on the signature pad. A mark of "Yes" shall cause an organ donor symbol to be placed on the driver license or identification card. If the holder of a driver license or identification card wishes to remove the organ donor symbol from the license or card, the applicant shall make the request of the motor license agency and shall be asked to mark the "No" box on the signature pad~~. A~~ and a license or card shall be issued without the organ donor symbol ~~and the appropriate fee collected by the motor license agency~~. The holder of a Class A, B, or C commercial driver license shall be required to appear before a Driver License Examiner to remove or add the organ donor symbol.

(~~o~~r) Rules in this Chapter regarding motor license agents are specific and limiting. Whenever an action either is not included or is not prohibited, it shall not be construed to convey authority to perform that action within the duties, responsibilities, or authority of the motor license agent~~s~~. Any activity performed by motor license agents or its employees, other than those approved in writing or through hands-on training provided by or authorized in writing by the Department can result in termination of the agency's ability to issue driver licenses or identification cards and/or criminal and civil prosecution.

595:10-1-52. Photographic procedures

(a) In order to provide a photograph which clearly identifies the licensee or cardholder, the photograph shall show a full front view of the face, from the hairline to the neck, of the applicant who shall be looking straight ahead.

(1) A photograph, which in the opinion of the Commissioner or his designee, distracts from the identification purpose, shall not be allowed to appear on an Oklahoma driver license or identification card.

(2) Objects, costumes and gestures are not permitted within the photograph.

(3) Head coverings are not permitted in the photograph if the head covering:

(A) obscures or obstructs a full front view of the face,

(B) displays any:

(i) logo,

(ii) insignia, symbol, or regalia,

(iii) word or words,

(iv) letter, number, or character, or any combination thereof, or

(v) graphic design, other than the overall pattern of the fabric or material, or

(C) casts a shadow onto the face of the person~~.~~, or

(D) is an object. As used in this subsection, object is defined as any item regardless of its composition and by the very nature or the manufacturer is not intended to be used as a head covering.

(4) Prescription or non-prescription glasses of any type shall be removed for the photograph.

(5) Profile style photographs are not permitted.

(b) Retakes of a photograph are permitted only at the time of making the license or card in order to obtain the correct photograph, as long as the agent or the agent's employee is still at the photograph-taking step in the procedure. Retakes of a photograph shall not be permitted at any other time in the issuance procedure, after the issuance procedure, or after the licensee or cardholder has left the agency.

(c) Agencies shall not take an additional photograph of any applicant, licensee, or cardholder unless authorized by the Commissioner or his designee.

(d) Applicants shall submit to the computer finger imaging process. Refusal shall result in no driver license being issued. [47 O.S. § 6-110.2(A)]

(e) Applicants shall sign and submit only their signature for a driver license or identification card. Nothing else may be added to the signature [47 O.S. §§ 6-111(A)(1) and 6-301(H)]. The driver license or identification card shall not be issued if the applicant refuses to sign the driver license or identification card.

(f) Male applicants whose age is between 16 and 26 shall read the Selective Service statement, which shall appear on the signature pad. Signing and submitting their signature indicates agreement with the statement.

595:10-1-56. Renewal of driver license or identification cards

(a) **Normal renewal procedure.** If an applicant presents proper identification [see OAC 595:10-1-51 regarding identification documents required], the agent may accept the required remittance for the class of driver license or the identification card being issued, make any changes necessary that have been authorized and issue the driver license or identification card. If the licensee presents an Oklahoma driver license or the card holder presents an Oklahoma identification card as a form of identification, the agent shall;

(1) for a Class D licensee or identification card holder, return the expired license or card, if requested by the licensee or holder and after first punching a hole through the identification number on the license or card, or if the licensee or holder does not wish to retain the expired license or card, return it with the agent's regular reports to the Driver License Services Division of the Department, or

(2) for a Class A, B, or C commercial licensee, the license shall be surrendered by the licensee to the motor license agent, and the agent shall retain the license and return it with the agent's regular reports to the Driver License Services Division of the Department.

(b) **Early renewal.** An individual may make application for the renewal of his or her license or card not more than one (1) year prior to the expiration date of the license or card. If the application for renewal occurs more than one (1) year prior to the expiration date, the agent shall notify the individual that the transaction must be treated as a replacement under the provisions of OAC 595:10-1-57. The agent shall;

(1) for a Class D licensee or identification card holder, return the expired license or card, if requested by the licensee or holder and after first punching a hole through the identification number on the license or card, or if the licensee or holder does not wish to retain the expired license or card, return it with the agent's regular reports to the Driver License Services Division of the Department, or

(2) for a Class A, B, or C commercial licensee, the license shall be surrendered by the licensee to the motor license agent, and the agent shall retain the license and return it with the agent's regular reports to the Driver License Services Division of the Department.

(c) **Late renewal.** An individual who makes application for renewal but whose license or card has been expired in excess of three (3) years shall be referred by the agent to a Driver License Examiner.

(d) **Renewal of expired license.** The holder of an Oklahoma driver license ~~or identification card which~~that ~~has~~is expired more than one (1) year of the expiration date printed on the driver license shall be required to show proof of lawful presence in the United States to the motor license agency in order to renew the license or card. Any motor license agent who has been certified by the Department to identify state certified birth certificates may renew an expired license or card by entering the certificate information in the computer. If the agent has not been certified by the Department, the agent shall refer the applicant to a Driver License Examiner to show proof of lawful presence in the United States.

(e) **Persons temporarily out of state.** The holder of an unexpired Oklahoma driver license or identification card who is temporarily out of the state of Oklahoma and who wishes to renew or replace the license or card by mail shall be referred to the Driver License Services Division of the Department of Public Safety or the Department of Public Safety website.

(f) **Previous Oklahoma licensees and card holders.** An individual who has previously held an Oklahoma Class D driver license which has been surrendered to another state in exchange for the other state's license or who has previously held an Oklahoma identification card which has expired, may apply directly to a motor license agent for reactivation of the

previous Oklahoma license or identification card, upon establishing Oklahoma residence and following the applicable procedures for renewal. Before attempting to issue a driver license under this subsection, the agent shall call the Driver License Services Division and request clearance to issue the license. If clearance is not given, the person shall be informed to contact the state whose action is causing the clearance to be withheld. If the clearance is given by the Department, the person shall surrender the out of state license to the agent, and the agent shall issue the Oklahoma license or card. If the out of state license has been lost or destroyed, the person shall provide to the motor license agent a notarized affidavit of that fact. The agent shall retain the license or affidavit, as applicable, and submit it to the Department with the agent's report. This procedure applies to a Class D driver license or identification card only.

(g) **Commercial driver license renewal.** The holder of a Class A, B, or C commercial driver license shall appear before a Driver License Examiner for renewal.

PART 21. IDENTITY VERIFICATION UNIT

595:10-1-101. Identity fraud or theft

(a) In the event it is determined identity fraud or theft has occurred in connection with an Oklahoma driver license or identification card, the victim may request the Identity Verification Unit to place a detailed restriction code 8 on the driving record. The victim shall be required by the Identify Verification Unit of the Department to provide a police report from their local law enforcement agency, unless the investigating agency is the Oklahoma Highway Patrol. He or she will also be required to sign an affidavit stating he or she believes their identity has been compromised or they are the victim of identity fraud or theft and by signing the affidavit they give the Identity Verification Unit the authority to place a detailed restriction code 8 on their driving record. The Identity Verification Unit shall then cancel the originally issued driver license or identification card and assign to the victim another driver license or identification card with a new number.

(b) A detailed restriction code 8 shall be added by the Identity Verification Unit to the master file record of the original, cancelled driver license or identification card. All driving history shall remain on the file for a cancelled driver license. The detailed restriction shall state "Fraudulent document. Seize and mail to IVU PO Box 11415 Oklahoma City, OK 73136." The detailed restriction code 8 may also include ~~pertinent~~detailed information regarding each specific case.

(c) The Identity Verification Unit shall issue~~d~~ to the identity fraud or theft victim a new driver license or identification card with the new number and with a detailed restriction code 8 ~~stating, "Identity Theft Victim, fraudulent document [number given] cancelled."~~The detailed restriction code 8 shall include detailed information regarding each specific case. Only the driving history proven to belong to the identification fraud or theft victim shall be added to the new driver license driving history.

(d) If the identity of the identity fraud or theft suspect can be determined, the Identity Verification Unit shall place an identity fraud or theft administrative revocation (W80) on the driving privilege of the suspect. A stop shall be placed on the identification card privilege of the suspect. Placing stops on the driver license or identification card privilege will prevent original issuance, renewal or duplication until the identity theft or fraud administrative revocation (W80) has been lifted. When requirements by the suspect are met, Identity Verification unit Staff shall give administrative revocation (W80) release documentation to the suspect and/or to the Driver Compliance Division of the Department.

[OAR Docket #15-618; filed 6-18-15]

TITLE 595. DEPARTMENT OF PUBLIC SAFETY
CHAPTER 10. CLASS D DRIVER LICENSES AND IDENTIFICATION CARDS AND MOTOR LICENSE AGENT PROCEDURES

[OAR Docket #15-613]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 1. Procedures for Obtaining and Maintaining a Driver License or Identification Card
Part 7. Identification Cards
595:10-1-25. Procedure for obtaining an identification card [AMENDED]
595:10-1-26. Procedure for obtaining a renewal identification card [AMENDED]
595:10-1-27. Procedure for obtaining a replacement identification card [AMENDED]
AUTHORITY:
Commissioner of Public Safety; 47 O.S. § 6-101, et seq
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Part 7. Identification cards
595:10-1-25. Procedure for obtaining an identification card [AMENDED]
595:10-1-26. Procedure for obtaining a renewal identification card [AMENDED]
595:10-1-27. Procedure for obtaining a replacement identification card [AMENDED]
Gubernatorial approval:
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Register publication:
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14-851
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ANALYSIS:
This rule change is to allow the Department of Public Safety to accept an unexpired Oklahoma Driver License from the person applying for an Oklahoma Identification Card as both primary and secondary proofs of identification.
CONTACT PERSON:
Kimberly D. Dammen, DPS Legislative Services Manager, Department of Public Safety, 3600 N. Martin Luther King Ave., PO Box 11415, Oklahoma City, OK 73136-0415. Phone: 405.425.2757. E-mail: kdammen@dps.state.ok.us

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 11, 2015:

SUBCHAPTER 1. PROCEDURES FOR OBTAINING AND MAINTAINING A DRIVER LICENSE OR IDENTIFICATION CARD

PART 7. IDENTIFICATION CARDS

595:10-1-25. Procedure for obtaining an identification card

(a) A person wishing to obtain an identification card shall appear before a Driver License Examiner or, if the applicant has been issued a computerized format (digital) driver license for at least thirty (30) days, may appear before a motor license agent. The applicant shall be required to furnish the same acceptable means of identification as when applying for a driver license as prescribed in OAC 595:10-1-3(b) unless the cardholder provides a valid and unexpired Oklahoma driver license which shall serve as both primary and secondary identification for the purposes of obtaining an Oklahoma identification card [47 O.S. § 6-106(G)].~~[see OAC 595:10-1-3(b) regarding identification documents required]~~ and complete the application form unless the applicant has been previously issued an original Oklahoma driver license on or after November 1, 2007.

(b) If appearing before a Driver License Examiner, the Examiner will complete and, if appropriate, will approve the identification card application. A DL-10 form will be processed for the applicant. The applicant shall take the DL-10 form, along with the identification presented to the Driver License Examiner at application time, to a motor license agent or the Department and pay the required fee. If applicant is under age eighteen (18) and has not been issued a computerized format (digital) driver license for at least thirty (30) days, may submit a notarized affidavit signed by a custodial legal parent or legal guardian in lieu of custodial legal parent or legal guardian appearing in person and signing application [47 O.S. § 6-105.3(A)].

(c) When appearing before a motor license agent, the agent shall process the application for the applicant, collect the required fee from the applicant, and issue the identification card to the applicant.

(d) An identification card may be issued as prescribed in OAC 595:10-1-10(h) and 10-1-18(g).

(e) Identification card numbers will be assigned by computer. Use of the applicant's Social Security number is prohibited [47 O.S. §§ 6-105(H) and 6-106(B)].

(f) An individual, who is an Oklahoma resident and who is located within the state, may declare in writing to the Department that, because of a medical reason or condition, he or she is unable to appear in person to renew his or her identification card, in which case the Department shall issue by mail an identification card to the person. The individual shall provide both primary and secondary identification as prescribed in OAC 595:10-1-3(b)~~.~~ unless the cardholder provides a valid and unexpired Oklahoma driver license which shall serve as both primary and secondary identification for the purposes of renewing the Oklahoma identification card [47 O.S. § 6-106(G)].

595:10-1-26. Procedure for obtaining a renewal identification card

(a) **General requirements.** During the month of expiration or as provided in (c) of this Section, any identification card holder, who wishes to keep his or her identification card in force, may present proper identification to a motor license agency and pay the required fee to a Motor License Agent or to the Driver License ~~Services~~Examining Division of the Department of Public Safety. Identification cards issued to individuals who have attained the age of 65 or older are issued for an indefinite period of time and are not subject to this Section. Failure to renew an identification card during the month of expiration shall not relieve the person of the obligation to renew the identification card under the provisions required by law and this Section if the person wishes to keep the identification card in force.

(b) **Required identification.**

(1) **Renewal with expiring or expired identification card.** The expiring identification card provided as the primary identification may be retained by the cardholder, after the motor license agent or the Department has first punched a hole through the identification number of the card. The person shall provide secondary identification as prescribed in OAC 595:10-1-3(b)(2)~~.~~ unless the cardholder provides a valid and unexpired Oklahoma driver license which shall serve as both primary and secondary identification for the purposes of renewing the Oklahoma identification card [47 O.S. § 6-106(G)].

(2) **Renewal without identification card.** Any person who does not have the expiring or expired identification card shall provide both primary and secondary identification as prescribed in OAC 595:10-1-3(b)~~.~~ unless the cardholder provides a valid and unexpired Oklahoma driver license which shall serve as both primary and secondary identification for the purposes of renewing the Oklahoma identification card [47 O.S. § 6-106(G)].

(c) **Early renewal of an identification card.** Any identification card holder may renew his or her identification card not more than one (1) year prior to the expiration date. A renewal which occurs more than one (1) year prior to the expiration date shall be treated as a replacement under the provisions of OAC 595:10-1-27.

(d) **Change of identification card number.** Use of the cardholder's Social Security number as the identification card number is prohibited.

(e) **Persons who may appear before a motor license agent.** An individual who has previously held an Oklahoma identification card may apply directly to a motor license agent for renewal of the previous Oklahoma identification card, upon establishing Oklahoma residence and following the applicable procedure for renewal.

595:10-1-27. Procedure for obtaining a replacement identification card

(a) **General requirements.** Any person requiring a replacement identification card because the card was lost, stolen, or mutilated or because information on the card needs to be changed may request a motor license agent or the Department to issue a replacement, upon presentation of proper identification and payment of the required fee.

(b) **Required identification to replace lost, stolen, or mutilated identification card.** Any person shall provide both primary or secondary identification as prescribed in OAC 595:10-1-3(b)~~.~~ unless the cardholder provides a valid and unexpired Oklahoma driver license which shall serve as both primary and secondary identification for the purposes of renewing the Oklahoma identification card [47 O.S. § 6-106(G)].

(c) **Required identification to change information and replace an identification card.**

(1) **Name change.** Any person who requests a replacement identification card in order to make a name change must comply with the primary and secondary identification requirements prescribed in OAC 595L10-1-3(b) or produce a valid and unexpired Oklahoma driver license [47 O.S. § 6-106(G)] in order to identify the person by his or her former name and with OAC 595:10-1-35 in order to identify the person by his or her new name. The former name shall be entered into the "Alias" field in the identification card database to provide historical information to the Department. The person requesting the name change may retain the old card, if it is available, after the motor license agent or the Department has first punched a hole through the identification number of the card.

(2) **Address change.** Any person who requests a replacement identification card in order to make an address change shall provide both primary and secondary identification as prescribed in OAC 595:10-1-3(b) ~~.~~ unless the cardholder provides a valid and unexpired Oklahoma driver license which shall serve as both primary and secondary identification for the purposes of renewing the Oklahoma identification card [47 O.S. § 6-106(G)]. The person requesting the address change may retain the old card, if it is available, after the motor license agent or the Department has first punched a hole through the identification number of the card. An address change shall be made only to an Oklahoma address.

(3) **Sex change.** The cardholder shall show an original or certified court order for name change, if applicable, and a notarized statement on letterhead from the physician who performed the sex change operation indicating the applicant or licensee has undergone a complete physical sex change. The letter shall state the sex change is "irreversible and permanent". The cardholder shall also show proof of former legal name. The former name shall be entered into the "Alias" filed in the identification card database to provide historical information to the Department. The person requesting the information change may retain the old card, if it is available, after the motor license agent or the Department has first punched a hole through the identification number of the card.

(d) **Change of identification card number.** Use of the cardholder's Social Security number as the identification card number is prohibited.

(e) **Person who may appear before a motor license agent.** An individual who has previously held an Oklahoma identification card may apply directly to a motor license agent for replacement of the previous Oklahoma identification card, upon establishing Oklahoma residence and following the applicable procedure for replacement.

[OAR Docket #15-613; filed 6-18-15]

TITLE 595. DEPARTMENT OF PUBLIC SAFETY
CHAPTER 10. CLASS D DRIVER LICENSES AND IDENTIFICATION CARDS AND MOTOR LICENSE AGENT PROCEDURES

[OAR Docket #15-614]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 3. Examination
595:10-3-7. Knowledge test [AMENDED]
AUTHORITY:
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ANALYSIS:
The Department is making efforts reduce wait times for those applicants applying for, renewing, or replacing driver licenses. Amending this rule will allow the Department to administer the written examination for an Oklahoma driver license on-line, thereby reducing the wait time for those applicants.
CONTACT PERSON:
Kimberly D. Dammen, DPS Legislative Services Manager, Department of Public Safety, 3600 N. Martin Luther King Ave., PO Box 11415, Oklahoma City, OK 73136-0415. Phone: 405.425.2757. E-mail: kdammen@dps.state.ok.us

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 11, 2015:

SUBCHAPTER 3. EXAMINATION

595:10-3-7. Knowledge test

(a) **General.** A knowledge test is administered to each applicant for a driver license to determine the person's ability to read and understand highway signs and the person's knowledge of the traffic laws of this state. The knowledge test, if it is not waived, and the vision test shall be successfully passed by the applicant before the skills test is administered. The knowledge test includes, when applicable, any separate endorsement/restriction test as described in this Section. An applicant determined by an examiner to be cheating on any portion of an examination shall:

(1) immediately forfeit the examination,

(2) be given a failing score by the examiner, and

(3) be disqualified from retaking the examination for one week.

(b) **Class D driver license.** The knowledge test administered for a Class D driver license shall consist of a minimum of twenty (20) multiple choice questions. The minimum passing score for a Class D knowledge test shall be seventy-five percent (75%).

(c) **Alternate method of testing.** The Department may provide an alternate method of testing the knowledge of the individual:

(1) who cannot read or has a language barrier~~.~~, or

(2) by means of online knowledge testing, if an electronic testing process is available and approved by the Department of Public Safety.

(d) **Retesting.** An applicant failing the knowledge, combination, or endorsement test may be granted the opportunity to retest on the next regular business day.

(e) **Discretionary tests.** Tests may be administered as required for the establishment and authorization of special endorsements or of permits for the operation of certain vehicles.

[OAR Docket #15-614; filed 6-18-15]

TITLE 595. DEPARTMENT OF PUBLIC SAFETY
CHAPTER 10. CLASS D DRIVER LICENSES AND IDENTIFICATION CARDS AND MOTOR LICENSE AGENT PROCEDURES

[OAR Docket #15-615]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 11. Certified Schools and Designated Class D Examiners
595:10-11-3. Definitions [AMENDED]
595:10-11-7. Examination requirements and standards [AMENDED]
595:10-11-8. Reexamination upon failure of examination [AMENDED]
595:10-11-9. Driver license applicant [AMENDED]
595:10-11-11. Records to be maintained at the Department [AMENDED]
AUTHORITY:
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ANALYSIS:
595:10-11-3 - This amendment will add "parent-taught" driver education to the definition of "driver education"

595:10-11-7 - This amendment will allow the commercial driver education school to accept the Oklahoma driver license permit or, if the student has lost or is no longer in possession of the permit, allows the student to provide a photo identification along with another form of identification listed under the primary forms of identification found in 595:10-1-3 in order to take the skills examination for an Oklahoma Graduated driver license.

595:10-11-8 and 595:10-11-9 - This amendment allows the designated examiner to conduct the skills examination of a student up to three times before referring that student to the Department of Public Safety for additional skills examination.

595:10-11-11 - This amendment will allow a digital copy to be an acceptable method of retaining the application and subsequent renewal applications for designated examiners.
CONTACT PERSON:
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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 11, 2015:

SUBCHAPTER 11. CERTIFIED SCHOOLS AND DESIGNATED CLASS D EXAMINERS

595:10-11-3. Definitions

In addition to terms defined in 47 O.S. §1-101, et seq., the following words or terms, when used in this Subchapter, shall have the following meaning unless the context clearly indicates otherwise. Use of the singular term includes the plural, and use of the plural term includes the singular.

"Certified driver education instructor" means ~~an instructor~~any qualified person, as defined by 47 O.S. § 801(B) or 70 O.S. § 19-113, et seq., who is currently certified to instruct in a school, providing instruction to, demonstrating to, or supervising students who are seeking a Class D driver license in a school, but shall not include an instructor who instructs for the operation of motorcycles only.

"Department" means the Department of Public Safety.

"Designated examiner" means a certified driver education instructor who has been approved and certified by the Department of Public Safety or State Department of Education to administer driving skills examinations~~,~~ on routes approved by the Department and who is employed by or operating a school.

"Division" means the Driver License Examining Division of the Department.

"Driver education" or **"driver education course"** means

(A) a public secondary school driver education course [70 O.S. §19-113, et seq.],

(B) a parochial, private, or nonpublic secondary school driver education course, certified by the Department of Public Safety, ~~or~~

(C) a commercial driver training course [47 O.S. §801, et seq.]~~.~~, or

(D) a parent-taught driver education course, certified by the Department of Public Safety [47 O.S. § 6-105].

"Examination" means the driving skills examinations for an Oklahoma Class D driver license.

"School" means a:

(A) public school ~~which~~that is a secondary school, as defined in 70 O.S. §1-106, within a school district, as defined in 70 O.S. §1-108, which offers a prescribed secondary school driver education course, as defined by 70 O.S. §19-113,

(B) private school ~~which~~that is a secondary school, including parochial and other nonpublic schools, which offers a driver education course certified by the Department of Public Safety, or

(C) commercial driver training school, as defined in 47 O.S. §801(A).

595:10-11-7. Examination requirements and standards

(a) **Application.** Before an examination may be given to a driver license applicant by a designated examiner, the applicant shall provide a valid Oklahoma learner permit for inspection by the designated examiner and completely fill out and submit to the examiner an Oklahoma skills examination application (DPS Form DL-18-DE) which shall be provided to the applicant by the examiner [see 595:10-11-12]. If the student is no longer in possession of the Oklahoma learner permit, the student shall provide the designated examiner a photo identification along with another form of identification listed under the primary forms of identification found in 595:10-1-3 and a signed, notarized affidavit stating the student is no longer in possession of his or her Oklahoma learner permit. The examiner shall, by electronic means, verify with the Department on the day of the examination that the applicant is eligible to be administered the examination. If the applicant is not eligible, the examiner shall refer the applicant to a Driver License Examiner.

(b) **Standards.** Current minimum standards for the skills examination of applicants for an Oklahoma Class D intermediate license or driver license, as set forth in state statutes and Department rules shall be provided to all designated examiners by the Department.

(c) **Examinations.**

(1) The driving skills examination for an Oklahoma Class D intermediate license or driver license administered by a designated examiner shall:

(A) include all specified maneuvers as required by the Department, and

(B) meet or exceed all requirements of the Department for the Class D driver license.

(2) If an applicant fails a skills examination administered by the designated examiner, the examiner shall immediately notify the Division by electronic means of the failure. The notification shall include, at a minimum, the applicant's:

(A) name and date of birth,

(B) driver license number, if applicable;

(C) score on the failed examination, along with any details of the failure which the examiner deems pertinent to the Department's records.

(d) **Location of examination.** All skills examination shall be administered on the route approved for the designated examiner which shall be a different route than any route used for training the applicant being examined.

(e) **Vehicle used for driving skills examination.** The applicant or parent or legal guardian of the applicant may specify the vehicle in which the driving skills examination is administered. The vehicle shall meet the same requirements as any vehicle which is used for Class D driving skills tests administered by the Department of Public Safety.

(f) **Auditing.** An employee of the Department of Public Safety or the State Board of Education may, at any time and without prior notice, accompany a designated examiner and a driver license applicant while a skills examination is being administered for the purpose of auditing the performance and effectiveness of the designated examiner.

595:10-11-8. Reexamination upon failure of examination

(a) If the driver license applicant fails the skills examination administered by a designated examiner, the designated examiner may administer only ~~one~~two (~~1~~2) subsequent examination to the applicant. The designated examiner shall wait the required amount of time before reexamining the applicant [see 595:10-3-7 and 595:10-3-9]. If the applicant fails the examination ~~two~~three (~~2~~3) times, the designated examiner shall refer the applicant to the Department for any further examination.

(b) The designated examiner shall record each failed examination on the Oklahoma skills examination application (DL-18-DE) [see 595:10-11-12] and the examiner shall immediately notify the Division by electronic means of the failure, as provided in OAC 595:10-11-7(c).

595:10-11-9. Driver license applicant

(a) Any applicant who requests an examination from a designated examiner shall have passed the vision test and shall have enrolled in and successfully completed a driver education course and been issued an Oklahoma learner permit.

(b) Any applicant who does not pass an examination administered by a designated examiner:

(1) shall wait the required amount of time [see 595:10-3-7 and 595:10-3-9] before being reexamined, and

(2) may be given no more than ~~one~~two (~~1~~2) subsequent examinations by any designated examiner. Further examination of the driver license applicant shall be conducted by the Department.

(c) Enrollment in or successful completion of a driver education or training course, or successful passage of an examination administered by a designated examiner does not grant to the driver license applicant the privilege to operate any vehicle and does not ensure that a driver license will be issued to the applicant if the applicant is not otherwise eligible.

(d) No person shall knowingly apply to be administered the skills examination by a designated examiner when the person is not eligible to be issued an Oklahoma driver license.

(e) At its discretion, the Department may retest any applicant for any reason.

595:10-11-11. Records to be maintained at the Department

(a) The following records shall be maintained by the Department at its headquarters for each designated examiner and for each driver education instructor who submitted an application for certification as a designated examiner but was denied certification by the Department:

(1) The original or digital image of the application and all subsequent renewal applications, including investigative reports.

(2) Evidence of approval or denial of the application by the Department.

(3) Annual quality inspection reports.

(4) Complaints received.

(5) Commendations received.

(6) Evidence of violation of any standard, requirement, state statute or Department rule relating to driver license examination.

(7) Correspondence.

(8) Canceled, suspended or revoked certifications.

(9) Individual files of audits.

(b) The Department shall make available to the public upon request a list of all current designated examiners.

[OAR Docket #15-615; filed 6-18-15]

TITLE 595. DEPARTMENT OF PUBLIC SAFETY
CHAPTER 11. COMMERCIAL DRIVER LICENSES

[OAR Docket #15-620]

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RULES:
Subchapter 1. Commercial Driver Licensing
Part 2. Application for Initial Commercial Driver License
595:11-1-12. Procedures for obtaining an initial commercial driver license [AMENDED]
Part 7. Changes to Information Contained on Commercial Driver License
595:11-1-51. Procedure to make a change of name on a commercial driver license [AMENDED]
Subchapter 3. Examination
595:11-3-6. Written examination [AMENDED]
595:11-3-7. Pre-trip inspection examination of commercial motor vehicles [AMENDED]
Subchapter 5. Commercial Driver License Third-Party Examiners
595:11-5-7. Skills examination requirements and standards [AMENDED]
595:11-5-9. Failed examinations and reexamination [AMENDED]
595:11-5-15. Prohibited acts; conduct [AMENDED]
Subchapter 7. Truck Driver Training
595:11-7-3. School licenses and instructor permits [AMENDED]
595:11-7-4. Qualifications for instructors [AMENDED]
595:11-7-13. Requirements for schools and classrooms [AMENDED]
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Part 2. Application for Initial Commercial Driver License
595:11-1-12. Procedures for obtaining an initial commercial driver license [AMENDED]
Part 7. Changes to Information Contained on Commercial Driver License
595:11-1-51. Procedure to make a change of name on a commercial driver license [AMENDED]

Subchapter 3. Examination
595:11-3-7. Pre-trip inspection examination of commercial motor vehicles [AMENDED]
Subchapter 5. Commercial Driver License Third-Party Examiners
595:11-5-7. Skills examination requirements and standards [AMENDED]
595:11-5-9. Failed examinations and reexamination [AMENDED]
595:11-5-15. Prohibited acts; conduct [AMENDED]
Subchapter 7. Truck Driver Training
595:11-7-3. School licenses and instructor permits [AMENDED]
595:11-7-4. Qualifications for instructors [AMENDED]
595:11-7-13. Requirements for schools and classrooms [AMENDED]

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ANALYSIS:
These proposed amendments are to ensure the Department of Public Safety meets Federal Regulations regarding the application process, examination, and issuance of Oklahoma Commercial Driver Licenses. Failure to implement these rules could deem the Oklahoma CDL program in noncompliance and therefore the State could no longer issue any type of Commercial Driver License that would be recognized by other states.

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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 11, 2015:

SUBCHAPTER 1. COMMERCIAL DRIVER LICENSING

PART 2. APPLICATION FOR INITIAL COMMERCIAL DRIVER LICENSE

595:11-1-12. Procedures for obtaining an initial commercial driver license

(a) **Application.** An applicant for an initial Oklahoma commercial driver license shall first appear before a driver license examiner [47 O.S. § 6-110]. An application for a commercial driver license shall be completed by the applicant at the driver license examination station and approved by a driver examiner prior to the commencement of the required examination. Upon submitting a completed and approved application, providing proof of identity [~~see~~ OAC 595:10-1-3(b) ~~regarding required identification documents~~] and proof that the applicant is a United States citizen, foreign national or a legal permanent resident alien [21 O.S.~~,~~ § 1550.42(B)], meeting all statutory requirements, and successfully completing every required examination [see Subchapter 3 of this Chapter relating to examinations], the applicant may then proceed to a motor license agent or the Department of Public Safety, 3600 N. M.L. King, Oklahoma City, and present to the agent or the Department a DL-10 form issued by the driver license examiner, along with the same primary and secondary identification presented to the examiner~~, to the agent or the Department~~, pay the required fees, and be issued a driver license. Upon approval of the application by the Department, the applicant shall surrender to the Department any driver license, whether issued by Oklahoma or by another jurisdiction, currently issued to the applicant.

(b) **Required identification.** ~~Every applicant shall furnish to the driver examiner both primary documentary proof of identity [47 O.S., § 6-106(A)(3)], to include whether the applicant is a United States citizen, foreign national or a legal permanent resident alien [21 O.S., § 1550.42(B)], and secondary documentary proof of identity [47 O.S., § 6-106(A)(3)] and proof of full legal name and birth date beyond any reasonable doubt when applying for an initial Oklahoma driver license [47 O.S. § 6-101(L)]. Complete requirements for identification and the documents which are acceptable for primary and secondary proofs of identity are found in OAC 595:10-1-3(b).~~At the time of application for an initial Oklahoma driver license, every applicant shall provide to the driver examiner:

(1) primary proof of identification [47 O.S. § 6-106(A)(3); OAC 595:10-1-3(b)],

(2) secondary proof of identification [47 O.S. § 6-106(A)(3); OAC 595:10-1-3(b)]

(3) documentation showing whether the applicant is a United States citizen, foreign national or legal permanent resident alien [21 O.S. § 1550.42]. Proof of citizenship or lawful permanent residency shall be met only when the applicant provides [49 C.F.R. § 383.71]:

(A) a United States citizen:

(i) Valid, unexpired U.S. Passport;

(ii) Certified copy of a birth certification filed with a State Office of Vital Statistics or equivalent agency in the individual's State of birth, Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, or the Commonwealth of the Northern Mariana Islands;

(iii) Consular Report of Birth Abroad (CRBA) issued by the U.S. Department of State;

(iv) Certificate of Naturalization issued by the U.S. Department of Homeland security (DHS); or

(v) Certificate of Citizenship issued by DHS.

(B) a lawful permanent resident: valid, unexpired Permanent Resident Card , issued by USCIS or INS.

(4) proof of full legal name,

(5) date of birth,

(6) and proof of Oklahoma residency: utility bill or Government form bearing the name and address of the applicant. Proof of current residence must be shown for initial issuance, transfer, renewal, or upgrade, made after July 8, 2011. [47 O.S. § 6-106(B)].

(c) **Documentation requirements.** Any document furnished must be either a certified or original copy and issued by the proper authority; notarized documents will not be accepted. Any document presented shall be unexpired unless otherwise noted in OAC 595:10-1-3. Any document that has

been or appears to have been duplicated, traced over, mutilated, defaced, tampered with, or altered in any manner or that cannot be read by the Driver License Examiner shall not be accepted or used for identification purposes. All identification documents must be approved by the Examiner before acceptance. The Examiner may, at his or her discretion, request additional identification documentation of the applicant.

(~~c~~d) **Commercial driver license numbers.**

(1) Commercial driver license numbers shall be assigned by computer. Use of the applicant's Social Security number as the commercial driver license number is prohibited [47 O.S. § 6-106(B)].

(2) Any licensee may request to change the numeric characters of his or her commercial driver license number to any nine-digit number by making a written request to the Department. Upon approval by the Department, the licensee shall obtain a replacement commercial driver license from a motor license agent or the Department, and the licensee shall pay the required fee for the replacement license [~~see~~ OAC 595:11-1-31 or OAC 595:11-1-41 ~~regarding replacement commercial driver licenses~~]. The commercial driver license number may be changed no more than two (2) times in any four-year period without prior approval of the Identification Verification Unit of the Department.

PART 7. CHANGES TO INFORMATION CONTAINED ON COMMERCIAL DRIVER LICENSE

595:11-1-51. Procedure to make a change of name on a commercial driver license

(a) **Procedure.** Any licensee may request a change of name on his or her commercial driver license upon providing the appropriate identification, as provided in OAC 595:10-1-3(b), and paying the required fee to a motor license agent or to the Department of Public Safety.

(b) **Name changes allowed.** Name changes must result from either marriage or court action. A licensee requesting a legitimate name change shall submit, without exception, the original document which indicates the name change.

(c) **Documentation required.** A person requesting a name change shall comply with the primary and secondary identification requirements in OAC 595:10-1-3(b) in order to identify the person by his or her former name and OAC 595:10-1-18(c)(1) in order to identify the person by his or her new name and proof of current residence address [OAC 595:11-1-12(b) and 49 C.F.R. § 383.71]. The required documents for a name change shall include:

(1) Court-ordered name change, which shall be in addition to the primary and secondary forms of identification required by OAC 595:10-1-3(b). Only the following types of court orders may be considered when a name change is requested:

(A) divorce decree,

(B) adoption decree,

(C) name change decree, or

(D) establishment of record of birth, pursuant to 63 O.S.~~,~~ § 1-315;

(2) Marriage certificate, which may serve only as the secondary form of identification required by OAC 595:10-1-3(b). The name change shall be to the name signed by the person on the marriage certificate; or

(3) For a common law marriage, "Affidavit of Common Law Marriage" containing the notarized signatures of the husband and wife. ~~Both primary and secondary forms of identification as prescribed in OAC 595:10-1-3(b) must be submitted in addition to this affidavit.~~

(d) **Form of new name.**

~~(1) A name change resulting from marriage shall appear on the commercial driver license in one of the following forms. Provided, no initial shall be used unless it is a legal part of the name of the person; provided further, if any abbreviation is required due to the length of the name, only the Department shall have authority to determine the abbreviation used:~~

~~(A) [Surname of spouse], [first name] [middle name or initial],~~

~~(B) [Surname of spouse], [first name] [former surname or initial],~~

~~(C) [Surname surname of spouse], [first name] [middle name or initial], or~~

~~(D) [Surname of spouse surname], [first name] [middle name or initial].~~

~~(2)~~ A name change resulting from a marriage, court order or divorce decree must appear on the driver license or identification card exactly as stated on the marriage certificate, court order or decree.

(e) **Titles or ecclesiastical names.** Titles or ecclesiastical names shall not be placed on a commercial driver license.

(f) **Retention of information.** The former name shall be entered by the driver examiner into the "Alias" field in the driver license database to provide historical information to the Department.

SUBCHAPTER 3. EXAMINATION

595:11-3-6. Written examination

(a) **General.** A written examination shall be administered by a driver examiner to each applicant for a commercial driver license to determine the applicant's ability to read and understand highway signs and the applicant's knowledge of the traffic laws of this state; provided, the written examination may be waived as provided in OAC 595:11-1-13(a). The written examination, if not waived, and the vision screening shall be successfully passed by the applicant before the skills test is administered. The written examination includes, when applicable, any separate endorsement/restriction examinations as described in this Section. An applicant determined by an examiner to be cheating on any portion of an examination shall:

(1) immediately forfeit the examination,

(2) be given a failing score by the examiner, and

(3) be disqualified from retaking the examination for one week.

(b) **Examination content.**

(1) **Written examination.** The written examination administered for a commercial driver license shall consist of a minimum of fifty (50) multiple-choice questions. In addition, the combination vehicle test administered for a Class A commercial driver license shall consist of a minimum of twenty (20) multiple-choice questions. The minimum passing score for each written examination shall be eighty percent (80%).

(2) **Endorsement or restriction examination.** The minimum number of multiple-choice questions and the minimum passing score for each endorsement or restriction examination shall be as follows:

(A) "P" passenger endorsement - 20 questions - 80% score

(B) "H" hazardous materials endorsement - 30 questions - 80% score

(C) "N" tank vehicle endorsement - 20 questions - 80% score

(D) "M" motorcycle endorsement - 20 questions - 75% score

(E) "S" school bus endorsement - 20 questions - 80% score

(F) "T" double or triple trailers endorsement - 20 questions - 80% score

(G) Air brakes - 25 questions - 80% score. Failure to pass at least 80% of the 25 questions regarding air brakes will result in a restriction code "L" (Vehicle Without Air Brakes) being placed on the applicant's license upon issuance. The applicant shall be prohibited from taking the skills examination in a vehicle with air brakes.

(c) **Alternate method of examination.** The Department may provide an alternate method for the written examination for an applicant who cannot read or has a language barrier.

(d) **Retesting.** An applicant failing the written examination may be granted the opportunity to retest on the next regular business day.

(e) **Discretionary examination.** Any examination, as deemed necessary by the Department, may be administered by the Department as required for the establishment and authorization of a special endorsement or to permit the operation of commercial motor vehicles.

(f) **Commercial learner permit.** Any person eighteen (18) years of age or older may apply for a ~~restricted~~ Class A, B, or C commercial ~~driver license~~learner permit, as provided in 47 O.S. § 6-101(F), solely for the purpose of behind-the-wheel training in a commercial motor vehicle while accompanied by a licensed driver who is twenty-one (21) years of age or older and who holds a valid commercial driver license, including any and all required endorsements, for the class and type of commercial motor vehicle being driven.

(1) The ~~restricted~~ commercial ~~driver license~~learner permit shall be issued as provided for 47 O.S.~~,~~§ 6-101(F)(2). Any person may reapply for another restricted commercial driver license by complying with all requirements for the class of restricted commercial driver license desired.

(2) The Department shall not place a hazardous materials (H) endorsement on a restricted commercial driver license.

(3) A "No Passengers" restriction (restriction code "~~W~~P") shall be placed on any commercial learner permit issued with a "P" or "S" endorsement. The permit holder shall not operate a commercial motor vehicle which carries any passengers [49 C.F.R § 383.25].

(4) An "Empty/Purge Tank" restriction (restriction code "~~W~~X") shall be placed on any commercial learner permit issued with an "N" endorsement. The tank vehicle shall be empty and shall be purged if the tank vehicle contained hazardous materials, and the permit holder shall not operate a commercial motor vehicle with a tank vehicle which is not empty or which has not been purged if the tank vehicle contained hazardous materials. A current and valid purge certificate shall be carried in the vehicle at all times when operated by a driver with a permit [49 C.F.R. § 383.25].

595:11-3-7. Pre-trip inspection examination of commercial motor vehicles

(a) **Condition of vehicle.** It is the responsibility of the applicant to furnish for the skills examination a commercial motor vehicle in good working order which meets all state laws and federal requirements regarding operability and equipment.

(b) **In general.** An applicant for a commercial driver license shall pass a vehicle pre-trip inspection examination at the designated inspection location. The pre-trip inspection test:

(1) shall be performed in a vehicle representative of the vehicle class for the type of commercial driver license for which the applicant is applying,

(2) shall not be performed using a vehicle transporting hazardous materials or a vehicle which is required to be placarded for hazardous materials under the rules of the Department of Public Safety or federal law or regulation,

(3) shall not be performed using a vehicle which requires an oversize permit under state law or Department of Public Safety rules,

(4) shall not be performed using a vehicle that was not designed and constructed by the manufacturer with a seating capacity for one or more persons in addition to the driver, and

(5) shall not be performed with the aid or assistance of notes or prompting. An applicant determined by an examiner to be cheating on any portion of an examination shall:

(A) immediately forfeit the examination,

(B) be given a failing score by the examiner, and

(C) be disqualified from retaking the examination for one week.

(6) shall not be filmed or recorded, unless by the Department of Public Safety.

(c) **Physical pre-trip inspection examination.** The physical pre-trip inspection examination administered for a commercial driver license shall consist of the content and methods provided in the most recent release of the 2005 American Association of Motor Vehicle Administrators CDL test

model. The content is available to the public as provided for in OAC 595:11-3-2.

(d) **Scoring procedure.** The scoring procedure for the vehicle pre-trip inspection examination shall be based on the applicant's ability to identify and fully explain what is being inspected for each item~~the function or purpose of each item~~ required to be inspected. Applicants must successfully identify and explain at least 70% of the inspection items, which will be based upon the type and axle configuration of the vehicle. The Pre-trip shall be timed, giving the applicant forty (40) minutes to complete. The Pre-trip will be considered a fail if not completed within the time allowed. For air brake vehicles, the following actions will constitute an automatic failure:

(1) an air brakes leakage test while the engine is running,

(2) failure to turn the ignition key to the "on" or "accessory" position for air brake bleed down test, or

(3) failure to release the parking brake for air leakage and bleed down test.

SUBCHAPTER 5. COMMERCIAL DRIVER LICENSE THIRD-PARTY EXAMINERS

595:11-5-7. Skills examination requirements and standards

(a) **Eligibility.** To be eligible for a skills examination, a commercial driver license applicant shall successfully complete, prior to the examination, a formal course of instruction, as submitted to and approved by the Department, by the institution where the examination will be administered.

(b) **Application.** Before an examination may be given to an applicant by a third-party examiner, the applicant must completely fill out and submit to the examiner an Oklahoma commercial driver license application (DPS Form DL-18-CT) [~~see~~OAC 595:11-5-13(e)].

(c) **Physical Qualifications.** Prior to any examination, an applicant shall be provided with a copy of the physical qualifications for commercial motor vehicle drivers from the Federal Motor Carrier Safety Regulations [49 C.F.R.§ 391.41].

(d) **Standards.** Current minimum standards for the examination of an applicant for a commercial driver license, as set forth in state statutes, Department rules, and federal regulations, shall be provided by the Department to all certified schools and third-party examiners ~~by the Department~~.

(e) **School bus skills examination requirements.** The school bus skills examination for a commercial driver license administered by a third-party examiner shall:

(1) include all specified school bus maneuvers as required by the Department, and

(2) meet or exceed all requirements of the Department and of the Federal Motor Carrier Safety Act [49 C.F.R. §391] for the class or classes of vehicle for which the applicant desires to be licensed.

(f) **Truck skills examination requirements.** The truck skills examination for a commercial driver license administered by a third-party examiner shall:

(1) include all specified maneuvers as required by the Department [~~see~~ OAC 595:11-3- 9 ~~relating to skills examination~~] and the Federal Motor Carrier Safety Act [49 C.F.R. § 383].

(2) meet or exceed all requirements of the Department and of the Federal Motor Carrier Safety Act [49 C.F.R. § 383].

(g) **Notice of Examination.** ~~At least twenty-four (24) hours prior to any examination to be administered by a third-party examiner, a notice of the examination schedule shall be sent to the CDL Program Administration.~~A notice of the examination schedule shall be submitted electronically through CSTIMS to the CDL Coordinator or his or her designee no later than three (3) business days prior to the initial examination and twenty-four (24) hours prior to a retest that will be administered by a third-party examiner. A third-party examiner shall not administer the skills test to any applicant he or she has instructed in the classroom and/or in behind the wheel training.

(h) **Location of examination.** All examinations shall be administered on the route approved for the certified school employing the third-party examiner.

(i) **Limitation on number of examinations.** Not more than six (6) examinations per day shall be administered by a third-party examiner without prior written consent of the CDL Program Administration.

(j) **Examination reports.** Reports of examination activity by third-party examiners shall be submitted electronically through CSTIMS immediately upon the completion of each examination to the CDL ~~Program Administration~~Coordinator or his or her designee ~~not later than the tenth calender day of the month following the date of examination activity~~.

595:11-5-9. Failed examinations and reexamination

(a) If the commercial driver license applicant fails an examination administered by a third-party examiner, the third-party examiner may administer the examination to the applicant up to two (2) additional times. The third-party examiner shall wait the required amount of time before reexamining the applicant ~~[see 595:11-3-7 and 595:11-3-9]~~. If the applicant fails the examination three (3) times, the third-party examiner shall refer the applicant to the Department for any further examination.

(b) The third-party examiner shall:

(1) record each failed examination on application form DL-18-CT [~~see~~OAC 595:11-5-13(e)]; ~~and~~

(2) within twelve (12) hours~~, notify the Driver License Examining Division, CDL Help Desk, of the Department at (405) 425-2020 to report each failed examination.~~ of examination, each failed exam must be reported to the Department:

(A) during normal business hours:

(i) by calling the CDL Help Desk at 405.425.2020, or

(ii) by emailing the CDL Coordinator or his or her designee, and (iii) electronically through CSTIMS immediately upon completion of each exam.

(B) after normal business hours:

(i) by emailing the CDL Coordinator or his or her designee, and

(ii) electronically through CSTIMS immediately upon completion of each exam.

(3) not administer a reexamination the same student that has failed any part of the examination until the next business day unless the student has failed the examination three (3) times. The Third-party examiner will refer the student to the Department of Public Safety for the fourth examination.

595:11-5-15. Prohibited acts; conduct

(a) **Certified schools - prohibited acts.** A certified school shall not:

(1) permit to be used any form of alcoholic beverage or drugs in, on or about the school premises, including the examination route, or in any commercial motor vehicle being used for the purpose of administering a skills examination,

(2) require or permit the administration of an examination to any commercial driver license applicant with any physical handicap~~,~~. The third-party examiner shall direct these individuals to a Department Examiner.

(3) require or permit the administration of an examination to any person who has not enrolled in and successfully completed a course at the school, as submitted to and approved by the Department~~,~~. ~~at the school,~~ The third party examiner shall not administer the skills test to applicants he or she has instructed in the classroom and/or in behind the wheel training.

(4) require or permit any person other than a third-party examiner employed by the school to administer any examination,

(5) require or permit the administration of an examination in a vehicle required to be placarded for hazardous materials, or

(6) commit or omit any act which constitutes a violation of any of the rules of this Subchapter or the laws of this state or federal regulations governing third-party examiner certification.

(b) **Third-party examiner - prohibited acts.** A third-party examiner shall not:

(1) use or permit to be used any form of alcoholic beverage or drugs in, on or about the school premises, including the examination route, or in any commercial motor vehicle being used for purpose of administering a skills examination,

(2) administer an examination to any commercial driver license applicant with any physical handicap,

(3) administer an examination to any person who has not enrolled in and successfully completed a course at the certified school employing the third-party examiner, as submitted to and approved by the Department, ~~at the certified school employing the third- party examiner,~~

(4) administer an examination to any person who has not been issued and does not possess ~~an Oklahoma restricted~~a commercial ~~driver license~~learner permit (issued at least fourteen (14) days prior to the date of the examination) for the class of vehicle in which the examination is to be given,

(5) administer an examination in a vehicle required to be placarded for hazardous materials.

(6) administer an examination to any person related by consanguinity (by blood relation) or affinity (by marriage) within the third degree, or to any person who is not enrolled in or has enrolled in and completed a course of study, as defined in OAC 595:11-7-2 from the school which employs the examiner.

(7) accept any present or favor from an applicant or any other person who has or may have an interest in the outcome of an examination, or accept any employment which represents a conflict of interest to the examination process,

(8) use the third-party examiner position for any personal advantage, or

(9) commit or omit any act which constitutes a violation of any of the rules of this Subchapter or the laws of this state or federal regulations governing third-party examiner certification.

(10) administer the skills test to applicants he or she has instructed in the classroom and/or in behind the wheel training.

(11) administer an examination to any student that is not enrolled in or has completed a course of study as defined in OAC 595:11-7-2 from the third-party examiner's employing school.

(c) **Third-party examiner - conduct.** A third-party examiner shall:

(1) Recognize that his or her position is of the highest public trust and that, on the wisdom of his or her decision, the lives of many people may depend,

(2) Impartially administer all official duties without regard to race, creed, position, or influence, according no applicant more favorable treatment than any other,

(3) Conduct each examination in a manner which reflects:

(A) its importance to society,

(B) its seriousness to the individual, and

(C) the unquestioned competence of the examiner,

(4) Exercise only the legal authority as has been duly vested in the position of a third- party examiner, and

(5) Fully appreciate and fulfill the responsibilities of his or her certification in order to strengthen public confidence in the training and examination of commercial driver license applicants.

SUBCHAPTER 7. TRUCK DRIVER TRAINING

595:11-7-3. School licenses and instructor permits

(a) **In general.** A school license shall be required for schools who offer instruction to entry-level truck driver trainees who do not possess a valid commercial driver license. An instructor permit shall be required for instructors who teach truck driver training. ~~[47 O.S. § 6-105.2 and 47 O.S. § 801]~~

(1) **Schools - original application.**

(A) All applications for an original school license shall be made on a form provided by the Department. The term of each original school license shall be for a period of ~~three~~one (1) year.

(B) Each application for an original school license shall be accompanied by:

(i) a fee of Twenty-five Dollars ($25.00), which shall be paid to the Department by money order, cashier's check, or business/personal check,

(ii) a schedule of fees and charges,

(iii) a certificate of insurance from a company licensed to conduct business in this State certifying proper commercial insurance coverage,

(iv) the make, model and vehicle identification number of each commercial motor vehicle used for training purposes, and

(v) a sample copy of each type of contract or agreement which the school may enter into with students.

(C) No license fee shall be refunded in the event the license is rejected, suspended or revoked by the Commissioner of Public Safety.

(D) All applications shall be approved by the Department before a school shall be permitted to open for business.

(E) Every operator of a school shall be required to have an instructor permit.

(F) Application for a school license may be obtained:

(i) upon request by mail from the Department of Public Safety, CDL Program Administration, P.O. Box 11415, Oklahoma City, Oklahoma 73136-0415, or

(ii) on the world wide web at www.dps.state.ok.us/forms

(G) All schools shall meet the requirements of OAC 595:11-7-13.

(2) **Schools - renewal application.**

(A) All applications for a renewal school license shall be made on a form provided by the Department of Public Safety. The term of each renewal school license shall be for a period of ~~three~~one (1) year.

(B) Each application for a renewal school license shall be accompanied by:

(i) a fee of Twenty-five Dollars ($25.00), which shall be paid to the Department by money order, cashier's check, or business/personal check,

(ii) a schedule of fees and charges, if any changes have been made since the last license issuance,

(iii) a certificate of insurance from a company licensed to conduct business in this State certifying proper commercial insurance coverage,

(iv) ~~a current list of commercial motor vehicles used for training purposes,and~~ the make, model and vehicle identification number of each commercial motor vehicle used for training purposes, and

(v) a sample copy of each type of contract or agreement which the school may enter into with students.

(C) All application forms for renewal school licenses shall be mailed by the Department to each school no later than October 1 ~~of the expiration~~every year. Each school desiring to renew shall submit an application to the Department no later than November 15 of ~~the~~each year~~ of expiration~~. If application for renewal is not received by the required date and the Department is unable to process and approve the application by December 31 ~~of the year of expiration~~, the commercial school shall cease operation on January 1 of the year following year ~~of expiration~~ and shall not resume operation until the application for renewal is processed and approved by the Department.

(3) **Instructors - original applications.**

(A) All applications for an original instructor permit shall be made on a form provided by the Department. The term of an original instructor permit shall be for a period of no more than ~~three~~one (1) year. An instructor shall make application for each school location where he or she will be instructing. An instructor permit for a particular school shall become invalid upon termination of employment with that school. If an instructor accepts employment with another school or schools, an instructor permit shall not be transferable, and the instructor shall apply for an original license for each school where he or she is ~~a new employee~~employed.

(B) Each application for an original instructor permit shall be accompanied by:

(i) documentation required by OAC 595:11-7-4, and

(ii) a fee of Five Dollars ($5.00), which shall be paid to the Department by money order, cashier's check, or business/personal check. If the instructor is licensed at multiple schools with the same owner, only one (1) fee of Five Dollars ($5.00) shall be paid. If the instructor is licensed at multiple schools with different owners, a fee of Five Dollars ($5.00) shall be paid for each school with a different owner.

(4) **Instructors - renewal applications.**

(A) All applications for a renewal instructor permit shall be made on a form provided by the Department. The term of each renewal instructor permit shall be for a period of ~~three~~one (1) year. An instructor shall make application for each school location where he or she will be instructing. An instructor permit for a particular school shall become invalid upon termination of employment with that school. If an instructor accepts employment with another school or schools, an instructor permit shall not be transferable, and the

instructor shall apply for an original license for each school where he or she is a new employee.

(B) Each application for a renewal instructor permit shall be accompanied by:

(i) documentation required by OAC 595:11-7-4, and

(ii) a fee of Five Dollars ($5.00), which shall be paid to the Department by money order, cashier's check, or business/personal check. If the instructor is licensed at multiple schools with the same owner, only one fee of Five Dollars ($5.00) shall be paid. If the instructor is licensed at multiple schools with different owners, a fee of Five Dollars ($5.00) shall be paid for each school with a different owner.

(C) Any instructor who allows his or her instructor permit to lapse or expire without renewal shall reapply as if for an original instructor permit.

595:11-7-4. Qualifications for instructors

An ~~instructors~~instructor employed by a school shall submit to the Department of Public Safety, upon application, proof of the following:

(1) ~~being current employed~~current employment by a school which offers a prescribed course of study;

(2) possessing a valid Oklahoma commercial driver license, with proper class and endorsements commensurate with type or types of vehicles and endorsements which are the subject of instruction;

(3) being at least twenty-one (21) years of age;

(4) having never been convicted of a felony as evidenced by ~~an Oklahoma State Bureau of Investigation criminal background check conducted within the immediately preceding thirty (30) days or, if the applicant has not lived in Oklahoma for the immediately preceding five (5) years, a criminal background check from the agency responsible for keeping criminal history in the state or states of residence for the immediately preceding five (5) years~~ a national criminal background check certified within the immediately preceding thirty (30) days;

(5) if applicable, having driving privileges reinstated for at least twelve (12) months, if driving privileges were suspended, canceled, revoked, denied, or disqualified for a driving-related conviction or for Department action related to driving under the influence or driving while impaired. If driving privileges are suspended, canceled, revoked, denied, or disqualified only for a non-driving-related conviction or reason, the applicant shall be eligible immediately upon reinstatement of driving privileges;

(6) having not been convicted of misdemeanor possession or use of alcohol or drugs within the past twelve (12) months;

(7) having not more than five (5) point violations on the driving record;

(8) having no administrative action pending at the Department pursuant to 47 O.S. ~~"~~§§ 753, 754, or 754.1;

(9) having a high school diploma or general education diploma; and

(10) having three (3) years verifiable driving experience in the type of vehicle or vehicles used by the school for instructional purposes.

595:11-7-13. Requirements for schools and classrooms

(a) **Location and classroom facility of schools.** The school shall:

(1) have at least one (1) permanent classroom. Each classroom shall be used exclusively for classroom instruction during the time of instruction. A classroom shall not be located in:

(A) a residence or residential facility or complex,

(B) a motor vehicle, or converted motor vehicle,

(C) a hotel or motel, or

(D) any other facility which has a bar, lounge, or other business which sells alcohol for public consumption on the premises;

(2) display its current and valid school license in the licensee's principal place of business at all times when classes are in session. The license or a copy of the license shall also be made available for inspection to students or prospective students;

(3) comply with local municipal ordinances regarding lighting, heating, ventilation, and restroom facilities; and

(4) have adequate room for equipment such as chalkboard, projector, tables and chairs for the number of students enrolled in the class being taught ~~at the time~~.

(b) **Advertising.**

(1) No school shall use or conduct any business under any name other than its fully licensed name.

(2) A sign reading "This school is licensed by the Department of Public Safety, State of Oklahoma" or similar language may be displayed on the school premises.

(3) The school may place language such as "This school is licensed by the Department of Public Safety, State of Oklahoma" in any advertisements and publications of the school. However, a school may not use advertisement or publicity that states or implies that the school is specifically or uniquely recognized, recommended, or endorsed, or directly supervised by the Department of Public Safety.

(4) No fraudulent or deceptive statements, promotions, or fee incentives shall be used on any sign or in advertisement, whether written or oral.

(5) No school shall advertise, by any means, or otherwise state or imply that a commercial driver license or permit is guaranteed or assured to any student or individual who will take or complete any instruction offered by the school.

(c) **Agreements and schedule of fees.**

(1) A sample copy of each type of contract or agreement which the school may enter into with students shall be submitted to the Department with the application for an original or renewal license.

(2) Prior to enrollment or payment of fees, each prospective student shall be provided the following information, in writing:

(A) the type of instruction offered, whether classroom or behind-the-wheel, or both;

(B) the length of the course of study and the length of each lesson;

(C) the ~~rate~~cost of the course of study, or the ~~rate~~cost per lesson, as applicable to the fee structure of the school;

(D) the ~~rate~~cost to lease a~~for use of~~ commercial motor vehicle ~~leased~~ from the school for the purpose of taking the skills examination~~, if extra charge is made~~;

(E) the terms of payment and disclosure of any interest charged;

(F) a statement indicating the specific date and time when instruction is to start.

(3) The complete schedule of fees shall be posted in easy view of students and prospective students.

(4) If any school fails to comply with the provisions of this Subchapter, the school shall refund, on a prorated basis, all monies collected from the student.

(d) **Records to be maintained.**

(1) Each school shall maintain a permanently bound book with pages consecutively numbered or a computer spreadsheet, setting forth the name of the school; the name of each student; the contract or agreement number for each student; the type and date of instruction given, whether classroom or behind-the-wheel, for each student. If written, all entries shall be made in ink. This record shall be on a daily time sheet form approved by the Department and initialed by each student for verification.

(2) All student instruction records~~,~~ for classroom and behind-the-wheel instruction and ~~including~~ a duplicate copy of each contract or agreement entered into between the school and the student (the original shall be given to the student) shall be kept on file in the office of each school for a period of three (3) years after the student has concluded instruction at or with the school. Each school shall furnish the student, if requested, an exact copy of his or her instruction record when all of the contracted courses are completed or the student otherwise ceases taking instruction at or with the school. If a school discontinues doing business, the school shall send to the Department a roster of all students who attended the school during the immediately preceding three (3) years, with each student identified as to whether the student successfully completed or did not successfully complete the course of study.

(3) The student instruction record shall contain a copy of a receipt for any monies paid to the school by the student. The receipt shall contain:

(A) The name of the school.

(B) The name of the student.

(C) The date of payment.

(D) The amount of payment.

(E) The signature of the person receiving the payment.

(4) The student instruction record ~~file~~ maintained by the school shall be available at all times for inspection and/or copying by an authorized representative of the Department of Public Safety.

(5) ~~**Completion certificates.**~~ A copy of the student's completion certificate, in a preprinted format prescribed by the Department, shall be provided and issued by the school to each student upon the successful completion of course work (both classroom and behind-the-wheel). The certificate shall contain, at a minimum, the following:

(A) Name of the school;

(B) Full legal name of student;

(C) Number of total hours of instruction (optional)

(D) Date of completion;

(E) Signature of administrator (a stamped signature is acceptable).

(6) Medical examiner's certificate.

(7) Copy of the student's valid driver license and commercial learner permit.

(8) Copy of proof of Oklahoma residency: utility bill or Government form bearing the name and address of the student.

[OAR Docket #15-620; filed 6-18-15]

TITLE 595. DEPARTMENT OF PUBLIC SAFETY
CHAPTER 11. COMMERCIAL DRIVER LICENSES

[OAR Docket #15-619]

RULEMAKING ACTION:
PERMANENT final adoption

RULES:
Subchapter 1. Commercial Driver Licensing
Part 2. Application for Initial Commercial Driver License
595:11-1-13. Application by person licensed by another jurisdiction [AMENDED]
Part 3. Commercial Driver License Renewal - In Person
595:11-1-21. Procedure for obtaining a renewal commercial driver license in person [AMENDED]
Part 6. Renewal or Replacement - Not In Person [REVOKED]
595:11-1-41. Renewal or replacement - not in person [REVOKED]
Part 9. Commercial Driver License Card Content
595:11-1-61. Information displayed on commercial driver licenses [AMENDED]
Subchapter 3. Examination
595:11-3-2. Study guide [AMENDED]
595:11-3-9. Automatic failure of skills examination [AMENDED]
Subchapter 5. Commercial Driver License Third-Party Examiners
595:11-5-3. Definitions [AMENDED]
595:11-5-4. Requirements for certification as a certified school; display of certificate; certification renewal [AMENDED]
595:11-5-11. Records to be maintained by certified schools and third-party examiners [AMENDED]
Subchapter 7. Truck Driver Training
595:11-7-5. Review of permitted instructors and licensed schools [AMENDED]
595:11-7-10. Specification for commercial motor vehicles [AMENDED]

AUTHORITY:
Commissioner of Public Safety; 47 O.S. § 6-101, et seq.

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ANALYSIS:
Amendments to these rules are for clarification and to meet federal standards.
CONTACT PERSON:
Kimberly D. Dammen, DPS Legislative Services Manager, Department of Public Safety, 3600 N. Martin Luther King Ave., PO Box 11415, Oklahoma City, OK 73136-0415. Phone: 405.425.2757. E-mail: kdammen@dps.state.ok.us

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 11, 2015:

SUBCHAPTER 1. COMMERCIAL DRIVER LICENSING

PART 2. APPLICATION FOR INITIAL COMMERCIAL DRIVER LICENSE

595:11-1-13. Application by person licensed by another jurisdiction

(a) Any person who holds a valid commercial driver license to operate a motor vehicle equivalent to a Class A, B or C commercial motor vehicle, as defined by 47 O.S. §§ 1-107.1 through 1-107.3, issued by another state, as defined in 47 ~~OS~~O.S. § 1-168, may have the written or skills examination, or both, required in 47 O.S. § 6-110 waived; provided, an applicant applying for a hazardous materials endorsement shall take the required examination.

(b) Upon approval of the application by the Department, the applicant shall surrender to the Department the driver license from the other state, and the Department shall issue to the person a commercial driver license [47 O.S. § 6-101] if the applicant is otherwise eligible.

(c) The Department may cancel the Oklahoma commercial driver license of the person, whereupon the person shall surrender the commercial driver license to the Department [47 O.S. § 6-201(A)]~~,~~ for any of the following reasons.

(1) The driving record is not available from the other jurisdiction.

(2) The driving record is not forwarded from the other jurisdiction within ~~ninety~~thirty (30) days of the application.

(3) The driving record indicates any type of withdrawal of driving privileges.

(4) Information is received by the Department that the surrendered license was inappropriately or erroneously issued to the person; provided, the Department shall first attempt to resolve with the person the underlying cause for the inappropriate or erroneous issuance.

PART 3. COMMERCIAL DRIVER LICENSE RENEWAL - IN PERSON

595:11-1-21. Procedure for obtaining a renewal commercial driver license in person

(a) **General requirements.** During the month of expiration or as provided in (d) of this Section, each licensee shall present proper identification and pay the required fee to a Motor License Agent or to the Department of Public Safety for renewal of the commercial driver license~~ of the licensee~~. Failure to renew a commercial driver license by the end of the month of expiration shall not relieve the person of the obligation to renew his or her commercial driver license under the provisions required by law and this Section if the person wishes to keep his or her commercial driver license in force.

(b) **Required identification.**

(1) **Renewal with expiring or expired commercial driver license.** The expiring or expired commercial driver license provided as the primary identification may be retained by the licensee, after the Department has invalidated the document by punching holes through the license class and license type displayed. The person shall provide secondary identification as prescribed in OAC 595:10-1-3(b)(2).

(2) **Renewal without driver license.** Any person who does not have the expiring or expired commercial driver license shall provide both primary and secondary identification as prescribed in OAC 595:10-1-3(b).

(c) **Vision screening.** Persons holding a commercial driver license shall, upon renewal, meet the vision standards established in OAC 595:10-5-7 and 49 C.F.R., §391.41. ~~A valid and unexpired United States Department of Transportation medical examiner's certificate (USDOT physical) may be submitted in lieu of actual vision screening by the Department.~~

(d) **Limitations to issuance of a renewal commercial driver license.**

(1) A renewal commercial driver license shall be issued only to an individual whose driving privilege is not under suspension, revocation, disqualification, cancellation, or denial and who complies with this Chapter, state law, and federal law and regulation.

(2) Any applicant who requests a renewal of his or her commercial driver license when the license has been expired in excess of three (3) years shall be required to appear before a driver license examiner, pursuant to OAC 595:11-1-11 as for an original license.

(e) **Early renewal of a commercial driver license.** Any licensee may renew his or her commercial driver license no more than one (1) year prior to the expiration date. A renewal which occurs more than one (1) year prior to the expiration date shall be treated as a replacement under the provisions of OAC 595:10-1-18.

(f) **Change of commercial driver license number.** A request by a licensee to change the commercial driver license number shall conform to the provisions of OAC 595:11-1-12(c).

PART 6. RENEWAL OR REPLACEMENT - NOT IN PERSON [REVOKED]

595:11-1-41. Renewal or replacement - not in person [REVOKED]

~~(a) Any Oklahoma commercial driver license holder may apply to the Department of Public Safety to renew or replace his or her commercial driver license without appearing in person as provided in this Section.~~

~~(b) The commercial driver license holder shall make application in writing to the Department and shall submit to the Department:~~

~~(1) copies of documentary evidence of the applicant's name, date of birth and medical qualification as required by OAC 595:11-1-21 and OAC 595:10-5,~~

~~(2) the applicant's commercial driver license number,~~

~~(3) the applicant's address; provided, if the address is different than the address on record at the Department, the application for renewal or replacement without appearing in person shall be denied by the Department,~~

~~(4) the number of a nationally recognized credit card and authorization for the required fee for the renewal or replacement commercial driver license to be paid for the applicant to the Department using the credit card; provided, payment may be made by check if the application for renewal or replacement commercial driver license is submitted by mail.~~

~~(5) the applicant's signature.~~

~~(c) Submission of the items required in (b) shall be made in one of the following manners:~~

~~(1) on the internet at www.dps.state.ok.us/cdlreplacement/, or~~

~~(2) by mail to: Department of Public Safety, PO Box 11415, Oklahoma City, OK 73136; provided, payment may be made by check if the application for renewal or replacement commercial driver license is submitted by mail.~~

~~(d) If the Department approves the renewal or replacement commercial driver license without appearing in person, pursuant to the requirements of this chapter, and:~~

~~(1) if the digital photograph and digital signature of the applicant are available from the files of the Department, the Department shall create the renewal or replacement commercial driver license using that photo and signature, or~~

~~(2) if digital photograph and digital signature of the applicant are not available from the files of the Department, the Department shall not create the renewal or replacement commercial driver license.~~

~~(e) The Department shall mail the renewal or replacement commercial driver license only to the address of record of the commercial driver license holder.~~

~~(f) If the Department denies the renewal or replacement commercial driver license to the applicant pursuant to this Section, the Department shall notify the applicant in writing of the denial, the reason for the denial, return any payment submitted by the applicant, and the applicant shall be required to appear in person for the renewal or replacement commercial driver license.~~

~~(g) A renewal or replacement commercial driver license without appearing in person shall be approved only when the immediately previous renewal or replacement was in person.~~

~~(h) Upon successful processing of the renewal or replacement application, the Department shall charge the replacement fee to the credit card submitted by the applicant or deposit the check submitted by the applicant.~~

PART 9. COMMERCIAL DRIVER LICENSE CARD CONTENT

595:11-1-61. Information displayed on commercial driver licenses

Each commercial driver license shall display the following information about the person to whom the license was issued [47 O.S. §§ 6-111(A) and 6-106(B)]:

(1) ~~digitized color photograph~~color photograph or computerized image of the licensee,

(2) full legal name in the order [last], [first] [middle]. No initial shall be used unless the initial is a part of the legal name of the person. If any abbreviation is required due to the length of the name, only the Department of Public Safety shall have authority to determine the abbreviation used,

(3) current residence address or mailing address,

(4) signature,

(5) sex,

(6) date of birth,

(7) weight,

(8) height,

(9) color of eyes,

(10) driver license class,

(11) driver license number,

(12) driver license issue date,

(13) driver license expiration date,

(14) any driving restriction code(s) (if applicable),

(15) any driver license endorsement(s) (if applicable),

(16) date upon which the person reaches twenty-one (21) years of age and the words "UNDER 21" [47 O.S. §6-101.1(A)] (if applicable), and

(17) organ donor indicator (if applicable).

SUBCHAPTER 3. EXAMINATION

595:11-3-2. Study guide

The official study guide for applicants shall be the "Commercial Driver's Manual", which is distributed by the Department of Public Safety. Copies are available free of charge:

(1) ~~from motor license agencies~~Driver License Examination stations,

(2) by mail from: Department of Public Safety, Commercial Driver License Program Administration, P.O. Box 11415, Oklahoma City, Oklahoma 73136-0415,

(3) in person at the Department of Public Safety, Commercial Driver License Program Administration, 3600 North M. L. King Avenue, Oklahoma City, or

(4) from the Department's website at http://www.dps.state.ok.us/dls/.

595:11-3-9. Automatic failure of skills examination

An occurrence of any of the following will result in the automatic failure of the skills examination by the applicant:

(1) **Seat belt not in use.** Applicant failed to use the seat belt. The seat belt shall be properly adjusted and fastened before the vehicle enters a public roadway.

(2) **Moving traffic violation.** Applicant received a traffic citation for a moving violation during the skills examination.

(3) **Disobey sign or signal.** Applicant ignored or did not obey sign or signal.

(4) **Speed.** Applicant sped more than five (5) miles per hour over the posted speed limit or the lawful speed limit for the vehicle being driven.

(5) **Fail to stop.** Applicant rolled through stops or failed to stop.

(6) **Fail to yield.** Applicant did not yield to other road users (pedestrians, vehicles, etc.). Applicant did not appropriately yield the right-of-way to pedestrians or other vehicles during driving maneuvers.

(7) **Left of center.** Applicant drove left of center (except when needed to perform a turn safely, or any other lawful reason).

(8) **School bus endorsement.** Commit any of the following in the procedures for pickup or discharge of students established by the State Department of Education ("SDE"):

(A) Fail to activate amber warning lights before stop

(B) Fail to set park brake and/or fail to shift to neutral

(C) Use hand outside the bus to direct students

(D) Fail to make final check of crossover mirrors before the bus is set in motion

(9) **School bus endorsement, passenger endorsement, or hazardous materials endorsement.** Commit any of the following:

(A) Fail to stop vehicle at most fifty (50) feet and no less than fifteen (15) feet from first rail of railroad tracks.

(B) Shift gears while crossing railroad track.

(C) Vehicle in motion with door open or unnecessarily impeding traffic.

(10) **Avoidable crash or incident; dangerous act.** Commit any of the following:

(A) Applicant was involved in an avoidable crash or accident.

(B) Applicant's vehicle had physical contact with other vehicles, objects, pedestrians, etc.

(C) Applicant commits any act or omission that creates a dangerous or unsafe traffic environment (near accidents, etc.).

(D) Drivers of other vehicles or pedestrians were forced to take evasive actions.

(E) Applicant's actions force examiner to take verbal or physical control of the vehicle.

(11) **Put vehicle over sidewalk or curb.** Driver put vehicle over curb or sidewalk unnecessarily.

(12) **Improper backing.** Driver opens door and leans out of cab during backing maneuver.

(13) **Weighted offenses.** Accumulation of four (4) or more of any of the following offenses in any combination:

(A) Failure to use turn signal

(B) Failure to turn on headlamps (if required)

(C) Coasting on a downgrade (gears in neutral or clutch disengaged)

(D) Consistently exceed speed limit

(E) Proceed through intersection on yellow light when applicant could have stopped without creating a dangerous situation.

(14) **Violation of time limit for Pre-trip.** Applicant does not complete the full pre-trip within forty (40) minutes.

(15) **Violation of time limit for Basic Control Skills ("BCS").** Applicant does not complete each BCS maneuver within ten (10) minutes.

SUBCHAPTER 5. COMMERCIAL DRIVER LICENSE THIRD-PARTY EXAMINERS

595:11-5-3. Definitions

In addition to terms defined in 47 O.S.~~,~~ § 1-101, et seq., the following words or terms, when used in this Subchapter, shall have the following meaning unless the context clearly indicates otherwise. Use of the singular term includes the plural, and use of the plural term includes the singular.

"Certified school" means a school district or technology center school approved by the Department of Public Safety to provide, on the premises of the school, the driving skills examinations for Oklahoma commercial driver licenses.

"Commercial driver license" means an Oklahoma Class A, B, or C commercial driver license, as defined in 47 O.S.~~,~~ § 6-101.

"Commercial motor vehicle" means a Class A, B, or C commercial motor vehicle, as defined in 47 O.S.~~,~~ §§ 1-107.1, 1-107.2 or 1-107.3, used for training students.

"Department" means the Department of Public Safety.

"Driver training instructor" means an employee of a certified school who has been approved by the State Board of Education to teach school bus driver training courses, or has

been approved by Oklahoma Board of Career and Technology Education to teach truck driver training courses, or who has the appropriate approval to teach both courses.

"Examination" means the skills portion of the examination for a commercial driver license which shall test the ability of the applicant to operate a commercial motor vehicle and shall be administered on the premises of a certified school by a third-party examiner employed by that school. "Examination" shall also mean:

(A) an examination to upgrade the current commercial driver license of a driver license applicant, or

(B) an examination to remove restriction code "~~V~~L" from the current commercial driver license of a driver license applicant.

"Federal Motor Carrier Safety Administration" means the United States Department of Transportation Office of Motor Carrier Safety, 300 N. Meridian, Suite 106 North, Oklahoma City, Oklahoma 73107, (405) 605-6047.

"School district" means a school district, as defined in 70 O.S.~~,~~ § 1-108, which has at least one secondary school, as defined in 70 O.S.~~,~~ §1-106, which offers a school bus driver training course approved by the State Board of Education.

"Technology center school" means a technology center school within a technology center school district, established pursuant to Section 9B of Article X of the Oklahoma Constitution, and operated in accordance with the rules of the Oklahoma Board of Career and Technology Education which offers a school bus driver training course approved by the State Board of Education or a truck driver training course approved by the State Board of Education.

"Third-party examiner" means a driver training instructor employed by a certified school who has been approved by the Department of Public Safety to administer, on the premises of the certified school employing the instructor, the examination, as defined in this Section, for a commercial driver license. A third-party examiner is not and shall not be construed or purported, either explicitly or by implication, to be an employee of the Department of Public Safety.

595:11-5-4. Requirements for certification as a certified school; display of certificate; certification renewal

(a) **Requirements and application for certification.** A school district or technology center school may apply for certification as a certified school. The applying school shall meet the following requirements:

(1) Be actively enrolling students and teaching a formal course of instruction for school bus drivers training as approved by the State Board of Education or truck driver training as approved by the Oklahoma Board of Career and Technology Education.

(2) Obtain and possess written approval to make application for and be, if approved, a certified school from:

(A) the State Board of Education, if the school is a school district, or

(B) the Oklahoma Board of Career and Technology Education, if the school is a technology center.

(3) Submit an application to the Department on a form prescribed by the Department [~~see~~OAC 595:11-5-13].

(4) Have its on-site examination route or routes examined and approved by an employee of the Department. A route:

(A) shall start and end on the premises or property of the certified school, unless otherwise approved by the Department,

(B) shall meet all state and federal requirements,

(C) shall not be altered or changed in any manner without first being examined and approved by the Department,

(D) shall not be replaced by an alternate route unless the alternate route is first examined and approved by the Department. If, during the course of the examination, it is determined that any of the approved routes could not be followed, the third-party examiner shall notify the Department in writing the same day the test is administered~~assoon as possible~~ as to the reason for the change in route,

(E) shall not be used to conduct training or practicing for the examination, and

(F) shall be configured to be at least seventy-five percent (75%) different from any route used for training or practicing.

(5) Agree to:

(A) meet minimum examination standards required by the Department and by the Federal Motor Carrier Safety Regulations [49 C.F.R. ~~:~~Part 383];

(B) allow access to school facilities by the Department and by the Federal Motor Carrier Safety Administration for the purpose of monitoring examinations and examining records;

(C) comply with the Oklahoma Open Records Act [51 O.S., ~~:~~§ 24a.1, et seq.] with regard to records kept pursuant to this Subchapter;

(D) maintain security of examination documents and related material as deemed necessary by the Department;

(E) ensure all examinations are administered by a third-party examiner;

(F) ensure third-party examiners administer the examination only to driver license applicants who:

(i) have enrolled in and successfully completed a formal course of instruction, as submitted to and approved by the Department, at the institution where the third-party examiner is employed and certified, and

(ii) have ~~an Oklahoma restricted~~ commercial ~~driver license~~learner permit and ~~Oklahoma Class D~~ driver license issued by Oklahoma. The commercial learner permit must be issued at least fourteen (14) days prior to testing;

(G) ensure no person acts as a third-party examiner without current certification from the Department;

(H) provide immediate written notification to the Department of any impropriety or misconduct of any third-party examiner employed by the school;

(I) acknowledge that the Department reserves the right to take prompt and appropriate remedial action against the certification of any school or of any third-party examiner in the event that the school or the third-party examiner fails to comply with:

(i) any state law, Department rule, or federal regulation regarding the examination of an applicant for a commercial driver license, or

(ii) any terms of the appropriate memorandum of understanding or of a subsequent contract or agreement entered into pursuant to the memorandum of understanding;

(J) maintain records of all third-party examiners employed by the school and copies of all documents relating to examinations administered for a period of not less than three (3) years; provided, if a school discontinues doing business, the school shall send to the Department a roster of all students who were administered examinations by the school during the immediately preceding three (3) years;

(K) immediately notify the Department by telephone, followed by written notification within five (5) days, of the termination of employment of any third-party examiner. The official seal of the Department, and the certificate and identification card issued by the Department to the third-party examiner shall be returned to the Department with the written notification;

(L) immediately notify the CDL Coordinator within the Commercial Driver License Program Administration of the Department by telephone or first-class mail of every fraudulent application made to obtain a commercial driver license; and

(M) acknowledge that the Department reserves the right to randomly reexamine applicants tested by third-party examiners for purposes of quality assurance.

(b) **Certification.** Upon acceptance and approval by the Department of the application for certification from a school district or technology center school, or upon acceptance and approval by the Department of the application for renewal of certification from a certified school, and upon completion to the satisfaction of the Department by the school of all other requirements for certification, the Department shall provide the certified school with a certificate evidencing approval by the Department as a certified school. The certificate shall be posted at the examination location at the certified school and in full view of the public. The certificate shall be valid for ~~five (5)~~four (4) years.

(c) **Renewal of certification.** A certified school may apply for renewal of certification as a certified school. The school shall meet the following requirements:

(1) Have evidence on file with the Department of a satisfactory on-site inspection conducted by an employee of the Department prior to renewal.

(2) Employ at least one third-party examiner.

(3) Submit an application for renewal on a form prescribed by the Department no later than December 1 of the year of expiration [~~See~~OAC 595:11-5-13].

595:11-5-11. Records to be maintained by certified schools and third-party examiners

(a) **Certified schools.** A certified school shall be responsible for maintaining all records pertaining to:

(1) the certification of the school,

(2) third-party examiners currently employed by the school,

(3) the certification of each third-party examiner,

(4) third-party examiners employed by the school for the immediately preceding three (3) years,

(5) examination certificates and pre-trip forms for each examination administered~~by a third-party examiner~~,

(6) Form DL-18-CT,

(7) class rosters for classes conducted or certificates of completion for online training and completion letter for SDE instructor for five (5) hours behind-the-wheel training,

(8) commercial ~~driver license~~learner permits,

(9) commercial driver license ~~applicants~~application ~~to whom~~in which an examination was administered by a third-party examiner employed by the school,

(10) examinations and the scores of those examinations, and

(11) records of previously certified third-party examiners.

(b) **Third-party examiner.** A third-party examiner shall be responsible for assisting the school in the maintenance of records described in (a).

(c) All records shall be kept for a period of three (3) years and shall be open for audit and inspection by the Department, the State Board of Education, the Oklahoma Board of Career and Technology Education, and the Federal Motor Carrier Safety Administration. An employee of any of the aforementioned entities shall not be required to give prior notice before appearing to examine the records of a certified school or a third-party examiner.

SUBCHAPTER 7. TRUCK DRIVER TRAINING

595:11-7-5. Review of permitted instructors and licensed schools

(a) Periodic review of all instructor permits ~~shall~~ and school licenses shall be conducted by the Department of Public Safety to determine whether both the instructor and the school remain in compliance with the rules of this Subchapter. Failure to remain in compliance will result in cancellation, suspension or revocation of instructor's permit or the school license, as applicable, by the Department.

(b) When an instructor's driving record reflects four (4) points, he or she may be issued a warning letter by the Department and instructed that additional entries may result in cancellation of his or her instructor permit.

595:11-7-10. Specification for commercial motor vehicles

(a) Commercial motor vehicles used in training shall meet the minimum safety standards in the most recent edition of the "North American Standard Out-of-service Criteria", as published annually by the Commercial Vehicle Safety Alliance. Vehicles found in violation of the these standards shall not be used for training or leased to an applicant for use in the commercial driver license skills examination.

(b) All students and instructors ~~in shall~~ shall comply with the Oklahoma Mandatory Seat Belt Use Act, 47 O.S.~~,~~ §§ 12-416 through 12-420, whenever the vehicle is in operation.

(c) Signs shall be placed on each vehicle used in training with letters no less than two (2) inches in height, as follows:

(1) Each truck-tractor and trailer shall be marked on each side and on the rear with a sign bearing the words: "TRUCK DRIVER TRAINING".

(2) Each trailer shall bear a sign plainly visible from the rear bearing the words: "NOT FOR HIRE".

(3) Each vehicle used for instruction of truck driver training shall be marked on each side and on the rear with the words "STUDENT DRIVER"~~ with letters no less than two (2) inches in height~~.

(4) Any additional signs and markings shall not be placed on the vehicle without prior approval by the Department of Public Safety.

(d) All truck-tractors and trailers shall be used only for the purpose of driver training and no school shall accept payment in any way for services rendered from use of the vehicle; provided, the school may lease the truck-tractor or trailer, or both, for the sole purpose of use of the vehicle leased to allow the leasee to take the skills examination as part of the application process for a commercial driver license.

[OAR Docket #15-619; filed 6-18-15]

TITLE 595. DEPARTMENT OF PUBLIC SAFETY
CHAPTER 25. WRECKERS AND TOWING SERVICES

[OAR Docket #15-616]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 5. All Wrecker Operators
595:25-5-3. Operation [AMENDED]
AUTHORITY:
Commissioner of Public Safety; 47 O.S. § 952
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
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SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:
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Approved by Governor's declaration on June 8, 2015
FINAL ADOPTION:
June 8, 2015
EFFECTIVE:
September 11, 2015
SUPERSEDED EMERGENCY ACTIONS:
n/a
INCORPORATIONS BY REFERENCE:
n/a
ANALYSIS:
This amendment is necessary due to the passage of SB 582 of the 2nd Session of the 54th Oklahoma Legislature. SB 582 clarifies a vehicle may be released to a lien holder after reasonable fees have been paid to and proof of valid lien is shown to the wrecker and/or towing company.
CONTACT PERSON:
Kimberly D. Dammen, DPS Legislative Services Manager, Department of Public Safety, 3600 N. Martin Luther King Ave., PO Box 11415, Oklahoma City, OK 73136-0415. Phone: 405.425.2757. E-mail: kdammen@dps.state.ok.us

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 11, 2015:

SUBCHAPTER 5. ALL WRECKER OPERATORS

595:25-5-3. Operation

All operators using the public roads and highways within the State of Oklahoma shall comply with the following:

(1) All operators shall require each driver of a wrecker vehicle be proficient in the operation thereof, and be properly licensed for the type vehicle operated.

(2) No operator shall knowingly permit any operator of a wrecker vehicle to consume beer, wine, intoxicating beverages, drugs or other stimulants or depressants while subject to call nor knowingly permit any operator to come on duty after having inhaled or consumed any such beverage, drug or other stimulants or depressants.

(3) No operator shall proceed to the scene of a collision or traffic tie-up without being requested to do so by a law enforcement agency or the owner or driver of a vehicle involved.

(4) Any operator traveling on the roads and highways of the State of Oklahoma during the normal course of his business may, upon arriving at the scene of a collision or traffic tie-up, stop and assist in rendering emergency aid. However, the operator shall not solicit business directly or indirectly from the owner or drivers at the scene.

(5) An operator at the scene of a collision or traffic tie-up is subject to the same traffic-control directions issued by an officer to the motoring public.

(6) An operator shall not use the rotating or flashing light while traveling on the roadway en route to any location. The use of the flashing or rotating light is authorized only in the vicinity of hook-up or at the scene of an incident to protect the scene and the vehicle involved. Only amber flashing lights may be used when leaving the scene of a wrecker service call for the purpose of warning the

operators of other vehicles to exercise care in approaching, overtaking or passing. [47 O.S. § 12-218.1]

(7) Each operator must be a person of good moral character and reputation in his community, as determined by the Commissioner of Public Safety, and conduct the operation of the storage facilities and towing service in a responsible manner so as not to endanger the public safety of persons or property of others in the custody of the operator.

(8) No operator shall tow a vehicle when the combined weight of the wrecker vehicle and the wrecker supported weight of the towed vehicle exceeds the factory gross vehicle weight rating of the wrecker vehicle, regardless of the weight for which the wrecker vehicle is licensed.

(9) No wrecker service shall suspend or abandon said service without prior written notice to this Department of such intent and returning of all wrecker licenses issued.

(10) Wrecker services shall comply with 47 O.S. § 11-1110(C).

(11) Upon payment of the reasonable cost of removal, and storage of a stored vehicle, whether stored at the request of law enforcement or a private property owner and recorded by the wrecker service as provided in OAC 595:25-5-5(b), the vehicle shall be released to:

(A) the owner, upon presentation of an Oklahoma driver license, Oklahoma identification card, other state driver license, other state identification card, or any federally issued identification, proof of valid insurance or affidavit of nonuse, and evidence of ownership which is satisfactory to the wrecker operator and required by 47 O.S.~~,~~ § 904, 955, such as a certificate of title, to show proof of purchase and ownership, or recent registration, or written verification from a local law enforcement agency as to the identity of the owner, or other documentation acceptable to the wrecker owner/operator. If unacceptable, the wrecker service shall explain why an ownership document is not acceptable;

(B) a person representing the owner, upon presentation of the certificate of title, a notarized letter from the owner permitting said person to act in behalf of the owner, and proper personal identification, such as a driver license, of the representative, or written verification from a local law enforcement agency as to the identity of the person representing the owner;

(C) an individual with possessory interest in the vehicle, upon presentation of an agreement with the owner of the vehicle giving that individual a present possessory interest in the vehicle;

(D) a lien holder or a duly authorized agent of a lien holder, upon presentation to the wrecker operator ~~a recent repossession title receipt issued by the Oklahoma Tax Commission and a hold-harmless letter~~ proof of being a lien holder of that vehicle [42 O.S. § 91A]; or

(E) the insurer of or the representative of the insurer accepting liability for or purchasing a motor vehicle as provided in 47 O.S.~~,~~ Section § 904, 953.1, or 953.2.

(12) Personal property, which shall include everything in a stored vehicle except the vehicle and its attached or installed equipment, shall be released, upon request, to the owner or owner's representative, upon showing of proof as described in (11) of this section. Wrecker operators shall allow the vehicle owner or owner's representative to have access to the vehicle for the sole purpose of retrieving ownership documentation, such as title or registration. [47 O.S. § 955]

(13) Wrecker operators shall not call hazardous materials remediation companies unless at the direction of the vehicle owner or a governmental agency.

(14) Each operator shall require each wrecker driver to maintain the appropriate driver license for the type vehicle being operated.

(15) Each operator shall prohibit any known thief or felon from loitering, visiting, or otherwise being on the premises of the place of business or any storage facility of the wrecker service.

(16) Each operator shall secure vehicles on roll back wreckers with four (4) point tie down. Other wrecker vehicles shall secure vehicles in accordance with wrecker vehicle chassis recommendations.

(17) A wrecker operator or driver responding to the scene of a motor vehicle collision in the capacity of a first responder, fireman, or volunteer fireman shall not respond to the scene in a wrecker vehicle.

(18) Each wrecker operator or driver shall wear high-visibility safety apparel, in compliance with 23 C.F.R.~~, Section~~ § 634, when working in any highway right-of-way.

[OAR Docket #15-616; filed 6-18-15]

TITLE 595. DEPARTMENT OF PUBLIC SAFETY
CHAPTER 40. DRIVER TRAINING AND IMPROVEMENT

[OAR Docket #15-617]

RULEMAKING ACTION:
PERMANENT final adoption

RULES:
Subchapter 1. Driver Education Instruction
595:40-1-2. Definitions [AMENDED]
595:40-1-3. Driver education instructor permit/license [AMENDED]
595:40-1-4. Qualifications for instructors [AMENDED]
595:40-1-6. Review of ~~permit~~license and school [AMENDED]
595:40-1-9. Prescribed course of study [AMENDED]
595:40-1-13. Reports [AMENDED]
595:40-1-15. Requirements for all commercial driver education schools and classrooms [AMENDED]
595:40-1-16. Prohibited acts; conduct [AMENDED]

AUTHORITY:
Commissioner of Public Safety; 47 O.S. § 6-101, et seq.

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APPROVED BY GOVERNOR'S DECLARATION:
Approved by Governor's declaration on June 8, 2015
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EFFECTIVE:
September 11, 2015
SUPERSEDED EMERGENCY ACTIONS:
n/a
INCORPORATIONS BY REFERENCE:
n/a
ANALYSIS:
595:40-1-2 - This amendment will clarify the meaning and interpretation of driver education.
595:40-1-3 - This amendment will change the language for the instructor renewal application as prescribed in 47 O.S. § 805.
595:40-1-4 - This amendment clarifies the requirements for instructors of driver education.
595:40-1-6 - This amendment clarifies and cleans up the language set forth in this subsection.
595:40-1-9 - This amends the requirement that DPS must approve a student roster list and instead only require that the roster be on maintained at the commercial school location.
595:40-1-13 - The amendment provides clean up language and allows for electronic record keeping.
595:40-1-15 - This amendment provides clean up language and allows for electronic record keeping.
595:40-1-16 - Amends rule to emphasize 47 O.S. §804.
CONTACT PERSON:
Kimberly D. Dammen, DPS Legislative Services Manager, Department of Public Safety, 3600 N. Martin Luther King Ave., PO Box 11415, Oklahoma City, OK 73136-0415. Phone: 405.425.2757. E-mail: kdammen@dps.state.ok.us

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 11, 2015:

SUBCHAPTER 1. DRIVER EDUCATION INSTRUCTION

595:40-1-2. Definitions

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

"Career and Technology Education" means any school that is governed by the Oklahoma Department of Career and Technology Education.

"Credential" means endorsements, major and/or minor teaching areas, licenses, as well as professional, standard, provisional, temporary, and emergency certificates.

"Commercial driver education course" means a course of study including highway signs, signals, markings and design, rules of the road, state laws, local ordinances, basic driving maneuvers, and safe operation of motor vehicles on streets and highways.

"Commercial driver education school" means a business enterprise conducted by an individual, association, partnership, or corporation for the education and training of fifteen year old ~~high school sophomores and fifteen and a half year old~~ or older students for a class D driver license and charging a consideration or tuition for such services.

"Commercial motorcycle driver training instructor" means a qualified instructor of Motorcycle Safety Foundation curriculum and certified by the Department of Public Safety~~as adopted by OAC 595:40-5-1~~.

"Commercial motorcycle driver training schools" means a business enterprise conducted by an individual, partnership, or corporation for the education and training of motorcycle drivers.

"Commercial School" means a "Commercial driver education school" or "Commercial motorcycle driver training school."

"Commercial Instructor" means a qualified Driver Education Instructor or a qualified Commercial motorcycle driver training instructor.

"Driver Education Instructor" means a qualified instructor who instructs students seeking a driver license according to the rules set forth in this chapter.

"Endorsements" means credentials placed on valid licenses/certificates to indicate that the holder is eligible to teach specific subjects. An endorsement qualifies the holder to teach a full day in the subject of the endorsement.

"High School or Secondary School" means a school offering continuous programs of general education for regularly enrolled full-time students including grades nine through twelve.

"Private, parochial and non-public high school" means any high school or secondary school which is not a public school supported with public funds and/or does not meet the definition of a Commercial School under Title 47, Chapter 69.

595:40-1-3. Driver education instructor permit/license

(a) **Requirement of Driver Education Instructor Permit/license.** A Driver Education Instructor Permit/license is required for instructors who teach Driver Education as prescribed under 47 O.S. §6-105 (D) and 47 O.S. § 801, who offer behind the wheel instruction to students who do not possess a valid Oklahoma driver license.

(b) **Application for Driver Education Instructor permit/license.**

(1) **Public schools.** The State Department of Education, Comprehensive Health/Driver and Traffic Safety Section, shall provide an application for Driver Education instructor permits/licenses and renewal permit/licenses for public schools upon request.

(A) The instructor shall make application to the State Department of Education by mail to: State Department of Education, Comprehensive Health/Driver Education, Room 314, 2500 Lincoln Boulevard, Oklahoma City, Oklahoma 73105-4599.

(B) The State Department of Education shall review the application as to teacher qualification and

prescribed course of study and forward the application to the Department of Public Safety.

(C) Driving privileges of the applicant shall not be under suspension, revocation, denial, or cancellation at the time of original or renewal application.

(2) **Commercial schools - original application.**

(A) All applications for an original school license shall be made on a form provided by the Department. The term of each original school license shall be for a period of one (1) year. Each place of business and/or location shall be considered a separate school and require a separate license.

(B) Each application for an original school license shall be accompanied by:

(i) a fee of Twenty-five Dollars ($25.00), which shall be paid to the Department by money order, cashier's check, or business/personal check,

(ii) a class curriculum, and

(iii) an e-mail address.

(C) Each applicant shall maintain at the school and have available for audit and inspection by the Department:

(i) certificates of insurance from a company licensed to conduct business in this State certifying proper commercial insurance coverage, as required by OAC 595:40-1-12,

(ii) the make, model, vehicle identification number, and registration number of each vehicle used for training purposes, except motorcycles used for motorcycle training, and

(iii) school brochures, contracts of all agreements, and a schedule of fees and charges.

(D) No license fee shall be refunded in the event the license is rejected, suspended or revoked by the Commissioner of Public Safety.

(E) All applications must be approved by the Department before a school will be permitted to open for business.

(F) Every operator of a Commercial Driver Education school shall be required to have a Commercial Driver Education Instructor License.

(G) Application for Driver Education Instructor license for non-public schools may be obtained from the Department of Public Safety, at: Driver License Examining Division, P.O. Box 11415, Oklahoma City, Oklahoma 73136-0415, or on the website of the Department, www.dps.state.ok.us.

(H) All schools shall meet the requirements of OAC 595:40-1-15.

(3) **Commercial schools - renewal application.**

(A) All applications for a renewal school driver education license shall be made on a form provided by the Department of Public Safety. The term of each renewal school driver education license shall be for a period of one (1) year. Each place of business and/or location shall be considered a separate driver education school and require a separate driver education license.

(B) Each application for a renewal school driver education license shall be accompanied by:

(i) a fee of Twenty-five Dollars ($25.00), which shall be paid to the Department by money order, cashier's check, or business/personal check,

(ii) a schedule of fees and charges, if any changes have been made since the last license issuance, and

(iii) an e-mail address.

(C) ~~All application forms for renewal licenses shall be mailed by the Department to the school no later than October 1 of the expiration year.~~ Each school desiring to renew shall ~~deliver~~submit a DPS approved application~~applications~~ to each licensee at the school and shall remit all fees and submit all applications to the Department no later than November 15 of the year of expiration. If application for renewal is not received by the required date and the Department is unable to process and approve the application by December 31 of the year of expiration, the commercial school shall cease operation on January 1 of the year following the year of expiration and shall not resume operation until the application for renewal is processed and approved by the Department.

(4) **Commercial instructors - original applications.**

(A) All applications for an original driver education instructor license shall be made on a form provided by the Department. The term of each original driver education instructor license shall be for a period of no more than one (1) year. A~~n~~ driver education instructor shall make application for each Commercial School ~~location where~~ he or she is employed and will be instructing. A~~n~~ driver education instructor license shall become invalid upon termination of employment with the school or schools of a single owner. If ~~an~~a driver education instructor accepts employment with another school or schools of a different owner, the driver education instructor license is not transferrable, and the driver education instructor shall apply for an original license as a new employee of the other school.

(B) Each application for an original driver education instructor license shall be accompanied by:

(i) documentation required by OAC 595:40-1-4, and

(ii) a fee of Five Dollars ($5.00) [47 O.S. § 805], which shall be paid to the Department by money order, cashier's check, or business/personal check.

(5) **Commercial instructors - renewal applications.**

(A) All applications for a renewal driver education instructor license shall be made on a form provided by the Department. The term of each renewal driver education instructor license shall be for a period of one (1) year. A~~n~~ driver education instructor shall make application for each Commercial School location where he or she will be instructing. A~~n~~ driver education instructor license shall become invalid upon

termination of employment with the school or schools of a single owner. If ~~an~~a driver education instructor accepts employment with another school or schools of a different owner, the driver education instructor license is not transferrable, and the driver education instructor shall apply for an original license as a new employee of the other school.

(B) Each application for a renewal driver education instructor license shall be accompanied by:

(i) a certified criminal history ~~report~~background investigation from the Oklahoma State Bureau of Investigation certified within the immediately preceding thirty (30) days, and

(ii) a fee of Five Dollars ($5.00) [47 O.S. § 805], which shall be paid to the commercial school which employs the driver education instructor and the school shall remit the Five Dollar ($5.00) fee to the Department by money order, cashier's check, or business/personal check. ~~If the instructor is licensed at multiple schools with the same owner, only one fee of Five Dollars ($5.00) shall be paid.~~ If the driver education instructor is licensed at multiple schools with different owners, a fee of Five Dollars ($5.00) shall be paid for each school with a different owner.

~~(C) Each applicant for a renewal instructor license shall take the vision examination given by the Department for the purposes of driver licensing.~~

595:40-1-4. Qualifications for instructors

(a) **All driver education instructors.** Instructors of public, private, commercial driver education schools and other non-public schools shall submit to the Department of Public Safety, upon application, proof of the following:

(1) current employment by a school which offers a prescribed course of study;

(2) a valid and unexpired Oklahoma driver license ~~which~~that is not suspended, revoked, denied or cancelled at the time of original or renewal application;

(3) at least twenty-one (21) years of age;

(4) never been convicted of a felony, have any pending court action that could result in a felony conviction, or any conviction, whether within Oklahoma or in another state, that would result in the applicant having to register according to the Sex Offenders Registration Act, as evidenced by an Oklahoma State Bureau of Investigation criminal history background ~~check~~investigation conducted within the immediately preceding thirty (30) days. ~~or, if the applicant has not lived in Oklahoma for the immediately preceding five (5), a criminal background check from the agency responsible for keeping criminal history in the state or states of residence for the immediately preceding five (5) years;~~

(A) Once the Department has received the state criminal history background investigation, showing no adverse action, pending or otherwise, the Department will issue a ninety (90) day temporary driver education instructor license to the applicant and the applicant shall be directed to have a national criminal history background investigation conducted by the Federal Bureau of Investigations.

(B) The commercial school shall submit the necessary national criminal history background investigation request within ten (10) business days of the issuance of the temporary driver education instructor license and submit proof of the request to the Driver License Examining Division within five (5) business days thereafter. If the national criminal history background investigation is not completed within ninety (90) days of the request for the national criminal history background investigation, the temporary driver education instructor license may be revoked.

(C) If either the state or national criminal history background investigation is returned with:

(i) no adverse action, the Department will issue the temporary or permanent driver education instructor license; or

(ii) adverse action is found on the applicant's criminal history background investigation, the Department will not issue or revoke the temporary driver education instructor permit and will not issue another temporary or permanent driver license instructor license to the applicant as long as the adverse action remains on the applicants criminal history; or

(iii) if the applicant has pending court proceedings that could result in a felony conviction, the temporary or permanent driver education instructor license shall not be issued until the pending action has been dispensed.

(5) if applicable, have driving privileges reinstated for at least twelve (12) months, if driving privileges were suspended, canceled, revoked, denied, or disqualified for a driving- related conviction or for Department action related to driving under the influence or driving while impaired. If driving privileges are suspended, canceled, revoked, denied, or disqualified only for a non-driving-related conviction or reason, the applicant shall be eligible immediately upon reinstatement of driving privileges;

(6) not been convicted of misdemeanor possession or use of alcohol or drugs within the past twelve (12) months;

(7) not more than five (5) point violations on the driving record;

(8) no administrative action pending pursuant to 47 O.S. §§ 753, 754, or 754.1;

(9) a high school diploma or general education diploma; and

(10) a motorcycle instructor shall have a valid Motorcycle Safety Foundation instructor's certificate.

(b) **All commercial school driver education instructors.** At the time of original application, all commercial school driver education instructors shall take the vision, skills, and written examinations given by the Department for the purposes of driver licensing and, for licensing as a commercial school driver education instructor~~,~~. Commercial motorcycle driver training instructors will not be required to take the basic

Class D written exam and skills test but instead will take the motorcycle written exam and skills test. The skills test will be performed on a motorcycle. All driver education instructors shall be required:

(1) to receive a score of at least eighty percent (80%) on driver license written examination. Should the applicant fail to achieve the required score after three (3) attempts, the applicant shall be denied certification and may reapply after one (1) year;

(2) to pass the standard Class D driver license or motorcycle road test with a passing score of at least eighty percent (80%). Should the applicant fail to achieve the required passing score after (three) attempts, the applicant shall be denied certification and may reapply after one (1) year.

(c) **Public school driver education instructors only.** Qualifications for public driver education instructors are set out in the rules for Oklahoma High School Driver and Traffic Safety Education by the Oklahoma State Board of Education.

(d) **Non-public school driver education instructors.** Instructors of driver education for non-public schools, except commercial driver education schools, shall submit to the Department of Public Safety proof of the following:

(1) a valid Oklahoma secondary, elementary-secondary, library media specialist, speech-language pathology or technology center school license/certificate,

(2) credentials in Driver and Traffic Safety Education or five (5) years consecutive experience in driver safety training, and

(3) a valid and unexpired Oklahoma driver license.

(e) **Commercial school driver education instructors other than motorcycle training instructors.** Commercial driver education school instructors, other than motorcycle training instructors, shall submit to the Department of Public Safety proof of the following:

(1) a minimum of six (6) semester hours of Driver Education I and Driver Education II, and a minimum of three (3) semester hours of General Safety Education from an accredited college or university; or

(2) a course equivalent to that described in paragraph (1) offered by a nationally recognized commercial driver instructor course approved by the Department of Public Safety; or

(3) certification by the State Department of Education as a driver education instructor, which certification shall be for at least five (5) years immediately preceding application and approval as a commercial driver education school instructor in conjunction with having taught driver education for at least five (5) years in public, private, or parochial school; or

~~(4) five (5) years consecutive experience in driver safety training.~~

(f) **Commercial motorcycle training school instructor qualifications.** Commercial motorcycle training school instructors shall submit to the Department of Public Safety proof of the following:

(1) a high school diploma, or equivalent, and

(2) an instructor's certificate issued by the Motorcycle Safety Foundation.

(g) **MSF Basic Rider Coach training.** A participant in the MSF Basic Rider Coach training will be exempt from the Oklahoma certification requirement while acting as an instructor under the supervision of a MSF certified Rider Coach Trainer during the Basic Rider Coach training. MSF certification must be signed by the MSF and Oklahoma Certified Rider Coach Trainer.

595:40-1-6. Review of ~~permit~~license and school

(a) Periodic review of all driver education schools and Driver Education Instructor ~~Permits~~ Licenses will be conducted by the Department of Public Safety to determine whether both the driver education instructor and the school remain in compliance with the rules of this Chapter. Failure to remain in compliance ~~will~~may result in cancellation, suspension or revocation of ~~instructor's~~their license~~permit~~.

(b) When ~~an~~a driver education instructor's driving record reflects four (4) points, he or she may be issued a warning letter and instructed that additional entries may result in cancellation of his or her driver education instructor's license.

595:40-1-9. Prescribed course of study

(a) A prescribed course of study of Driver Education shall be designed to develop knowledge of those provisions of the Oklahoma Vehicle Code and other laws of this state relating to the operation of motor vehicles, acceptance of personal responsibility in traffic, appreciation of the causes, seriousness, and consequences of traffic collisions, and to develop the knowledge, attitudes, habits, and skills necessary for the safe operation of motor vehicles.

(b) Public Schools must be in compliance with Oklahoma State Board of Education rules and regulations. Non public/Commercial schools must meet the following requirements:

(1) Students must be at least fifteen (15) years of age and regularly enrolled and certified by the instructor as taking a prescribed driver education course, certified by the Department of Public Safety.

(2) Private and Parochial students shall receive a minimum of thirty (30) hours of classroom instruction and a minimum of six (6) hours of actual driving in the Driver Education vehicle, while accompanied by and under the supervision of a qualified Driver Education instructor.

(3) Each commercial student, except for commercial motorcycle students, shall receive a minimum of ten (10) hours of classroom instruction and a minimum of six (6) hours of actually driving the Driver Education vehicle, while accompanied by and under the supervision of a qualified Driver Education instructor who is occupying the front seat of the vehicle.

(4) Instruction shall include, but not be limited to, the following:

(A) Signs, signals, highway markings and highway design.

(B) Rules of the road, state laws, and local ordinances.

(C) Driving attitude toward motorcyclists, bicyclists, and pedestrians.
(D) Basic driving maneuvers.
(E) Operation of motor vehicle on streets and highways.
(F) Familiarity with the Oklahoma Driver's Manual, distributed by the Department of Public Safety. Copies of this manual are available at motor license agencies or online at www.dps.state.ok.us/dls/.
(G) Insurance laws of the State.
(H) Financial responsibility.
(I) Seat belt use and laws.
(J) Effects of natural laws on driving.
(K) Alcohol and drug substance abuse and the effect on driving.
(L) Basic vehicle maintenance including fluid levels, tire pressure and lighting systems.
(M) Skills:
(i) Starting.
(ii) Backing.
(iii) Parallel parking.
(iv) Hill parking.
(v) Starting on hill.
(vi) Intersection movement and observance.
(vii) Lane observance and changing.
(viii) Left and right turns.
(ix) Pedestrian and vehicle right-of-way.
(x) Proper use of automatic and/or standard transmission.
(xi) Use of brake and accelerator.
(xii) Traffic lights or signals.

(5) All passengers, students and instructors in the driver education vehicle shall comply with the Oklahoma Mandatory Seat Belt Use Act, 47 O.S. §§ 12-416 through 12-420, whenever the vehicle is in operation.

(6) ~~A student roster list must be filed on forms provided for this purpose and approved by the Department of Public Safety before behind the wheel instruction begins.~~Maintain a student roster list (paper or electronic) of students that are receiving or will be receiving behind-the-wheel instruction.

(7) Driving instruction shall not be conducted within a one mile radius of the Department of Public Safety or any district office thereof.

(c) The Motorcycle Safety Foundation Curriculum is hereby adopted by reference which shall be the only course of instruction used by motorcycle education instructors certified by the Department of Public Safety.

(1) A copy of the curriculum is available at the Department of Public Safety Driver License Examining Division.

(2) Every school shall develop written and driving examinations to determine the students knowledge and performance in accordance with the prescribed curriculum.

595:40-1-13. Reports

(a) The Comprehensive Health/Driver and Traffic Safety Education section of the State Department of Education will furnish all forms for the required reports for public schools. These reports are addressed in the rules of the State Department of Education. For private, parochial, Commercial, and other non-public schools, the Department of Public Safety, Driver Examining Division, will provide the following report forms which must be completed and filed with the Department of Public Safety:

(1) A current list of all students enrolled in Driver Education shall be maintained in a file (paper or electronic) at the offices of the Commercial Driver Education school. ~~submitted to the Department of Public Safety prior to beginning behind the wheel instruction,~~These files shall list~~ing~~ the complete legal name~~,~~and date of birth ~~and grade~~ of those students who will be or are currently receiving instruction.

~~(2) A copy of the forms prescribed in (a) of this Section, must be on file in the office of the school.~~

(~~3~~2) While conducting instruction of the students one of the following must be in the vehicle:

(A) A readable ~~approved~~ copy of the roster (paper or electronic), or

(B) A daily paper or electronic copy of the student roster and/or schedule~~(formprovided by DPS)~~, which includes a list of students being instructed on a given day ~~andmust have the instructors signature that will be in the vehicle~~, or

(C) Students receiving instruction must carry the original or a copy of the school contract.

(~~4~~3) At the discretion of the Commissioner of Public Safety, an affidavit may be required from the principal of the school, or one of equivalent authority verifying that the curriculum offered the Driver Education student meets the requirements of these rules.

(~~5~~4) Other reports that may be requested by the Department of Public Safety.

(b) Driver Education schools must furnish the Department of Public Safety, Driver License Examining Division, with a copy of an official collision report on any driver education vehicle which is involved in an collision while used for training purposes. This is in addition to the collision report required by law.

595:40-1-15. Requirements for all commercial driver education schools and classrooms

(a) **Location and classroom facility of commercial driver education schools.** An application for a Commercial Driver Training School license shall not be approved if the school is located or driving instruction is conducted within one (1) mile, using the most direct driving route, of the Department of Public Safety or any district office thereof. The school shall:

(1) have at least one (1) permanent classroom. Each classroom shall be used exclusively for classroom driver education instruction during the time of such instruction. A classroom shall not be located in:

(A) a residence or residential facility or complex,
(B) a motor vehicle, or converted motor vehicle,
(C) a hotel or motel, or

(D) any other facility which has a bar, lounge, or other business which sells alcohol for public consumption on the premises;

(2) display its current and valid Commercial Driver Training License in the licensee's principal place of business ~~at all times~~ when classes are in session. The school's and/or driver education instructor's license or a copy of the license shall also be made available for inspection to students, or prospective students and their parents;

(3) comply with local municipal ordinances regarding lighting, heating, ventilation, and restroom facilities. Separate restroom facilities shall be provided for males and females, shall be fully plumbed with at least one toilet and one sink in each restroom, and shall be located in the same building as the classroom. The requirement for separate restroom facilities may be waived if a single restroom facility is provided that has a door which is capable of being locked from the inside;

(4) have adequate room for equipment such as chalkboard, projector, tables and chairs for the number of students enrolled in the class being taught at the time;

(5) when moving locations the school shall be responsible for notifying the Department of Public Safety Driver License Examining Division in writing no later than two (2) weeks ~~prio~~prior to the relocation. The Division shall schedule with the school an appointment for inspection of the new location. Use of the new facility will not be allowed until the inspection is complete; and

(6) if the commercial driver education school is located in a public school, the commercial driver education school shall present to the Department upon application and upon every renewal a current contract with the school district signed by the superintendent of the district. The contract shall stipulate that:

(A) the presence of the commercial driver education school on the public school property is in compliance with state law and specifically in compliance with 70 O.S.~~, Section~~§ 5-130, and

(B) any public school in the school district, including the public school where the commercial driver education school named in the contract is located, is available on an equal and non- discriminatory basis to any other commercial driver education school desiring to conduct business on public school property in the school district on the same terms and at the same time as the commercial driver education school named in the contract as required by *Hennessey v. ISD No. 4*, 552 P.2d 1141 (Okla. 1976), and

(C) should the school district refuse to allow another commercial driver education school to conduct business on public school property within the school district, whether at the same public school as the commercial driver education school named in the contract or any other school in the district, the contract shall be null and void upon the date of the refusal, and the school district and the commercial driver education school named in the contract shall both agree to notify the Department of Public Safety of the voiding of the contract.

(b) **Advertising.**

(1) No Commercial Driver ~~Training~~Education School shall use or conduct any business under any name other than its fully licensed name.

(2) A sign reading "This school is licensed by the Department of Public Safety, State of Oklahoma" or similar language may be displayed on the school premises.

(3) The school may place language such as "This school is licensed by the Department of Public Safety, State of Oklahoma" in any advertisements and publications of the school. However, a school may not use advertisement or publicity that states or implies that the school is specifically or uniquely recognized, recommended, or endorsed, or directly supervised by the Department of Public Safety.

(4) No fraudulent or deceptive statements shall be used on any sign or in advertisement, whether written or oral. If a promotion or fee incentive is used for an applicant, the school shall attach a copy of the promotion or fee incentive to the contract.

(5) No school shall advertise, by any means, or otherwise state or imply that a driver license or permit is guaranteed or assured to any student or individual who will take or complete any instruction offered by the school.

(c) **Agreements and schedule of fees.**

(1) A sample copy of all contracts or agreements with students must be submitted to the Department with the application for licensing.

(2) Prior to enrollment or payment of fee all prospective students shall be provided the following information, in writing:

(A) the type of instruction offered, whether classroom or behind the wheel;

(B) length of each lesson;

(C) rate per lesson;

(D) rate for use of school vehicle for road test, if extra charge is made;

(E) terms of payment and disclosure of any interest charged;

(F) a statement indicating the specific date and time when instruction is to start.

(3) The schedule of fees shall be posted in easy view of students and prospective students.

(4) If any school fails to comply with the provisions, the school shall refund, on a prorated basis, all monies collected from the student.

(d) **Records to be maintained.**

(1) Each school shall maintain a permanently bound book with pages consecutively numbered or a computer spreadsheet/database, setting forth the name of the school; the name of the student; the contract or agreement number; the type and date of instruction given, whether classroom or behind-the-wheel. If information is kept in a bound book, ~~A~~all entries shall be made in ink.

(2) All student instruction records, including a duplicate copy of each contract or agreement entered into

between the school and the student (the original must be given to the student) must be kept on file in the office of each school or at the primary office of multiple site schools owned by one individual for a period of (1) calendar year after the student has concluded instruction at or with the school. Each school shall furnish the student, if requested, a duplicate of his/her instruction record when all of the contracted courses are completed or the student otherwise ceases taking instruction at or with the school.

(3) The student instruction record shall contain a copy of a receipt for any monies paid to the school by the student. The receipt, in a format prescribed by the Department, shall contain:

(A) The name of the school.

(B) The name of the student.

(C) The date of payment.

(D) The amount of payment.

(E) The signature of the person receiving the payment.

(4) The student instruction record file maintained by the school shall be available at all times for inspection or copying by an authorized representative of the Department of Public Safety.

(5) **Completion certificates.** A completion certificate, in a preprinted format prescribed by the Department, shall be provided and issued by the Commercial School to each student upon the successful completion of course work (both classroom and behind the wheel). The certificate shall contain the following:

(1) Name of the provider;

(2) Full legal name of student;

(3) Number of total hours of instruction (optional)

(4) Date of completion;

(5) Signature of administrator (a stamped signature is acceptable).

595:40-1-16. Prohibited acts; conduct

(a) No school owner, agent, instructor or employee shall:

(1) solicit any individual for the purpose of enrolling the person in any driver ~~training~~education program within fifteen hundred (1,500) feet of any premises owned, leased, rented, or used by the Department of Public Safety;

(2) instruct on or near the driver testing route used by the Department of Public Safety;

(3) distribute or use, for any purpose, any test or examination designed or used by the Department;

(4) use, or permit to be used, any form of alcoholic beverage or drugs in or about the premises of the school or a motor vehicle being used for driver education;

(5) engage in any conduct involving moral turpitude; ~~or~~

(6) commit or omit any act which constitutes a violation of any of the rules of this subchapter or the laws of this state governing designated examiner certification~~.~~; or

(7) charge a fee to conduct driver education unless they are a certified driver education instructor.

(b) Instructors shall at all times be cognizant of their primary obligation to render impartial, efficient, and effective service to ~~te~~the public in the discharge of their duties and to always regard their position as a public trust.

[OAR Docket #15-617; filed 6-18-15]

TITLE 605. OKLAHOMA REAL ESTATE COMMISSION
CHAPTER 10. REQUIREMENTS, STANDARDS AND PROCEDURES

[OAR Docket #15-611]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 3. Education and Examination Requirements
605:10-3-7 [AMENDED]
Appendix A. Residential Property Condition Disclosure Statement [REVOKED]
Appendix A. Residential Property Condition Disclosure Statement [NEW]
AUTHORITY:
Title 59, Oklahoma Statutes, Section 858-208; Oklahoma Real Estate Commission
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
January 21, 2015
COMMENT PERIOD:
February 17, 2015 through March 25, 2015
PUBLIC HEARING:
March 25, 2015
ADOPTION:
March 25, 2015
SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:
March 25, 2015
APPROVED BY GOVERNOR'S DECLARATION:
Approved by Governor's declaration on June 8, 2015
FINAL ADOPTION:
June 8, 2015
EFFECTIVE:
November 1, 2015
SUPERSEDED EMERGENCY ACTIONS:
N/A
INCORPORATIONS BY REFERENCE:
N/A
ANALYSIS:
605:10-3-7. Provisional sales associate post-license education requirement - Specifying that the post-license course shall include at least three (3) clock hours in Broker Relationships, Code and Rules, Contracts and Forms, Professional Conduct and Ethics, and Fair Housing.
APPENDIX A. RESIDENTIAL PROPERTY CONDITION DISCLOSURE STATEMENT FORM - Reformatting. Adding that any leases the property is subject to shall be disclosed on the disclosure form to a potential purchaser of real estate. Adding a disclosure for any property designated as historical or located in a registered historical district. Adding a disclosure if any payment has been received on an insurance claim for damages to residential property and/or any improvements which were not repaired.
CONTACT PERSON:
Charla J. Slabotsky, Executive Director, Oklahoma Real Estate Commission, 1915 North Stiles, Suite 200, Oklahoma City, Oklahoma 73105 405-521-3387

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF NOVEMBER 1, 2015:

SUBCHAPTER 3. EDUCATION AND EXAMINATION REQUIREMENTS

605:10-3-7. Provisional sales associate post-license education requirement

(a) **Purpose.** The purpose of the provisional sales associate post-license education requirement is to provide an educational program through which real estate provisional sales associate licensees can become more competent, knowledgeable and perfect their ability to engage in real estate activities for which they are licensed. Such activities involve facts and concepts which licensees must be knowledgeable in order to safely and confidently conduct real estate negotiations and transactions in the public's best interest.

(b) **Goals.** The goals of the provisional sales associate post-license education requirements are:

(1) To provide newly licensed individuals with the opportunity to obtain current information and knowledge to enable them to conduct real estate negotiations and transactions in a legal and professional manner in order to better protect public interest.

(2) To assure that licensees are provided with relevant information pertaining to practices which directly relate to real estate business.

(3) To assure that the provisional sales associate is provided with information regarding new and/or changing laws and regulations which affect the real estate business.

(4) To assure that the consumers' interest is protected from unknowledgeable licensees.

(c) **Objectives.** The objectives of post-license education are to:

(1) Assist newly licensed individuals by having available a practical educational program wherein the information attained can be put into practice.

(2) To help licensees expand and enhance their knowledge and expertise so as to continually be effective, competent, and ethical as they practice real estate.

(3) To encourage licensees to gain additional education for specialization in particular areas of real estate.

(d) **Subject content.** On and after July 1, 1993, a provisional sales associate shall be required to successfully complete prior to the first license expiration date, forty-five (45) clock hours of post-license education or its equivalent as determined by the Commission. Such course of study shall be referred to as the Provisional Post-license Course of Real Estate, Part II of II and shall encompass the following areas of study:

(1) Real Estate Marketplace
(2) Marketing Real Estate
(3) Personal Marketing
(4) The Qualifying Process
(5) Prospecting and Negotiating
(6) Financing Real Estate, Investments and Exchanges
(7) Financial Documents
(8) Duty to Account
(9) Title Search
(10) Risk Management
(11) At least three (3) clock hours of Broker Relationships with Parties to a Transaction
(12) Property Management
(13) At least three (3) clock hours of Laws and Regulations Affecting Real Estate Practice, including Code and Rules
(14) Disciplinary Action
(15) At least three (3) clock hours of Contracts and Forms.
(16) At least three (3) clock hours of Professional Conduct and Ethics
(17) At least three (3) clock hours of Fair Housing.

(e) **Equivalent course content.** The Commission may approve and/or accept any offering or combination of offerings which consists of forty-five (45) clock hours or more or its equivalent as determined by the Commission provided by an entity which meets the purposes, goals and objectives of the provisional sales associate post-license education requirement.

(f) **Offerings.**

(1) The Commission may accept the following offerings as proof of meeting the post-license education requirement:

(A) Any offering which is approved and presented by those entities enumerated in Title 59, O.S.,subsection B, of 858-307.2 of the "Code."

(B) Any offering in real estate, or directly related area, approved and/or accepted by the real estate regulatory agency in another state; provided such offering is not excluded elsewhere in this Chapter.

(C) Any offering in real estate, or directly related area, not accepted in paragraphs (A) or (B) of this subsection, which can be determined by the Commission to be in compliance with the intent of the rules of this Chapter.

(2) The Commission has the authority to disapprove any offering which fails to meet the purposes, goals and objectives of this Section.

(g) **Licensee responsible for notification to Commission.** Each provisional sales associate shall be responsible to furnish evidence to the Commission of having successfully completed a Commission approved forty-five (45) clock hour post-license education course or its equivalent as determined by the Commission. Upon successful completion of the post-license education requirement, evidence must be submitted on or before license expiration and on a form approved by the Commission.

(h) **Failure to complete post-license education requirement prior to license expiration.** A provisional sales associate who fails to complete the post-license education requirement prior to the first expiration date of the provisional sales associate license, shall not be entitled to renew such license.

(i) **Evidence of completion.** As evidence of having completed the education requirement, each provisional sales associate shall present one or more of the following as required by the Commission:

(1) A certificate, and/or documents, statements and forms, as may reasonably be required by the Commission, or

(2) A certified transcript; ~~provided,~~ however, if such offering is taken as an accredited C.E.U. (Continuing Education Unit) a certificate may be accepted in lieu of the transcript.

(j) **Attendance and successful completion required for in-class credit.** To complete any in-class offering, a person must physically be present during all of the offering time and successfully complete all course requirements and an examination.

(k) **Successful completion of materials and examination required for distance education credit.** To complete a distance education offering, a person must successfully complete all course requirements to include all modules and an examination.

(l) **Course limitations.** The following course limitations shall apply:

(1) A provisional sales associate shall only be given credit for courses specifically approved by the Commission.

(2) Educational courses taken for disciplinary reasons do not count towards the normal post-license education requirement.

(m) **Extension of time for completion of post-license course for provisional sales associate that has received orders for active military service.** A provisional sales associate that has received orders for active military service may request an extension of time to complete the post-license education requirement if the request is received in writing prior to the expiration of the license. The request must be accompanied by a copy of the military orders for active military service. The extension of time shall be one (1) year from the date of return from active military service. In conformance with §858-309, a licensee on active military service shall request an inactive status prior to each term for which the license is to be issued. If an extension is approved, a provisional sales associate shall be allowed to renew their license by requesting an inactive status in writing prior to each term for which the license is to be issued.

APPENDIX A. RESIDENTIAL PROPERTY DISCLOSURE STATEMENT [REVOKED]

APPENDIX A. RESIDENTIAL PROPERTY DISCLOSURE STATEMENT [NEW]

Notice to Seller: Oklahoma Law (the "Residential Property Condition Disclosure Act," Title 60, O.S., §831 et.seq., effective July 1, 1995) requires Sellers of 1 and/or 2 residential dwelling units to complete this form. A Seller must complete, sign and date this disclosure form and deliver it or cause it to be delivered to a purchaser as soon as practicable, but in any event no later than before an offer is accepted by the Seller. If the Seller becomes aware of a defect after delivery of this statement, but before the Seller accepts an offer to purchase, the Seller must deliver or cause to be delivered an amended disclosure statement disclosing the newly discovered defect to the Purchaser. If the disclosure form or amendment is delivered to a Purchaser after an offer to purchase has been made by the Purchaser, the offer to purchase shall be accepted by the Seller only after a Purchaser has acknowledged receipt of this statement and confirmed the offer to purchase in writing.

Notice to Purchaser: The declarations and information contained in this disclosure statement are not warranties, express or implied of any kind, and are not a substitute for any inspections or warranties the Purchaser may wish to obtain. The information contained in this disclosure statement is not intended to be a part of any contract between the Purchaser and Seller. The information and statements contained in this disclosure statement are declarations and representations of the Seller and are not the representations of the real estate licensee.

LOCATION OF SUBJECT PROPERTY_____

_____

SELLER IS ___ IS NOT ___ OCCUPYING THE SUBJECT PROPERTY.

Instructions to the Seller: (1) Answer ALL questions. (2) Report known conditions affecting the property. (3) Complete this form yourself. (4) If an item is not on the property, or will not be included in the sale, mark "None/Not Included." If you do not know the facts, mark "Do Not Know if Working." (5) The date of completion by you may not be more than 180 days prior to the date this form is received by a purchaser.

ARE THE ITEMS LISTED BELOW IN NORMAL WORKING ORDER?

Appliances/Systems/ Services	Working	Not Working	Do Not Know if Working	None/ Not Included
Sprinkler System				
Swimming Pool				
Hot Tub/Spa				
Water Heater ___ Electric ___ Gas ___ Solar				
Water Purifier				
Water Softener ___ Leased ___ Owned				
Sump Pump				
Plumbing				
Whirlpool Tub				
Sewer System ___ Public ___ Septic ___ Lagoon				
Air Conditioning System ___ Electric ___ Gas ___ Heat Pump				
Window Air Conditioner(s)				
Attic Fan				
Fireplaces				
Heating System ___ Electric ___ Gas ___ Heat Pump				
Humidifier				
Ceiling Fans				

Appliances/Systems/ Services	Working	Not Working	Do Not Know if Working	None/ Not Included
Gas Supply ___ Public ___ Propane ___ Butane				
Propane Tank				
Electric Air Purifier				
Garage Door Opener				
Intercom				
Central Vacuum				
Security System ___ Rent ___ Own ___ Monitored				
Smoke Detectors				
Dishwasher				
Electrical Wiring				
Garbage Disposal				
Gas Grill				
Vent Hood				
Microwave Oven				
Built-in Oven/Range				
Kitchen Stove				
Trash Compactor				
Source of Household Water ___ Public ___ Well ___ Private/Rural District				

Buyer's Initials _____ **Buyer's Initials** _____ **Seller's Initials** _____ **Seller's Initials** _____

(OREC—11/15)

LOCATION OF SUBJECT PROPERTY_____

_____

IF YOU ANSWERED Not Working to any items on page one, please explain. Attach additional pages with your signature.

_____

_____

Zoning and Historical		
1. Property is zoned: (Check One) ___ residential _____ commercial _____ historical ___ office ___ agricultural ___ industrial ___ urban conservation ___ other ___ unknown		
2. Is the property designated as historical or located in a registered historical district? Yes _____ No _____		
Flood and Water	**Yes**	**No**
3. What is the flood zone status of the property? _____		
4. What is the floodway status of the property? _____		
5. Are you aware of any flood insurance requirements concerning the property?		
6. Are you aware of any flood insurance on the property?		
7. Are you aware of the property being damaged or affected by flood, storm run-off, sewer backup, draining or grading problems?		
8. Are you aware of any surface or ground water drainage systems which assist in draining the property, e.g. "French Drains?"		
9. Are you aware of any occurrence of water in the heating and air conditioning duct system?		
10. Are you aware of water seepage, leakage or other draining problems in any of the improvements on the property?		
Additions/Alterations/Repairs	**Yes**	**No**
11. Are you aware of any additions being made without required permits?		
12. Are you aware of any previous foundation repairs?		
13. Are you aware of any alterations or repairs having been made to correct defects or problems?		
14. Are you aware of any defect or condition affecting the interior or exterior walls, ceilings, roof structure, slab/foundation, basement/storm cellar, floors, windows, doors, fences or garage?		
15. Are you aware of the roof covering ever being repaired or replaced during your ownership of the property?		
16. Approximate age of roof covering, if known _____ number of layers, if known _____		
17. Do you know of any current problems with the roof covering?		
18. Are you aware of treatment for termite or wood-destroying organism infestation?		
19. Are you aware of a termite bait system installed on the property?		
20. If yes, is it being monitored by a licensed exterminating company? If yes, annual cost $_____		
21. Are you aware of any damage caused by termites or wood-destroying organisms?		
22. Are you aware of major fire, tornado, hail, earthquake or wind damage?		
23. Have you ever received payment on an insurance claim for damages to residential property and/or any improvements which were not repaired?		
24. Are you aware of problems pertaining to sewer, septic, lateral lines or aerobic system?		
Environmental	**Yes**	**No**
25. Are you aware of the presence of asbestos?		
26. Are you aware of the presence of radon gas?		
27. Have you tested for radon gas?		
28. Are you aware of the presence of lead-based paint?		
29. Have you tested for lead-based paint?		
30. Are you aware of any underground storage tanks on the property?		
31. Are you aware of the presence of a landfill on the property?		
32. Are you aware of existence of hazardous or regulated materials and other conditions having an environmental impact?		
33. Are you aware of existence of prior manufacturing of methamphetamine?		
34. Have you had the property inspected for mold?		
35. Are you aware of any remedial treatment for mold on the property?		
36. Are you aware of any condition on the property that would impair the health or safety of the occupants?		

Buyer's Initials _____ **Buyer's Initials** _____ **Seller's Initials** _____ **Seller's Initials** _____

(OREC—11/15)

LOCATION OF SUBJECT PROPERTY_____

_____

Property Shared in Common, Easements, Homeowner's Associations and Legal	Yes	No
37. Are you aware of features of the property shared in common with the adjoining landowners, such as fences, driveways, and roads whose use or responsibility has an effect on the property?		
38. Other than utility easements serving the property, are you aware of any easements or right-of-ways affecting the property?		
39. Are you aware of encroachments affecting the property?		
40. Are you aware of a mandatory homeowner's association? Amount of dues $_____ Special Assessment $_____ Payable: (check one) _____ monthly _____ quarterly _____ annually Are there unpaid dues or assessments for the property? _____ YES _____ NO If yes, what is the amount? $_____ Manager's Name _____ Phone Number _____		
41. Are you aware of any zoning, building code or setback requirement violations?		
42. Are you aware of any notices from any government or government-sponsored agencies or any other entities affecting the property?		
43. Are you aware of any surface leases, including but not limited to agricultural, commercial or oil and gas?		
44. Are you aware of any filed litigation or lawsuits directly or indirectly affecting property, including a foreclosure?		
45. Is the property located in a fire district which requires payment? If yes, amount of fee $ _____ Paid to Whom _____ Payable: (check one) _____ monthly _____ quarterly _____ annually		
46. Is the property located in a private utility district? Check applicable _____ Water _____ Garbage _____ Sewer _____ Other If other, explain _____ Initial membership fee $_____ Annual membership fee $ _____ (if more than one utility attach additional pages)		
Miscellaneous	**Yes**	**No**
47. Are you aware of other defect(s) affecting the property not disclosed above?		
48. Are you aware of any other fees or dues required on the property that you have not disclosed?		

If you answered YES to any of the items on pages two and three, list the item number(s) and explain. If needed, attach additional pages with your signature(s), date(s) and location of the subject property. _____

_____

_____

On the date this form is signed, the seller states that based on seller's **CURRENT ACTUAL KNOWLEDGE** of the property, the information contained above is true and accurate.

Are there any additional pages attached to this disclosure? (circle one): YES NO If yes, how many? _____

Seller's Signature Date Seller's Signature Date

A real estate licensee has no duty to the Seller or the Purchaser to conduct an independent inspection of the property and has no duty to independently verify the accuracy or completeness of any statement made by the Seller in the disclosure statement.

The Purchaser understands that the disclosures given by the Seller on this statement are not a warranty of condition. The Purchaser is urged to carefully inspect the property, and, if desired, to have the property inspected by a licensed expert. For specific uses, restrictions and flood zone status, contact the local planning, zoning and/or engineering department. The Purchaser acknowledges that the Purchaser has read and received a signed copy of this statement. This completed acknowledgement should accompany an offer to purchase on the property identified. This is to advise that this disclosure statement is not valid after 180 days from the date completed by the Seller.

Purchaser's Signature Date Purchaser's Signature Date

The disclosure and disclaimer statement forms and the Oklahoma Residential Property Condition Disclosure Act information pamphlet are made available at the Oklahoma Real Estate Commission (OREC), Denver N. Davison Building, 1915 N. Stiles, Suite 200, Oklahoma City, OK 73105 or visit OREC's Web site www.orec.ok.gov.

(OREC—11/15)

[OAR Docket #15-611; filed 6-18-15]

TITLE 655. SECRETARY OF STATE
CHAPTER 1. ADMINISTRATIVE OPERATIONS

[OAR Docket #15-681]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
655:1-1-4. Office hours; filing hours [AMENDED]
655:1-1-5. Availability of documents [AMENDED]
655:1-1-6.1. Form of payment [AMENDED]
655:1-1-8. Returned checks [AMENDED]
655:1-1-10. Cash register daily closing [REVOKED]
655:1-1-11. Fax fees [REVOKED]
655:1-1-14. Invoicing and accounts receivable [AMENDED]
AUTHORITY:
Secretary of State; 75 O.S., Section 302, 305, and 307
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
January 23, 2015
COMMENT PERIOD:
February 17, 2015 through March 19, 2015
PUBLIC HEARING:
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March 30, 2015
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APPROVED BY GOVERNOR'S DECLARATION:
Approved by Governor's declaration on June 8, 2015
FINAL ADOPTION:
June 8, 2015
EFFECTIVE:
September 11, 2015
SUPERSEDED EMERGENCY ACTIONS:
n/a
INCORPORATIONS BY REFERENCE:
n/a
ANALYSIS:
Revisions to the Secretary of State's Administrative Operations [OAC 655:1] are proposed to update the current rules of this Chapter.
Rules related to the Office hours/Filing are being amended changing the time by which the documents must be presented for filing from 4:00 pm to 4:30 pm.
Rules establishing Payments for Certificates are being amended requesting that the payment for certificates must be at the time of service.
Rules related to Returned checks are being added, the form of payment discussed in the rule will include electronic fund transfers.
Rules related to Cash register daily closing and Fax fees are being revoked.
Rules related to Invoicing and Accounts Receivable are being amended reducing invoicing
CONTACT PERSON:
Julia Southwick, Business Manager, Secretary of State Office, 2300 N. Lincoln Boulevard, Room 101, Oklahoma City OK 73105, (405) 522-4568

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 11, 2015:

655:1-1-4. Office hours; filing hours

(a) Office hours are 8:00 a.m. to 5:00 p.m. Monday through Friday with the exception of legal holidays.

(b) Except as otherwise specifically provided in this Title, all documents for filing in the Office of the Secretary of State must be presented by ~~4:00~~4:30 p.m. Documents presented after ~~4:00~~4:30 p.m. and before 5:00 p.m. will not be processed until the following working day, except when otherwise stated in other chapters of this Title. If the documents are found to be acceptable for filing, the date of receipt by this Office will be the filing date of the document. Determination of name availability will be made in the order a document is processed by the Business Division which may not be the date of its receipt in the office.

655:1-1-5. Availability of documents

(a) Documents placed on file in the Office of the Secretary of State shall not be removed from the Office unless they are transferred to the Oklahoma Department of Libraries, or unless otherwise provided by Oklahoma Statutes. Documents may be stored at additional off-site storage facilities as determined by the Secretary of State or his or her designee.

(b) Except as otherwise specifically provided in this Title, public records filed in the Office of the Secretary of State are available pursuant to the following:

(1) Records must be requested no later than ~~4:00~~4:30 p.m.

(2) Requests for documents to be viewed will be limited to no more than five (5) records. A customer presenting a request for an amount greater than five (5) will need to leave a list and return for the information at a specified time.

(c) Documents required to be filed in the Office of the Secretary of State are public record. Except as otherwise specifically provided in this Title, Certificates of Fact and copies of all documents on file may be obtained by placing an order twenty-four hours in advance between the hours of 8:00 a.m. and ~~4:00~~4:30 p.m. and by payment of fees required by 28 O.S., Section 111.A.(3). Orders placed after ~~4:00~~4:30 p.m. and before 5:00 p.m. will be available by 11:00 a.m. on the second business day following the day the order was received. Certificates of Fact must be paid for in advance.

(d) Copies of documents must be made only from the original document or the official microfilmed copy of said document on file in the Office of the Secretary of State.

(e) Access to documents transferred to the Oklahoma Department of Libraries or off-site storage facilities will be coordinated by Secretary of State personnel and will be limited to the Office of the Secretary of State.

(f) The procedures in (a) through (e) of this Section protect the integrity and organization of the records and prevent excessive disruption of the essential functions of the Secretary of State's Office.

655:1-1-6.1. Form of payment

(a) Payment for products and services of the Secretary of State's Office may be made in cash, personal or business check, certified or cashier's check, money order, credit card approved for state use or electronic fund transfer. All checks or money orders must be made payable to the Secretary of State. Acceptance of credit cards by some divisions of the Office may be affected by internal control requirements.

(b) The Secretary of State's Office maintains a minimal cash change fund. ~~Cash payments may not exceed the amount owed by more than $20.00.~~

(c) Payment for certificates.

(1) Authentication certificates (apostille, certificate of signature and affidavit of signature) must be paid for in advance by cash, currently dated money order, cashier's check or business check, or credit card approved for state use.

(2) Certificates of Fact, which includes status, must be paid for in advance by any of the forms of payment listed in (a) of this Section.

(3) Certificates of Transcript and copies, except for copies of documents maintained by the Office of Administrative Rules, ~~may be invoiced in an amount not to exceed$25.00 as provided in 655:1-1-14. Invoices may be paid for by any of the forms of payment listed in (a) of this Section~~ must be paid at the time of service.

~~(d) Facsimile fees must be paid in advance along with the appropriate fee for the documents by any of the methods allowed for payment with the exception of facsimile fees for the notary list and for confirmation of an effective financing statement filing.~~

655:1-1-8. Returned checks

(a) A check or electronic fund transfer returned without payment by the issuing bank for any reason is cause for voiding the transaction for which the ~~check~~payment was issued. On the day a returned check is received, the transaction for which the check was issued will be voided at the close of that business day. A letter will be mailed to the customer as notification of the voided transaction.

(b) Any document voided due to lack of payment of the fee pursuant to subsection (a) of this section must be refiled. Payment for any document refiled pursuant to this section must be made in advance by cash or currently dated money order or cashier's check.

(c) Any customer who notifies the Secretary of State's Office that a check or electronic fund transfer presented for a transaction will be returned unpaid prior to receipt of the returned check by the Secretary of State's Office may pay the amount of the returned check in cash or currently dated money order or cashier's check or electronic fund transfer within one business day of receipt of the returned check by the Secretary of State's Office. Payment for checks expected to be returned unpaid will not be accepted until the returned check is received by the Secretary of State's Office. Any transaction paid for by a returned check which is redeemed pursuant to this subsection shall not be voided.

(d) Any customer presenting three returned checks or electronic fund transfers during a twelve month period will be required to pay for future transactions in cash or by certified or cashier's check, or money order for a probationary period of twelve months. Any further returned checks presented for payment of transactions may result in the permanent revocation of a customer's privilege to pay for transactions with checks. Any such customer shall be so notified in person or by mail at their last known address.

655:1-1-10. Cash register daily closing [REVOKED]

~~The agency cash registers shall be closed for balancing approximately one (1) hour prior to the scheduled closing time of the Office each day, or as directed by the Business Manager. All cash and checks received for transactions completed since the last daily closing shall be deposited by the close of each business day.~~

655:1-1-11. Fax fees [REVOKED]

~~(a) The following fees will be charged for facsimile transmissions: $5.00 for the first ten (10) pages, $1.00 per page thereafter. The fax fees will be charged in addition to the copy charges mandated by 28 O.S., Section 111 or other fees as may be provided for by statute or rule. Except for the notary list and confirmations of the existence of any effective financing statements, facsimile fees and any fees related to the same transaction must be paid in advance. Facsimile fees and the related fee for the notary list and confirmations of the existence of any effective financing statements may be invoiced pursuant to 655:1-1-14.~~

~~(b) Legislation will not be faxed.~~

655:1-1-14. Invoicing and accounts receivable

~~(a) The Secretary of State's Office will issue invoices, in an amount not to exceed $25.00, for copy orders and transcripts. Such invoices are due upon receipt of the copies and transcripts.~~

(~~b~~a) The Secretary of State's Office will may issue invoices for subscriptions to The Oklahoma Register and the Oklahoma Administrative Code and Supplement, sales of electronic databases maintained by the Secretary of State's Office, sales of lists of entities filing or registered with the Secretary of State's Office, confirmations of the existence of any effective financing statement, and other products as determined by the Secretary of State or his or her designee. Except for those products listed in subsection (c), such products shall not be delivered to the purchaser until payment of the invoice is received, unless otherwise provided.

(~~c~~b) Invoices for the notary list, the charter list, and confirmations of the existence of any effective financing statements are due upon receipt of the invoice.

~~(d) The Secretary of State's Office shall keep accounting records for each customer issued an invoice, showing at a minimum the amount of the invoice, amount of payments, dates of each transaction, and balance owed. No customer shall be allowed to exceed a balance of $300.00. Any customer with an outstanding balance exceeding $300.00 must pay all outstanding invoices prior to receiving any products or services for which an invoice may be issued.~~

~~(e) Any customer with an outstanding invoice more than 120 days old will lose their privilege to be invoiced, and must pay all outstanding invoices prior to receiving any additional products or services. All further requests for products or services of such a customer must be paid in advance. Any payments received shall be applied to the oldest invoices first.~~

(~~f~~c) The Secretary of State and his or her designee may authorize exceptions to this rule.

[OAR Docket #15-681; filed 7-2-15]

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

[OAR Docket #15-679]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 1. General Provisions
655:10-1-1. Purpose [AMENDED]
655:10-1-2. Definitions [AMENDED]
655:10-1-6. Agency representatives [AMENDED]
Subchapter 3. Codification of Rules
Part 5. Code Numbering, Headings, and Taglines
655:10-3-29. Reserving OAC numbers [AMENDED]
Subchapter 7. Preparation of Documents
Part 1. General Provisions
655:10-7-1. Types of documents; excluded documents [AMENDED]
655:10-7-6. Transmittal sheet; liaison verification [AMENDED]
Part 3. Rule Documents
655:10-7-11. Preamble [AMENDED]
655:10-7-13. Enacting clause [AMENDED]
655:10-7-16. Attestations [AMENDED]
Part 5. Notice Documents
655:10-7-25. Notice document types; transmittal sheet [AMENDED]
655:10-7-29. Statements of submission ~~for gubernatorial and legislative review~~ of adopted rules to Governor and Legislature [AMENDED]
655:10-7-30. Notices of gubernatorial approval [REVOKED]
655:10-7-31. Notices of gubernatorial disapproval [REVOKED]
655:10-7-32. Notices of legislative disapproval [AMENDED]
655:10-7-33. Notices of withdrawn rules [AMENDED]
655:10-7-35. Notices of errors in published documents [AMENDED]
Part 7. Miscellaneous Documents
655:10-7-47. Governor's declarations [NEW]
Part 9. Document Scope
655:10-7-52. Notice document scope, limitations [AMENDED]
Subchapter 9. Submission of Documents
655:10-9-1. Number of paper copies; electronic copies; special treatment of rule documents [AMENDED]
655:10-9-3. Filing and acceptance deadlines [AMENDED]
655:10-9-4. Official file date;~~Receipt~~receipt date~~;~~vs. acceptance date [AMENDED]
655:10-9-6. Electronic transmission of documents [REVOKED]
Subchapter 11. Review of Documents
655:10-11-1. Review of Register submissions [AMENDED]
Subchapter 13. Corrections of Errors
655:10-13-2. Errors prior to Register publication [AMENDED]
655:10-13-3. Errors after Register publication [AMENDED]
Subchapter 15. The Oklahoma Register
655:10-15-1. Publication dates and filing/acceptance deadlines [AMENDED]
655:1-15-5. Register contents [AMENDED]
Subchapter 19. Public Inspection and Copies of Documents
655:10-19-1. Public access to documents and publications [AMENDED]
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Approved by Governor's declaration on June 8, 2015
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Superseded rules:
Subchapter 1. General Provisions
655:10-1-1. Purpose [AMENDED]
655:10-1-2. Definitions [AMENDED]
655:10-1-6. Agency representatives [AMENDED]
Subchapter 3. Codification of Rules
Part 5. Code Numbering, Headings, and Taglines
655:10-3-29. Reserving OAC numbers [AMENDED]
Subchapter 7. Preparation of Documents
Part 1. General Provisions
655:10-7-1. Types of documents; excluded documents [AMENDED]
655:10-7-6. Transmittal sheet; liaison verification [AMENDED]
Part 3. Rule Documents
655:10-7-11. Preamble [AMENDED]
655:10-7-13. Enacting clause [AMENDED]
655:10-7-16. Attestations [AMENDED]
Part 5. Notice Documents
655:10-7-25. Notice document types; transmittal sheet [AMENDED]
655:10-7-29. Statements of submission ~~for gubernatorial and legislative review~~ of adopted rules to Governor and Legislature [AMENDED]
655:10-7-30. Notices of gubernatorial approval [REVOKED]
655:10-7-31. Notices of gubernatorial disapproval [REVOKED]
655:10-7-32. Notices of legislative disapproval [AMENDED]
655:10-7-33. Notices of withdrawn rules [AMENDED]
655:10-7-35. Notices of errors in published documents [AMENDED]
Part 7. Miscellaneous Documents
655:10-7-47. Governor's declarations [NEW]
Part 9. Document Scope
655:10-7-52. Notice document scope, limitations [AMENDED]
Subchapter 9. Submission of Documents
655:10-9-1. Number of paper copies; electronic copies; special treatment of rule documents [AMENDED]
655:10-9-3. Filing and acceptance deadlines [AMENDED]
655:10-9-4. Official file date;~~Receipt~~receipt date~~;~~vs. acceptance date [AMENDED]
655:10-9-6. Electronic transmission of documents [REVOKED]
Subchapter 11. Review of Documents
655:10-11-1. Review of Register submissions [AMENDED]
Subchapter 13. Corrections of Errors
655:10-13-2. Errors prior to Register publication [AMENDED]
655:10-13-3. Errors after Register publication [AMENDED]
Subchapter 15. The Oklahoma Register
655:10-15-1. Publication dates and filing/acceptance deadlines [AMENDED]
655:1-15-5. Register contents [AMENDED]
Subchapter 19. Public Inspection and Copies of Documents
655:10-19-1. Public access to documents and publications [AMENDED]
Gubernatorial approval:
March 18, 2014
Register publication:
31 Ok Reg 584
Docket number:
14-353
INCORPORATIONS BY REFERENCE:
n/a
ANALYSIS:
Amendments to the Secretary of State's Administrative Rules on Rulemaking (ARR) [OAC 655:10] reflect statutory revisions to the Administrative Procedures Act (APA) enacted in HB 2055, effective November 1, 2013, and new review requirements enacted in EO 2013-34, effective November 1, 2013.

Rules related to the approval process and final adoption of proposed permanent rules are being amended to conform to provisions in HB 2055 and EO 2013-34.

Rules establishing separate filing deadlines and review periods for finally adopted permanent rules are being added, as specifically authorized by Section 8 of HB 2055.

All requirements and references relating to state regulatory agencies filing Notices of Gubernatorial Approval of Rules and Notices of Gubernatorial Disapproval of Rules with the Office of Administrative Rules (OAR) are being stricken to reflect the revocation in HB 2055 of Section 303.2 of the APA [75:303.2].

All requirements and references to special provisions for legislative review of rules proposed by Title 59 agencies and rules proposing fees and fee increases are being stricken to reflect the removal of those special provisions in the APA.

References relating to the expiration of emergency rules are being amended to reflect the new September 15 expiration date established in HB 2055.

Outdated provisions requiring submission of documents to the OAR on CD are being revised to allow state agencies to submit documents on DVD and other media formats approved by OAR.

A new provision requiring agency liaisons to provide email addresses to the OAR is being added to allow for delivery of all proofs of publication electronically, thereby reducing paper costs and further modernizing the rulemaking process.

Cites and cross references, as well as quoted and paraphrased language, are being updated to reflect revisions to the statutes.

CONTACT PERSON:

Peggy Coe, Director, Office of Administrative Rules, 2401 N. Lincoln Boulevard, Room 220, Oklahoma City, OK 73105, (405) 521-4911.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 11, 2015:

SUBCHAPTER 1. GENERAL PROVISIONS

655:10-1-1. Purpose

~~This~~The rules in this Chapter ~~establishes~~establish procedures and standards for filing and publishing rules, rulemaking notices, Governor's declarations, and executive orders in The Oklahoma Register and The Oklahoma Administrative Code as authorized under the provisions of the Administrative Procedures Act, 75 O.S., Sections 250 et seq., and reflect rule review requirements enacted in Executive Order 2013-34.

655:10-1-2. Definitions

In addition to terms defined in 75 O.S., Section 250.3, the following words or terms, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise:

"APA" means the Administrative Procedures Act, 75 O.S., Sections 250 et seq.

"ARR" means the Administrative Rules on Rulemaking, OAC 655:10.

"Adopted rule" means *a proposed emergency* [or preemptive] *rule that has been adopted by the agency but has not been approved or disapproved by the Governor . . . , or a proposed permanent rule that has been adopted by the agency but has not been approved or disapproved by the Legislature or* [approved] *by declaration of the Governor* [75:250.3(2)] as provided by 75 O.S., Sections 308 and 308.3(D). [See also definitions of "proposed rule" and "Governor's declaration" in this Section].

"Agency" means *any constitutionally or statutorily created state board, bureau, commission, office, authority, public trust in which the state is a beneficiary, or interstate commission* [75:250.3(3)] with authority for rulemaking. Except, "agency" does not include *the Legislature or any branch, committee or officer thereof,* ~~*[or]*~~*and . . . the courts* [75:250.3(3)]. [See also definition of "rulemaking entity" in this Section]

"Amendment" means a revision which adds, modifies, or deletes characters, numbers, letters, words, phrases, sentences, spaces, or punctuation in an existing section.

"Appendix" means a division of the OAC which contains one or more "graphics" (as defined in this Section). Appendices are placed at the end of a Chapter. [See 655:10-3-37]

"Attestation" means certification by an agency as *to the correctness of copies of any rule . . . and that such rules were made and adopted if the rules are emergency* [or preemptive] *rules or finally adopted if the rules are permanent rules in substantial compliance with the Administrative Procedures Act* [75:254]. [See 655:10-7-16 (relating to attestations)]

"Chapter" means a division of the OAC which designates a broad area of regulatory control within an agency's Title. [See also 655:10-3-22 (relating to Chapter numbers and headings)]

"Code" means the publication authorized in 75 O.S., Section 256 and known as The Oklahoma Administrative Code, or, prior to its publication, the compilation of codified rules authorized by 75 O.S., Section 256(A)(1)(a) and maintained in the OAR. [See also definition of "OAC" in this Section]

"Codification date" means the date a rule was accepted for inclusion in the first official compilation of codified rules authorized by 75 O.S., Section 256(A)(1)(a); except, the date of codification for subsequently promulgated new rules is the effective date of the permanent rulemaking action which establishes the rules.

"Docket number" means the identification number assigned to a document upon its receipt in ~~theOAR~~the OAR. [See 655:10-15-4 (relating to docket numbers)]

"Document" means the total body of information required by the APA and ARR to be submitted for each rulemaking action, Governor's declaration, or executive order to be published in the Register. [See also Part 9 of Subchapter 7 of this Chapter (relating to scope of a document)]

"Document heading" means the two-part heading required at the beginning of each notice document or rule document submitted to the OAR. [See 655:10-7-3 (relating to document headings)]

"Emergency rule" means a "rule," as defined in the APA, which must be approved by the Governor under the special provisions of 75 O.S., Section 253 prior to promulgation of the rule.

"Enacting clause" means the portion of a rule document which proclaims the agency's rulemaking action and introduces the finally adopted (if permanent) or adopted (if emergency or preemptive) regulatory text. [See 655:10-7-13 (relating to enacting clauses)]

"Existing rule" means an effective rule.

"Finally adopted" or **"final adoption"** means the approval of a proposed permanent rule upon the occurrence of one of the following:

(A) legislative approval of the rule by omnibus joint resolution, provided that the resolution has either been approved by the Governor pursuant to OKLA. Const. Art. 6, § 11 or the Governor's veto has been overridden by the Legislature.

(B) legislative approval of the rule by joint resolution, provided that the resolution has either been approved by the Governor pursuant to OKLA. Const. Art. 6, § 11 or the Governor's veto has been overridden by the Legislature.

(C) gubernatorial veto of a joint or omnibus joint resolution disapproving the rule, provided that the veto has not been overridden by the Legislature.

(D) gubernatorial approval of the rule by Governor's declaration [see definition of "Governor's declaration" in this Section].

"Governor's declaration" means an action the Governor may take to declare the approval and final adoption of proposed permanent rules that were:

(A) disapproved by an omnibus joint resolution, but *the Governor finds that the necessity* [for the rules] *does exist, and that the agency has the authority to make the rules*[75:308.3(D)(3)];

(B) submitted to the Legislature on or before April 1, but the Legislature has failed to pass an omnibus joint resolution approving/disapproving rules prior to sine die adjournment of the Legislature [75:308.3(D)(4)]; or

(C) approved by the Legislature in an omnibus resolution, but the omnibus joint resolution has been found by the Governor to have a technical legal defect [75:308.3(D)(4)].

"Graphics" means tabular material, forms, illustrations, diagrams, maps, charts, graphs, figures, or other pictorial material. [See 655:10-3-37 (relating to graphics and appendices)]

"Notice document" means a "document," as defined in this Section, which contains one of the following notices:

(A) Notice of rulemaking intent [75:303(A),(B),(C)].

(B) Notice of cancelled hearing or comment period [655:10-7-27].

(C) Notice of continued hearing or comment period [655:10-7-28].

(D) Statement of submission of permanent rules ~~for gubernatorial and legislative review~~to Governor and Legislature [75:303.1(C)].

~~(E) Notice of gubernatorial approval of permanent rules[75:303.2(A)(1)].~~

~~(F) Notice of gubernatorial disapproval of permanent rules [75:303.2(A)(2)].~~

(~~G~~E) Notice of legislative disapproval of rules [75:308(C) and 655:10-7-32].

(~~H~~F) Notice of withdrawn rules [75:308~~(G)~~(F) and 655:10-7-33].

(~~I~~G) Notice of error in published document [655:10-7-35].

"OAC" means the publication authorized by 75 O.S., Section 256 and known as The Oklahoma Administrative Code, or, prior to its publication, the compilation of codified rules authorized by 75 O.S., Section 256(A)(1)(a) and maintained in the OAR. [See also definition of "Code" in this Section]

"OAC number" means a Title, Chapter, Subchapter, Part, or Section number, or Appendix letter designation.

"OAR" means the Office of Administrative Rules. [See also definition of "Office of Administrative Rules" in this Section]

"Office of Administrative Rules" means the office, created pursuant to 75 O.S., Section 250.9 within the Office of the Secretary of State, with the *primary responsibility for publishing "The Oklahoma Register" and the "Oklahoma Administrative Code" and otherwise implementing the provisions of Article I of the Administrative Procedures Act* [75:250.9]. [See also definition of "OAR" in this Section]

"Omnibus joint resolution" or **"omnibus resolution"** means a joint resolution identifying disapproved permanent rules and declaring all other permanent rules submitted to the Legislature as of a certain date, as identified in the resolution, to be approved. [75:308.3]

"Paragraph" means the second level of subdivision in a Section; a paragraph is a subdivision of a subsection in a Section. [See 655:10-3-25 (relating to Section subdivisions)]

"Part" means a division of the OAC which contains a group of Sections related to the same subject within a Subchapter. [See also 655:10-3-23 (relating to Part numbers and headings)]

"Permanent rule" means a "rule," as defined in the APA, which must be reviewed by the Governor and the ~~Legislature~~ agency's Cabinet Secretary prior to adoption pursuant to Executive Order 2013-34, and finally adopted pursuant to 75 O.S., Sections ~~303.1, 303.2, and 308~~250.3(15) and 308(E) prior to promulgation of the rule. [See also 655:10-7-10 (relating to types of rules)]

"Preamble" means the portion of a rule document that summarizes the rule(s) and the history of the rulemaking action, cites legal authority, and functions as a preface to the rule(s). [See 655:10-7-11 (relating to preambles)]

"Preemptive rule" means a "rule," as defined in the APA, which is adopted by the Commission for Human Services and which must be approved by the Governor under the special provisions of 75 O.S., Section 250.6 prior to promulgation of the rule.

"Proposed rule" means an emergency or preemptive rule prior to approval by the Governor, or a permanent rule prior to final adoption ~~[see~~as defined in 75:250.3(5) ~~(relating to final adoption)]~~and this section.

"Register" means the publication authorized in 75 O.S., Section 255 and known as The Oklahoma Register, successor publication to The Oklahoma Gazette.

"Regulatory text" means the language of any "rule," as defined in 75 O.S., Section 250.3(17) and this Section; any text, including graphics, which requires promulgation.

"Revocation" or **"revoke"** means the repeal of an existing rule (i.e., Section or Appendix) in its entirety.

"Rule" means a Section or Appendix [see also definition of "rule" in 75 O.S., Section 250.3(17)].

"Rule document" means a "document," as defined in this Section, which contains ~~an emergency or preemptive adoption, or a permanent final adoption, of~~ new rules or amendments to or revocations of existing rules adopted by emergency or preemptive action or finally adopted by permanent action.

"Rulemaking action" means any procedure, act, or occurrence, except executive orders, which must be announced in or published in the Register or Code under APA or ARR provisions, including:

(A) Notice of rulemaking intent [75:303(A),(B),(C)].

(B) Notice of cancelled hearing or comment period [655:10-7-27].

(C) Notice of continued hearing or comment period [655:10-7-28].

(D) Final adoption of a permanent rule(s) [~~75:308.1 and 75:251(B)~~75:308(E) and 75:308.3].

(E) Promulgation of an emergency rule(s) [75:253].

(F) Promulgation by the Commission for Human Services of a preemptive rule(s) [75:250.6].

(G) Submission of ~~a proposed~~an adopted permanent rule(s) ~~for gubernatorial and legislative review~~to Governor and Legislature [75:303.1~~(C)~~(A)].

~~(H) Approval of a proposed permanent rule(s) by the Governor [75:303.2(A)(1)].~~

~~(I) Disapproval of a proposed permanent rule(s) by the Governor [75:303.2(A)(2)].~~

(~~J~~H) Disapproval of a rule(s) by the Legislature [75:308~~(C)~~ (B) and 75:308.3(C)].

(~~K~~I) Withdrawal of a proposed rule from the rulemaking process [75:308~~(G)~~(F), 75:253(K), and 655:10-7-33].

(~~L~~J) Notice of error in a published document [655:10-7-35].

(K) Governor's declaration [75:308.3(D)].

"Rulemaking entity" means the board, commission, officer, or other person or entity legally authorized to adopt and promulgate "rules," as defined in 75 O.S., Section 250.3(17).

"Section" means a "rule," as defined in 75 O.S., Section 250.3(17)~~. A Section is~~; a division of the OAC which contains an agency statement(s) about a specific regulatory topic within a Chapter, Subchapter, or Part. [See 655:10-3-24 (relating to Section numbers and taglines)]

"Section subdivision" means any one of five possible levels into which a Section may be separated. A maximum of five levels of Section subdivisions may be used in a Section [see 655:10-3-25 (relating to Section subdivisions)]:

(A) Subsections
(B) Paragraphs
(C) Subparagraphs
(D) Units
(E) Subunits

"Section text" means the "regulatory text" (as defined in this Section) which follows the Section number and tagline in a Section.

"Source note" means the record of rulemaking history which follows a Section, an Appendix, or a Subchapter or Chapter table of contents in the Code. Source notes track the administrative history of a rule. [See 655:10-17-6 (relating to Chapter, Subchapter, and Section/Appendix source notes)]

"Strikeout" means a solid or dashed horizontal line through deleted regulatory text.

"Subchapter" means a division of the OAC which contains a group of Sections related to the same general subject area within a Chapter. [See 655:10-3-23 (relating to Subchapter numbers and headings)]

"Subparagraph" means the third level of subdivision within a Section; a subparagraph is a subdivision of a paragraph in a Section. [See 655:10-3-25 (relating to Section subdivisions)]

"Subsection" means the first level of subdivision in a Section. [See 655:10-3-25 (relating to Section subdivisions)]

"Subunit" means the fifth level of subdivision within a Section~~. A~~; a subunit is a subdivision of a unit in a Section; it is the smallest possible subdivision of a Section. [See 655:10-3-25 (relating to Section subdivisions)]

"Title" means the broadest division of the OAC; a Title contains ~~all~~the rules of ~~an~~one agency. [See 655:10-3-21 (relating to Title numbers and headings)]

~~**"Title 59 agency"** means *an agency, board, or commission created by or that receives its authority from Title 59 of the Oklahoma Statutes* [75:308(F)].~~

~~**"Title 59 rules"** means rules of a "Title 59 agency," as defined in this section.~~

"Unit" means the fourth level of subdivision within a Section; a unit is a subdivision of a subparagraph in a Section. [See 655:10-3-25 (relating to Section subdivisions)]

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

655:10-1-6. Agency representatives

(a) **Appointment.**

(1) **Designation.** Each agency shall designate~~, from its officers or employees,~~ persons to serve in the following capacities. The same person may be designated to serve in more than one of these positions; provided, an officer may not be his or her own alternate.

(A) Liaison officer and alternate.
(B) Attestation officer and alternate or alternates.

(2) **General qualifications.** The representatives should possess the following qualifications:

(A) general knowledge of the agency's functions, responsibilities, and internal procedures;
(B) familiarity with the substance and procedures of the APA and ARR;
(C) familiarity with the statutes or other legal instruments which govern the agency; and
(D) if the representative is not responsible for drafting the agency's rules or notices, accessibility to those

in ~~operating divisions~~the agency who are responsible for drafting the agency's rules and notices.

(3) **Attestation officer qualifications.** If the attestation officer is not the actual rulemaking entity, or a voting member if the authority for rulemaking is vested in more than one person (i.e., board or commission), the officer must be authorized by the rulemaking entity to attest~~,~~ for the rulemaking entity~~,~~ as to APA compliance. [See also 655:10-7-16 (relating to attestations)]

(b) **Liaison officer duties.**

(1) **Coordination of documents; verification.** The agency liaison officer shall act as liaison between the agency and the OAR in all matters concerning documents submitted by the agency. All documents submitted by an agency shall be coordinated through the liaison officer. All documents submitted require the verification and signature of the liaison officer [see 655:10-7-6].

(2) **Coordination of information.** ~~ARR and APA information~~Information distributed by the OAR and correspondence directed to the individual agency by the OAR are sent to the attention of the liaison officer. The liaison officer is responsible for receiving and maintaining such information and for distributing the information to appropriate personnel within the agency.

(3) **Proof of publication.** The OAR shall send proof of publication to the liaison officer pursuant to 655:10-15-11.

(c) **Attestation officer duties.** The agency attestation officer is responsible for completing and signing ~~attestations~~attestations required by 655:10-7-16.

(d) **Notification.** The rulemaking entity shall report the appointment of agency representatives in writing to the OAR. Notification must include the representative's name, title, office address, email address, and office telephone number. When a new representative is appointed, the rulemaking entity must ~~report the name of the new representative in writing to~~notify the OAR in writing within 30 days after such appointment. ~~Provided, the~~The OAR shall not accept a rule document for Register publication unless the name or names of the person or persons signing the attestation have been reported in writing to the OAR.

SUBCHAPTER 3. CODIFICATION OF RULES

PART 5. CODE NUMBERING, HEADINGS, AND TAGLINES

655:10-3-29. Reserving OAC numbers

Title, Chapter, Subchapter, Part, and Section numbers, and Appendix letters, may be reserved pursuant to this Section. A number or letter that is not used because of the gapping policy in 655:10-3-27 is not reserved.

(1) **Reserving numbers by agency request.** Agencies may request the reservation of a Title or Chapter in the Code by submitting a written request to the OAR. The OAR shall review the request and respond in writing. If approved, the OAR will update the Code accordingly.

(2) **Reserving numbers via rulemaking.** Subchapter, Part, and Section numbers, and Appendix letters, may be reserved by an agency in a rulemaking action.

(3) **Reserving numbers by necessity.** The OAR may reserve a Chapter, Subchapter, Part, Section, or Appendix number or letter to correct a numbering gap that is:

(A) not discovered in rules prior to approval by the Governor (if emergency or preemptive) or final adoption (if permanent), and that is not authorized by the gapping policy in 655:10-3-27; or

(B) caused by ~~gubernatorial/~~legislative disapproval or withdrawal by the agency from the rulemaking process of a Section, Appendix, Part, Subchapter, or Chapter, when such disapproval or withdrawal results in a gap in numbering not authorized under 655:10-3-27.

SUBCHAPTER 7. PREPARATION OF DOCUMENTS

PART 1. GENERAL PROVISIONS

655:10-7-1. Types of documents; excluded documents

(a) **Rulemaking documents.** Notice and rule documents published in the Register are legal instruments through which a rulemaking entity revises its existing rules, or enacts new rules.

(1) **Notice documents.** Notice documents announce an agency's intention to adopt rules or the agency's compliance with certain other steps in the rulemaking process. Notice documents are published in the Register but are not included in the Code. [See Part 5 of this Subchapter (relating to notice documents)]

(2) **Rule documents.** Rule documents announce final adoption of permanent rules [75:250.3(5); 75:308.1(A)], or adoption of emergency or preemptive rules [75:253; 75:250.6].

(A) **Permanent, preemptive rules.** Inclusion of a rule in the Code requires prior publication in a rule document in the Register as a finally adopted permanent rule or as an adopted preemptive rule that has been approved by the Governor.

(B) **Emergency rules.** Emergency rules are published in the Register but are not included in the Code.

(b) **Miscellaneous documents, including executive orders and gubernatorial declarations.** In addition to rulemaking documents, executive orders, gubernatorial declarations as described in 75 O.S., Section 308.3, and ~~certain~~ other miscellaneous documents~~, if~~ expressly required by law [see (c) of this section]~~,~~ are published in the Register. Executive orders are published in both the Register and the Code.

(c) **Excluded documents.** Notices or other documents which are not expressly required by law to be published in the Register or the Code shall not be published in the Register or the Code.

655:10-7-6. Transmittal sheet; liaison verification

(a) **Use; format.**

(1) A transmittal sheet must accompany each document submitted to the OAR and each emergency rule document submitted to the Governor and the Legislature. The transmittal sheet is not published.

(2) The transmittal sheet must include the headings and information described in (b) of this Section, formatted pursuant to the following:

(A) Begin each heading at the left margin.

(B) Begin the contents required for each heading on the first line below the heading.

(C) Indent the first line of the contents, but do not indent subsequent lines of the contents.

(b) **Content.** The transmittal sheet must be prepared pursuant to the style required in (a)(2) of this Section and must include the following headings and information:

(1) **Name of agency.** Under the bolded heading "**NAME OF AGENCY:**", type the name exactly as it appears in the agency's assigned Title heading in the OAC.

(2) **Type of document.** Under the bolded heading "**TYPE OF DOCUMENT:**", identify the type of document by typing one of the following:

(A) Final adoption of permanent rules.

(B) Adoption of emergency rules.

(C) Adoption of preemptive rules.

(D) Notice of rulemaking intent.

(E) Notice of cancelled hearing or comment period.

(F) Notice of continued hearing or comment period.

(G) Statement of submission ~~for gubernatorial and legislative review~~to Governor and Legislature.

~~(H) Notice of gubernatorial approval.~~

~~(I) Notice of gubernatorial disapproval.~~

(~~J~~H) Notice of legislative disapproval.

(~~K~~I) Notice of withdrawn rules.

(~~L~~J) Notice of errors in published document.

(3) **Liaison verification.** Under the bolded heading "**LIAISON VERIFICATION:**", include the following signed statement: "I verify that I have reviewed the attached document and that it substantially conforms to filing and format requirements of the APA and the rules of the Secretary of State. Additional information may be obtained by contacting me at (telephone number)." The statement must be followed by the liaison's signature, typed name, and job title, and the date the liaison signs the verification.

PART 3. RULE DOCUMENTS

655:10-7-11. Preamble

(a) **Use; location; format.**

(1) **Use.** Each rule document submitted for Register publication, and each emergency or preemptive rule document submitted to the Governor and the Legislature, must begin with a document heading [see 655:10-7-3], followed by a preamble prepared pursuant to this Section. The preamble is followed by the enacting clause [see 655:10-7-13]; except, if the text of the rules exceeds 75 pages, the preamble is followed by the summary [see 655:10-7-12]. [See also 655:10-7-51 (relating to rule document scope)]

(2) **Location.** The preamble begins two single spaces below the document heading [see 655:10-7-3].

(3) **Format.**

(A) The preamble must be single-spaced.

(B) The preamble must include the headings and information required in (b) of this Section, formatted pursuant to the following:

(i) Begin each heading and subheading at the left margin.

(ii) Begin the contents required for each heading and subheading on the first line below the heading or subheading.

(iii) Indent the first line of the contents, but do not indent subsequent lines of the contents; except, when listing rules under the heading **RULES** [see (b)(2) of this Section], begin each rule number on a separate indented line under the heading.

(b) **Content.** The preamble must be prepared in the style described in (a)(3) of this Section and must contain the following headings and information:

(1) **Rulemaking action.** Under the bolded heading "**RULEMAKING ACTION:**", type one of the following:

(A) If permanent rules, type "PERMANENT final adoption."

(B) If emergency rules, type "EMERGENCY adoption."

(C) If preemptive rules, type "PREEMPTIVE adoption."

(2) **Rules.** Under the bolded heading "**RULES:**", identify adopted rules (if emergency or preemptive) or finally adopted rules (if permanent) pursuant to the following:

(A) **Less than 30 Sections/Appendices affected.** If less than 30 Sections and/or Appendices are added, amended, revoked, renumbered, and/or reserved:

(i) cite each Section and Appendix, followed by the word [NEW], [AMENDED], [REVOKED], [RENUMBERED], [AMENDED AND RENUMBERED], or [RESERVED]. If consecutive Sections or Appendices are added, amended, revoked, renumbered, or reserved, they may be grouped together (e.g., 10:10-1-5 through 10:10-1-9 [AMENDED]; 10:10-1-10 and 10:10-1-11 [REVOKED]; 10:10-1-15 through 10:10-1-17 [NEW]; Appendix C through Appendix G [NEW]), and

(ii) include all applicable Subchapter and Part numbers and headings, and add [NEW] or [REVOKED] following the headings of Subchapter and Parts that are added or revoked. If a heading is being amended, identify the changes using strikeouts and underscoring as described in 655:10-5-3(b).

(B) **30 or more Sections/Appendices affected.** If 30 or more Sections and/or Appendices are added, amended, revoked, renumbered, and/or reserved:

(i) cite the Chapter number and heading, rather than citing each Section and Appendix, and:

(ii) identify whether the Chapter itself is new, amended, or revoked, as follows:

(I) **New Chapter.** If the Chapter is a new Chapter, add the word [NEW] following the Chapter number and heading.

(II) **Revoked Chapter.** If the entire Chapter is revoked (i.e., every Section and Appendix in the Chapter, except those previously reserved, renumbered, or revoked, is being revoked), add the word [REVOKED] following the Chapter number and heading.

(III) **Amended Chapter.** If an existing Chapter is amended (i.e., Sections/Appendices are added, amended, revoked, renumbered, and/or reserved), add the word [AMENDED] following the Chapter number and heading. If the Chapter heading is being amended, identify the changes using strikeouts and underscoring as described in 655:10-5-3(b).

(3) **Authority.** Under the bolded heading "**AUTHORITY:**":

(A) identify the rulemaking entity, as defined in 655:10-1-2, and

(B) cite the statute or other legal instrument which authorizes the promulgation of rules for this area of control, or the statute or other legal instrument which authorizes the rules. Do not cite APA statutes which authorize rulemaking procedures except when promulgating "required rules" pursuant to 655:10-5-7.

(4) **Submission of proposed rules to Governor and Cabinet Secretary.**

(A) **Permanent rules.** If the rules are permanent rules, under the bolded heading "**SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:**", cite the date the proposed rules were submitted to the Governor and the agency's Cabinet Secretary for review, as required by Executive Order 2013-34.

(B) **Emergency, preemptive rules.** If the rules are emergency or preemptive rules, do not include this heading or the information described in this paragraph.

(~~4~~5) **Comment period.** Under the bolded ~~subheading "**Comment period:**"~~heading "**COMMENT PERIOD:**", cite one of the following:

(A) **Permanent rules.** If the rules are permanent rules, cite the beginning date and ending date of the comment period announced in the published Notice of Rulemaking Intent.

(B) **Emergency, preemptive rules.** If the rules are emergency or preemptive rules AND if a comment period was announced in a published Notice of Rulemaking Intent, cite the beginning date and ending date of the comment period. **Do not include** this ~~subheading~~heading or this information if no comment period was held or announced in the Register for the emergency or preemptive rules.

(~~5~~6) **Public hearing.** Under the bolded ~~subheading "**Public hearing:**"~~heading "**PUBLIC HEARING:**", cite one of the following:

(A) **Permanent rules.** If the rules are permanent rules, cite one of the following:

(i) the date of the public hearing, if one was announced in a published Notice of Rulemaking Intent, or

(ii) "None held or requested" if a public hearing was not scheduled and not demanded pursuant to 75 O.S., Section 303(C).

(B) **Emergency, preemptive rules.** If the rules are emergency or preemptive rules AND if a public hearing was announced in a published Notice of Rulemaking Intent, cite the date of the public hearing. **Do not include** this ~~subheading~~heading or this information if no public hearing was held or announced in the Register for the emergency or preemptive rules.

(~~6~~7) **Adoption.** Under the bolded ~~subheading "**Adoption:**~~ "heading "**ADOPTION:**", cite the date the rules were adopted by the rulemaking entity.

~~(7) **Submitted to Governor.**~~

~~(A) **Permanent rules.** If the rules are permanent rules, under the bolded subheading "**Submitted to Governor:**", cite the date the permanent rules were submitted to the Governor for review.~~

~~(B) **Emergency, preemptive rules.** If the rules are emergency or preemptive rules, do not include the subheading or information described in this paragraph.~~

(8) ~~**Submitted**~~**Submission of adopted rules to** ~~**House**~~**Governor and Legislature.**

(A) **Permanent rules.** If the rules are permanent rules, under the bolded ~~subheading "**Submitted to House:**"~~heading "**SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:**", cite the date the adopted permanent rules were submitted to the Governor, Speaker of the House of Representatives ~~for review~~, and President Pro Tempore of the Senate pursuant to 75 O.S., Section 303.1(A) .

(B) **Emergency, preemptive rules.** If the rules are emergency or preemptive rules, do not include the ~~subheading~~heading or information described in this paragraph.

~~(9) **Submitted to Senate.**~~

~~(A) **Permanent rules.** If the rules are permanent rules, under the bolded subheading "**Submitted to Senate:**", cite the date the permanent rules were submitted to the President Pro Tempore of the Senate for review.~~

~~(B) **Emergency, preemptive rules.** If the rules are emergency or preemptive rules, do not include~~

~~the subheading or information described in this paragraph.~~

~~(10) **Gubernatorial approval.**~~

~~(A) **Permanent rules.** If the rules are permanent rules AND if the permanent rules were approved by the Governor, under the bolded subheading "**Gubernatorial approval:**", cite the date the rules were approved by the Governor. **Do not include** this subheading or this information if the permanent rules were disapproved rather than approved by the Governor [see (11) of this subsection for information required for gubernatorial disapprovals].~~

~~(B) **Emergency, preemptive rules.** If the rules are emergency or preemptive rules, do not include the subheading or information described in this paragraph.~~

~~(11) **Gubernatorial disapproval.**~~

~~(A) **Permanent rules.** If the rules are permanent rules AND if the permanent rules were disapproved by the Governor [see (10) of this subsection for information required for gubernatorial approvals], under the bolded subheading "**Gubernatorial disapproval:**", cite one of the following:~~

~~(i) the date the permanent rules were disapproved by the Governor, or~~

~~(ii) "Failure of the Governor to approve the rules resulted in disapproval of the rules on (date)." [see 75:303.2(A)(2); see also 655:10-7-31]~~

~~(B) **Emergency, preemptive rules.** If the rules are emergency or preemptive rules, do not include the subheading or information described in this paragraph.~~

(~~12~~9) **Legislative approval.**

(A) **Permanent rules.** If the rules are permanent rules AND if the rules were approved by a joint or omnibus joint resolution AND if the resolution was either approved by the Governor pursuant to OKLA. Const. Art. 6, § 11 or the Governor's veto was overridden by the Legislature, under the bolded ~~subheading "**Legislative approval:**~~heading "**LEGISLATIVE APPROVAL:**", ~~cite one of the following:~~type

~~(i) **Title 59 rules; fees.** If the rules are Title 59 rules or rules that establish or increase fees, cite "Approved [date Governor signed Legislature's joint resolution approving the rules OR, if resolution was vetoed by Governor, date veto was overridden by Legislature] by [number of joint resolution]" [see 75:308(F)].~~

~~(ii) **All other rules.** If the rules are NOT Title 59 rules or rules that establish or increase fees, cite one of the following:~~

~~(I)~~ "Approved [effective date of joint or ~~concurrent~~omnibus resolution approving the permanent rule(s)] by [number of joint or ~~concurrent~~omnibus resolution]~~,~~." ~~or~~The effective date is the day the resolution was either approved by the Governor pursuant to OKLA. Const. Art. 6, § 11 or the Governor's veto was overridden by the Legislature.

~~(II) "Failure of the Legislature to disapprove the rule(s) resulted in approval on (date)" [see 75:308(E)], or~~

~~(III) "Approved [effective date of joint or concurrent resolution waiving Legislature's review period] by [number of joint or concurrent resolution], waiving the Legislature's thirty legislative day review period" [see 75:308(B)(2)(b)].~~

(B) **Emergency, preemptive rules.** If the rules are emergency or preemptive rules, do not include the ~~subheading~~heading or the information described in this paragraph.

(10) **Legislative disapproval.**

(A) **Permanent rules.** If the rules are permanent rules AND the rules were disapproved by an omnibus joint resolution AND the resolution was either approved by the Governor pursuant to OKLA. Const. Art. 6, § 11 or the Governor's veto was overridden by the Legislature, under the bolded heading "**LEGISLATIVE DISAPPROVAL**:", type "Disapproved [effective date of omnibus joint resolution disapproving the permanent rule(s)] by [number of omnibus joint resolution]." The effective date is the day the resolution was approved by the Governor or the Governor's veto was overridden by the Legislature.

(B) **Emergency, preemptive rules.** If the rules are emergency or preemptive rules, do not include the heading or the information described in this paragraph.

(11) **Approval by Governor's declaration.**

(A) **Permanent rules.** Under the bolded heading "**APPROVED BY GOVERNOR'S DECLARATION:**", type "Approved by Governor's declaration on (date of Governor's declaration)" if the rules are permanent rules AND the rules were:

(i) approved by a Governor's declaration AFTER being disapproved by an omnibus joint resolution that was either approved by the Governor pursuant to OKLA. Const. Art. 6, § 11 or the Governor's veto was overridden by the Legislature [75:308.3(D)(3)], or

(ii) filed with the Legislature on or before April 1 AND the rules were approved by Governor's declaration AFTER the Legislature failed to pass an omnibus joint resolution prior to sine die adjournment of the Legislature [75:308.3(D)(4)], or

(iii) approved by a Governor's declaration AFTER being approved by an omnibus joint resolution that was found by the Governor to have a *technical legal defect preventing approval of administrative rules intended to be approved by the Legislature* [75:308.3(D)(4)].

(B) **Emergency, preemptive rules.** If the rules are emergency or preemptive rules, do not include the

heading or the information described in this paragraph.

(~~13~~12) **Final adoption.**

(A) **Permanent rules.** If the rules are permanent rules, under the bolded ~~subheading "**Final adoption:**"~~heading "**FINAL ADOPTION:**", cite the date of final adoption. The final adoption date is the date that one of the following occurs:

(i) the date the Governor approves a joint or omnibus joint resolution approving the rules, or the date the Governor's veto of the resolution is overridden by the Legislature [see OKLA. Const. Art. 6, § 11 (relating to gubernatorial actions on legislation)];

(ii) the date the Governor vetoes a joint or omnibus joint resolution disapproving the rules, provided the veto is not overridden by the Legislature; or

(iii) the date the rules are approved by a Governor's declaration as described in (11)(A) of this subsection.

(B) **Emergency, preemptive rules.** If the rules are emergency or preemptive rules, do not include the ~~subheading~~heading or information described in this paragraph.

(~~14~~13) **Effective.** Under the bolded ~~subheading "**Effective:**"~~heading "**EFFECTIVE:**", cite one of the following:

(A) **Permanent rules.** If the rules are permanent, cite ~~the specific~~an effective date ~~of~~that is at least ten days after the date the rules will be published in the Register [see 655:10-9-3 (relating to Register publication dates and filing deadlines)]. Do not cite "ten days after publication in the Register."

(B) **Emergency rules.** If the rules are emergency, cite one of the following:

(i) **Effective immediately upon Governor's approval.** If the emergency rules will be effective immediately upon approval by the Governor, type "Immediately upon Governor's approval";

(ii) **Contingent effective date.** If the emergency rules will be effective on a specific date that falls within the Governor's 45 calendar-day review period, but is contingent upon whether or not the Governor has already approved the rules, type "Immediately upon Governor's approval or (specific date), whichever is later"; or

(iii) **Later effective date.** If the emergency rules will be effective on a specific date that follows the completion of the Governor's 45 calendar-day review period, type the specific effective date~~.~~ [see 75:253(F)(1)].

(C) **Preemptive rules.** If the rules are preemptive, cite one of the following:

(i) **Effective immediately upon Governor's approval.** If the preemptive rules will be effective immediately upon approval by the Governor, type "Immediately upon Governor's approval";

(ii) **Contingent effective date.** If the preemptive rules will be effective on a specific date that falls within the Governor's 28 calendar-day review period, but is contingent upon whether or not the Governor has already approved the rules, type "Immediately upon Governor's approval or (specific date), whichever is later"; or

(iii) **Later effective date.** If the preemptive rules will be effective on a specific date that follows the completion of the Governor's 28 calendar-day review period, type the specific effective date~~.~~ [see 75:250.6(B)(6)].

(~~15~~14) **Expiration.**

(A) **Emergency rules.** If the rules are emergency rules, under the bolded ~~subheading "**Expiration:**"~~heading "**EXPIRATION:**", cite one of the following:

(i) **Latest possible expiration date.**

(I) **Effective on or before first day of session.** If the emergency ~~is~~ rules ~~are~~ will be *in effect on the first day of the session* and therefore ~~*shall*~~will *be null and void on* ~~*July*~~*September 15 immediately following sine die adjournment of the Legislature* [75:253(H)(3)(a)], type "Effective through ~~July~~September 14, (same year), unless superseded by another rule or disapproved by the Legislature."

(II) **Effective after first day of session.** If the emergency rules will become effective after the first day of the session and therefore will not be null and void until September 15 following sine die adjournment of the next legislative session, type "Effective through September 14, (next year), unless superseded by another rule or disapproved by the Legislature.

(ii) **Earlier expiration date.** If the ~~agency designates an earlier expiration date pursuant to 75 O.S., Section 253(H)(2)(d)~~emergency rules will expire on a date that is earlier than the latest possible expiration date for the rules, as described in (i)(I) and (II) of this subparagraph, type "Expires (date), unless superseded by another rule or disapproved by the Legislature."

(B) **Permanent, preemptive rules.** If the rules are permanent or preemptive rules, do not include the ~~subheading~~heading or information described in (A) of this paragraph.

(~~16~~15) **Superseded emergency actions; expired emergency rules.**

(A) **Superseded emergency actions.** Under the bolded heading "**SUPERSEDED EMERGENCY ACTIONS:**", cite one of the following:

(i) **Rules that do NOT supersede emergency rules.** If the rules are permanent, emergency, or preemptive rules and do not supersede any emergency rules, type "n/a."

(ii) **Rules that DO supersede emergency rules.** If the rules are permanent, emergency, or

preemptive rules and do supersede an emergency action, include the information in (I) through (IV) of this unit. If more than one emergency action is being superseded, repeat (I) through (IV) for each action.

(I) **Superseded rules.** Under the bolded subheading "**Superseded rules:**", identify the superseded emergency rules by citing each Section and Appendix being superseded, followed by the word [NEW], [AMENDED], [REVOKED], [RENUMBERED], [AMENDED AND RENUMBERED], or [RESERVED].

(II) **Gubernatorial approval.** Under the bolded subheading "**Gubernatorial approval:**", cite the date the superseded emergency rules were approved by the Governor.

(III) **Register publication.** Under the bolded subheading "**Register publication:**", include the full citation to the Register publication of the superseded emergency rules. [see 655:10-15-6 (relating to citing the Register)]

(IV) **Docket number.** Under the bolded subheading "**Docket number:**", cite the docket number assigned to the rule document which contains the superseded emergency rule(s).

(B) **Expired emergency rules.** If a Section or Appendix was added, revoked, amended, reserved, or renumbered by emergency rulemaking and will not be superseded by a permanent or preemptive action prior to its expiration, the agency must notify the OAR pursuant to 655:10-5-6(d).

(~~17~~16) **Incorporations by reference.** Under the bolded heading "**INCORPORATIONS BY REFERENCE:**", cite one of the following:

(A) **Rules that do NOT incorporate by reference.** If the rules do not incorporate any standards or rules by reference, type "n/a." [See 75:251(D) and 655:10-5-15 relating to incorporations by reference]

(B) **Rules that DO incorporate by reference.** If the rules incorporate by reference the published standards or rules of nationally recognized organizations and technical societies, other state agencies, or federal agencies pursuant to 75 O.S., Section 251(D) and 655:10-5-15, include the information in (i) through (iii) of this subparagraph.

(i) **Incorporated standards.** Under the bolded subheading "**Incorporated standards:**", identify the incorporated standards by the proper title, edition, volume number, date, etc.

(ii) **Incorporating rules.** Under the bolded subheading "**Incorporating rules:**", identify the Section(s) or Appendix(ces) which incorporates the standards by reference.

(iii) **Availability.** Under the bolded subheading "**Availability:**", cite the hours when and the place where the standards are *readily available to the public for examination at the administrative offices of the agency* [75:251(D)].

(~~18~~17) **Finding of emergency.**

(A) **Emergency rules.** If the rules are emergency rules, under the bolded heading "**FINDING OF EMERGENCY:**", include *substantial evidence that the rule is necessary as an emergency measure* [75:253(A)(1)], based on criteria set out in 75 O.S., Section 253(A).

(B) **Permanent, preemptive rules.** If the rules are permanent or preemptive rules, do not include the heading or information described in this paragraph.

(~~19~~18) **Analysis.** Under the bolded heading "**ANALYSIS:**", *prepare, in plain language, an analysis of new or amended rules* [75:251(B)(2)(f)]. *The analysis shall include but not be limited to*:

(A) *a reference to any statute that the rule interprets, any related statute or any related rule* [75:251(B)(2)(f)], and

(B) *a reference to any rule requiring a new or revised form* [75:251(B)(2)(e)].

(~~20~~19) **Contact person.** Under the bolded heading "**CONTACT PERSON:**", include the name and phone number of a contact person for information regarding the rulemaking action. Additional contact information, such as email address or fax number, may also be included under this heading.

(20) **Additional information.** Under the bolded heading "**ADDITIONAL INFORMATION:**", cite any additional information determined by the agency to be pertinent. The use of this category is optional.

655:10-7-13. Enacting clause

Beginning two single spaces below the preamble [see 655:10-7-11] or the summary (if required) [see 655:10-7-12], type an enacting clause pursuant to this Section. Type the enacting clause in uppercase letters beginning at the left margin.

(1) **Permanent rules.** If the rules are permanent rules, type the following enacting clause: PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., ~~SECTIONS 308.1(A)~~ SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF (date):

(2) **Emergency rules.** If the rules are emergency rules, type one of the following enacting clauses:

(A) **Effective upon Governor's approval.** If the effective date cited by the agency in the preamble of the emergency rule document is "Immediately upon Governor's approval" [as described in 655:10-7-11(b)~~(4)(K)(ii)(I)~~(13)(B)(i)], type the following enacting clause: 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(F):

(B) **Contingent effective date.** If the effective date cited by the agency in the preamble of the emergency rule document is "Immediately upon

Governor's approval or (date), whichever is later" [as described in 655:10-7-11(b)~~(4)(K)(ii)(II)~~(13)(B)(ii)], type the following enacting clause: 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(F), AND EFFECTIVE UPON APPROVAL BY THE GOVERNOR OR (date), WHICHEVER IS LATER:

(C) **Later effective date.** If the effective date cited by the agency in the preamble of the emergency rule document is a specific date that follows the completion of the Governor's review period [as described in 655:10-7-11(b)~~(4)(K)(ii)(III)~~(13)(B)(iii)], type the following enacting clause: 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(F), WITH A LATER EFFECTIVE DATE OF (date):

(3) **Preemptive rules.** If the rules are preemptive rules, type one of the following enacting clauses:

(A) **Effective upon Governor's approval.** If the effective date cited by the agency in the preamble of the preemptive rule document is "Immediately upon Governor's approval" [as described in 655:10-7-11(b)~~(4)(K)(iii)(I)~~(13)(C)(i)], type the following enacting clause: PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING PREEMPTIVE RULES ARE CONSIDERED PROMULGATED AND EFFECTIVE UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O.S., SECTION 250.6(B)(6):

(B) **Contingent effective date.** If the effective date cited by the agency in the preamble of the preemptive rule document is "Immediately upon Governor's approval or (date), whichever is later" [as described in 655:10-7-11(b)~~(4)(K)(iii)(II)~~(13)(C)(ii)], type the following enacting clause: PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLL OWING PREEMPTIVE RULES ARE CONSIDERED PROMULGATED UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O.S., SECTION 250.6(B)(6), AND EFFECTIVE UPON APPROVAL BY THE GOVERNOR OR (date), WHICHEVER IS LATER:

(C) **Later effective date.** If the effective date cited by the agency in the preamble of the preemptive rule document is a specific date that follows the completion of the Governor's review period [as described in 655:10-7-11(b)~~(4)(K)(iii)(III)~~(13)(B)(iii)], type the following enacting clause: PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING PREEMPTIVE RULES ARE CONSIDERED PROMULGATED UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O.S., SECTION 250.6(B)(6), WITH A LATER EFFECTIVE DATE OF (date):

655:10-7-16. Attestations

(a) **Use.** Agencies shall include an attestation in each rule document submitted to the OAR for Register publication, and in each emergency and preemptive rule document submitted to the Governor and the Legislature (and subsequent Register publication). Such attestation shall be prepared as set forth in this Section and 75 O.S., Section 254. The attestation is not published in the Register or the Code, but is maintained with the official rule document in the official files.

(b) **Location.** Prepare the attestation on a separate page in the document. The attestation follows regulatory text [see 655:10-7-14], or supplemental information if applicable [see 655:10-7-15].

(c) **Original signature.** At least one copy of the attestation in permanent rule documents submitted to the OAR ~~and emergency or preemptive rule documents submitted to the Governor and the Legislature~~ must contain an original signature of an authorized attestation officer [see 655:10-1-6 (relating to agency representatives)]. ~~All copies of the attestation~~Attestations in emergency and preemptive rule documents submitted to the OAR may be photocopies ~~in emergency and preemptive rule documents submitted to the OAR for publication after approval by the Governor~~.

(d) **Authorized signatures.** Pursuant to 655:10-1-6, the rulemaking entity must report to the OAR the name of each person who is authorized by the rulemaking entity to sign attestations for rules. The OAR will not accept a rule document for publication unless the name or names of the person or persons signing the attestation have been reported in writing to the OAR pursuant to this subsection and 655:10-1-6(d).

(e) **Contents.** Attestations for rule documents must contain the following two paragraphs and an authorized signature:

(1) **First paragraph.** The language of the first paragraph must read: (I, We), the undersigned, do hereby attest that the copy enclosed herewith is a true and correct copy of (amendments to, additions to, revoked, new) (Chapter number), (Chapter heading) which (was, were) (adopted, considered finally adopted) by (title of rulemaking entity) on (date) under (emergency, preemptive, permanent) rulemaking provisions of the Administrative Procedures Act, 75 O.S., Sections 250 et seq.

(2) **Second paragraph.** The language of the second paragraph must read: (I, We), the undersigned, do hereby attest that such (rule, rules) (was, were) (adopted, finally adopted) in substantial compliance with the Administrative Procedures Act.

(3) **Authorized signature.** The attestation must be signed by an attestation officer [see 655:10-1-6). The signature is followed by, the typed name and title of the attestation officer, and the date the attestation is signed.

PART 5. NOTICE DOCUMENTS

655:10-7-25. Notice document types; transmittal sheet

(a) **Types of notices.** Notice documents announce various types of rulemaking actions, as follows:

(1) Notice of rulemaking intent.

(2) Notice of cancelled hearing or comment period.

(3) Notice of continued hearing or comment period.

(4) Statement of submission of permanent rules ~~for gubernatorial and legislative review,~~to Governor and Legislature.

~~(5) Notice of gubernatorial approval of permanent rules.~~

~~(6) Notice of gubernatorial disapproval of permanent rules.~~

(~~7~~5) Notice of legislative disapproval of rules.

(~~8~~6) Notice of withdrawn rules.

(~~9~~7) Notice of error in published document.

(b) **Transmittal sheet.** Each notice document submitted to the OAR shall be accompanied by a transmittal sheet prepared pursuant to 655:10-7-6.

655:10-7-29. Statements of submission ~~for gubernatorial and legislative review~~ of adopted rules to Governor and Legislature

(a) **Use.** Within 10 days after adoption of permanent rules, the agency must submit the rules to the Governor and the Legislature ~~for review~~, pursuant to 75 O.S., Section 303.1. Upon submission of the rules ~~for review~~, the agency *shall also submit to the Office of Administrative Rules for publication in The Oklahoma Register, a statement that the adopted rules have been submitted to the Governor and the Legislature* [75:303.1(C)]. [See also 655:10-7-52 (relating to notice document scope)] As required by 74 O.S., Section 464, agencies must submit the rules to the Governor and Legislature via the State Online Filing System; provided, [i]f *for any reason the person required to file such document determines that it cannot be filed electronically, the person shall file a printed copy in lieu of such electronic filing and shall include an explanation of the reason that the document could not be filed electronically* [74:464].

(b) **Format; document heading.** The Statement of Submission ~~for Gubernatorial and Legislative Review~~of adopted permanent rules to Governor and Legislature begins with the document heading required in 655:10-7-3. Beginning two single spaces below the document heading, include the headings and information described in (c) of this Section, formatted pursuant to the following:

(1) Begin each heading at the left margin.

(2) Begin the contents required for each heading on the first line below the heading.

(3) Indent the first line of the contents, but do not indent subsequent lines of the contents; except, when listing rules under the heading **RULES** [see (c)(2) of this Section], begin each rule number on a separate indented line under the heading.

(c) **Content.** A Statement of Submission ~~for Gubernatorial and Legislative Review~~ must be prepared pursuant to the style required in (b) of this Section and must contain the following headings and information:

(1) **Rulemaking action.** Under the bolded heading "**RULEMAKING ACTION:**", type the following: "Submission ~~for gubernatorial and legislative review~~to Governor and Legislature."

(2) **Rules.** Under the bolded heading "**RULES:**", identify the submitted rules as described in 655:10-7-11(b)(2).

(3) **Submitted to Governor and Legislature.** Under the bolded heading "**~~SUBMITTED~~ SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:**", cite the date the rules were submitted to the Governor and Legislature~~for review~~.

~~(4) **Submitted to House.** Under the bolded heading "**SUBMITTED TO HOUSE:**", cite the date the rules were submitted for review to the Speaker of the House of Representatives.~~

~~(5) **Submitted to Senate.** Under the bolded heading "**SUBMITTED TO SENATE:**", cite the date the rules were submitted for review to the President Pro Tempore of the Senate.~~

655:10-7-30. Notices of gubernatorial approval [REVOKED]

~~(a) **Use.** Upon receipt of notification from the Governor that a permanent rule(s) has been approved pursuant to 75 O.S., Section 303.2(A)(1), the agency must submit a Notice of Gubernatorial Approval of Permanent Rules to the OAR for publication in the Register.~~

~~(b) **Format; document heading.** The Notice of Gubernatorial Approval of Permanent Rules begins with the document heading required in 655:10-7-3. Beginning two single spaces below the document heading, include the headings and information described in (c) of this Section, formatted pursuant to the following:~~

~~(1) Begin each heading at the left margin.~~

~~(2) Begin the contents required for each heading on the first line below the heading.~~

~~(3) Indent the first line of the contents, but do not indent subsequent lines of the contents; except, when listing rules under the heading **RULES** [see (c)(2) of this Section], begin each rule number on a separate indented line under the heading.~~

~~(c) **Content.** A Notice of Gubernatorial Approval of Permanent Rules must be prepared pursuant to the style required in (b) of this Section and must contain the following headings and information:~~

~~(1) **Rulemaking action.** Under the bolded heading "**RULEMAKING ACTION:**", type the following: "Gubernatorial approval of permanent rules."~~

~~(2) **Rules.** Under the bolded heading "**RULES:**", identify the approved rules as described in 655:10-7-11(b)(2).~~

~~(3) **Gubernatorial approval.** Under the bolded heading "**GUBERNATORIAL APPROVAL:**", cite the date the rules were approved by the Governor.~~

655:10-7-31. Notices of gubernatorial disapproval [REVOKED]

~~(a) **Use.** Upon receipt of notification from the Governor that a permanent rule(s) has been disapproved, or upon failure of the Governor to approve the rule within 45 calendar days after receiving the rule for review, pursuant to 75 O.S., Section303.2(A)(2), the agency must submit a Notice of Gubernatorial Disapproval of Permanent Rules in the Register.~~

~~(b) **Format; document heading.** The Notice of Gubernatorial Disapproval of Permanent Rules begins with the document heading required in 655:10-7-3. Beginning two single spaces below the document heading, include the headings and information described in (c) of this Section, formatted pursuant to the following:~~

~~(1) Begin each heading at the left margin.~~

~~(2) Begin the contents required for each heading on the first line below the heading.~~

~~(3) Indent the first line of the contents, but do not indent subsequent lines of the contents; except, when listing rules under the heading **RULES** [see (c)(2) of this Section], begin each rule number on a separate indented line under the heading.~~

~~(c) **Content.** A Notice of Gubernatorial Disapproval of Permanent Rules must be prepared pursuant to the style required in (b) of this Section and must contain the following headings and information:~~

~~(1) **Rulemaking action.** Under the bolded heading "**RULEMAKING ACTION:**", type the following: "Gubernatorial disapproval of permanent rules."~~

~~(2) **Rules.** Under the bolded heading "**RULES:**", identify the disapproved rules as described in 655:10-7-11(b)(2).~~

~~(3) **Gubernatorial disapproval.** Under the bolded heading "**GUBERNATORIAL DISAPPROVAL:**", cite the date the rules were disapproved by the Governor, pursuant to one of the following:~~

~~(A) If written disapproval is given by the Governor, type "Written disapproval received (date).~~

~~(B) If written approval or disapproval is not made by the Governor within 45 calendar days after submission, type "Failure of the Governor to approve the (rule, rules) within 45 calendar days resulted in disapproval on (date)."~~

655:10-7-32. Notices of legislative disapproval

(a) **Use.** ~~Upon disapproval of a rule by the Legislature pursuant to 75 O.S., Section 308, the~~The agency must submit notice of ~~such~~legislative disapproval of rules for publication in the Register~~. In addition, the agency must submit a copy of the joint or concurrent resolution, or other legislative instrument, disapproving the rules and, if applicable, a copy of the Governor's veto message and a copy of the Legislature's override measure. [See also 655:10-7-52 (relating to notice document scope)]~~ , as required by 75 O.S., Section 308(C), if:

(1) a permanent rule is disapproved by joint resolution of the Legislature pursuant to 75 O.S., Section 308(B) or omnibus joint resolution pursuant to 75 O.S., Section 308.3 AND the resolution is either approved by the Governor pursuant to OKLA. Const. Art. 6, § 11 or the Governor's veto is overridden by the Legislature;

(2) a proposed or promulgated emergency rule is disapproved by joint resolution of the Legislature pursuant to 75:253(H)(2)(a), and the resolution is either approved by the Governor pursuant to OKLA. Const. Art. 6, § 11 or the Governor's veto is overridden by the Legislature.

(b) **Format; document heading.** The Notice of Legislative Disapproval of Rules begins with the document heading required in 655:10-7-3. Beginning two single spaces below the document heading, include the headings and information described in (c) of this Section, formatted pursuant to the following:

(1) Begin each heading and subheading at the left margin.

(2) Begin the contents required for each heading and subheading on the first line below the heading or subheading.

(3) Indent the first line of the contents, but do not indent subsequent lines of the contents; except, when listing rules under the heading **RULES** [see (c)(2) of this Section], begin each rule number on a separate indented line under the heading.

(c) **Content.** A Notice of Legislative Disapproval of Rules must be prepared pursuant to the style required in (b) of this Section and must contain the following headings and information:

(1) **Rulemaking action.** Under the bolded heading "**RULEMAKING ACTION:**", type one of the following:

(A) If the disapproved rules are permanent, type "Legislative disapproval of PERMANENT rules."

(B) If the disapproved rules are emergency, type "Legislative disapproval of EMERGENCY rules."

(C) If the disapproved rules are preemptive, type "Legislative disapproval of PREEMPTIVE rules."

(2) **Rules.** Under the bolded heading "**RULES:**", identify the disapproved rules as described in 655:10-7-11(b)(2).

(3) **Legislative disapproval.** Under the bolded heading "**LEGISLATIVE DISAPPROVAL:**", type ~~one of the following:~~

~~(A) **Active disapproval.** If the Legislature disapproves by joint or concurrent resolution, type~~ "(These rules were, This rule was) disapproved by the Legislature in (number of joint or ~~concurrent~~omnibus joint resolution~~ or other legislative instrument~~), effective (date)." The effective date is the date the resolution disapproving rules was approved by the Governor pursuant to OKLA. Const. Art. 6, § 11, or the date the Governor's veto was overridden by the Legislature.

~~(B) **Inactive disapproval.** If the rules are Title 59 rules or rules that establish or increase fees, and the Legislature does not approve the rules by joint resolution prior to sine die adjournment, type "Failure of the~~

~~Legislature to approve the (rule, rules) by joint resolution prior to the end of session resulted in disapproval on (date)."~~

(4) **Emergency rules terminated.** Under the bolded heading "**EMERGENCY RULES TERMINATED:**", type the following if the disapproved rules are permanent or preemptive rules which are based on effective emergency rules [75:253(H)(2)(c)]: "The following emergency rules are also terminated by this disapproval:".

(A) **Rules.** Under the bolded subheading "**Rules:**", identify each emergency rule terminated as a result of the disapproval.

(B) **Gubernatorial approval.** Under the bolded subheading "**Gubernatorial approval:**", cite the date or dates of emergency approval by the Governor.

(C) **Register publication.** Under the bolded subheading "**Register publication:**", type the docket number and the full citation to the Register publication of the emergency rules. [see 655:10-15-4 (relating to docket number) and 655:10-15-6 (relating to citing the Register)]

655:10-7-33. Notices of withdrawn rules

(a) **Withdrawal of permanent rules.** ~~An~~As set forth in 75 O.S., Section 308(F), an agency may withdraw a permanent rule prior to its final adoption ~~pursuant to 75 O.S., Section 308(G)~~, as defined in 75 O.S., Sections 250.3(5) and OAC 655:10-1-2. When an agency withdraws a permanent rule after its adoption but prior to its final adoption, the agency must submit a Notice of Withdrawn Rules pursuant to this Section, except as provided in (c) of this section.

(b) **Withdrawal of emergency rules.** An agency may withdraw an emergency rule prior to its approval by the Governor pursuant to 75 O.S., Section 253(K). When an agency withdraws an emergency rule after its submission to the Governor but prior to its approval by the Governor, the agency must submit a Notice of Withdrawn Rules pursuant to this Section, except as provided in (c) of this section.

(1) If the agency published a Notice of Rulemaking Intent for the withdrawn emergency rule, the OAR will publish the Notice of Withdrawn Rules in the Register.

(2) If the agency did not publish a Notice of Rulemaking Intent for the withdrawn emergency rule, the OAR will not publish the Notice of Withdrawn Rules, but will retain the Notice in the official files.

(c) **Filing exception for "resubmitted rules."**

(1) **Criteria for "resubmitted rules."** When an agency discovers an error in a filing that has been submitted ~~on~~to the Governor and Legislature via the State Online Filing System ("System") ~~for gubernatorial and legislative review~~, the System allows the agency to "resubmit" that filing, but only if:

(A) the agency resubmits the filing within 10 calendar days after the rules were adopted, and

(B) the agency first withdraws the original submission in the System. ~~The agency may add the bolded heading "**ADDITIONAL INFORMATION**" to the Notice of Withdrawn Rules, which the~~The System requires a Notice of Withdrawn Rules to be prepared pursuant to this section. The agency may include information under ~~this additional~~the heading "**ADDITIONAL INFORMATION:**", as described in (e)(3)(D) of this section, to explain that the rules, although withdrawn, are being resubmitted.

(2) **Filing with OAR not required.** When an agency withdraws and resubmits a filing on the System within 10 days after the rules were adopted, as described in (1)(A) of this subsection, the agency should not submit a copy of the Notice of Withdrawn Rules required by (1)(B) of this subsection to the OAR. If submitted, the OAR will not publish the Notice of Withdrawn Rules, but will retain the Notice in the official files.

(d) **Format; document heading.** The Notice of Withdrawn Rules begins with the document heading required in 655:10-7-3. Beginning two single spaces below the document heading, include the headings and information described in (e) of this Section, formatted pursuant to the following:

(1) Begin each heading and subheading at the left margin.

(2) Begin the contents required for each heading and subheading on the first line below the heading or subheading.

(3) Indent the first line of the contents, but do not indent subsequent lines of the contents; except, when listing rules under the heading **WITHDRAWN RULES** [see (e)(2) of this Section], begin each rule number on a separate indented line under the heading.

(e) **Content.** A Notice of Withdrawn Rules must be prepared pursuant to the style required in (d) of this Section and must contain the following headings and information:

(1) **Rulemaking action.** Under the bolded heading "**RULEMAKING ACTION:**", type one of the following:

(A) If the withdrawn rules are permanent, type "Withdrawal of PERMANENT rulemaking."

(B) If the withdrawn rules are emergency, type "Withdrawal of EMERGENCY rulemaking."

(2) **Withdrawn rules.** Under the bolded heading "**WITHDRAWN RULES:**", identify the withdrawn rules as described in 655:10-7-11(b)(2).

(3) **Dates.** Under the bolded heading "**DATES:**", identify any of the following dates which apply to the rulemaking action prior to withdrawal.

(A) **Adoption.** Under the bolded subheading "**Adoption:**", cite the date the rules were adopted.

(B) ~~**Submitted**~~**Submission of adopted rules to Governor and Legislature.** Include this subheading and information if rules are withdrawn after submission of the adopted rules to the Governor and Legislature. Under the bolded subheading "~~**Submitted**~~**Submission of adopted rules to Governor and Legislature:**", cite the date the rules were submitted to the Governor ~~for review~~ and Legislature.

~~(C) **Submitted to House.** Include this subheading and information if the rules are permanent rules and are withdrawn after submission for legislative review. Under the bolded subheading "**Submitted to**~~

~~**House:**", cite the date the rules were submitted to the Speaker of the House of Representatives for review.~~

~~(D) **Submitted to Senate.** Include this subheading and information if the rules are permanent rules and are withdrawn after submission for legislative review. Under the bolded subheading "**Submitted to Senate:**", cite the date the rules were submitted to the President Pro Tempore of the Senate for review.~~

~~(E) **Gubernatorial approval.** Include this subheading and information if the rules are permanent rules and are withdrawn after approval by the Governor but prior to approval by the Legislature (final adoption). Under the bolded subheading "**Gubernatorial approval:**", cite the date the rules were approved by the Governor.~~

(~~F~~C) **Withdrawn.** Under the bolded subheading "**Withdrawn:**", cite the date the rules were withdrawn from the rulemaking process. This date is the date withdrawal notice is given to the Governor, the Speaker of the House of Representatives, and the President Pro Tempore of the Senate.

(D) **Additional information.** Under the bolded heading "**ADDITIONAL INFORMATION:**", cite any additional information determined by the agency to be pertinent. The use of this category is optional.

655:10-7-35. Notices of errors in published documents

(a) **Use.** When an agency discovers certain errors in certain documents, as specified in 655:10-13-3, after publication of such documents in the Register, the agency may submit to the OAR a Notice of Error in Published Document prepared pursuant to this Section. [See also 655:10-7-52 (relating to notice document scope)]

(b) **Format; document heading.** The Notice of Error in Published Document begins with the document heading required in 655:10-7-3. Beginning two single spaces below the document heading, include the headings and information described in (c) of this Section, formatted pursuant to the following:

(1) Begin each heading and subheading at the left margin.

(2) Begin the contents required for each heading and subheading on the first line below the heading or subheading.

(3) Indent the first line of the contents, but do not indent subsequent lines of the contents;

(c) **Content.** A Notice of Error in Published Document must be prepared pursuant to the style required in (b) of this Section and must contain the following headings and information:

(1) **Action.** Under the bolded heading "**ACTION:**", type "Notice of error in published document."

(2) **Document corrected.** Under the bolded heading "**DOCUMENT CORRECTED:**", identify the document being corrected as follows:

(A) **Document type.** Under the bolded subheading "**Document type:**", identify the type of document corrected by typing one of the following:

(i) Permanent rule document (preamble).

(ii) Permanent rule document (enacting clause).

(iii) Notice of Rulemaking Intent. [See restrictions in 655:10-13-3]

(iv) Notice of Cancelled Comment Period/Hearing. [See restrictions in 655:10-13-3]

(v) Notice of Continued Comment Period/Hearing. [See restrictions in 655:10-13-3]

(vi) Statement of Submission ~~for Gubernatorial and Legislative Review~~ to Governor and Legislature.

~~(vii) Notice of Gubernatorial Approval of Permanent Rules.~~

~~(viii) Notice of Gubernatorial Disapproval of Permanent Rules.~~

(ix) Notice of Legislative Disapproval of Rules.

(x) Notice of Withdrawn Rules.

(B) **Rules.** Under the bolded subheading "**Rules:**", identify the rules affected pursuant to 655:10-7-11(b)(2).

(C) **Register publication.** Under the bolded heading "**Register publication:**", include the full citation to the Register publication of the document being corrected. [see 655:10-15-6 (relating to citing the Register)]

(D) **Docket number.** Under the bolded heading "**Docket number:**", cite the docket number assigned by the OAR to the document being corrected.

(3) **Corrections.** Under the bolded heading "**CORRECTIONS:**", explain each correction by clearly citing the information being corrected, followed by the information as it should be stated. For example, "Information cited under the heading ADOPTION was incorrect and should read as follows: October 1, 1989."

PART 7. MISCELLANEOUS DOCUMENTS

655:10-7-47. Governor's declarations

Governor's declarations [75: 308.3(D)] are submitted to the OAR in the same format as they are issued by the Governor.

PART 9. DOCUMENT SCOPE

655:10-7-52. Notice document scope, limitations

(a) **Multiple Sections/Appendices in one Chapter.** An agency should announce, in one notice document, rulemaking actions occurring on the same date if the affected Sections or Appendices are part of the same Chapter, unless otherwise restricted pursuant to this Section.

(b) **Restrictions.**

(1) **Notices of rulemaking intent; continued or cancelled comment periods/hearings.**

(A) Agencies may not announce, in one notice of rulemaking intent, notice of continued hearing or comment period, or notice of cancelled hearing or

comment period, proposed rules that are in different Chapters.

(B) Agencies may announce more than one comment period or more than one hearing in a single notice of rulemaking intent, notice of continued hearing or comment period, or notice of cancelled hearing or comment period only when **each** comment period or hearing applies to all proposed rules.

(2) **Statements of submission ~~for review~~.** Agencies may announce submissions of more than one Section or Appendix in a single Statement of Submission ~~for Gubernatorial and Legislative Review~~to Governor and Legislature only when the rules are:

(A) submitted to the Governor on the same date,

(B) submitted to the Legislature on the same date, and

(C) in the same Chapter.

~~(3) **Notices of gubernatorial approval/disapproval.** Agencies may announce gubernatorial approval or disapproval of more than one Section or Appendix in a single Notice of Gubernatorial Approval of Permanent Rules or Notice of Gubernatorial Disapproval of Permanent Rules only when the rules are:~~

~~(A) approved on the same date or disapproved on the same date, and~~

~~(B) in the same Chapter.~~

(~~4~~3) **Notices of legislative disapproval.** Agencies may announce legislative disapproval of more than one Section or Appendix in a single Notice of Legislative Disapproval of Rules only when the rules are:

(A) disapproved on the same date, and

(B) in the same Chapter.

(~~5~~4) **Notices of withdrawn rules.** Agencies may announce withdrawal of more than one Section or Appendix in a single Notice of Withdrawn Rules only when the rules are:

(A) adopted on the same date,

(B) submitted to the Governor on the same date,

(C) submitted to the Legislature on the same date,

(D) withdrawn on the same date, and

(E) in the same Chapter.

(~~6~~5) **Notices of errors.** Agencies may report, in a single Notice of Errors in Published Document, more than one error only when the errors occurred in the same published document.

SUBCHAPTER 9. SUBMISSION OF DOCUMENTS

655:10-9-1. Number of paper copies; electronic copies; special treatment of rule documents

(a) **Electronic preparation of documents.** All documents must be prepared using word processing software, as required by 655:10-7-2(1)(A).

(b) **Submission of documents.** When submitting a document to the OAR for publication in the Register, agencies shall submit the document as set forth in this subsection. [See also (c) of this Section for special treatment of rule documents and 655:10-7-2 for rule document components.]

(1) **Paper copies.**

(A) **Rule documents.**

(i) **Permanent rules.** Within 30 calendar days after final adoption, submit two (2) ~~originals, or one (1) original and one (1) copy,~~copies of permanent rule documents to the OAR. [See also (c) of this Section]

(ii) **Emergency rules.** Upon approval by the Governor, submit two (2) copies of the emergency rule document and the Governor's approval to the OAR. [See also (c) of this Section]

(iii) **Preemptive rules.** Upon approval by the Governor, submit two (2) copies of the preemptive rule document and the Governor's approval to the OAR [75:250.6(B)(3)]. [See also (c) of this Section]

(B) **Notice documents.** Submit one (1) ~~original~~ copy of notice documents to the OAR. [75:303(B)]

(C) **Extra copies.** If an agency wishes to receive a stamped copy noting receipt and/or acceptance of a document, the agency should submit additional copies pursuant to 655:10-9-5 and 655:10-11-3.

(2) **Electronic copies.** Documents must also be submitted to the OAR in electronic form, as set forth in this paragraph; except. Appendices, attestations, and supplemental information (in rule documents) and transmittal sheets are NOT submitted in electronic form.

(A) **Media options.** Submit documents on a compact disc (CD), digital versatile disc (DVD), or other media approved for use by the OAR.

(B) **Labeling disks.** Label each CD or DVD. The label must identify the Title, Chapter, and type of filing of each document on the CD/DVD.

(C) **Inaccessible records.** If a record submitted to the OAR is inaccessible (due to a ~~bad~~faulty CD/DVD, ~~corruption of the~~a corrupt or incompatible file, etc.), the OAR will notify the agency as soon as possible. The agency must resubmit the file on another CD or DVD.

(c) **Special treatment of rule documents.**

(1) **Emergency and preemptive rules.** Upon approval by the Governor of an emergency or preemptive rule document, the agency shall submit the rule document in paper and electronic form to the OAR, as set forth in (b) of this Section, and pursuant to the following:

(A) Submit two (2) paper copies of the entire rule document, including attestation~~, to the OAR:~~.

~~(i)~~ The rule document submitted must include any corrections needed to bring the document into substantial compliance with this Chapter, ~~as~~including any that were identified by the OAR in its review of the document during the Governor's review period [75:253(C)(2) and 250.6(B)(2)].

~~(ii) Copies of the rule document, including the attestation and transmittal sheet, may be photocopies rather than originals.~~

(B) Submit two (2) paper copies of the Governor's approval ~~to the OAR~~.

(C) Submit a CD or DVD containing a copy of all parts of the ~~the~~ rule document except the attestation, transmittal sheet, appendices (if any), and supplemental information (if any).

(D) Submit the red-marked pages or format-approved pages that were returned to the agency by the OAR after reviewing the rules during the Governor's review period.

~~(D) An emergency or preemptive rule document is considered officially filed when the paper and CD copies of the approved document are received by the OAR from the agency.~~

(2) **Permanent rules.** Within 30 calendar days after final adoption of permanent rules, the agency must submit a permanent rule document to the OAR [75:308.1(A)]~~. The document must be submitted~~ in paper and electronic form, as set forth in (b) of this Section~~.~~, and pursuant to the following:

(A) Submit two (2) paper copies of the entire rule document, including attestation. The rules included in the permanent rule document must include any corrections necessary to bring the rules into substantial compliance with this Chapter, ~~if~~including any that were reported to the agency by the OAR at earlier stages of the rulemaking process.

(B) Submit a CD or DVD containing a copy of all parts of the rule document except the attestation, transmittal sheet, appendices (if any), and supplemental information (if any).

(C) Submit the red-marked pages or format-approved pages that were returned to the agency by the OAR after reviewing the rules during the Legislature's review period.

655:10-9-3. Filing and acceptance deadlines

(a) **Permanent rule documents.** For permanent rule documents submitted to the OAR, the following shall apply [see also (c) of this Section (relating to submission deadlines that fall on weekends or holidays):

(1) **Publication in mid-May issue.** If submitted to the OAR by April 15 and accepted by the OAR by the first working day following April 30, the permanent rule document will be published in the Register on the first working day following May 14.

(2) **Publication in first issue in June.** If submitted to the OAR by from April 16 through May 1 and accepted by the OAR by the first working day following May 14, the permanent rule document will be published in the Register on the first working day following May 31.

(3) **Publication in mid-June issue.** If submitted to the OAR from May 2 through May 15 and accepted by the OAR by the first working day following May 31, the permanent rule document will be published in the Register on the first working day following June 14.

(4) **Publication in first issue in July.** If submitted to the OAR from May 16 through May 25 and accepted by the OAR by the first working day following June 14, the permanent rule document will be published in the Register on the first working day following June 30.

(5) **Publication in mid-July issue.** If submitted to OAR from May 26 through June 1 and accepted by the OAR by the first working day following June 30, the permanent rule document will be published in the Register on the first working day following July 14.

(6) **Publication in first issue in August.** If submitted to the OAR from June 2 through June 8 and accepted by the OAR by the first working day following July 14, the permanent rule document will be published in the Register on the first working day following July 31.

(7) **Publication in mid-August issue.** If submitted to the OAR from June 9 through June 15 and accepted by the OAR by the first working day following July 31, the permanent rule document will be published in the Register on the first working day following August 14.

(8) **Publication in first issue in September.** If submitted to the OAR from June 16 through August 8 and accepted by the OAR by the August 15 deadline for publication in that year's code edition or supplement [75:256(B)(1)], the permanent rule document will be published in the Register on the first working day following August 31.

(b) **All other documents.** For all documents other than permanent rule documents, the following shall apply:

(~~a~~1) **~~First~~Publication in first issue ~~in~~of month.** If a document, other than a permanent rule document, is to be included in an issue of the Register published on the first working day of the month, the document must be ~~reviewed~~submitted to the OAR by the 8th day of the preceding month, and accepted by the ~~Editor~~OAR ~~pursuant to 655:10-11-1 no later than 4:30 p.m. on~~by the first working day preceding the 16th day of the preceding month. [See also ~~655:10-15-1 (relating to publication dates)~~ (c) of this Section (relating to submission deadlines that fall on weekends or holidays)]

(~~b~~2) **~~Second~~Publication in second issue ~~in~~of month.** If a document, other than a permanent rule document, is to be included in an issue of the Register published on the first working day following the 14th day of the month, the document must be ~~reviewed~~submitted to the OAR by the 25th day of the preceding month, and accepted by the ~~Editor~~OAR ~~pursuant to 655:10-11-1 no later than 4:30 p.m. on~~by the first working day preceding the 2nd day of the same month. [See also ~~655:10-15-1 (relating to publication dates~~(c) of this Section (relating to submission deadlines that fall on weekends or holidays)]

(c) **Submission deadlines that fall on weekend/holiday.** When a submission deadline described in (a) and (b) of this section falls on a weekend or holiday, the agency must submit the document by the first working day preceding that day.

(~~c~~d) **Schedule of ~~filing~~publication date and deadlines.** The Secretary of State issues a schedule of ~~filing~~Register publication dates and corresponding submission and acceptance deadlines~~, as well as publication dates, at least 30 days~~ prior to the beginning of ~~a~~each new volume of the Register, and publishes the schedule on the OAR's website [see 655:10-15-1(c)].

655:10-9-4. Official file date; ~~Receipt~~receipt date~~;~~vs. acceptance date

A document is officially "filed" or "submitted" for purposes of APA and ARR compliance upon receipt in the OAR and assignment of a docket number. Agencies should carefully note the distinction between the date of receipt and the date of acceptance.

(1) **Date of receipt.** The date of receipt is the date the document is received in the OAR. The date of receipt constitutes the filing date for purposes of APA and ARR compliance and for purposes of compliance with the APA requirement to file rules *within thirty (30) calendar days after they become finally adopted* [75:251(B)].

(2) **Date of acceptance.** The date of acceptance is the date the reviewed document is accepted for publication by the OAR pursuant to 655:10-11-1. Failure of the OAR to reject a document ~~within six calendar days after its receipt in the OAR~~by the acceptance deadline, as set forth in 655:10-9-3 shall constitute acceptance of the document.

655:10-9-6. Electronic transmission of documents [REVOKED]

~~The OAR may make special provisions for electronic transmission of documents with agencies having computer equipment capable of communicating with equipment in the OAR.~~

SUBCHAPTER 11. REVIEW OF DOCUMENTS

655:10-11-1. Review of Register submissions

(a) **OAR's review.** Upon receipt of a document for Register publication, the OAR shall review the document to determine if the document complies with requirements of ~~ARR~~this Chapter.

(1) **Acceptance of documents; Register publication.** If a document is ~~not rejected~~ accepted by the OAR ~~within six calendar days [see 655:10-1-7 (relating to computing days)] after its receipt in the OAR~~, the document ~~is considered accepted and is~~will be published in the next possible issue of the Register~~. A schedule of~~, based on the Register publication dates and filing and acceptance deadlines set forth in 655:10-9-3 and the schedule ~~is~~ issued by the Secretary of State ~~at least 30 days~~ prior to the beginning of ~~a~~each new Register volume ~~each year [~~ as set forth in 655:10-15-1(c)~~].[See also 655:10-9-3 (relating to filing deadlines)~~ and 655:10-15-2~~(relating to Register volumes)]~~.

(2) **Rejection of documents.** The OAR may *refuse to accept for publication any document that does not substantially conform to the promulgated rules of the Secretary* [75:251(C)]. If a document is rejected, the OAR shall provide the agency with a written explanation for the rejection. The agency may modify the document and submit another document with a new received date.

(3) **Acceptance limited.** Acceptance of a document pursuant to this Section indicates only that the document is in the physical form specified by ARR. Acceptance by the OAR does not validate the accuracy of the information supplied by the agency and does not validate compliance with ~~other provisions of~~the APA or with ~~the agency's individual~~any other statutory requirements. This compliance is the responsibility of each agency.

(b) **Failure to comply.** *Upon failure of an agency to comply with the provisions of Sections 251 through 256 of this Title [Title 75], ... the Secretary shall forward a written notice of the failure to comply to the chief administrative officer of the agency. The notice shall state a reasonable time, not to exceed thirty (30) calendar days, in which the agency shall fully comply. Further failure to comply shall be reported in writing to the Speaker of the House ..., the President Pro Tempore ..., the Governor, and the Attorney General. Upon such notification, the Attorney General shall immediately seek agency compliance and, if required, to institute mandamus proceedings to secure compliance of said agency.* [75:252(B)]

SUBCHAPTER 13. CORRECTION OF ERRORS

655:10-13-2. Errors prior to Register publication

In the event an agency discovers an error in a document after submission to the OAR but prior to its publication in the Register, the agency may contact the OAR for a determination as to whether the OAR is able to accept the corrections, based on ~~correct the error pursuant to~~ the following:

(1) **Timeliness.** The timelieness of the agency's request to correct an error(s) in a document filed with the OAR but not yet published will determine the OAR's ability to accept corrections on any document filed. This determination will be based on how far the OAR has progressed in its processing of that document at the time the request is received, as well as the impact a correction would have on the OAR's ability to complete the production and distribution of the applicable Register issue by the publication date. ~~OAR may refuse to accept corrections to qualifying errors, as described in (2) of this Section, at any time after the acceptance deadline for the issue in which the document will be published. After the acceptance deadline, the agency must call the OAR for a determination as to whether the OAR will accept the corrections~~.

(2) **Qualifying errors.** If the OAR ~~will accept~~ determines the corrections ~~as~~to be timely, as described in (1) of this Section, the OAR will use the following additional criteria to determine if the errors may be corrected:

(A) **Notice documents.** Errors discovered in notice documents may be corrected prior to publication.

(B) **Permanent rule documents.** Errors discovered in permanent rule documents may be corrected

prior to publication, unless the correction would cause a conflict with the following statutory provisions:

(i) *[T]he text of the rule submitted for publication shall be the same as the text of the rule ~~considered by the Legislature and the Governor~~that has been finally adopted* [75:308.1(B)], and

(ii) The agency may *change the format of . . . rules . . . to comply with the standard provisions established by the Secretary . . . so long as there is no substantive change to the rule* [75 O.S., Section 251(B)(2)(i)].

(C) **Emergency rule documents.** Emergency rule documents may not be corrected after approval by the Governor; except, the agency may change the format to comply with the ARR, as described in 75 O.S., Section 251(B)(2)(i). If these errors are discovered after the agency has filed the emergency rule document with the OAR [see 655:10-9-1(c)(1) (relating to filing emergency rule documents)] but prior to publication, the agency may correct these errors.

(D) **Preemptive rule documents.** Preemptive rule documents may not be corrected after approval by the Governor; except, the agency may change the format to comply with the ARR, as described in 75 O.S., Section 251(B)(2)(i), before filing the preemptive rule document with the OAR. If these errors are discovered after the agency has submitted a preemptive rule document to the OAR [see 655:10-9-1(c)(1) (relating to filing preemptive rule documents)] but prior to publication, the agency may correct the errors.

655:10-13-3. Errors after Register publication

(a) **Rule documents.**

(1) **Permanent rule documents.**

(A) **Regulatory text.** In the event an agency discovers an error in regulatory text in a permanent rule document after publication in the Register, the agency may correct the error through emergency, preemptive, or permanent rulemaking procedures only.

(B) **Other than regulatory text.**

(i) **Published pages.** When an agency discovers an error in the preamble (except effective date) or enacting clause (except effective date) in a permanent rule document after publication in the Register, the agency may submit a Notice of Error in Published Document pursuant to 655:10-7-35.

(ii) **Non-published pages.** When an agency discovers an error in the attestation or supplemental information pages of a permanent rule document after publication in the Register, the agency may submit the corrected page or pages to the OAR. Upon review and acceptance of the corrected pages, the OAR will add the corrected pages to the official files.

(2) **Emergency and preemptive rule documents.** Emergency and preemptive rule documents may not be corrected by an agency after publication in the Register.

(b) **Notice documents.**

(1) **Corrections allowed.** When an agency discovers an error in one of the following types of notice documents after publication in the Register, the agency may correct such error by submitting a Notice of Error in Published Document [see 655:10-7-35]:

(A) Statement of Submission to Governor and Legislature ~~for Gubernatorial and Legislative Review~~.

~~(B) Notice of Gubernatorial Approval of Permanent Rules.~~

~~(C) Notice of Gubernatorial Disapproval of Permanent Rules.~~

(~~D~~B) Notice of Legislative Disapproval of Rules.

(~~E~~C) Notice of Withdrawn Rules.

(2) **Corrections not allowed.** When an agency discovers an error in a notice document which announces an action affecting the public's direct participation in the rulemaking process (as identified in (A) through (C) of this paragraph), the agency may not correct the notice document after publication in the Register. The agency may submit a new notice document and, if applicable, publish a Notice of Cancelled Hearing or Comment Period; however, the new document acquires a new "publication date" for purposes of compliance with APA time restrictions (e.g., minimum 30-day comment period). Notice documents which may not be corrected with a Notice of Error in Published Document include the following:

(A) Notice of Rulemaking Intent.

(B) Notice of Cancelled Hearing or Comment Period.

(C) Notice of Continued Hearing or Comment Period.

SUBCHAPTER 15. THE OKLAHOMA REGISTER

655:10-15-1. Publication dates and filing/acceptance deadlines

(a) **Publication dates.** The Register is published on the first working day of each month and on the first working day following the 14th day of each month.

(b) **Filing/acceptance deadlines.** For Register filing and acceptance deadlines, see 655:10-9-3.

(c) **Schedule of publication dates and filing/acceptance deadlines.** The Secretary of State shall issue a schedule of publication dates and filing and acceptance deadlines ~~at least 30 days~~ prior to the beginning of ~~a~~each new volume of the Register [see 655:10-15-2], and shall publish the schedule on the OAR's website.

655:10-15-5. Register contents

(a) **Register categories.**

(1) Documents published in the Register are arranged by document type, as follows:

(A) Notices of Rulemaking Intent.

(B) Cancelled Hearings or Comment Periods.

(C) Continued Hearings or Comment Periods

(D) Submissions for Review.

~~(E) Gubernatorial Approvals.~~
~~(F) Gubernatorial Disapprovals.~~
(~~G~~E) Legislative Disapprovals.
(~~H~~F) Withdrawn Rules.
(~~I~~G) Emergency Adoptions.
(~~J~~H) Preemptive Adoptions.
(~~K~~I) Permanent Final Adoptions.
(~~L~~J) Executive Orders.
(~~M~~K) Errors in Published Documents.
(~~N~~L) Editor's Notices.
(M) Miscellaneous.

(2) Within each category listed in (1)(A) through ~~(K)~~(I) and ~~(M)~~(K) of this subsection, documents are arranged by Title and Chapter number.

(b) **Table of contents.** Each issue of the Register contains a table of contents arranged alphabetically by agency. Each agency's listing in the table of contents identifies the types of rulemaking actions published for the agency in that issue.

(c) **~~Sections~~Rules Affected Index.** Each issue of the Register published after publication of the first Code contains a ~~Sections~~Rules Affected Index that identifies each Section and Appendix that is being promulgated (added, amended, revoked, renumbered, or reserved) in that issue.

(d) **Other user aids.** At its discretion, the OAR may publish additional user and finding aids in the Register.

SUBCHAPTER 19. PUBLIC INSPECTION AND COPIES OF DOCUMENTS

655:10-19-1. Public access to documents and publications

(a) **Secretary's responsibility.**

(1) Documents accepted by the OAR, as well as the OAR's publications, are available for public inspection, and copying and certification as set forth in 655:10-19-2 and 655:10-19-3, in the Secretary of State's Office of Administrative Rules, between 8:00 a.m. and 5:00 p.m. Monday through Friday, excluding holidays. ~~Records~~If records are stored off-site ~~and certification of documents must be requested at least 24 hours in advance~~or have been transferred to the Oklahoma Department of Libraries, availability of these records will depend on accessibility to the off-site locations.

(2) Copies of Register documents that have not yet been published in the Register can be copied, but only if clearly marked by the OAR with the following: "Unofficial --- Not yet published."

(~~2~~3) Documents and publications may not be borrowed or removed from the Office of Administrative Rules. Documents may be photocopied, and publications may be photocopied or purchased, as set forth in this Subchapter, 655:10-15-7, and 655:10-17-4.

(b) **Issuing agency's responsibility.** *The agency submitting the rules shall make such rules available to the public in accordance with the Open Records Act~~.~~* [75:254(B)]; however, copies must be clearly identified as "unofficial."

(c) **County clerks' responsibility.** Copies of the Register are *sent to those county clerks who request it* [75:255(A)(2)]. In addition, every county clerk in the state of Oklahoma is *entitled to receive, at no cost, one copy of the printed volumes of the Code and the supplements thereto* [75:257.1(B(1)(a)]. Each year, the Secretary of State announces the availability of that year's Code or Supplement to the county clerks. Each county clerk may either:

(1) receive the printed product, or the ~~cdrom~~CD product~~,~~ in lieu of the printed product, and make the publication available to the public during the county clerk's business hours, or

(2) waive his/her right to receive that year's publication.

(d) **Depository libraries.** Copies of the published Code and each annual Supplement, and copies of each issue of the Register, are deposited with the Oklahoma Publications Clearinghouse for distribution to each Oklahoma Government Publications Depository Library. [75:257.1(B)(2)]

(e) **Open Records Act.** The OAR shall make its records available for public inspection and copying pursuant to the Open Records Act, 51:24A.1 et seq. [75:256.3].

[OAR Docket #15-679; filed 6-30-15]

TITLE 715. TEACHERS' RETIREMENT SYSTEM
CHAPTER 1. ADMINISTRATIVE OPERATIONS

[OAR Docket #15-586]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
715:1-1-19 [NEW]
AUTHORITY:
70 O.S. Section 17-101, et seq., especially Section 17-106(10); Board of Trustees Trustees of Teachers' Retirement System
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
November 26, 2014
COMMENT PERIOD:
January 5, 2015 through February 5, 2015
PUBLIC HEARING:
February 12, 2015
ADOPTION:
February 25, 2015
SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:
March 6, 2015
APPROVED BY GOVERNOR'S DECLARATION:
Approved by Governor's declaration on June 8, 2015
FINAL ADOPTION:
June 8, 2015
EFFECTIVE:
September 11, 2015
SUPERSEDED EMERGENCY ACTIONS:
Superseded rules:
Subchapter 1. Administrative Operations
715:1-1-19 [NEW]
Gubernatorial approval:
July 31, 2014
Register publication:
32 Ok Reg 7

Docket number:
14-843
INCORPORATIONS BY REFERENCE:
n/a
ANALYSIS:
n/a
CONTACT PERSON:
Julie Ezell, General Counsel and Rules Liaison, Teachers' Retirement System, 2500 N. Lincoln Blvd, Oklahoma City, OK 73105, 405-521-4746, Julie.Ezell@trs.ok.gov

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3 (5) AND 308 (E), WITH AN EFFECTIVE DATE OF SEPTEMBER 11, 2015:

715:1-1-19. Appointment of non-voting Trustee

(a) The Board of Trustees is composed of thirteen (13) voting members and one (1) nonvoting member who is to be selected by a statewide organization representing retired educators under Section 17-106(m) of title 70 of the Oklahoma Statutes. As there is the possibility that more than one statewide organization representing retired educators exists, OTRS shall employ an annual process to determine which such organization has the ability to make the non-voting trustee appointment.

(b) The term "statewide organization representing retired educators" shall mean an entity primarily organized for the purpose of representing the interests of retired educators in this state and providing member benefits, as is defined in Section 17-122.1 of title 70 of the Oklahoma Statutes. Furthermore, the entity must have at least two hundred (200) retired educators in its membership who are also members of OTRS.

(c) On September 15, 2014, any organization that asserts that it meets the definition of a statewide organization representing retired educators shall make application on a form supplied by OTRS, to be recognized as the organization to make this selection. The form shall be submitted with documentation that shows the legal status of the organization (corporation, association, other). The material submitted shall also provide documentation formally adopted by the organization demonstrating the organization meets the definition of a statewide organization representing retired educators and documentation formally adopted by the organization detailing the internal procedure by which the organization will select the candidate to be appointed to the Board of Trustees.

(d) The Board of Trustees shall decide which organization(s) meet the definition of an eligible organization by November 1, 2014. If only one organization meets the definition of eligible organization, that organization shall follow its own governing documents to make the selection of the non-voting trustee, and provide notification of the appointment to OTRS in writing by December 10, 2014.

(e) Should more than one organization meet the definition of an eligible organization, the Board shall maintain a register of eligible organizations and shall place the organizations meeting the definition on the initial register according to the membership number of the organizations, with the organization with the most members being listed first on the register, and the organization with the lowest number of members being listed last. The organization listed first on the register shall follow its own governing documents to make the selection of the non-voting trustee, and provide notification of the appointment to the OTRS in writing by December 10, 2014. By September 30 of every year thereafter every organization on the register must re-certify to the Board of Trustees that it continues to meet the definition of statewide organization representing retired educators, and that it has at least two hundred (200) members who are retired educators. Any organization that fails to re-certify its eligibility or fails to meet the eligibility shall by stricken from the register by the Board at the next scheduled board meeting. By November 1 of every year the Board shall notify the next organization listed on the register of its entitlement to make the non-voting member appointment for the next calendar year, with notification to the OTRS of the name of the appointed non-voting member in writing by December 10 of that year. This yearly procedure shall continue through the register sequentially until all organizations on the register have made an appointment to the Board of Trustees. Entitlement to make the appointment shall then return to the first organization listed on the register, and the procedure shall continue yearly in the same manner sequentially through the register.

(f) Any organization making application for eligibility and addition to the register after September 15, 2014 shall make application in the same manner described above. The Board shall decide by November 1 of the year in which the application is made if the organization meets the definition of an eligible organization. The organization shall then be added to the end of the register. In any year in which more than one organization is added to the register, they shall be added according to the membership number of the organizations, with the organization with the most members being listed first on the register, and the organization with the lowest number of members being listed last.

(g) The term of the non-voting Trustee appointment made hereunder shall be one (1) calendar year, from January 1 to December 31.

[OAR Docket #15-586; filed 6-18-15]

TITLE 748. UNIFORM BUILDING CODE COMMISSION
CHAPTER 20. ADOPTED CODES

[OAR Docket #15-585]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 1. IBC® ~~2009~~ 2015
748:20-1-1. Adoption of International Building Code® ~~2009~~ 2015 Edition (IBC® ~~2009~~ 2015) [AMENDED]
748:20-1-2. Effect of Adoption [AMENDED]
748:20-1-3. IBC® ~~2009~~ 2015 and Other Appendices [AMENDED]
748:20-1-4. IBC® ~~2009~~ 2015 Provisions Adopted and Modified [AMENDED]

748:20-1-5. Participation in Federal Programs and/or Federally Funded or Financed Projects [AMENDED]
748:20-1-6. IBC® ~~2009~~ 2015 Chapter 1 Scope and Administration [AMENDED]
748:20-1-7. IBC® 2015 Chapter 2 Definitions [AMENDED]
748:20-1-8. IBC® 2015 Chapter 3 Use and Occupancy Classification [AMENDED]
748:20-1-9. IBC® 2015 Chapter 4 Special Detailed Requirements Based on Use and Occupancy [AMENDED]
748:20-1-10. IBC® Chapter 8 Interior Finishes [REVOKED]
748:20-1-11. IBC® 2015 Chapter 9 Fire Protection Systems [AMENDED]
748:20-1-12. IBC® 2015 Chapter 10 Means of Egress [AMENDED]
748:20-1-13. IBC® 2015 Chapter 16 Structural Design [AMENDED]
748:20-1-14. IBC® 2015 Chapter 18 Soils and Foundations [AMENDED]
748:20-1-15. IBC® 2015 Chapter 29 Plumbing Systems [AMENDED]
748:20-1-16. IBC® 2015 Chapter 32 Encroachments into the Public Right-of-Way [AMENDED]
748:20-1-17. IBC® Chapter 34 Existing Buildings and Structures [REVOKED]
748:20-1-18. IBC® 2015 Chapter 35 Referenced Standards [AMENDED]
748:20-1-19. Appendix N, Supplement Storm Shelter and Safe Room Requirements [NEW]
Subchapter 3. IFC® ~~2009~~ 2015
748:20-3-1. Adoption of International Fire Code®, ~~2009~~ 2015 Edition (IFC® ~~2009~~ 2015) [AMENDED]
748:20-3-2. Effect of Adoption [AMENDED]
748:20-3-3. IFC® ~~2009~~ 2015 and Other Appendices [AMENDED]
748:20-3-4. IFC® ~~2009~~ 2015 Provisions Adopted and Modified [AMENDED]
748:20-3-5. Participation in Federal Programs and/or Federally Funded or Financed Projects [AMENDED]
748:20-3-6. IFC® ~~2009~~ 2015 Chapter 1 Scope and Administration [AMENDED]
748:20-3-7. IFC® ~~2009~~ 2015 Chapter 2 Definitions [AMENDED]
748:20-3-7.1. IFC® 2015 Chapter 3 General Requirements [NEW]
748:20-3-8. IFC® ~~2009~~ 2015 Chapter 5 Fire Service Features [AMENDED]
748:20-3-9. IFC® 2009 Chapter 6 Building Services and Systems [REVOKED]
748:20-3-10. IFC® 2009 Chapter 8 Interior Finish, Decorative Materials and Furnishings [REVOKED]
748:20-3-11. IFC® ~~2009~~ 2015 Chapter 9 Fire Protection Systems [AMENDED]
748:20-3-12. IFC® ~~2009~~ 2015 Chapter 10 Means of Egress [AMENDED]
748:20-3-13. IFC® ~~2009~~ 2015 Chapter ~~46~~11 Construction Requirements for Existing Buildings [AMENDED]
748:20-3-13.1. IFC® 2015 Chapter 57 Flammable and Combustible Liquids [NEW]
748:20-3-14. ~~2009~~ IFC® 2015 Chapter ~~47~~80 Referenced Standards [AMENDED]
748:20-3-15. Appendix N, Egress Path Markings for Existing Buildings [NEW]
Subchapter 7. IEBC® ~~2009~~ 2015
748:20-7-1. Adoption of International Existing Building Code®, ~~2009~~ 2015 Edition (IEBC ~~2009~~ 2015) [AMENDED]
748:20-7-2. Effect of Adoption [AMENDED]
748:20-7-3. IEBC® ~~2009~~ 2015 Appendices [AMENDED]
748:20-7-4. IEBC® ~~2009~~ 2015 Provisions Adopted and Modified [AMENDED]
748:20-7-5. Participation in Federal Programs and/or Federally Funded or Financed Projects [AMENDED]
748:20-7-6. IEBC® ~~2009~~ 2015 Chapter 1 Scope and Administration [AMENDED]
748:20-7-7. IEBC® Chapter 2 Definitions [REVOKED]
748:20-7-8. IEBC® 2015 Chapter ~~13~~14 Performance Compliance Methods [AMENDED]
748:20-7-9. IEBC® 2015 Chapter ~~15~~16 Referenced Standards [AMENDED]
Subchapter 9. NEC® ~~2011~~ 2014
748:20-9-1. Adoption of National Electrical Code® ~~2011~~ 2014 Edition (NEC® ~~2011~~ 2014) [AMENDED]
748:20-9-2. Effect of Adoption [AMENDED]
748:20-9-3. NEC® ~~2011~~ 2014 Informative Annexes [AMENDED]
748:20-9-4. NEC® ~~2011~~ 2014 Provisions Adopted and Modified [AMENDED]
748:20-9-5. Participation in Federal Programs and/or Federally Funded or Financed Projects [AMENDED]
748:20-9-6. NEC® ~~2011~~ 2014 Article 90 Introduction [AMENDED]
748:20-9-6.1. NEC® 2014 Chapter 1 General [NEW]
748:20-9-6.2. NEC® 2014 Chapter 2 Wiring and Protection [NEW]
748:20-9-7. NEC® ~~2011~~ 2014 Chapter 5 Special Occupancies [AMENDED]
748:20-9-8. NEC® 2014 Chapter 6 Special Equipment [NEW]
Subchapter 11. IFGC® ~~2009~~ 2015
748:20-11-1. Adoption of International Fuel Gas Code® ~~2009~~ 2015 Edition (IFGC® ~~2009~~ 2015) [AMENDED]
748:20-11-2. Effect of Adoption [AMENDED]
748:20-11-3. IFGC® ~~2009~~ 2015 Appendices [AMENDED]
748:20-11-4. IFGC® ~~2009~~ 2015 Provisions Adopted and Modified [AMENDED]
748:20-11-5. Participation in Federal Programs and/or Federally Funded or Financed Projects [AMENDED]
748:20-11-6. IFGC® ~~2009~~ 2015 Chapter 1 Scope and Administration [AMENDED]
748:20-11-7. IFGC® 2015 Chapter 3 General Regulations [AMENDED]
748:20-11-8. IFGC® 2015 Chapter 4 Gas Piping Installations [AMENDED]
748:20-11-9. IFGC® Chapter 6 Specific Appliances [REVOKED]
748:20-11-10. IFGC® 2015 Chapter 8 Referenced Standards [AMENDED]
Subchapter 13. IMC® ~~2009~~ 2015
748:20-13-1. Adoption of International Mechanical Code® ~~2009~~ 2015 Edition (IMC® ~~2009~~ 2015) [AMENDED]
748:20-13-2. Effect of Adoption [AMENDED]
748:20-13-3. IMC® ~~2009~~ 2015 Appendices [AMENDED]
748:20-13-4. IMC® ~~2009~~ 2015 Provisions Adopted and Modified [AMENDED]
748:20-13-5. Participation in Federal Programs and/or Federally Funded or Financed Projects [AMENDED]
748:20-13-6. IMC® ~~2009~~ 2015 Chapter 1 Scope and Administration [AMENDED]
748:20-13-7. IMC® 2009 Chapter 2 Definitions [REVOKED]
748:20-13-8. IMC® ~~2009~~ 2015 Chapter 3 General Regulations [AMENDED]
748:20-13-9. IMC® ~~2009~~ 2015 Chapter 5 Exhaust Systems [AMENDED]
748:20-13-10. IMC® ~~2009~~ 2015 Chapter 6 Duct Systems [AMENDED]
748:20-13-10.1. IMC® 2015 Chapter 11 Refrigeration [NEW]
748:20-13-11. IMC® ~~2009~~ 2015 Chapter 15 Referenced Standards [AMENDED]
Subchapter 15. IPC® ~~2009~~ 2015
748:20-15-1. Adoption of International Plumbing Code®, ~~2009~~ 2015 Edition (IPC® ~~2009~~ 2015) [AMENDED]
748:20-15-2. Effect of Adoption [AMENDED]
748:20-15-3. IPC® ~~2009~~ 2015 Appendices [AMENDED]
748:20-15-4. IPC® ~~2009~~ 2015 Provisions Adopted and Modified [AMENDED]
748:20-15-5. Participation in Federal Programs and/or Federally Funded or Financed Projects [AMENDED]
748:20-15-6. IPC® ~~2009~~ 2015 Chapter 1 Scope and Administration [AMENDED]
748:20-15-7. IPC® ~~2009~~ 2015 Chapter 2 Definitions [AMENDED]
748:20-15-8. IPC® ~~2009~~ 2015 Chapter 3 General Regulations [AMENDED]
748:20-15-9. IPC® ~~2009~~ 2015 Chapter 4 Fixtures, Faucets and Fixture Fittings [AMENDED]
748:20-15-10. IPC® 2009 Chapter 5 Water Heaters [REVOKED]
748:20-15-11. IPC® ~~2009~~ 2015 Chapter 6 Water Supply and Distribution [AMENDED]
748:20-15-12. IPC® ~~2009~~ 2015 Chapter 7 Sanitary Drainage [AMENDED]
748:20-15-13. IPC® 2009 Chapter 8 Indirect/Special Waste [REVOKED]
748:20-15-14. IPC® ~~2009~~ 2015 Chapter 9 Vents [AMENDED]
748:20-15-15. IPC® ~~2009~~ 2015 Chapter 10 Traps, Interceptors and Separators [AMENDED]
748:20-15-16. IPC® ~~2009~~ 2015 Chapter 11 Storm Drainage [AMENDED]
748:20-15-16.1. IPC® 2015 Chapter 13 Nonpotable Water Systems [NEW]

748:20-15-17. IPC® ~~2009~~ 2015 Chapter ~~13~~15 Referenced Standards [AMENDED]

AUTHORITY:
Oklahoma Uniform Building Code Commission; 59 O.S. §§ 1000.23

SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
December 8, 2014

COMMENT PERIOD:
January 5, 2015 through February 3, 2015

PUBLIC HEARING:
February 17, 2015

ADOPTION:
February 17, 2015

SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:
February 26, 2015

APPROVED BY GOVERNOR'S DECLARATION:
Approved by Governor's declaration on June 8, 2015

FINAL ADOPTION:
June 8, 2015

EFFECTIVE:
November 1, 2015

SUPERSEDED EMERGENCY ACTIONS:
n/a

INCORPORATIONS BY REFERENCE:

Incorporated standards:
International Code Council, International Building Code®, 2015 Edition
International Code Council, International Existing Building Code®, 2015 Edition
International Code Council, International Fire Code®, 2015 Edition
International Code Council, International Fuel Gas Code®, 2015 Edition
International Code Council, International Mechanical Code®, 2015 Edition
International Code Council, International Plumbing Code®, 2015 Edition
National Fire Protection Association, National Electrical Code®, 2014 Edition

Incorporating rules:
748:20-1-1 through 748:20-1-9, 748:20-1-10 (Revoked), 748:20-1-11 through 748:20-1-16, 748:20-1-17 (Revoked), 748:20-1-18 through 748:20-1-19, 748:20-3-1 through 748:20-3-8, 748:20-3-9 (Revoked), 748:20-3-10 (Revoked), 748:20-3-11 through 748:20-3-15, 748:20-7-1 through 748:20-7-6, 748:20-7-7 (Revoked), 748:20-7-8 through 748:20-7-9, 748:20-9-1 through 748:20-9-8, 748:20-11-1 through 748:20-11-8, 748:20-11-9 (Revoked), 748:20-11-10, 748:20-13-1 through 748:20-13-6, 748:20-13-7 (Revoked), 748:20-13-8 through 748:20-13-11, 748:20-15-1 through 748:20-15-9, 748:20-15-10 (Revoked), 748:20-15-11 through 748:20-15-12, 748:15-13 (Revoked), and 748:20-13-14 through 748:20-13-17.

Availability:
8:00 a.m. to 4:30 p.m., Monday through Friday at the Oklahoma Uniform Building Code Commission, 2401 NW 23rd Street, Suite 2F, Oklahoma City, OK 73107, 405-521-6501

ANALYSIS:
The purpose of these permanent rules is to continue implementation of 59 O.S. §§1000.20 - 1000.29 (the "Act") enacted by SB1182, effective June 2, 2009, creating the Oklahoma Uniform Building Code Commission. These permanent rules adopt the International Building Code® 2015 Edition (IBC®), as the statewide minimum code for commercial building construction, the International Fire Code® 2015 Edition (IFC®), as the statewide minimum code for residential and commercial fire prevention and fire protection systems, the International Existing Building Code® 2015 Edition (IEBC®) as the statewide minimum code for commercial existing building construction, the National Electrical Code® 2014 Edition (NEC®) as the statewide minimum code for commercial electrical construction, the International Fuel Gas Code® 2015 Edition (IFGC®) as the statewide minimum code for commercial fuel gas construction, the International Mechanical Code®, 2015 Edition (IMC®) as the statewide minimum code for commercial mechanical construction and the International Plumbing Code®, 2015 Edition (IPC®) as the statewide minimum code for commercial plumbing construction in the State of Oklahoma as modified by the OUBCC for implementation in the State of Oklahoma.

CONTACT PERSON:
Billy Pope, Chief Executive Officer, OUBCC, 2401 NW 23rd, Suite 2F, Oklahoma City, OK 73107, 405-521-6501

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF NOVEMBER 1, 2015:

SUBCHAPTER 1. IBC® ~~2009~~ 2015

748:20-1-1. Adoption of International Building Code®, ~~2009~~ 2015 Edition (IBC® ~~2009~~ 2015)

(a) The Oklahoma Uniform Building Code Commission (the "OUBCC") hereby adopts the International Building Code®, ~~2009~~ 2015 Edition (IBC® 2015) as amended and modified in this subchapter as the statewide minimum code for commercial building construction in the State of Oklahoma pursuant to 59 O.S. 1000.23.

(b) The OUBCC through formal action expressly chose to adopt the IBC® 2015 as amended and modified in this subchapter, as the statewide minimum code for commercial building construction in the State of Oklahoma. In like manner, the OUBCC through formal action expressly chose to not adopt the International Building Code®, 2012 Edition (IBC®, 2012) for any purpose.

(c) As part of its 2012 code cycle, the International Code Council, Inc.® (ICC®) reorganized the format of certain of its model codes as it was foreseeable to ICC that additional chapters will need to be added in the future as model regulations for new processes or operations are developed. The format reorganization was designed by ICC to accommodate such future chapters by providing reserved (unused) chapters in several parts of certain of its model codes as part of its 2012 code cycle. The format reorganization continues into the ICC's 2015 code cycle and is adopted by the OUBCC to the extent provided in this subchapter by the phrase "reserved for future use" inserted in lieu of titles for chapters.

748:20-1-2. Effect of Adoption

The ~~International Building Code®, 2009 Edition (~~IBC® ~~2009~~ 2015~~),~~ as amended and revised by these rules, ~~are~~is hereby established and adopted as the statewide minimum ~~standards~~code for commercial building construction in Oklahoma pursuant to 59 O.S. § 1000.23, and may only be amended or altered by other jurisdictions pursuant to Oklahoma law and the administrative rules of the ~~Oklahoma Uniform Building Code Commission~~OUBCC as set forth in Title 748, Chapter 15 of the Oklahoma Administrative Code.

748:20-1-3. IBC® ~~2009~~ 2015 and Other Appendices

(a) None of the appendices of the IBC® ~~2009~~ 2015 have been adopted by the ~~Commission~~ OUBCC for inclusion in the statewide minimum ~~standards~~code for commercial building construction in the State of Oklahoma.

(b) The OUBCC hereby creates a new appendix, entitled "Appendix N, Supplemental Storm Shelter and Safe Room Requirements."

(c) The OUBCC has removed from Chapter Four of the IBC® 2015 Section 423.3 entitled "Critical emergency operations" and Section 423.4 entitled "Group E occupancies" and has relocated and renumbered those sections to the newly created Appendix N entitled "Supplemental Storm Shelter and Safe Room Requirements."

(~~b~~d) Appendices A through ~~K~~N are not adopted as the minimum ~~standards~~code for commercial building construction within the State of Oklahoma. However, other jurisdictions within ~~this~~the State of Oklahoma may adopt any or all of said appendices in accordance with 59 O.S. § 1000.29.

748:20-1-4. IBC® ~~2009~~ 2015 Provisions Adopted and Modified

(a) All chapters and provisions within chapters, including exceptions, of the IBC® ~~2009~~ 2015 not specifically addressed within these rules as being modified, deleted, moved or removed are hereby adopted without modification as the statewide minimum ~~standards~~code for commercial building construction within the State of Oklahoma pursuant to 59 O.S. § 1000.23. Chapters and provisions within chapters, including exceptions adopted with modifications are specifically addressed in these rules.

(b) The ICC® has reserved Chapter 34 for possible future use. The OUBCC has not adopted Chapter 34 and the chapter is not considered part of the statewide minimum code for commercial building construction within the State of Oklahoma.

(c) To the extent any references in the IBC® 2015 as amended and modified in this sub-chapter are made to any other code or standard, the particular edition for that reference is defined in the referenced standards found in the IBC® 2015 as amended and modified in this sub-chapter and in the IBC® 2015 Chapter 35 entitled "Referenced Standards."

748:20-1-5. Participation in Federal Programs and/or Federally Funded or Financed Projects

In order to maximize federal financial aid, assistance, participation, financing and/or funding in any public project(s) and/or federal financial aid, participation, funding for and participation in any federal program(s) by the State of Oklahoma, its agencies, public trusts and instrumentalities, or by any Oklahoma municipalities and other political subdivisions, that receive financial aid, assistance, participation, financing and/or funding for and participate in any federal program(s), the State of Oklahoma, its agencies and instrumentalities, and any Oklahoma municipalities and other political subdivisions, may cooperate with the United States Government and any agency or instrumentality thereof, in the manner authorized and provided by federal law and regulation and in doing so may perform all necessary functions and take all necessary actions for accomplishing such federal purposes and programs, including but not limited to, following and/or complying with federal laws, regulations and/or requirements arising from or related to federal financial aid, assistance, participation, financing and/or funding, in the construction, alteration, movement, enlargement, replacement, repair, equipment, use and occupancy, location, improvement, expansion, operation, maintenance, removal, and demolition of buildings and structures or any appurtenances attached to such buildings or structures, notwithstanding any provisions of any and all uniform building codes and standards adopted by the ~~Oklahoma Uniform Building Code Commission~~OUBCC to the contrary.

748:20-1-6. IBC® ~~2009~~ 2015 Chapter 1 Scope and Administration

Chapter 1 of the Oklahoma adopted IBC® ~~2009~~ 2015, includes the following Preamble at the very beginning of the chapter:

(1) Pursuant to 59 O.S. § 1000.23, the ~~Uniform Building Code Commission~~OUBCC has adopted the ~~International Building Code®, 2009 Edition (~~IBC® ~~2009~~ 2015~~)~~ as amended and revised by the ~~Commission~~OUBCC, as the statewide minimum ~~standards~~code to be used by all entities for commercial building construction in jurisdictions throughout the State of Oklahoma. However, the ~~Commission's~~OUBCC's adoption of Chapter 1 "Scope and Administration" of the IBC® ~~2009~~ 2015 is for continuity purposes and the ~~Commission's~~OUBCC's adoption of Chapter 1 recognizes the methods of best practice in fully implementing the statewide minimum ~~standards~~code for commercial building construction.

(2) All provisions of the adopted IBC® ~~2009~~ 2015, including Chapter 1, as amended and revised by the ~~Commission~~OUBCC, are hereby established and adopted as the statewide minimum ~~standards~~code for commercial building construction in Oklahoma pursuant to 59 O.S. § 1000.23, which may only be amended or altered pursuant to Oklahoma law and the administrative rules of the ~~Oklahoma Uniform Building Code Commission~~OUBCC as set forth in Title 748, Chapter 15 of the Oklahoma Administrative Code. However, the provisions of Chapter 1 adopted herein are only intended to be in force and effect to the extent that the respective provisions do not conflict with State law or the lawful exercise of code administration and enforcement jurisdiction by entities empowered to do so pursuant to applicable law.

(3) Section 105.1.1 Annual permit. This section has been modified to clarify what an annual permit is. This section shall read: An annual permit is a yearly permit which represents a group of individual permits for each alteration to an already approved electrical, gas, mechanical or plumbing installation. The building official is authorized to issue an annual permit upon application therefor to any person, firm or corporation regularly employing one or more qualified tradespersons in the building, structure or on the premises owned or operated by the applicant for the permit.

(4) Section 105.1.2 Annual permit records. This section has been modified to require the building official to collect the OUBCC permit fee for each individual permit that is part of the annual permit at the completion of the annual permit term. This section has been modified

to read: Annual permit records. The person to whom an annual permit is issued shall keep a detailed record of alterations made under such annual permit. The building official shall have access to such detailed records of alterations at all times. At the completion of the entity's annual permit term, the applicant shall file such detailed records of alterations with the building official. Pursuant to the authority of 59 O.S. § 1000.25, the building official shall collect fees for each individual permit which is part of the annual permit once the detailed records are submitted and remit such fees to the OUBCC.

(~~3~~5) The ~~Commission's~~OUBCC's adoption of Chapter 1 in this manner is made with the recognition that the legal authority granting state and local code administration and enforcement jurisdictions the power and discretion to administer and enforce codes arises from Oklahoma laws governing those jurisdictions. Furthermore, the ~~Commission~~ OUBCC also recognizes that many state and local code administration and enforcement jurisdictions have already created, or have the lawful authority to create, departments, offices and administrative policies pursuant to various applicable laws and other adopted model codes with "Scope and Administration" provisions similar to Chapter 1 of the adopted IBC® ~~2009~~ 2015.

(~~4~~6) This limited adoption of Chapter 1 is made in recognition of the authority and discretion possessed by jurisdictions to administer and enforce building codes. Exercising such authority and jurisdiction in a manner inconsistent with Chapter 1 must be supported by Oklahoma law. Code administration and enforcement jurisdictions shall not use the ~~Commission's~~OUBCC's limited adoption of Chapter 1 to circumvent the remainder of the requirements established by the Oklahoma adopted IBC® ~~2009~~ 2015 and the Commission will strongly oppose any such practice.

748:20-1-7. IBC® 2015 Chapter 2 Definitions

Chapter 2 of the IBC® ~~2009~~ 2015 is adopted with the following modification: The definition of the word ~~"Repair" has been modified to further define a repair to include repair to any build or structure regardless of the classification of the building as a new or existing building~~ "SAFE ROOM" has been added to define a building structure or portion thereof, built to provide protection from severe wind storm events such as tornados or hurricanes and includes sub-definitions for a community safe room and other safe room. The definition has been ~~modified~~ added to read: ~~The reconstruction or renewal (restoration to good or sound condition) of any part of any building for the purpose of its maintenance~~SAFE ROOM. A building or structure or portions thereof, constructed in accordance with ICC/NSSA Standard for the design and construction of Storm Shelters® (ICC 500®) and constructed to provide near-absolute protection for its occupants from severe wind storm events such as tornados or hurricanes.

(1) Community safe room. A safe room designed and constructed in accordance with the Federal Emergency Management Agency (FEMA) document P-361 entitled "Design and Construction Guidance for Community Safe Rooms®" ("FEMA P-361®"), intended to provide life-safety protection for more than 16 persons.

(2) Other safe room. A safe room designed and constructed in accordance with FEMA P-361® Design and Construction Guidance for Community Safe Rooms or FEMA P-320® entitled "Taking Shelter from the Storm: Building a Safe Room for your Home or Small Business®", located in a residence or non-residential building or structure, intended to provide life-safety protection for 16 people or less.

748:20-1-8. IBC® 2015 Chapter 3 Use and Occupancy Classification

Chapter 3 of the IBC® ~~2009~~ 2015 is adopted with the following ~~modification~~ modifications: ~~Section 310.1 Residential Group R has been modified to provide clarification between the IBC® 2009 and the International Residential Code® 2009 when R-1 and R-2 classifications are constructed as R-3 classification. The section has been modified to read:~~

~~(1) R-1 Residential occupancies containing sleeping units where the occupants are primarily transient in nature including: Boarding houses (transient), Hotels (transient), Motels (transient), Congregate living facilities (transient) with 10 or fewer occupants are permitted to comply with the construction requirements for Group R-3, except as otherwise provided for in this code, or shall comply with the International Residential Code®, provided the building is protected by an automatic sprinkler system installed in accordance with Section 903.2.8.~~

~~(2) R-2 Residential occupancies containing sleeping units or more than two dwelling units where the occupants are primarily permanent in nature including: Apartment houses, Boarding houses (non-transient), Convents, Dormitories, Fraternities and sororities, Hotels (non-transient), Live/work units, Monasteries, Motels (non-transient), Vacation time share properties and Congregate living facilities with 16 or fewer occupants are permitted to comply with the construction requirements for Group R-3, except as provided for in this code, or shall comply with the International Residential Code®, provided the building is protected by an automatic sprinkler system installed in accordance with Section 903.2.8.~~

(1) Section 305.2.4 Seven or fewer children in a detached dwelling. This section has been added to align the code with the Oklahoma Department of Human Services regulations for a licensed daycare facility in the home and the change clarifies the total number of children includes both those under and above two and one half years of age. This section has been added to read: 305.2.4 Seven or fewer children in a detached dwelling. A facility such as the above within a detached dwelling and having seven or fewer children receiving such day care shall be permitted to comply with the International Residential Code® (IRC®). This number shall include children two and one half years or less of age.

(2) Section 305.2.5 Eight to twelve children in a detached dwelling. This section has been added to align the code with the Oklahoma Department of Human Services

regulations for a licensed daycare facility with eight to twelve children within a detached dwelling, allowing the licensed daycare facility to comply with the requirements of the IRC® so long as the structure is fire-sprinklered, and clarifies the total number of children includes both those under and above two and one-half years of age. This section has been added to read: 305.2.5 Eight to 12 children in a detached dwelling. A facility such as the above within a detached dwelling and having eight to 12 children receiving such day care shall comply with the IRC® provided an automatic sprinkler system is installed in accordance with Section 903.3.1.3 or Section P2904 of the IRC®. This number shall include children two and one-half years or less of age.

(3) Section 310.5.2 Lodging houses. This section has been modified to limit a lodging house to four guest rooms if complying with the requirements in the IRC® to align the section with the requirements in Title 74 O. S. § 317.1. This section has been modified to read: 310.5.2 Lodging houses. Owner-occupied lodging houses with four or fewer guest rooms shall be permitted to be constructed in accordance with the IRC®.

748:20-1-9. IBC® 2015 Chapter 4 Special Detailed Requirements Based on Use and Occupancy

Chapter 4 of the IBC® ~~2009~~ 2015 is adopted with the following modifications:

(1) Section 419.1 General. This section has been modified to add a new exception to allow Group B, M, and F occupancies located in a detached dwelling unit to be constructed in accordance with the IRC® if they comply with the limitations in Section 419.1.1. This section has been modified to read: 419.1 General. A live/work unit shall comply with Sections 419.1 through 419.9. Exceptions:

(A) Dwelling or sleeping units that include an office that is less than 10 percent of the area of the dwelling unit are permitted to be classified as dwelling units with accessory occupancies in accordance with Section 508. 2.

(B) Group B, M, and F occupancies that are located in a detached dwelling unit complying with the limitations of Section 419.1.1 shall be permitted to be constructed in accordance with the IRC®.

(2) Section 419.1.1 Limitations. This section has been modified to limit the nonresidential portion of the live/work unit to not greater than 2,500 square feet (232 square meters). This section has been modified to read: 419.1.1 Limitations. The following shall apply to all live/work areas:

(A) The nonresidential portion of the live/work unit is permitted to be not greater than 2,500 square feet (232 square meters) in area;

(B) The nonresidential area is permitted to be not more than 50 percent of the area of each live/work unit;

(C) The nonresidential area function shall be limited to the first or main floor only of the live/work unit; and

(D) Not more than five nonresidential workers or employees are allowed to occupy the nonresidential area at any one time.

(3) Section 423 Storm Shelters. This section title has been modified to add to the title the words "Safe Rooms". This section has been modified to read: Section 423 Storm Shelters and Safe Rooms.

(~~1~~4) Section 423.1 General has been ~~revised~~ modified to ~~provide for alternative design and engineered methods without relying on jurisdictional interpretation~~require both storm shelters and safe rooms to be constructed in accordance with the definitions in Chapter 2 of this code and this section. The section has been modified to read: Section 423.1 General. In addition to other applicable requirements in this code, storm shelters and safe rooms shall be constructed in accordance with ~~ICC 500, FEMA 320, FEMA 361 or other equivalent approved engineered system~~the definitions and this section.

(5) Section 423.1.1 Scope. This section has been modified to include above and below ground storm shelters and safe rooms and limit the use of the terms storm shelter and safe room to those structures constructed according to this section. This section has been modified to read: 423.1.1 Scope. This section applies to the construction of above or below ground storm shelters or safe rooms constructed as separate detached buildings, or rooms within buildings, structures, or portions thereof for the purpose of providing safe refuge from storms that produce high winds, such as tornados. Any room or structure, as may be used as a place of refuge during a severe wind storm event, shall not be defined as a storm shelter or safe room unless specifically designed to the requirements as listed in Section 423.

(~~2~~6) Section 423.2 Definitions. This section has been ~~revised to modify~~modified to add ~~the definition of a Storm Shelter to remove the specific reference to ICC 500 and to allow for alternative design and engineered methods listed in Section 423.1~~wording noting the definitions of a Safe Room, Community Safe Room, and Other Safe Room to the definitions of Chapter 2 of this code. This section has been modified to read: ~~STORM SHELTER. A building, structure, or portion(s) thereof, constructed in accordance with the standards listed in Section 423.1 and designated for use during a severe wind storm event, such as a hurricane or tornado~~423.2 Definitions. The following terms are defined in Chapter 2 of this code:

(A) SAFE ROOM.

(i) Community safe room.

(ii) Other safe room.

(B) STORM SHELTER.

(i) Community storm shelter.

(ii) Residential storm shelter.

(7) Section 423.3 Critical emergency operations. This section, including the exception, has been moved to the newly created Appendix N, entitled "Supplemental Storm Shelter and Safe Room Requirements" and is not adopted

as a minimum standard for residential or commercial construction within the State of Oklahoma. This section has been renumbered in Appendix N to become N102. The section number 423.3 itself, will stay as part of this code for numbering alignment but will not have any requirements attached to it.

(8) Section 423.4 Group E occupancies. This section, including exceptions, has been moved to the newly created Appendix N, entitled "Supplemental Storm Shelter and Safe Room Requirements" and is not adopted as a minimum standard for residential or commercial construction within the State of Oklahoma. The section has been renumbered in Appendix N to become N103. The section number 423.4 itself, will stay as part of this code for numbering alignment but will not have any requirements attached to it.

(9) Section 423.5 Required. This section has been added to specify the requirements when storm shelters or safe rooms are provided. This section has been added to read: 423.5 Required. Where storm shelters and safe rooms are provided, they shall be provided in compliance with ICC 500® except as required by Sections 423.5.1 through 423.5.2.3.

(10) Section 423.5.1 Number of doors. This section has been added to clarify the number of doors required for a storm shelter or safe room. This section has been added to read: 423.5.1 Number of doors. The number of means of egress doors from a storm shelter or safe room shall be determined based upon the occupant load for the normal occupancy of the space in accordance with Chapter 10 of this code. For facilities used solely for storm shelters or safe rooms, the number of doors shall be as specified in Section 423.5.1.1 based upon the occupant load as calculated in ICC 500®, Section 501.1. Where only one means of egress is provided and the occupant load as calculated per ICC 500®, Section 501.1 is 16 or more but less than 50, an emergency escape opening shall be provided in accordance with ICC 500® Section 501.4.

(11) Section 423.5.1.1 Minimum number of doors per storm shelter or safe room. This section has been added to specify the minimum number of doors necessary based upon occupant load. This section has been added to read: 423.5.1.1 Minimum number of doors per storm shelter or safe room. For 1-49 occupants provide a minimum 1 door in storm shelter or safe room; for 50-500 occupants provide a minimum number of 2 doors in storm shelter or safe room; for 501-1000 occupants provide a minimum number of 3 doors in storm shelter or safe room; and for more than 1000 occupants provide a minimum number of 4 doors in storm shelter or safe room.

(12) Section 423.5.2 Sanitation facilities. This section has been added to clarify sanitation facility requirements in storm shelters or safe rooms. This section has been added to read: 423.5.2. Sanitation facilities. Toilet and hand-washing facilities shall be located within the storm shelter or safe room and provided in the minimum number shown in Sections 423.5.2.1 through 423.5.2.3.

(13) Section 423.5.2.1 Temporary sanitary fixtures. This section has been added to allow temporary sanitary fixtures, chemical toilets or other means approved by the authority having jurisdiction in community storm shelters and community safe rooms based upon the occupant load. This section has been added to read: 423.5.2.1 Temporary sanitary fixtures. Temporary sanitary fixtures, chemical toilets or other means approved by the authority having jurisdiction shall be provided in community storm shelters and community safe rooms when an occupant load as calculated per ICC 500®, Section 501.1 is 16 or more but less than 50.

(14) Section 423.5.2.2 Permanent sanitary fixtures. This section has been added to require permanent sanitary fixtures and hand-washing facilities within community storm shelters and community safe rooms based upon occupant load. This section has been added to read: 423.5.2.2 Permanent sanitary fixtures. Permanent toilet and hand-washing facilities shall be located within community storm shelters and community safe rooms with an occupant load of 50 or more based upon the occupant load as calculated in ICC 500®, Section 501.1. One toilet facility per 500 occupants, or portions thereof and one hand-washing facility per 1000 occupants, or portions thereof shall be provided based upon the occupant load as calculated by ICC 500® Section 501.1

(15) Section 423.5.2.3 Additional facilities. This section has been added to provide relief from the requirements for sanitary facilities in community storm shelters and community safe rooms when the number of facilities for the community storm shelter or community safe room as calculated per Section 423.5.2.2 exceeds the number of facilities provided for the normal occupancy of the space. This section has been added to read: 423.5.2.3 Additional facilities. Where the required number of sanitation facilities for the community storm shelter or community safe room, as calculated per Section 423.5.2.2 exceeds the number of facilities provided for the normal occupancy of the space, the additional facilities shall be permitted to be temporary sanitary fixtures, chemical toilets, or other means as approved by the authority having jurisdiction.

748:20-1-10. IBC® Chapter 8 Interior Finishes [REVOKED]

~~Chapter 8 of the IBC® 2009 is adopted with the following modification: Section 803.1.4. Acceptance criteria for textile and expanded vinyl wall or ceiling coverings tested to ASTM E 84 or UL 723 has been modified to include the word "either" before the two types of standards to provide clarification and prevent a different interpretation other than the intent of the code. This section has been modified to read: Section 803.1.4. Acceptance criteria for textile and expanded vinyl wall or ceiling coverings tested to ASTM E 84 or UL 723. Textile wall and ceiling covering and expanded vinyl wall and ceiling covering shall have a Class A flame spread index in accordance with either ASTM E 84 or UL 723 and be protected by an automatic sprinkler system installed in accordance with Section~~

~~903.3.1.1 or 903.3.1.2. Test specimen preparation and mounting shall be in accordance with ASTM E 2404.~~

748:20-1-11. IBC® 2015 Chapter 9 Fire Protection Systems

Chapter 9 of the IBC® ~~2009~~ 2015 is adopted with the following modifications:

(1) Section 903.2.7 Group M.This section has been modified to reword subsection ~~4~~D of this text to provide a reasonable limit for these occupancies and adequate protection without excessive burden on Group M occupancies with small areas of upholstered furniture and mattresses. This section has been modified to read: ~~Section~~ 903.2.7 Group M. An automatic sprinkler system shall be provided throughout buildings containing a Group M occupancy where one of the following conditions exists:

(A) A Group M fire area exceeds 12,000 square feet (1115 square meters).

(B) A Group M fire area is located more than three stories above grade plane.

(C) The combined area of all Group M fire areas on all floors, including any mezzanines, exceeds 24,000 square feet (2230 square meters).

(D) A Group M occupancy where the cumulative area used for the display and sale of upholstered furniture or mattresses exceeds 5,000 square feet (464 square meters).

~~(2) Section 903.6 Pump and riser room size has been added to the code to provide the designer clarification for maintenance clearances needed for these rooms. This section has been added to read: Section 903.6 Pump and riser room size. Fire pump and automatic sprinkler system riser rooms shall be designed with adequate space for all equipment necessary for the installation, as defined by the manufacturer with sufficient working room around the stationary equipment. Clearances around equipment to elements of permanent construction, including other installed equipment and appliances shall be sufficient to allow inspection, service, repair, or replacement without removing such elements of permanent construction or disabling the function of a required fire resistance rated assembly. Fire Pump and automatic sprinkler riser room shall be provided with a door(s) and unobstructed passageway large enough to allow removal of the largest piece of equipment.~~

(2) 903.2.9 Group S-1. This section has been modified to add an exception to the fifth requirement in the list for when an automatic fire sprinkler system is required. This section has been modified to read: 903.2.9 Group S-1. An automatic sprinkler system shall be provided throughout all buildings containing a Group S-1 occupancy where one of the following conditions exists:

(A) A Group S-1 fire area exceeds 12,000 square feet (1115 square meters).

(B) A Group S-1 fire area is located more than three stories above grade plane.

(C) The combined area of all Group S-1 fire areas on all floors, including any mezzanines, exceeds 24,000 square feet (2230 square meters).

(D) A Group S-1 fire area used for the storage of commercial motor vehicles where the fire area exceeds 5,000 square feet (464 square meters).

(E) A Group S-1 occupancy used for the storage of upholstered furniture or mattresses exceeds 2,500 square feet (232 square meters). Exception: Self-service storage facility where the fire area is less than 5,000 square feet (464 square meters).

(3) Section 907.2.3 Group E. This section has been modified to delete the requirement for an emergency voice/alarm communication system in Group E occupancies and require a fire alarm system. This section has been modified to read: 907.2.3 Group E. A manual fire alarm system that activates the occupant notification signal in accordance with Section 907.5 and installed in accordance with 907.6 shall be installed in Group E occupancies. When automatic sprinkler systems or smoke detectors are installed such systems or detectors shall be connected to the building fire alarm system. Exceptions:

(A) A manual fire alarm system is not required in Group E occupancies with an occupant load of 50 or less.

(B) Manual fire alarm boxes are not required in Group E occupancies where all of the following apply:

(i) Interior corridors are protected by smoke detectors.

(ii) Auditoriums, cafeterias, gymnasiums and similar areas are protected by heat detectors or other approved detection devices.

(iii) Shops and laboratories involving dusts or vapors are protected by heat detectors or other approved detection devices.

(iv) The capability to activate the evacuation signal from a central point is provided.

(v) In buildings where normally occupied spaces are provided with a two-way communication system between such spaces and a constantly attended receiving station from where a general evacuation alarm can be sounded, except in locations specifically designated by the fire code official.

(C) Manual fire alarm boxes shall not be required in Group E occupancies where all of the following apply:

(i) The building is equipped throughout with an approved automatic sprinkler system installed in accordance with Section 903.3.1.1.

(ii) The fire alarm system will activate on sprinkler waterflow.

(iii) Manual activation is provided from a normally occupied location.

(~~3~~4) Section 911.1.3 Size. This section was modified to include an exception to make the fire command center smaller when approved by the fire code official. This section was modified to read: ~~Section~~ 911.1.3. Size. The room shall be a minimum of 200 square feet (19 square meters) with a minimum dimension of 10 feet (3048 mm).

Exception: When approved by the fire code official the fire command center can be reduced in size to not less than a minimum of 96 square feet (9 square meters) with a minimum dimension of 8 feet (2438 mm).

748:20-1-12. IBC® 2015 Chapter 10 Means of Egress

Chapter 10 of the IBC® ~~2009~~ 2015 is adopted with the following modifications:

~~(1) Section 1005.1 Minimum required egress width has been modified to include two more exceptions to modify egress width for all occupancies other than H and I-2 occupancies with sprinklers and a voice evacuation system. This section has been modified to read: Section 1005.1 Minimum required egress width. The means of egress width shall not be less than required by this section. The total width of means of egress in inches (mm) shall not be less than the total occupant load served by the means of egress multiplied by 0.3 inch (7.62 mm) per occupant for stairways and by 0.2 inch (5.08 mm) per occupant for other egress components. The width shall not be less than specified elsewhere in this code. Multiple means of egress shall be sized such that the loss of any one means of egress shall not reduce the available capacity to less than 50 percent of the required capacity. The maximum capacity required from any story of a building shall be maintained to the termination of the means of egress. Exceptions:~~

~~(A) Means of egress complying with Section 1028;~~

~~(B) For other than H and I-2 occupancies, the capacity, in inches, of means of egress stairways shall be calculated multiplying the occupant load served by such stairway by a means of egress capacity factor of 0.2 inches (5.1 mm) per occupant in buildings equipped throughout with an automatic sprinkler system installed in accordance with Section 903.3.1.1 or 903.3.1.2 and an emergency voice/alarm communication system in accordance with Section 907.5.2.2.~~

~~(C) For other than H and I-2 occupancies, the capacity, in inches, of means of egress components other than stairways shall be calculated multiplying the occupant load served by such component by a means of egress capacity factor of 0.15 inches (3.8 mm) per occupant in building equipped throughout with an automatic sprinkler system installed in accordance with Section 903.3.1.1 or 903.3.1.2 and an emergency voice/alarm communication system in accordance with Section 907.5.2.2.~~

(1) Section 1010.1.10 Panic and fire exit hardware. This section has been modified to add an exception to the requirement for panic hardware or fire exit hardware on the access doors for electrical rooms and working spaces. This section has been modified to read: 1010.1.10 Panic and fire exit hardware. Doors serving a Group H occupancy and doors serving rooms or spaces with an occupant load of 50 or more in a group A or E occupancy shall not be provided with a latch or lock other than panic hardware or fire exit hardware. Exceptions:

(A) A main exit of a Group A occupancy shall be permitted to have locking hardware in accordance with Section 1010.1.9.3, Item 2.

(B) Doors serving a Group A or E occupancy shall be permitted to be electromagnetically locked in accordance with Section 1010.1.9.9.

(2) Electrical rooms and working spaces with equipment operating at more than 600 volts, nominal, and equipment operating at 600 volts or less, nominal and rated 800 amperes or more and that contain overcurrent devices, switching devices or control devices with exit or exit access doors, shall be equipped with panic hardware or fire exit hardware. The doors shall swing in the direction of egress travel. Exception: Personnel entrance to and egress from doors of the electrical equipment working spaces that are greater than 25 feet (7.6 m) from the nearest edge of the electrical equipment.

~~(2) Section 1022.1 Enclosures required has been modified to add an eighth exception to the code that will direct users to the correct reference for exemptions to allowances for open stairs. This section has been modified to read: Section 1022.1 Enclosures required. Interior exit stairways and interior exit ramps shall be enclosed with fire barriers constructed in accordance with Section 707 or horizontal assemblies constructed in accordance with Section 712, or both. Exit enclosures shall have a fire resistance rating of not less than 2 hours where connecting four stories or more and not less than 1 hour when connecting less than four stories. The number of stories connected by the exit enclosure shall include any basements but not any mezzanines. Exit enclosures shall have a fire resistance rating not less than the floor assembly penetrated, but need not exceed 2 hours. Exit enclosures shall lead directly to the exterior of the building or shall be extended to the exterior of the building with an exit passageway conforming to the requirements of Section 1023, except as permitted in Section 1027.1. An exit enclosure shall not be used for any purpose other than means of egress. Exceptions:~~

~~(A) In all occupancies, other than Group H and I occupancies, a stairway is not required to be enclosed when the stairway serves an occupant load of less than 10 and the stairway complies with either Item 1.1 or 1.2. In all cases, the maximum number of connecting opening stories shall not exceed two.~~

~~(i) 1.1. The stairway is open to not more than one story above its level of exit discharge; or~~

~~(ii) 1.2. The stairway is open to not more than one story below its level of exit discharge.~~

~~(B) Exits in buildings of Group A-5 where all portions of the means of egress are essentially open to the outside need not be enclosed.~~

~~(C) Stairways serving and contained within a single residential dwelling unit or sleeping unit in Group R-1, R-2 or R-3 occupancies are not required to be enclosed.~~

~~(D) Stairways in open parking structures that serve only the parking structure are not required to be enclosed.~~

~~(E) Stairways in Group I-3 occupancies, as provided for in Section 408.3.8, are not required to be enclosed.~~

~~(F) Means of egress stairways as required by Sections 410.5.3 and 1015.6.1 are not required to be enclosed.~~

~~(G) Means of egress stairways from balconies, galleries or press boxes as provided for in Section 1028.5.1 are not required to be enclosed.~~

~~(H) Stairways complying with exception 3 or 4 of Section 1016.1 are not required to be enclosed.~~

(3) Section 1015.6 Mechanical equipment, systems and devices. This section has been modified to clarify the circumstances under which guards shall be provided and to modify the exception to require the authority having jurisdiction approve the use of a fall/restraint system instead of guards. This section has been modified to read: 1015.6 Mechanical equipment, systems and devices. Guards shall be provided where various components that require services are located on a roof or elevated structure and have a condition as set forth in Sections 1015.6.1 through 1015.6.3. The guard shall be constructed so as to prevent the passage of a sphere 21 inches (533 mm) in diameter. Exception: When approved by the authority having jurisdiction, guards are not required where permanent fall arrest/restraint anchorage connector devices that comply with ANSI/ASSE Z 359.1 are affixed for use during the entire roof covering lifetime. The devices shall be reevaluated for possible replacement when the entire roof covering is replaced. The devices shall be placed not more than 10 feet (3048 mm) on center along hip and ridge lines and placed not less than 10 feet (3048 mm) from roof edges and the open sides of walking surfaces.

(4) Section 1015.6.1 Roof edge. This section has been added to clarify the circumstances required to exist for the installation of guards at the roof edge when the components needing service are within a specific distance of the roof edge. This section has been added to read: 1015.6.1 Roof edge. Guards shall be provided when components are located within 10 feet (3048 mm) of a roof edge or open side of a walking surface or elevated structure and such edge or open side is located more than 30 inches (762 mm) above the floor, roof, or grade below. The guard shall extend not less than 30 inches (762 mm) beyond each end of the component that requires service.

(5) Section 1015.6.2 Skylights. This section has been added to clarify the circumstances for the installation of guards around components near skylights and to provide exceptions to the requirement. This section has been added to read: 1015.6.2 Skylights. Guards shall be provided when a skylight is within 10 feet (3048 mm) of the component that requires service. The guard shall extend 30 inches (762 mm) beyond the edge of the skylight. Exceptions:

(A) Guards are not required when the skylight is located at least 42 inches (1067 mm) above the highest point of the walking surface adjacent to the skylight or component.

(B) Guards are not required if some other provision for skylight fall-thru protection is provided and approved by the authority having jurisdiction.

(6) Section 1015.6.3 Roof hatch. This section has been added to clarify the circumstances for the installation of guards around components installed within a specific distance from the roof hatch. This section has been added to read: 1015.6.3 Roof hatch. Guards shall be provided when a roof hatch is within 10 feet (3048 mm) of the component that requires service. The guard shall extend 30 inches (762 mm) beyond the edge of the roof hatch. If the component is within 10 feet (3048 mm) of the ladder access side of the roof hatch, the guard shall incorporate a self-closing, self-latching gate. The gate shall have a top edge of not less than 42 inches (1067 mm) above the elevated surface adjacent to the gate and shall not allow the passage of a 21 inch (533 mm) sphere.

(7) Section 1015.7 Roof access. This section has been modified to require the authority having jurisdiction approve the use of a fall-restraint system instead of a guard in the exception. This section has been modified to read: 1015.7 Roof access. Guards shall be provided where the roof hatch opening is located within 10 feet (3048 mm) of a roof edge or open side of a walking surface and such edge or open side is located more than 30 inches (762 mm) above the floor, roof or grade below. The guard shall be constructed so as to prevent the passage of a sphere 21 inches (533 mm) in diameter. Exception: When approved by the authority having jurisdiction, guards are not required where permanent fall arrest/restraint anchorage connector devices that comply with ANSI/ASSE Z 359.1 are affixed for use during the entire roof covering lifetime. The devices shall be reevaluated for possible replacement when the entire roof covering is replaced. The devices shall be placed not more than 10 feet (3048 mm) on center along hip and ridge lines and placed not less than 10 feet (3048 mm) from roof edges and the open sides of the walking surfaces.

748:20-1-13. IBC® 2015 Chapter 16 Structural Design

Chapter 16 of the IBC® ~~2009~~ 2015 is adopted with the following ~~modifications~~ modification:

~~(1)~~ Section 1611.1 Design rain loads. This section has been modified to increase secondary drain size for short duration intensities. This section has been modified to read: 1611.1 Design rain loads. Each portion of a roof shall be designed to sustain the load of rainwater that will accumulate on it if the primary drainage system for that portion is blocked plus the uniform load caused by water that rises above the inlet of the secondary drainage system at its design flow. The design rainfall shall be based on ~~two conditions: 1) the 100-year hourly rainfall rate indicated in Figure 1611.1; and 2) the 100-year, 5-minute duration rainfall rate of 10.2 inches per hour. Alternately, the 100-year, one-hour and 100-year, 5-minute duration rainfall rates may be determined from approved local weather data~~a rainfall rate of 10.2 inches per hour.

~~(2) Section 1612.2 Definitions. This section has been modified to change the definition of an Existing Structure to correlate with the changed definition in the IEBC® 2009. This section has been modified to read: EXISTING BUILDING OR EXISTING STRUCTURE see "Existing construction" for reference connotation and requirements related to a jurisdiction's flood plain management code, ordinance, or standard. Refer to 3402.1 for reference connotation related to the application of existing building code provisions as provided in Chapter 34, notwithstanding other flood plain management requirements within this code, such as but not limited to "substantial improvement."~~

748:20-1-14. IBC® 2015 Chapter 18 Soils and Foundations

(a) Chapter 18 of the IBC® ~~2009~~ 2015 is adopted with the following modification: Section 1809.4 Depth and width of footings has been modified to provide an exception to the code for minor buildings such as small storage buildings to be constructed without expensive foundations and be mounted on skids and would apply to light gage metal or similar carports provided they are adequately anchored. This section has been modified to read: Section 1809.4 Depth and width of footings. The minimum depth of footings below the undisturbed ground surface shall be 12 inches (305 mm). Where applicable, the requirements of Section 1809.5 shall also be satisfied. The minimum width of footings shall be 12 inches (305 mm). Exception: Single story free-standing building meeting all of the following conditions shall be permitted without footings:

(1) Assigned to Occupancy Category 1, in accordance with Section 1604.5;
(2) Light-frame wood or metal construction;
(3) Area of 400 square feet (37 square meters) or less;
(4) Eave height of 10 feet (3048 mm) or less; and
(5) Building height of 15 feet (4572 mm) or less.

(b) Such buildings shall have an approved wooden floor, or shall be placed on a concrete slab having a minimum thickness of 3 1/2 inches (89 mm). Buildings shall be anchored to resist uplift as required by Section 1609.

748:20-1-15. IBC® 2015 Chapter 29 Plumbing Systems

Chapter 29 of the IBC® ~~2009~~ 2015 is adopted with the following ~~modifications~~ modification: Section 2902.4.1 Directional signage has been modified to limit the requirement to Group A, B, I, M, and R-1 occupancies, clarify the number of signs needed, and provided two exceptions to the requirement. This section has been modified to read: 2902.4.1 Directional signage. Directional signage indicating the route to the required public toilet facilities in group A, B, I, M, and R-1 occupancies shall be posted in a lobby, corridor, aisle, or similar space, such that the sign can be readily seen from the main entrance to the building or tenant space. Only one sign at each main entrance that is intended for public use shall be required. Exceptions:

(1) Group A occupancies that are part of an overall group E occupancy need not have directional signage.
(2) Private-use Group B occupancies need not have directional signage.

~~(1) Table [P] 2902.1 Minimum number of required plumbing fixtures has been modified. It has been modified to add footnote "g" to number 2 (classification of business) and number 6 (classification of mercantile). The footnote will be added to the Other column of the table at the end of the service sink requirement. This section has been modified to read: [P] 2902.1 Minimum number of required plumbing fixtures. Footnote "g". For business and mercantile occupancies with an occupant load of 15 or fewer, service sinks shall not be required.~~

~~(2) Section 2902.2 Separate facilities. This section has been modified to change the occupant load in the third exception from 50 to 100 occupants. This section has been modified to read: Section [P] 2902.2 Separate facilities. Where plumbing fixtures are required, separate facilities shall be provided for each sex. Exceptions:~~

~~(A) Separate facilities shall not be required for dwelling units and sleeping units.~~
~~(B) Separate facilities shall not be required in structures or tenant spaces with a total occupant load, including both employees and customers, of 15 or less.~~
~~(C) Separate facilities shall not be required in mercantile occupancies in which the maximum occupant load is 100 or less.~~

748:20-1-16. IBC® 2015 Chapter 32 Encroachments into the Public Right-of-Way

Chapter 32 of the IBC® ~~2009~~ 2015 is adopted with the following modification: Section 3201.3 Other Laws has been modified to allow the authority having jurisdiction the ability in unusual circumstances to evaluate the risk of making an exception to a requirement in this chapter. This section has been modified to read: ~~Section~~ 3201.3 Other Laws. The provisions of this chapter shall not be construed to permit the violation of other laws or ordinances regulating the use and occupancy of public property or to prevent the holders of public right-of-way to grant special permission for encroachments in their rights-of-way greater than those permitted in Section 3202.

748:20-1-17. IBC® Chapter 34 Existing Buildings and Structure [REVOKED]

~~Chapter 34 of the IBC® 2009 is adopted with the following modifications:~~

~~(1) Section 3402.1 Definitions has been modified to change the definition for an Existing Structure to correlate the language between the IBC® 2009 and the IEBC® 2009. This section has been modified to read: Section 3402.1 Definitions. *EXISTING BUILDING OR EXISTING STRUCTURE:* A building or structure on which construction was begun at least ten (10) years prior to the date of adoption of this code by the State of Oklahoma [OR, ANY DATE MAY BE INSERTED BY A JURISDICTION THAT HAS THE LEGAL RIGHT TO DO SO,~~

~~SUCH AS BUT NOT LIMITED TO COUNTIES AND MUNICIPALITIES].~~

~~(2) Section 3412.2 Applicability has been modified to correlate the language tween the IBC® 2009 and the IEBC® 2009. This section has been modified to read: Section 3412.2 Applicability. Existing buildings or existing structures on which construction was begun at least ten (10) years prior to the date of adoption of this code by the State of Oklahoma [OR, ANY DATE MAY BE INSERTED BY A JURISDICTION THAT HAS THE LEGAL RIGHT TO DO SO, SUCH AS BUT NOT LIMITED TO COUNTIES AND MUNICIPALITIES], in which there is work involving additions, alterations or changes of occupancy shall be made to comply with the requirements of this section or the provisions of Section 3401.5 or Sections 3404 through 3409. The provisions in Section 3412.2.1 through 3412.2.5 shall apply to existing occupancies that will continue to be or are proposed to be, in Groups A, B, E, F, M, R, S and U. These provisions shall not apply to buildings with occupancies in Group H or I.~~

748:20-1-18. IBC® 2015 Chapter 35 Referenced Standards

Chapter 35 of the IBC® ~~2009~~ 2015 is adopted with the following modifications:

(1) A reference for the Federal Emergency Management Agency (FEMA) 2008 edition of P-320® Taking Shelter from the Storm: Building a Safe Room for your Home or Small Business has been added to the chapter. This section has been added to read: FEMA P-320®-2008 Taking Shelter from the Storm: Building a Safe Room for your Home or Small Business, Code reference section 202.

(2) A reference for the Federal Emergency Management Agency (FEMA) 2008 edition of P-361® Design and Construction Guidance for Community Safe Rooms has been added to the chapter. This section has been added to read: FEMA P-361®-2008 Design and Construction Guidance for Community Safe Rooms, Code reference section 202.

(3) The reference to ICC 500® has been modified to change the edition year from 2015 to 2008, and sections to be referenced. This section has been modified to read: ICC 500®-08 ICC/NSSA Standard on the Design and Construction of Storm Shelters, Code reference sections: 202, 423.5, 423.5.1, 423.5.1.1, 423.5.2, 423.5.2.1, 423.5.2.2, and 423.5.2.3.

(~~1~~4) The reference to the International Existing Building Code® has been modified to include after the title the words "as adopted and modified by the State of Oklahoma through the ~~Uniform Building Code Commission~~OUBCC.". This section has been modified to read: ~~IEBC 09~~IEBC®-15 International Existing Building Code® as adopted and modified by the State of Oklahoma through the ~~Uniform Building Code Commission~~ OUBCC.

(~~2~~5) The reference to the International Energy Conservation Code® has been modified to ~~include after the title the words "as adopted and modified by the State of Oklahoma by the State Fire Marshal until replaced by an adoption done through the Uniform Building Code Commission"~~change the edition year to 2006. This section has been modified to read: IECC®-06 International Energy Conservation Code®~~as adopted and modified by the State of Oklahoma through the State Fire Marshal until replaced by an adoption done through the Uniform Building Code Commission~~.

(~~3~~6) The reference to the International Fire Code® has been modified to include after the title the words "as adopted and modified by the State of Oklahoma through the ~~Uniform Building Code Commission~~OUBCC.". This section has been modified to read: ~~IFC 09~~IFC®-15 International Fire Code® as adopted and modified by the State of Oklahoma through the ~~Uniform Building Code Commission~~OUBCC.

(~~4~~7) The reference to the International Fuel Gas Code® has been modified to include after the title the words "as adopted and modified by the State of Oklahoma through the ~~Uniform Building Code Commission~~OUBCC.". This section has been modified to read: ~~IFGC 09~~IFGC®-15 International Fuel Gas Code® as adopted and modified by the State of Oklahoma through the ~~Uniform Building Code Commission~~OUBCC.

(~~5~~8) The reference to the International Mechanical Code® has been modified to include after the title the words "as adopted and modified by the State of Oklahoma through the ~~Uniform Building Code Commission~~OUBCC.". This section has been modified to read: ~~IMC 09~~IMC®-15 International Mechanical Code® as adopted and modified by the State of Oklahoma through the ~~Uniform Building Code Commission~~OUBCC.

(~~6~~9) The reference to the International Plumbing Code® has been modified to include after the title the words "as adopted and modified by the State of Oklahoma through the ~~Uniform Building Code Commission~~ OUBCC.". This section has been modified to read: ~~IPC 09~~IPC®-15 International Plumbing Code® as adopted and modified by the State of Oklahoma through the ~~Uniform Building Code Commission~~OUBCC.

(~~7~~10) The reference to the International Residential Code® has been modified to include after the title the words "as adopted and modified by the State of Oklahoma through the ~~Uniform Building Code Commission~~OUBCC.". This section has been modified to read: IRC®-09 International Residential Code® as adopted and modified by the State of Oklahoma through the ~~Uniform Building Code Commission~~ OUBCC.

(~~8~~11) The referenced standard for NFPA 70® National Electrical Code® has been modified to ~~change the edition year from 2008 to 2011 and~~ add after the title the words "as adopted and modified by the State of Oklahoma through the ~~Uniform Building Code Commission~~OUBCC.". This section ~~shall now~~has been modified to read: ~~70-11~~70-14 National Electrical Code® as adopted and modified by the

State of Oklahoma through the ~~Uniform Building Code Commission~~OUBCC.

748:20-1-19. Appendix N, Supplemental Storm Shelter and Safe Room Requirements

This appendix has been newly created and entitled "Supplemental Storm Shelter and Safe Room Requirements". The provisions contained in this appendix are not mandatory unless specifically referenced in the adopting ordinance.

(1) Section N101 General. This section has been added to clarify scope and design requirements for this appendix. This section has been added to read: N101 General.

(A) N101.1 Scope. This section has been added to specify the provisions of the appendix shall apply exclusively to the installation of storm shelters and safe rooms in critical emergency operation facilities and Group E occupancies. This section has been added to read: N101.1 Scope. The provisions of this appendix shall apply exclusively to the installation of storm shelters and safe rooms in critical emergency operation facilities and Group E occupancies.

(B) N101.2 Design. This section has been added to specify the technical requirements for the items herein shall comply with ICC 500 and Section 423. This section has been added to read: N101.2 Design. Technical requirements for items herein shall comply with ICC 500 and Section 423.

(2) Section N102 Critical emergency operations. This section, formerly numbered Section 423.3 has been moved into appendix N entitled "Supplemental Storm Shelter and Safe Room Requirements" and has been modified to require all 911 call stations, emergency operations centers and normally occupied fire, rescue ambulance and police stations to have a storm shelter or safe room constructed in accordance with ICC 500 and Section 423. The section has been added to read: N102 Critical emergency operations. All 911 call stations, emergency operations centers and normally occupied fire, ambulance, and police stations shall have a storm shelter or safe room constructed in accordance with ICC 500 and Section 423. Exception: Entire Buildings meeting the requirements for shelter design in ICC 500 and Section 423.

(3) Section N103 Group E occupancies. This section, formerly numbered Section 423.4 has been moved into appendix N entitled "Supplemental Storm Shelter and Safe Room Requirements" and has been modified to require Group E occupancies with an aggregate load over 50 to have a storm shelter or safe room and limit the requirement for the storm shelter or safe room capacity to classrooms and administrative areas in a new building or addition to an existing structure and not the entire occupant load of the structure. This section has been added to read: N103 Group E occupancies. All group E occupancies with an aggregate occupant load of 50 or more shall have a storm shelter or safe room constructed in accordance with ICC 500 and Section 423. The storm shelter or safe room shall be capable of housing the occupant load of the classrooms and administrative areas in the new building or addition containing the Group E occupancy. Exceptions:

(A) Group E day care facilities

(B) Group E occupancies accessory to places of religious worship.

(C) Entire buildings meeting the requirements for storm shelter or safer room design in Section 423.

SUBCHAPTER 3. IFC ® ~~2009~~ 2015

748:20-3-1. Adoption of International Fire Code®, ~~2009~~ 2015 Edition (IFC® ~~2009~~ 2015)

(a) The Oklahoma Uniform Building Code Commission (the "OUBCC") hereby adopts the International Fire Code®, ~~2009~~ 2015 Edition (IFC® 2015) as amended and modified in this subchapter as the statewide minimum code for residential and commercial fire prevention and fire protection systems in the State of Oklahoma pursuant to 59 O.S. § 1000.23.

(b) The OUBCC through formal action expressly chose to adopt the IFC® 2015 as amended and modified in this subchapter, as the statewide minimum code for residential and commercial fire prevention and fire protection systems in the State of Oklahoma. In like manner, the OUBCC through formal action expressly chose to not adopt the International Fire Code ®, 2012 Edition (IFC®, 2012) for any purpose.

(c) As part of its 2012 code cycle, the International Code Council, Inc. (ICC) reorganized the format of certain of its model codes as it was foreseeable to ICC that additional chapters will need to be added in the future as model regulations for new processes or operations are developed. The format reorganization was designed by ICC to accommodate such future chapters by providing reserved (unused) chapters in several parts of certain of its model codes as part of its 2012 code cycle. The format reorganization continues into the ICC's 2015 code cycle and is adopted by the OUBCC to the extent provided in this subchapter by the phrase "reserved for future use" inserted in lieu of titles for chapters.

748:20-3-2. Effect of Adoption

The ~~Uniform Building Code Commission hereby adopts the International Fire Code®, 2009~~IFC® 2015~~Edition~~ as amended and ~~modified~~revised by these rules is hereby established and adopted~~in this subchapter~~ as the statewide minimum code for residential and commercial fire prevention and fire protection systems in the State of Oklahoma pursuant to 59 O.S. 1000.23, and may only be amended or altered by other jurisdictions pursuant to Oklahoma law and the administrative rules of the ~~Oklahoma Uniform Building Code Commission~~OUBCC as set forth in Title 748, Chapter 15 of the Oklahoma Administrative Code.

748:20-3-3. IFC® ~~2009~~ 2015 and Other Appendices

(a) None of the appendices of the IFC® ~~2009~~ 2015 have been adopted by the ~~Commission~~ OUBCC for inclusion in the statewide minimum ~~standards~~code for ~~commercial building~~

~~construction~~residential and commercial fire prevention and fire protection systems in the State of Oklahoma.

(b) The OUBCC hereby creates a new appendix entitled "Appendix N, Egress Path Markings for Existing Buildings."

(c) The OUBCC has removed from Chapter 11 of the IFC® 2015 Section 1104.25 entitled "Egress Path Markings" and has relocated and renumbered the section to the newly created Appendix N entitled "Egress Path Markings for Existing Buildings."

(~~b~~d) Appendices A through ~~J~~N are not adopted as the statewide minimum ~~standards~~code for ~~commercial building construction~~residential and commercial fire prevention and fire protection systems within the State of Oklahoma. However, other jurisdictions within ~~this~~the State of Oklahoma may adopt any or all of said appendices in accordance with 59 O.S. § 1000.29.

748:20-3-4. IFC® ~~2009~~ 2015 Provisions Adopted and Modified

(a) All chapters and provisions within chapters, including exceptions, of the IFC® ~~2009~~ 2015 not specifically addressed within these rules as being modified, deleted, moved or removed are hereby adopted without modification as the statewide minimum ~~standards~~code for residential and commercial fire prevention and fire protection systems within the State of Oklahoma pursuant to 59 O.S. § 1000.23. Chapters and provisions within chapters, including exceptions adopted with modifications are specifically addressed in these rules.

(b) The ICC® has reserved Chapters 12 through 18, Chapters 38 through 49, Chapter 52, and Chapters 68 through 79 for possible future use. The OUBCC has not adopted Chapters 12 through 18, Chapters 38 through 49, Chapter 52, and Chapters 68 through 79 and these chapters are not considered part of the statewide minimum code for residential and commercial fire prevention and fire protection systems within the State of Oklahoma.

(c) To the extent any references in the IFC® 2015 as amended and modified in this sub-chapter are made to any other code or standard, the particular edition for that reference is defined in the referenced standards found in the IFC® 2015 as amended and modified in this sub-chapter and in the IFC® 2015 Chapter 80 entitled "Referenced Standards."

748:20-3-5. Participation in Federal Programs and/or Federally Funded or Financed Projects

In order to maximize federal financial aid, assistance, participation, financing and/or funding in any public project(s) and/or federal financial aid, participation, funding for and participation in any federal program(s) by the State of Oklahoma, its agencies, public trusts and instrumentalities, or by any Oklahoma municipalities and other political subdivisions, that receive financial aid, assistance, participation, financing and/or funding for and participate in any federal program(s), the State of Oklahoma, its agencies and instrumentalities, and any Oklahoma municipalities and other political subdivisions, may cooperate with the United States Government and any agency or instrumentality thereof, in the manner authorized and provided by federal law and regulation and in doing so may perform all necessary functions and take all necessary actions for accomplishing such federal purposes and programs, including but not limited to, following and/or complying with federal laws, regulations and/or requirements arising from or related to federal financial aid, assistance, participation, financing and/or funding, in the construction, alteration, movement, enlargement, replacement, repair, equipment, use and occupancy, location, improvement, expansion, operation, maintenance, removal, and demolition of buildings and structures or any appurtenances attached to such buildings or structures, notwithstanding any provisions of any and all uniform building codes and standards adopted by the ~~Oklahoma Uniform Building Code Commission~~OUBCC to the contrary.

748:20-3-6. IFC® ~~2009~~ 2015 Chapter 1 Scope and Administration

Chapter 1 of the Oklahoma adopted IFC® ~~2009~~ 2015, includes the following Preamble at the very beginning of the chapter:

(1) Pursuant to 59 O.S. § 1000.23, the ~~Uniform Building Code Commission~~OUBCC has adopted the ~~International Fire Code®, 2009 Edition (~~IFC® ~~2009~~ 2015~~)~~ as amended and revised by the Commission, as the statewide minimum ~~standards~~code to be used by all entities for residential and commercial fire prevention and fire protection systems in jurisdictions throughout the State of Oklahoma. However, the ~~Commission's~~OUBCC's adoption of Chapter 1 "Scope and Administration" of the IFC® ~~2009~~ 2015 is for continuity purposes and the ~~Commission's~~OUBCC's adoption of Chapter 1 recognizes the methods of best practice in fully implementing the statewide minimum ~~standards~~ code for residential and commercial fire prevention and fire protection systems.

(2) All provisions of the adopted IFC® ~~2009~~ 2015, including Chapter 1, as amended and revised by the ~~Commission~~OUBCC, are hereby established and adopted as the statewide minimum ~~standards~~code for residential and commercial fire prevention and fire protection systems in Oklahoma pursuant to 59 O.S. § 1000.23, which may only be amended or altered pursuant to Oklahoma law and the administrative rules of the ~~Oklahoma Uniform Building Code Commission~~OUBCC as set forth in Title 748, Chapter 15 of the Oklahoma Administrative Code. However, the provisions of Chapter 1 adopted herein are only intended to be in force and effect to the extent that the respective provisions do not conflict with State law or the lawful exercise of code administration and enforcement jurisdiction by entities empowered to do so pursuant to applicable law.

(3) Section 105.1.1 Annual permit. This section has been modified to clarify what an annual permit is. This section shall read: An annual permit is a yearly permit which represents a group of individual permits for each alteration to an already approved electrical, gas, mechanical or plumbing installation. The building official is authorized to issue an annual permit upon application therefor to any person, firm or corporation regularly employing one

or more qualified tradespersons in the building, structure or on the premises owned or operated by the applicant for the permit.

(4) Section 105.1.2 Annual permit records. This section has been modified to require the building official to collect the OUBCC permit fee for each individual permit that is part of the annual permit at the completion of the annual permit term. This section has been modified to read: Annual permit records. The person to whom an annual permit is issued shall keep a detailed record of alterations made under such annual permit. The building official shall have access to such detailed records of alterations at all times. At the completion of the entity's annual permit term, the applicant shall file such detailed records of alterations with the building official. Pursuant to the authority of 59 O.S. § 1000.25, the building official shall collect fees for each individual permit which is part of the annual permit once the detailed records are submitted and remit such fees to the OUBCC.

(~~3~~5) The ~~Commission's~~OUBCC's adoption of Chapter 1 in this manner is made with the recognition that the legal authority granting state and local code administration and enforcement jurisdictions the power and discretion to administer and enforce codes arises from Oklahoma laws governing those jurisdictions. Furthermore, the ~~Commission~~ OUBCC also recognizes that many state and local code administration and enforcement jurisdictions have already created, or have the lawful authority to create, departments, offices and administrative policies pursuant to various applicable laws and other adopted model codes with "Scope and Administration" provisions similar to Chapter 1 of the adopted IFC® ~~2009~~ 2015.

(~~4~~6) This limited adoption of Chapter 1 is made in recognition of the authority and discretion possessed by jurisdictions to administer and enforce building codes. Exercising such authority and jurisdiction in a manner inconsistent with Chapter 1 must be supported by Oklahoma law. Code administration and enforcement jurisdictions shall not use the ~~Commission's~~OUBCC's limited adoption of Chapter 1 to circumvent the remainder of the requirements established by the Oklahoma adopted IFC® ~~2009~~ 2015 and the ~~Commission~~OUBCC will strongly oppose any such practice.

748:20-3-7. IFC® ~~2009~~ 2015® Chapter 2 Definitions

Chapter 2 of the IFC® ~~2009~~ 2015 is adopted with the following modifications:

(1) The definition for Residential Group ~~R-1~~R-3 has been modified to clarify the International Residential Code® ~~2009~~ 2015 (IRC® 2015) can be utilized so long as the facilities have ~~a fire sprinkler system~~four or fewer rooms. This definition has been modified to read: ~~R-1 Residential occupancies containing sleeping units where the occupants are primarily transient in nature including: Boarding houses (transient), Hotels (transient), Motels (transient), Congregate living facilities (transient) with 10 or fewer occupants are permitted to comply with the construction requirements for Group R-3, except as otherwise provided for in this code, or shall comply with the International Residential Code®, provided the building is protected by an automatic sprinkler system installed in accordance with Section 903.2.8~~[BG] Residential Group R-3. Residential R-3 occupancies where occupants are primarily permanent in nature and not classified as Group R-1, R-2, R-5, or I including Boarding houses (non-transient) with 16 or fewer occupants, Boarding houses (transient) with 10 or fewer occupants, Buildings that do not contain more than two dwelling units, Care facilities that provide accommodations for five or fewer persons receiving care, Congregate living facilities (non-transient with 16 or fewer occupants), Congregate living facilities (transient) with 10 or fewer occupants and Lodging houses with four or fewer guest rooms.

(A) [BG] Care facilities within a dwelling. Care facilities for five or fewer persons receiving care that are within a single-family dwelling are permitted to comply with the IRC® provided an automatic sprinkler system is installed in accordance with Section 903.3.1.3 or Section P2904 of the IRC®.

(B) [BG] Lodging houses. Owner-occupied lodging houses with four or fewer guest rooms shall be permitted to be constructed in accordance with the IRC®.

~~(2) The definition for Residential Group R-2 has been modified to clarify the International Residential Code® 2009 can be utilized so long as the facilities have a fire sprinkler system. This definition has been modified to read: R-2 Residential occupancies containing sleeping units or more than two dwelling units where the occupants are primarily permanent in nature, including Apartment houses, Boarding houses (non transient), Convents, Dormitories, Fraternities and sororities, Hotels (non transient), Live/Work units, Monasteries, Motels (non transient), Vacation timeshare and Congregate living facilities with 16 or fewer occupants are permitted to comply with the construction requirements for Group R-3, except as otherwise provided for in this code, or shall comply with the International Residential Code®, provided the building is protected by an automatic sprinkler system installed in accordance with Section 903.2.8.~~

(2) The definition of a SELF-SERVICE STORAGE FACILITY from the International Building Code®, 2015 Edition (Section 202) has been added to the International Fire Code®, 2015 Edition. This definition has been added to read: SELF-SERVICE STORAGE FACILITY. Real property designed and used for the purpose of renting or leasing individual storage spaces to customers for the purpose of storing and removing personal property on a self-service basis.

748:20-3-7.1. IFC® 2015 Chapter 3 General Requirements

Chapter 3 of the IFC® 2015 is adopted with the following modification: Section 308.1.6.3 Sky lanterns. This section has been modified to prohibit the use of any sky lanterns in the

State of Oklahoma. This section has been modified to read: 308.1.6.3 Sky lanterns. A person shall not release or cause to be released a sky lantern in the State of Oklahoma per Title 68 O.S. § 1624.1.

748:20-3-8. IFC® ~~2009~~ 2015 Chapter 5 Fire Service Features

Chapter 5 of the IFC® ~~2009~~ 2015 is adopted with the following modification: Section 508.1.3 Size has been modified to include an exception to make the fire command center smaller when approved by the fire code official. This section has been modified to read: ~~Section~~ 508.1.3 Size. The fire command center shall be a minimum of 200 square feet (19 square meters) in area with a minimum dimension of 10 feet (3048 mm). Exception: When approved by the fire code official the fire command center can be reduced in size to not less than a minimum of 96 square feet (9 square meters) with a minimum dimension of 8 feet (2438 mm).

748:20-3-9. IFC® 2009 Chapter 6 Building Services and Systems [REVOKED]

~~Chapter 6 of the IFC® 2009 is adopted with the following modifications:~~

~~(1) Section 604.5 Supervision of maintenance and testing has been modified to change the section number to Section 604.6 to allow a new section to be inserted before this section. The section number has been modified to read: Section 604.6 Supervision of maintenance and testing. Routine maintenance, inspection and operational testing shall be overseen by a properly instructed individual.~~

~~(2) Section 604.5 Emergency lighting equipment has been added to the code to outline a procedure for testing emergency lighting equipment. This section has been added to read: Section 604.5 Emergency lighting equipment. Emergency lighting shall be inspected and tested in accordance with Sections 604.5.1 through 604.5.2.1~~

~~(3) Section 604.5.1 Activation test has been added to the code to outline the activation testing requirement for testing emergency lighting. This section has been added to read: Section 604.5.1 Activation test. An activation test of emergency lighting equipment shall be completed monthly. The activation test shall ensure the emergency lighting activates automatically upon normal electrical disconnect and stays sufficiently illuminated for a minimum of 30 seconds.~~

~~(4) Section 604.5.1.1 Activation test record has been added to the code to outline the requirements for record keeping of the monthly activation test. This section has been added to read: Section 604.5.1.1 Activation test record. Records shall be maintained on the premises for a minimum of three years and submitted to the fire code official upon request. The record shall include the location of the emergency lighting tested, whether the unit passed or failed, the date of the test, and the person completing the test.~~

~~(5) Section 604.5.2 Power test has been added to the code to outline a procedure for testing battery powered emergency lighting equipment. This section has been added to read: Section 604.5.2 Power test. For battery powered emergency lighting, a power test of the emergency lighting equipment shall be completed annually. The power test shall operate the emergency lighting for a minimum of 90 minutes and shall remain sufficiently illuminated for the duration of the test.~~

~~(6) Section 604.5.2.1 Power test record has been added to the code to outline the requirements for record keeping of the annual power test. This section has been added to read: Section 604.5.2.1 Power test record. Records shall be maintained on the premises for a minimum of three years and submitted to the fire code official upon request. The record shall include the location of the emergency lighting tested, whether the unit passed or failed, the date of the test, and the person completing the test.~~

748:20-3-10. IFC® 2009 Interior Finish, Decorative Materials and Furnishings [REVOKED]

~~Chapter 10 of the IFC® 2009 is adopted with the following modification: Section 803.5.1 Textile wall coverings has been modified to clarify the language that the flame spread can be in accordance with either ASME E 84 or UL 723 but in both applications the textile wall covering must be protected with automatic sprinklers. This section has been modified to read: Section 803.5.1 Textile wall coverings. Textile wall coverings shall comply with one of the following:~~

~~(1) The coverings shall have a Class A flame spread index in accordance with either ASME E 84 or UL 723 and be protected by automatic sprinklers installed in accordance with Section 903.3.1.1 or 903.3.1.2.~~

~~(2) The covering shall meet the criteria of Section 903.5.1.1 or 803.5.1.2 when tested in the manner intended for use in accordance with NFPA 265 using the product mounting system (including adhesive) of actual use, or~~

~~(3) The covering shall meet the criteria of Section 803.1.2.1 when tested in accordance with NFPA 286 using the product mounting system (including adhesive) of actual use.~~

748:20-3-11. IFC® ~~2009~~ 2015 Chapter 9 Fire Protection Systems

Chapter 9 of the IFC® ~~2009~~ 2015 is adopted with the following modifications:

~~(1) Section 901.4.5 Pump and riser room size has been added to the code to provide the designer clarification for the maintenance clearances needed for these rooms. This section has been added to read: Section 904.4.5 Pump and riser room size. Fire pump and automatic sprinkler system riser rooms shall be designed with adequate space for all equipment necessary for the installation, as defined by the manufacturer, with sufficient working space around the stationary equipment. Clearances around equipment~~

~~to elements of permanent construction, including other installed equipment and appliances, shall be sufficient to allow inspection, service, repair or replacement without removing such elements of permanent construction or disabling the function of a required fire resistance rated assembly. Fire pump and automatic sprinkler riser rooms shall be provided with a door(s) and unobstructed passageway large enough to allow removal of the largest piece of equipment.~~

(~~2~~1) Section 903.2.7 Group M. This section has been modified to reword subsection 4 to provide a reasonable limit for these occupancies and adequate protection without excessive burden on Group M occupancies with small areas of upholstered furniture and mattresses. This section has been modified to read: ~~Section~~ 903.2.7 Group M. An automatic sprinkler system shall be provided throughout buildings containing a Group M occupancy where one of the following conditions exists:

(A) A Group M fire area exceeds 12,000 square feet (1115 square meters).

(B) A Group M fire area is located more than three stories above grade plane.

(C) The combined area of all Group M fire areas on all floors, including any mezzanines, exceeds 24,000 square feet (2230 square meters).

(D) A group M occupancy where the cumulative area used for the display and sale of upholstered furniture or mattresses exceeds 5,000 square feet (464 square meters).

(2) 903.2.9 Group S-1. This section has been modified to add an exception to the fifth requirement in the list for when an automatic fire sprinkler system is required. This section has been modified to read: 903.2.9 Group S-1. An automatic sprinkler system shall be provided throughout all buildings containing a Group S-1 occupancy where one of the following conditions exists:

(A) A Group S-1 fire area exceeds 12,000 square feet (1115 square meters).

(B) A Group S-1 fire area is located more than three stories above grade plane.

(C) The combined area of all Group S-1 fire areas on all floors, including any mezzanines, exceeds 24,000 square feet (2230 square meters).

(D) A Group S-1 fire area used for the storage of commercial motor vehicles where the fire area exceeds 5,000 square feet (464 square meters).

(E) A Group S-1 occupancy used for the storage of upholstered furniture or mattresses exceeds 2,500 square feet (232 square meters). Exception: Self-service storage facility where the fire area is less than 5,000 square feet (464 square meters).

~~(3) Section 906.1 Where required has been modified to remove the exceptions to where portable fire extinguishers are required in Groups A, B, and E occupancies, and to allow an exception to the requirement for portable fire extinguishers under certain conditions in R-2 occupancies. This section has been modified to read: Section 906.1 Where required. Portable fire extinguishers shall be installed in the following locations:~~

~~(A) In new and existing Group A, B, E, F, H, I, M, R-1, R-2, R-4 and S occupancies. Exception: In Group R-2 occupancies, portable fire extinguishers shall be required only in locations specified in items 2 through 6 where each dwelling unit is provided with portable fire extinguisher having a minimum rating of 1-A:10-b:C.~~

~~(B) Within 30 feet (9144 mm) of commercial cooking equipment.~~

~~(C) In areas where flammable or combustible liquids are stored, used or dispensed.~~

~~(D) On each floor of structures under construction, except Group R-3 occupancies, in accordance with Section 1415.1.~~

~~(E) Where required by the section indicated in Table 906.1.~~

~~(F) Special hazard areas, including but not limited to laboratories, computer rooms and generator rooms, where required by the fire code official.~~

(3) Section 907.2.3 Group E. This section has been modified to remove the requirement for an emergency voice/alarm system and require a fire alarm system in Group E occupancies. The section has been modified to read: 907.2.3 Group E. A manual fire alarm system that activates the occupant notification signal in accordance with Section 907.5 and installed in accordance with 907.6 shall be installed in Group E occupancies. When automatic sprinkler systems or smoke detectors are installed such systems or detectors shall be connected to the building fire alarm system. Exceptions:

(A) A manual fire alarm system is not required in Group E occupancies with an occupant load of 50 or less.

(B) Manual fire alarm boxes are not required in Group E occupancies where all of the following apply:

(i) Interior corridors are protected by smoke detectors

(ii) Auditoriums, cafeterias, gymnasiums or similar areas are protected by heat detectors or other approved detection devices.

(iii) Shop and laboratories involving dusts or vapors are protected by heat detectors or other approved detection devices.

(iv) The capability to activate the evacuation signal from a central point is provided.

(v) In buildings where normally occupied spaces are provided with a two-way communication system between such spaces and constantly attended receiving station from where a general evacuation alarm can be sounded, except in locations specifically designated by the fire code official.

(C) Manual fire alarm boxes shall not be required in Group E occupancies where all the following apply:

(i) The building is equipped throughout with an approved automatic sprinkler system installed in accordance with Section 903.3.1.1.

(ii) The fire alarm system will activate on sprinkler waterflow.

(iii) Manual activation is provided from a normally occupied location.

748:20-3-12. IFC® ~~2009~~ 2015 Chapter 10 Means of Egress

Chapter 10 of the IFC® ~~2009~~ 2015 is adopted with the following modifications:

~~(1) Section 1005.1 Minimum required egress width has been modified to include two more exceptions to modify egress width for all occupancies other than H and I-2 occupancies with sprinklers and a voice evacuation system. This section has been modified to read: Section 1005.1 Minimum required egress width. The means of egress width shall not be less than required by this section. The total width of means of egress in inches (mm) shall not be less than the total occupant load served by the means of egress multiplied by 0.3 inches (7.62 mm) per occupant for stairways and by 0.2 inches (5.08 mm) per occupant for other egress components. The width shall not be less than specified elsewhere in this code. Multiple means of egress shall be sized such that the loss of any one means of egress shall not reduce the availability capacity to less than 50 percent of the required capacity. The maximum capacity required from any story of a building shall be maintained to the termination of the means of egress. Exceptions:~~

~~(A) Means of egress complying with Section 1028.~~

~~(B) For other than H and I-2 occupancies, the capacity, in inches (mm), means of egress stairways shall be calculated multiplying the occupant load served by a stairway by a means of egress capacity factor of 0.2 inches (5.08 mm) per occupant in buildings equipped throughout with an automatic sprinkler system installed in accordance with Section 903.1.1 or 903.1.2 and an emergency voice/alarm communication system in accordance with Section 907.5.2.2.~~

~~(C) For other than H and I-2 occupancies, the capacity, in inches (mm), means of egress components other than stairways shall be calculated multiplying the occupant load served by such component by a means of egress capacity factor of 0.15 inches (3.81 mm) per occupant in buildings equipped throughout with an automatic sprinkler system installed in accordance with Section 903.1.1 or 903.1.2 and an emergency voice/alarm communication system in accordance with Section 907.5.2.2.~~

(1) Section 1010.1.10 Panic and fire exit hardware. This section has been modified to add an exception to the requirement for panic hardware or fire exit hardware on the access doors for electrical rooms and working spaces. This section has been modified to read: 1010.1.10 Panic and fire exit hardware. Doors serving a Group H occupancy and doors serving rooms or spaces with an occupant load of 50 or more in a group A or E occupancy shall not be provided with a latch or lock other than panic hardware or fire exit hardware. Exceptions:

(A) A main exit of a Group A occupancy shall be permitted to have locking hardware in accordance with Section 1010.1.9.3, Item 2.

(B) Doors serving a Group A or E occupancy shall be permitted to be electromagnetically locked in accordance with Section 1010.1.9.9.

(2) Electrical rooms and working spaces with equipment operating at more than 600 volts, nominal, and equipment operating at 600 volts or less, nominal and rated 800 amperes or more and that contain overcurrent devices, switching devices or control devices with exit or exit access doors, shall be equipped with panic hardware or fire exit hardware. The doors shall swing in the direction of egress travel. Exception: Personnel entrance to and egress from doors of the electrical equipment working spaces that are greater than 25 feet (7.6 m) from the nearest edge of the electrical equipment.

~~(2) Section 1022.1 Enclosures required has been modified to add an eighth exception to the code that will direct users to the correct reference for exemptions to allowances for open stairs. This section has been modified to read: Section 1022.1 Enclosures required. Interior exit stairways and interior exit ramps shall be enclosed with fire barriers constructed in accordance with Section 707 of the International Building Code® or horizontal assemblies constructed in accordance with Section 712 of the International Building Code®, or both. Exit enclosures shall have a fire-resistance rating of not less than 2 hours where connecting four stories or more and not less than 1 hour when connecting less than four stories. The number of stories connected by the exit enclosure shall include any basements but not any mezzanines. Exit enclosures shall have a fire-resistance rating not less than the floor assembly penetrated, but need not exceed 2 hours. Exit enclosures shall lead directly to the exterior of the building or shall be extended to the exterior of the building with an exit passageway conforming to the requirements of Section 1023, except as permitted in Section 1027.1. An exit enclosure shall not be used for any purpose other than means of egress. Exceptions:~~

~~(A) In all occupancies, other than Group H and I occupancies, a stairway is not required to be enclosed when the stairway serves an occupant load of less than 10 and the stairway complies with either Item 1.1 or 1.2. In all cases, the maximum number of connecting opening stories shall not exceed two.~~

~~(i) 1.1 The stairway is open to not more than one story above its level of exit discharge; or~~

~~(ii) 1. 2 The stairway is open to not more than one story below its level of exit discharge.~~

~~(B) Exits in buildings of Group A-5 where all portions of the means of egress are essentially open to the outside need not be enclosed.~~

~~(C) Stairways serving and contained within a single residential dwelling unit or sleeping unit in Group~~

~~R-1, R-2 or R-3 occupancies are not required to be enclosed.~~

~~(D) Stairways in open parking structures that serve only the parking structure are not required to be enclosed.~~

~~(E) Stairways in Group I-3 occupancies, as provided for in Section 408.3.8 of the International Building Code®, are not required to be enclosed.~~

~~(F) Means of egress stairways as required by Section 1015.6.1 of this code and Section 410.5.3 of the International Building Code® are not required to be enclosed.~~

~~(G) Means of egress stairways from balconies, galleries or press boxes as provided for in Section 1028.5.1 are not required to be enclosed.~~

~~(H) Stairways complying with exception 3 or 4 of Section 1016.1 are not required to be enclosed.~~

(3) Section 1015.6 Mechanical equipment, systems and devices. This section has been modified to clarify the circumstances under which guards shall be provided and to modify the exception to require the authority having jurisdiction approve the use of a fall/restraint system instead of guards. This section has been modified to read: 1015.6 Mechanical equipment, systems and devices. Guards shall be provided where various components that require services are located on a roof or elevated structure and have a condition as set forth in Sections 1015.6.1 through 1015.6.3. The guard shall be constructed so as to prevent the passage of a sphere 21 inches (533 mm) in diameter. Exception: When approved by the authority having jurisdiction, guards are not required where permanent fall arrest/restraint anchorage connector devices that comply with ANSI/ASSE Z 359.1 are affixed for use during the entire roof covering lifetime. The devices shall be reevaluated for possible replacement when the entire roof covering is replaced. The devices shall be placed not more than 10 feet (3048 mm) on center along hip and ridge lines and placed not less than 10 feet (3048 mm) from roof edges and the open sides of walking surfaces.

(4) Section 1015.6.1 Roof edge. This section has been added to clarify the circumstances required to exist for the installation of guards at the roof edge when the components needing service are within a specific distance of the roof edge. This section has been added to read: 1015.6.1 Roof edge. Guards shall be provided when components are located within 10 feet (3048 mm) of a roof edge or open side of a walking surface or elevated structure and such edge or open side is located more than 30 inches (762 mm) above the floor, roof, or grade below. The guard shall extend not less than 30 inches (762 mm) beyond each end of the component that requires service.

(5) Section 1015.6.2 Skylights. This section has been added to clarify the circumstances for the installation of guards around components near skylights and to provide exceptions to the requirement. This section has been added to read: 1015.6.2 Skylights. Guards shall be provided when a skylight is within 10 feet (3048 mm) of the component that requires service. The guard shall extend 30 inches (762 mm) beyond the edge of the skylight. Exceptions:

(A) Guards are not required when the skylight is located at least 42 inches (1067 mm) above the highest point of the walking surface adjacent to the skylight or component.

(B) Guards are not required if some other provision for skylight fall-thru protection is provided and approved by the authority having jurisdiction.

(6) Section 1015.6.3 Roof hatch. This section has been added to clarify the circumstances for the installation of guards around components installed within a specific distance from the roof hatch. This section has been added to read: 1015.6.3 Roof hatch. Guards shall be provided when a roof hatch is within 10 feet (3048 mm) of the component that requires service. The guard shall extend 30 inches (762 mm) beyond the edge of the roof hatch. If the component is within 10 feet (3048 mm) of the ladder access side of the roof hatch, the guard shall incorporate a self-closing, self-latching gate. The gate shall have a top edge of not less than 42 inches (1067 mm) above the elevated surface adjacent to the gate and shall not allow the passage of a 21 inch (533 mm) sphere.

(7) Section 1015.7 Roof access. This section has been modified to require the authority having jurisdiction approve the use of a fall-restraint system instead of a guard in the exception. This section has been modified to read: 1015.7 Roof access. Guards shall be provided where the roof hatch opening is located within 10 feet (3048 mm) of a roof edge or open side of a walking surface and such edge or open side is located more than 30 inches (762 mm) above the floor, roof or grade below. The guard shall be constructed so as to prevent the passage of a sphere 21 inches (533 mm) in diameter. Exception: When approved by the authority having jurisdiction, guards are not required where permanent fall arrest/restraint anchorage connector devices that comply with ANSI/ASSE Z 359.1 are affixed for use during the entire roof covering lifetime. The devices shall be reevaluated for possible replacement when the entire roof covering is replaced. The devices shall be placed not more than 10 feet (3048 mm) on center along hip and ridge lines and placed not less than 10 feet (3048 mm) from roof edges and the open sides of the walking surfaces.

748:20-3-13. IFC® ~~2009~~ 2015 Chapter ~~46~~11 Construction Requirements for Existing Buildings

Chapter ~~46~~11 of the IFC® ~~2009~~ 2015 is adopted with the following modifications:

(1) Section ~~4601.1~~1101.1 Scope. This section has been modified to include an exception allowing for structures complying with the International Existing Building Code® (IEBC®) be considered safe enough to where the provisions of Chapter ~~46~~11 would not apply and resolve discrepancies between the two codes. This section has been modified to read: ~~Section 4601.1~~1101.1 Scope. The provisions of this chapter shall apply to existing buildings

constructed prior to the adoption of this code. Exception: Buildings or portions of a building that comply with the latest edition of the ~~International Existing Building Code®~~IEBC® or the edition that was adopted at the time a remodel occurred.

(2) Section ~~4603.3.2~~1103.4.2 Three to five stories. This section has been modified to add a ~~fourth~~fifth exception to provide relief from this section of the code when vertical openings comply with the requirements of Section ~~703.2.1~~803.2.1 of the ~~International Existing Building Code®~~IEBC®. This section has been modified to read: ~~Section 4603.3.2~~1103.4.2 Three to five stories. In other than Group ~~I~~I-2 and I-3 occupancies, interior vertical openings connecting three to five stories shall be protected by either 1-hour fire-resistant-rated construction or an automatic sprinkler system shall be installed throughout the building in accordance with Section 903.3.1.1 or 903.3.1.2. Exceptions:

(A) Vertical opening protection is not required for Group R-3 occupancies.

(B) Vertical opening protection is not required for open parking garages ~~and ramps~~.

(C) Vertical opening protection for escalators shall be in accordance with Section ~~4603.3.5, 4603.3.6 or 4603.3.7~~1103.4.5, 1103.4.6 or 1103.4.7.

(D) Exit access stairways and ramps shall be in accordance with Section 1103.4.8.

(~~D~~E) Vertical openings that comply with the requirements of Section ~~703.2.1~~ 803.2.1 of the ~~International Existing Building Code®~~IEBC®.

(3) Section ~~4604.1~~1104.1 General. This section has been modified to allow the means of egress in an existing building to be considered as complying if in the opinion of both the building code official and the fire code official they do not constitute a distinct hazard to life ~~and the requirements of a life safety evaluation have been stricken from the code~~. This section has been modified to read: ~~Section 4604.~~1 1104.1 General. Means of egress in existing buildings shall comply with the minimum egress requirements when specified in Table ~~4603.1~~1103.1 as further enumerated in Section ~~4604.2~~1104.2 through ~~4604.23~~1104.25~~and~~or the building code ~~under which they were constructed~~ that applied at the time of construction,~~shall be considered as complying means of egress~~ if, in the opinions of the building official and the fire code official, they do not constitute a distinct hazard to life. Existing buildings that were not required to comply with a building code at the time of construction shall comply with the minimum egress requirements when specified in Table ~~4603.1~~1103.1 as further enumerated in Sections ~~4604.2~~1104.2 through ~~4604.23~~1104.25.

(4) Section ~~4604.18.2~~ 1104.18 Dead ends. This section has been modified to add another exception to the requirements of this section provided the dead ends comply with the requirements of Section 705.6 of the International Existing Building Code®. This section has been modified to read: ~~Section 4064.18.2~~1104.18 Dead ends. Where more than one exit or exit access doorway is required, the exit access shall be arranged such that dead ends do not exceed the limits specified in Table ~~4604.18.2~~1104.18. In Group I-2, in smoke compartments containing patient sleeping rooms and treatment rooms, dead end corridors shall be in accordance with Section 1105.5.6. Exceptions:

(A) A dead-end passageway or corridor shall not be limited in length where the length of the dead-end passageway or corridor is less than 2.5 time the least width of the dead-end passageway or corridor.

(B) Dead ends that comply with the requirements of Section ~~705.6~~805.6 of the ~~International Existing Building Code®~~IEBC®.

(5) Section 1104.25 Egress path markings. This section, including the exception, has been moved and renumbered into the newly created Appendix N, entitled "Egress Path Markings for Existing Buildings" and is not adopted as a minimum standard for residential or commercial fire prevention and fire protection systems within the State of Oklahoma. The section number 1104.25 itself, will stay as part of this code for numbering alignment but will not have any requirements attached to it.

748:20-3-13.1. IFC® 2015 Chapter 57 Flammable and Combustible Liquids

Chapter 57 of the IFC® 2015 is adopted with the following modification: Section 5705.5 Alcohol-based hand rubs classified as Class I or II. This section has been modified to require guards or shields on alcohol-based hand rub dispensers when installed over a carpeted area. This section has been modified to read: 5705.5 Alcohol-based hand rubs classified as Class I or II liquids. The use of wall-mounted dispensers containing alcohol-based hand rubs classified as Class I or II liquids shall be in accordance with all of the following:

(1) The maximum capacity of each dispenser shall be 68 ounces (2 L).

(2) The minimum separation between dispensers shall be 48 inches (1219 mm)

(3) The dispensers shall not be installed above, below, or closer than 1 inch (25 mm) to an electrical receptacle, switch, appliance, device or other ignition source. The wall space between the dispenser and the floor or intervening counter top shall be free of electrical receptacles, switches, appliances, devices or other ignitions sources.

(4) Dispensers shall be mounted so that the bottom of the dispensers is not less than 42 inches (1067 mm) and not more than 48 inches (1219 mm) above the finished floor.

(5) Dispensers shall not release their contents except when the dispenser is manually activated. Facilities shall be permitted to install and use automatically activated "touch free" alcohol-based hand-rub dispensing devices with the following requirements:

(A) The facility or persons responsible for the dispensers shall test the dispensers each time a new refill is installed in accordance with the manufacturer's care and use instructions.

(B) Dispensers shall be designed and must operate in a manner that ensures accidental or malicious activations of the dispensing devices are minimized. At a

minimum, all devices subject to or used in accordance with this section shall have the following safety features:

(i) Any activations of the dispenser shall only occur when an object is placed within 4 inches (98 mm) of the sensing device.

(ii) The dispenser shall not dispense more than the amount required for hand hygiene consistent with label instructions as regulated by the United States Food and Drug Administration (USFDA).

(iii) An object placed within the activation zone and left in place will cause only one activation.

(6) Storage and use of alcohol-based hand rubs shall be in accordance with the applicable provisions of Sections 5704 and 5705.

(7) Dispensers when installed over a carpeted area shall have a guard or shield to prevent alcohol-based hand rub product from dispensing onto the floor.

748:20-3-14. IFC® ~~2009~~ 2015 Chapter ~~47~~80 Referenced Standards

Chapter ~~47~~80 of the IFC® ~~2009~~ 2015is adopted with the following modifications:

(1) The reference to the International Building Code® has been modified to include after the title the words "as adopted and modified by the State of Oklahoma through the ~~Uniform Building Code Commission~~ OUBCC."~~.~~ This section has been modified to read: ~~IBC 09~~IBC®-15 International Building Code® as adopted and modified by the State of Oklahoma through the ~~Uniform Building Code Commission~~OUBCC.

(2) The reference to the International Existing Building Code® has been ~~added~~modified to ~~the reference section and will~~ include after the title the words "as adopted and modified by the State of Oklahoma through the ~~Uniform Building Code Commission~~ OUBCC." ~~and provide the sections to be referenced.~~ This section has been modified to read: ~~IEBC 09~~IEBC®-15 International Existing Building Code® as adopted and modified by the State of Oklahoma through the ~~Uniform Building Code Commission~~OUBCC. ~~Sections 4601.1, 4603.3.2, 4604.18.2~~

(3) The reference to the International Fuel Gas Code® has been modified to include after the title the words "as adopted and modified by the State of Oklahoma through the ~~Uniform Building Code Commission~~OUBCC."~~.~~ This section has been modified to read: ~~IFGC 09~~IFGC®-15 International Fuel Gas Code® as adopted and modified by the State of Oklahoma through the ~~Uniform Building Code Commission~~OUBCC.

(4) The reference to the International Mechanical Code® has been modified to include after the title the words "as adopted and modified by the State of Oklahoma through the ~~Uniform Building Code Commission~~OUBCC."~~.~~ This section has been modified to read: ~~IMC 09~~IMC®-15 International Mechanical Code® as adopted and modified by the State of Oklahoma through the ~~Uniform Building Code Commission~~OUBCC.

(5) The reference to the International Plumbing Code® has been modified to include after the title the words "as adopted and modified by the State of Oklahoma through the ~~Uniform Building Code Commission~~OUBCC."~~.~~ This section has been modified to read: ~~IPC 09~~IPC®-15 International Plumbing Code® as adopted and modified by the State of Oklahoma through the ~~Uniform Building Code Commission~~OUBCC.

(6) The reference to the International Residential Code® has been modified to include after the title the words "as adopted and modified by the State of Oklahoma through the ~~Uniform Building Code Commission~~OUBCC."~~.~~ This section has been modified to read: IRC®-09 International Residential Code® as adopted and modified by the State of Oklahoma through the ~~Uniform Building Code Commission~~OUBCC.

(7) The referenced standard for NFPA 70® National Electrical Code® has been modified to ~~change the edition year from 2008 to 2011 and~~ include after the title the words "as adopted and modified by the State of Oklahoma through the ~~Uniform Building Code Commission~~OUBCC."~~.~~ This section has been modified to read: ~~70-11~~70-14 National Electrical Code® as adopted and modified by the State of Oklahoma through the ~~Uniform Building Code Commission~~OUBCC.

748:20-3-15. Appendix N, Egress Path Markings for Existing Buildings

This appendix has been newly created and entitled "Appendix N, Egress Path Markings for Existing Buildings." The provisions contained in this appendix are not mandatory unless specifically referenced in the adopting ordinance.

(1) Section N101 General. This section has been added to clarify scope and intent for this appendix. This section has been added to read: N101 General.

(A) Section N101.1 Scope. This section has been added to specify the provisions of the appendix and shall apply to existing high-rise buildings of Group A, B, E, I, M and R-1 occupancies. This section has been added to read: N101.1 Scope. The provisions of this appendix shall apply to existing high-rise buildings of Group A, B, E, I, M, and R-1 occupancies in addition to the requirements of Chapter 11.

(B) Section N101.2 Intent. This section has been added to specify the intent of this appendix is to provide an additional degree of life-safety to persons occupying existing high-rise buildings of Group A, B, E, I, M and R-1 occupancies. This section has been added to read: N101.2 Intent. The intent of this appendix is to provide an additional degree of life-safety to persons occupying existing high-rise buildings of Group A, B, E, I, M and R-1 occupancies where such buildings do not contain luminous egress path markings.

(2) Section N102. Egress path markings. This section, formerly numbered Section 1104.25 has been moved into Appendix N entitled "Egress Path Markings for Existing Buildings." The section has been added to read:

N102. Egress path markings. Existing high-rise buildings of Group A, B, E, I, M and R-1 occupancies shall be provided with luminous egress path markings in accordance with Section 1025. Exception: Open, unenclosed stairwells in historic buildings designated as historic under a state or local historic preservation program.

SUBCHAPTER 7. IEBC® ~~2009~~ 2015

748:20-7-1. Adoption of International Existing Building Code®, ~~2009~~ 2015 Edition (IEBC® ~~2009~~ 2015)

(a) The Oklahoma Uniform Building Code Commission (the "OUBCC") hereby adopts the International Existing Building Code®, ~~2009~~ 2015 Edition (IEBC® 2015) as amended and modified in this subchapter as the statewide minimum code for commercial existing building construction in the State of Oklahoma pursuant to 59 O.S. 1000.23.

(b) The OUBCC through formal action expressly chose to adopt the IEBC® 2015 as amended and modified in this subchapter, as the statewide minimum code for commercial existing building construction in the State of Oklahoma. In like manner, the OUBCC through formal action expressly chose not to adopt the International Existing Building Code®, 2012 Edition (IEBC®, 2012) for any purpose.

748:20-7-2. Effect of Adoption

The ~~International Existing Building Code®, 2009 Edition (~~IEBC® ~~2009~~ 2015~~)~~, as amended and revised by these rules, ~~are~~is hereby established and adopted as the statewide minimum ~~standards~~code for commercial existing building construction in Oklahoma pursuant to 59 O.S. § 1000.23, and may only be amended or altered by other jurisdictions pursuant to Oklahoma law and the administrative rules of the ~~Oklahoma Uniform Building Code Commission~~ OUBCC as set forth in Title 748, Chapter 15 of the Oklahoma Administrative Code.

748:20-7-3. IEBC® ~~2009~~ 2015 Appendices

(a) None of the appendices of the IEBC® ~~2009~~ 2015have been adopted by the ~~Commission~~ OUBCC for inclusion in the statewide minimum standards code for commercial existing building construction in the State of Oklahoma.

(b) Appendices A ~~and~~through~~B~~C and Resource A are not adopted as the statewide minimum ~~standards~~code for commercial existing building construction within the State of Oklahoma. However, other jurisdictions within ~~this~~the State of Oklahoma may adopt any or all of said appendices and Resource A in accordance with 59 O.S. § 1000.29.

748:20-7-4. IEBC® ~~2009~~ 2015 Provisions Adopted and Modified

(a) All chapters and provisions within chapters, including exceptions, of the IEBC® ~~2009~~ 2015 not specifically addressed within these rules as being modified, deleted, moved or removed are hereby adopted without modification as the statewide minimum ~~standards~~code for commercial existing building construction within the State of Oklahoma pursuant to 59 O.S. § 1000.23. Chapters and provisions within chapters, including exceptions adopted with modifications are specifically addressed in these rules.

(b) To the extent any references in the IEBC® 2015 as amended and modified in this sub-chapter are made to any other code or standard, the particular edition for that reference is defined in the referenced standards found in the IEBC®, 2015 as amended and modified in this sub-chapter and in Chapter 16 entitled "Referenced Standards".

748:20-7-5. Participation in Federal Programs and/or Federally Funded or Financed Projects

In order to maximize federal financial aid, assistance, participation, financing and/or funding in any public project(s) and/or federal financial aid, participation, funding for and participation in any federal program(s) by the State of Oklahoma, its agencies, public trusts and instrumentalities, or by any Oklahoma municipalities and other political subdivisions, that receive financial aid, assistance, participation, financing and/or funding for and participate in any federal program(s), the State of Oklahoma, its agencies and instrumentalities, and any Oklahoma municipalities and other political subdivisions, may cooperate with the United States Government and any agency or instrumentality thereof, in the manner authorized and provided by federal law and regulation and in doing so may perform all necessary functions and take all necessary actions for accomplishing such federal purposes and programs, including but not limited to, following and/or complying with federal laws, regulations and/or requirements arising from or related to federal financial aid, assistance, participation, financing and/or funding, in the construction, alteration, movement, enlargement, replacement, repair, equipment, use and occupancy, location, improvement, expansion, operation, maintenance, removal, and demolition of buildings and structures or any appurtenances attached to such buildings or structures, notwithstanding any provisions of any and all uniform building codes and standards adopted by the ~~Oklahoma Uniform Building Code Commission~~OUBCC to the contrary.

748:20-7-6. IEBC® ~~2009~~ 2015 Chapter 1 Scope and Administration

Chapter 1 of the Oklahoma adopted IEBC® ~~2009~~ 2015, includes the following Preamble at the very beginning of the chapter:

(1) Pursuant to 59 O.S. § 1000.23, the ~~Uniform Building Code Commission~~OUBCC has adopted the ~~International Existing Building Code®, 2009 Edition (~~IEBC® ~~2009~~ 2015~~)~~ as amended and revised by the ~~Commission~~OUBCC, as the statewide minimum standards code to be used by all entities for commercial existing building construction in jurisdictions throughout the State of Oklahoma. However, the ~~Commission's~~OUBCC's adoption of Chapter 1 "Scope and Administration" of the IEBC® ~~2009~~ 2015 is for continuity purposes and the ~~Commission's~~OUBCC's adoption of Chapter 1 recognizes

the methods of best practice in fully implementing the statewide minimum ~~standards~~ code for commercial existing building construction.

(2) All provisions of the adopted IEBC® ~~2009~~ 2015 including Chapter 1, as amended and revised by the ~~Commission~~OUBCC are hereby established and adopted as the statewide minimum ~~standards~~code for commercial existing building construction in Oklahoma pursuant to 59 O.S. § 1000.23, which may only be amended or altered pursuant to Oklahoma law and the administrative rules of the ~~Oklahoma Uniform Building Code Commission~~OUBCC as set forth in Title 748, Chapter 15 of the Oklahoma Administrative Code. However, the provisions of Chapter 1 adopted herein are only intended to be in force and effect to the extent that the respective provisions do not conflict with State law or the lawful exercise of code administration and enforcement jurisdiction by entities empowered to do so pursuant to applicable law.

(3) Section 105.1.1 Annual permit. This section has been modified to clarify what an annual permit is. This section shall read: An annual permit is a yearly permit which represents a group of individual permits for each alteration to an already approved electrical, gas, mechanical or plumbing installation. The building official is authorized to issue an annual permit upon application therefor to any person, firm or corporation regularly employing one or more qualified tradespersons in the building, structure or on the premises owned or operated by the applicant for the permit.

(4) Section 105.1.2 Annual permit records. This section has been modified to require the building official to collect the OUBCC permit fee for each individual permit that is part of the annual permit at the completion of the annual permit term. This section has been modified to read: Annual permit records. The person to whom an annual permit is issued shall keep a detailed record of alterations made under such annual permit. The building official shall have access to such detailed records of alterations at all times. At the completion of the entity's annual permit term, the applicant shall file such detailed records of alterations with the building official. Pursuant to the authority of 59 O.S. § 1000.25, the building official shall collect fees for each individual permit which is part of the annual permit once the detailed records are submitted and remit such fees to the OUBCC.

(~~3~~5) The ~~Commission's~~OUBCC's adoption of Chapter 1 in this manner is made with the recognition that the legal authority granting state and local code administration and enforcement jurisdictions the power and discretion to administer and enforce codes arises from Oklahoma laws governing those jurisdictions. Furthermore, the ~~Commission~~ OUBCC also recognizes that many state and local code administration and enforcement jurisdictions have already created, or have the lawful authority to create, departments, offices and administrative policies pursuant to various applicable laws and other adopted model codes with "Scope and Administration" provisions similar to Chapter 1 of the adopted IEBC® ~~2009~~ 2015.

(~~4~~6) This limited adoption of Chapter 1 is made in recognition of the authority and discretion possessed by jurisdictions to administer and enforce building codes. Exercising such authority and jurisdiction in a manner inconsistent with Chapter 1 must be supported by Oklahoma law. Code administration and enforcement jurisdictions shall not use the ~~Commission's~~OUBCC's limited adoption of Chapter 1 to circumvent the remainder of the requirements established by the Oklahoma adopted IEBC® ~~2009~~ 2015 and the ~~Commission~~OUBCC will strongly oppose any such practice.

748:20-7-7. IEBC® Chapter 2 Definitions [REVOKED]

~~Chapter 2 of the IEBC® 2009 is adopted with the following modifications:~~

~~(1) The definition of an Existing Building has been modified to further define an existing building to include a default date of 10 years from the date of construction, but still allowing for a jurisdiction with the legal authority to select a different date and to remove the words "appropriate" and "legal building permit" from the definition. A reference to code applicability was added to the definition. The definition has been modified to read: EXISTING BUILDING OR EXISTING STRUCTURE. A building or structure on which construction was begun at least ten (10) years prior to the date of adoption of this code by the State of Oklahoma (or any date may be inserted by a jurisdiction that has the legal right to do so, such as but not limited to counties and municipalities). For code applicability, refer to IEBC® Section 101.4 and Section 1301.2, including associated subparagraphs with each.~~

~~(2) The definition of a Repair has been modified to further define a repair to include repair to any build or structure regardless of the classification of the building as a new or existing building. The definition has been modified to read: The restoration to good or sound condition of any part of any building for the purpose of its maintenance.~~

748:20-7-8. IEBC® 2015 Chapter ~~13~~14 Performance Compliance Methods

Chapter ~~13~~14 of the IEBC® ~~2009~~ 2015 is adopted with the following modification: Section ~~[B] 1301.2~~1401.2 Applicability. This section has been modified to ~~clarify the application of the definition of an existing building~~add a date certain for when the provisions of Chapter 14 may be used for an existing structure as well as provide the authority having jurisdiction to insert a different date as deemed necessary by the authority having jurisdiction. This section has been modified to read: ~~Existing buildings or~~ Structures existing ~~structures on which construction was begun at least ten (10) years~~ prior to ~~the date of adoption of this code by the State of Oklahoma~~ November 1, 2005~~(or any date may be inserted by a jurisdiction that has the legal right to do so, such as but not limited to counties and municipalities)~~ [OR ANY DATE MAY BE INSERTED BY A JURISDICTION THAT HAS THE LEGAL RIGHT TO DO SO, SUCH AS, BUT NOT

LIMITED TO STATE AGENCIES, MUNICIPALITIES AND OTHER POLITICAL SUBDIVISIONS] in which there is work involving additions, alterations or changes of occupancy shall be made to conform to the requirements of this chapter or the provisions of Chapters ~~4~~ 5 through ~~12~~13. The provisions of Sections ~~1301.2.1~~1401.2.1 through ~~1301.2.5~~1401.2.5 shall apply to existing occupancies that will continue to be, or are proposed to be, in Groups A, B, E, F, I-2 M, R, and S. These provisions shall not apply to buildings with occupancies in Group H or Group ~~I~~I-1, I-3, OR I-4.

748:20-7-9. IEBC® 2015 Chapter ~~15~~16 Referenced Standards

Chapter ~~15~~16 of the IEBC® ~~2009~~ 2015 is adopted with the following modifications:

(1) The reference to the International Building Code® has been modified to include after the title the words "as adopted and modified by the State of Oklahoma through the ~~Uniform Building Code Commission~~OUBCC."~~.~~ This section has been modified to read: ~~IBC-09~~IBC®-15 International Building Code® as adopted and modified by the State of Oklahoma through the ~~Uniform Building Code Commission~~OUBCC.

(2) The reference to the International Energy Conservation Code® has been modified to ~~include after the title the words "as adopted and modified by the State of Oklahoma by the State Fire Marshal until replaced by an adoption done through the Oklahoma Uniform Building Code Commission"~~change the edition year to 2006. This section has been modified to read: IECC®-06 International Energy Conservation Code® ~~as adopted and modified by the State of Oklahoma through the State Fire Marshal until replaced by an adoption done through the Uniform Building Code Commission~~.

(3) The reference to the International Fire Code® has been modified to include after the title the words "as adopted and modified by the State of Oklahoma through the ~~Uniform Building Code Commission~~OUBCC."~~.~~ This section has been modified to read: ~~IFC-09~~ IFC®-15 International Fire Code® as adopted and modified by the State of Oklahoma through the ~~Uniform Building Code Commission~~OUBCC.

(4) The reference to the International Fuel Gas Code® has been modified to include after the title the words "as adopted and modified by the State of Oklahoma through the ~~Uniform Building Code Commission~~OUBCC."~~.~~ This section has been modified to read: ~~IFGC-09~~IFGC®-15 International Fuel Gas Code® as adopted and modified by the State of Oklahoma through the ~~Uniform Building Code Commission~~OUBCC.

(5) The reference to the International Mechanical Code® has been modified to include after the title the words "as adopted and modified by the State of Oklahoma through the ~~Uniform Building Code Commission~~OUBCC."~~.~~ This section has been modified to read: ~~IMC-09~~IMC®-15 International Mechanical Code® as adopted and modified by the State of Oklahoma through the ~~Uniform Building Code Commission~~OUBCC.

(6) The reference to the International Plumbing Code® has been modified to include after the title the words "as adopted and modified by the State of Oklahoma through the ~~Uniform Building Code Commission~~OUBCC."~~.~~ This section has been modified to read: ~~IPC-09~~IPC®-15 International Plumbing Code® as adopted and modified by the State of Oklahoma through the ~~Uniform Building Code Commission~~OUBCC.

(7) The reference to the International Residential Code® has been modified to include after the title the words "as adopted and modified by the State of Oklahoma through the ~~Uniform Building Code Commission~~OUBCC."~~.~~ This section has been modified to read: IRC®-09 International Residential Code® as adopted and modified by the State of Oklahoma through the ~~Uniform Building Code Commission~~OUBCC.

(8) The referenced standard for NFPA 70® National Electrical Code® has been modified to ~~change the edition year from 2005 to 2011 and~~ add after the title the words "as adopted and modified by the State of Oklahoma through the ~~Uniform Building Code Commission~~OUBCC."~~.~~ This section shall now read: ~~70-11~~70-14 National Electrical Code® as adopted and modified by the State of Oklahoma through the ~~Uniform Building Code Commission~~OUBCC.

SUBCHAPTER 9. NEC® ~~2011~~ 2014

748:20-9-1. Adoption of National Electrical Code®, ~~2011~~ 2014 Edition (NEC® ~~2011~~ 2014)

The Oklahoma Uniform Building Code Commission (the ~~Commission~~"OUBCC") hereby adopts the National Electrical Code®, ~~2011~~ 2014 Edition - NFPA 70® (NEC® 2014), as amended and modified in this subchapter as the statewide minimum code for commercial electrical construction in the State of Oklahoma pursuant to 59 O.S. § 1000.23.

748:20-9-2. Effect of Adoption

The ~~National Electrical Code®, 2011 Edition - NFPA 70® (~~NEC® ~~2011~~ 2014~~),~~ as amended and revised by these rules, is hereby established and adopted as the statewide minimum ~~standard~~code for commercial electrical construction in Oklahoma pursuant to 59 O.S. § 1000.23, and may only be amended or altered by other jurisdictions pursuant to Oklahoma law and the administrative rules of the ~~Oklahoma Uniform Building Code Commission~~OUBCC as set forth in Title 748, Chapter 15 of the Oklahoma Administrative Code.

748:20-9-3. NEC® ~~2011~~ 2014 Informative Annexes

(a) None of the informative annexes of the NEC® ~~2011~~ 2014 have been adopted by the Commission for inclusion in the statewide minimum ~~standards~~code for commercial electrical construction in the State of Oklahoma.

(b) Informative Annexes A through ~~I~~J are not adopted as the statewide minimum ~~standards~~ code for commercial electrical construction within the State of Oklahoma. However, other

jurisdictions within ~~this~~the State of Oklahoma may adopt any or all of said annexes in accordance with 59 O.S. § 1000.29.

(c) Issuance of annual permits. Annual permit requirements are located in Informative annex H, Section 80.19 (D) and while the OUBCC is not adopting the informative annexes, issuance of annual permits has been authorized and annual permits section modified to provide the following requirements:

(1) 80.19 (D) Annual permit. This section has been modified to clarify what an annual permit is. This section shall read: An annual permit is a yearly permit which represents a group of individual permits for each alteration to an already approved electrical, gas, mechanical or plumbing installation. The building official is authorized to issue an annual permit upon application therefor to any person, firm or corporation regularly employing one or more qualified tradespersons in the building, structure or on the premises owned or operated by the applicant for the permit.

(2) 80.19 (D)(1) Annual permit records. This section has been added to require the building official to collect the OUBCC permit fee for each individual permit that is part of the annual permit at the completion of the annual permit term. This section has been added to read: Annual permit records. The person to whom an annual permit is issued shall keep a detailed record of alterations made under such annual permit. The building official shall have access to such detailed records of alterations at all times. At the completion of the entity's annual permit term, the applicant shall file such detailed records of alterations with the building official. Pursuant to the authority of 59 O.S. § 1000.25, the building official shall collect fees for each individual permit which is part of the annual permit once the detailed records are submitted and remit such fees to the OUBCC.

748:20-9-4. NEC® ~~2011~~ 2014 Provisions Adopted and Modified

All chapters and provisions within chapters, including exceptions, of the NEC® ~~2011~~ 2014 not specifically addressed within these rules as being modified, deleted, moved or removed are hereby adopted without modification as the statewide minimum ~~standards~~code for commercial electrical construction within the State of Oklahoma pursuant to 59 O.S. § 1000.23. Chapters and provisions within chapters, including exceptions adopted with modifications are specifically addressed in these rules.

748:20-9-5. Participation in Federal Programs and/or Federally Funded or Financed Projects

In order to maximize federal financial aid, assistance, participation, financing and/or funding in any public project(s) and/or federal financial aid, participation, funding for and participation in any federal program(s) by the State of Oklahoma, its agencies, public trusts and instrumentalities, or by any Oklahoma municipalities and other political subdivisions, that receive financial aid, assistance, participation, financing and/or funding for and participate in any federal program(s), the State of Oklahoma, its agencies and instrumentalities, and any Oklahoma municipalities and other political subdivisions, may cooperate with the United States Government and any agency or instrumentality thereof, in the manner authorized and provided by federal law and regulation and in doing so may perform all necessary functions and take all necessary actions for accomplishing such federal purposes and programs, including but not limited to, following and/or complying with federal laws, regulations and/or requirements arising from or related to federal financial aid, assistance, participation, financing and/or funding, in the construction, alteration, movement, enlargement, replacement, repair, equipment, use and occupancy, location, improvement, expansion, operation, maintenance, removal, and demolition of buildings and structures or any appurtenances attached to such buildings or structures, notwithstanding any provisions of any and all uniform building codes and standards adopted by the ~~Oklahoma Uniform Building Code Commission~~OUBCC to the contrary.

748:20-9-6. NEC® ~~2011~~ 2014 Article 90 Introduction

Article 90 of the Oklahoma adopted NEC® ~~2011~~ 2014, includes the following Preamble at the very beginning of the chapter:

(1) Pursuant to 59 O.S. § 1000.23, the ~~Uniform Building Code Commission~~OUBCC has adopted the ~~National Electrical Code®, 2011 Edition (~~NEC® ~~2011~~ 2014~~)~~ as amended and revised by the ~~Commission~~OUBCC, as the ~~statewide~~ minimum ~~standards~~code to be used by all entities for commercial electrical construction in jurisdictions throughout the State of Oklahoma. However, the ~~Commission's~~OUBCC's adoption of Article 90 "Introduction" of the NEC ® ~~2011~~ 2014 is for continuity purposes and the ~~Commission's~~ OUBCC's adoption of Article 90 recognizes the methods of best practice in fully implementing the statewide minimum ~~standards~~code for commercial electrical construction.

(2) All provisions of the adopted NEC® ~~2011~~ 2014, including Article 90, as amended and revised by the ~~Commission~~OUBCC, are hereby established and adopted as the statewide minimum ~~standards~~code for commercial electrical construction in Oklahoma pursuant to 59 O.S. § 1000.23, which may only be amended or altered pursuant to Oklahoma law and the administrative rules of the ~~Oklahoma Uniform Building Code Commission~~OUBCC as set forth in Title 748, Chapter 15 of the Oklahoma Administrative Code. However, the provisions of Article 90 adopted herein are only intended to be in force and effect to the extent that the respective provisions do not conflict with State law or the lawful exercise of code administration and enforcement jurisdiction by entities empowered to do so pursuant to applicable law.

(3) The ~~Commission's~~OUBCC's adoption of Article 90 in this manner is made with the recognition that the legal authority granting state and local code administration and enforcement jurisdictions the power and discretion to administer and enforce codes arises from Oklahoma laws governing those jurisdictions. Furthermore, the ~~Commission~~ OUBCC also recognizes that many state and local

code administration and enforcement jurisdictions have already created, or have the lawful authority to create, departments, offices and administrative policies pursuant to various applicable laws and other adopted model codes with "Introduction" provisions similar to Article 90 of the adopted NEC® ~~2011~~ 2014.

(4) This limited adoption of Article 90 is made in recognition of the authority and discretion possessed by jurisdictions to administer and enforce building codes. Exercising such authority and jurisdiction in a manner inconsistent with Article 90 must be supported by Oklahoma law. Code administration and enforcement jurisdictions shall not use the ~~Commission's~~OUBCC's limited adoption of Article 90 to circumvent the remainder of the requirements established by the Oklahoma adopted NEC® ~~2011~~ 2014 and the ~~Commission~~OUBCC will strongly oppose any such practice.

748:20-9-6.1. NEC® 2014 Chapter 1 General

Chapter 1 is adopted with the following modifications:

(1) Article 100 Definitions. This section has been modified to include a definition of a nationally recognized testing laboratory. This section has been modified to read: Nationally Recognized Testing Laboratory. A testing facility given this designation from the United States Occupational Safety and Health Administration (OSHA) that provides product safety testing and certification services to manufacturers.

(2) Section 110.12 (B) Integrity of Electrical Equipment and Connections. This section has been modified to allow for the reuse of existing electrical equipment, rather than requiring new replacements when certain conditions are met. This section has been modified to read: 110.12 (B) Integrity of Electrical Equipment and Connections. Internal parts of electrical equipment, including busbars, wiring terminals, insulators, and other surfaces, shall not be damaged or contaminated by foreign materials such as paint, plaster, cleaners, abrasives, or corrosive residues. There shall be no damaged parts that may adversely affect safe operation or mechanical strength of the equipment such as parts that are broken; bent; cut; or deteriorated by corrosion, chemical action or overheating. Damaged materials, equipment, appliances, and devices shall not be reused unless such elements have been reconditioned, tested, and placed in good and proper working condition and approved by a nationally recognized testing laboratory, or by the manufacturer of the equipment. Electrical equipment damaged by natural or man-made events shall be reused only as recommended by the manufacturer of such equipment.

748:20-9-6.2. NEC® 2014 Chapter 2 Wiring and Protection

Chapter 2 is adopted with the following modification: Section 210.19 (A)(4) Other Loads. This section has been modified to provide adequate loads per circuits. This section has been modified to read: Branch-circuit conductors that supply loads other than those specified in 210.2 and other than cooking appliances as covered in 210.19 (A)(3) shall have an ampacity sufficient for the loads served and shall not be smaller than 14 AWG. 20 ampere general-purpose branch circuits for dwellings shall supply a maximum of 10 outlets. 15 ampere general-purpose branch circuits for dwellings shall supply a maximum of 8 outlets. 20 ampere general-purpose branch circuits for other than dwellings shall supply a maximum of 8 outlets.

748:20-9-7. NEC® ~~2011~~ 2014 Chapter 5 Special Occupancies

Chapter 5 is adopted with modifications as follows:

(1) Section 505.7 (A) Implementation of zone classification system. This section has been modified to require a registered professional engineer to engineer and design, and select the equipment and wiring methods for classification areas. It allows for the installation of the equipment, wiring methods and inspections to be performed by qualified persons. This section has been modified to read: 505.7 (A) Implementation of zone classification system. Classification of areas, engineering and design, selection of equipment and wiring methods shall be performed by a Registered Professional Engineer with expertise in Hazardous (Classified) Locations and Zone Systems. The installation of equipment and wiring methods, and inspections shall be performed by qualified persons.

(2) Section 506.6 (A) Implementation of zone classification system. This section has been modified to require a registered professional engineer to engineer and design, and select the equipment and wiring methods for classification areas. It allows for the installation of the equipment, wiring methods and inspections to be performed by qualified persons. This section has been modified to read: 506.6 (A) Implementation of zone classification system. Classification of areas, engineering and design, selection of equipment and wiring methods, shall be performed by a Registered Professional Engineer with expertise in Hazardous (Classified) Locations and Zone Systems. The installation of equipment and wiring methods and inspection shall be performed by qualified persons.

748:20-9-8. NEC® 2014 Chapter 6 Special Equipment

Chapter 6 is adopted with the following modification: Section 680.23 (A)(4) Voltage Limitations. This section has been modified to prohibit the use of underwater luminaries if they operate above the low voltage contact limit as defined in Section 680.2. This section has been modified to read: 680.23 (A)(4) Voltage Limitations. No luminaries shall operate above the low voltage contact limit as defined in Section 680.2.

SUBCHAPTER 11. IFGC® ~~2009~~ 2015

748:20-11-1. Adoption of International Fuel Gas Code®, ~~2009~~ 2015 Edition (IFGC® ~~2009~~ 2015)

(a) The Oklahoma Uniform Building Code Commission (the ~~Commission~~"OUBCC") hereby adopts the International Fuel Gas Code®, ~~2009~~ 2015 Edition (IFGC® 2015) as amended and modified in this subchapter as the statewide minimum code for commercial fuel gas construction in the State of Oklahoma pursuant to 59 O.S. 1000.23.

(b) The OUBCC through formal action expressly chose to adopt the IFGC® 2015 as amended and modified in this subchapter, as the statewide minimum code for commercial fuel gas construction in the State of Oklahoma. In like manner, the OUBCC through formal action expressly chose not to adopt the International Fuel Gas Code®, 2012 Edition (IFGC®, 2012) for any purpose.

748:20-11-2. Effect of Adoption

The ~~International Fuel Gas Code®, 2009 Edition (~~IFGC® ~~2009~~ 2015~~)~~, as amended and revised by these rules, ~~are~~is hereby established and adopted as the statewide minimum ~~standards~~code for commercial fuel gas construction in Oklahoma pursuant to 59 O.S. § 1000.23, and may only be amended or altered by other jurisdictions pursuant to Oklahoma law and the administrative rules of the ~~Oklahoma Uniform Building Code Commission~~ OUBCC as set forth in Title 748, Chapter 15 of the Oklahoma Administrative Code.

748:20-11-3. IFGC® ~~2009~~ 2015 Appendices

(a) None of the appendices of the IFGC® ~~2009~~ 2015, have been adopted by the ~~Commission~~ OUBCC for inclusion in the statewide minimum ~~standards~~code for commercial fuel gas commercial construction in the State of Oklahoma.

(b) Appendices A through D are not adopted as the statewide minimum ~~standards~~code for commercial fuel gas construction within the State of Oklahoma. However, other jurisdictions within ~~this~~the State of Oklahoma may adopt any or all of said appendices in accordance with 59 O.S. § 1000.29.

748:20-11-4. IFGC® ~~2009~~ 2015 Provisions Adopted and Modified

(a) All chapters and provisions within chapters, including exceptions, of the IFGC® ~~2009~~ 2015 not specifically addressed within these rules as being modified, deleted, moved or removed are hereby adopted without modification as the statewide minimum standards code for commercial fuel gas construction within the State of Oklahoma pursuant to 59 O.S. § 1000.23. Chapters and provisions within chapters, including exceptions adopted with modifications are specifically addressed in these rules.

(b) To the extent any references in the IFGC® 2015 as amended and modified in this sub-chapter are made to any other code or standard, the particular edition for that reference is defined in the referenced standards found in the IFGC®, 2015 as amended and modified in this sub-chapter and in Chapter 8 entitled "Referenced Standards".

748:20-11-5. Participation in Federal Programs and/or Federally Funded or Financed Projects

In order to maximize federal financial aid, assistance, participation, financing and/or funding in any public project(s) and/or federal financial aid, participation, funding for and participation in any federal program(s) by the State of Oklahoma, its agencies, public trusts and instrumentalities, or by any Oklahoma municipalities and other political subdivisions, that receive financial aid, assistance, participation, financing and/or funding for and participate in any federal program(s), the State of Oklahoma, its agencies and instrumentalities, and any Oklahoma municipalities and other political subdivisions, may cooperate with the United States Government and any agency or instrumentality thereof, in the manner authorized and provided by federal law and regulation and in doing so may perform all necessary functions and take all necessary actions for accomplishing such federal purposes and programs, including but not limited to, following and/or complying with federal laws, regulations and/or requirements arising from or related to federal financial aid, assistance, participation, financing and/or funding, in the construction, alteration, movement, enlargement, replacement, repair, equipment, use and occupancy, location, improvement, expansion, operation, maintenance, removal, and demolition of buildings and structures or any appurtenances attached to such buildings or structures, notwithstanding any provisions of any and all uniform building codes and standards adopted by the ~~Oklahoma Uniform Building Code Commission~~OUBCC to the contrary.

748:20-11-6. IFGC® ~~2009~~ 2015 Chapter 1 Scope and Administration

Chapter 1 of the Oklahoma adopted IFGC® ~~2009~~ 2015, includes the following Preamble at the very beginning of the chapter:

(1) Pursuant to 59 O.S. § 1000.23, the ~~Uniform Building Code Commission~~OUBCC has adopted the ~~International Fuel Gas Code®, 2009 Edition (~~IFGC® ~~2009~~ 2015~~)~~ as amended and revised by the ~~Commission~~OUBCC, as the statewide minimum ~~standards~~ code to be used by all entities for commercial fuel gas construction in jurisdictions throughout the State of Oklahoma. However, the ~~Commission's~~OUBCC's adoption of Chapter 1 "Scope and Administration" of the IFGC® ~~2009~~ 2015, is for continuity purposes and the ~~Commission's~~OUBCC's adoption of Chapter 1 recognizes the methods of best practice in fully implementing the statewide minimum ~~standards~~code for commercial fuel gas construction.

(2) All provisions of the adopted IFGC® ~~2009~~ 2015, including Chapter 1, as amended and revised by the ~~Commission~~OUBCC, are hereby established and adopted as the statewide minimum ~~standards~~code for commercial fuel gas construction in Oklahoma pursuant to 59 O.S. § 1000.23, which may only be amended or altered pursuant to Oklahoma law and the administrative rules of the ~~Oklahoma Uniform Building Code Commission~~OUBCC as set forth in Title 748, Chapter 15 of the Oklahoma Administrative Code. However, the provisions of Chapter 1 adopted herein are only intended to be in force and effect

to the extent that the respective provisions do not conflict with State law or the lawful exercise of code administration and enforcement jurisdiction by entities empowered to do so pursuant to applicable law.

(3) Section 106.1.1 Annual permit. This section has been modified to clarify what an annual permit is. This section shall read: An annual permit is a yearly permit which represents a group of individual permits for each alteration to an already existing electrical, gas, mechanical or plumbing installation. The building official is authorized to issue an annual permit upon application therefor to any person, firm or corporation regularly employing one or more qualified tradespersons in the building, structure or on the premises owned or operated by the applicant for the permit.

(4) Section 106.1.2 Annual permit records. This section has been modified to require the building official to collect the OUBCC permit fee for each individual permit that is part of the annual permit at the completion of the annual permit term. This section has been modified to read: Annual permit records. The person to whom an annual permit is issued shall keep a detailed record of alterations made under such annual permit. The building official shall have access to such detailed records of alterations at all times. At the completion of the entity's annual permit term, the applicant shall file such detailed records of alterations with the building official. Pursuant to the authority of 59 O.S. § 1000.25, the building official shall collect fees for each individual permit which is part of the annual permit once the detailed records are submitted and remit such fees to the OUBCC.

(~~3~~5) The ~~Commission's~~OUBCC's adoption of Chapter 1 in this manner is made with the recognition that the legal authority granting state and local code administration and enforcement jurisdictions the power and discretion to administer and enforce codes arises from Oklahoma laws governing those jurisdictions. Furthermore, the ~~Commission~~ OUBCC also recognizes that many state and local code administration and enforcement jurisdictions have already created, or have the lawful authority to create, departments, offices and administrative policies pursuant to various applicable laws and other adopted model codes with "Scope and Administration" provisions similar to Chapter 1 of the adopted IFGC® ~~2009~~ 2015.

(~~4~~6) This limited adoption of Chapter 1 is made in recognition of the authority and discretion possessed by jurisdictions to administer and enforce building codes. Exercising such authority and jurisdiction in a manner inconsistent with Chapter 1 must be supported by Oklahoma law. Code administration and enforcement jurisdictions shall not use the ~~Commission's~~OUBCC's limited adoption of Chapter 1 to circumvent the remainder of the requirements established by the Oklahoma adopted IFGC® ~~2009~~ 2015 and the ~~Commission~~OUBCC will strongly oppose any such practice.

748:20-11-7. IFGC® 2015 Chapter 3 General Regulations

Chapter 3 of the IFGC® ~~2009~~ 2015 is adopted with the following modifications:

(1) Section 306.6 Guards. This section has been modified to clarify the circumstances under which guards shall be provided and to modify the exception to require the authority having jurisdiction approve the use of a fall-restraint system instead of guards. This section has been modified to read: 306.6 Guards. Guards shall be provided where various components that require service are located on a roof or elevated structure and have a condition as set forth in Sections 306.6.1 through 306.6.3. The top of the guard shall be located not less than 42 inches (1067 mm) above the elevated surface adjacent to the guard. The guard shall be constructed so as to prevent the passage of a 21-inch diameter (533 mm) sphere and shall comply with the loading requirements for guards specified in the International Building Code®. Guards shall be provide at new components when added or replaced on existing roof or elevated structure and have a condition as set forth in Sections 306.6.1 through 306.6.3. Exception: When approved by the authority having jurisdiction, guards are not required where permanent fall arrest-restraint anchorage connector devices that comply with ANSI/ASSE Z 359.1 are affixed for use during the entire roof covering lifetime. The devices shall be reevaluated for possible replacement when the entire roof covering is replaced. The devices shall be placed not more than 10 feet (3048 mm) on center along hip and ridge lines and placed not less than 10 feet (3048 mm) from roof edges and the open sides of walking surfaces.

(2) Section 306.6.1 Roof edge. This section has been added to clarify the circumstances required to exist for the installation of guards at the roof edge when the components needing service are within a specific distance of the roof edge. This section has been added to read: 306.6.1 Roof edge. Guards complying with 306.1 shall be provided when components are located within 10 feet (3048 mm) of a roof edge or open side of a walking surface or elevated structure and such edge or open side is located more than 30 inches (762 mm) above the floor, roof, or grade below. The guard shall extend not less than 30 inches (762 mm) beyond each end of the component that requires service.

(3) Section 306.6.2 Skylights. This section has been added to clarify the circumstances for the installation of guards around components near skylights and to provide exceptions to the requirement. This section has been added to read: 306.6.2 Skylights. Guards complying with Section 306.6 shall be provided when a skylight is within 10 feet (3048 mm) of the component that requires service. The guard shall extend 30 inches (762 mm) beyond the edge of the skylight. Exceptions:

(A) Guards are not required when the skylight is located at least 42 inches (1067 mm) above the highest point of the walking surface adjacent to the skylight or component.

(B) Guards are not required if some other provision for skylight fall-thru protection is provided and approved by the authority having jurisdiction.

(4) Section 306.6.3 Roof hatch. This section has been added to clarify the circumstances for the installation of guards around components installed within a specific distance from the roof hatch. This section has been added to read: 306.6.3 Roof hatch. Guards complying with Section 306.6 shall be provided when a roof hatch is within 10 feet (3048 mm) of the component that requires service. The guard shall extend 30 inches (762 mm) beyond the edge of the roof hatch. If the component is within 10 feet (3048 mm) of the ladder access side of the roof hatch, the guard shall incorporate a self-closing, self-latching gate. The gate shall have a top edge of not less than 42 inches (1067 mm) above the elevated surface adjacent to the gate and shall not allow the passage of a 21 inch (533 mm) sphere. If a roof hatch exists within 10 feet of a roof edge that is located more than 30 inches (762 mm) above the floor, roof or grade below and a new component that requires services on that existing roof or elevated structure, than a guard complying with Section 306.6 shall be added between the existing roof hatch and the roof edge.

(~~1~~5) Section 307.2.1 Condensate drains. This section has been added to the code to require condensate drains to be protected from freezing. This section shall read: 307.2.1 Condensate drains. Where condensing appliances are in locations subject to freezing conditions, the condensate drain line ~~must~~shall be protected from freezing in an approved manner and in accordance with ~~manufacturer~~manufacturer's installation instructions.

~~(2) Section 308.1 Scope. This section has been modified to include gypsum board as a combustible material. This section has been modified to read: This section shall govern the reduction in required clearances to combustible materials, including gypsum board, and combustible assemblies for chimneys, vents, appliances, devices and equipment. Clearance requirements for air conditioning equipment and central heating boilers and furnaces shall comply with Section 308.3 and 308.4.~~

(~~3~~6) Section 310.1.1 CSST. This section has been modified to add an exception to allow for installation when using new special CSST. This ~~exception~~section shall read: 310.1.1 CSST. Corrugated stainless steel (CSST) gas piping systems and piping systems containing one or more segments of CSST shall be bonded to the electrical service grounding electrode system or, where provided, the lightning protection grounding electrode system. Exception: ~~Special corrugated~~Corrugated stainless steel gas piping or tubing products or systems that have been designed, manufactured and listed for installation without ~~direct~~ bonding to the grounding electrode system, shall be permitted to be installed in accordance with the manufacturer's installation instructions.

748:20-11-8. IFGC® 2015 Chapter 4 Gas Piping Installations

Chapter 4 of the IFGC® ~~2009~~ 2015 is adopted with the following ~~modifications~~ modification:

~~(1) Tables 402.4(6), 402.4(7), 402.4(8), 402.4(9), 402.4(10), 402.4(11), and 402.4(12). These tables have been stricken from the code.~~

~~(2) Section 403.4.3 Copper and brass. This section has been modified to prohibit the use of copper or brass piping or tubing for natural gas installations. This section has been modified to read: Copper and brass piping and tubing shall be prohibited for natural gas installations, but shall be allowed for liquefied petroleum gas installations.~~

~~(3) Section 404.8.1 Insulated union on building riser. This section has been added to the code as a means to isolate the gas piping from the grounding. It shall read: All underground gas piping systems shall have an insulated union installed above ground level before the service enters the building.~~

~~(4)~~ Section ~~404.10.~~404.12 Minimum burial depth. This section has been modified to change the minimum burial depth from 12 inches (305 mm) to 18 inches (457 mm) and to allow for an exception when there is no ability to meet that minimum depth. This section has been modified to read: 404.12 Minimum depth burial. Underground piping systems shall be installed a minimum depth of 18 inches (457 mm) below grade, except as provided for in Section 404.10.1. Exception: Where a minimum depth ~~of 18 inches (457 mm)~~ of cover cannot be provided, the pipe shall be installed in conduit or bridged (shielded).

~~(5) Section 404.10.2. Separation of gas piping from other piping systems. This section has been added to the code as a means to prevent damage to other piping systems that may have been buried in the same ditch. This section shall read: Gas pipe and any other piping systems shall be separated by 18 inches (457 mm) of undisturbed or compacted earth.~~

~~(6) Section 404.16 Prohibited devices. This section was modified to add a second exception to allow for new technology to be utilized. The second exception shall read: An approved fitting or device where the gas piping system has been sized to accommodate the pressure drop of the fitting or device.~~

~~(7) The International Code Council Emergency Amendment dated September 27, 2010 has been adopted. This amendment replaces in its entirety Sections 406.7 through Section 406.7.3 of the IFGC®. These sections shall now read:~~

~~(A) Section 406.7 Purging: The purging of piping shall be in accordance with Sections 406.7.1 through 406.7.3~~

~~(B) Section 406.7.1 Piping systems required to be purged outdoors. The purging of piping systems shall be in accordance with the provisions of Sections 406.7.1.1 through 406.7.1.4 where the piping system meets either of the following:~~

~~(i) The design operating gas pressure is greater than 2 psig (13.79 kPa).~~

~~(ii) The piping being purged contains one or more sections of pipe or tubing meeting the size and length criteria of Table 406.7.1.1~~

~~(C) Section 406.7.1.1 Removal from service. Where existing gas piping is opened, the section that is opened shall be isolated from the gas supply and the line pressure vented in accordance with Section 406.7.1.3. Where gas piping meeting the criteria of Table 406.7.1.1 is removed from service, the residual fuel gas in the piping shall be displaced with an inert gas.~~

~~(D) Table 406.7.1.1 Size and length of piping. The following measurements for table 406.7.1.1 were added. Footnote "a" in relation to Nominal Pipe Size (inches) states CSST EHD size of 62 is equivalent to nominal 2-inch pipe or tubing size.~~

~~(i) When nominal pipe size (inches) is greater than or equal to 2 $\frac{1}{2}$ but less than 3, the length of piping (feet) is greater than 50.~~

~~(ii) When nominal pipe size (inches) is greater than or equal to 3 but less than 4, the length of piping (feet) is greater than 30~~

~~(iii) When nominal pipe size (inches) is greater than or equal to 4 but less than 6, the length of piping (feet) is greater than 15.~~

~~(iv) When nominal pipe size (inches) is greater than or equal to 6 but less than 8, the length of piping (feet) is greater than 10.~~

~~(v) When nominal pipe size (inches) is greater than 8, the length of piping (feet) is any length. For SI: 1 inch is equal to 25.4 mm; 1 foot is equal to 304.8 mm.~~

~~(E) Section 406.7.1.2 Placing in operation. Where gas piping contains air and meeting the criteria of Table 406.7.1.1 is placed in operation, the air in the piping shall first be displaced with an inert gas. The inert gas shall then be displaced with fuel gas in accordance with Section 406.7.1.3.~~

~~(F) Section 406.7.1.3. Outdoor discharge of purged gases. The open end of a piping system being pressure vented or purged shall discharge directly to an outdoor location. Purging operations shall comply with all of the following requirements:~~

~~(i) The point of discharge shall be controlled with a shutoff valve.~~

~~(ii) The point of discharge shall be located at least 10 feet (3048 mm) from sources of ignition, at least 10 feet (3048 mm) from building openings and at least 25 feet (7620 mm) from mechanical air intake openings.~~

~~(iii) During discharge, the open point of discharge shall be continuously attended and monitored with a combustion gas indicator that complies with Section 406.7.1.4.~~

~~(iv) Purging operations introducing fuel gas shall be stopped when 90 percent fuel gas by volume is detected within the pipe.~~

~~(v) Persons not involved in the purging operations shall be evacuated from all areas within 10 feet (3048 mm) of point of discharge.~~

~~(G) Section 406.7.1.4. Combustion gas indicator. Combustion gas indicators shall be listed and shall be calibrated in accordance with the manufacturer's instructions. Combustion gas indicators shall numerically display a volume scale from zero percent to 100 percent in 1 percent or smaller increments.~~

~~(H) Section 406.7.2 Piping systems allowed to be purged indoors or outdoors. The purging of piping systems shall be in accordance with the provisions of Section 406.7.2.1 where the piping system meets both of the following:~~

~~(i) The design operating gas pressure is 2 psig (13.79 kPa) or less.~~

~~(ii) The piping being purged is constructed entirely from pipe or tubing not meeting the size and length criteria of Table 406.7.1.1~~

~~(I) Section 406.7.2.1 Purging Procedure. The piping system shall be purged in accordance with one or more of the following:~~

~~(i) The piping shall be purged with fuel gas and shall discharge to the outdoors.~~

~~(ii) The piping shall be purged with fuel gas and shall discharge to the indoors or outdoors through an appliance burner not located in a combustion chamber. Such burner shall be provided with a continuous source of ignition.~~

~~(iii) The piping shall be purged with fuel gas and shall discharge to the indoors or outdoors through a burner that has a continuous source of ignition and that is designed for such purpose.~~

~~(iv) The piping shall be purged with fuel gas that is discharged to the indoor or outdoors, and the point of discharge shall be monitored with a listed combustible gas detector in accordance with Section 406.7.2.2. Purging shall be stopped when fuel gas is detected.~~

~~(v) The piping shall be purged by the gas supplier in accordance with written procedures.~~

~~(J) Section 406.7.2.2 Combustible gas detector. Combustible gas detectors shall be listed and shall be calibrated or tested in accordance with the manufacturer's instructions. Combustible gas detectors shall be capable of indicating the presence of fuel gas.~~

~~(K) Section 406.7.3 Purging appliances and equipment. After the piping system has been placed in operation, appliances and equipment shall be purged before being placed into operation.~~

~~(8) Section 410.4 Excess flow valve. This section has been added to allow for new technologies in use in the field. This section shall read: Where automatic excess flow valves are installed, they shall be listed for the application and shall be sized and installed in accordance with the manufacturer's instructions.~~

748:20-11-9. IFGC® Chapter 6 Specific Appliances [REVOKED]

~~Chapter 6 of the IFGC® 2009 is adopted with the following modifications: Section 621.4 Prohibited locations. This section has been modified to provide definitions for Groups A, E and I. This section has been modified to read: Unvented room heaters shall not be installed within occupancies in Groups A, E, and I. The location of unvented room heaters shall also comply with Section 303.3 (Use Groups A = Assembly, E = Educational and I = Institutional.~~

748:20-11-10. IFGC® 2015 Chapter 8 Referenced Standards

Chapter 8 of the IFGC® ~~2009~~ 2015 is adopted with the following modifications:

(1) The reference to the International Building Code® has been modified to include after the title the words "as adopted and modified by the State of Oklahoma through the ~~Uniform Building Code Commission~~OUBCC."~~.~~ This section has been modified to read: ~~IBC-09~~IBC®-15 International Building Code® as adopted and modified by the State of Oklahoma through the ~~Uniform Building Code Commission~~OUBCC.

(2) The reference to the International Energy Conservation Code® has been modified to ~~include after the title the words "as adopted and modified by the State of Oklahoma by the State Fire Marshal until replaced by an adoption done through the Uniform Building Code Commission"~~change the edition year to 2006. This section has been modified to read: IECC®-06 International Energy Conservation Code®~~as adopted and modified by the State of Oklahoma through the State Fire Marshal until replaced by an adoption done through the Uniform Building Code Commission~~.

(3) The reference to the International Fire Code® has been modified to include after the title the words "as adopted and modified by the State of Oklahoma through the ~~Uniform Building Code Commission~~ OUBCC."~~.~~ This section has been modified to read: ~~IFC-09~~ IFC®-15 International Fire Code® as adopted and modified by the State of Oklahoma through the ~~Uniform Building Code Commission~~OUBCC.

(4) The reference to the International Mechanical Code® has been modified to include after the title the words "as adopted and modified by the State of Oklahoma through the ~~Uniform Building Code Commission~~OUBCC."~~.~~ This section has been modified to read: ~~IMC-09~~IMC®-15 International Mechanical Code® as adopted and modified by the State of Oklahoma through the ~~Uniform Building Code Commission~~OUBCC.

(5) The reference to the International Plumbing Code® has been modified to include after the title the words "as adopted and modified by the State of Oklahoma through the ~~Uniform Building Code Commission~~OUBCC."~~.~~ This section has been modified to read: ~~IPC-09~~IPC®-15 International Plumbing Code® as adopted and modified by the State of Oklahoma through the ~~Uniform Building Code Commission~~OUBCC.

(6) The reference to the International Residential Code® has been modified to include after the title the words "as adopted and modified by the State of Oklahoma through the ~~Uniform Building Code Commission~~ OUBCC."~~.~~ This section has been modified to read: IRC®-09 International Residential Code® as adopted and modified by the State of Oklahoma through the ~~Uniform Building Code Commission~~OUBCC.

(7) The referenced standard for NFPA 70® National Electrical Code® has been modified to ~~change the edition year from 2008 to 2011 and~~ add after the title the words "as adopted and modified by the State of Oklahoma through the ~~Uniform Building Code Commission~~OUBCC."~~.~~ This section shall now read: ~~70-11~~70-14 National Electrical Code® as adopted and modified by the State of Oklahoma through ~~Uniform Building Code Commission~~OUBCC.

SUBCHAPTER 13. IMC ® ~~2009~~ 2015

748:20-13-1. Adoption of International Mechanical Code®, ~~2009~~ 2015 Edition (IMC® ~~2009~~ 2015)

(a) The Oklahoma Uniform Building Code Commission (the ~~Commission~~"OUBCC") hereby adopts the International Mechanical Code®, ~~2009~~ 2015 Edition (IMC® 2015) as amended and modified in this subchapter as the statewide minimum code for commercial mechanical construction in the State of Oklahoma pursuant to 59 O.S. 1000.23.

(b) The OUBCC through formal action expressly chose to adopt the IMC® 2015 as amended and modified in this subchapter, as the statewide minimum code for commercial mechanical construction in the State of Oklahoma. In like manner, the OUBCC through formal action expressly chose not to adopt the International Mechanical Code®, 2012 Edition (IMC®, 2012) for any purpose.

748:20-13-2. Effect of Adoption

The ~~International Mechanical Code®, 2009 Edition (~~IMC® ~~2009~~ 2015~~)~~, as amended and revised by these rules, ~~are~~is hereby established and adopted as the statewide minimum ~~standards~~code for commercial mechanical construction in Oklahoma pursuant to 59 O.S. § 1000.23, and may only be amended or altered by other jurisdictions pursuant to Oklahoma law and the administrative rules of the ~~Oklahoma Uniform Building Code Commission~~OUBCC as set forth in Title 748, Chapter 15 of the Oklahoma Administrative Code.

748:20-13-3. IMC® ~~2009~~ 2015 Appendices

(a) None of the appendices of the IMC® ~~2009~~ 2015 have been adopted by the ~~Commission~~ OUBCC for inclusion in the statewide minimum ~~standards~~code for commercial mechanical construction in the State of Oklahoma.

(b) Appendices A through B are not adopted as the statewide minimum ~~standards~~code for commercial mechanical construction within the State of Oklahoma. However, other

jurisdictions within ~~this~~the State of Oklahoma may adopt any or all of said appendices in accordance with 59 O.S. § 1000.29.

748:20-13-4. IMC® ~~2009~~ 2015 Provisions Adopted and Modified

(a) All chapters and provisions within chapters, including exceptions, of the IMC® ~~2009~~ 2015 not specifically addressed within these rules as being modified, deleted, moved or removed are hereby adopted without modification as the statewide minimum ~~standards~~code for commercial mechanical construction within the State of Oklahoma pursuant to 59 O.S. § 1000.23. Chapters and provisions within chapters, including exceptions adopted with modifications are specifically addressed in these rules.

(b) To the extent any references in the IMC® 2015 as amended and modified in this sub-chapter are made to any other code or standard, the particular edition for that reference is defined in the referenced standards found in the IMC®, 2015 as amended and modified in this sub-chapter and in Chapter 15 entitled "Referenced Standards".

748:20-13-5. Participation in Federal Programs and/or Federally Funded or Financed Projects

In order to maximize federal financial aid, assistance, participation, financing and/or funding in any public project(s) and/or federal financial aid, participation, funding for and participation in any federal program(s) by the State of Oklahoma, its agencies, public trusts and instrumentalities, or by any Oklahoma municipalities and other political subdivisions, that receive financial aid, assistance, participation, financing and/or funding for and participate in any federal program(s), the State of Oklahoma, its agencies and instrumentalities, and any Oklahoma municipalities and other political subdivisions, may cooperate with the United States Government and any agency or instrumentality thereof, in the manner authorized and provided by federal law and regulation and in doing so may perform all necessary functions and take all necessary actions for accomplishing such federal purposes and programs, including but not limited to, following and/or complying with federal laws, regulations and/or requirements arising from or related to federal financial aid, assistance, participation, financing and/or funding, in the construction, alteration, movement, enlargement, replacement, repair, equipment, use and occupancy, location, improvement, expansion, operation, maintenance, removal, and demolition of buildings and structures or any appurtenances attached to such buildings or structures, notwithstanding any provisions of any and all uniform building codes and standards adopted by the ~~Oklahoma Uniform Building Code Commission~~OUBCC to the contrary.

748:20-13-6. IMC® ~~2009~~ 2015 Chapter 1 Scope and Administration

Chapter 1 of the Oklahoma adopted IMC® ~~2009~~ 2015, includes the following Preamble at the very beginning of the chapter:

(1) Pursuant to 59 O.S. § 1000.23, the ~~Uniform Building Code Commission~~OUBCC has adopted the ~~International Mechanical Code®, 2009 Edition (~~IMC® ~~2009~~ 2015~~)~~ as amended and revised by the ~~Commission~~OUBCC, as the statewide minimum ~~standards~~ code to be used by all entities for commercial mechanical construction in jurisdictions throughout the State of Oklahoma. However, the ~~Commission's~~OUBCC's adoption of Chapter 1 "Scope and Administration" of the IMC® ~~2009~~ 2015 is for continuity purposes and the ~~Commission's~~OUBCC's adoption of Chapter 1 recognizes the methods of best practice in fully implementing the statewide minimum ~~standards~~code for commercial mechanical construction.

(2) All provisions of the adopted IMC® ~~2009~~ 2015, including Chapter 1, as amended and revised by the ~~Commission~~OUBCC, are hereby established and adopted as the statewide minimum ~~standards~~code for commercial mechanical construction in Oklahoma pursuant to 59 O.S. § 1000.23, which may only be amended or altered pursuant to Oklahoma law and the administrative rules of the ~~Oklahoma Uniform Building Code Commission~~OUBCC as set forth in Title 748, Chapter 15 of the Oklahoma Administrative Code. However, the provisions of Chapter 1 adopted herein are only intended to be in force and effect to the extent that the respective provisions do not conflict with State law or the lawful exercise of code administration and enforcement jurisdiction by entities empowered to do so pursuant to applicable law.

(3) Section 106.1.1 Annual permit. This section has been modified to clarify what an annual permit is. This section shall read: An annual permit is a yearly permit which represents a group of individual permits for each alteration to an already approved electrical, gas, mechanical or plumbing installation. The building official is authorized to issue an annual permit upon application therefor to any person, firm or corporation regularly employing one or more qualified tradespersons in the building, structure or on the premises owned or operated by the applicant for the permit.

(4) Section 106.1.2 Annual permit records. This section has been modified to require the building official to collect the OUBCC permit fee for each individual permit that is part of the annual permit at the completion of the annual permit term. This section has been modified to read: Annual permit records. The person to whom an annual permit is issued shall keep a detailed record of alterations made under such annual permit. The building official shall have access to such detailed records of alterations at all times. At the completion of the entity's annual permit term, the applicant shall file such detailed records of alterations with the building official. Pursuant to the authority of 59 O.S. § 1000.25, the building official shall collect fees for each individual permit which is part of the annual permit once the detailed records are submitted and remit such fees to the OUBCC.

(~~3~~5) The ~~Commission's~~OUBCC's adoption of Chapter 1 in this manner is made with the recognition that the legal

authority granting state and local code administration and enforcement jurisdictions the power and discretion to administer and enforce codes arises from Oklahoma laws governing those jurisdictions. Furthermore, the ~~Commission~~ OUBCC also recognizes that many state and local code administration and enforcement jurisdictions have already created, or have the lawful authority to create, departments, offices and administrative policies pursuant to various applicable laws and other adopted model codes with "Scope and Administration" provisions similar to Chapter 1 of the adopted IMC® ~~2009~~ 2015.

(~~4~~6) This limited adoption of Chapter 1 is made in recognition of the authority and discretion possessed by jurisdictions to administer and enforce building codes. Exercising such authority and jurisdiction in a manner inconsistent with Chapter 1 must be supported by Oklahoma law. Code administration and enforcement jurisdictions shall not use the ~~Commission's~~OUBCC's limited adoption of Chapter 1 to circumvent the remainder of the requirements established by the Oklahoma adopted IMC® ~~2009~~ 2015 and the ~~Commission~~OUBCC will strongly oppose any such practice.

748:20-13-7. IMC® 2009 Chapter 2 Definitions [REVOKED]

~~Chapter 2 of the IMC® 2009 is adopted with the following changes: The definition of a Commercial Cooking Appliance has been modified to further define a commercial cooking appliance. The definition has been modified to read: Appliances used in a commercial food service establishment for heating or cooking food and which produce grease vapors, steam, fumes, smoke or odors that are required to be removed through a local ventilation system. Such appliances include deep fat fryers; upright broilers; griddles; broilers; steam jacketed kettles; hot top ranges; under fired broilers (charbroilers); ovens; barbeques; rotisseries; and similar appliances. For the purpose of this definition, a food service establishment shall include any building or a portion thereof used for the preparation and serving of food that is not a kitchen in a single family dwelling unit or apartment.~~

748:20-13-8. IMC® ~~2009~~® 2015 Chapter 3 General Regulations

Chapter 3 of the IMC® ~~2009~~ 2015 is adopted with the following modifications:

(1) Section ~~301.12~~301.15 Wind resistance. This section has been modified to allow design and installation of equipment and appliances that are exposed to wind to be built in accordance with SMACNA HVAC Duct Construction Standards - Metal ~~or~~and Flexible or other approved methods. This section has been modified to read: 301.15 Wind resistance. Mechanical equipment, appliances and supports that are exposed to wind shall be designed and installed to resist the wind pressures determined in accordance with the International Building Code®, SMACNA HVAC Duct Construction Standards - Metal and Flexible, ~~or~~and other approved methods.

(2) Section 304.11 Guards. This section has been modified to ~~require~~clarify the circumstances under which guards shall be provided around components ~~requiring routine service and unprotected skylight openings~~and to modify the exception to require the authority having jurisdiction approve the use of a fall/restraint system instead of guards. This section has been modified to read: 304.11 Guards. Guards ~~or parapet walls~~ shall be provided where ~~appliances, equipment, fans (or other~~various components that require ~~routine~~ service~~) or roof hatches are located within 10 feet (3048 mm) of a roof edge or open side of a walking surface and such edge or open side is~~are located ~~more than 30 inches (762 mm) above the adjacent surface or grade below~~on a roof or elevated structure and have a condition as set fourth in Sections 304.11.1 through 304.11.3. ~~The guards or parapet walls shall extend not less than 30 inches (762 mm) beyond each end of such appliances, equipment, fans, components, and roof hatch openings; and the~~The top of the guard ~~or parapet wall~~ shall be located not less than 42 inches (1067 mm) above the elevated~~adjacent~~ surface adjacent to the guard. ~~Guards~~ The guard shall be constructed so as to prevent the passage of a 21-inch diameter (533 mm) sphere and shall comply with the loading requirements for guards as specified in the International Building Code®. ~~Guards shall also be provided where appliances, equipment, fans (or other components that require routine service) are located within 10 feet (3048 mm) of a roof hatch or unprotected skylight. Skylights shall be considered protected if the level of the lowest edge of the skylight is on a raised curb 42 inches (1067 mm) above the roof level, or if the skylight is protected by some other approved means to prevent personnel from falling through the opening.~~Guards shall be provided at new components when added or replaced on an existing roof or elevated structure and have a condition as set forth in Sections 304.11.1 through 304.11.3. Exception: When approved by the authority having jurisdiction, guards are not required where permanent fall arrest/restraint anchorage connector devices that comply with ANSI/ASSE Z 359.1 are affixed for use during the entire roof covering lifetime. The devices shall be reevaluated for possible replacement when the entire roof covering is replaced. The devices shall be placed not more than 10 feet (3048 mm) on center along hip and ridge lines and placed not less than 10 feet (3048 mm) from roof edges and the open sides of walking surfaces.

(3) Section 304.11.1 Roof edge. This section has been added to clarify the circumstances required to exist for the installation of guards at the roof edge when the components needed service are within a specific distance of the roof edge. This section has been added to read: 304.11.1 Roof edge. Guards complying with 304.11 shall be provided when components are located within 10 feet (3048 mm) of a roof edge or open side of a walking surface or elevated structure and such edge or open side is located more than 30 inches (762 mm) above the floor, roof, or grade below. The guard shall extend not less than 30 inches (762

mm) beyond each end of the component that requires service.

(4) Section 304.11.2 Skylights. This section has been added to clarify the circumstances for the installation of guards around components near skylights and to provide exceptions to the requirement. This section has been added to read: 304.11.2 Skylights. Guards complying with Section 304.11 shall be provided when a skylight is within 10 feet (3048 mm) of the component that requires service. The guard shall extend 30 inches (762 mm) beyond the edge of the skylight. Exceptions:

(A) Guards are not required when the skylight is located at least 42 inches (1067 mm) above the highest point of the walking surface adjacent to the skylight or component.

(B) Guards are not required if some other provision for skylight fall-through protection is provided and approved by the authority having jurisdiction.

(5) Section 304.11.3 Roof hatch. This section has been added to clarify the circumstances for the installation of guards around components installed within a specific distance from the roof hatch. This section has been added to read: 304.11.3 Roof hatch. Guards complying with Section 304.11 shall be provided when a roof hatch is within 10 feet (3048 mm) of the component that requires service. The guard shall extend 30 inches (762 mm) beyond the edge of the roof hatch. If the component is within 10 feet (3048 mm) of the ladder access side of the roof hatch, the guard shall incorporate a self-closing, self-latching gate. The gate shall have a top edge of not less than 42 inches (1067 mm) above the elevated surface adjacent to the gate and shall not allow the passage of a 21 inch (533 mm) sphere. If a roof hatch exists within 10 feet of a roof edge that is located more than 30 inches (762 mm) above the floor, roof or grade below and a new component that requires services on that existing roof or elevated structure, than a guard complying with Section 304.11 shall be added between the existing roof hatch and the roof edge.

(6) Section 305.5.1 Location and protection of refrigerant piping. This section has been added to provide protection for refrigerant piping installed within 1 1/2 inches (38 mm) of the underside of roof decks. This section shall read: 305.5.1 Location and protection of refrigerant piping. Refrigerant piping installed within 1 1/2 inches (38 mm) of the underside of roof decks shall be protected from damage caused by nails and other fasteners.

(7) Section 306.5 Equipment and appliances on roofs or elevated structures. This section has been modified to add a second exception for when the section would not apply. This section has been modified to read: 306.5 Equipment and appliances on roofs or elevated structures: Where equipment requiring access or appliances are located on an elevated structure or the roof of a building such that personnel will have to climb higher than 16 feet (4877 mm) above grade to access such equipment or appliances, an interior or exterior means of access shall be provided. Such access shall not require climbing over obstructions greater than 30 inches (762 mm) in height or walking on roofs having a slope greater than 4 units vertical in 12 units horizontal (33-percent slope). Such access shall not require the use of portable ladders. Where access involves climbing over parapet walls, the height shall be measured to the top of the parapet wall.

(A) Permanent ladders installed to provide the required access shall comply with the following minimum design criteria:

(i) The side railing shall extend above the parapet or roof edge not less than 30 inches (762 mm).

(ii) Ladders shall have rung spacing not to exceed 14 inches (356 mm) on center. The uppermost rung shall not be greater than 24 inches (610 mm) below the upper edge of the roof hatch, roof or parapet, as applicable.

(iii) Ladders shall have a toe spacing not less than 6 inches (152 mm) deep.

(iv) There shall be not less than 18 inches (457 mm) between rails.

(v) Rungs shall have a diameter not less than 0.75-inch (19 mm) and be capable of withstanding a 300-pound (136.1 kg) load.

(vi) Ladders over 30 feet (9144 mm) in height shall be provided with offset sections and landings capable of withstanding 100 pounds per square foot (488.2 kg divided by meters squared). Landing dimensions shall be not less than the width of the ladder served. A guard rail shall be provided on all open sides of the landing.

(vii) Climbing clearance. The distance from the centerline of rungs to the nearest permanent object on the climbing side of the ladder shall be not less than 30 inches (762 mm) measured perpendicular to the rungs. This distance shall be maintained from the point of ladder access to the bottom of the roof hatch. A minimum clear width of 15 inches (381 mm) shall be provided on both sides of the ladder measured from the midpoint of and parallel with the rungs except where cages or wells are installed.

(viii) Landing required. The ladder shall be provided with a clear and unobstructed bottom landing area having a minimum dimension of 30 inches (762 mm) by 30 inches (762 mm) centered in front of the ladder.

(ix) Ladders shall be protected against corrosion by an approved means.

(x) Access to ladders shall be provided at all times.

(B) Catwalks installed to provide the required access shall be not less than 24 inches (610 mm) wide and shall have railings as required for service platforms. Exceptions:

(i) This section shall not apply to Group R-3 occupancies.

(ii) This section shall not apply to appliance replacement.

(8) Section 307.2.1 Condensate disposal. This section has been modified to allow condensate drains to terminate to a pit or French drain when approved by the code official. This section has been modified to read: 307.2.1 Condensate disposal. Condensate from all cooling coils and evaporators shall be conveyed from the drain pan outlet to an approved place of disposal. Such piping shall maintain a minimum horizontal slope in the direction of discharge of not less than one-eighth unit vertical in 12 units horizontal (1-percent slope). Condensate drains shall be allowed to terminate to an approved pit or French drain consisting of a minimum of 24 inches by 24 inches by 24 inches (610 mm by 610 mm by 610 mm), or equivalent; of 1 inch (25 mm) washed rock. Such pits or French drains shall be located 30 inches (762 mm) minimum from outer edge of foundation to nearest edge of pit or French drain. Condensate shall not discharge into a street, alley or other areas so as to cause a nuisance.

(9) Section 307.2.3.1 Water-level monitoring devices. This section was modified to add an exception for when the section shall not apply. This section has been modified to read: 307.2.3.1 Water-level monitoring devices. On down-flow units and all other coils that do not have a secondary drain or provisions to install a secondary or auxiliary drain pan, a water-level monitoring device shall be installed inside the primary drain pan. This device shall shut off the equipment served in the event that the primary drain becomes restricted. Devices installed in the drain line shall not be permitted. Exception: This section shall not apply to appliances installed in areas outside on the ground or elevated structure where condensate overflow does not damage building components or contents.

748:20-13-9. IMC® ~~2009~~® 2015 Chapter 5 Exhaust Systems

Chapter 5 of the IMC® ~~2009~~ 2015 has been adopted with the following modifications:

~~(1) Section 507.1 General. This section has been modified to add Section 507.9 to exception number one. This section shall now read: Commercial kitchen exhaust hoods shall comply with the requirements of this section. Hoods shall be Type I or II and shall be designed to capture and confine cooking vapors and residues. Commercial kitchen exhaust hood systems shall operate during the cooking operation. Exceptions:~~

~~(A) Factory-built commercial exhaust hoods which are tested in accordance with UL 710 listed, labeled and installed in accordance with Section 304.1 shall not be required to comply with Sections 507.4, 507.7, 507.9, 507.11, 507.12, 507.13, 507.14 and 507.15.~~

~~(B) Factory-built commercial cooking recirculating systems which are tested in accordance with UL 710B, listed, labeled, and installed in accordance with Section 304.1 shall not be required to comply with Sections 507.4, 507.5, 507.7, 507.12, 507.13, 507.14, and 507.15. Spaces in which such systems are located shall be considered to be kitchens and shall be ventilated in accordance with Table 403.3. For the purpose of determining the floor area required to be ventilated, each individual appliance shall be considered as occupying not less than 100 square feet (9.3 meters squared).~~

~~(C) Net exhaust volumes for hoods shall be permitted to be reduced during part-load cooking conditions, where engineered or listed multispeed or variable speed controls automatically operate the exhaust system to maintain capture and removal of cooking effluents as required by this section. Reduced volumes shall not be below that required to maintain capture and removal of effluents from the idle cooking appliances that are operating in standby mode.~~

(1) Section 506.3.1.1 Grease duct materials. This section has been added to clarify the language between the code and NFPA 96 regarding the type of steel to be utilized. This section has been modified to read: 506.3.1.1 Grease duct materials. Grease ducts serving Type I hoods shall be constructed of non-galvanized carbon steel having a minimum thickness of 0.0575 inch (1.463 mm) (No. 16 gage) or stainless steel not less than 0.0450 inch (1.14 mm) (No. 18 gage) in thickness. Exception: Factory-built commercial kitchen grease ducts listed and labeled in accordance with UL 1978 and installed in accordance with Section 304.1.

(2) Section 507.2.~~1~~ Type I hoods. This section has been modified to add an additional exception for installation of Type II hoods when specific conditions are met. This section has been modified to read: Type I hoods shall be installed where cooking appliances produce grease or smoke as a result of the cooking process Type I hoods shall be installed over medium-duty, heavy-duty, and extra-heavy-duty cooking appliances. ~~Type I hoods shall be installed over light-duty cooking appliances that produce grease or smoke. Exception: Type II hoods shall be permitted to be installed over medium-duty cooking appliances, ranges and ovens that the code official has determined will not produce appreciable amounts of grease and/or smoke. Where cooking appliances, ranges and/or ovens have been approved by the code official for installation under a Type II hood, a sign shall be placed on the wall in close proximity to the hood that reads, "Absolutely No Frying or Grease Type Cooking Permitted."~~Exceptions:

(A) A Type I hood shall not be required for an electric cooking appliance where an approved testing agency provides documentation that the appliance effluent contains 5 mg per cubic meter when tested at an exhaust flow rate of 500 cfm (0.236 cubic meters per second) in accordance with UL 710B.

(B) In non-commercial cooking occupancies a residential or Type II hood can be installed over a medium-duty residential appliance when approved.

748:20-13-10. IMC® ~~2009~~ 2015 Chapter 6 Duct Systems

Chapter 6 of the IMC® ~~2009~~ 2015 has been adopted with the following ~~modifications~~ modification:

~~(1) Section 603.4 Metallic ducts. The exception to this section has been stricken.~~

~~(2)~~ Section 604.1 General. This section was modified to add a requirement to duct insulation to conform to SMACNA HVAC Duct Construction Standards - Metal and Flexible. This section has been modified to read: 604.1 General. Duct insulation shall conform to the requirements of Sections 604.2 through 604.13, the International Energy Conservation Code® and SMACNA HVAC Duct Construction Standards - Metal and Flexible.

748:20-13-10.1. IMC® 2015 Chapter 11 Refrigeration

Chapter 11 of the IMC® 2015 has been adopted with the following modification: Section 1102.3 Access port protection. This section has been stricken from the code.

748:20-13-11. IMC® ~~2009~~ 2015 Chapter 15 Referenced Standards

Chapter 15 of the IMC® ~~2009~~ 2015 is adopted with the following modifications:

(1) The reference to the International Building Code® has been modified to include after the title the words "as adopted and modified by the State of Oklahoma through the ~~Uniform Building Code Commission~~OUBCC."~~.~~ This section has been modified to read: ~~IBC-09~~IBC®-15 International Building Code® as adopted and modified by the State of Oklahoma through the ~~Uniform Building Code Commission~~OUBCC.

~~(2) The reference to the International Existing Building Code® has been modified to include after the title the words "as adopted and modified by the State of Oklahoma through the Uniform Building Code Commission". This section has been modified to read: IEBC-09 International Existing Building Code® as adopted and modified by the State of Oklahoma through the Uniform Building Code Commission.~~

(~~3~~2) The reference to the International Energy Conservation Code® has been modified to ~~include after the title the words "as adopted and modified by the State of Oklahoma by the State Fire Marshal until replaced by an adoption done through the Uniform Building Code Commission"~~change the edition year to 2006. This section has been modified to read: IECC®-06 International Energy Conservation Code® ~~as adopted and modified by the State of Oklahoma through the State Fire Marshal until replaced by an adoption done through the Uniform Building Code Commission~~.

(~~4~~3) The reference to the International Fire Code® has been modified to include after the title the words "as adopted and modified by the State of Oklahoma through the ~~Uniform Building Code Commission~~ OUBCC."~~.~~ This section has been modified to read: ~~IMC-09~~IFC®-15 International Fire Code® as adopted and modified by the State of Oklahoma through the ~~Uniform Building Code Commission~~OUBCC.

(~~5~~4) The reference to the International Fuel Gas Code® has been modified to include after the title the words "as adopted and modified by the State of Oklahoma through the ~~Uniform Building Code Commission~~OUBCC."~~.~~ This section has been modified to read: ~~IFGC-09~~IFGC®-15 International Fuel Gas Code® as adopted and modified by the State of Oklahoma through the ~~Uniform Building Code Commission~~ OUBCC.

(~~6~~5) The reference to the International Plumbing Code® has been modified to include after the title the words "as adopted and modified by the State of Oklahoma through the ~~Uniform Building Code Commission~~OUBCC." This section has been modified to read: ~~IPC-09~~IPC®-15 International Plumbing Code® as adopted and modified by the State of Oklahoma through the ~~Uniform Building Code Commission~~OUBCC.

(~~7~~6) The reference to the International Residential Code® 2009 has been modified to include after the title the words "as adopted and modified by the State of Oklahoma through the ~~Uniform Building Code Commission~~OUBCC."~~.~~ This section has been modified to read: IRC®-09 International Residential Code® as adopted and modified by the State of Oklahoma through the ~~Uniform Building Code Commission~~OUBCC.

(~~8~~7) The referenced standard for NFPA 70® National Electrical Code® has been modified to ~~change the edition year from 2008 to 2011 and~~ include after the title the words "as adopted and modified by the State of Oklahoma through the ~~Uniform Building Code Commission~~OUBCC."~~.~~ This section shall now read: ~~70-11~~70-14 National Electrical Code® as adopted and modified by the State of Oklahoma through the ~~Uniform Building Code Commission~~OUBCC.

SUBCHAPTER 15. IPC® ~~2009~~ 2015

748:20-15-1. Adoption of International Plumbing Code®, ~~2009~~ 2015 Edition (IPC® ~~2009~~ 2015)

(a) The Oklahoma Uniform Building Code Commission (the ~~Commission~~"OUBCC") hereby adopts the International Plumbing Code®, ~~2009~~ 2015 Edition (IPC® 2015) as amended and modified in this subchapter as the statewide minimum code for commercial plumbing construction in the State of Oklahoma pursuant to 59 O.S. 1000.23.

(b) The OUBCC through formal action expressly chose to adopt the IPC®, 2015 as amended and modified in this subchapter, as the statewide minimum code for commercial plumbing construction in the State of Oklahoma. In like manner, the OUBCC through formal action expressly chose not to adopt the International Plumbing Code®, 2012 Edition (IPC®, 2012) for any purpose.

748:20-15-2. Effect of Adoption

The International Plumbing Code®, ~~2009~~ 2015 Edition (IPC® ~~2009~~ 2015), as amended and revised by these rules, ~~are~~is hereby established and adopted as the statewide minimum ~~standards~~code for commercial plumbing construction in Oklahoma pursuant to 59 O.S. § 1000.23, and may only be amended or altered by other jurisdictions pursuant to Oklahoma law and the administrative rules of the ~~Oklahoma Uniform Building Code Commission~~OUBCC as set forth in Title 748, Chapter 15 of the Oklahoma Administrative Code.

748:20-15-3. IPC® ~~2009~~ 2015 Appendices

(a) None of the appendices of the IPC® ~~2009~~ 2015 have been adopted by the ~~Commission~~ OUBCC for inclusion in the statewide minimum ~~standards~~code for commercial plumbing construction in the State of Oklahoma.

(b) Appendices A through ~~G~~E are not adopted as the statewide minimum ~~standards~~code for commercial plumbing construction within the State of Oklahoma. However, other jurisdictions within ~~this~~the State of Oklahoma may adopt any or all of said appendices in accordance with 59 O.S. § 1000.29.

748:20-15-4. IPC® ~~2009~~ 2015 Provisions Adopted and Modified

(a) All chapters and provisions within chapters, including exceptions, of the IPC® ~~2009~~ 2015 not specifically addressed within these rules as being modified, deleted, moved or removed are hereby adopted without modification as the statewide minimum ~~standards~~code for commercial plumbing construction within the State of Oklahoma pursuant to 59 O.S. § 1000.23. Chapters and provisions within chapters, including exceptions adopted with modifications are specifically addressed in these rules.

(b) To the extent any references in the IPC® 2015 as amended and modified in this sub-chapter are made to any other code or standard, the particular edition for that reference is defined in the referenced standards found in the IPC®, 2015 as amended and modified in this sub-chapter and in Chapter 15 entitled "Referenced Standards".

748:20-15-5. Participation in Federal Programs and/or Federally Funded or Financed Projects

In order to maximize federal financial aid, assistance, participation, financing and/or funding in any public project(s) and/or federal financial aid, participation, funding for and participation in any federal program(s) by the State of Oklahoma, its agencies, public trusts and instrumentalities, or by any Oklahoma municipalities and other political subdivisions, that receive financial aid, assistance, participation, financing and/or funding for and participate in any federal program(s), the State of Oklahoma, its agencies and instrumentalities, and any Oklahoma municipalities and other political subdivisions, may cooperate with the United States Government and any agency or instrumentality thereof, in the manner authorized and provided by federal law and regulation and in doing so may perform all necessary functions and take all necessary actions for accomplishing such federal purposes and programs, including but not limited to, following and/or complying with federal laws, regulations and/or requirements arising from or related to federal financial aid, assistance, participation, financing and/or funding, in the construction, alteration, movement, enlargement, replacement, repair, equipment, use and occupancy, location, improvement, expansion, operation, maintenance, removal, and demolition of buildings and structures or any appurtenances attached to such buildings or structures, notwithstanding any provisions of any and all uniform building codes and standards adopted by the ~~Oklahoma Uniform Building Code Commission~~OUBCC to the contrary.

748:20-15-6. IPC® ~~2009~~ 2015 Chapter 1 Scope and Administration

Chapter 1 of the Oklahoma adopted IPC® ~~2009~~ 2015, includes the following Preamble at the very beginning of the chapter:

(1) Pursuant to 59 O.S. § 1000.23, the ~~Uniform Building Code Commission~~OUBCC has adopted the ~~International Plumbing Code®, 2009 Edition (~~IPC® ~~2009~~ 2015~~)~~ as amended and revised by the ~~Commission~~OUBCC, as the statewide minimum ~~standards~~ code to be used by all entities for commercial plumbing construction in jurisdictions throughout the State of Oklahoma. However, the ~~Commission's~~OUBCC's adoption of Chapter 1 "Scope and Administration" of the IPC® ~~2009~~ 2015 is for continuity purposes and the ~~Commission's~~OUBCC's adoption of Chapter 1 recognizes the methods of best practice in fully implementing the statewide minimum ~~standards~~code for commercial plumbing construction.

(2) All provisions of the adopted IPC® ~~2009~~ 2015, including Chapter 1, as amended and revised by the ~~Commission~~OUBCC, are hereby established and adopted as the statewide minimum ~~standards~~code for commercial plumbing construction in Oklahoma pursuant to 59 O.S. § 1000.23, which may only be amended or altered pursuant to Oklahoma law and the administrative rules of the ~~Oklahoma Uniform Building Code Commission~~OUBCC as set forth in Title 748, Chapter 15 of the Oklahoma Administrative Code. However, the provisions of Chapter 1 adopted herein are only intended to be in force and effect to the extent that the respective provisions do not conflict with State law or the lawful exercise of code administration and enforcement jurisdiction by entities empowered to do so pursuant to applicable law.

(3) Section 106.1.1 Annual permit. This section has been modified to clarify what an annual permit is. This section shall read: An annual permit is a yearly permit which represents a group of individual permits for each alteration to an already approved electrical, gas, mechanical or plumbing installation. The building official is authorized to issue an annual permit upon application therefor to any person, firm or corporation regularly employing one or more qualified tradespersons in the building, structure or on the premises owned or operated by the applicant for the permit.

(4) Section 106.1.2 Annual permit records. This section has been modified to require the building official to

collect the OUBCC permit fee for each individual permit that is part of the annual permit at the completion of the annual permit term. This section has been modified to read: Annual permit records. The person to whom an annual permit is issued shall keep a detailed record of alterations made under such annual permit. The building official shall have access to such detailed records of alterations at all times. At the completion of the entity's annual permit term, the applicant shall file such detailed records of alterations with the building official. Pursuant to the authority of 59 O.S. § 1000.25, the building official shall collect fees for each individual permit which is part of the annual permit once the detailed records are submitted and remit such fees to the OUBCC.

(~~3~~5) The ~~Commission's~~OUBCC adoption of Chapter 1 in this manner is made with the recognition that the legal authority granting state and local code administration and enforcement jurisdictions the power and discretion to administer and enforce codes arises from Oklahoma laws governing those jurisdictions. Furthermore, the ~~Commission~~ OUBCC also recognizes that many state and local code administration and enforcement jurisdictions have already created, or have the lawful authority to create, departments, offices and administrative policies pursuant to various applicable laws and other adopted model codes with "Scope and Administration" provisions similar to Chapter 1 of the adopted IPC® ~~2009~~ 2015.

(~~4~~6) This limited adoption of Chapter 1 is made in recognition of the authority and discretion possessed by jurisdictions to administer and enforce building codes. Exercising such authority and jurisdiction in a manner inconsistent with Chapter 1 must be supported by Oklahoma law. Code administration and enforcement jurisdictions shall not use the ~~Commission's~~OUBCC'S limited adoption of Chapter 1 to circumvent the remainder of the requirements established by the Oklahoma adopted IPC® ~~2009~~ 2015 and the ~~Commission~~OUBCC will strongly oppose any such practice.

748:20-15-7. IPC® ~~2009®~~ 2015 Chapter 2 Definitions

Chapter 2 of the IPC® ~~2009~~ 2015 is adopted with the following ~~modifications~~ modification:~~The definition of a Grease Interceptor has been modified to delete the original definition and add definitions for hydromechanical and gravity grease interceptors. This section has been modified to read:~~

~~(1) Hydromechanical. Plumbing appurtenances that are installed in the sanitary drainage system to intercept free floating fats, oils, and grease from waste water discharge. Continuous separation is accomplished by air entrainment, buoyancy and interior baffling.~~

~~(2) Gravity. Plumbing appurtenances of not less than 500 gallons (1893 L) capacity that are installed in the sanitary drainage system to intercept free floating fats, oils and grease from waste water discharge. Separation is accomplished by gravity during a retention time of not less than 30 minutes.~~The definition of a building drain has been modified to align with the industry standard where the site sewer (civil) picks up 5 feet outside of the building. This definition has been modified to read: Building Drain. That part of the lowest piping of a drainage system that receives the discharge from soil, waste, and other drainage pipes inside and that extends 5 feet (1524 mm) in developed length of pipe beyond the exterior walls of the building and conveys the drainage to the building sewer.

748:20-15-8. IPC® ~~2009~~ 2015 Chapter 3 General Regulations

Chapter 3 of the IPC® ~~2009~~ 2015 is adopted with the following modifications:

(1) Section 305.3 Pipes through foundations walls. This section has been modified to require the relieving arch or pipe sleeve pipe to conform with the materials and standards listed in Table 702.2 or as approved by the authority having jurisdiction. This section has been modified to read: 305.3 Pipes through foundation walls. Any pipe that passes through a foundation wall shall be provided with a relieving arch or pipe sleeve pipe shall be built into the foundation wall. The relieving arch or pipe sleeve shall conform to one of the materials and standards listed in Title 702.2, or as approved. The sleeve shall be two pipe sizes greater than the pipe passing through the wall.

(~~1~~2) Section ~~305.6.1~~305.4.1 Sewer depth. This section has been modified to include a depth for the septic tank connection unless otherwise approved by the authority having jurisdiction. This section has been modified to read: 305.4.1 Sewer depth. Building sewers that connect to private sewage disposal systems shall be a minimum of 12 inches (305 mm) or as approved by the authority having jurisdiction below finished grade at the point of septic tank connection. Building sewers shall be a minimum of 12 inches (305 mm) below grade.

~~(2) Section 312.1 Required tests. This section has been modified to allow the authority having jurisdiction to determine if the tests will be done using water or air and if a final test of the entire system will be required. This section has been modified to read: The permit holder shall make the applicable tests prescribed in Sections 312.2 through 312.10 to determine compliance with the provisions of this code. The permit holder shall give reasonable advance notice to the code official when the plumbing work is ready for tests. The equipment, material, power and labor necessary for the inspection and test shall be furnished by the permit holder and the permit holder shall be responsible for determining that the work will withstand the test pressure prescribed in the following tests. All plumbing system piping shall be tested with either water or, for piping systems other than plastic, by air as approved. After the plumbing fixtures have been set and their traps filled with water, the entire drainage system shall be submitted to final tests when required by the authority having jurisdiction. The code official shall require the removal of any cleanouts if necessary to ascertain whether the pressure has reached all parts of the system.~~

(3) Section 312.2 Drainage and vent water test. This section has been modified to ~~allow the authority having~~

~~jurisdiction to specify~~change the test ~~may be done with less than~~ from a requirement of a 10 foot (3048 mm) head of water to a requirement of a 5 foot (1524 mm) head of water. This section has been modified to read: 312.2 Drainage and vent water test. A water test shall be applied to the drainage system either in its entirety or in sections. If applied to the entire system, all openings in the piping shall be tightly closed, except the highest opening, and the system shall be filled with water to the point of overflow. If the system is tested in sections, each opening shall be tightly plugged except the highest openings of the section under test, and each section shall be filled with water, but no section shall be tested with less than a ~~10 foot~~5 foot (~~3048~~1524 mm) head of water ~~or as required~~. In testing successive sections, at least the upper ~~10~~5 feet (~~3048~~1524 mm) of the next preceding section shall be tested so that no joint or pipe in the building, except the uppermost ~~10~~5 feet (~~3048~~1524 mm) of the system, shall have been submitted to a test of less than a ~~10 foot~~5 foot (~~3048~~1524 mm) head of water ~~or as required~~. This pressure shall be held for at least 15 minutes. The system shall then be tight at all points.

(4) Section 312.3 Drainage and vent air test. This section has been modified to ~~remove the words "and vent" to the section title~~change the equivalent pressure for the inches of mercury to match the feet of water change made for the drainage and vent test. This section has been modified to read: 312.3 Drainage and vent air test. Plastic piping shall not be tested using air. An air test shall be made by forcing air into the system until there is a uniform gauge pressure of 2.5 psi (17.25 kPa) or sufficient to balance a 5-inch (127 mm) column of mercury. This test shall be held for a period of not less than 15 minutes. Any adjustments to the test pressure required because of changes in ambient temperatures or the seating of gaskets shall be made prior to the beginning of the test period.

~~(5) Section 312.4 Drainage and vent final test. This section has been modified to allow the authority having jurisdiction to determine if the test is required. It has been modified to read: The final test of the completed drainage and vent systems where required shall be visual and in sufficient detail to determine compliance with the provisions of this code. Where a smoke test is utilized, it shall be made by filling all traps with water and then introducing into the entire system a pungent, thick smoke produced by one or more smoke machines. When the smoke appears to stack openings on the roof, the stack openings shall be closed a pressure equivalent to a 1 inch water column (248.8 Pa) shall be held for a test period of not less than 15 minutes.~~

~~(6) Section 312.5 Water supply system test. This section has been modified to allow the authority having jurisdiction to determine another approved system for testing. This section has been modified to read: Upon completion of a section of or the entire water supply system, or portion completed, shall be tested and proved tight under a water pressure not less than the working pressure of the system; or, for piping systems other than plastic or as approved, by an air test of not less than 50 psi (344 kPa). This pressure shall be held for at least 15 minutes. The water utilized for tests shall be obtained from a potable source of supply. The required tests shall be performed in accordance with this section and Section 107.~~

(~~7~~5) 312.6 Gravity sewer test. This section has been modified to allow the authority having jurisdiction to determine if this test is required and change the test from a 10 foot (3048 mm) head of water test to a 5 foot (1024 mm) head of water test. This section has been modified to read: ~~Section~~ 312.6 Gravity sewer test. Where required, gravity sewer tests shall consist of plugging the end of the building sewer at the point of connection with the public sewer, filling the building sewer with water, testing with not less than a ~~10 foot~~5 foot (~~3048~~1024 mm) head of water and maintaining such pressure for 15 minutes.

~~(8) 312.9 Shower liner test. This section has been modified to allow the authority having jurisdiction to determine if this test is required. This section has been modified to read: Where shower floors and receptors are made water tight by the application of materials required by Section 417.5.2, the completed liner installation, where required by the authority having jurisdiction, shall be tested. The pipe from the shower drain shall be plugged water tight for the test. The floor and receptor area shall be filled with potable water to a depth of not less than 2 inches (51 mm) measured at the threshold. Where a threshold of at least 2 inches (51 mm) high does not exist, a temporary threshold shall be constructed to retain the test water in the lined floor or receptor area to a level not less than 2 inches (51 mm) deep measured at the threshold. The water shall be retained for a test period of not less than 15 minutes, and there shall not be evidence of leakage.~~

(6) Section 312.10.1 Inspections. This section was modified to allow for third-party inspections to be accepted by the code official. This section has been modified to read: 312.10.1 Inspections. Annual inspections shall be made of all backflow prevention assemblies and air gaps to determine whether they are operable, in accordance with Chapter 1, Sections 104.3 and 105.3.2

~~(9) Section 314.1 General. This section has been modified to delete the original section and add a requirement to reference the International Mechanical Code for work with condensate disposal. This section has been modified to read: Condensate disposal shall be in accordance with the International Mechanical Code.~~

~~(10) Section 314.2 Evaporators and cooling coils. This section has been stricken from the code.~~

~~(11) Section 314.2.1 Condensate disposal. This section has been stricken from the code.~~

~~(12) Section 314.2.2 Drain pipe materials and sizes. This section has been stricken from the code.~~

~~(13) Table 314.2.2 Condensate drain sizing. This table has been stricken from the code.~~

~~(14) Section 314.2.3 Auxiliary and secondary drain system. This section has been stricken from the code.~~

~~(15) Section 314.2.3.1 Water level monitoring devices. This section has been stricken from the code.~~

~~(16) Section 314.2.3.2 Appliance, equipment and insulation in pans. This section has been stricken from the code.~~

~~(17) Section 314.2.4 Traps. This section has been stricken from the code.~~

748:20-15-9. IPC® ~~2009~~ 2015 Chapter 4 Fixtures, Faucets and Fixture Fittings

Chapter 4 of the IPC® ~~2009~~ 2015 is adopted with the following ~~modifications~~ modification:

~~(1) Table 403.1 Minimum number of required plumbing fixtures. This table has been modified to include a footnote "g" in the Other column of the table at the end of the service sink requirement to number 2 (classification of business), and number 6 (classification of mercantile).The footnote "g" shall read: For business and mercantile occupancies with an occupant load of 15 or fewer, service sinks shall not be required.~~

~~(2) Section 403.2 Separate facilities. This section was modified to change the maximum occupant load in exception three from 50 to 100. This section shall now read: Where plumbing fixtures are required, separate facilities shall be provided for each sex. Exception:~~

~~(A) Separate facilities shall not be required for dwelling units and sleeping units.~~

~~(B) Separate facilities shall not be required in structures or tenant spaces with a total occupancy load, including both employees and customers, of 15 or less.~~

~~(C) Separate facilities shall not be required in mercantile occupancies in which the maximum occupant load is 100 or less.~~

~~(3) Section 403.3.1.1 Toilet room ingress and egress. This section was added to the code to restrict toilet rooms from opening directly into a room used for the preparation of food for service to the public. This section shall read: Toilet rooms shall not open directly into a room used for the preparation of food for service to the public.~~

~~(4)~~ Section 405.8 Slip joint connections. This section has been modified to allow ~~installation of slip joints anywhere between the fixture and trap outlet~~the gasket to be installed from the fixture outlet to within 18 inches (457 mm) downstream of the trap outlet seal. It has been modified to read: 405.8 Slip joint connections. Slip joints shall be made with an approved elastomeric gasket and shall only be installed from fixture outlet to ~~trap—outlet seal~~within 18 inches (457 mm) downstream of trap outlet seal. Fixtures with concealed slip-joint connections shall be provided with an access panel or utility space at least 12 inches (305 mm) in its smallest dimension or other approved arrangement so as to provide access to the slip joint connections for inspection and repair.

~~(5) Section 417.5.2.6 Liquid type, trowel applied, load bearing, bonded water proof materials. This section has been added to allow for new technology in the market. This section shall read: Liquid type, trowel applied, load bearing, bonded waterproof materials shall meet the requirements of ANSI A118.10 and shall be applied in accordance with the manufacturer's installation instructions.~~

748:20-15-10. IPC® 2009 Chapter 5 Water Heaters [REVOKED]

~~Chapter 5 of the IPC® 2009 is adopted with the following modifications:~~

~~(1) Section 504.4.1 Installation. This section has been modified to provide for pressure relief on storage tanks that have an ability to heat water. This section has been modified to read: Such valves shall be installed in the shell of the water heater tank. Temperature relief valves shall be so located in the tank as to be actuated by the water in the top 6 inches (152 mm) of the tank served. For installations with separate storage tanks, the approved, self-closing (levered) pressure relief valve and the temperature relief valve or combination thereof conforming to ANSI Z21.22 valves shall be installed on both the storage water heater and storage tank. There shall not be a check valve or shutoff valve between a relief valve and the heater or tank served.~~

~~(2) Section 504.6 Requirements for discharge piping. This section has been modified to include an additional requirement where discharging to outdoor areas subject to freezing. This section has been modified to read: The discharge piping serving a pressure relief valve, temperature relief valve or combination thereof shall:~~

~~(A) Not be directly connected to the drainage system.~~

~~(B) Discharge through an air gap located in the same room as the water heater.~~

~~(C) Not be smaller than the diameter of the outlet of the valve served and shall discharge full size to the air gap.~~

~~(D) Serve a single relief device and shall not connect to piping serving any other relief device or equipment.~~

~~(E) Discharge to the floor, to the pan serving the water heater or storage tank, to a waste receptor or to the outdoors.~~

~~(F) Discharge in a manner that does not cause personal injury or structural damage.~~

~~(G) Discharge to a termination point that is readily observable by the building occupants.~~

~~(H) Not be trapped.~~

~~(I) Be installed so as to flow by gravity.~~

~~(J) Not terminate more than 6 inches (152 mm) above the floor or waste receptor.~~

~~(K) Not have a threaded connection at the end of such piping.~~

~~(L) Not have valves or tee fittings.~~

~~(M) Be constructed of those materials listed in Section 605.4 or materials tested, rated and approved for such use in accordance with ASME A112.4.1~~

~~(N) Where discharging to the outdoors in areas subject to freezing, discharge piping shall be first piped to an indirect waste receptor through an air gap located in a conditioned area.~~

748:20-15-11. IPC® ~~2009~~ 2015 Chapter 6 Water Supply and Distribution

Chapter 6 of the IPC® ~~2009~~ 2015 is adopted with the following modifications:

~~(1) Section 605.3 Water service pipe. This section has been modified to require piping materials not third-party certified for water distribution to terminate a minimum of 30 inches outside the structure. This section has been modified to read: Water service pipe shall conform to NSF 61 and shall conform to one of the standards listed Table 605.3. All water service pipe or tubing, installed underground and outside of the structure, shall have a minimum working pressure rating of 160 pounds per square inch (1100 kPa) at 73.4 degrees Fahrenheit (23 degrees Celsius). Where the water pressure exceeds 160 pounds per square inch, (1100 kPa), piping materials shall have a minimum rated working pressure equal to the highest available pressure. Water service piping materials not third-party certified for water distribution shall terminate a minimum of 30 inches (762 mm) outside the structure at or before the full open valve located at the entrance to the structure. All ductile iron water service piping shall be cement mortar lined in accordance with AWWA C104.~~

(1) Section 604.5 Size of fixture supply. This section has been modified to add an exception to allow domestic dishwashers and drinking fountains to terminate more than 30 inches (762 mm) from the point of connection to the fixture. This section has been modified to read: 604.5 Size of fixture supply. The minimum size of a fixture supply pipe shall be as shown in Table 604.5. The fixture supply pipe shall terminate not more than 30 inches (762 mm) from the point of connection to the fixture. A reduced size flexible water connector installed between the supply pipe and the fixture shall be of an approved type. The supply pipe shall extend to the floor or wall adjacent to the fixture. The minimum size of individual distribution lines utilized in gridded or parallel water distribution systems shall be as shown in Table 604.5. Exception: The fixture supply pipe for domestic dishwashers and drinking fountains shall be permitted to be terminated more than 30 inches (762 mm) from the point of connection to the fixture.

~~(2) Section 606.1 Location of full open valves. This section has been modified to delete a requirement to install full open valves on the discharge side of every water meter. This section has been modified to read: Full open valves shall be installed in the following locations:~~

~~(A) On the building water service pipe from the public water supply near the curb.~~

~~(B) On the water distribution supply pipe at the entrance into the structure.~~

~~(C) On the base of every water riser pipe in occupancies other than multiple family residential occupancies that are two stories or less in height and in one and two family residential occupancies.~~

~~(D) On the top of every water down feed pipe in occupancies other than one- and two family residential occupancies.~~

~~(E) On the entrance to every water supply pipe to a dwelling unit, except where supplying a single fixture equipped with individual stops.~~

~~(F) On the water supply pipe to a gravity or pressurized water tank.~~

~~(G) On the water supply pipe to every water heater.~~

~~(3) Section 607.1.1 Temperature limiting means. This section was added to restrict a thermostat control for a water heater to serve as the temperature limiting means for the purpose of complying with the requirements of the code for maximum allowable hot or tempered water delivery temperatures at fixtures. This section shall read: A thermostat control for a water heater shall not serve as the temperature limiting means for the purposes of complying with the requirements of this code for maximum allowable hot or tempered water delivery temperatures at fixtures.~~

(~~4~~2) Section 608.16.5 Connections to lawn irrigation systems. This section has been modified to add a spill resistant backflow preventer as an option for protection. This section has been modified to read: 608.16.5 Connections to lawn irrigation systems. The potable water supply to lawn irrigation systems shall be protected against backflow by an atmospheric-type vacuum breaker, a pressure-type vacuum breaker assembly, a spill resistant backflow preventer or a reduced pressure principle backflow preventer. A valve shall not be installed downstream from an atmospheric vacuum breaker. Where chemicals are introduced into the system, the potable water supply shall be protected against backflow by a reduced pressure principle backflow preventer assembly.

748:20-15-12. IPC® ~~2009~~ 2015 Chapter 7 Sanitary Drainage

Chapter 7 of the IPC® ~~2009~~ 2015 is adopted with the following modifications:

~~(1) Section 707.1 Prohibited joints. This section has been modified to include an exception for saddle-type fittings to be used for connecting a building sewer to a public sewer. This section has been modified to read: The following types of joints and connections shall be prohibited:~~

~~(A) Cement or concrete joints.~~

~~(B) Mastic or hot-pour bituminous joints.~~

~~(C) Joints made with fittings not approved for the specific installation.~~

~~(D) Joints between different diameter pipes and made with elastomeric rolling O-rings.~~

~~(E) Solvent cement joints between different types of plastic pipe.~~

~~(F) Saddle-type fittings. Exception: Saddle-type fittings may be used to connect the building sewer to a public sewer.~~

(1) Section 705.11.2 Solvent cementing. This section has been modified to delete the exceptions for not using primer under certain conditions. This section has been modified to read: 705.11.2 Solvent cementing. Joint surfaces shall be clean and free from moisture. A purple primer that conforms to ASTM F 656 shall be applied.

Solvent cement not purple in color and conforming to ASTM D 2564, CSA B137.3, CSA B181.2 or CSA B182.1 shall be applied to all joint surfaces. The joint shall be made while the cement is wet and shall be in accordance with ASTM D 2855. Solvent-cement joints shall be permitted above or below ground.

~~(2) Section 715.1 Sewage backflow. This section has been modified by striking the requirements of plumbing fixtures having flood level rims above the elevation of the next upstream manhole cover in the public sewer system. It has been modified to read: Where plumbing fixtures are installed on a floor with a finished floor elevation below the elevation of the manhole cover of the next upstream manhole in the public sewer, the fixtures shall be protected by a backwater valve installed in the building drain or horizontal branch servicing such fixtures.~~

(2) Section 708.1.3 Building drain and building sewer junction. This section has been modified to change the requirement for the cleanout to be located at the junction or from within 10 feet to within 12 feet of the developed length of piping upstream of the junction. This section has been modified to read: 708.1.3 Building drain and building sewer junction. The junction of the building drain and the building sewer shall be served by a cleanout that is located at the junction or within 12 feet (3658 mm) of the developed length of piping upstream of the junction. For the requirements of this section, the removal of the water closet shall not be required to provide cleanout access.

748:20-15-13. IPC® 2009 Chapter 8 Indirect/Special Waste [REVOKED]

~~Chapter 8 of the IPC® 2009 is adopted with the following modification: Section 802.1.8 Food utensils, dishes, pots and pans sinks. This section was modified to remove the option for a direct connection to the drainage system. This section has been modified to read: Sinks used for the washing, rinsing or sanitizing of utensils, dishes, pots, pans or serviceware used in the preparation, serving or eating of food shall discharge indirectly through an air gap or an air break to the drainage system.~~

748:20-15-14. IPC® ~~2009~~ 2015 Chapter 9 Vents

Chapter 9 of the IPC® ~~2009~~ 2015 is adopted with the following modification: Section ~~904.1~~903.1 Roof extension. This section has been modified to specify the number of inches where the open vent pipes that extend through the roof shall be terminated. This section has been modified to read: 903.1 Roof extension.~~All open~~Open vent pipes that extend through a roof shall be terminated ~~at least 6~~not less than 10 inches (~~152~~ 254 mm) above the roof~~, except that~~.~~where~~Where a roof is to be used for ~~any~~assembly or as a promenade, observation deck, sunbathing deck or similar~~purpose~~purposes~~other than weather protection, the~~ open vent ~~extensions~~pipes shall ~~be run at least~~terminate not less than 7 feet (2134 mm) above the ~~roof~~ finished occupiable surface within 10 feet (3048 mm) horizontal distance.

748:20-15-15. IPC® ~~2009~~ 2015 Chapter 10 Traps, Interceptors, and Separators

Chapter 10 of the IPC® ~~2009~~ 2015 is adopted with the following modification: Section 1003.4 Oil separators required. This section has been modified to add a second exception to the requirement for installing an oil separator. This section has been modified to read: 1003.4 Oil separators required. At repair garages where floor or trench drains are provided, car washing facilities, factories where oily and flammable liquid wastes are produced and hydraulic elevator pits, oil separators shall be installed into which oil-bearing, grease-bearing or flammable wastes shall be discharged before emptying into the building drainage system or other point of disposal. Exceptions:

(1) An oil separator is not required in hydraulic elevator pits where an approved alarm system is installed. Such alarm systems shall not terminate the operation of pumps utilized to maintain emergency operation of the elevator by fire fighters.

(2) Oil separators shall not be required in a non-hydraulic elevator pit.

~~(1) Section 1002.4 Trap seals. This section has been modified to allow for new technology to be utilized for installation when approved by the authority having jurisdiction. This section has been modified to read: Each fixture trap shall have a liquid seal of not less than 2 inches (51 mm) and not more than 4 inches (102 mm), or deeper for special designs relating to accessible fixtures. Where a trap seal is subject to loss by evaporation, a trap seal primer valve or other approved trap seal device shall be installed. Trap seal primer valves shall connect to the trap at a point above the level of the trap seal. A trap seal primer valve shall conform to ASSE 1018 or ASSE 1044.~~

~~(2) Section 1003.3.1 Grease interceptors and automatic grease removal devices required. This section has been modified to allow for installation of grease interceptors on or above the floor when there is a lack of space or other constraints that prevent the installation of a replacement grease interceptor. This section has been modified to read: A grease interceptor or automatic grease removal device shall be required to receive the drainage from fixtures and equipment with grease laden waste located in food preparation areas, such as in restaurants, hotel kitchens, hospitals, school kitchens, bars, factory cafeterias and clubs. Fixtures and equipment shall include pot sinks, prerinse sinks; soup kettles or similar devices; wok stations; floor drains or sinks into which kettles are drained; automatic hood washing units and dishwashers without prerinse sinks. Grease interceptors and automatic grease removal devices shall receive waste only from fixtures and equipment that allow fats, oils or grease to be discharged. Where lack of space or other constraints prevent the installation or replacement of a grease interceptor, one or more grease interceptors shall be permitted to be installed on or above the floor.~~

~~(3) Section 1003.3.4 Hydromechanical grease interceptors and automatic grease removal devices. This section has been modified to reference only hydromechanical~~

~~grease interceptors provide standards for hydromechanical grease interceptors and removes the exception to locate grease interceptors over 500 gallons outdoors. This section has been modified to read: Hydromechanical grease interceptors and automatic grease removal devices shall be sized in accordance with ASME A112.14.3 Appendix A, or ASME A112.14.4, CSA B481.3, or PDI G101. Hydromechanical grease interceptors and automatic grease removal devices shall be designed and tested in accordance with ASME 112.14.3 or ASME 112.14.4, CSA B481.1, PDI G101 or PDI G102. Hydromechanical grease interceptors and automatic grease removal devices shall be installed in accordance with the manufacturer's instructions. Where manufacturer's instructions are not provided, hydromechanical grease interceptors and grease removal devices shall be installed in compliance with ASME A112.14.3, ASME A112.14.4, CSA B481.3 or PDI G101. This section shall not apply to gravity grease interceptors.~~

748:20-15-16. IPC® ~~2009~~ 2015 Chapter 11 Storm Drainage

Chapter 11 of the IPC® ~~2009~~ 2015 is adopted with the following ~~modification~~ modifications:

(1) Section 1101.7 Roof design. This section has been modified to change the section number for the requirement to accommodate the design rate for secondary roof drainage from Section 1106 to Section 1108. This section has been modified to read: 1101.7 Roof design. Roofs shall be designed for the maximum possible depth of water that will pond thereon as determined by the relative levels of roof deck and overflow weirs, scuppers, edges or serviceable drains in combination with the deflected structural elements. In determining the maximum possible depth of water, all primary roof drainage means shall be assumed to be blocked. The maximum possible depth of water on the roof shall include the height of the water required above the inlet of the secondary roof drainage means to achieve the required flow rate of secondary drainage means to accommodate the design rainfall rate as required by Section 1108.

(2) Table 1108.1 Size of secondary scuppers for a 10.2-inch per hour rate of rainfall. This table has been added to the code to provide sizing for secondary scuppers for a 10-2-inch per hour rate of rainfall. The Table shall read as: Table 1108.1 Size of Secondary Scuppers for a 10.2-inch per hour rate of rainfall. A table has been inserted with two columns, both with four rows beneath. The first column title is "Head in inches" and the second column title is "Horizontally Projected Roof Area (square feet) Length of Weir in inches". The second column should have seven sub-columns labeled 4, 6, 8, 12, 16, 20 and 24.

(A) Below is the "Head in inches" column with the corresponding "Length of Weir in inches" for each of the sub-columns:

(i) Row 1. Head in inches, sub-column 4 is 112, sub-column 6 is 169, sub-column 8 is 226, sub-column 12 is 339, sub-column 16 is 452, sub-column 20 is 565, and sub-column 24 is 678.

(ii) Row 2. Head in inches, sub-column 4 is 314, sub-column 6 is 471, sub-column 8 is 628, sub-column 12 is 942, sub-column 16 is 1256, sub-column 20 is 1571, and sub-column 24 is 1885.

(iii) Row 3. Head in inches, sub-column 4 is 565, sub-column 6 is 848, sub-column 8 is 1130, sub-column 12 is 1696, sub-column 16 is 2262, sub-column 20 is 2828, and sub-column 24 is 3393.

(iv) Row 4. Head in inches, sub-column 4 is 879, sub-column 6 is 1319, sub-column 8 is 1759, sub-column 12 is 2637, sub-column 16 is 3519, sub-column 20 is 4399, and sub-column 24 is 5279.

(B) Beneath the column the following should be added: For SI: 1 inch equals 25.4 mm. Notes:

(i) To adjust this table for other than a 10.2-inch design rain fall rate multiply the square footage on the table by 10.2 then divide by the design rainfall rate.

(ii) This table does not apply to scuppers with a vertical opening height that is less than the head height. Example: For 4 inches of design rainfall rate, a 4-inch long scupper with a 1-inch head would accommodate 286 square feet. (112 times 10.2) divided by 4 equals 286.

(3) Section ~~1107.3~~1108.3 Sizing of secondary drains. This section has been modified to include the use of scuppers or increase the sizing of secondary drains to accommodate rainfalls of 10.2 inches per hour ~~for a 5-minute duration~~ and includes minimum design loads. This section has been modified to read: 1108.3 Sizing of secondary drains. Secondary (emergency) roof drain systems or scuppers shall be sized in accordance with Section ~~1106~~1108 based on a rainfall rate of 10.2 inches per hour. In sizing secondary roof drain systems using Tables 1106.2, 1106.3 and 1106.6, the Horizontally Projected Roof Area shall be determined by dividing the Horizontally Projected Roof Area for 1-inch rain fall per hour rate by 10.2 inches per hour. ~~Secondary roof scuppers shall by designed in accordance with ASCE/SEI 7-05 Minimum Design Loads for Buildings and Other Structures, Chapter 8 C8 RAIN LOADS published by the American Society of Civil Engineers and Structural Engineering Institute.~~ Scuppers shall be sized to prevent the depth of ponding water from exceeding that for which the roof was designed as determined by Section 1101.7. Scuppers shall not have an opening dimension of less than 4 inches (102 mm). The flow through the primary system shall not be considered when sizing the secondary roof drain system or scuppers. Scuppers shall be sized in accordance with Table 1108.1 or by other national methods using the head height of water and flow rate of the scupper.

748:20-15-16.1. IPC® 2015 Chapter 13 Nonpotable Water Systems

Chapter 13 of the IPC® is adopted with the following modification: Section 1301.9.6 Overflow. This section has been modified to require the section to apply to any walkway not just those on roofs. This section has been modified to read: 1301.9.6 Overflow. The storage tank shall be equipped with an overflow pipe having a diameter not less than that shown in Table 606.5.4. The overflow pipe shall be protected from insects or vermin and shall discharge in a manner consistent with storm water runoff requirements of the jurisdiction. The overflow pipe shall discharge at a sufficient distance from the tank to avoid damaging the tank foundation or the adjacent property. Drainage from overflow pipes shall be directed to prevent freezing on walkways. The overflow drain shall not be equipped with a shutoff valve. A cleanout shall be provided on each overflow pipe in accordance with Section 708.

748:20-15-17. IPC® ~~2009~~ 2015 Chapter ~~13~~15 Referenced Standards

Chapter ~~13~~15 of the IPC® ~~2009~~ 2015 is adopted with the following modifications:

~~(1) The standard ASCE/SEI 7-05 Minimum Design Loads for Buildings and Other Structures, C8 RAIN LOADS, published by the American Society of Civil Engineers and Structural Engineering Institute has been added to the chapter.~~

(~~2~~1) The reference to the International Building Code® has been modified to include after the title the words "as adopted and modified by the State of Oklahoma through the ~~Uniform Building Code Commission~~ OUBCC. This section has been modified to read: ~~IBC-09~~ IBC®-15 International Building Code® as adopted and modified by the State of Oklahoma through the ~~Uniform Building Code Commission~~OUBCC.

~~(3) The reference to the International Existing Building Code® has been modified to include after the title the words "as adopted and modified by the State of Oklahoma through the Uniform Building Code Commission". This section has been modified to read: IEBC-09 International Existing Building Code® as adopted and modified by the State of Oklahoma through the Uniform Building Code Commission.~~

(~~4~~2) The reference to the International Energy Conservation Code® has been modified to ~~include after the title the words "as adopted and modified by the State of Oklahoma through the State Fire Marshal until replaced by an adoption done through the Uniform Building Code Commission"~~change the edition year to 2006. This section has been modified to read: IECC-06 International Energy Conservation Code®~~as adopted and modified by the State of Oklahoma through the State Fire Marshal until replaced by an adoption done through the Uniform Building Code Commission~~.

(~~5~~3) The reference to the International Fire Code® has been modified to include after the title the words "as adopted and modified by the State of Oklahoma through the ~~Uniform Building Code Commission~~ OUBCC. This section has been modified to read: ~~IMC-09~~IFC®-15 International Fire Code® as adopted and modified by the State of Oklahoma through the ~~Uniform Building Code Commission~~OUBCC.

(~~6~~4) The reference to the International Fuel Gas Code® has been modified to include after the title the words "as adopted and modified by the State of Oklahoma through the ~~Uniform Building Code Commission~~OUBCC. This section has been modified to read: ~~IFGC-09~~IFGC®-15 International Fuel Gas Code® as adopted and modified by the State of Oklahoma through the ~~Uniform Building Code Commission~~OUBCC.

(~~7~~5) The reference to the International Mechanical Code® has been modified to include after the title the words "as adopted and modified by the State of Oklahoma through the ~~Uniform Building Code Commission~~OUBCC.~~".~~ This section has been modified to read: ~~IPC-09~~IMC®-15 International Mechanical Code® as adopted and modified by the State of Oklahoma through the ~~Uniform Building Code Commission~~OUBCC.

(~~8~~6) The reference to the International Residential Code® 2009 has been modified to include after the title the words "as adopted and modified by the State of Oklahoma through the ~~Uniform Building Code Commission~~OUBCC.~~".~~ This section has been modified to read: IRC®-09 International Residential Code® as adopted and modified by the State of Oklahoma through the ~~Uniform Building Code Commission~~OUBCC.

(~~9~~7) The referenced standard for NFPA 70® National Electrical Code® has been modified to ~~change the edition year from 2008 to 2011 and~~ include the words after the title "as adopted and modified by the State of Oklahoma through the ~~Uniform Building Code Commission~~OUBCC.~~".~~ This section shall now read: ~~70-11~~70-14 National Electrical Code® as adopted and modified by the State of Oklahoma through the ~~Uniform Building Code Commission~~OUBCC.

[OAR Docket #15-585; filed 6-17-15]

TITLE 770. OKLAHOMA DEPARTMENT OF VETERANS AFFAIRS
CHAPTER 1. ADMINISTRATIVE OPERATIONS

[OAR Docket #15-638]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 1. General Provisions
770:1-1-1 [AMENDED]
Subchapter 3. Organizational Structure
770:1-3-2 [AMENDED]
Subchapter 5. Open Records Act
770:1-5-1 [AMENDED]
AUTHORITY:
Oklahoma Veterans Commission; 72 O.S. §§ 2, 63.1, 63.3, 202, 225

SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
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Approved by Governor's declaration on June 8, 2015
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Superseded rules:
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770:1-1-1 [AMENDED]
Subchapter 3. Organizational Structure
770:1-3-2 [AMENDED]
Subchapter 5. Open Records Act
770:1-5-1 [AMENDED]
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ANALYSIS:
Implements permanent rules to replace emergency rules to comply with amendments to Title 72, which went into effect on November 1, 2014. The amendments to Title 72 change the definition of veterans eligible for services to include all eligible veterans, not just war-time veterans, changes the name of the War Veterans Commission to the Oklahoma Veterans Commission, and changes the structure of the Oklahoma Veterans Commission. These rules implement the requirements of the Act by establishing the standards for the priority of eligibility for benefits to include all eligible veterans, changes the name of the War Veterans Commission to the Oklahoma Veterans Commission, and reflects the new structure of the Oklahoma Veterans Commission.
CONTACT PERSON:
Tamara Hodge, Human Resource Program Manager, 405-522-2212, thodge@odva.state.ok.us.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 11, 2015:

SUBCHAPTER 1. GENERAL PROVISIONS

770:1-1-1. Purpose

The purpose of this Chapter is to comply with the requirements of the Administrative Procedures Act, 75 O.S., Sections 302, 305 and 307; to publish the organization of the ~~War~~ Oklahoma Veterans Commission, the responsibility and authority by law placed on the Commission; and to clarify, identify and set forth the overall objectives of the veterans program in Oklahoma under existing law.

SUBCHAPTER 3. ORGANIZATIONAL STRUCTURE

770:1-3-2. Program administration

(a) The Oklahoma ~~War~~ Veterans Commission is the successor to the War Veterans Commission and the Soldiers Relief Commission and was created by House Bill 247 of the Twenty-First Session of the Oklahoma Legislature in 1947. The Commission consists of nine members appointed by the Governor, with the advice and consent of the Senate, ~~from lists of ten names submitted by The American Legion, Veterans of Foreign Wars and Disabled American Veterans. Four members are selected from The American Legion, three members from the Veterans of Foreign Wars and two members from the Disabled American Veterans.~~from lists of five names submitted by the American Legion, the Veterans of Foreign wars, the Disabled American Veterans, the Paralyzed Veterans of America, the Military Order of the Purple Heart, and the National Guard Association of Oklahoma. One member is selected from each of these groups and three members at large will be appointed, one of whom may be a nonveteran with a family member residing in a state veteran center. All appointments will be made for a three year term.

(b) The ~~War~~Oklahoma Veterans Commission is the controlling board for the Oklahoma Department of Veterans Affairs, Oklahoma Veterans Centers at Ardmore, Claremore, Clinton, Lawton/Ft. Sill, Norman, Sulphur and Talihina and is responsible to the Governor for carrying out the laws enacted by the Oklahoma Legislature and for administering the veterans program in Oklahoma. The Commission has the authority to appoint the necessary personnel to administer the program. The Commission acts as the funding agency for the State Accrediting Agency.

(c) The ~~War~~Oklahoma Veterans Commission has authorized and charged the Director with the responsibility of administering the program.

SUBCHAPTER 5. OPEN RECORDS ACT

770:1-5-1. Program description, compliance standard and basis for exemptions

(a) Section 24A.4 of Title 51 of the Oklahoma Statutes, **Oklahoma Open Records Act** specifically states that "in addition to other records which are kept or maintained, every public body and public official has a specific duty to keep and maintain complete records of the receipt and expenditure of any public funds reflecting all financial and business transactions relating thereto, except that such records may be disposed of as provided by law." [51 O.S.§24A.4]

(b) The Records Disposition Schedule for the Oklahoma Department of Veterans Affairs, (a copy of the Schedule is on file in the Central Office of the Department) lists and provides authority for the disposition of all records of the Department. No record as defined by Section 24A.3 (1) of Title 51 shall be disposed of in any manner other than that authorized by said Schedule.

(c) It is the policy of the ~~War~~Oklahoma Veterans Commission as the controlling board for the Oklahoma Department of Veterans Affairs that no person shall be denied access to a record of the Department and that Title 51, Chapter 1 of the Oklahoma Statutes shall be complied with in accordance with the procedures set out in the rules of this Chapter.

(d) If any provision of this procedure or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

(e) All records of the Oklahoma Department of Veterans Affairs shall be open to any person for inspection, copying, and/or mechanical reproduction during regular business hours with the exception of those records identified in this Subchapter. Generally, exempt records can be classified as follows:

(1) Records specifically required by law to be kept confidential including:

(A) records not discoverable under state law such as material prepared in anticipation of litigation or trial; or

(B) records protected by a state evidentiary privilege such as the attorney-client and the identity of informer privileges; or

(C) records of what transpired during meetings of a public body lawfully closed to the public such as executive sessions authorized under the Oklahoma Open Meeting Act.

(2) Any reasonably segregable portion of a record containing exempt material shall be provided after deletion of the exempt portions.

[OAR Docket #15-638; filed 6-22-15]

TITLE 770. OKLAHOMA DEPARTMENT OF VETERANS AFFAIRS
CHAPTER 10. CENTER DIVISION PROGRAM

[OAR Docket #15-637]

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PERMANENT final adoption
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Subchapter 1. General Provisions
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770:10-1-4 [AMENDED]
Subchapter 3. Maintenance Charges, Patient Funds and Assets
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Oklahoma Veterans Commission; 72 O.S. §§ 2, 63.1, 63.3, 202, 225
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March 26, 2015
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770:10-3-1 [AMENDED]
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14-892
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n/a
ANALYSIS:
Implements permanent rules to replace emergency rules to comply with amendments to Title 72, which went into effect on November 1, 2014. The amendments to Title 72 change the definition of veterans eligible for services to include all eligible veterans, not just war-time veterans, and changes the name of the War Veterans Commission to the Oklahoma Veterans Commission. These rules implement the requirements of the Act by establishing the standards for the priority of eligibility for benefits to include all eligible veterans and change the name of the War Veterans Commission to the Oklahoma Veterans Commission.
CONTACT PERSON:
Tamara Hodge, Human Resource Program Manager, 405-522-2212, thodge@odva.state.ok.us.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 11, 2015:

SUBCHAPTER 1. GENERAL PROVISIONS

770:10-1-3. Eligibility requirements

To be eligible for admission to an Oklahoma Veterans Center, an individual must be~~meet the definition of a War Veteran as defined in 72 O.S., Section 224 and/or as~~ certified by the United States Department of Veterans Affairs for receipt of per diem payment.~~ and such other dates as may be established by U.S. Congress, Oklahoma Legislature or Oklahoma War Veterans Commission.~~

(1) Veterans must have served at least ninety (90) days on active duty, except where discharged due to or as a result of a service connected disability~~,~~.~~ with one or more days being during a wartime period as prescribed in (1) of this subsection. (Oklahoma Statutes, Title 72.)~~

(2) A veteran must be disabled by age, disease or other reason to be eligible for admission.~~ For domiciliary, he/she must be ambulant, be able to dress himself or herself and perform necessary bathroom needs and share in some measure in the maintenance of his or her living area.~~

~~For nursing care, he/she must be disabled or diseased~~ to a degree that requires intermediate or skilled type nursing care.

770:10-1-4. Admission priorities and procedures

(a) It is the intent of the ~~War~~Oklahoma Veterans Commission to establish a fair and equitable system and one that allows for the flexibility necessary in the operation of long-term nursing care facilities whereby eligible veterans may be placed on waiting lists for admission to the Oklahoma Veterans Centers operated by the Oklahoma Department of Veterans Affairs.

(b) Priorities for placement are as follows:

(1) Eligible World War II veterans seeking admission will be placed at the top of the waiting list and will be admitted to the first available bed capable of providing the level of care they require. When there are no longer living World War II veterans seeking admission, veterans of the next oldest wartime period will be placed at the top of the waiting list and will be admitted to the first available bed capable of providing the level of care they require and so on through established wartime periods.

(2) Eligible Ex-Prisoners of War~~ and veterans rated service-connected by the United States Department of Veterans Affairs~~ will be placed at the top of the waiting list if there are no eligible veterans on the waiting list in category (1) above, and will be admitted to the first available bed capable of providing the level of care they require.

~~(3) All eligible veterans not specified in (1) or (2) of this subsection will be placed on the waiting list in chronological order based on the date of receipt of the application. If more than one application is received on the same day, the Medical Director will determine their sequential order on the list according to medical need. The veterans will be called from this list and will be admitted to the first available bed capable of providing the level of care they require.~~

(3) Eligible wartime veterans will be placed at the top of the waiting list if there are no eligible veterans on the waiting list in categories (1) and (2) above, and will be admitted to the first available bed capable of providing the level of care they require, in the following order based on the date of receipt of the application:

(A) Eligible wartime veterans with service connected ratings of 70% to 100% by the United States Department of Veterans Affairs.

(B) All other wartime veterans with service connected ratings from 0% to 60% by the United States Department of Veterans Affairs.

(C) All other eligible wartime veterans not specified in earlier categories will be placed on the waiting list in chronological order based on the date of receipt of the application.

(4) All other eligible veterans, including those with no wartime service, will be placed at the top of the waiting list if there are no eligible veterans on the waiting list in categories (1) through (3) above, and will be admitted to the first available bed capable of providing the level of care they require, in the following order based on the date of receipt of the application:

(A) All other eligible veterans with service connected ratings of 70% to 100% by the United States Department of Veterans Affairs.

(B) All other eligible veterans with service connected ratings from 0% to 60% by the United States Department of Veterans Affairs.

(C) All eligible veterans not specified in earlier categories will be placed on the waiting list in chronological order based on the date of receipt of the application.

(5) If more than one application is received on the same day, the Medical Director will determine their sequential order on the list according to medical need. The veterans will be called from this list and will be admitted to the first available bed capable of providing the level of care they require.

(c) The admission priorities as set forth in (b) of this Section are to be adhered to as closely as possible; however, the Administrator of each Veterans Center must maintain the flexibility of being allowed to deviate from the waiting list when medical or humanitarian need dictates.

(d) Applications for admission are provided by writing or calling the Oklahoma Department of Veterans Affairs Center as follows:

(1) Ardmore - Administrator, Oklahoma Veterans Center Box 489, Ardmore, Oklahoma 73402 Telephone: Area Code (580) 223-2266

(2) Claremore - Administrator, Oklahoma Veterans Center P. O. Box 988, Claremore, Oklahoma 74018 Telephone: Area Code (918) 342-5432

(3) Clinton - Administrator, Oklahoma Veterans Center Box 1209, Clinton, Oklahoma 73601 Telephone: Area Code (580) 331-2200

(4) Lawton/Ft. Sill Division - Administrator, Oklahoma Veterans Center P. O. Box 849, Lawton, Oklahoma 73502 Telephone: Area Code (580) 351-6511

(5) Norman - Administrator, Oklahoma Veterans Center Box 1668, Norman, Oklahoma 73070 Telephone: Area Code (405) 360-5600

(6) Sulphur - Administrator, Oklahoma Veterans Center 304 E. Fairlane, Sulphur, Oklahoma 73086 Telephone: Area Code (580) 622-2144

(7) Talihina - Administrator, Oklahoma Veterans Center P. O. Box 1168, Talihina, Oklahoma 74571 Telephone: Area Code (918) 567-2251

(8) Oklahoma City Central Office - P.O. Box 53067, Oklahoma City, Oklahoma 73152 Telephone: Area Code (405) 521-3684

(9) Other applications for admission can be obtained at USDVA Medical Centers in Muskogee and Oklahoma City and through Oklahoma Department of Veterans Affairs Service Officers.

(e) Spouses and surviving spouses may be admitted on exhaustion of placement of all eligible ~~war-time~~ veterans.

SUBCHAPTER 3. MAINTENANCE CHARGES, PATIENT FUNDS AND ASSETS

770:10-3-1. Care and maintenance charges

(a) Patients of all Oklahoma Veterans Centers shall be assessed a monthly care and maintenance charge based upon the level of care provided to them and their individual ability to pay. The claim of the State for such care and treatment shall constitute a valid indebtedness against any such patient and his estate and shall not be barred by any statute of limitations. At the death of the patient, this claim shall be allowed and paid as other lawful claims against the estate.

(b) All sources of personal income, except the income of a working spouse, shall be considered when computing maintenance and care charges. Personal income shall include pensions and awards for aid and attendance from the Veterans Administration. The care and maintenance charges shall be computed to maximize the Veterans Administration pensions and compensation benefits to which the veteran is entitled. Income will be rounded to the nearest whole dollar when computing care and maintenance charges. Notwithstanding any other language under this rule, a veteran shall retain not less than $150.00 per month of total monthly income. Furthermore, no care and maintenance charges will exceed the full cost of care minus the Veterans Administration per diem payment.

(c) The charge for nursing care to patients who regularly contribute to the support of legal dependents shall be fifty percent (50%) of their personal income from all sources except the income of a working spouse. The charge for nursing care to patients who do not regularly contribute to the support of legal dependents shall be eighty-five percent (85%) of their personal income from all sources.

(d) Nursing care shall include room and board in the nursing care or hospital unit of the Veterans Center and the full range of medical and nursing services offered in-house at the Center. Medical and nursing services shall minimally include: staff physician services, skilled nursing care, all required medications and their administration, all necessary x-ray and laboratory services which are performed by the Center, and all laboratory services which are performed by the Center, and all required therapy performed by the Center. Nursing care does not include those medical or other services which a patient requires or receives outside those provided within or by the Center, personal discretionary use items such as tobacco or the purchase of street clothes.

(e) When two veteran residents are married to each other, all sources of personal income will be considered to include projected income from the Veterans Administration. The maintenance charge will be considered to include projected income from the Veterans Administration. The maintenance charge will be assessed at 50% of the combined income.

(f) If a patient receives reimbursement through long-term care insurance, the insurance payment will be counted as income.

(g) When the care and maintenance charge assessed any patient does not result in compliance with all statutory requirements, the percentage of charge against income will be increased or decreased accordingly for compliance.

(h) Payment of any supplemental health insurance premium will not reduce the amount retained by the patient below $150.00 per month.

(i) Any patient of an Oklahoma Veterans Center or his/her guardian may seek a reduction or waiver of care and maintenance charges for(1) financial hardship resulting from unreimbursed unusual medical expenses of the veteran patient, spouse or legal dependents or (2) financial hardship on patients with dependent children. Requests for reduction or waiver of care and maintenance charges for other reasons will not be considered.

(j) The Veterans Center Administrator will make every effort to ensure the patient is afforded the opportunity to purchase irrevocable burial insurance that will not decrease the amount retained by the patient below $150.00 per month.

(k) Care and maintenance charges begin on the first day of admission and cease on the first day of the month in which an Oklahoma Veterans Center patient expires.

(l) Care and maintenance charges are to be paid on the first of each month or as soon thereafter as possible for the care and maintenance received in the preceding month.

(m) Any patient, his/her guardian, or legal spouse, who knowingly withholds or falsifies income or resource data or who withholds payment of assessed care and maintenance charges may subject the patient to discharge and forfeiture of benefits and may subject the patient, or other parties responsible, to legal action related to the recovery of valid indebtedness to the State of Oklahoma.

(n) When a patient's Veterans Administration compensation and pension benefits have been reduced or stopped due to excessive resources or estate, a care and maintenance charge will continue to be assessed at the level which would otherwise be indicated if the patient was still entitled to receive full Veterans Administration compensation and benefits.

(o) Dependents, for purposes of this policy, shall be legal spouses and minor children under the age of eighteen (18) or disabled children who became disabled prior to their eighteenth birthday or legal children through the age of twenty-one (21) years who are enrolled in school full-time.

(p) Patients on leave from a Center for outside hospitalization or medical care shall not be charged for care and maintenance after their fourth (4th) day of absence. Patients on leave from a center for personal reasons of their own volition shall continue to be charged for care and maintenance for such period of their leave that their bed is being held open for them.

(q) The procedure and process for the filing and adjudication of appeals for reduction or waiver of care and maintenance charges is as follows:

(1) The request for reduction or waiver shall be made in writing to the Administrator of the Center where the veteran is a patient, by the veteran, a responsible family member of the veteran, and/or the veteran's guardian.

(2) The appealing party shall complete the appropriate Department forms, supply the Center Administrator with pertinent financial data and shall sign said form attesting to the accuracy of the information recorded thereon.

(3) The Administrator shall submit a letter to the Executive Director of the Oklahoma Department of Veterans

Affairs notifying him or her of the appeal request and stating the Administrator's recommendation in the matter. Additionally, the Administrator shall attach copies of all information which describe the appealing party's financial status.

(4) The Executive Director will determine whether the appeals requests are in conformity with ~~poicy~~policy for presentation to the Oklahoma ~~War~~ Veterans Commission and shall make a recommendation on the appeal request and forward the request to the Commission.

(5) The Commission shall consider all appeals information as presented by the Director and then shall render a decision on said appeals by a majority vote.

(6) The Executive Director shall notify the appealing parties of the Commission's decisions on their appeals through the appropriate Center Administrator within five (5) working days following the ~~Commssion~~Commission action, along with any appeal procedures.

(7) Adverse decisions may be appealed to an independent Administrative Hearing Officer with the Oklahoma Department of Health. The decision of the Administrative Hearing Officer will be final.

[OAR Docket #15-637; filed 6-22-15]

TITLE 770. OKLAHOMA DEPARTMENT OF VETERANS AFFAIRS
CHAPTER 15. CLAIMS AND BENEFITS DIVISION PROGRAM

[OAR Docket #15-636]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 1. General Provisions
770:15-1-1 [AMENDED]
Subchapter 3. Claims Services
770:15-3-1 [AMENDED]
770:15-3-2 [AMENDED]
Subchapter 5. Emergency Financial Assistance
770:15-5-1 [AMENDED]
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Subchapter 1. General Provisions
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Implements permanent rules to replace emergency rules to comply with amendments to Title 72, which went into effect on November 1, 2014. The amendments to Title 72 change the definition of veterans eligible for services to include all eligible veterans, not just war-time veterans, and changes the name of the War Veterans Commission to the Oklahoma Veterans Commission. These rules implement the requirements of the Act by establishing the standards for the priority of eligibility for benefits to include all eligible veterans and change the name of the War Veterans Commission to the Oklahoma Veterans Commission.
CONTACT PERSON:
Tamara Hodge, Human Resource Program Manager, 405-522-2212, thodge@odva.state.ok.us.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 11, 2015:

SUBCHAPTER 1. GENERAL PROVISIONS

770:15-1-1. Purpose

The purpose of this Chapter is to:

(1) Effect new policy and procedure in the Claims Office as it pertains to the Hospital Officers and Veterans Service Officers regarding claims work, and set forth a basic guide for the Claims and Hospital Officers to observe in the performance of their duties.

(2) Establish a clear-cut policy for the Veterans Service Officers and other personnel to follow when there is a tornado, flood or other disaster where this department may render financial or other assistance.

(3) Clarify the question of eligibility requirements for a veteran to receive a free hunting and fishing license.

(4) Set forth the basic policy on securing documents to support a veterans claim with the Veterans Administration.

(5) Promulgate the rules and procedures of the Oklahoma ~~War~~ Veterans Commission under the authority of 72 O.S§67.13 for administering the emergency financial aid program by the Department of Veterans Affairs and establish a policy on minimum amount of time and type of discharges from the military service.

SUBCHAPTER 3. CLAIMS SERVICES

770:15-3-1. Policies and procedures for Claims Officers, Hospital Officers and Veterans Service Officers

(a) The following procedure requires action by the Claims Officers, Hospital Officers and Veterans Service Officers as indicated below:

(1) When submitting new claims or reopening claims, acknowledgment will be sent only to the party submitting the claim.

(2) They will, however, write to a veteran if they are unable to secure a document and request that he either supply the document or submit the correct information in order to obtain it.

(3) The schedule of events in the processing of a claim should be explained. He should be advised where and who he can contact when reporting for examination and who to contact in order to obtain information concerning his claim.

(b) The Department of Veterans Affairs is accredited by the Veterans Administration; however, it has never been the policy of this department to accept power of attorney in name of the State, but rather to work through the veterans organizations. The Claims Officers in the Regional Office are accredited by most of the national service organizations. These officers assist veterans and dependents with their claims before the Veterans Administration in the same manner as the Claims Officers of the veterans organizations. The Department of Veterans Affairs Claims Officers follow, within their guidelines, the procedures and policies of the veterans organizations, both the State and national offices. The Department of Veterans Affairs has two Claims Officers in the V. A. R. O., Muskogee.

(c) The Claims Officers will observe the following basic policies:

(1) Follow the policies and procedures of the veterans organizations pertaining to claims work where they are not in conflict with the policies of this department.

(2) Refer those cases needing rehabilitation to the proper agencies.

(d) The Department of Veterans Affairs maintains one Hospital Officer in each of the Veterans Administration Hospitals in Oklahoma. These Hospital Officers are accredited by the American Legion and/or Veterans of Foreign Wars to represent veterans and dependents with their claims before the Veterans Administration.

(e) If deemed proper, efforts will be made to render financial assistance through various agencies.

(f) Proper counseling will be given the veteran and if found in need of rehabilitation, his case will be referred to the proper authorities and agencies.

(g) When called upon by service organization officials, Veterans Service Officers, doctors and other people, will assist in obtaining admission to V. A. Hospitals, federal domiciliaries and Centers under control of the ~~War~~ Oklahoma Veterans Commission.

(h) Proper counseling will be done by the Hospital Officer and when necessary, proper claims filed for any benefits for which they may be entitled.

770:15-3-2. Disaster assistance

(a) The following procedure will be observed by the Veterans Service Officers in whose territory a disaster occurs and is so declared by the President or branch of the federal government or the Governor of the State of Oklahoma as being a major disaster area.

(1) Advise the local officials and individual veterans that this department will work with other sources from various agencies to render financial assistance. This department can give assistance in conjunction with resources from various agencies and service organizations, but a qualifying veteran is not required to wait until all other resources from various agencies have been completed. The Department of Veterans Affairs will render financial assistance in keeping with the rules and policies of the ~~War~~ Oklahoma Veterans Commission on the expenditure of child welfare and emergency aid funds.

(2) Advise the local veteran service organization officials and veterans as much as possible on help that can be secured through the American Red Cross. When the disasters are over, financial assistance may be rendered by the Department of Veterans Affairs in the normal manner with applications and upon recommendations of the local veteran service organization. Veterans Service Officers will render every assistance possible to local officials by assisting in completing the application forms except the investigation and recommendation, which is to be handled and made by the local officials.

(b) The Managers and other officials of the Centers will render every assistance possible in the event of local disasters in their communities. Likewise, the Claims Officers and Hospital Officers will assist in the event disasters occur in their towns.

SUBCHAPTER 5. EMERGENCY FINANCIAL ASSISTANCE

770:15-5-1. Eligibility for financial assistance

(a) To be eligible for emergency financial assistance through the Oklahoma Department of Veterans Affairs, a ~~war-time~~ veteran must be honorably discharged and otherwise meet the following, pursuant to 72 O.S. § 67.13:

(1) Meet the definition of a ~~War~~ Veteran as defined in 72 O.S.§2~~2~~4.

(2) Have one (1) year residence in the State of Oklahoma immediately prior to date of application for emergency aid.

(b) Other than death cases, a medical statement showing the veteran's inability to work is required for payment of emergency aid. No medical statement is required for emergencies involving disasters such as fire, flood or storm damage to the home.

(c) The spouse or surviving spouse of an eligible veteran may also be eligible for emergency financial assistance. The spouse or surviving spouse must have one (1) year residence

in the State of Oklahoma prior to date of application for emergency aid.

[OAR Docket #15-636; filed 6-22-15]

TITLE 780. OKLAHOMA DEPARTMENT OF CAREER AND TECHNOLOGY EDUCATION CHAPTER 10. ADMINISTRATION AND SUPERVISION

[OAR Docket #15-596]

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RULES:
Subchapter 3. State Technical Assistance, Supervision, and Services
780:10-3-2 [AMENDED]
780:10-3-13 [AMENDED]
Subchapter 5. Finance [AMENDED]
780:10-5-4 [AMENDED]
Subchapter 7. Local Programs, Career Majors or Instructional Positions: Application; Student Accounting; Evaluation
780:10-7-1 [AMENDED]
780:10-7-3 [AMENDED]
780:10-7-3.1 [AMENDED]
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ANALYSIS:
The proposed rule change adds the words "comprehensive school programs" to those who receive education enhancement, career assessment and employability skills development. It also adds the words "Family and Consumer Sciences and" to those who are excluded in coordination activities and it brings clarity to a majority of our teachers. The proposed changes will bring the rules in line with practice. The proposed rule change reflects the division name change of Tech Connect and provides clarification of the Science, Technology, Engineering and Mathematics (STEM) programs that are exempt from Standard X. The proposed rule change shows the Oklahoma Department of Career and Technology Education as one of the four remaining state entities recognized as an accrediting body by the United States Department of Education. Moving forward, we need to consider our customers' needs, offering an experience that is customizable and flexible for learning, with an accreditation system to match. These new rules, for pilot schools in 2014-15 and for all schools in 2015-16, are needed to improve the current accreditation process from a mere compliance model to one of continuous quality improvement.

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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 11, 2015:

780:10-3-2. Career guidance and counseling, career information, disability services, integrated academics, innovation support services, essential skills and career development

(a) **Career guidance to technology centers.** The Department shall provide coordination and leadership for career guidance and counseling to technology centers and other entities whose primary purpose is the delivery of career guidance and counseling. Technology center districts shall have an identifiable guidance program in place, implemented and administered by an adequate number of credentialed staff and coordinated by staff with experience in delivering or supervising student services that addresses the career development needs of all students. Technology centers shall provide all students with information and advisement about career and educational options, administer assessment instruments such as interest inventories, aptitude tests, and achievement tests or acquire the results of such assessments prior to enrollment to provide career guidance, and provide support for students to help them be successful in their career pathway.

(b) **Career Information.** The Department shall provide technical assistance to schools, institutions, and agencies for career development software and career information materials.

(c) **Financial Aid Services.** The Department shall represent the Oklahoma career and technical education system by performing a liaison function with the Student Financial Aid Office (SFA) of the US Department of Education. As such, the Department will determine the in-service needs of technology center financial aid personnel and arrange for knowledgeable individuals, from SFA or other professional organizations, to conduct workshops and training sessions. The purpose of these in-service opportunities is to strengthen financial aid programs at technology centers ensuring adherence to current state and federal regulations governing the administration of financial aid programs. The Oklahoma Department of Career and Technology Education shall collect relevant statistical data related to financial aid activities at technology centers and report this information where appropriate. The Oklahoma Department of Career and Technology Education shall also administer the Oklahoma GI Bill program that provides tuition assistance to qualified Vietnam-era veterans.

(d) **Innovation Support Services.** The Department shall provide support for the alignment of Oklahoma education innovation and improvement initiatives through the services of the Innovation Support Services Liaisons. The Innovative Support Services Liaisons shall provide technical assistance

and services focused on the High Schools That Work ten key practices, guidance and instruction for improved student achievement along with leadership from the Technology Center Services Division to create a culture of high expectations to local education agencies and/or technology centers for school improvement with raised student achievement. The ISS Division/Liaisons shall accomplish its purpose by providing:

(1) Support for education innovation.

(2) Lead and participate in technical assistance visits and provide technical review visits with follow-up.

(3) Assist in locating and using resources and materials.

(4) Provide guidance for implementing career pathways, plans of study, improved instruction, and services supported by the Oklahoma Department of Career and Technology Education.

(5) ISS Liaisons shall serve local education agencies designated by the Oklahoma Department of Career and Technology Education. The local education agency shall request the assistance and shall designate a local administrator, counselor, or instructor to coordinate the services to be delivered.

(e) **Disabilities services.** The Department shall coordinate and provide technical assistance to assure appropriate services and accessibility for individuals with disabilities and other members of special populations enrolled in CareerTech instruction at technology centers and at local education agencies. The Department will also provide guidance and assistance for the field to assist students with transition from high school to a technology center as well as transition from technology centers to postsecondary education and/or work.

(f) **Integrated academics and essential skills.** The Department shall coordinate developmental activities and provide technical assistance to technology centers, comprehensive school programs and skills centers for education enhancement, career assessment, and employability skills development.

780:10-3-13. Instructional services

(a) **Responsibilities.** The state agency staff~~Instructional Services Division~~ shall be responsible for organizing, administering, and orchestrating in-service training for *Career*Tech teachers and administrators in the field, including leadership development programs; liaison with teacher education for pre- and in-service training; and conference and meeting planning, including summer conference.

(b) **Special projects.** The state agency staff~~Instructional Services Division~~ shall be responsible for the coordination and funding of special projects related to professional improvement activities of *Career*Tech personnel.

SUBCHAPTER 5. FINANCE

780:10-5-4. Instructional funding

(a) **Secondary and full-time adult career majors in technology centers.**

(1) **Formula payments.** The State Board will fund a portion of the cost of instruction and services in accordance with an approved technology center funding formula. The Department shall consider enrollment, number of school sites in the district, number of instructors employed on a full-time basis, transportation, availability of funds, provision of appropriate student services for all students and appropriate state and federal laws in developing the annual technology center funding budget.

(2) **Formula adjustment.** The failure of a technology center to meet minimum standards may result in an adjustment of the funding.

(b) **Secondary programs in comprehensive schools.**

(1) **Budgets.** The State Board will assist local districts in providing for excess costs of *Career*Tech programs. The Department shall prepare budgets to be approved annually based upon availability of funds and appropriate state and federal laws.

(2) **Program assistance monies.** All approved *Career*Tech programs shall receive the program assistance monies annually. These monies shall be used to support the additional costs of the *Career*Tech program limited to the purchase of equipment, instructional delivery and supplies, and staff development.

(3) **Equipment matching funds.** New *Career*Tech programs will receive equipment matching funds in the first year of operation, if funding is available. If funding is available, matching funds will be provided to existing programs.

(4) **Location of equipment.** Any program equipment purchased with state or federal funds shall remain in the program area for which it is intended.

(5) ***Career*Tech teacher contracts.** *Career*Tech teacher contracts shall be a minimum of 10 months and shall begin on or before August 1 of each year.

(6) **Teacher salary supplement.** The Department shall determine annually the amount to reimburse each school district to augment the salary of each teacher of a 10-month *Career*Tech program in a comprehensive school.

(7) **Additional salary.** In those programs where the instructor is employed and approved by the State Board beyond 10 calendar months, the additional salary will be calculated on the basis of 1/10 of the base salary as prescribed by the school district for an instructor of like qualifications employed on a 10-month basis. The career and technology instructor's summer pay is to be calculated on the local school base schedule (including increments and any flat raises provided by the legislature over and above the minimum salary and increments) for instructors of like qualifications.

(8) **Part-time programs.** In order to receive 100 percent funding, a program must be full-time. Any exceptions to the offering of a full-time program shall constitute a reduction in funding of 50 percent.

(c) **~~TechConnect and~~ TechConnect Plus.** Reimbursement for approved ~~TechConnect and~~ TechConnect Plus programs

shall include incentive assistance and teacher salary supplement in the same manner as with other comprehensive school programs. The program assistance (state) funds are provided to meet the minimum program operation requirements. Federal career and technology (vocational) education funds and/or local funds may be used to meet the program operation recommendations.

(d) **Business and Industry Services.** The Department shall reimburse Business and Industry Services initiatives based on the availability of funds and approved by the Business and Industry Services Division.

(e) **Skills Centers programs.** The Department shall reimburse Skills Centers programs based on the availability of funds and approved by the Skills Centers Division.

(f) **Postsecondary institutions-collegiate.** Funds shall be allocated to postsecondary institutions as set forth in agreements between the State Board and the Oklahoma State Regents for Higher Education or as mandated by P.L. 101-392.

(g) **Apprenticeship.** Local education agencies conducting apprenticeship-related training shall qualify for reimbursement at a rate approved by the Department.

(h) **Work-site learning.** Approved work-site learning activities shall meet the standards established by the Department. Reimbursement shall be based on availability of funds and approval by the Department.

(i) **Reduction in instruction and/or student services due to changes in funding.** The Oklahoma Department of Career and Technology Education may also recommend reduction in instruction and/or student services based upon loss of funding, lack of funding, revenue shortfalls or other changes in funding. The rules dealing with probationary status and reevaluation shall not apply to instruction being considered for closure based upon changes in funding. The State Board shall make the determination for reduction in instruction and/or student services based on economic factors, need, duplication, school to industry articulation, school to postsecondary articulation, student demand, student placement, student completion/retention, performance measures and/or standards and the decision of the Board shall be final.

SUBCHAPTER 7. LOCAL PROGRAMS, CAREER MAJORS OR INSTRUCTIONAL POSITIONS: APPLICATION; STUDENT ACCOUNTING; EVALUATION

780:10-7-1. Application; approval; contract for programs or career majors

(a) **Local Application for CareerTech Programs and/or Career Majors.**

(1) **Description.** Any comprehensive school district, technology center or other eligible recipient requesting funds for *Career*Tech education programs, career majors, instructional positions, services and/or activities must submit an annual Local Application and Assurances of Compliance for Secondary and Full-time Adult Career and Technology Education Programs. Approval and return of the Assurances of Compliance to the Department indicates the school district's intent to form a contract for *Career*Tech education programs, career majors, instructional positions, services and/or activities and comply with all terms set forth in the local application. For comprehensive schools only, this application includes a listing of programs and/or instructional positions.

(2) **Application Dates.** The local application shall be mailed from the Department to the superintendent of each comprehensive school district on or around March 1 for the next fiscal year. The local application shall be returned by the deadline indicated on the application.

(3) **Contents.** The local application gives comprehensive school districts the opportunity to verify ongoing programs and/or career majors, request new or expanded programs and/or career majors, or request the deletion or reduction of programs and/or career majors.

(4) **Additions and revisions.** Additions and/or revisions may be made to the local application any time during the fiscal year. Changes or revisions must be sent by the comprehensive school to the Department.

(5) **Special funding.** Any special discretionary funds available for programs or projects shall be awarded on a proposal basis with all eligible recipients being notified. The criteria for selection will be stated in a "Request for Proposals." Selection of funding recipients will be based upon the stated criteria.

(b) **Criteria for approval of secondary and full-time adult programs and/or career majors.** The criteria for approving secondary (grades 7 through 12) and full-time adult programs and/or career majors in comprehensive schools and technology centers may~~shall~~ include the following:

(1) Employment opportunities for completers;
(2) Availability of students;
(3) Impact upon other *Career*Tech offerings;
(4) Availability of similar programs and/or career majors;
(5) Facilities and equipment;
(6) Program or career major priority; and,
(7) Availability of funds.

(c) **Contract for *Career*Tech programs or career majors.**

(1) **Description.** All comprehensive school districts approved by the State Board to receive reimbursement for *Career*Tech secondary programs and/or career majors must submit the signed "Contract for Secondary *Career*Tech Programs," which includes a listing of programs and/or career majors being funded. Approval and return of the contract and the Salary and Teaching Schedule, as indicated in (3) below, by the school district to the Department indicates the school district's willingness to comply with all terms set forth in the contract.

(2) **Contract dates.** The "Contract for Secondary *Career*Tech Programs" will be mailed from the Department on or around October 1 of the current fiscal year to the superintendent of each comprehensive school district. The contract is to be presented to the local board of education for approval before being returned to the Department by the date.

(3) **Salary and Teaching Information.** The Salary and Teaching Schedule is a part of the contract for *Career*Tech programs for comprehensive school districts. Comprehensive schools must complete and return the "Salary and Teaching Schedule" for each *Career*Tech instructional position in the district. The form must be completed to indicate teaching schedule, ~~OCAS class codes~~, numbers of students enrolled, teacher salary, beginning and ending date of employment, and expiration date of teacher's certificate. The "Salary and Teaching Schedule" must be signed by the appropriate individuals and returned to the Department by September 30 ~~before any funding can be provided.~~ Technology centers will submit salary information to the Department by October 15.

780:10-7-3. Standard; accreditation; review

(a) **Minimum standards.**

(1) **Establishment; funding.** As appropriate, minimum standards shall be established by the State Board for postsecondary and secondary *Career*Tech programs, career majors and/or courses. These standards shall be comprehensive, reflecting state and federal mandates as they relate to quality *Career*Tech education. Funding approval is contingent upon meeting minimum standards or making satisfactory progress toward meeting those standards.

(2) **Standards.** Standards shall include the following:

(A) STANDARD I-Instructional Planning and Organization

(B) STANDARD II-Instructional Materials Utilization

(C) STANDARD III-Qualified Instructional Personnel

(D) STANDARD IV-Enrollment and Student-Teacher Ratio

(E) STANDARD V-Equipment and Supplies

(F) STANDARD VI-Instructional Facilities

(G) STANDARD VII-Safety Training and Practices

(H) STANDARD VIII-Advisory Committee and Community Relations

(I) STANDARD IX-Leadership Development

(J) STANDARD X-Coordination Activities (excluded in the following STEM programs: Technology Engineering~~Education~~, TechConnect, and Gateway to Technology and most Family and Consumer Sciences and Skills Centers programs)

(K) STANDARD XI-Student Accounting and Reports

(3) **Revisions.** The standards are revised periodically based upon input from appropriate sources and relevant data regarding factors that influence student learning and the quality of *Career*Tech education. Any such revisions will be taken to the State Board for approval.

(4) **Dissemination.** The standards will be disseminated to *Career*Tech personnel throughout the state. Evaluation results will be considered in the processes of planning and funding programs.

(5) **Program Evaluation and Improvement.** Each instructor shall annually review the progress of the program or career major based on the accountability measures developed as required by P. L. 109-270 which include:

(A) Student attainment of challenging State established academic and technical skill proficiencies.

(B) Student attainment of a secondary school diploma or its recognized equivalent, a proficiency credential in conjunction with a secondary school diploma, or a postsecondary degree or credential.

(C) Placement in, retention in, and completion of postsecondary education or advanced training, placement in military service, or placement or retention in employment.

(D) Student participation in and completion of career and technology (vocational and technical) education programs or career majors that lead to nontraditional training and employment.

(6) **Monitoring.** Programs, courses or career majors not meeting minimum standards will be monitored on an annual basis. If a technology center, skills center or comprehensive school has programs, career majors, courses and/or services not meeting evaluation standards, an annual status report addressing completed and/or pending corrective actions will be submitted to the Accreditation Division for review no later than the last Friday in March. During the month of April, the Accreditation Division will notify the school in writing whether the status report was approved or disapproved.

(7) **Technical assistance.** The Department staff will provide technical assistance to help *Career*Tech programs, courses and/or career majors meet the standards established by the State Board and other accrediting agencies.

(b) **Postsecondary accreditation.**

(1) **Approval/accreditation agency.** For the purpose of determining eligibility for federal student financial assistance programs administered by the U.S. Department of Education, the Oklahoma State Board of Career and Technology Education is recognized by the United States Secretary of Education for the approval/accreditation of all public postsecondary *Career*Tech institutions and programs, courses and career majors that are not offered for college credit or under jurisdiction of the Oklahoma State Regents for Higher Education.

(2) **Adopted procedures.** Schools seeking and maintaining postsecondary approval/accreditation status shall follow the State Board's adopted procedures as prescribed in the publication **Approval, Evaluation and Accreditation Procedures for Technology Centers.** This publication shall be made available to interested parties from the Accreditation Division of the Department.

(3) **Noncompliance of corrective action plan.** The State Board shall have the authority to assume the administration and supervision of any technology center that after being placed on "Probational Accreditation Status"

continues to be in noncompliance of the corrective action plan as approved by the State Board.

(c) **Secondary evaluation.** Substandard secondary *Career*Tech education programs or career majors shall be formally evaluated, utilizing minimum standards, as adopted by the State Board.

(d) **Review of substandard programs or career majors.**

(1) **Probationary status.** A *Career*Tech program or career major may be placed on a probationary status if:

(A) The program or career major fails to meet standards and the deficiencies are documented in writing as a result of a visit or a team evaluation, and/or

(B) The program or career major does not meet the specifications as outlined in the **Rules for Career and Technology Education.**

(2) **Written notification.** Written notification of probationary status that identifies the deficiencies and outlines recommended steps for improvement shall be given to the school administration.

(3) **Reevaluation.** A program or a career major on probationary status shall be reevaluated within one year.

(A) **Removal of probation.** If the documented deficiencies have been corrected upon reevaluation, the probationary status shall be removed.

(B) **Reevaluation failure.** If the program in a comprehensive school has failed to make improvement on documented deficiencies upon reevaluation, a report shall be made in writing to the division's appropriate Associate State Director and the program may be recommended for closure or reduction in funding for the following school year. If the career major in a technology center has failed to make improvement on documented deficiencies upon reevaluation, a report shall be made in writing to the Associate State Director of Field Services.

(i) **Written notification; appeal.** The division's appropriate Associate State Director will notify, in writing, the superintendent of the comprehensive school in which the program, instructional position or career major is located that the Department is recommending closure or reduction in funding for the program or career major for the following school year. An appeal process will be included for those superintendents who can show evidence of projected program or career major improvement. The Manager of the Technology Center Services Division will notify, in writing, the superintendent of the technology center in which the career major is located that the Department is recommending a reduction in funding for the instructional position for the following school year. An appeal process will be included for those superintendents who can show evidence of projected program or career major improvement.

(ii) **Recommended program and/or career major closures.** The division's appropriate Associate State Director will make a presentation of recommended program closures, if any, in comprehensive schools for State Board approval at the March board meeting. The Manager of the Technology Center Services Division will make a presentation of recommended career major closures, if any, in technology centers for State Board approval at the March board meeting.

(e) **Evaluation of recipients receiving federal funds.** Programs or career majors of eligible recipients receiving federal funds under P. L. 109-270 shall be evaluated annually. Such contracts and agreements shall be in accordance with state and federal laws.

780:10-7-3.1. Pilot standards; accreditation; evaluation

(a) **Standards.**

(1) **Establishment; funding.** As appropriate, standards shall be established by the State Board for continuous school improvement, postsecondary and secondary *Career*Tech programs, career majors, and/or courses. These standards shall be comprehensive, reflecting state and federal mandates as they relate to quality *Career*Tech education. Funding approval is contingent upon meeting these standards or making satisfactory progress toward meeting these standards.

(2) **Standards.**

(A) Standards established for continuous school improvement in the *Career*Tech System shall be approved by State Board. Continuous school improvement standards shall be addressed a minimum of two times for every five year evaluation cycle of technology centers, skills centers, and comprehensive school programs.

(B) Standards established for program improvement shall be required to be completed by CareerTech programs shall be the Baldrige Education Criteria for Performance Excellence and include the following:

(i) CRITERIA 1 Leadership

(ii) CRITERIA 2 Strategic Planning

(iii) CRITERIA 3 Customer Focus

(iv) CRITERIA 4 Measurement, Analysis, and Knowledge Management

(v) CRITERIA 5 Workforce Focus

(vi) CRITERIA 6 Operations Focus

(vii) CRITERIA 7 Results

(3) **Revisions.** The standards are revised periodically based upon input from appropriate sources and relevant data regarding factors that influence student learning and the quality of *Career*Tech education. Any such revisions will be taken by the Department to the State Board for approval.

(4) **Dissemination.** The standards will be disseminated to *Career*Tech personnel throughout the state. Evaluation results will be considered in the processes of planning and funding programs.

(5) **Program Evaluation and Improvement.** Each instructor shall annually review the progress of the program based on the accountability measures developed as required by P. L. 109-270 which include:

(A) Student attainment of challenging State-established academic and technical skill proficiencies.

(B) Student attainment of a secondary school diploma or its recognized equivalent, a proficiency credential in conjunction with a secondary school diploma, or a postsecondary degree or credential.

(C) Placement in, retention in, and completion of postsecondary education or advanced training, placement in military service, or placement or retention in employment.

(D) Student participation in and completion of career and technology (vocational and technical) education programs or career majors that lead to nontraditional training and employment.

(6) **Monitoring.** Technology centers and/or programs not meeting these standards or not making satisfactory progress toward meeting these standards will be monitored on an annual basis. If a technology center, skills center, or comprehensive school has programs, career majors, courses, and/or services not meeting evaluation standards, an annual status report addressing completed and/or pending corrective actions will be submitted to the Division of Innovation, Research, and System Quality for review no later than the last Friday in March. During the month of April, the Division of Innovation, Research, and System Quality will notify the technology center, skills center, or comprehensive school in writing whether the status report was approved or disapproved.

(7) **Technical assistance.** The Department staff will provide technical assistance to help *Career*Tech programs meet the standards established by the State Board and other accrediting agencies.

(b) **Postsecondary accreditation.**

(1) **Approval/accreditation agency.** For the purpose of determining eligibility for federal student financial assistance programs administered by the U.S. Department of Education, the Oklahoma State Board of Career and Technology Education and the Oklahoma Department of Career and Technology Education is recognized by the United States Secretary of Education for the approval/accreditation of all public postsecondary *Career*Tech institutions and programs, courses and career majors or direct assessment/competency based instruction that is not offered for college credit or under the jurisdiction of the Oklahoma State Regents for Higher Education.

(2) **Adopted procedures.** Schools seeking and maintaining postsecondary approval/accreditation status shall follow the State Board's adopted procedures as prescribed in the publication **Accreditation Policies and Procedures.** Technology Centers may apply to US Department of Education for the option of implementing direct assessment/competency based instruction. This publication shall be made available to interested parties from the Division of Innovation, Research, and System Quality of the Department.

~~(c) **Secondary evaluation.** Secondary *Career*Tech education programs shall be formally evaluated utilizing standards adopted by the State Board.~~

~~(d) **Review of secondary programs.**~~

~~(1) **Probationary status.** A *Career*Tech secondary program may be placed on a probationary status if:~~

~~(A) It fails to meet standards and the deficiencies are documented in writing as a result of a visit or a team evaluation, and/or~~

~~(B) It does not meet the specifications as outlined in the **Rules for Career and Technology Education.**~~

~~(2) **Written notification.** Written notification of probationary status that identifies the deficiencies and outlines recommended steps for improvement shall be given to the school administration.~~

~~(3) **Reevaluation.** A program on probationary status shall be reevaluated within one year.~~

~~(A) **Removal of probation.** If the documented deficiencies have been corrected upon reevaluation, the probationary status shall be removed.~~

~~(B) **Reevaluation failure.** If the program in a comprehensive school has failed to make improvement on documented deficiencies upon reevaluation, a report shall be made in writing to the State Director or his/her designee of the Division of Innovation, Research, and System Quality and the program may be recommended for closure or reduction in funding for the following school year.If the career major in a technology center has failed to make improvement on documented deficiencies upon reevaluation, a report shall be made in writing to the State Director or his/her designee of the Division of Innovation, Research, and System Quality.~~

~~(i) **Written notification; appeal.** The State Director or his/her designee of the Division of Innovation, Research, and System Quality will notify, in writing, the superintendent of the technology center or the comprehensive school in which the program, instructional position or career major is located that the Department is recommending closure or reduction in funding for the program or career major for the following school year. An appeal process will be included for those superintendents who can show evidence of projected program or career major improvement.~~

~~(ii) **Recommended program and/or career major closures.** The State Director or his/her designee of the Division of Innovation, Research, and System Quality will make a presentation of recommended program closures, if any, in a technology center or a comprehensive schools for State Board approval at the March board meeting.~~

~~(4) **Noncompliance of corrective action plan.** The State Board shall have the authority to assume the administration and supervision of any technology center that after being placed on "Probational Accreditation Status" continues to be in noncompliance of the corrective action plan as approved by the State Board.~~

~~(e) **Evaluation of recipients receiving federal funds.** Programs of eligible recipients receiving federal funds under~~

~~P. L. 109-270 shall be evaluated annually. Such contracts and agreements shall be in accordance with state and federal laws.~~

[OAR Docket #15-596; filed 6-18-15]

TITLE 780. OKLAHOMA DEPARTMENT OF CAREER AND TECHNOLOGY EDUCATION CHAPTER 15. TECHNOLOGY CENTERS

[OAR Docket #15-597]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 3. Technology Centers Education
780:15-3-5 [AMENDED]
AUTHORITY:
Oklahoma State Board of Career and Technology Education; 70 O.S. 2011, § 14-103, 70 O.S. 2011, § 14-104, as amended.
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
January 26, 2015
COMMENT PERIOD:
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PUBLIC HEARING:
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March 26, 2015
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June 8, 2015
EFFECTIVE:
September 11, 2015
SUPERSEDED EMERGENCY ACTIONS:
n/a
INCORPORATIONS BY REFERENCE:
n/a
ANALYSIS:
In the proposed rule change for annexations, the rule amendment eliminates language that the State Board set a phase-in of ad valorem millage to land owners in areas newly annexed into technology center school districts. For deannexations, the rule amendment eliminates language that the State Board set a phase-out of millage to land owners in areas newly deannexed from technology center school districts. The millage would be set by the technology center school districts.
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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 11, 2015:

SUBCHAPTER 3. TECHNOLOGY CENTERS EDUCATION

780:15-3-5. Changes in districts' status

(a) **Rezoning of existing technology center districts.**

(1) **Review of board district 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 board districts as originally designed to see that reasonably equal board districts 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; board district size.**

(A) **Five members.** The board of education shall consist of five (5) members, except as provided in 70 O.S. Supp. 2001, §5-107A, 70 O.S. Supp. 2001, §14-110, 70 O.S. Supp. 2001, §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 board districts.** 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 board districts.** Technology center districts that are not contiguous shall structure their board districts where there are no intervening board districts between the noncontiguous portion of the district and the remainder of the same board district that contains the noncontiguous portion of said technology center district.

(D) **Board district residency.** All members shall reside in the board district that they represent.

(E) **Seven-member board districts; 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. Territory shall not be annexed to a technology center district without the approval

of the State Board. No territory may be included in a petition for annexation within one (1) year from the date of an unsuccessful election for annexation where that territory was a part of the territory seeking to annex. 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 approves the annexation resolution, the State Board after counseling with the local school district board will set the election date and shall request the county election board to conduct the aforementioned annexation 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 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) **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. To effect the annexing of territory, a petition requesting the annexation must be:

(i) submitted to the technology center board of education, and

(ii) filed with the State Board.

(D) **Petition content.** 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. Each page of the petition shall contain the exact language except for signatures and addresses of school district electors. Electors must personally sign their own name to any petition and must swear of affirm that they have read the contents of the petition and are signing the document as a free and voluntary act.

(E) **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 at such election vote in favor of the proposition, as certified by the county election board, the State Board shall declare the area annexed.

(F) **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.** The ad valorem tax rate shall be set by the technology center school district board.~~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. All deannexations shall become effective December 31 of the calendar year in which the deannexation was approved by the voters.

(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) For all successful deannexation elections occurring after January 1, 2005, the ad valorem tax rate shall be set by the technology center school district. ~~collection of advalorem taxes from patrons in the deannexing territory shall begin with a phase-out period of three consecutive tax years following the successful deannexation election. Taxes will be prorated according to the following schedule:~~

~~(i) First tax year following the election, 80% of the current technology center rate.~~

~~(ii) Second tax year following the elections, 50% of the technology center rate.~~

~~(iii) Third year following the election, 0% of the technology center rate and to remain at 0% for all subsequent years unless a successful annexation election occurs as outlined in these rules.~~

(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 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 #15-597; filed 6-18-15]

TITLE 780. OKLAHOMA DEPARTMENT OF CAREER AND TECHNOLOGY EDUCATION CHAPTER 20. PROGRAMS AND SERVICES

[OAR Docket #15-598]

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PERMANENT final adoption

RULES:
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780:20-3-4 [AMENDED]
780:20-3-5 [AMENDED]

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Approved by Governor's declaration on June 8, 2015

FINAL ADOPTION:
June 8, 2015

EFFECTIVE:
September 11, 2015

SUPERSEDED EMERGENCY ACTIONS:
n/a

INCORPORATIONS BY REFERENCE:
n/a

ANALYSIS:
Proposed rule change reflects the merge of Technology Engineering and Science, Technology, Engineering and Mathematics (STEM) divisions, and it includes the definition of STEM courses and clarification of certifications required for STEM instructors. Additional proposed rules changes provide specifications for programs pertaining to admission to a program to include grade level, program approval, composition and operations as well as enrollment limits. The proposed rule change which pertains to the Career and Technology Student Organization (CTSO) reflects the removal of Delta Epsilon Chi which has been eliminated and is now under the organization of DECA. Additionally, it reflects the current division offerings for CTSOs for the division of Business, Marketing and Information Technology as one combined division.

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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 11, 2015:

SUBCHAPTER 3. SECONDARY, FULL-TIME AND SHORT-TERM ADULT CAREERTECH PROGRAMS

780:20-3-2. Programs: admissions, operations, enrollment, and length

(a) **Nondiscrimination; admission guidelines.** Students shall be provided access to *Career*Tech programs and facilities without regard to race, color, national origin, sex, or disability.

(1) **Agricultural Education.** Enrollment in Agricultural Education programs is limited to junior high and high school students (grades 8 through 12) in programs operated by comprehensive schools. Technology Centers are prohibited from operating Agricultural Education programs or FFA chapters in any location. Secondary students must have a supervised agricultural experience project. Each ODCTE funded agricultural education program shall be provided transportation services, by the local school district, for all agricultural education/FFA (FFA is an integral part of the agricultural education program) program related duties and activities.

(2) **Business, Marketing and Information Technology Education.** Business, Marketing and Information Technology Education programs are designed to prepare junior high and high school students (grades 7~~8~~ through 12) and adults for pathways to careers in business, marketing and information technology.

(3) **Family and Consumer Sciences Education.**

(A) **Family and Consumer Sciences Education in comprehensive schools.** Family and Consumer Sciences programs are designed for junior high and high school students (grades 6 through 12).

(B) **Family and Consumer Sciences Occupational Education.** Occupational Family and Consumer Sciences programs are designed for high school students (grades 11 and 12) and/or adults to train or retrain in a specific family and consumer sciences related occupation.

(4) **Health Careers Education.**

(A) ***Career*Tech health careers.** Health Careers Education programs are designed to prepare junior high students, high school students and adults for employment in a health career of their choice.

(B) **Requirements for applicants.** Applicants for admission to Health Careers Education programs must meet requirements as set by the individual program, state statutes, and any other requirements of the appropriate licensing or accrediting agency.

~~(5) **Marketing Education.** Marketing Management and Entrepreneurship Education programs are designed to prepare students (grades 8 through 12) and adults for career clusters in marketing, business management and entrepreneurship. Students may also earn additional units by participating in a supervised on-the-job internship.~~

(5~~6~~) **Science Technology Engineering and Mathematics (STEM).** Science Technology Engineering and mathematics programs are designed to prepare students grades 5-12 for hands-on and problem based curriculum that allows students to explore opportunities in Science, Technology, Engineering and Mathematics and prepares students for post-secondary transition and pathways for careers in STEM.

~~(7) **Technology Engineering /TechConnect.** Technology Engineering programs are designed for students in grades 5 through 10 who desire an opportunity to explore and experience technological occupations. These programs are designed to carry on technological concepts and problem solving methods learned in the lower grade programs (i.e.: Integrating Concepts and Lessons, Missions curriculum, The Block Academy, Airbase). The programs also tie to Agriculture Education, Business Education, FACS Education, Health Education, Marketing Education, and Trade and Industrial Education in the upper grades at comprehensive high schools and technology centers. These programs give hands-on projects based core curriculum supported through the occupational areas.~~

(6~~8~~) **Trade and Industrial Education/TechConnect Plus.** Trade and Industrial Education programs in comprehensive schools are designed for students in grades 10 through 12. TechConnect Plus programs are designed for 11th and 12th grade students when access to advanced career and technology programs are not available or special needs are identified. Schools must apply with the appropriate division for approval of a TechConnect Plus program. Trade and Industrial Education programs in technology centers are designed for students in grades 11 and 12 and/or adults. In technology center programs, tenth-grade students, or over-age students in a grade lower than the eleventh, may be enrolled upon approval of the sending school.

(b) **Program operations.**

(1) **Recommendation for program approval.** The appropriate *Career*Tech program administrator shall recommend approval of a program when criteria for the approval of new programs are met and funds are available.

(2) **Program composition.** Programs shall offer hands-on experience or supervised occupational experiences in the laboratory or clinical setting as well as classroom instruction to provide opportunities for students to achieve career objectives.

(3) **Course titles.** *Career*Tech course offerings must be in agreement with the course titles listed in the current ***Standards for Accreditation of Oklahoma Schools***, published by the State Department of Education. These same course titles (or abbreviated titles) should be the class titles entered on the student's transcript.

(4) **Units of credit.** The units of credit shall be determined by the number of periods the student is in class plus on-the-job training, clinical training, or internship served. (Refer to the ***Standards for Accreditation of Oklahoma Schools***.)

(5) **Full-time programs.** A full-time program in a comprehensive school shall consist of five *Career*Tech instruction class periods and one planning period for a six-period day, and six *Career*Tech instruction class periods and one planning period for a seven-period day. Exceptions to this rule shall include the following:

(A) **Two planning periods.** Teachers who supervise students' agricultural experience programs shall

have a minimum of two periods to plan, supervise, and coordinate the activities of student learners (see 780:20-3-1(e) and 780:20-3-2(b)(7)(A)). For schools on non-traditional schedules, teachers shall have the equivalent of a minimum of 90 minutes per day for planning and supervision of students. It is recommended that the last hour of the school day be utilized as one of the planning periods. Schools offering Agricultural Education courses the final period of the day must provide a written explanation to the program administrator.

(B) **Teaching of related courses.** Full-time program teachers~~Teachers~~ of Marketing ~~Management and Entrepreneurship~~ Education, ~~Technology Engineering, TechConnect~~, Career Transitions Education, and TechConnect Plus may be allowed to teach one related course, subject to the approval of the appropriate ODCTE state program administrator.

(C) **Trade and Industrial Education/TechConnect Plus.** Two three-hour block courses shall constitute a full-time program in Trade and Industrial Education in a Technology Center. Three two-hour block courses or six one-hour block courses or any combination thereof shall constitute a full-time program in a TechConnect Plus program in a seven period day at a comprehensive school.

(D) **Marketing Education.** Full-time~~Teachers of~~ Marketing ~~Management and Entrepreneurship~~ Education teachers may be allowed to teach one related course (excluding internship, cooperative learning, or job out courses and if the school is on a standard six- or seven-period teaching day), subject to the approval of the Business, Marketing and Information Technology Education state program administrator.

(E) **Health Careers Education.** Teachers of Health Careers may be allowed to teach one or two related courses with at least one conference period (if the school is on a standard six or seven-period teaching day), subject to the approval of the Health Careers Education program administrator.

(F) **Science Technology Engineering and Mathematics.** Teachers of Science Technology Engineering and Mathematics may be allowed to teach one ~~or two~~ related course~~s~~, subject to approval of the appropriate cluster administrator. Science and Math courses listed in the STEM Career Major can be counted as a STEM course, not a related course, with the approval of the cluster administrator.

(6) **Adult Training and Development.** Adult Training and Development (short-term adult) programs in comprehensive schools may be organized under the supervision of the *Career*Tech teacher and must be occupationally specific. These programs are organized on request or as the need indicates. They may vary in length.

(7) **Program operations by occupational division.**

(A) **Agricultural Education.**

(i) **Secondary programs.** The agricultural education instructor is a full-time, 12-month employee and shall teach only approved agricultural education courses. Agricultural education instructor shall have no other extra curricular duties or responsibilities other than those required through the FFA student organization and normal school supervisory duties. Coaching, administration, or other similar full-time duties will not be approved. In the case of a non-funded agriculture education program, the program must follow state policy and guidelines to remain in good standing and be able to utilize the *Career*Tech student organization, FFA.

(ii) **Summer program.** The agricultural education instructor shall formulate a summer program of work and a calendar of activities, which are to be submitted to the local education agency at the completion of the school year.

(iii) **Activities.** Summer activities shall include supervision of students' activities; educational field days and tours; in-service and professional development activities; and, working with adults, agricultural organizations, and industries.

(iv) **Summer leave.** Agricultural Education teachers are entitled to two weeks of summer leave. In lieu of these two weeks of vacation, three weeks each year may be allowed for professional improvement. Summer leave should be coordinated with the local administration. If there is a question in regard to summer leave, the program administrator should be contacted for approval.

(v) **Full-time adult programs.** Full-time adult Agricultural Business Management programs vary in length and are designated for and intended to meet the needs of adults engaged in agriculture and agricultural business operations.

(B) **Business, Marketing and Information Technology Education.**

(i) ~~**Methods of delivery.**~~**Full-time programs in comprehensive schools.** ~~The Business and Information Technology Education programs provide three methods of delivery:~~A full-time program in

~~(I) Business and Information Technology Education internships in the comprehensive school shall consist of one or two block periods of classroom instruction and supervised work site training through part-time employment in training specific positions in business for students in grades 11 or 12.~~

~~(II) Business and Information Technology Education courses in the~~ comprehensive schools shall consist of one or two block periods of instruction offered in grades 7~~9~~ through 12. Instructors shall teach only approved business, marketing and information technology education courses that are aligned with an

approved occupational outcome. Nine week and semester rotation courses are not approved for Business and Information Technology Education programs, but are approved for select Marketing Education courses. Business, Marketing and Information Technology Education instructors shall have no other extra curricular duties or responsibilities other than those required through the BPA student organization and normal school supervisory duties. ~~Coaching, administration, or other similar full-time duties will not be approved.~~

(~~III~~ii) **Full-time programs in technology centers.** ~~Business and Information Technology Education programs~~A full-time program in technology centers shall consist of two three-hour block periods of ~~classroom~~ instruction for students in grades ~~11 or~~10 through12 and adults and should have an occupational outcome that includes a work-site learning component. Any exceptions must be approved in writing by the ~~Program Administrator~~ of Business, Marketing and Information Technology Education state program administrator.

(~~ii~~iii) **Course levels.** Comprehensive school Business, Marketing and Information Technology Education programs shall not mix levels of courses in the same period without written permission from the State Department of Education. This written permission does not ensure programs are meeting Oklahoma Department of Career and Technology Education standards.

(~~iii~~iv) **Technology/equipment.** Business, Marketing and Information Technology Education programs shall provide technology that is appropriate for the defined occupational objectives and is reflective of a modern business environment. A written plan integrating curriculum, training materials, and technology shall be maintained to guide program development and maintain relevance to the marketplace.

(v) **Part-time comprehensive school programs.** Comprehensive school Business, Marketing and Information Technology Education programs that are less than full-time will be funded as a half-time program and will be approved only through the permission of the state program administrator. A part-time program shall include a minimum of three approved business, marketing or information technology education courses with one planning period.

(C) **Family and Consumer Sciences Education in comprehensive schools.**

(i) **Full-time programs.** A full-time program shall consist of at least three levels of family and consumer sciences classes with one or more conference periods in the daily schedule, and the instructor shall teach only approved family and consumer sciences courses. Family and consumer sciences instructors shall have no other extracurricular duties or responsibilities other than those required through the FCCLA student organization and normal school supervisory duties. Coaching, administration, or other similar full-time duties will not be approved.

(ii) **Part-time programs.** Programs that are less than full-time will be funded as a half-time program and will be approved only through permission of the program administrator. A part-time program shall include a minimum of two family and consumer sciences classes and a conference period for a six period day and three family and consumer sciences classes and a conference period for a seven period day.

(iii) **Course coordination.** Comprehensive school Family and Consumer Sciences Education programs shall not mix levels of courses in the same class period without written permission from the State Department of Education. This written permission does not ensure programs are meeting Oklahoma Department of Career and Technology Education standards.

(D) **Family and Consumer Sciences Occupational Education.**

(i) **Full-time occupational programs in comprehensive schools.** A full-time family and consumer sciences related occupational education program in the comprehensive school will include two or more classes, two to three periods in length for 11th- and 12th-grade students.

(ii) **Full-time occupational programs in technology centers.** A full-time family and consumer sciences related occupational education program in a technology center will include two classes, three periods in length for 11th- and 12th-grade students and adults.

(iii) **Length; order.** Two years of occupational training may be offered. No student shall be enrolled in Occupational Training II until Occupational Training I has been successfully completed.

(E) **Health Careers Education.**

(i) **Comprehensive Schools.** Programs in 7th, 8th, and 9th grade or high schools vary in length and may be offered in one, two or three blocks of time. Secondary programs in technology centers may be one or two academic years in length and vary in hours per day.

(ii) **Technology Centers.** Programs vary in length and in hours per day according to accrediting bodies and career major requirements.

~~(F) **Marketing Education.**~~

~~(i) **Secondary programs.** The three basic methods of offering secondary Marketing Management and Entrepreneurship Education programs shall be as follows:~~

~~(I) Project class, providing classroom instruction and application only;~~

~~(II) Project with shadowing component, providing a combination of classroom instruction and participating in a shadowing experience with business; and,~~

~~(III) Cooperative method/internship, providing classroom instruction plus a supervised work-site learning experience in a cooperating business.~~

~~(ii) **First and second-year students.** Comprehensive school Marketing Management and Entrepreneurship Education programs shall not mix first- and second-year marketing management students in the same class without written permission from the State Department of Education.~~

~~(iii) **Technology/equipment.** Marketing Education programs shall provide technology that is appropriate for the defined occupational objectives and is reflective of a modern business environment.~~

(~~G~~F) **Science, Technology, Engineering and Mathematics.**

~~(i) **Program operation requirements.**~~

(i) **Biomedical Science and Medicine.** The following courses are required to be taught: Principles of Biomedical Sciences (PBS), Human Body Systems (HBS), Medical Interventions (MI), Biomedical Innovations (BI), in addition to the appropriate science and math courses. Technology centers and high schools are required to administer each biomedical end of course test if applicable, preferably by a proctor and/or testing liaison.

(ii) **Biotechnology.** The following courses are required to be taught: Survey of Biotechnology, Biotechnology I, Biotechnology II, Advanced Biotechnology I, Advanced Biotechnology II and Biotechnology Capstone in addition to the appropriate math and science courses. Other biotechnology courses and career majors may be approved by STEM division of ODCTE.

(iii) **Computer Science.** The following courses are suggested to be taught in order for an ODCTE computer science career major Computer Science and Software Engineering, Computer Science Applications, Capstone Course: Computational Problem Solving, in addition to the appropriate math and science courses.

(iv) **Gateway to Technology.** This program is designed for grades 6-8 primarily and 5th grade with state program administrator written approval. The following classes are required to be taught in order for an ODCTE Gateway to Technology: Design & Modeling, Automation & Robotics and at least one other GTT course approved by the state program administrator.

(v) **Pre-Engineering.** A minimum of three pre-engineering courses required. Foundation courses required are Introduction to Engineering Design (IED) and Principles of Engineering (POE). In addition to at least one specialty course preferably Engineering Design and Development (EDD)/capstone course. Appropriate math and science courses must be offered. Technology Centers and high schools are required to administer each pre-engineering end of course test if applicable, preferably by a proctor and/or testing liaison.

(vi) **Technology Engineering Middle School (grades 6-8):** This program is designed for grades 6-8 primarily and 5th grade with state program administrator written approval.

(vii) **Technology Engineering High School (grades 9-10):** The following courses are designed for 9-10 grades.

(viii) **Tech Connect High School (grades 9-10):** The appropriate approved courses need to be taught from one of the following career pathways: Tech Connect Agriculture, Food and Natural Resources; Tech Connect Architecture & Construction; Tech Connect Arts; A/V Technology and Communications; Tech Connect Information Technology; Tech Connect Law, Public Safety and Security; Tech Connect Manufacturing; Tech Connect Transportation, Distribution and Logistics; Tech Connect Science, Technology, Engineering and Mathematics; Connect Diversified Programs.

~~(I) **Program design.** The primary purpose of the Technology Engineering/TechConnect is a career and technology education program designed to transition ninth and tenth grade students to the next level of career development. These programs provide foundational competency experiences by focusing on integration of rigorous academics, all aspects of the industry, employability and technical skills. Technology Engineering /TechConnect programs are targeted for grades 9 and 10, but they may be extended an additional two years through an 11th and 12th grade TechConnect Plus program where access to advanced *Career*Tech programs is unavailable and/or limited or where special student needs are identified. Enrollment priority should be considered for students who are at risk or who are members of special populations; however, enrollment should not be limited to these students only. Through the infusion of *Career*Tech preparation strategies in academic classes, Technology Engineering/TechConnect students develop an understanding of how principles of math, science, and English are applied in the workplace and why it is necessary for them to master academic skills. Technology Engineering /TechConnect programs are designed to provide students a solid foundation in academic skills,~~

~~practical "hands-on" activities, and the ability to relate abstract concepts to the "hands-on" activities. An essential component of a Technology Engineering/TechConnect program is the development and implementation of a comprehensive career guidance program, so Technology Engineering/TechConnect students will be able to make more meaningful career choices by developing a better understanding of their own interests, skills, and abilities; understanding labor market projections; and learning to formulate a plan of study to achieve their individual career goals. The school guidance program should include a total occupational assessment of each student as well as components that address the student's personal, social, educational and career development needs. Technology Engineering/TechConnect programs shall consist of occupational instruction for two consecutive periods. Programs shall have laboratory experiences, where appropriate, to provide the progressive situations necessary for general occupational skills training. In order to integrate academics and *Career*Tech education, teachers of the Technology Engineering/TechConnect programs shall participate in appropriate professional improvement activities including the summer *Career*Tech conference, professional improvement meetings, and other related activities. Technology Engineering/TechConnect students shall have access to appropriate career and technology student organizations that are consistent with the related *Career*Tech programs as well as other personal development components. Technology Engineering/TechConnect program enrollment numbers shall be consistent with related *Career*Tech program guidelines with particular attention given to work situations and available resources. Technology Engineering /TechConnect teacher certification shall be consistent with related *Career*Tech program areas. Exceptions shall be approved by the appropriate occupational division administrator.~~

~~(II) **Occupational preparation.** Programs shall be designed to introduce students to careers in "clusters" of closely related occupations, including but not limited to Construction, Mechanical Construction, Mechanics, Electrical/Electronics, Communications, Horticulture, Food Services, Hospitality, Child/Elder Care, Health Services, Metals, Food Services, Agricultural Related, Business, and Family and Consumer Sciences Related.~~

~~(III) **Full-time program.** A six period day will require two, two hour blocks or four one-hour blocks with one hour of related instruction for a full-time program. One two period block or less than four one-hour period blocks will constitute a half-time program in a six period day. A seven period day will require three two-hour blocks or five one-hour blocks with one hour of related instruction for a full-time program. Two two-hour blocks or less than five one-hour blocks will constitute a half-time program in a seven period day.~~

~~(IV) **Full-time teacher.** A teacher who is teaching two or more Technology Engineering/TechConnect classes, which are each two consecutive periods in length, or who is teaching four or more Technology Engineering /TechConnect classes, which are each one period in length, shall be considered as a full-time *Career*Tech teacher in a six period day. A Technology Engineering/TechConnect teacher may be assigned three two period or six one period *Career*Tech classes in a seven period day.~~

~~(V) **Technology Engineering /TechConnect program operation recommendations.** Technology Engineering/TechConnect students should have access to comprehensive guidance services. These services should include the development of a plan of study that provides direction through course enrollment leading toward high school graduation. The plan should be flexible with periodic review to ensure program/course relevance in attainment of the student's career goal(s). Schools should offer applied academic courses in English, mathematics, and science for Technology Engineering/TechConnect students. Enrollment in applied courses should be consistent with each Technology Engineering/TechConnect student plan of study. Enrollment in the Technology Engineering/TechConnect applied academic courses should not be limited to Technology Engineering /TechConnect students. Teachers of the applied academic courses should participate in appropriate professional improvement activities including summer *Career*Tech conference, professional improvement meetings, and other related activities. Technology Engineering/TechConnect students should be provided support services to enhance academic competence. These services may be provided through an education enhancement center, tutoring services, or other activities that will assist the student in attainment of academic/occupational competencies.~~

~~(ii) **Supervision.** The State Board shall provide state and federal funds to enhance special populations students equal access and full participation in *Career*Tech programs. Programs shall be supervised by the appropriate occupational and Technology Engineering division.~~

~~(H) **Technology Engineering.**~~

~~(i) **Course duration.** Each technology engineering course shall be taught in a one period block of time (45-55 minutes).~~

~~(ii) **Curriculum.** The curriculum emphasis will be placed on Project Lead the Way and Engineering by Design, both national pre-engineering curricula. Also, emphasis shall continue on the following technology clusters: Architecture and Construction, Arts, A/V and Communications, Information Technology, Manufacturing, Transportation, Distribution and Logistics, Agriculture, food and natural resources, Health Science and Science, Technology, Engineering & Mathematics. Through these curricula and the Oklahoma Career Information System, all sixteen of the nationally recognized Career Clusters will be explored.~~

~~(iii) **Four periods per day.** Each program shall implement the technology engineering curriculum into a minimum of four periods per day, with one additional period allotted for a conference/planning period.~~

~~(iv) **Equipment.** Technology Engineering programs shall provide technically up-to-date equipment to allow students opportunities for modernistic hands-on experiences. Schools are encouraged to use state program assistance funds to purchase this equipment.~~

~~(I) **Pre-Engineering.** The following courses are required to be taught: Introduction to Engineering Design (IED), Principles of Engineering (POE), Engineering Design and Development (EDD), a capstone in addition to the appropriate math and science courses. Other engineering courses may be approved by STEM division of ODCTE. Technology Centers and high schools are required to administer each pre-engineering end of course test if applicable, preferably by a proctor and/or testing liaison.~~

~~(J) **Biomedical Science and Medicine.** The following courses are required to be taught: Principles of Biomedical Sciences (PBS), Human Body Systems (HBS), Medical Interventions (MI), Biomedical Innovations (BI) in addition to the appropriate science and math courses. Technology Centers and high schools are required to administer each biomedical end of course test if applicable, preferably by a proctor and/or testing liaison.~~

~~(K) **Biotechnology.** The following courses are required to be taught in order for an ODCTE biotechnology career major to be accredited and/or funded: Survey of Biotechnology, Biotechnology I, Biotechnology II, Advanced Biotechnology I, Advanced Biotechnology II and Biotechnology Capstone in addition to the appropriate math and science courses. Other biotechnology courses may be approved by STEM division of ODCTE.~~

(~~L~~ix) **Trade and Industrial Education.** All secondary trade and industrial education students in Technology Centers shall be enrolled for three consecutive periods daily, five days a week. Secondary TechConnect Plus students in comprehensive high schools may be enrolled for one period daily, five days a week. Adult trade and industrial education students may enroll for one-half day (three periods) or a full day (six periods). The Program Administrator of Trade and Industrial Education must approve any exceptions in writing.

(~~M~~x) **Integrated Academics.** Academics taught in the technology center shall be delivered in the context of the program in which each student is enrolled. If academic instruction is offered for credit through the sending school, it shall be structured so as to meet current legislation and State Department of Education guidelines. Students must meet, within the structure of the academic class, the attendance requirements of their comprehensive schools in order to receive academic credit. Further, the legislated limit of 10 days of absence from the academic class for school-related activities applies.

(c) **Enrollment for full-time programs.**

(1) **Guidelines compliance.** Program enrollments shall comply with the established guidelines of the appropriate occupational division. Exceptions must have written approval by the appropriate program administrator prior to the second week of class. Consideration shall be given to the availability of work stations, clinical experiences and individual student needs.

(2) **Enrollments specific to occupational divisions and programs.**

(A) **Agricultural Education.**

(i) **Student enrollment limits.** If a department has adequate space, equipment, and laboratory sites, a maximum of 25 students may be enrolled in each agricultural education class with the exception of lab classes, such as Horticulture and Ag Mechanics, and they shall be limited to 15 per class. Exceptions to these numbers must have written approval by the appropriate program administrator.

(ii) **Maximum class enrollment.** The maximum enrollment in each agricultural mechanics and horticulture class shall be 15 students per class period.

(iii) **Course prerequisite.** Introduction to Agricultural Science is the prerequisite for all other agricultural education courses with the exception of eighth-grade Agricultural Orientation.

(iv) **Employment in Agribusiness.** The Agricultural Education course, Employment in Agribusiness, is considered a Cooperative Program in which students can earn scholastic credit if the course meets all requirements listed under section (780:20-3-1 section e). It must be taught and

supervised by the agricultural education instructor. Note: The work-site experience must be directly related to the curriculum offered in the program.

(B) **Business, Marketing and Information Technology Education.**

(i) ~~**Business and Information Technology Education programs**~~ **Programs in comprehensive schools.** Business, Marketing and Information Technology Education courses may enroll a maximum of 25 students at a ratio of one work station per student. A maximum of 25 students per ~~class~~teacher-coordinator shall be enrolled in a capstone course or Marketing Education cooperative learning course. ~~the business and computer technology internship.Other Business and Information Technology Education courses may enroll a maximum of 25 students at a ratio of one work station per student.~~Only one section of cooperative learning will be allowed per program. Students enrolling in cooperative learning in a Marketing Education program must have completed a minimum of 120 hours of approved marketing education coursework.

(ii) ~~**Business and computer technology programs**~~**Programs in technology centers.** Business, Marketing and Information Technology Education courses may enroll a maximum of 25 students at a ratio of one work station per student.

(iii) **Part-time program enrollment.** The maximum number of cooperative students in a half-time program in a comprehensive school is 25 per marketing teacher-coordinator. Only one section of cooperative learning will be allowed per program. Students enrolling in cooperative learning in a Marketing Education program must have completed a minimum of 120 hours of approved marketing education coursework.

(C) **Family and Consumer Sciences Education.**

(i) **Family and Consumer Sciences programs in comprehensive schools.** If a department has adequate space, equipment and laboratory sites, maximum enrollment for the following courses shall be: (Not all class offerings are listed, but those not listed have enrollment determinatives in common with one of the courses listed.)

(I) Personal Development, Teen Living, and Life Management-20 Students

(II) Family and Consumer Sciences I and II-20 Students

(III) Hospitality Careers Orientation, Career Orientation, and Adult and Family Living-25 Students

(IV) Non-laboratory 60 hour courses-25 Students

(V) Laboratory 60 hour courses-21 students

(ii) **Family and Consumer Sciences Occupational Education.** A minimum of 10 and a maximum of 20 students shall be enrolled in each section of family and consumer sciences related occupational education.

(D) **Health Careers Education.**

(i) **Comprehensive Schools.** A minimum of ten and a maximum of eighteen students shall be enrolled in each course/section of a comprehensive school health careers education program.

(ii) **Technology Centers.**

(I) **Full time high school health careers programs.** A minimum of ten and 8a maximum of eighteen students per instructor shall be enrolled in a Health Careers Education program. Those programs utilizing student-centered learning as the primary method of instruction shall have a maximum of fifteen students per instructor. Program enrollment may also be limited by national and/or state accrediting bodies, by equipment, classroom and/or laboratory facilities and by clinical site availability.

(II) **Full-time adult-only health careers programs.** A minimum of eight and a maximum of twelve students per instructor shall be enrolled in a full-time adult-only Health Careers Education program. Program enrollment may also be limited by national and/or state accrediting bodies, by equipment, classroom and/or laboratory facilities and by clinical site availability.

~~(E)~~ ~~**Marketing Education.**~~

~~(i)~~ ~~**Student enrollment limits.** The maximum number of cooperative students in a full-time cooperative Marketing Management and Entrepreneurship program shall not exceed 25 students per marketing management teacher coordinator. A maximum of 25 students per class may be enrolled in the marketing internship. Other Marketing Education courses may enroll a maximum of 25 students.~~

~~(ii)~~ ~~**Project class enrollment.** Where the marketing management teacher coordinator teaches a marketing management project class in conjunction with the cooperative programs, enrollment in the project class is determined by the size of the classroom facility and SDE policies.~~

~~(iii)~~ ~~**"Marketing management project students."** Sophomore, junior or senior students may be allowed to enroll in each existing cooperative class for the theory and classroom application portion only. These students would not be required to obtain work-site learning experience and would receive only one unit of credit.~~

~~(iv)~~ ~~**Half-time program enrollment.** The maximum number of cooperative students in a half-time cooperative program is 25 per teacher coordinator.~~

(~~F~~E) **Science, Technology, Engineering and Mathematics.** ~~**Technology Engineering and Tech-Connect.**~~

(i) **Student Enrollment Limits.** The maximum enrollment for each period of a STEM program except TechConnect shall be 24 students. The maximum enrollment for each period of TechConnect shall be 20 students. Consideration should be given to the size of the facility ~~and the number of students that the modular workstations are designed to accommodate.~~ The minimum recommended floor space per student is 60 square feet.

(ii) **Full-time program.** In a six period day, instructor shall teach five approved CareerTech-STEM courses and/or one approved related course. In a seven period day, instructor shall teach six approved CareerTech STEM courses and/or one approved related course. In an eight period day, instructor shall teach seven approved CareerTech STEM courses and/or one approved related course.

(~~G~~F) **Trade and Industrial Education and Tech-Connect. Plus.**

(i) **Maximum enrollment.** The maximum enrollment for each Trade and Industrial Education, TechConnect Plus program section shall be 20 students, with the exceptions of cosmetology, which may have a maximum of 22 students, and career transitions programs, which may have 50 students per career transitions teacher.

(ii) **Alternate program enrollment.** The Trade and Industrial Education Division shall establish a reduced maximum enrollment for any program not meeting adequate size or layout of teaching facilities, number of training stations, appropriate quality and quantity of tools, and equipment and supplies. Individual student needs, student safety and supervision shall also be considered when determining maximum student enrollment.

(iii) **Inclusion of on-the-job students.** Students involved in on-the-job training shall be included in the maximum enrollment for the program unless each school has an on-the-job training coordinator.

(d) **Length of programs.** *Career*Tech programs shall be 10 or 12 calendar months as approved by the appropriate program administrator. Exceptions must be approved by the Department.

780:20-3-4. Instructors

(a) **Certification on file.** All *Career*Tech secondary teachers shall have (on file in the local education agency) an appropriate teaching certificate issued by the Certification Section of the State Department of Education.

(b) **Administrative responsibility.** It shall be the responsibility of school administration to assure that a *Career*Tech teacher applicant meets *Career*Tech certification requirements before placing the applicant under contract. Certification requirements are found in the ***Teacher Certification Guide for School Staff Assignments*** on the Oklahoma State Department of Education website.

(1) **Occupational division approval.** All *Career*Tech teachers must have the *Career*Tech certification application approved by the program administrator in the appropriate occupational division.

(2) **Occupational division renewal of certification.** All *Career*Tech teachers must complete the specific occupational division's requirements for *Career*Tech certification renewal and be approved by the appropriate program administrator.

(c) **Health Careers Education.**

(1) **Faculty requirements.** Faculty shall hold current credentials as a licensed, certified and/or registered health care professional and must meet the requirements of the local education agency, Health Careers Education Division, and the respective accrediting agency.

(A) **Technology Centers: High School Health Careers Programs.** Faculty holding a baccalaureate degree will be required to have additional coursework specific to Career and Technology teacher education. These requirements will be posted on the Health Careers Education website. Faculty shall have a degree plan on file with the Health Careers Education division and provide documentation in the form of transcripts demonstrating yearly progress toward obtaining required coursework.

(B) **Technology Centers: Adult Only Health Careers Programs.** Faculty shall hold a minimum of an Associates' degree or be on a degree plan making yearly progress toward completion. State and national accreditation standards may indicate additional faculty requirements towards advanced degrees. Faculty hired before 2010 will be exempt from this rule.

(2) **On-file applications.** Faculty shall have an application on file in the Health Careers Education office, including a Statement of Qualifications form, all current transcripts and, a copy of professional credential or credential verification, and, if appropriate, current teaching certificate or application for teaching certificate.

(3) **Clinical experience.** Faculty must have a minimum of two years' work experience in a clinical setting within the last five years prior to their first teaching experience. The Health Careers Education Program Manager must approve any variations.

(d) **Science Technology Engineering and Mathematics (STEM). Faculty requirements.** ~~Faculty teaching technical courses shall hold a science, math, trade industrial, technology engineering or appropriate CTE certification approved by the career major administrator.~~

(1) **Biomedical Sciences.** Required Certifications: Biology, Chemistry, or Physics

(2) **Biotechnology.** Required Certifications: Biology, Chemistry, or Physics

(3) **Computer Science.** Required Certifications: Computer Science, Advanced Mathematics, Intermediate

Mathematics, Physics, or Business Education(with AP Computer Science teaching experience.

(4) **Gateway to Technology.** Required Certifications: Appropriate math and/or science meeting State Department of Education's grade level requirements, Technology Engineering or Trade and Industrial Education. Teachers teaching at the middle or high school level must hold the appropriate certification to instruct the specific grades being taught. Check State Department of Education current requirements.

(5) **Pre-Engineering.** Required Certifications: Chemistry, Physics, Advanced Mathematics, or Trade & Industrial.

(6) **Technology Engineering Middle School.** Appropriate math and/or science meeting State Department of Education's grade level requirements, Technology Engineering or Trade and Industrial Education. Teachers teaching at the middle or high school level must hold the appropriate certification to instruct the specific grades being taught. Check State Department of Education current requirements.

(7) **Technology Engineering High School.** Required Certifications: Technology Engineering,or Trade and Industrial.

(8) **Tech Connect.** Required Certifications: Trade & Industrial with NoCTI certification specific to area being taught.

(9) Teachers teaching math and/or science academic courses must meet the requirements of the Oklahoma State Department of Education for that specific academic course/area.

(e) **Professional development.** New instructors shall participate in pre-service professional development activities as required by the appropriate divisions. All secondary and full-time adult *Career*Tech instructors and staff shall participate in professional in-service as required by the appropriate divisions, including summer conference and mid-year activities.

780:20-3-5. Career and Technology Student Organizations

(a) **Student organizations as an integral part of the CareerTech program.** The Oklahoma Department of Career and Technology Education is the responsible entity for governance and administration of the career and technology student organizations and therefore has the authority to develop and enforce policy of the student organizations consistent with CareerTech program design and operation. Each secondary CareerTech program shall have an active and appropriate student organization as an integral part of its program.

(b) **Membership in appropriate organization.** Each student who participates in student organization activities shall be a member of the student organization designed for the occupational program in which the student is enrolled.

(c) **Organizations.** Career and technology student organizations shall include:

(1) DECA~~/Delta Epsilon Chi~~ (Business, Marketing and Information Technology Education)

(2) BPA (Business, Marketing and Information Technology Education), Business Professionals of America.

(3) FFA (Agricultural Education)

(4) FCCLA (Family and Consumer Sciences Education), Family, Career and Community Leaders of America

(5) HOSA (Health Careers Education and STEM)

(6) TSA (~~Technology Engineering and~~ STEM), Technology Students Association

(7) SkillsUSA (Trade and Industrial Education and STEM)

(d) **Accountability; loss of program funding.**

(1) The school and the career and technology student organization chapter will be held accountable for the actions of the student organization members and the advisor participating in any career and technology student organization activity. Failure to comply with the official rules of such activities may, after an opportunity to present reasons why said action should not occur, result in the loss of the state funding for that CareerTech program.

(2) The school and the FFA chapter will be held accountable for the actions of the FFA members and the FFA advisor participating in any FFA activity. Any Agricultural Education program that has a student/FFA member who is the owner of an animal testing positive for illegal or improper drugs or additives, has altered the appearance of the animal(s) surgically (other than normal and customary practice), and/or violates the eligibility rules for ownership of animals shall, after hearing, and after consideration by the State Board, and upon determination that there has been a violation of this policy, lose state funding for that program.

(e) **FFA Membership Eligibility.** Any student in Grades 8-12 must be regularly enrolled in a year long course of study in Agricultural Education at school in order to be eligible to participate in any FFA activity. For the purpose of this section; at school is defined as physically present and supervised in a classroom by a certified agricultural education instructor. Exceptions are granted to students who attend a school with block schedule and who, therefore, may have completed a year-long course of study in Agricultural Education in one semester. Students in the seventh grade are not eligible for the FFA membership in Oklahoma. Annual local, state, and national FFA dues must also be paid in order to be eligible to participate in any FFA activity.

[OAR Docket #15-598; filed 6-18-15]

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

[OAR Docket #15-670]

RULEMAKING ACTION:
PERMANENT final adoption

RULES:
Subchapter 5. Surface Water Quality Standards

Part 3. Beneficial Uses and Criteria to Protect Uses
785:45-5-12. Fish and wildlife propagation [AMENDED]
Appendix E. Requirements for Development of Site-Specific Criteria for Certain Parameters [REVOKED]
Appendix E. Requirements for Development of Site-Specific Criteria for Certain Parameters [NEW]
Appendix G. Numerical Criteria to Protect Beneficial Uses [REVOKED]
Appendix G. Numerical Criteria to Protect Beneficial Uses [NEW]

AUTHORITY:
Oklahoma Water Resources Board, 82 O.S. §§ 1085.30 and 1085.30a; 27A O.S. § 1-3-101; and 82 O.S. § 1085.2.

SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
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APPROVED BY GOVERNOR'S DECLARATION:
Approved by Governor's declaration on June 8, 2015

FINAL ADOPTION:
June 8, 2015

EFFECTIVE:
September 11, 2015

SUPERSEDED EMERGENCY ACTIONS:
n/a

INCORPORATIONS BY REFERENCE:
n/a

ANALYSIS:
The amendments to OAC 785:45-5-12 include: (a) striking the use support assessment language found in OAC 785:45-5-12(f)(1)(D); and (b) modifying OAC 785:45-5-12(f)(1)(C) to include (i) and (ii) which will now contain the provisions that relate to acute dissolved oxygen events. Table 1 of Appendix G is revoked and reenacted to include two additional footnotes clarifying how the 10% exceedance frequency is to be used and specifying where the WWAC dissolved oxygen criteria apply in lakes.

Appendix E, Requirements For Development of Site-Specific Criteria For Certain Parameters, is revoked and reenacted with the addition of a site specific Water Effect Ratio and Dissolved Translator standards for use in calculating permit limits for copper and zinc for the Broken Bow Public Works Authority's OPDES permit related to discharge of municipal and industrial wastewater to a tributary of Yanubbe Creek.

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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 11, 2015:

SUBCHAPTER 5. SURFACE WATER QUALITY STANDARDS

PART 3. BENEFICIAL USES AND CRITERIA TO PROTECT USES

785:45-5-12. Fish and wildlife propagation

(a) **List of subcategories.** The narrative and numerical criteria in this section are designed to maintain and protect the beneficial use classification of "Fish and Wildlife Propagation". This classification encompasses several subcategories which are capable of sustaining different climax communities of fish and shellfish. These subcategories are Habitat Limited Aquatic Community, Warm Water Aquatic Community, Cool Water Aquatic Community (Excluding Lake Waters), and Trout Fishery (Put and Take).

(b) **Habitat Limited Aquatic Community subcategory.**

(1) Habitat limited aquatic community means a subcategory of the beneficial use "Fish and Wildlife Propagation" where the water chemistry and habitat are not adequate to support a "Warm Water Aquatic Community" because:

(A) Naturally occurring water chemistry prevents the attainment of the use; or

(B) Naturally occurring ephemeral, intermittent or low flow conditions or water levels prevent the attainment of the use, unless these conditions may be compensated for by the discharge of a sufficient volume of effluent to enable uses to be met; or

(C) Human caused conditions or sources of pollution prevent the attainment of the use and cannot be remedied or would cause more environmental damage to correct than to leave in place; or

(D) Dams, diversions or other types of hydrologic modifications preclude the attainment of the use, and it is not feasible to restore the waterbody to its original condition or to operate such modification in a way that would result in the attainment of the use; or

(E) Physical conditions related to the natural features of the waterbody, such as the lack of a proper substrate, cover, flow, depth, pools, riffles, and the like, unrelated to water quality, preclude attainment of the "Warm Water Aquatic Community" beneficial use.

(2) Habitat Limited Aquatic Community may also be designated where controls more stringent than those required by sections 301(b) and 306 of the federal Clean Water Act as amended, which would be necessary to meet standards or criteria associated with the beneficial use subcategories of Cool Water Aquatic Community or Warm Water Aquatic Community, would result in substantial and widespread economic and social impact.

(c) **Warm Water Aquatic Community subcategory.** Warm Water Aquatic Community means a subcategory of the beneficial use category "Fish and Wildlife Propagation" where the water quality and habitat are adequate to support climax fish communities.

(d) **Cool Water Aquatic Community subcategory.** Cool Water Aquatic Community means a subcategory of the beneficial use category "Fish and Wildlife Propagation" where the water quality, water temperature and habitat are adequate to support cool water climax fish communities and includes an environment suitable for the full range of cool water benthos. Typical species may include smallmouth bass, certain darters and stoneflies.

(e) **Trout Fishery subcategory.** Trout Fishery (Put and Take) means a subcategory of the beneficial use category "Fish

and Wildlife Propagation" where the water quality, water temperature and habitat are adequate to support a seasonal put and take trout fishery. Typical species may include trout.

(f) **Criteria used in protection of fish and wildlife propagation.** The narrative and numerical criteria to maintain and protect the use of "Fish and Wildlife Propagation" and its subcategories shall include:

(1) **Dissolved oxygen.**

(A) Dissolved oxygen (DO) criteria are designed to protect the diverse aquatic communities of Oklahoma.

(B) Allowable loadings designed to attain these dissolved oxygen criteria are provided as follows:

(i) For streams with sufficient historical data, the allowable load shall be based on meeting the dissolved oxygen concentration standard at the seven-day, two-year low flow and the appropriate seasonal temperatures prescribed in Table 1 of Appendix G of this Chapter.

(ii) For streams lacking sufficient historical data, or when the appropriate flow is less than one (1) cubic foot per second (cfs), the allowable load shall be based on meeting the dissolved oxygen concentration standard at one (1) cfs and the appropriate seasonal temperature.

(iii) Provided, for streams designated in OAC 785:45 Appendix A as HLAC or WWAC which have sufficient historical data as determined by the permitting authority, the allowable BOD load may be based upon meeting the dissolved oxygen concentration standard at the applicable seasonal temperature and corresponding seasonal seven-day, two-year low flow.

(iv) Provided further, in stream segments where dams or other structures have substantially affected the historic flow regime of the stream segment, including but not limited to the portions of the Verdigris and Arkansas Rivers constituting the McClellan-Kerr Arkansas River Navigation System, a properly designed and implemented site-specific hydrologic study approved by the permitting authority and the Board may be used to determine the appropriate regulatory low flow. In such circumstances, the allowable BOD load may be based upon meeting the dissolved oxygen concentration standard at the applicable seasonal temperature and the site-specific regulatory low flow.

(C) Except for naturally occurring conditions ~~and as modified in (D) of this paragraph,~~ the dissolved oxygen criteria are as set forth in Table 1 of Appendix G of this Chapter. Additionally;

(i) For streams, no more than two DO samples shall exhibit a DO concentration of less than 2.0 mg/L in any given year.

(ii) For lakes, no more than 50% of the water volume shall exhibit a DO concentration less than 2.0 mg/L. If no volumetric data is available, then no more than 70% of the water column at any given sample site shall exhibit a DO concentration less than 2.0 mg/L. If a lake specific study including historical analysis demonstrates that a different percent volume or percent water column than described above is protective of the WWAC use, then that lake specific result takes precedence.

~~(D) For purposes of assessment, listing and reporting under sections 303(d) and 305(b) of the federal Clean Water Act as amended, the procedure for determining use support of the Fish and Wildlife Propagation beneficial use or any subcategory thereof with respect to dissolved oxygen shall be as follows:~~

~~(i) **General support test for all streams.** If more than two concentrations of DO in a stream are observed to be below 2.0 mg/L in any given year, the Fish and Wildlife Propagation beneficial use shall be deemed to be not supported.~~

~~(ii) **Support tests for HLAC streams.**~~

~~(I) The HLAC subcategory of the Fish and Wildlife Propagation beneficial use designated for a stream shall be deemed to be fully supported with respect to the DO criterion if 10% or less of the samples from the stream are less than 4.0 mg/L from April 1 through June 15 and less than 3.0 mg/L during the remainder of the year.~~

~~(II) The HLAC subcategory of the Fish and Wildlife Propagation beneficial use designated for a stream shall be deemed to be not supported with respect to the DO criterion if more than 10% of the samples from the stream are less than 4.0 mg/L from April 1 through June 15 or less than 3.0 mg/L during the remainder of the year due to other than naturally occurring conditions.~~

~~(iii) **Support tests for WWAC streams.**~~

~~(I) The WWAC subcategory of the Fish and Wildlife Propagation beneficial use designated for a stream shall be deemed to be fully supported with respect to the DO criterion if 10% or less of the samples from the stream are less than 6.0 mg/L from April 1 through June 15 and less than 5.0 mg/L during the remainder of the year.~~

~~(II) The WWAC subcategory of the Fish and Wildlife Propagation beneficial use designated for a stream shall be deemed to be undetermined with respect to the DO criterion if more than 10% of the samples from the stream are less than 6.0 mg/L and 10% or less of the samples are less than 5.0 mg/L from April 1 through June 15, or more than 10% of the samples are less than 5.0 mg/L and 10% or less of the samples are less than 4.0 mg/L from June 16 through October 15.~~

~~(III) The WWAC subcategory of the Fish and Wildlife Propagation beneficial use designated for a stream shall be deemed to be not~~

~~supported with respect to the DO criterion if more than 10% of the samples from the stream are less than 5.0 mg/L from April 1 through June 15, or less than 4.0 mg/L from June 16 through October 15, or less than 5.0 mg/L from October 16 through March 31, due to other than naturally occurring conditions.~~

~~(iv)~~ ~~**Support tests for CWAC and Trout streams.**~~

~~(I) The CWAC or Trout subcategory of the Fish and Wildlife Propagation beneficial use designated for a stream shall be deemed to be fully supported with respect to the DO criterion if 10% or less of the samples from the stream are less than 7.0 mg/L from March 1 through May 31 and less than 6.0 mg/L during the remainder of the year.~~

~~(II) The CWAC or Trout subcategory of the Fish and Wildlife Propagation beneficial use designated for a stream shall be deemed to be undetermined with respect to the DO criterion if more than 10% of the samples from the stream are less than 7.0 mg/L and 10% or less of the samples are less than 6.0 mg/L from March 1 through May 31, or more than 10% of the samples are less than 6.0 mg/L and 10% or less of the samples are less than 5.0 mg/L from June 1 through October 15.~~

~~(III) The CWAC or Trout subcategory of the Fish and Wildlife Propagation beneficial use designated for a stream shall be deemed to be not supported with respect to the DO criterion if more than 10% of the samples from the stream are less than 6.0 mg/L from March 1 through May 31, or less than 5.0 mg/L from June 1 through October 15, or less than 6.0 mg/L from October 16 through the last day of February, due to other than naturally occurring conditions.~~

~~(v)~~ ~~**Support tests for WWAC lakes.**~~ ~~The WWAC subcategory of the Fish and Wildlife Propagation beneficial use designated for a lake shall be deemed to be fully supported with respect to the DO criterion if both the Surface and Water Column criteria prescribed in (vi)(I) and (vii)(I) of this subparagraph (D) are satisfied. If either of the Surface or Water Column criteria prescribed in (vi)(II) or (vii)(II) produce a result of undetermined, then the WWAC subcategory of the Fish and Wildlife Propagation beneficial use designated for a lake shall be deemed to be undetermined with respect to the DO criterion; provided, if either of the Surface or Water Column criteria prescribed in (vi)(III) or (vii)(III) produce a result of not supported, then the WWAC subcategory of the Fish and Wildlife Propagation beneficial use designated for a lake shall be deemed to be not supported with respect to the DO criterion.~~

~~(vi)~~ ~~**Surface criteria for WWAC lakes.**~~

~~(I) The WWAC subcategory of the Fish and Wildlife Propagation beneficial use designated for a lake shall be deemed to be fully supported with respect to the DO criterion if 10% or less of the samples from the epilimnion during periods of thermal stratification, or the entire water column when no stratification is present, are less than 6.0 mg/L from April 1 through June 15 and less than 5.0 mg/L during the remainder of the year.~~

~~(II) The WWAC subcategory of the Fish and Wildlife Propagation beneficial use designated for a lake shall be deemed to be undetermined with respect to the DO criterion if more than 10% of the samples from the epilimnion during periods of thermal stratification, or the entire water column when no stratification is present, are less than 5.0 mg/L and 10% or less of the samples are less than 4 mg/L from June 16 through October 15, or more than 10% of the samples from the surface are less than 6.0 mg/L and 10% or less of the samples are less than 5.0 mg/L from April 1 through June 15.~~

~~(III) The WWAC subcategory of the Fish and Wildlife Propagation beneficial use designated for a lake shall be deemed to be not supported with respect to the DO criterion if more than 10% of the samples from the epilimnion during periods of thermal stratification, or the entire water column when no stratification is present, are less than 5.0 mg/L from April 1 through June 15 or less than 4.0 mg/L from June 16 through October 15, or less than 5.0 mg/L from October 16 through March 31, due to other than naturally occurring conditions.~~

~~(vii)~~ ~~**Water Column criteria for WWAC lakes.**~~

~~(I) The WWAC subcategory of the Fish and Wildlife Propagation beneficial use designated for a lake shall be deemed to be fully supported during periods of thermal stratification with respect to the DO criterion if less than 50% of the volume (if volumetric data is available) or 50% or less of the water column (if no volumetric data is available) of all sample sites in the lake are less than 2.0 mg/L.~~

~~(II) The WWAC subcategory of the Fish and Wildlife Propagation beneficial use designated for a lake shall be deemed to be undetermined during periods of thermal stratification with respect to the DO criterion if 50% or more, but not greater than 70%, of the water column at any given sample site in the lake is less than 2.0 mg/L due to other than naturally occurring conditions.~~

~~(III) The WWAC subcategory of the Fish and Wildlife Propagation beneficial use designated for a lake shall be deemed to be not supported during periods of thermal stratification with respect to the DO criterion if 50% or more of the water volume (if volumetric data is available) or more than 70% of the water column (if no volumetric data is available) at any given sample site is less than 2.0 mg/L.~~

~~(IV) If a lake specific study including historical analysis produces a support status which is contrary to an assessment obtained from the application of (I), (II) or (III) of (D)(vii) of this section, then that lake specific result will control.~~

~~(viii) **Additional application/exercise when support undetermined.** In instances where application of the tests in this subparagraph (D) initially produce a result that the pertinent subcategory is undetermined with respect to the DO criterion, such shall be subject to additional investigation that considers diurnal data for further application of such tests in order to resolve the determination of use support.~~

(2) **Temperature.**

(A) At no time shall heat be added to any surface water in excess of the amount that will raise the temperature of the receiving water more than 2.8°C outside the mixing zone.

(B) The normal daily and seasonal variations that were present before the addition of heat from other than natural sources shall be maintained.

(C) In streams, temperature determinations shall be made by averaging representative temperature measurements of the cross sectional area of the stream at the end of the mixing zone.

(D) In lakes, the temperature of the water column and/or epilimnion, if thermal stratification exists, shall not be raised more than 1.7°C above that which existed before the addition of heat of artificial origin, based upon the average of temperatures taken from the surface to the bottom of the lake, or surface to the bottom of the epilimnion if the lake is stratified.

(E) No heat of artificial origin shall be added that causes the receiving stream water temperature to exceed the maximums specified below:

(i) The critical temperature plus 2.8°C in warm water and habitat limited aquatic community streams and lakes except in the segment of the Arkansas River from Red Rock Creek to the headwaters of Keystone Reservoir where the maximum temperature shall not exceed 34.4°C.

(ii) 28.9°C in streams designated cool water aquatic community.

(iii) 20°C in streams designated trout fishery (put and take).

(F) Water in privately-owned reservoirs used in the process of cooling water for industrial purposes is exempt from these temperature restrictions, provided the water released from any such lake or reservoir into a stream system shall meet the water quality standards of the receiving stream.

(3) **pH (hydrogen ion activity).** The pH values shall be between 6.5 and 9.0 in waters designated for fish and wildlife propagation; unless pH values outside that range are due to natural conditions.

(4) **Oil and grease (petroleum and non-petroleum related).**

(A) All waters having the designated beneficial use of any subcategory of fish and wildlife propagation shall be maintained free of oil and grease to prevent a visible sheen of oil or globules of oil or grease on or in the water.

(B) Oil and grease shall not be present in quantities that adhere to stream banks and coat bottoms of water courses or which cause deleterious effects to the biota.

(5) **Biological Criteria.**

(A) Aquatic life in all waterbodies with the beneficial use designation of Fish and Wildlife Propagation (excluding waters designated "Trout, put-and-take") shall not exhibit degraded conditions as indicated by one or both of the following:

(i) comparative regional reference data from a station of reasonably similar watershed size or flow, habitat type and Fish and Wildlife beneficial use subcategory designation or

(ii) by comparison with historical data from the waterbody being evaluated.

(B) Compliance with the biological criteria to protect Fish and Wildlife Propagation set forth in this paragraph shall be based upon measures including, but not limited to, diversity, similarity, community structure, species tolerance, trophic structure, dominant species, indices of biotic integrity (IBI's), indices of well being (IWB's), or other measures.

(6) **Toxic substances (for protection of fish and wildlife).**

(A) Surface waters of the state shall not exhibit acute toxicity and shall not exhibit chronic toxicity outside the chronic regulatory mixing zone. Acute test failure and chronic test failure shall be used to determine discharger compliance with these narrative aquatic life toxics criteria. The narrative criterion specified in this subparagraph (A) which prohibits acute toxicity shall be maintained at all times and shall apply to all surface waters of the state. The narrative criterion specified in this subparagraph (A) which prohibits chronic toxicity shall apply at all times outside the chronic regulatory mixing zone and within the zone of passage to all waters of the state except:

(i) When a discharge into surface waters designated with the Fish and Wildlife Propagation beneficial use complies with and meets the discharge permit limitations but the flow immediately upstream from the discharge is less than one (1)

cubic foot per second or when the flow falls below the seven-day, two-year low-flow, whichever is larger. For purposes of the permitting process, the regulatory low flow shall be the larger of one (1) cubic foot per second or the seven-day, two-year low flow; and

(ii) To streams listed as ephemeral in Appendix A.

(B) Procedures to implement these narrative criteria are found in OAC 785:46 Subchapter 3.

(C) Toxicants for which there are specific numerical criteria are listed in Table 2 of Appendix G of this Chapter.

(D) For toxicants not specified in Table 2 of Appendix G of this Chapter, concentrations of toxic substances with bio-concentration factors of 5 or less shall not exceed 0.1 of published LC50 value(s) for sensitive representative species using standard testing methods, giving consideration to site specific water quality characteristics.

(E) Concentrations of toxic substances with bio-concentration factors greater than 5 shall not exceed 0.01 of published LC50 value(s) for sensitive representative species using standard testing methods, giving consideration to site specific water quality characteristics.

(F) Permit limits to prevent toxicity caused by discharge of chlorine and ammonia are determined pursuant to the narrative criteria contained within (A) and (B) of this paragraph.

(G) The acute and chronic numerical criteria listed in the "Fish and Wildlife Propagation" column in Table 2 of Appendix G of this Chapter apply to all waters of the state designed with any of the beneficial use sub-categories of Fish and Wildlife Propagation. The numerical criteria which prohibit acute toxicity apply outside the acute regulatory mixing zone.

(i) The numerical criteria specified in Table 2 of Appendix G which prohibit chronic toxicity shall apply at all times outside the chronic regulatory mixing zone and within the zone of passage to all waters of the state except:

(I) When a discharge into surface waters designated with the Fish and Wildlife Propagation beneficial use complies with and meets the discharge permit limitations but the flow immediately upstream from the discharge is less than one (1) cubic foot per second or when the flow falls below the seven-day, two-year low-flow, whichever is larger. For purposes of the permitting process, the regulatory low flow shall be the larger of one (1) cubic foot per second or the seven-day, two-year low flow; and

(II) To streams listed as ephemeral in Appendix A.

(ii) Equations are presented in Table 2 of Appendix G for those substances whose toxicity varies with water chemistry. Metals listed in Table 2 of Appendix G are measured as total metals in the water column.

(H) For purposes of assessment per OAC 785:46-15-5, criteria for dissolved metals identified in Table 3 of Appendix G of this Chapter may be ascertained and implemented as an alternative to the total recoverable metals criteria set forth in Table 2 of Appendix G. Such dissolved metals criteria may be determined by multiplying the total recoverable numerical criteria in OAC 785:45 Appendix G, Table 2 by the conversion factors identified in Table 3 of Appendix G.

(7) **Turbidity.**

(A) Turbidity from other than natural sources shall be restricted to not exceed the following numerical limits:

(i) Cool Water Aquatic Community/Trout Fisheries: 10 NTUs;

(ii) Lakes: 25 NTUs; and

(iii) Other surface waters: 50 NTUs.

(B) In waters where background turbidity exceeds these values, turbidity from point sources shall be restricted to not exceed ambient levels.

(C) Numerical criteria listed in (A) of this paragraph apply only to seasonal base flow conditions.

(D) Elevated turbidity levels may be expected during, and for several days after, a runoff event.

(8) **Sediments.** Concentrations or loads of suspended or bedded sediments that are caused by human activity shall not impair the Fish and Wildlife Propagation use or any subcategory thereof.

APPENDIX E. REQUIREMENTS FOR DEVELOPMENT OF SITE-SPECIFIC CRITERIA FOR CERTAIN PARAMETERS [REVOKED]

APPENDIX E. REQUIREMENTS FOR DEVELOPMENT OF SITE-SPECIFIC CRITERIA FOR CERTAIN PARAMETERS [NEW]

A. General applicability to metals

Numerical criteria for total recoverable metals to protect aquatic life are referenced in OAC 785:45-5-12(f)(6)(G) and Table 2 of Appendix G of this Chapter. For permitting purposes, such criteria for total recoverable Arsenic, Cadmium, Chromium, Copper, Lead, Mercury, Nickel, Silver, and Zinc may be translated into dissolved metals criteria using the conversion factors referenced in OAC 785:45-5-12(f)(6)(H) and Table 3 of Appendix G. Criteria for parameters other than metals are also located in Table 2 of Appendix G.

An additional alternative which may be utilized for permitting purposes is to determine site-specific criteria from either the total recoverable or the dissolved criteria. However, federal regulations found at 40 CFR 122.45(C) require that NPDES permit limits must express metals concentrations as total recoverable, not dissolved. Therefore, if dissolved criteria for metals are implemented, they must be translated to site-specific total metals criteria to be used in the issuance of permit limits consistent with OAC 785:46.

The permitting authority may issue a total recoverable permit limit if statewide total recoverable criteria are appropriate in the permitting authority's view, and/or satisfactory in the permittee's view. If permit limits obtained using total recoverable criteria are unsatisfactory to the permittee, the permittee may attempt to obtain different permit limits by developing site-specific criteria in accordance with the provisions of this Appendix.

Implementation of site-specific criteria may reduce the margin of safety afforded by implementation of criteria per 785:45-5-12(f)(6)(G) and Table 2 of Appendix G. Therefore, it is important that background concentration (which reduces the assimilation capacity of receiving water) be accounted for when site-specific criteria are implemented. Determination of background concentration requires a minimum of twelve samples collected over twelve months.

In order to develop permissible site-specific criteria, this Appendix must be followed to the satisfaction of the permitting authority and the OWRB. A work plan explaining sampling and analysis procedures and quality assurance/quality control must be approved by the OWRB prior to commencing the site-specific study. Upon completion, results must be submitted to OWRB and the permitting authority. Additional technical guidance is available in OWRB technical report 2001-2, "Guidance for Developing Site Specific Criteria for Metals and_through Appendices J and L of the "Water Quality Standards Handbook", EPA publication no. 823-B-94-005a (August 1995). Permittees are strongly encouraged to evaluate both the discharge and receiving water using clean sampling techniques.

Upon OWRB approval, site-specific criteria shall be promulgated as part of this Appendix following the next subsequent permanent rulemaking to amend OAC 785:45. These site-specific

criteria supersede other numeric criteria promulgated elsewhere in this chapter if it is shown to the satisfaction of the Board that properties of the discharge or the circumstances surrounding the development of the site-specific criteria have not significantly changed since the promulgation of those site-specific criteria. Such criteria and the conditions around which they were derived, including but not limited to local environmental factors and effluent characteristics, shall be re-evaluated by the permit holder with each subsequent discharge permit renewal application or major modification request to determine if any significant changes have affected the propriety of the site-specific criteria.

B. Site-specific Criteria Applicability for NPDES Permit Activities

Oklahoma's site-specific criteria, except as otherwise specified, apply where the maximum concentration on the chronic regulatory mixing zone boundary occurs under critical conditions for receiving streams where $Q^*>0.1823$ and on the acute regulatory mixing zone boundary for streams where $Q^*\leq 0.1823$. Critical conditions include regulatory effluent and receiving stream flows. OAC 785:46-5-2(C) requires that effluent flow, Q_e, be the highest monthly averaged discharge if sufficient data is available, or the design flow otherwise. When chronic criteria implementation is appropriate, OAC 785:45-5-4 requires that the receiving stream flow, Q_u, be the larger of 7Q2 or 1 cfs. One cfs shall be used if the 7Q2 cannot be determined. The discharger shall be required to determine the 7Q2 per OAC 785:46-1-6 prior to the next permit cycle at which time the permit limits may be revised using the newly calculated Q_u (785:46-1-6(d)).

The maximum concentration on the mixing zone boundary may be simulated by mixing effluent and receiving water. Percent effluent in receiving water, PE, depends upon the dilution capacity of the stream and shall not exceed 100%. Dilution capacity, for streams, is represented as $Q^*= Q_e/Q_u$.

The following formulas shall be used to determine PE for receiving streams:

For streams with large dilution capacities (Q^* < or equal to 0.1823), PE equals ($194Q^*$) divided by ($1 + Q^*$). PE for Q^*< or equal to 0.1823 shall not be less than 10%.

For streams with intermediate dilution capacities ($0.1823 < Q^* < 0.3333$), PE equals (100) divided by ($6.17 - 15.51Q^*$).

For streams with small dilution capacities (Q^* > or equal to 0.3333), PE equals 100%.

Site-specific criteria in Oklahoma lakes are also based on the maximum concentration on the mixing zone boundary. The following formulas shall be used to determine PE for lakes:

PE equals 4.96D, D > or equal to 3 feet where D is pipe diameter.

PE equals $23.8\sqrt{W}$, W > or equal to 3 feet where W is canal width.

As with streams, PE is always less than or equal to 100% for lakes.

If PE is calculated to be less than 10%, then effluent water effect ratios shall use PE = 10%.

"Waterbody-specific" criteria, such as segment-specific metals, may not have limitations on its applicability. Rather, it may be used a substitute for other applicable statewide criteria for the entire waterbody.

Site-specific criteria are dependent, in part, on specific properties of the effluent that influence the bioavailability and toxicity of metals. Substantial changes in the quality or quantity of the effluent may affect the resulting site-specific criterion. Therefore, if the existing permit contains requirements for toxicity reduction evaluations (TREs) or pollution prevention efforts, a site-specific criterion should not be developed until after these efforts have been completed. A new site-specific criteria study would likely have to be performed after those requirements are met because the characteristics of the effluent may significantly change (e.g., hardness, pH, TDS). In cases where the quality or quantity of an effluent changes, the burden rests on the permittee to demonstrate that the effluent characteristics are not significantly altered to a degree that would affect the validity of the outcomes of the original site-specific criteria study. A site-specific criterion may need to be re-evaluated periodically to reflect changes in the system that may alter the characteristics of either the receiving water or effluent.

C. Site-specific Criteria Applicability for Activities Not Related to NPDES Permits

In certain circumstances, statewide numeric criteria for parameters other than metals may be replaced by segment-specific criteria for specific parameters applicable to just one waterbody. These criteria will be applicable to any point in the waterbody. These criteria must be shown to be protective of native aquatic life through procedures similar to those used in the WER procedures detailed here and in OWRB technical report 2001-2, "Guidance for Developing Site Specific Criteria for Metals".

Development of segment-specific criteria for minerals should follow the guidance contained in OWRB technical report TRWQ2001-2 ("Guidance For Developing Site-Specific Minerals Criteria"). Certain cases may require additional data or justification, but this document should provide sufficient basic guidance for the development of alternative criteria. Development of site-specific or segment-specific criteria for parameters for other than metals or minerals and lacking specific guidance documents will require extensive coordination with technical staff from OWRB and the permitting authority.

D. Sampling Procedures

General guidance for field sampling can be found in Appendix B of OWRB technical guidance document 2001-2, "Guidance for Developing Site Specific Criteria for Metals". The permittee shall collect both receiving water and effluent, and mix them together to obtain PE. Ambient water collections shall be representative of low stream flow events and collected at a location

unaffected by the discharge being permitted. Twenty-four (24) hour composite effluent samples representative of normal operation shall be collected at the outfall such that any periodic toxic discharges are captured and average effluent conditions are represented. Outfalls may be combined proportional to flow if in close proximity. Clean sampling techniques shall be used where possible and samples shall be analyzed by an Oklahoma certified laboratory utilizing generally accepted methods. Dilution water must be made in accordance with EPA's acute biomonitoring manual entitled "Methods for Measuring the Acute Toxicity of Effluents to Aquatic Organisms", EPA publication no. 600/4-90-027 (1991). The pH, hardness, conductivity and alkalinity must be similar to that of the receiving water.

Site-specific criteria development for lakes should employ sampling procedures detailed in OWRB guidance document for B.U.M.P. Standard Operating Procedures. Deviation from these prescribed techniques must be justified to OWRB and the permitting authority prior to initiation of the sampling. Excursions from these techniques that occur as a result of on-site conditions must be reported to OWRB and the permitting authority as soon as possible. Implications of these deviations on the data quality and their appropriateness to the outcomes of the study must be reviewed and agreed upon by OWRB and the permitting authority prior to their use in the derivation of any criteria.

For systems lacking NPDES permitted dischargers, sampling procedures for determining background concentration detailed in the OWRB technical guidance 2001-2 shall be sufficient for characterizing local conditions.

E. Site-Specific Criteria Development Options for Metals:

Prior to the initiation of any work toward development of a site-specific criterion, interested parties must coordinate with OWRB technical staff. Such coordination will require, at a minimum, a workplan addressing project goals, collection and testing methods, quality assurance measures, and output schedules. This workplan will need to be reviewed and approved by OWRB and the permitting authority prior to initiation of any work.

Three options are available if the permittee decides to develop site-specific metals criteria for permitting purposes instead of utilizing the total recoverable criteria referenced in 785:45-5-12(f)(6)(G) and Table 2 of Appendix G.

1. Option 1: Water Effects Ratio (WER)

The permittee may obtain a site-specific water effects ratio (WER) to translate a state wide total criterion to a site-specific total criterion if the existing permit does not contain requirements for toxicity reduction evaluations or implementation of pollution prevention efforts. Toxicity tests using both laboratory dilution water and PE water must be performed. PE water is obtained by first determining the amount of water required for the toxicity test (e.g. 1L). Since $PE = 100V_e/(V_e + V_r)$, where V_e and V_r are volumes of effluent

and receiving water required for the toxicity test, respectively, then V_e = PE/100 (L). If PE = 25%, then V_e = 0.25L. Given that $V_e + V_r$ = 1 (L) in this example, V_r = 1 - PE/100, or 0.75L.

Toxicity tests using two different species are required. Acute 48-hour static renewal definitive toxicity tests shall be performed by the permittee in accordance with the EPA guidance for acute testing identified above. LC_{50} tests shall be used to determine WER's for both acute and chronic criteria. Toxicity tests require adding metal to both PE and dilution water. It shall not be acceptable to estimate metal concentrations by measuring the amount added. Total recoverable concentrations must be used to obtain LC50's for both test species for PE and laboratory water in Option 1.

Multiple WER's must be performed. At a minimum, three tests in three different seasons must be performed for two test species. WER is computed as $LC_{50dilution}/LC_{50PE}$. A geometric mean of the WER's is the final water effect ratio, FWER. A minimum of four WER's must be used in the computation of FWER. An explanation of any WER's obtained but not used in computation of FWER must be provided to the permitting authority and OWRB. The total criterion specified in Table 2 of Appendix G is divided by FWER to obtain a site-specific total criterion. Background concentration must be determined to use with the site-specific criterion to develop permit limits.

2. Option 2: Dissolved To Total Fraction

Dissolved and total recoverable concentrations must be obtained to determine a dissolved to total fraction. Samples must be taken from the effluent, receiving water and PE water. The dissolved to total fraction must be successfully computed a minimum of ten times.

The dissolved to total fraction is defined as $f_i = C_{Di}/C_{Ti}$, where C_{Di} is the dissolved concentration in the ith PE sample, and C_{Ti} is the total recoverable concentration. The dissolved fraction for the site shall be determined as the geometric mean for the n samples.

$$\therefore f = \exp\left[\sum_{i=1}^{n} [\ln(f_i)]/n \right]$$

To develop a site-specific criterion from the dissolved fraction alone, divide the dissolved criterion determined from Table 3 of Appendix G by f. The result is a site-specific total recoverable criterion.

3. Option 3: Combining f And FWER

The most definitive method of developing a site-specific criterion is to modify a dissolved criterion to account for both the fraction of the concentration biologically available and the difference between the toxicity of the metal in the laboratory dilution water and in PE

water. In order to perform option 3, WER's must be obtained using dissolved concentrations. This accounts for differences between the toxicity of the dissolved metal in laboratory dilution water and dissolved metal in PE water.

A translator, T, is obtained as the product of f and dissolved FWER. T is divided into the dissolved criterion determined from Table 3 of Appendix G to obtain a site-specific total recoverable criterion.

F. Site-specific Criteria for Metals Which Have Been Developed for Particular Waterbodies

Subsequent to the initial promulgation of this Appendix, there have been cases in which interested persons have developed site-specific criteria for particular discharges or other circumstances in accordance with this Appendix. Such site-specific criteria are set forth below. These site-specific criteria shall be interpreted according to the following:

C_{ast} = acute statewide total criterion
C_{cst} = chronic statewide total criterion
C_{asd} = acute statewide dissolved criterion
C_{csd} = chronic statewide dissolved criterion
S_{ast} = acute site-specific total criterion
S_{cst} = chronic site-specific total criterion
$FWER_t$ = final total water effects ratio
$FWER_d$ = final dissolved water effect ratio
f = dissolved to total fraction

Acute site-specific criteria are appropriate for large streams and chronic site-specific criteria are appropriate for small and medium size streams.

Options Allowed In Appendix E

Option 1

$$S_{ast} = C_{ast}/FWER_t$$
$$S_{cst} = C_{cst}/FWER_t$$

Option 2

$$S_{ast} = C_{csd}/f$$
$$S_{cst} = C_{csd}/f$$

Option 3

$$S_{ast} = C_{csd}/(f x FWER_d)$$
$$S_{cst} = C_{csd}/(f x FWER_d)$$

1. City of Blackwell Discharge to Chikaskia River

A site-specific criteria modification study has been satisfactorily completed for cadmium for the City of Blackwell.

$FWER_t = 0.0989$
$FWER_d = 0.2905$
$f = 0.18$

The results of the study allow any of the four following criteria to be utilized.

$C_{cst} = 2.2$ µg/L	Statewide criterion
$S_{cst} = 22.24$ µg/L	Option 1
$S_{cst} = 10.68$ µg/L	Option 2
$S_{cst} = 36.76$ µg/L	Option 3

The discharger may choose the above criterion it wishes to use for discharge permit calculations.

2. AES Shady Point Discharge to Poteau River

A site-specific criteria modification study has been satisfactorily completed for copper for AES Shady Point.

$FWER_t = 0.0876$
$FWER_d = 0.1306$
$f = 0.5936$

The results of the study allow any of the four following criteria to be utilized.

$C_{cst} = 9.50$ µg/L	Statewide criterion
$S_{cst} = 65$ µg/L	Option 1
$S_{cst} = 15.3$ µg/L	Option 2
$S_{cst} = 74$ µg/L	Option 3

The discharger may choose the above criterion it wishes to use for discharge permit calculations.

3. City of Idabel Discharge to Mud Creek

A. Lead

A site-specific criteria modification study has been satisfactorily completed for lead for the City of Idabel.

$FWER_t = 2.5912$
$FWER_d = 0.2914$
$f = 0.7157$

The results of the study allow any of the four following criteria to be utilized.

$C_{cst} = 2.3492$ µg/L	Statewide criterion
$S_{cst} = 0.9066$ µg/L	Option 1
$S_{cst} = 2.7104$ µg/L	Option 2
$S_{cst} = 9.3036$ µg/L	Option 3

The discharger may choose the above criterion it wishes to use for discharge permit calculations.

B. Nickel

A site-specific criteria modification study has been satisfactorily completed for nickel for the City of Idabel.

$FWER_t = 1.1244$
$FWER_d = 0.9735$
$f = 0.5798$

The results of the study allow any of the four following criteria to be utilized.

$C_{cst} = 128.8834$ µg/L	Statewide criterion
$S_{cst} = 114.6242$ µg/L	Option 1
$S_{cst} = 221.6226$ µg/L	Option 2
$S_{cst} = 227.6697$ µg/L	Option 3

The discharger may choose the above criterion it wishes to use for discharge permit calculations.

C. Zinc

A site-specific criteria modification study has been satisfactorily completed for zinc for the City of Idabel.

$FWER_t = 0.6714$
$FWER_d = 0.7178$
$f = 0.6213$

The results of the study allow any of the four following criteria to be utilized.

C_{cst} = 96.6161 µg/L	Statewide criterion
S_{cst} = 129.0082 µg/L	Option 1
S_{cst} = 137.4592 µg/L	Option 2
S_{cst} = 191.4874 µg/L	Option 3

The discharger may choose the above criterion it wishes to use for discharge permit calculations.

4. Oklahoma Gas & Electric Mustang Generating Station Discharge to North Canadian River at NE 1/4 of NE 1/4 of SE 1/4 of Section 36, T 12 N, R 5 WIM, Canadian County, Oklahoma

A site-specific criteria modification study has been satisfactorily completed for copper for the Oklahoma Gas & Electric Mustang Generating Station discharge to the North Canadian River.

$FWER_t$ = 0.053
$FWER_d$ = 0.224
f = 0.368 (0.37)

The results of the study allow any of the four following criteria to be utilized. All criteria are calculated at an in-stream hardness of 334 mg/L.

C_{cst} = 35.9 µg/L	Statewide criterion
S_{cst} = 677 µg/L	Option 1
S_{cst} = 94.0 µg/L	Option 2
S_{cst} = 416.0 µg/L	Option 3 (Recommended in OG&E study)

C_{ast} = 59.8 µg/L	Statewide criterion
S_{ast} = 1128 µg/L	Option 1
S_{ast} = 156.0 µg/L	Option 2
S_{ast} = 692.0 µg/L	Option 3 (Recommended in OG&E study)

The discharger may choose the above criterion it wishes to use for discharge permit calculations.

5. City of Poteau Discharge to Poteau River at SE 1/4 of NW 1/4 of Section 30, T 7 N, R 26 EIM, LeFlore County, Oklahoma

A. Copper

A site-specific criteria modification study has been satisfactorily completed for copper for the City of Poteau discharge to the Poteau River.

$FWER_t = 0.1850$
$FWER_d = 0.1765$
$f = 0.2969$

The results of the study allow any of the four following criteria to be utilized. All criteria are calculated at an in-stream hardness of 25.75 mg/L.

$C_{cst} = 4.02$ µg/L	Statewide criterion
$S_{cst} = 21.73$ µg/L	Option 1
$S_{cst} = 13.0$ µg/L	Option 2
$S_{cst} = 73.66$ µg/L	Option 3 (Recommended in Poteau study)

$C_{ast} = 5.35$ µg/L	Statewide criterion
$S_{ast} = 28.92$ µg/L	Option 1
$S_{ast} = 17.31$ µg/L	Option 2
$S_{ast} = 98.09$ µg/L	Option 3 (Recommended in Poteau study)

The discharger may choose the above criterion it wishes to use for discharge permit calculations.

B. Zinc

A site-specific criteria modification study has been satisfactorily completed for zinc for the City of Poteau discharge to the Poteau River.

$FWER_t = 0.4040$
$FWER_d = 0.4276$

The results of the study allow any of the four following criteria to be utilized. All criteria are calculated at an in-stream hardness of 25.75 mg/L. However, option 1 was deemed sufficient to provide relief from a zinc limit in the discharge permit.

$C_{cst} = 33.59$ µg/L	Statewide criterion
$S_{cst} = 83.14$ µg/L	Option 1 (Recommended in Poteau study)

$C_{ast} = 37.08$ µg/L	Statewide criterion
$S_{ast} = 91.78$ µg/L	Option 1 (Recommended in Poteau study)

C. Cadmium

A site-specific criteria modification study has been satisfactorily completed for cadmium for the City of Poteau discharge to the Poteau River.

$FWER_t = 0.2427$
$FWER_d = 0.2400$

The results of the study allow any of the following criteria to be utilized. All criteria are calculated at an in-stream hardness of 25.75 mg/L.

C_{cst} = 0.39 µg/L	Statewide criterion
S_{cst} = 1.61 µg/L	Option 1
S_{cst} = 0.38 µg/L	Option 2
S_{cst} = 1.58 µg/L	Option 3 (Recommended in Poteau study)

C_{ast} = 7.30 µg/L	Statewide criterion
S_{ast} = 30.08 µg/L	Option 1
S_{ast} = 7.31 µg/L	Option 2
S_{ast} = 30.46 µg/L	Option 3 (Recommended in Poteau study)

The discharger may choose the above criterion it wishes to use for discharge permit calculations.

D. Silver

A site-specific criteria modification study has been satisfactorily completed for silver for the City of Poteau discharge to the Poteau River.

$FWER_t = 0.2075$
$FWER_d = 0.2908$

The results of the study allow any of the following criteria to be utilized. All criteria are calculated at an in-stream hardness of 25.75 mg/L.

Statewide chronic criteria are available for this parameter.

C_{ast} = 0.39 µg/L	Statewide criterion
S_{ast} = 1.88 µg/L	Option 1
S_{ast} = 0.94 µg/L	Option 2
S_{ast} = 3.24 µg/L	Option 3 (Recommended in Poteau study)

The discharger may choose the above criterion it wishes to use for discharge permit calculations.

E. Lead

A site-specific criteria modification study has been satisfactorily completed for lead for the City of Poteau discharge to the Poteau River.

$FWER_t = 0.1782$
$FWER_d = 0.1828$

The results of the study allow any of the following criteria to be utilized. All criteria are calculated at an in-stream hardness of 25.75 mg/L.

C_{cst} = 0.57 µg/L	Statewide criterion
S_{cst} = 3.20 µg/L	Option 1
S_{cst} = 0.59 µg/L	Option 2
S_{cst} = 3.25 µg/L	Option 3 (Recommended in Poteau study)

C_{ast} = 14.52 µg/L	Statewide criterion
S_{ast} = 81.48 µg/L	Option 1
S_{ast} = 15.15 µg/L	Option 2
S_{ast} = 82.88 µg/L	Option 3 (Recommended in Poteau study)

The discharger may choose the above criterion it wishes to use for discharge permit calculations.

6. City of Heavener Discharge to Morris Creek at SE 1/4 of NW 1/4 of Section 30, T 7 N, R 26 EIM, LeFlore County, Oklahoma: Copper

A site-specific criteria modification study has been satisfactorily completed for copper for the City of Heavener discharge to Morris Creek.

$FWER_t = 0.1294$
$FWER_d = 0.1216$
$f = 0.8595$

The results of the study allow any of the four following criteria to be utilized. All criteria are calculated at an in-stream hardness of 25.75 mg/L.

C_{cst} = 4.02 µg/L	Statewide criterion
S_{cst} = 31.07 µg/L	Option 1
S_{cst} = 4.68 µg/L	Option 2
S_{cst} = 38.50 µg/L	Option 3 (Recommended in Morris Ck. study)

C_{ast} = 5.35 µg/L	Statewide criterion
S_{ast} = 41.34 µg/L	Option 1
S_{ast} = 6.22 µg/L	Option 2
S_{ast} = 51.19 µg/L	Option 3 (Recommended in Morris Ck. study)

The discharger may choose the above criterion it wishes to use for discharge permit calculations.

7. City of Broken Bow to Unnamed Tributary of Yanubbe Creek at SE 1/4 of SE 1/4 of SE 1/4 of Section 18, T 6 S, R 24 EIM, McCurtain County, Oklahoma (Latitude 34° 01' 37.165" North, Longitude 94° 43' 22.270" West)

A. Copper

A site-specific criteria modification study has been satisfactorily completed for copper for the City of Broken Bow Public Works Authority discharge to Unnamed Tributary of Yanubbe Creek. All criteria are calculated at an in-stream hardness of 34.9 mg/L.

$FWER_t$ = 0.0995
$FWER_d$ = 0.1253
f = 0.6544

The results of the study allow any of the four following criteria to be utilized

C_{cst} = 5.20 µg/L	Statewide criterion
S_{cst} = 52.28 µg/L	Option 1
S_{cst} = 7.628 µg/L	Option 2
S_{cst} = 60.87 µg/L	Option 3

C_{ast} = 7.12 µg/L	Statewide criterion
S_{ast} = 71.58 µg/L	Option 1
S_{ast} = 10.45 µg/L	Option 2
S_{ast} = 83.34 µg/L	Option 3

B. Zinc

A site-specific criteria modification study has been satisfactorily completed for zinc for the City of Broken Bow Public Works Authority discharge to Unnamed Tributary of Yanubbe Creek. All criteria are calculated at an in-stream hardness of 34.9 mg/L.

$FWER_t$ = 0.6312
$FWER_d$ = 0.7502
f = 0.7343

C_{cst} = 43.44 µg/L	Statewide criterion
S_{cst} = 68.82 µg/L	Option 1
S_{cst} = 58.33 µg/L	Option 2
S_{cst} = 77.75 µg/L	Option 3

C_{ast} = 47.96 µg/L	Statewide criterion
S_{ast} = 75.99 µg/L	Option 1
S_{ast} = 63.88 µg/L	Option 2
S_{ast} = 85.15 µg/L	Option 3

G. Site-Specific Criteria for Parameters Other Than Metals

The purpose of site-specific criteria investigations may not necessarily be intended to prevent toxicity as a result of the substance of concern. Various substances may produce various types of adverse impacts in the environment. For example, minerals may produce a toxic response due to ionic imbalance while nutrients may produce various impacts depending upon algal response to various conditions within the system. Examples of such systems include those where there may be nitrogen, phosphorus or light limitations. Resulting site-specific criteria may involve seasonal, spatial or other limitations as well as specific numeric limitations.

"Waterbody-specific" criteria, such as certain nutrients in Sensitive Water Supplies or segment-specific metals, may not have limitations on its applicability. Rather, it may be used a substitute for other applicable statewide criteria.

Development of site-specific criteria for minerals should follow the guidance contained in OWRB technical report TRWQ2001-2 ("Guidance For Developing Site-Specific Minerals Criteria"). Certain cases may require additional data or justification, but this document should provide sufficient basic guidance for the development of site-specific criteria.

Development of site-specific criteria for parameters other than metals or minerals and lacking specific guidance documents will require extensive coordination with technical staff from OWRB and the permitting authority. Such coordination will require, at a minimum, a workplan addressing project goals, collection and testing methods, quality assurance measures and output schedules. This workplan will need to be reviewed and approved by OWRB and the permitting authority prior to initiation of any work.

Those instances in which site-specific phosphorus or nitrogen criteria may be promulgated pursuant to OAC 785:45-5-10(7) titled "Chlorophyll-a numerical criterion for certain waters" will be limited to those waterbodies that have been shown to be impaired by nutrients and a numeric nutrient criterion has been determined to be the best way to affect reductions in the target nutrient. Such a demonstration will follow procedures outlined in OAC 785:46-15-10. Criteria may be derived from the result of "Clean Lake Studies" or other site-specific investigations performed by an agency of competent authority or a designee.

In cases where toxicity may be a concern due to the parameter in question, toxicity testing using two different species is required. Such testing should comply with the procedures detailed in OAC 252:690 and guidance found in OWRB technical report TRWQ2002-1 *(Guidance Document for the Development of Site-Specific Water Quality Criteria for Metals*). Exceptions to or deviations from these protocols should be brought to the attention of the OWRB and permitting authority prior to completion of the testing and thoroughly detailed in the final report.

H. Site-specific Criteria for Nutrients Which Have Been Developed for Particular Waterbodies
(reserved)

I. Site-specific Criteria for Other Parameters Which Have Been Developed for Particular Waterbodies

1. American Electric Power discharge to a tributary of Nine Mile Creek and Nine Mile Creek upstream of the confluence with East Cache Creek at Section 4, T 1 S, R 11 WIM, Comanche County.

   A site-specific mineral study has been satisfactorily completed on these waterbodies indicating that the actual agricultural uses of the waterbody are capable of tolerating more mineral input than currently allowed by the default values in Appendix F for segment 311300. The following criteria are allowed for the protection of the actual agricultural usage of the water.

	Total Dissolved Solids	Sulfate	Chloride
Yearly mean standard (mg/L)	1680	338	499
Sample standard (mg/L)	2100	423	624

APPENDIX G. NUMERICAL CRITERIA TO PROTECT BENEFICIAL USES [REVOKED]

APPENDIX G. NUMERICAL CRITERIA TO PROTECT BENEFICIAL USES [NEW]

(a) **Introduction.** This Appendix prescribes numerical limits for certain criteria which are necessary to protect beneficial uses as and wherever designated. Table 1 is a chart that states the numerical limits to protect the beneficial use and subcategories of Fish and Wildlife Propagation for the single parameter of dissolved oxygen as set forth in OAC 785:45-5-12(f)(1). The latter limits vary depending upon several factors including the pertinent subcategory or fishery class, the time of the year, and the seasonal temperature. Table 2 prescribes the numerical limits for certain substances or parameters in order to protect beneficial uses and subcategories as set forth in OAC 785:45-5-10(1), 785:45-5-10(6), 785:45-5-12(f)(6), and 785:45-5-20. The numerical limits may vary from one beneficial use or subcategory to another according to how the criteria are required by OAC 785:45 or OAC 785:46 to be implemented. Table 3 is a chart that sets forth conversion factors that can be used to determine criteria for dissolved metals in order to protect the beneficial use of Fish and Wildlife Propagation and all its subcategories as set forth in OAC 785:45-5-12(f)(6)(H).

(b) **Explanations for abbreviations and certain terms in Tables.**

(1) "CAS #" refers to a parameter's Chemical Abstract Service registry number. Each of these numbers is a unique identifier of a particular compound with a particular structure; the number provides additional and further specificity for the parameter in question than simply identifying it by a systematic, generic, proprietary, or [trivial] name. The CAS number has no particular chemical significance.

(2) Equations are prescribed for those substances the toxicity of which varies with water chemistry.

(3) Metals that are listed in Tables 2 and 3 shall be measured as total metals in the water column.

TABLE 1.

Dissolved Oxygen Criteria to Protect Fish and Wildlife Propagation and All Subcategories Thereof [1]

SUBCATEGORY OF FISH AND WILDLIFE PROPAGATION (FISHERY CLASS)	DATES APPLICABLE	D.O. CRITERIA [4] (MINIMUM) (mg/L)	SEASONAL TEMPERATURE (°C)
Habitat Limited Aquatic Community			
Early Life Stages	4/1 - 6/15	4.0	25[3]
Other Life Stages			
Summer Conditions	6/16 - 10/15	3.0	32
Winter Conditions	10/16 - 3/31	3.0	18
Warm Water Aquatic Community [5]			
Early Life Stages	4/1 - 6/15	6.0[2]	25[3]
Other Life Stages			
Summer Conditions	6/16 - 10/15	5.0[2]	32
Winter Conditions	10/16 - 3/31	5.0	18
Cool Water Aquatic Community & Trout			
Early Life Stages	3/1 - 5/31	7.0[2]	22
Other Life Stages			
Summer Conditions	6/1 - 10/15	6.0[2]	29
Winter Conditions	10/16 - 2/28	6.0	18

[1] For use in calculation of the allowable load.

[2] Because of natural diurnal dissolved oxygen fluctuation, a 1.0 mg/l dissolved oxygen concentration deficit shall be allowed for not more than eight (8) hours during any twenty-four (24) hour period.

[3] Discharge limits necessary to meet summer conditions will apply from June 1 of each year. However, where discharge limits based on Early Life Stage (spring) conditions are more restrictive, those limits may be extended to July 1.

[4] DO shall not exhibit concentrations less than the criteria magnitudes expressed above in greater than 10% of the samples as assessed across all life stages and seasons.

[5] For Lakes, the warm water aquatic community dissolved oxygen criteria expressed above are applicable to the surface waters.

TABLE 2.
Numerical Criteria to Protect Beneficial Uses and All Subcategories Thereof

PARAMETER	CAS #	Fish & Wildlife Propagation		Public & Private Water Supply (Raw Water)	Fish Consumption (+ Other Organisms) and Water	Fish Consumption (+ Other Organisms)
		ACUTE	CHRONIC			
		µg/L	µg/L	µg/L	µg/L	µg/L
INORGANICS						
Arsenic	7440382	360.0	190	40		205.0
Barium	7440393			1000		
Cadmium	7440439	e(1.128[ln(hardness)] -1.6774)	e(0.7852[ln(hardness)] -3.490)	20	14.49	84.13
Cadmium for trout streams		e(1.128[ln(hardness)] -3.828)	e(0.7852[ln(hardness)] -3.490)	20	14.49	84.13
Chromium (total)			50	50	166.3	3365.0
Copper	7440508	e(0.9422[ln(hardness)] -1.3844)	e(0.8545[ln(hardness)] -1.386)	1000		
Cyanide	57125	45.93	10.72	200		
Fluoride @ 90° F				4000		
Lead	7439921	e(1.273[ln(hardness)] -1.460)	e(1.273[ln(hardness)] -4.705)	100	5.0	25.0
Mercury	7439976	2.4	1.302	2	0.050	0.051
Nickel	7440020	e(0.8460[ln(hardness)] +3.3612)	e(0.846[ln(hardness)] +1.1645)		607.2	4583.0
Nitrates (as N)	14797558			10,000		
Selenium	7782492	20.0	5	10		
Silver	7440224	e(1.72[ln(hardness)] -6.52)		50	104.8	64620.0
Thallium	7440280	1400.0			0.24	0.47
Zinc	7440666	e(0.8473[ln(hardness)] +0.8604)	e(0.8473[ln(hardness)] +0.7614	5000		

PARAMETER	CAS #	Fish & Wildlife Propagation		Public & Private Water Supply (Raw Water)	Fish Consumption (+ Other Organisms) and Water	Fish Consumption (+ Other Organisms)
		ACUTE	CHRONIC			
		µg/L	µg/L	µg/L	µg/L	µg/L
ORGANICS						
1-1-1 TCE	71556				3094.0	173100.0
2-4-5-TP Silvex	93721		10.0	10		
2-4-6-TNT		450.0				
2-4-D	94757			100		
Acrolein	107028				6.0	9.0
Acrylonitrile	107131	7550.0			0.51	2.5
Aldrin	309002	3.0			0.00049	0.00050
Benzene	71432		2200.0		22	510
Benzidine	92875			1		
Carbon Tetrachloride	56235				2.3	16
Chlordane	57749	2.4	0.17		0.0080	0.0081
Chloroform	67663				56.69	4708.0
Chlorpyrifos (Dursban)	2921882	0.083	0.041			
4,4'-DDD	72548				0.0031	0.0031
4,4'-DDT	50293	1.1	0.001		0.0022	0.0022
Demeton	8065483		0.1			
Detergents (total)				200		
Diazinon	333415	0.17				
Dichlorobromomethane	75274				5.5	170
Dieldrin	60571	2.5	0.0019		0.00052	0.00054
Dioxin (TCDD)	1746016				5.0E-08	5.1E-08
Endosulfan		0.22	0.056			
Endrin	72208	0.18	0.0023	0.2	0.059	0.060
Ethylbenzene	100414				530	2100
Guthion	86500		0.01			
gamma BHC (Lindane)	58899	2.0	0.08	4	0.98	1.8
Heptachlor	76448	0.52	0.0038		0.00079	0.00079

PARAMETER	CAS #	Fish & Wildlife Propagation		Public & Private Water Supply (Raw Water)	Fish Consumption (+ Other Organisms) and Water	Fish Consumption (+ Other Organisms)
		ACUTE	CHRONIC			
		µg/L	µg/L	µg/L	µg/L	µg/L
ORGANICS						
Hexachlorobenzene	118741				0.0028	0.0029
Malathion	121755		0.10			
Methoxychlor	72435		0.03	100		
Methylene blue active substances			0.001	500		
Mirex	2385855		0.001			
Nonylphenol	25154523	28	6.6			
Parathion	56382	0.065	0.013			
PCB			0.044		0.00064	0.00064
PCE (Tetrachloroethylene)	127184	5280.0			6.9	33
Pentachlorophenol	87865	e[1.005(pH)-4.830]	e[1.005(pH)-5.290]		2.7	30
Perchlorate	7601-90-3	6600	1800		9	
Phenol	108952				10,000.0	860,000.0
Phthalate esters				3		
Bis(2-ethylhexyl) phthalate (BEHP)	117817				12	22
Butylbenzyl phthalate	85687			150	1500	1900
Diethyl phthalate	84662				17000	44000
Dimethyl phthalate	131113				2.7E+05	1.1E+06
Di-*n*-Butyl phthalate	84742				2000	4500
RDX	121824	2591.5				
Toluene	108883		875.0		1300	15000
Toxaphene	8001352	0.78	0.0002	5		

TABLE 3

Conversion Factors for Total to Dissolved Fractions
[H=hardness as $CaCO_3$ (mg/L)]

METAL	CAS#	ACUTE	CHRONIC
Arsenic	7440382	1.000	1.000
Cadmium	7440439	1.136672 – 0.041838 lnH	1.101672 – 0.041838 lnH
Copper	7440508	0.960	0.960
Lead	7439921	1.46203 – 0.145712 lnH	1.46203 – 0.145712 lnH
Mercury	7439976	0.85	N/A
Nickel	7440020	0.998	0.997
Silver	7440224	0.85	N/A
Zinc	7440666	0.978	0.986

[OAR Docket #15-670; filed 6-30-15]

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

[OAR Docket #15-671]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 15. Use Support Assessment Protocols
785:46-15-5. Assessment of Fish and Wildlife Propagation support [AMENDED]
AUTHORITY:
Oklahoma Water Resources Board, 82 O.S. §§ 1085.30 and 1085.30a; 27A O.S. § 1-3-101; and 82 O.S. § 1085.2.
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
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SUPERSEDED EMERGENCY ACTIONS:
n/a
INCORPORATIONS BY REFERENCE:
n/a
ANALYSIS:
OAC 785:46-15-5 is amended to clarify language associated with Fish and Wildlife Propagation use support assessments for dissolved oxygen. The amendments include reformatting language for the support tests to more clearly describe the applicable dates and magnitudes, including language in the support tests to more clearly specify that the assessments are made across all life stages and seasons, including a new subsection (D) to describe how the term "surface" is used in this section, removing language in subsection (6) that refers to periods of thermal stratification, and addition of language in (B) to specify that the undetermined status for the water column criteria is only applicable when no volumetric data is available.
CONTACT PERSON:
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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 11, 2015:

SUBCHAPTER 15. USE SUPPORT ASSESSMENT PROTOCOLS

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

(a) **Scope.** The provisions of this Section shall be used to determine whether the beneficial use of Fish and Wildlife Propagation or any subcategory thereof designated in OAC 785:45 for a waterbody is supported.

(b) **Dissolved oxygen.** For purposes of assessment, listing and reporting under sections 303(d) and 305(b) of the federal Clean Water Act as amended, the procedure for determining use support of the Fish and Wildlife Propagation beneficial use or any subcategory thereof with respect to dissolved oxygen shall be as follows:

(1) **Support tests for HLAC streams.**

(A) The HLAC subcategory of the Fish and Wildlife Propagation beneficial use designated for a stream shall be deemed to be fully supported with respect to the DO criterion if 10% or less of the samples ~~from the stream are less than 4.0 mg/L from April 1 through June 15 and less than 3.0 mg/L during the remainder of the year.~~across all life stages and seasons exhibit DO concentrations below the following season-specific thresholds:

(i) April 1 through June 15: 4.0 mg/L

(ii) June 16 through March 31: 3.0 mg/L

(B) The HLAC subcategory of the Fish and Wildlife Propagation beneficial use designated for a stream shall be deemed to be not supported with respect to the DO criterion if more than 10% of the samples ~~from the stream are less than 4.0 mg/L from April 1 through June 15 or less than 3.0 mg/L during the remainder of the year due to other than naturally occurring conditions.~~ across all seasons exhibit DO concentrations below the following season-specific thresholds due to other than naturally occurring conditions:

(i) April 1 through June 15: 4.0 mg/L

(ii) June 16 through March 31: 3.0 mg/L

(2) **Support tests for WWAC streams.**

(A) The WWAC subcategory of the Fish and Wildlife Propagation beneficial use designated for a stream shall be deemed to be fully supported with respect to the DO criterion if 10% or less of the samples ~~from the streamare less than 6.0 mg/L from April 1 through June 15 and less than 5.0 mg/L during the remainder of the year.~~across all life stages and seasons exhibit DO concentrations below the following season-specific thresholds:

(i) April 1 through June 15: 6.0 mg/L

(ii) June 16 through March 31: 5.0 mg/L

(B) The WWAC subcategory of the Fish and Wildlife Propagation beneficial use designated for a stream shall be deemed to be undetermined with respect to the DO criterion if more than 10% of the samples ~~from the stream are less than 6.0 mg/L and 10% or less of the samples are less than 5.0 mg/L from April 1 through June 15, or more than 10% of the samples are less than 5.0 mg/L and 10% or less of the samples are less than 4.0 mg/L from~~

~~June 16 through October 15.~~ across all life stages and seasons exhibit DO concentrations below the upper DO threshold and 10% or less of the samples across all seasons exhibit DO concentrations below the lower DO threshold considering the following season-specific ranges:

(i) April 1 through June 15: 5.0 mg/L to 6.0 mg/L

(ii) June 16 through October 15: 4.0 mg/L to 5.0 mg/L

(C) The WWAC subcategory of the Fish and Wildlife Propagation beneficial use designated for a stream shall be deemed to be not supported with respect to the DO criterion if more than 10% of the samples ~~from the stream are less than 5.0 mg/L from April 1 through June 15, or less than 4.0 mg/L from June 16 through October 15, or less than 5.0 mg/L from October 16 through March 31, due to other than naturally occurring conditions.~~across all life stages and seasons exhibit DO concentrations below the following season-specific thresholds due to other than naturally occurring conditions:

(i) April 1 through June 15: 5.0 mg/L

(ii) June 16 through October 15: 4.0 mg/L

(iii) October 16 through March 31: 5.0 mg/L

(3) **Support tests for CWAC and Trout streams.**

(A) The CWAC or Trout subcategory of the Fish and Wildlife Propagation beneficial use designated for a stream shall be deemed to be fully supported with respect to the DO criterion if 10% or less of the samples ~~from the stream are less than 7.0 mg/L from March 1 through May 31 and less than 6.0 mg/L during the remainder of the year.~~ across all life stages and seasons exhibit DO concentrations below the following season-specific thresholds:

(i) March 1 through May 31: 7.0 mg/L

(ii) June 1 through last day of February: 6.0 mg/L

(B) The CWAC or Trout subcategory of the Fish and Wildlife Propagation beneficial use designated for a stream shall be deemed to be undetermined with respect to the DO criterion if more than 10% of the samples ~~from the stream are less than 7.0 mg/L and 10% or less of the samples are less than 6.0 mg/L from March 1 through May 31, or more than 10% of the samples are less than 6.0 mg/L and 10% or less of the samples are less than 5.0 mg/L from June 1 through October 15.~~ across all life stages and seasons exhibit DO concentrations below the upper DO threshold and 10% or less of the samples across all seasons exhibit DO concentrations below the lower DO threshold considering the following season-specific ranges:

(i) March 1 through May 31: 7.0 mg/L to 6.0 mg/L

(ii) June 1 through October 15: 6.0 mg/L to 5.0 mg/L

(C) The CWAC or Trout subcategory of the Fish and Wildlife Propagation beneficial use designated for a stream shall be deemed to be not supported with respect to the DO criterion if more than 10% of the samples ~~from the stream are less than 6.0 mg/L from March 1 through May 31, or less than 5.0 mg/L from June 1 through October 15, or less than 6.0 mg/L from October 16 through the last day of February, due to other than naturally occurring conditions.~~across all life stages and seasons exhibit DO concentrations below the following season-specific thresholds due to other than naturally occurring conditions:

(i) March 1 through May 31: 6.0 mg/L

(ii) June 1 through October 15: 5.0 mg/L

(iii) October 16 through the last day of February: 6.0 mg/L

(4) **Support tests for WWAC lakes.** The WWAC subcategory of the Fish and Wildlife Propagation beneficial use designated for a lake shall be deemed to be fully supported with respect to the DO criterion if both the Surface and Water Column criteria prescribed in (5)(A) and (6)(A) of this subparagraph (b) are satisfied. If either of the Surface or Water Column criteria prescribed in (5)(B) or (6)(B) produce a result of undetermined, then the WWAC subcategory of the Fish and Wildlife Propagation beneficial use designated for a lake shall be deemed to be undetermined with respect to the DO criterion; provided, if either of the Surface or Water Column criteria prescribed in (5)(C) or (6)(C) produce a result of not supported, then the WWAC subcategory of the Fish and Wildlife Propagation beneficial use designated for a lake shall be deemed to be not supported with respect to the DO criterion.

(5) **Surface criteria for WWAC lakes.**

(A) The WWAC subcategory of the Fish and Wildlife Propagation beneficial use designated for a lake shall be deemed to be fully supported with respect to the DO criterion if 10% or less of the ~~samples from the epilimnion during periods of thermal stratification, or the entire water column when no stratification is present, are less than 6.0 mg/L from April 1 through June 15 and less than 5.0 mg/L during the remainder of the year.~~ surface samples across life stages and all seasons exhibit DO concentrations below the following season-specific thresholds:

(i) April 1 through June 15: 6.0 mg/L

(ii) June 16 through March 31: 5.0 mg/L

(B) The WWAC subcategory of the Fish and Wildlife Propagation beneficial use designated for a lake shall be deemed to be undetermined with respect to the DO criterion if more than 10% of the ~~samples from the epilimnion during periods of thermal stratification, or the entire water column when no stratification is present, are less than 5.0 mg/L and 10% or less of the samples are less than 4 mg/L from June 16 through October 15, or more than 10% of the samples from the surface are less than 6.0 mg/L and 10% or less of the samples are less than 5.0 mg/L from April 1 through June 15.~~ surface samples

across all life stages and seasons exhibit DO concentrations below the upper DO threshold and 10% or less of the surface samples across all seasons exhibit DO concentrations below the lower DO threshold considering the following season-specific ranges:

(i) April 1 through June 15: 5.0 mg/L to 6.0 mg/L

(ii) June 16 through October 15: 4.0 mg/L to 5.0 mg/L

(C) The WWAC subcategory of the Fish and Wildlife Propagation beneficial use designated for a lake shall be deemed to be not supported with respect to the DO criterion if more than 10% of the ~~samples from the epilimnion during periods of thermal stratification, or the entire water column when no stratification is present, are less than 5.0 mg/L from April 1 through June 15 or less than 4.0 mg/L from June 16 through October 15, or less than 5.0 mg/L from October 16 through March 31, due to other than naturally occurring conditions.~~surface samples across all life stages and seasons exhibit DO concentrations below the following season-specific thresholds due to other than naturally occurring conditions:

(i) April 1 through June 15: 5.0 mg/L

(ii) June 16 through October 15: 4.0 mg/L

(iii) October 16 through March 31: 5.0 mg/L

(D) "Surface," when used in this Section, means surface waters or the mixed surface layer, typically represented by a sample taken at least 0.5 m below the surface.

(6) **Water Column criteria for WWAC lakes.**

(A) The WWAC subcategory of the Fish and Wildlife Propagation beneficial use designated for a lake shall be deemed to be fully supported ~~during periods of thermal stratification~~ with respect to the DO criterion if less than 50% of the volume (if volumetric data is available) or 50% or less of the water column (if no volumetric data is available) of all sample sites in the lake are less than 2.0 mg/L.

(B) The WWAC subcategory of the Fish and Wildlife Propagation beneficial use designated for a lake shall be deemed to be undetermined ~~during periods of thermal stratification~~ with respect to the DO criterion (if no volumetric data is available) if 50% or more, but not greater than 70%, of the water column at any given sample site in the lake is less than 2.0 mg/L due to other than naturally occurring conditions.

(C) The WWAC subcategory of the Fish and Wildlife Propagation beneficial use designated for a lake shall be deemed to be not supported ~~during periods of thermal stratification~~ with respect to the DO criterion if 50% or more of the water volume (if volumetric data is available) or more than 70% of the water column (if no volumetric data is available) at any given sample site is less than 2.0 mg/L.

(D) If a lake specific study including historical analysis produces a support status which is contrary to an assessment obtained from the application of (A), (B) or (C) of (b)(6) of this section, then that lake specific result will control.

(7) **Additional application/exercise when support undetermined.** In instances where application of the tests in this subsection (b) initially produce a result that the pertinent subcategory is undetermined with respect to the DO criterion, such shall be subject to additional investigation that considers diurnal data for further application of such tests in order to resolve the determination of use support.

(c) **Toxicants.**

(1) **Test for Full Support.**

(A) The Fish and Wildlife Propagation beneficial use designated for a waterbody shall be deemed to be fully supported with respect to any individual toxicant parameter if no more than one of the sample concentrations from the waterbody exceeds the acute criterion for that toxicant prescribed in the numerical criteria for toxic substances in OAC 785:45-5-12(f)(6)(D) and (E) and 785:45 Appendix G, Table 2.

(B) The Fish and Wildlife Propagation beneficial use designated for a waterbody shall be deemed to be fully supported with respect to any individual toxicant parameter if not more than 1 sample concentration or not more than 10% of the sample concentrations from the waterbody exceeds the chronic criterion for that toxicant prescribed in the numerical criteria for toxic substances in OAC 785:45-5-12(f)(6)(D), (E) and 785:45 Appendix G, Table 2.

(2) **Test for Non-Support.**

(A) The Fish and Wildlife Propagation beneficial use designated for a waterbody shall be deemed to be not supported with respect to any individual toxicant parameter if more than one of the sample concentrations from the waterbody exceed the acute criterion for that toxicant prescribed in the numerical criteria for toxic substances in OAC 785:45-5- 12(f)(6)(D) and (E) and 785:45 Appendix G, Table 2.

(B) The Fish and Wildlife Propagation beneficial use designated for a waterbody shall be deemed to be not supported with respect to any individual toxicant parameter if more than 10 % of the sample concentrations from the waterbody exceed chronic criterion for that toxicant prescribed in the numerical criteria for toxic substances in OAC 785:45-5- 12(f)(6)(D) and (E) and 785:45 Appendix G, Table 2.

(d) **pH.**

(1) The Fish and Wildlife Propagation beneficial use designated for a waterbody shall be deemed to be fully supported with respect to pH occurring other than by naturally occurring conditions if no more than 10% of the sample concentrations from that waterbody fall outside the criteria range prescribed in 785:45-5-12(f)(3).

(2) The Fish and Wildlife Propagation beneficial use designated for a waterbody shall be deemed to be not supported with respect to pH occurring other than by naturally occurring conditions if greater than 10% of the sample concentrations from that waterbody fall outside the criteria range prescribed in 785:45-5-12(f)(3).

(e) **Turbidity.** The criteria for turbidity stated in 785:45-5-12(f)(7) shall constitute the screening levels for turbidity. The tests for use support shall follow the default protocol in 785:46-15-4(b).

(f) **Oil and grease.**

(1) The Fish and Wildlife Propagation beneficial use designated for a waterbody shall be deemed to be fully supported with respect to oil and grease if a visible sheen or bottom deposits of oil or grease are observed on that waterbody in 10% or less of the observations.

(2) The Fish and Wildlife Propagation beneficial use designated for a waterbody shall be deemed to be not supported with respect to oil and grease if a visible sheen or bottom deposits of oil or grease are observed on that waterbody in more than 10% of the observations.

(g) **Suspended and Bedded Sediments.**

(1) If a stream is supporting the biological criteria assigned to that stream as provided in (e) and (i) through (n) of this section, then that stream will be deemed to be supporting its assigned Fish and Wildlife Propagation beneficial use with respect to suspended and bedded sediments.

(2) If a stream is not supporting the biological criteria assigned to that stream as provided in (e) and (i) through (n) of this section, then a habitat assessment must be conducted using the habitat assessment protocols found in OWRB Technical Report TRWQ2001-1, "Unified Protocols for Beneficial Use Assignment for Oklahoma Wadable Streams." The results of the habitat assessment shall then be compared to either historical conditions or regional reference conditions in order to determine attainment with respect to suspended and bedded sediments in that stream.

(3) The method for establishing reference conditions shall meet the following requirements:

(A) a minimum of five (5) reference streams or reaches shall be assessed;

(B) all of the reference streams or reaches must be within the same ecoregion as the test stream;

(C) all of the reference streams or reaches must be streams with similar flow regimes no more than two (2) stream orders removed from the test stream; and

(D) the reference streams shall be selected from the least impacted streams in the ecoregion whose watersheds contain soils, vegetation, land uses, and topography typical of the watershed of the test stream(s).

(4) The Fish and Wildlife Propagation beneficial use will be considered to be not supported with respect to suspended and bedded sediments if any of the following habitat parameters deviate from the reference conditions by the specified amount:

(A) The total percent of clay, silt, and loose sand in the pool bottom substrate of the test stream is increased by more than 30% over the reference condition;

(B) Cobble embeddedness in the test stream is increased by 15% or more over the reference condition;

(C) The percentage of the length of the reach containing fresh (non-vegetated) point bars and/or islands in the test stream is 20 or more percentage points above that of the reference condition; or

(D) The percentage of the length of the reach dominated by pools of a depth of 0.5 meters or more in the test stream is less than 70% of that of the reference condition.

(5) If all of the habitat parameters identified in (h)(4) of this section deviate from the reference conditions by less than the amounts specified in (h)(4) of this section, then the Fish and Wildlife Propagation beneficial use is not impaired due to suspended and bedded sediments.

(h) **Metals.** The Fish and Wildlife Propagation beneficial use designated for a waterbody may be assessed using either total recoverable or dissolved metals. When available, the concentrations of dissolved metals shall be compared following the provisions of (c) of this subsection to the criteria in OAC 785:45 Appendix G converted to dissolved criteria by multiplying the total metal criterion listed in table 2 by the appropriate conversion factor listed in Table 3. Preference shall be given to the beneficial use determinations based upon dissolved metals. For those metals criteria requiring a hardness component, individual assessment results may be calculated using the average of all hardness data meeting the requirements of OAC 785:46-15-3. The segment-averaged hardness in Appendix B of this Chapter shall be used in the determination of the criterion if there is insufficient site-specific data to determine stream hardness.

(i) **Biological criteria.**

(1) If data demonstrate that an assemblage of fish or macro invertebrates from a waterbody is significantly degraded, according to 785:45-5-12(f)(5), from that expected for the subcategory of Fish and Wildlife Propagation designated in OAC 785:45 for that waterbody, then that subcategory may be deemed by the appropriate state environmental agency to be not supported.

(2) All physical assessments and biological collections shall be performed in accordance with the requirements set forth in OWRB Technical Report No. 99-3 entitled "Standard Operating Procedures for Stream Assessments and Biological Collections Related to Biological Criteria in Oklahoma".

(3) Evaluation of the biological collections shall include identification of fish samples to species level. Determinations of tolerance level shall be made according to Jester et al. 1992, "The Fishes of Oklahoma, Their Gross Habitats, and Their Tolerance of Degradation in Water Quality and Habitat", Proceedings of Oklahoma Academy of Sciences, 72:7-19.

(4) The determination of whether the use of Fish and Wildlife Propagation is supported in wadable streams in Oklahoma ecoregions shall be made according to all of the requirements of this subsection (e), the application of Appendix C of this Chapter, and the special provisions in subsections (i) through (o), where applicable, of this Section. Streams with undetermined use support status shall be subject to additional investigation that considers

stream order, habitat factors and local reference streams before the use support determination is made. A finding of impairment for biocriteria due to any one of the parameters listed in this section shall trigger an evaluation of all likely causes, not precluding monitoring, assessment, and subsequent support determination of the Fish and Wildlife beneficial use for any of the other parameters in this section.

(j) **Special provisions for Ouachita Mountains wadable streams.** The determination of whether the use of Fish and Wildlife Propagation is supported for wadable streams located in the Ouachita Mountains ecoregion shall be made according to the application of Appendix C of this Chapter, together with this subsection, as follows:

(1) Where designated, the subcategory of Warm Water Aquatic Community shall be deemed fully supported if the application of Appendix C produces a score of 35 or more. Such subcategory shall be deemed not supported if the application of Appendix C produces a score of 24 or less. If a score is 25 to 34 inclusive, the issue of whether this subcategory is supported shall be deemed undetermined.

(2) Where designated, the subcategory of Habitat Limited Aquatic Community shall be deemed fully supported if the application of Appendix C produces a score of 27 or more. Such subcategory shall be deemed not supported if the application of Appendix C produces a score of 18 or less. If a score is 19 to 26 inclusive, the issue of whether this subcategory is supported shall be deemed undetermined.

(k) **Special provisions for Arkansas Valley wadable streams.** The determination of whether the use of Fish and Wildlife Propagation is supported for wadable streams located in the Arkansas Valley ecoregion shall be made according to the application of Appendix C of this Chapter, together with this subsection, as follows:

(1) Where designated, the subcategory of Warm Water Aquatic Community shall be deemed fully supported if the application of Appendix C produces a score of 35 or more. Such subcategory shall be deemed not supported if the application of Appendix C produces a score of 24 or less. If a score is 25 to 34 inclusive, the issue of whether this subcategory is supported shall be deemed undetermined.

(2) Where designated, the subcategory of Habitat Limited Aquatic Community shall be deemed fully supported if the application of Appendix C produces a score of 27 or more. Such subcategory shall be deemed not supported if the application of Appendix C produces a score of 18 or less. If a score is 19 to 26 inclusive, the issue of whether this subcategory is supported shall be deemed undetermined.

(l) **Special provisions for Boston Mountains and Ozark Highlands wadable streams.** The determination of whether the use of Fish and Wildlife Propagation is supported for wadable streams located in the Boston Mountains and Ozark Highlands ecoregions shall be made according to the application of Appendix C of this Chapter, together with this subsection, as follows:

(1) Where designated, the subcategory of Cool Water Aquatic Community shall be deemed fully supported if the application of Appendix C produces a score of 37 or more. Such subcategory shall be deemed not supported if the application of Appendix C produces a score of 29 or less. If a score is 30 to 36 inclusive, the issue of whether this subcategory is supported shall be deemed undetermined.

(2) Where designated, the subcategory of Warm Water Aquatic Community shall be deemed fully supported if the application of Appendix C produces a score of 31 or more. Such subcategory shall be deemed not supported if the application of Appendix C produces a score of 22 or less. If a score is 23 to 30 inclusive, the issue of whether this subcategory is supported shall be deemed undetermined.

(m) **Special provisions for Central Irregular Plains wadable streams.** The determination of whether the use of Fish and Wildlife Propagation is supported for wadable streams located in the Central Irregular Plains ecoregion shall be made according to the application of Appendix C of this Chapter, together with this subsection, as follows:

(1) Where designated, the subcategory of Cool Water Aquatic Community shall be deemed fully supported if the application of Appendix C produces a score of 35 or more. Such subcategory shall be deemed not supported if the application of Appendix C produces a score of 28 or less. If a score is 29 to 34 inclusive, the issue of whether this subcategory is supported shall be deemed undetermined.

(2) Where designated, the subcategory of Warm Water Aquatic Community shall be deemed fully supported if the application of Appendix C produces a score of 30 or more. Such subcategory shall be deemed not supported if the application of Appendix C produces a score of 22 or less. If a score is 23 to 29 inclusive, the issue of whether this subcategory is supported shall be deemed undetermined.

(3) Where designated, the subcategory of Habitat Limited Aquatic Community shall be deemed fully supported if the application of Appendix C produces a score of 25 or more. Such subcategory shall be deemed not supported if the application of Appendix C produces a score of 16 or less. If a score is 17 to 24 inclusive, the issue of whether this subcategory is supported shall be deemed undetermined.

(n) **Special provisions for Central Oklahoma - Texas Plains wadable streams.** The determination of whether the Warm Water Aquatic Community subcategory of the Fish and Wildlife Propagation beneficial use is supported for wadable streams located in the Central Oklahoma - Texas Plains ecoregion shall be made according to the application of Appendix C of this Chapter, together with this subsection, as follows:

(1) Such subcategory shall be deemed fully supported if the application of Appendix C produces a score of 26 or more.

(2) Such subcategory shall be deemed not supported if the application of Appendix C produces a score of 19 or less.

(3) If the application of Appendix C produces a score of 20 to 25 inclusive, the issue of whether this subcategory is supported shall be deemed undetermined.

(o) **Special provisions for Central Great Plains wadable streams.** The subcategory of Warm Water Aquatic Community of the beneficial use of Fish and Wildlife Propagation in the wadable streams located in the Central Great Plains ecoregion shall be deemed fully supported if the application of Appendix C of this Chapter produces a score of 22 or more. Such subcategory shall be deemed not supported for the streams in the ecoregion of the application of Appendix C produces a score of 18 or less. If the application of Appendix C produces a score of 19 to 21 inclusive, the issue of whether this subcategory is supported for the streams in this ecoregion shall be deemed undermined. Provided, however, this subsection does not apply to the area bounded by State Highway 54 on the west, U.S. Highway 62 on the south, U.S. Highway 281 on the east and State Highway 19 on the north.

[OAR Docket #15-671; filed 6-30-15]

TITLE 785. OKLAHOMA WATER RESOURCES BOARD
CHAPTER 50. FINANCIAL ASSISTANCE

[OAR Docket #15-672]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 1. General Provisions
785:50:1-2. Definitions [AMENDED]
Subchapter 3. Project and Entities Eligible
785:50-3-1. Project eligibility [AMENDED]
Subchapter 7. Water and Sewer Program (Bond Proceed Loans and Emergency Grants) Requirements and Procedures
785:50-7-5. Emergency grant priority point system [AMENDED]
Subchapter 8. Rural Economic Action Plan (REAP) Grant Program Requirements and Procedures
785:50-8-2. Definitions [AMENDED]
785:50-8-4. Applicable law; deadline for applications; eligible project costs [AMENDED]
785:50-8-5. REAP grant priority point system [AMENDED]
Subchapter 9. Clean Water State Revolving Fund Regulations
Part 1. General Provisions
785:50-9-9. Definitions
Part 3. General Program Requirements
785:50-9-21. Eligible project [AMENDED]
785:50-9-23. Clean Water SRF Project Priority System [AMENDED]
785:50-9-24. Intended use plan [AMENDED]
785:50-9-28. Pre-application for funding [AMENDED]
785:50-9-33. Application for financial assistance [AMENDED]
785:50-9-35. Loan closing [AMENDED]
785:50-9-38. Construction phase [AMENDED]
785:50-9-45. Compliance with federal authorities [AMENDED]
Part 7. SRF Environmental Review Process
785:50-9-60. Requirement of environmental review [AMENDED]
785:50-9-61. Environmental information required by the Board [AMENDED]
785:50-9-62. Environmental review by the Board [AMENDED]
AUTHORITY:
Oklahoma Water Resources Board, 82 O.S. § 1085.2; 82 O.S. §§ 1085.31 et seq.; 62 O.S. § 2003.
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
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SUPERSEDED EMERGENCY ACTIONS:
n/a
INCORPORATIONS BY REFERENCE:
n/a
ANALYSIS:

Section 785:50-1-2 is amended to include a definition for Census Population. The intended effect is to make the rules more cohesive and clarify what tools OWRB uses to gather information that can be provided by the United State Census Bureau.

Sections 785:50-3-1, 785:50-9-9, 785:50-9-21, 785:50-9-23, 785:50-9-24; 785:50-9-60, 785:50-9-61, and 785:50-9-62 are amended to change words and acronyms to be consistent with the National Environmentally Policy Act (NEPA). The intended effect is to clarify language and accurately reflect what is in NEPA.

Sections 785:50-7-5, 785:50-8-2, 785:50-8-5, and 785:50-9-21 are amended to include updated language regarding the information regarding the census. The intended effect is to make the language cohesive and be consistent with the proposed definition of a Census Population.

Section 785:50-8-4 is amended to clarify the date the Rural Economic Action Plan Grants are due and be consistent throughout the rules. The intended effect is to clarify the language for grant applicants.

Section 785:50-8-5 is amended to change the point system for REAP grant applicants who have previously received a grant. The change is intended to make the point system for applicants more easily understood and to maintain a fair point system for applicants.

Section 785:50-9-9 amends the definition of the 303D list and to remove federal when referring to the Clean Water Act in definitions. The changes are proposed to update the language and correct the definitions.

Section 785:50-9-9 adds the definition of Clean Water Act. The intended effect is to update the definition to include all amendments and reauthorizations of the Clean Water Act.

Section 785:50-9-9 adds the definitions of Loan Application and Programmatic Application. The intended effect is to update the definitions to follow the new reauthorized Clean Water Act and to clarify what is needed from potential borrowers.

Sections 785:50-9-21, 785:50-9-24, 785:50-9-35 and 785:50-9-45 adds and amends language reflecting the new requirements of the Clean Water Act. The intended effect is to make the rules consistent with the Clean Water Act and clarify the new requirements for potential borrowers.

Sections 785:50-9-23, 785:50-9-60 and 785:50-9-61 are amended to correct grammatical errors in the rules.

Sections 785:50-9-23, 785:50-9-24 and 785:50-9-60 are amended to update the language to reflect the current process. The intended effect of the amendments is to accurately reflect the work process in the rules.

Sections 785:50-9-23, 785:50-9-28, and 785:50-9-33 are amended to update the language to reflect the new definitions of Loan Application and Programmatic application. The intended effect is to clarify the language for potential borrowers and make the language cohesive throughout the rules.

Section 785:50-9-33 is amended to change "state priority list" to "project priority list". The intended effect is to correct the language to reflect what is used in all other Clean Water State Revolving Fund documents.

Sections 785:50-9-33, 785:50-9-35, 785:50-9-38 and 785:50-9-60 are amended to move certain existing sections of the rules to reflect the correct process of loan closing and construction. The intended effect is to create more cohesive sections and make the language easily understood for potential applicants.

Section 785:50-9-35 is amended to reflect the new definition of the Clean Water Act and update the language. The intended effect is to make the rules cohesive and update the Clean Water Act definition to include all amendments past and future.

Section 785:50-9-60 is amended to include a broader definition of projects exempt from an environmental review. The intended effect is to make the

language reflect the new Clean Water Act guidance and to add flexibility for potential borrowers.

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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 11, 2015:

SUBCHAPTER 1. GENERAL PROVISIONS

785:50-1-2. Definitions

The following words and terms, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise, or unless defined differently in Subchapters 8 and 9 when used in those subchapters:

"Applicant" means the entity applying or having applied to the Board for financial assistance under the provisions of this Chapter.

"Application" means the application process or procedure through which an applicant applies to the Board for financial assistance. In context, this word shall also be understood to refer to the written application document(s), with attachments, through which application for financial assistance is made to the Board.

"Board" means the Oklahoma Water Resources Board authorized by law to make final adjudications, execute contracts, adopt rules and carry out other powers and duties set forth by law or, for duties authorized by law to be delegated to the Executive Director, the Executive Director or any employee or agent or staff member thereof as assigned by the Executive Director.

"Census Population" means the most recent population date from the United States Decennial Census or the American Community Survey.

"Clean Water SRF" means that fund or program created by Title 82 Oklahoma Statutes, Sections 1085.51 and following.

"CWSRF" means Clean Water SRF.

"Department" means the Oklahoma Water Resources Board.

"Drinking Water SRF" means that fund or program created by Title 82 Oklahoma Statutes, Section 1085.71 and following.

"Drinking Water Treatment Project" means:

(A) any engineering undertaking or work to control or develop drinking water treatment facilities of eligible entities for all useful and lawful purposes,

(B) any system necessary to improve or develop drinking water supply, treatment or distribution capabilities, or

(C) any implementation of water source protection programs as authorized by the federal Safe Drinking Water Act.

"DWSRF" means Drinking Water SRF.

"Eligible entity" means those entities determined by the Board to be eligible to obtain financial assistance from the Board for the financing of approved projects, all being as is more specifically provided for under Subchapter 3 of this Chapter.

"Emergency" means any situation where the life, health or property of the persons being served by an entity are endangered.

"Financial assistance" means the act, process or program of Board participation in the loaning, granting of, or contracting for, financial assistance funds to an applicant for the financing of a Board approved project, the same being as authorized and contemplated under the provisions of Title 82 O.S. Sections 1085.31 through 1085.84.

"Investment Certificate" means any note or bond, including any renewal note or refunding bond, authorized and issued by the Board pursuant to the provisions of Title 82 O.S. Sections 1085.31 through 1085.84.

"Loan closing" means the act and process of the loan transaction parties executing all required and final loan transaction documents, instruments and contracts at a designated point in time subsequent to financial assistance approval by the Board.

"Participating lender" means any entity, institution, person, firm or corporation, public, governmental or private, other than the Board, which is participating in the financing or funding of a project for which application is made to the Board.

"Pledge" means the act or process through which an applicant commits, obligates and encumbers its property, real or personal, or its revenues, existing or anticipated, all being of or from the projects or otherwise, to the Board as security and means for repayment of the loan made to the applicant by the Board.

"Project" means the applicant's works or undertaking for which application for financial assistance has been made to or approved by the Board. In this connection, projects and project purposes for which financial assistance may be obtained shall be those described and defined in Subchapter 3 of this Chapter.

"Project cost" means applicant's direct and incidental costs of acquiring, constructing and furnishing the project for which assistance is sought and to those items of cost for which Board- provided financial assistance funds may be utilized and expended by an applicant for an approved project, all being as is more specifically described and contemplated within 785:50-3-1.

"REAP" means the Rural Economic Action Plan created by Title 62 Oklahoma Statutes, Sections 2003 and following, and the funding and grant program administered by the Board pursuant thereto.

"Safe Drinking Water Act" means the federal Safe Drinking Water Act as may be amended, or any successor statute.

"Security" means those items of real or personal property or money revenues in which an applicant possesses legal right, title and interest and which are pledged, committed and encumbered by the applicant to the Board to secure applicant's loan indebtedness and repayment to the Board.

"SRF" means a fund or program to be used for loans to eligible entities for qualified projects in accordance with Federal law, rules and guidelines administered by the U.S. Environmental Protection Agency and state law and rules in this Chapter administered by the Board. "SRF" is a Federal term referring to a state revolving fund. There are two separate SRF programs administered in Oklahoma: one is for the purpose of controlling water pollution (the CWSRF) and the other is for the purpose or providing safe drinking water (the DWSRF).

"Water and Sewer program" means the loan and grant program administered by the Board for making loans from bond proceeds, emergency grants from the Grant Account of the Water Resources Fund in the State Treasury, contract financial assistance, and related financial assistance for water and sewer projects.

SUBCHAPTER 3. PROJECTS AND ENTITIES ELIGIBLE

785:50-3-1. Project eligibility

(a) **Purposes for which assistance may be provided.**

(1) The financial assistance contemplated under the Water and Sewer program may be made available for the purpose of providing or assisting in providing for the acquisition, development and utilization of water and sewage storage and control facilities for the use and benefit of the public and for the conservation and distribution of water for beneficial purposes in or from reservoirs or other storage facilities constructed or hereafter constructed, modified or enlarged within the State of Oklahoma by the United States of America or Oklahoma or any agency, department, subdivision or instrumentality thereof and for the refinancing of existing indebtedness related to water and sewer systems.

(2) The financial assistance contemplated under the Clean Water SRF and Drinking Water SRF programs may be made available for projects as provided and authorized under the applicable federal legislation, and Sections 1085.51 through 1085.65 and Sections 1085.71 through 1085.84 of Title 82 of the Oklahoma Statutes.

(b) **Projects for which assistance may be obtained.**

(1) **Water and Sewer, REAP projects; exception for certain unqualified projects.**

(A) Financial assistance may be obtained through the Water and Sewer program and REAP grant program for any project within the State of Oklahoma which qualifies as *any engineering undertaking or work to conserve and develop surface or subsurface water resources or to control or develop sewage treatment facilities of the State for all useful and lawful purposes by the acquisition, improvement, extension, or construction of dams, reservoirs, and other water storage projects, including but not limited to underground storage projects, filtration and water treatment plants,*including *any system necessary to distribute water from storage or filtration plants to points of distribution, or from storage to filtration and treatment plants, facilities for distributing water therefrom to wholesale or retail purchasers, [82:1085.32(1)]* floodplain restoration including but not limited to home relocations, bank stabilization, storm sewer and drainage improvements and *any system necessary to improve or develop sewage treatment, collection or distribution capabilities* [82:1085.32(1)] of any area of the State. Such qualified projects are additionally understood to include financial assistance to acquire and own the lands required for the project, and to obtain the water supply and to construct appropriate treatment facilities.

(B) Notwithstanding any of the foregoing, a project is not qualified to receive financial assistance by emergency grant pursuant to Title 82 O.S. Section 1085.39 or REAP grant pursuant to Title 62 O.S. Section 2003 if the project is or would be subject to an arrangement whereby a person who is not a state or local governmental entity has or would have a right to use or make use of the project on a basis not available to members of the general public.

(2) **CWSRF projects.** Financial assistance may be obtained through the CWSRF program for any project within the State of Oklahoma which qualifies as any engineering undertaking or work to control of develop sewage treatment facilities of the state for all useful and lawful purposes, any system necessary to improve of develop sewage *treatment, collection or distribution capabilities, storm water and Brownfield activities that are administered under the Oklahoma Brownfields Voluntary Redevelopment Act for eligible entities that have obtained a draft or final permit pursuant to the National Pollution Discharge Elimination Act or the Oklahoma Pollution Discharge Elimination Act, or any implementation of nonpoint source management programs as authorized by the federal Water Quality Act of 1987 and Section* [82:1085.52(1)] 1085.65 of Title 82 of the Oklahoma Statutes.

(3) **DWSRF projects.** Financial assistance may be obtained through the DWSRF program for any project within the State of Oklahoma which qualifies as any engineering undertaking or work to control or develop drinking water facilities of the State for all useful and lawful purposes, any system necessary to improve or develop drinking water treatment, collection or distribution capabilities as authorized by the federal Drinking Water Act and Section 1085.72 of Title 82 of the Oklahoma Statutes.

(c) **Project costs for which assistance funds may be expended.**

(1) Project financial assistance funds made available by the Board to an applicant for approved projects may be

utilized and expended by an applicant toward applicant's payment and financing of project costs, as approved by the Board.

(2) Eligibility for project costs funded under the CWSRF program described in 785:50-1-3(b)(2) is limited to the restrictions of the federal Water Quality Act as amended.

(3) Eligibility for drinking water project costs funded under the DWSRF program described in 785:50-1-3(b)(3) is limited to the restrictions of the federal State Drinking Water Act as amended.

(4) For purposes of the Water and Sewer program, the REAP grant program, and subject to controlling federal and state law for the CWSRF and DWSRF programs, project costs include, but shall not be limited to, the following miscellaneous and general project cost items:

(A) Costs of acquiring the facilities comprising the project;

(B) Costs of acquiring and constructing other items included in the facilities, including obligations incurred for labor and materials by contractors, builders and materialmen;

(C) Costs of restoration or relocation of property damaged or destroyed in connection with any construction;

(D) Costs of premiums of contractors' performance, payment and completion bonds;

(E) Costs of title insurance premiums;

(F) Costs of machinery, equipment and related facilities acquired or purchased for inclusion in and identification primarily with the facilities and the cost of shipping, transportation and installation thereof;

(G) Taxes or other municipal or governmental charges levied or lawfully assessed against the facilities acquired during the period of acquisition;

(H) Costs of insurance premiums in connection with acquisition of the facilities;

(I) Costs of architects' and engineers' services related to the project prior to and during the period of acquisition;

(J) Payment or reimbursement of the applicant for interim financing loans and advances and all costs thereof made in contemplation of receiving financial assistance;

(K) Abstract and title opinion costs;

(L) Costs of project legal fees and expenses of counsel for the applicant; (M) Costs of fees of other consultants of applicant;

(N) Recording fees;

(O) Loan insurance expenses;

(P) Other costs of publishing and printing proceedings incident thereto; and

(Q) Such other reasonable and necessary expenses as may be required to complete the proposed project.

(5) Force account labor costs may be eligible, under certain conditions as determined by the Board, for project financial assistance.

SUBCHAPTER 7. WATER AND SEWER PROGRAM (BOND PROCEED LOANS AND EMERGENCY GRANTS) REQUIREMENTS AND PROCEDURES

785:50-7-5. Emergency grant priority point system

(a) **Basis of priority system and formula.**

(1) **General description.** The priority system consists of a mathematical equation rating the applicants and the proposed project in accordance with the requirements of the statutes by means of a formula awarding points for each criteria used in the evaluation. The maximum point total under the system is one hundred twenty (120). The Board may consider each month, and in order from the highest rating, those applications awarded point ratings of 60 or more priority points. If the Board determines that the applicant with the highest point rating cannot promptly proceed with the project due to delays, including but not limited to those caused by legal problems, engineering problems, feasibility problems or availability of other funding sources, the Board may pass over consideration of such application then proceed to consider in order the next highest rated application. Applications which are bypassed shall retain their ratings and thus remain eligible for further consideration. Applications preliminarily determined by Board staff to have point ratings of 59 or fewer shall be deemed denied; provided, such applications may be reevaluated if the applicant submits additional information showing changed circumstances within 120 days after the date of staff's determination, and such information improves the applicant's preliminary point rating.

(2) **Statutory criteria.** The basis of the priority formula has been developed from the enacting legislation. The two primary statutory criteria are:

(A) The emergency situation of the applicant.

(B) Whether or not the applicant can reasonably finance the project without assistance from the state.

(3) **Total priority points.** Total priority points will be calculated and awarded for individual projects. Therefore, eligible entities will be required to complete separate applications for each project for which grant funds are requested. Priority lists compiled and published by other Oklahoma State agencies and/or seniority dates of applications submitted shall be utilized to decide ties in point totals among applicants.

(b) **Priority formula for eligible entities other than school districts.**

(1) **Formula.** The following formula has been devised to rank grant applications: P = E + WR + I + L + MHI + FP + AR + BP - AN, Where:

(A) P = Priority ranking

(B) E = Emergency ranking

(C) WR = Water and sewer rate structure

(D) I = Indebtedness per customer

(E) L = Amount of local contribution toward project

(F) MHI = Median household income

(G) FP = Applicant's ability to finance project

(H) AR = Amount of grant requested

(I) BP = Benefit of project to other systems

(J) AN = Application number

(2) **Explanation.** Each of these criteria are explained below:

(A) **Emergency rankings (E).** Emergencies are ranked by severity with Category 1 being the most severe and Category 3 being the least severe. Points awarded range from a maximum of 50 points for Category 1 and a minimum of 30 points for Category 3. If an applicant requests funds to correct more than one emergency category need, only the amount of assistance needed to correct the most severe need will be considered in the calculation for the application ranking. The applicant will be informed that separate and additional applications must be filed for other needs and projects. An applicant who receives funding for a project under any of the listed emergencies may not reapply under the same emergency. The three (3) emergency ranking categories are as follows:

(i) **Category 1.** Total loss of a water supply or sewage system or loss of a major component of a system due to a natural or unforeseen disaster which could not have been prevented by the exercise of reasonable care by the applicant. Examples of such disasters may include but are not necessarily limited to: tornado; flood; fire; severe weather; landslide; sudden loss of a water supply system; sudden collapse of a major structural portion of a system; signs of imminent failure of a public water supply lake dam, spillway or outlet structure such as settlement or slumping of the crest, excessive seepage, slides, cracks or sloughs along the upstream and downstream slopes of the dam. Also included under this category is the construction of a new water system to serve areas where residents are supplied by domestic sources or domestic systems whose quantity does not supply the basic needs of the residents. In such cases where new or extended systems are proposed, the Board shall consider and determine whether an adequate population density is available to utilize the proposed system. Notwithstanding any other provisions of this Chapter, if the density is preliminarily determined by Board staff to be inadequate for the applicant to feasibly provide operation and maintenance of the new or extended system, then the application will not be recommended for approval until the proper density, which will make the extension feasible, is achieved. Category 1 emergencies receive 50 points.

(ii) **Category 2.** Water or sewer emergencies which could not have been prevented by the exercise of reasonable care by the applicant and which cause immediate danger or an imminent health hazard to the community or other nearby citizens. Such emergencies may include but are not necessarily limited to: users or systems whose water supply is deemed to be dangerous or unhealthy; systems whose supply source becomes contaminated by man-made pollution caused by a person other than the applicant; overflow of raw sewage into homes or streets due to structural failure in the collection mains and/or structural, mechanical, or electrical failure at a lift station due to disasters which could not have been prevented by the exercise of reasonable care by the applicant, including but not limited to tornado, flooding, fire, or landslides; sewage treatment systems which discharge raw or inadequately treated sewage effluent whose quality and/or quantity causes an immediate and imminent health or safety danger to a public water supply due to a structural, mechanical or electrical failure of a process unit(s) caused by disasters which could not have been prevented by the exercise of reasonable care by the applicant, including but not limited to tornado, flooding, fire, or landslides. Also included under this category is the construction of a new water system to serve areas where residents are supplied by domestic sources or domestic systems whose quality is dangerous or unhealthy as a consequence of circumstances that could not have been prevented by the exercise of reasonable care by the applicant. In such cases where new or extended systems are proposed, the Board shall consider and determine whether an adequate population density is available to utilize the proposed system. Notwithstanding any other provision of this Chapter, if the density is preliminarily determined by Board staff to be inadequate for the applicant to feasibly provide operation and maintenance of the new or extended system, then the application will not be recommended for approval until the proper density, which will make the extension feasible, is achieved. Category 2 emergencies receive 40 points.

(iii) **Category 3.** Water system improvements needed to meet the average and/or maximum daily demands of a system's customers caused by a large increase in the number of customers. The increase could result from annexation or the sale of treated water to another entity(ies) based on an engineering study that indicates purchasing to be the most cost effective alternative. Also included under this category is the construction of a new or extended water or sewer system to serve areas where residents are without sewer system service or without water. In such cases where new or extended systems are proposed, the Board shall consider and determine whether an adequate population density is available to utilize the proposed system. Notwithstanding any other provision of this Chapter, if the density is preliminarily determined by Board staff to be inadequate for the applicant to feasibly provide operation and maintenance of the new or extended system, then the application will

not be recommended for approval until the proper density, which will make the extension feasible, is achieved. Category 3 emergencies receive 30 points.

(B) **Water and Sewer rate structure (WR).**

(i) **For Systems Providing Water Service Only:**

(I) If the cost per 5000 gallons is $46.00 or greater, the applicant shall be given 10 points.

(II) If the cost per 5000 gallons is $42.00 to $45.99, the applicant shall be given 9 points.

(III) If the cost per 5000 gallons is $39.00 to $41.99, the applicant shall be given 8 points.

(IV) If the cost per 5000 gallons is $35.00 to $38.99, the applicant shall be given 7 points.

(V) If the cost per 5000 gallons is $32.00 to $34.99, the applicant shall be given 6 points.

(VI) If the cost per 5000 gallons is $28.00 to $31.99, the applicant shall be given 5 points.

(VII) If the cost per 5000 gallons is $25.00 to $27.99, the applicant shall be given 4 points.

(VIII) If the cost per 5000 gallons is $21.00 to $24.99, the applicant shall be given 3 points.

(IX) If the cost per 5000 gallons is $17.00 to $20.99, the applicant shall be given 2 points.

(X) If the cost per 5000 gallons is $13.50 to $16.99, the applicant shall be given 1 point.

(XI) If the cost per 5000 gallons is less than $13.50, the applicant shall be given 0 points.

(ii) **For Systems Providing Water and Sewer Services:**

(I) If the cost per 5000 gallons is $53.00 or greater, the applicant shall be given 10 points.

(II) If the cost per 5000 gallons is $49.00 to $52.99, the applicant shall be given 9 points.

(III) If the cost per 5000 gallons is $46.00 to $48.99, the applicant shall be given 8 points.

(IV) If the cost per 5000 gallons $43.00 to $45.99, the applicant shall be given 7 points.

(V) If the cost per 5000 gallons is $40.00 to $42.99, the applicant shall be given 6 points.

(VI) If the cost per 5000 is $36.00 to $39.99, the applicant shall be given 5 points.

(VII) If the cost per 5000 gallons is $33.00 to $35.99, the applicant shall be given 4 points.

(VIII) If the cost per 5000 gallons is $30.00 to $32.99, the applicant shall be given 3 points.

(IX) If the cost per 5000 gallons is $26.00 to $29.99, the applicant shall be given 2 points.

(X) If the cost per 5000 gallons is $23.00 to $25.99, the applicant shall be given 1 point.

(XI) If the cost per 5000 gallons is less than $23.00, the applicant shall be given 0 points.

(iii) **For Systems Providing Sewer Service Only:**

(I) If the cost per connection per month is $31.00 or greater, the applicant shall be given 10 points.

(II) If the cost of connection per month is $29.00 to $30.99, the applicant shall be given 9 points.

(III) If the cost of connection per month is $26.00 to $28.99, the applicant shall be given 8 points.

(IV) If the cost of connection per month is $24.00 to $25.99, the applicant shall be given 7 points.

(V) If the cost of connection per month is $22.00 to $23.99, the applicant shall be given 6 points.

(VI) If the cost of connection per month is $19.00 to $21.99, the applicant shall be given 5 points.

(VII) If the cost of connection per month is $17.00 to $18.99, the applicant shall be given 4 points.

(VIII) If the cost of connection per month is $14.00 to $16.99, the applicant shall be given 3 points.

(IX) If the cost of connection per month is $12.00 to $13.99, the applicant shall be given 2 points.

(X) If the cost of connection per month is $9.50 to $11.99, the applicant shall be given 1 point.

(XI) If the cost of connection per month is less than $9.50, the applicant shall be given 0 points.

(iv) The Board will deduct 3 points from the total of the Water and Sewer Rate Structure ranking for any system which charges a flat water or sewer rate (unmetered) without regard to the amount of water or sewer used, and 2 points for a decreasing block rate which lowers the cost per 1000 gallons for customers using larger amounts of water. No points will be added or subtracted for systems using a fixed rate per 1,000 gallons above the minimum. Two points will be added for systems using an increasing block rate. Entities who dedicate sales tax for water and/or sewer improvements will be awarded 1 additional point. Under the category the maximum number of points is 13 and the minimum is -3 points.

(C) **Indebtedness per customer (I).** The indebtedness per customer ranking is calculated by taking the applicant's monthly requirements for debt service on debt incurred for water and/or sewer system purposes and dividing it by the number of customers served.

(i) If the indebtedness per customer is $20.00 or greater, the applicant shall be given 10 points.

(ii) If the indebtedness per customer is $17.50 to $19.99, the applicant shall be given 9 points.

(iii) If the indebtedness per customer is $16.00 to $17.49, the applicant shall be given 8 points.

(iv) If the indebtedness per customer is $14.50 to $15.99, the applicant shall be given 7 points.

(v) If the indebtedness per customer is $13.00 to $14.49, the applicant shall be given 6 points.

(vi) If the indebtedness per customer is $11.50 to $12.99, the applicant shall be given 5 points.

(vii) If the indebtedness per customer is $10.00 to $11.49, the applicant shall be given 4 points.

(viii) If the indebtedness per customer is $8.50 to $9.99, the applicant shall be given 3 points.

(ix) If the indebtedness per customer is $7.00 to $8.49, the applicant shall be given 2 points.

(x) If the indebtedness per customer is $5.50 to $6.99, the applicant shall be given 1 point.

(xi) If the indebtedness per customer is less than $5.50, the applicant shall be given 0 points.

(D) **Local participation (L).**

(i) The Board will not approve nor fund any grant application unless the applicant contributes at least fifteen percent (15%) of the total cost of the proposed project.

(ii) The local participation ranking is based on the percent of the total project cost which is locally funded through cash contributions, or incurrence of additional debt through a loan. Grant funds received through other agencies will not be counted as local funding. Points awarded for participation are as follows:

(I) If the percentage of the project cost locally funded is 90% or greater, the applicant shall be given 10 points.

(II) If the percentage of the project cost locally funded is at least 80% but less than 90%, the applicant shall be given 9 points.

(III) If the percentage of the project cost locally funded is at least 70% but less than 80%, the applicant shall be given 8 points.

(IV) If the percentage of the project cost locally funded is at least 60% but less than 70%, the applicant shall be given 7 points.

(V) If the percentage of the project cost locally funded is at least 50% but less than 60%, the applicant shall be given 6 points.

(VI) If the percentage of the project cost locally funded is at least 40% but less than 50%, the applicant shall be given 5 points.

(VII) If the percentage of the project cost locally funded is at least 30% but less than 40%, the applicant shall be given 4 points.

(VIII) If the percentage of the project cost locally funded is at least 25% but less than 30%, the applicant shall be given 3 points.

(IX) If the percentage of the project cost locally funded is at least 20% but less than 25%, the applicant shall be given 2 points.

(X) If the percentage of the project cost locally funded is at least 15% but less than 20%, the applicant shall be given 1 point.

(XI) If the percentage of the project cost locally funded is less than 15%, the application shall not be approved nor funded.

(E) **Median household income (MHI).** The median household income is calculated according to the most current United States~~federal~~Decennial Census ~~decennialcensus~~ or American Community Survey data available.

(i) The county median figure for median household income will be used in cases where data for the applicant's service area is not available.

(ii) Points are awarded as follows:

(I) If the median household income is less than $17,000, the applicant shall be given 10 points.

(II) If the median household income is $17,000 to $20,999, the applicant shall be given 9 points.

(III) If the median household income is $21,000 to $23,999, the applicant shall be given 8 points.

(IV) If the median household income is $24,000 to $28,999, the applicant shall be given 7 points.

(V) If the median household income is $29,000 to $31,999, the applicant shall be given 6 points.

(VI) If the median household income is $32,000 to $36,999, the applicant shall be given 5 points.

(VII) If the median household income is $37,000 to $39,999, the applicant shall be given 4 points.

(VIII) If the median household income is $40,000 to $44,999, the applicant shall be given 3 points.

(IX) If the median household income is $45,000 to $47,999, the applicant shall be given 2 points.

(X) If the median household income is $48,000 to $51,999, the applicant shall be given 1 point.

(XI) If the median household income is $52,000 or greater, the applicant shall be given 0 points.

(F) **Ability to finance project (FP).**

(i) The maximum points possible under this criterion for the ability of the applicant to finance the project without assistance from the ~~sate~~state is 12.

(ii) The FP ranking gives a standardized account of the amount the existing water/sewer rates would have to be raised in order for the applicant to finance the project through a loan. A standard interest rate and term of 10% for 25 years is assume. The cost per customer per month is calculated using the following formula: FP equals the product

of AR multiplied by (0.1102), divided by the product of (12) multiplied by (C), Where:

(I) FP = Estimate of the amount monthly water/sewer rates would have to be raised to finance the amount of grant request for the project.

(II) AR = Amount of grant request. For this calculation, the amount of available reserve not dedicated to the project will be deducted from the amount requested.

(III) 0.1102 = Annual rate factor for a 25 year loan at 10%.

(IV) 12 = Number of months per year.

(V) C = Number of customers.

(iii) In cases where the applicant's current revenues exceed expenses by a large margin, the Board will appropriately adjust the (AR) figure to accurately represent the applicant's ability to finance the project.

(iv) Points in the FP ranking are awarded as follows:

(I) If the ability to finance the project is $10.00 or greater, the applicant shall be given 12 points.

(II) If the ability to finance the project is $8.00 to $9.99, the applicant shall be given 11 points.

(III) If the ability to finance the project is $6.00 to $7.99, the applicant shall be given 10 points.

(IV) If the ability to finance the project is $5.00 to $5.99, the applicant shall be given 9 points.

(V) If the ability to finance the project is $4.00 to $4.99, the applicant shall be given 8 points.

(VI) If the ability to finance the project is $3.00 to $3.99, the applicant shall be given 7 points.

(VII) If the ability to finance the project is $2.00 to $2.99, the applicant shall be given 6 points.

(VIII) If the ability to finance the project is $1.75 to $1.99, the applicant shall be given 5 points.

(IX) If the ability to finance the project is $1.50 to $1.74, the applicant shall be given 4 points.

(X) If the ability to finance the project is $1.25 to $1.49, the applicant shall be given 3 points.

(XI) If the ability to finance the project is $1.00 to $1.24, the applicant shall be given 2 points.

(XII) If the ability to finance the project is $0.75 to $0.99, the applicant shall be given 1 point.

(XIII) If the ability to finance the project is less than $0.75, the applicant shall be given 0 points.

(G) **Amount of grant requested (AR).**

(i) Points under this category for amount of grant requested are distributed as follows:

(I) $95,001 to $100,000: -5
(II) $90,001 to $95,000: -4
(III) $85,001 to $90,000: -3
(IV) $80,001 to $85,000: -2
(V) $75,001 to $$80,000: -1
(VI) $70,001 to $75,000: 0
(VII) $65,001 to $70,000: +1
(VIII) $60,001 to $65,000: +2
(IX) $55,001 to $60,000: +3
(X) $50,000 to $55,000: +4
(XI) $45,001 to $50,000: +5
(XII) $40,001 to $45,000: +6
(XIII) $35,001 to $40,000: +7
(XIV) $30,001 to $35,000: +8
(XV) $25,001 to $30,000: +9
(XVI) $25,000 or less: +10

(ii) If a project exceeds $75,000 and the amount of funds needed over and above the OWRB grant request are being secured through a loan from OWRB, then there will be no deduction of points under this category.

(H) **Project benefit to other systems (BP).** If the applicant's project will benefit other adjacent systems as well as applicant's, or result in or lead to consolidation of systems, an additional five (5) priority points will be included in the total of priority points assigned to the application.

(I) **Number of grants.** Since it is anticipated that entities who have received emergency grants might submit additional grant applications for approval, points will be deducted from such applications according to the following schedule; provided, points shall not be deducted from such any emergency grant which was funds 10 or more years prior to the date of Board action on the pending application and which has been subjected to a Board audit:

(i) 1 prior grant = 5 reduction points
(ii) 2 prior grants = 8 reduction points
(iii) 3 prior grants = 10 reduction points
(iv) 4 prior grants = 12 reduction points
(v) 5 or more prior grants = 14 reduction points

(c) **Priority formula for school districts.**

(1) School districts, created under Article V of the 1971 School Code, 70 O.S. 1981, §5-101 et seq., are political subdivisions of the State, and therefore are eligible for financial assistance under the Board's program.

(2) In evaluating and prioritizing grant applications from school districts similar criteria to those applied to municipalities, towns and rural water districts will be utilized.

(3) In developing a priority formula for school district applicants, again, the two primary statutory criteria are:

(A) The emergency situation of the school district.

(B) Whether the school district can reasonably finance the emergency project without the Board's assistance.

(4) The emergency aspect of each project is ranked with a maximum of 50 points being given to the most serious situations and a minimum of 30 points to the least serious. The emergency categories and points given for each are the same as those listed in (b)(2) of this Section.

(5) The school district's financial situation is given an maximum of 66 points and is derived by analyzing the following:

(A) Local tax levies

(B) Bonded indebtedness

(C) Local contribution

(D) Median household income within the school district's geographical area

(E) Applicant's ability to finance project

(F) Amount of grant requested

(G) Application number

(6) Priority lists compiled and published by other Oklahoma state agencies shall be utilized to assess the seriousness of the emergency.

(7) Using the previously mentioned analysis, the following formula has been devised to rank school districts' grant applications: P = E + LT + BI + L + MHI + FP + AR - AN, Where:

(A) P = Priority ranking total points

(B) E = Emergency ranking

(C) LT = Local tax levies

(D) BI - Bonded indebtedness

(E) L = School's contribution toward the project

(F) MHI = median household income of population within a school district

(G) FP = Applicant's ability to finance project

(H) AR = Amount of grant requested

(I) AN = Application number

(8) The criteria E, MHI, FP, AR and AN are the same as that set forth in (b) of this section. LT, BI and L are explained as follows:

(A) **Local tax levies (LT).** Points awarded under this category for local tax levies are based on the total amount of mills levied, as follows:

(i) 95 to 100,00 mills = 13 points

(ii) 90 to 94.99 mills = 11 points

(iii) 85 to 89.99 mills = 10 points

(iv) 80 to 84.99 mills = 8 points

(v) 70 to 79.99 mills = 6 points

(vi) 60 to 69.99 mills = 4 points

(vii) 55 to 59.99 mills = 2 points

(viii) 50 to 54.99 mills = 1 point

(ix) 45 to 49.99 mills = 0 points

(x) 40 to 44.99 mills = -1 points

(xi) Less than 40 mills = -2 points

(B) **Bonded indebtedness (BI).**

(i) Priority points for Bonded Indebtedness are as follows: Percentage of Indebtedness Points

(I) 95% to 100% of debt limitation = 10 points

(II) 90% to 94.99% of debt limitation = 8 points

(III) 80% to 89.99% of debt limitation = 7 points

(IV) 75% to 79.99% of debt limitation = 6 points

(V) 70% to 74.99% of debt limitation = 5 points

(VI) 65% to 69.99 of debt limitation = 4 points

(VII) 60% to 64.99% of debt limitation = 3 points

(VIII) 55% to 59.99% of debt limitation = 2 points

(IX) 50% to 54.99% of debt limitation = 1 point

(X) 45% to 49.99% of debt limitation = 0 points

(XI) 40% to 44.99% of debt limitation = -1 point

(XII) 30% to 39.99% of debt limitation = -2 points

(XIII) Less than 30% of debt limitation = -3 points

(ii) A deduction of one (1) point from the indebtedness ranking total will be made for applicants with 75% of existing debts financed at rates of 5% or less, and one (1) point will be added if 75% of existing debts are financed at rates greater than 10%.

(C) **Local participation (L).**

(i) In order to achieve the maximum benefit from available grant funds, the Board will not approve nor fund any grant application unless the applicant contributes at least fifteen percent (15%) of the total cost of the proposed project.

(ii) The local participation ranking is based on the percent of the total project cost which is locally funded through cash contributions or incurrence of additional debt through a loan. Points awarded are as follows:

(I) If the percentage of the project cost locally funded is 90% or greater, the applicant shall be given 10 points.

(II) If the percentage of the project cost locally funded is at least 80% but less than 90%, the applicant shall be given 9 points.

(III) If the percentage of the project cost locally funded at least 70% but less than 80%, the applicant shall be given 8 points.

(IV) If the percentage of the project cost locally funded at least 60% but less than 70%, the applicant shall be given 7 points.

(V) If the percentage of the project cost locally funded at least 50% but less than 60%, the applicant shall be given 6 points.

(VI) If the percentage of the project cost locally funded is at least 50% but less than 60%, the applicant shall be given 5 points.

(VII) If the percentage of the project cost locally funded is at least 40% but less than 50%, the applicant shall be given 4 points.

(VIII) If the percentage of the project cost locally funded is at least 25% but less than 30%, the applicant shall be given 3 points.

(IX) If the percentage of the project cost locally funded is at least 20% but less than 25%, the applicant shall be given 2 points.

(X) If the percentage of the project cost locally funded is at least 15% but less than 20%, the applicant shall be given 1 point.

(XI) If the percentage of the project cost locally funded is less than 15%, the application shall not be approved nor funded.

(iii) Under the Ability to Finance Project (FP) category the Number of Customers (C) as previously discussed will be replaced by the Number of Families within a school district. Points awarded under the FP category are the same as discussed and shown in (b) of this Section.

SUBCHAPTER 8. RURAL ECONOMIC ACTION PLAN (REAP) GRANT PROGRAM REQUIREMENTS AND PROCEDURES

785:50-8-2. Definitions

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

"Applicant" mans a qualified entity which submits an application for a REAP grant on its own behalf, or for whom an application is submitted by a COG; a COG shall be deemed not to be an applicant.

"COG" means one of the following organizations:

(A) Association of Central Oklahoma Governments;

(B) Association of South Central Oklahoma Governments;

(C) Central Oklahoma Economic Development District;

(D) Eastern Oklahoma Economic Development District;

(E) Grand Gateway Economic Development Association;

(F) Indian Nations Council of Governments;

(G) Kiamichi Economic Development District;

(H) Northern Oklahoma Development Association;

(I) Oklahoma Economic Development Association;

(J) Southern Oklahoma Development Association; and

(K) South Western Oklahoma Development Authority.

"Customer" means a single household or commercial unit, and does not mean any service unit which provides or enables utility service for more than one household, residence, or industry.

"Project" means, in addition to those purposes and works described in 785:50-3-1, *sewer line construction or repair and related storm or sanitary sewer [62:2003]* works, *water line construction or repair, water treatment, water acquisition, distribution or recovery and related* [62:2003] works.

"Qualified entity" means any eligible entity as defined in 785:50-3-2; provided, any city or town with a population of 7001 or more according to the Census Population~~latest federaldecennial census~~ shall not be a qualified entity.

785:50-8-4. Applicable law; deadline for applications; eligible project cost

(a) The Board shall administer applications for REAP funds in accordance with any provisions of law applicable to such applications and REAP funds.

(b) To be considered for and receive funding from funds available for REAP in any given fiscal year, an application must be completed in accordance with the Board's rules and prescribed application form in all material respects with all attachments, and filed by the applicant and received by the Board on or before 5 p.m. the first business day of September of that fiscal year. Any application not properly completed and filed shall not be considered for or funded from funds that may become available during that fiscal year. Provided, if no applications are received before the deadline from the area of a given COG, then the Board staff may extend the deadline for that COG through the first business day of November and contact an appropriate official for the COG and notify him or her of the available funds.

(c) A REAP grant application submitted for consideration in a prior fiscal year that was not approved for funding out of funds made available in that prior fiscal year shall expire and be deemed denied unless the applicant files and the Board receives a timely written request to consider said application during the current fiscal year, together with updated application materials as may be reasonably required by the Board. To be timely, such request and updated application materials must be received by the board on or before the first business day of September~~ 1~~, of the current fiscal year.

(d) For purposes of evaluating, approving and funding an application for a REAP grant, categories of project costs which are eligible for assistance shall including, in addition to those project costs described in 785:50-3-1:

(1) Architecture and/or engineer fees related to the project.

(2) Fees for soil testing.

(3) Fees for surveying.

(4) Payments to contractor(s) for construction of the improvements.

(5) Legal fees and expenses of counsel for the applicant which are related to the project.

(6) Services of full-time or part-time inspector.

(7) Administrative expenses shall not be eligible project costs.

785:50-8-5. REAP grant priority point system

(a) **Basis of priority system and formula.**

(1) **General description.** The priority system consists of a mathematical equation rating the qualified entities and the proposed project in accordance with the requirements of state law by means of a formula awarding points for each criterion used in the evaluation. The maximum point total under the system is one hundred fifteen (115). The Board may consider each month, and in order from the highest rating, those applications awarded point ratings of 40 or more priority costs. If the Board determines that the qualified entity with the highest point rating cannot promptly proceed with the project due to delays, including but not limited to those caused by legal problems, engineering problems, feasibility problems or availability of other funding sources, the Board may pass over consideration of such application then proceed to consider in order the next highest rated application. Applications which are bypassed shall retain their ratings and thus remain eligible for further consideration. Applications preliminarily determined by Board staff to have point ratings of 39 or fewer shall be deemed denied; provided, such applications may be reevaluated if the applicant submits additional information showing changed circumstances within 120 days after the date of staff's determination, and such information improves the applicant's preliminary point rating.

(2) **Statutory criteria.** The basis of the priority formula has been developed from the enacting legislation. The primary statutory criteria are:

(A) There shall be a higher priority for any city or town with a population less than one thousand seven hundred fifty (1,750) according to the Census Population ~~latest federal decennial census~~ than for any jurisdiction with a greater population ~~according to the census~~; and

(B) *Among other cities or towns, those municipalities having relatively weaker fiscal capacity shall have a priority for project funding in preference to other municipalities* [62:2003]. In order to give a priority evaluation to each applicant, the Board shall evaluate all applications according to the fiscal capacity criteria set forth in this Section.

(3) **Total priority points.** Total priority points will be calculated and awarded for individual projects. Therefore, qualified entities will be required to complete separate applications for each project for which grant funds are requested. Priority lists compiled and published by other Oklahoma State agencies and/or seniority dates of applications submitted shall be utilized to decide ties in point totals among qualified entities.

(b) **Priority formula for eligible entities other than school districts and counties.**

(1) **Formula.** The following formula has been devised to rank grant applications: T = P + WR + I + MHI + FP + N + AR + BP + PG, Where:

(A) T = Total of priority points
(B) P = Population
(C) WR = Water and sewer rate structure
(D) I = Indebtedness per customer
(E) MHI = Median household income
(F) FP = Applicant's ability to finance project
(G) N = Need
(H) AR = Amount of grant requested
(I) BP = Project benefit to other systems
(J) PG = Previous grant assistance

(2) **Explanation.** Each of these criteria are explained below:

(A) **Population (P).** Municipalities which have a population of less than 1,750 according to the latest Census Population ~~federal decennial census~~ shall be given 55 priority points. Rural water or sewer districts which have less than 525 non-pasture customers shall be given 55 points.

(B) **Water and Sewer rate structure (WR).**

(i) For systems providing water service only, points are figured according to the same scale set forth in Section 50-7-5(b)(2)(B)(i).

(ii) For systems providing both water and sewer services, points are figured according to the same scale set forth in Section 50-7-5(b)(2)(B)(ii).

(iii) For systems providing sewer service only, points are figured according to the same scale set forth in Section 50-7-5(b)(2)(B)(iii).

(iv) The Board will deduct 3 points from the total of the Water and Sewer Rate Structure ranking for any system which charges a flat water rate (unmetered) without regard to the amount of water used, and 2 points for a decreasing block rate which lowers the cost per 1000 gallons for customers using larger amounts of water. No points will be added or subtracted for systems using a fixed rate per 1,000 gallons rate. Entities who dedicate sales tax for water and/or sewer improvements will be awarded 1 additional point. Under this category the maximum number of points is 13 and the minimum is -3 points.

(C) **Indebtedness per customer (I).** The indebtedness per customer ranking is calculated by taking the applicant's monthly requirements for debt service on debt incurred for water and/or sewer system purposes and dividing it by the number of customers served.

(i) If the indebtedness per customer is $20.00 or greater, the applicant shall be given 10 points.

(ii) If the indebtedness per customer is $17.50 to $19.99, the applicant shall be given 9 points

(iii) If the indebtedness per customer is $16.00 to $17.49, the applicant shall be given 8 points.

(iv) If the indebtedness per customer is $14.50 to $15.99, the applicant shall be given 7 points.

(v) If the indebtedness per customer is $13.00 to $14.49, the applicant shall be given 6 points.

(vi) If the indebtedness per customer is $11.50 to $12.99, the applicant shall be given 5 points.

(vii) If the indebtedness per customer is $10.00 to $11.49, the applicant shall be given 4 points.

(viii) If the indebtedness per customer is $8.50 to $9.99, the applicant shall be given 3 points.

(ix) If the indebtedness per customer is $7.00 to $8.49, the applicant shall be given 2 points.

(x) If the indebtedness per customer is $5.50 to $6.99, the applicant shall be given 1 point.

(xi) If the indebtedness per customer is less than $5.50, the applicant shall be given 0 points.

(D) **Median household income (MHI).** The median household income is calculated according to the most current United States ~~federal~~Decennial Census ~~decennial census~~ or American Community Survey data available.

(i) The county median figure for median household income will be used in cases where data for the applicant's service area is not available.

(ii) Points for this MHI criterion are awarded according to the scale set forth in Section 50-7-5(b)(2)(E)(ii).

(E) **Ability to finance project (FP).**

(i) The maximum points possible under this criterion for the ability of the applicant to finance the project without assistance from the state is 12.

(ii) The FP ranking gives a standardized account of the amount the existing water/sewer rates would have to be raised in order for the applicant to finance the project through a loan. A standard interest rate and term of 10% for 25 years is assumed. The cost per customer per month is calculated using the following formula: FP = AR (0.1102)/(12)(C), Where:

(I) FP = Estimate of the amount monthly water/sewer rates would have to be raised to finance the amount of grant requested for the project.

(II) AR = Amount of grant requested.

(III) 0.1102 = Annual rate factor for a 25 year loan at 10%.

(IV) 12 = Number of months per year.

(V) C = Number of customers.

(iii) In cases where the applicant's current revenues exceed expenses by a large margin, the Board will appropriately adjust the (AR) figure to accurately represent the applicant's ability to finance the project.

(iv) Points in the FP ranking, based upon the cost per customer per month calculated as set forth in (ii) of this subparagraph, are awarded as follows:

(I) If the FP is $10.00 or greater, the applicant shall be given 12 points.

(II) If the FP is $8.00 to $9.99, the applicant shall be given 11 points.

(III) If the FP is $6.00 to $7.99, the applicant shall be given 10 points.

(IV) If the FP is $5.00 to $5.99, the applicant shall be given 9 points.

(V) If the FP is $4.00 to $4.99, the applicant shall be given 8 points.

(VI) If the FP is $3.00 to $3.99, the applicant shall be given 7 points.

(VII) If the FP is $2.00 to $2.99, the applicant shall be given 6 points.

(VIII) If the FP is $1.75 to $1.99, the applicant shall be given 5 points.

(IX) If the FP is $1.50 to $1.74, the applicant shall be given 4 points.

(X) If the FP is $1.25 to $1.49, the applicant shall be given 3 points.

(XI) If the FP is $1.00 to $1.24, the applicant shall be given 2 points.

(XII) If the FP is $0.75 to $0.99, the applicant shall be given 1 point.

(XIII) If the FP is less than $0.75, the applicant shall be given 0 points.

(F) **Need (N).** An applicant who is subject to an enforcement order issued by a governmental agency with environmental jurisdiction shall be given 5 priority points for a proposed project which will remedy the violation out of which the order arouse if the order specifies a project construction start date which is on or before June 30 of the Board's current fiscal year for funding REAP grants.

(G) **Amount of grant requested (AR).** Points under this category for amount of grant requested are determined as follows:

(i) If the AR is $140,001 to $150,000, the applicant shall be given -5 points.

(ii) If the AR is $130,001 to $140,000, the applicant shall be given -4 points.

(iii) If the AR is $120,001 to $130,000, the applicant shall be given -3 points.

(iv) If the AR is $110,001 to $120,000, the applicant shall be given -2 points.

(v) If the AR is $100,001 to $110,000, the applicant shall be given -1 point.

(vi) If the AR is $100,000, the applicant shall be given 0 points.

(vii) If the AR is $80,000 to $99,999, the applicant shall be given 1 point.

(ix) If the AR is $60,000 to $79,999, the applicant shall be given 2 points.

(x) If the AR is $40,000 to $59,999, the applicant shall be given 3 points.

(xi) If the AR is $20,000 to $39,999, the applicant shall be given 5 points.

(xii) Any portion of an AR that is more than $150,000 shall be denied.

(H) **Project benefit to other systems (BP).** If the applicant's project will benefit other adjacent systems as well as applicant's or result in or lead to consolidation of systems, an additional five (5) priority points will be included in the total of priority points assigned to the application.

(I) **Previous grant assistance (PG).** No qualified entity shall receive more than $150,000 in REAP grant assistance in any twelve (12) month period. For purposes of this subparagraph a political subdivision and all its public trusts and similar subordinate entities together shall be treated as one and the same qualified entity; provided, rural water or sewer districts shall not be construed to be subordinate entities of counties unless the effect would be to make multiple grants to substantially the same entity and/or service area. If a qualified entity has ~~been approved for or~~ received one (1) or more REAP grants from the Board in the past, points shall be deducted from the application according to all of the following provisions that apply:

(i) If the qualified entity has ~~been approved for or~~ received one (1) REAP grant in the preceding twelve (12) month period, the application will be given -8 points.

(ii) If the qualified entity has ~~been approved for or~~ received more than one (1) REAP grant in the preceding twelve (12) month period, the application will be given -10 points for each REAP grant so received.

(iii) If the qualified entity has ~~been approved for or~~ received one (1) REAP grant more than twelve (12) months in the past, the application will be given -5 points.

(iv) If the qualified entity has ~~been approved for or~~ received two (2) REAP grants more than twelve (12) months in the past, the application will be given -8 points.

(v) If the qualified entity has ~~been approved for or~~ received three (3) REAP grants more than twelve (12) months in the past, the application will be given -10 points.

(vi) If the qualified entity has ~~been approved for or~~ received four (4) REAP grants more than twelve (12) months in the past, application will be given -12 points.

(vii) If the qualified entity has ~~been approved for or~~ received five (5) or more REAP grants more than twelve (12) months in the past, the application will be given -14 points.

(c) **Priority formula for school districts and counties.**

(1) School districts created under Article V of the School Code, 70 O.S. 1991, §5-101 et seq., and counties are political subdivisions of the State, and therefore are eligible for financial assistance under the Board's REAP grant program.

(2) In evaluating and prioritizing grant applications from school districts and counties, similar criteria to those applied to municipalities and rural water districts will be utilized.

(3) In developing a priority formula for school district and county applicants, the primary criteria are average daily membership (for schools only), fiscal capacity, need, amount requested, and previous grant assistance.

(4) The following formula has been devised to rank REAP grant applications by counties and school districts: T = ADM + LT + BI + MHI + FP + N + AR + PG, Where:

(A) T = Total of priority points

(B) ADM = Average daily membership

(C) Lt = Local tax levies

(D) BI = Bonded indebtedness

(E) MHI = Median household income of population within the school district or area of county to be served

(F) FP = Applicant's ability to finance project

(G) N = Need

(H) AR = Amount of grant requested

(I) PG = Previous grant assistance

(5) The criteria MHI, FP, N, AR and PG are the same as that set forth in (b) of this Section. The criteria ADM, LT and BI are explained as follows:

(A) **Average daily membership (ADM).** School districts with an average daily membership of less than 525 students shall be given 55 priority points.

(B) **Local tax levies (LT).** Points awarded under this category for local tax levies are based on the total amount of mills levied, as follows:

(i) If the mills are 95 to 100; the applicant shall be given 13 points.

(ii) If the mills are 90 to 94.99, the applicant shall be given 11 points.

(iii) If the mills are 85 to 89.99, the applicant shall be given 10 points.

(iv) If the mills are 80 to 84.99, the applicant shall be given 8 points.

(v) If the mills are 70 to 79.99, the applicant shall be given 6 points.

(vi) If the mills are 60 to $69.99, the applicant shall be given 4 points.

(vii) If the mills are 55 to 59.99, the applicant shall be given 2 points.

(viii) If the mills are 50 to 54.99, the applicant shall be given 1 point.

(ix) If the mills are 45 to 49.99, the applicant shall be given 0 points.

(x) If the mills are 40 to 44.99, the applicant shall be given -1 point.

(xi) If the mills are less than 40, the applicant shall be given -2 points.

(C) **Bonded indebtedness (BI).**

(i) Priority points for Bonded Indebtedness are as follows:

(I) If the percentage is 95% to 100%, the applicant shall be given 10 points.

(II) If the percentage is 90% to 94.99%, the applicant shall be given 8 points.

(III) If the percentage is 80% to 89.99%, the applicant shall be given 7 points.

(IV) If the percentage is 75% to 79.99%, the applicant shall be given 6 points.

(V) If the percentage is 70% to 74.99%, the applicant shall be given 5 points.

(VI) If the percentage is 65% to 69.99%, the applicant shall be given 4 points.
(VII) If the percentage is 60% to 64.99%, the applicant shall be given 3 points.
(VIII) If the percentage is 55% to 59.99%, the applicant shall be given 2 points.
(IX) If the percentage is 50% to 54.99%, the applicant shall be given 1 point.
(X) If the percentage is 45% to 49.99%, the applicant shall be given 0 points.
(XI) If the percentage is 40% to 44.99%, the application shall be given -1 point.
(XII) If the percentage is 30% to 39.99%, the applicant shall be given -2 points.
(XIII) If the percentage is less than 30%, the applicant shall be given -3 points.

(ii) A deduction of one (1) point from the indebtedness ranking total will be made for applicants with 75% of existing debts financed at rates of 5% or less, and one (1) point will be added if 75% of existing debts are financed at rates greater than 10%.

SUBCHAPTER 9. CLEAN WATER STATE REVOLVING FUND REGULATIONS

PART 1. GENERAL PROVISIONS

785:50-9-9. Definitions

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

"303(d) List" means the list of impaired waters of the State, or most recent approved revision thereof, developed pursuant to Section 303(d) of the Clean Water Act as listed on the Integrated Water Quality Monitoring and Assessment Report ~~amended and maintained on file at the Board~~.

"Act" means The Federal Clean Water Act, as amended.

"Applicant" means any municipality, as defined, that submits a preapplication/application for financial assistance in accordande with this subchapter.

"Architectural or **engineering services"** means consultation, investigations, reports, or services for design-type projects within the scope of the practice of architecture or professional engineering.

"As a result of" means funds in the Clean Water SRF including the capitalization grant, repayments of first round loans, bond proceeds, and the State match.

"Binding commitment" means binding commitments are legal obligations by the State to the local recipient that define the terms and the timing for assistance under Clean Water SRF.

"Board" means the Oklahoma Water Resources Board authorized by law to make final adjudications, execute contracts, adopt rules and carry out other powers and duties set forth by law or, for duties authorized by law to be delegated to the Executive Director, the Executive Director or any employee or agent or staff member thereof as assigned by the Executive Director.

"Brownfield" *means an abandoned, idled or underused industrial or commercial facility or other redevelopment of the real property is complicated by environmental contamination caused by regulated substances* [27A:2-15-103(2)].

"Brownfield activities" means those activities which are conducted under the Oklahoma Brownfields Voluntary Redevelopment Act for eligible entities that have obtained a draft or final permit pursuant to the National Pollution Discharge Elimination Act or Oklahoma Pollutant Discharge Elimination System Act, which are designed to improve water quality, and which are exempt from funds administered under the Nonpoint Source Management Program of the ~~federal~~ Clean Water Act.

"Brownfield assessment" means any phase I, phase II, phase III or other study required by the Department which is used to assess a brownfield.

"Building" means the erection, acquisition, alteration, remodeling, improvement or extension of treatment works.

"Capitalization grant" means an agreement between EPA and State whereby federal dollars are made available to partially fund a Clean Water SRF.

"Clean Water Act" refers to the Federal Water Pollution Control Act and the subsequent amendments including but not limited to the Water Quality Act of 1987.

"Collector sewer" means the common lateral sewers, within a publicly owned treatment system which are primarily installed to receive wastewaters directly from facilities which convey wastewater from individual systems, or from private property, and which include service "Y" connections designed for connection with those facilities including:

(A) Crossover sewers connected more than one property on one side of a major street, road, or highway to a lateral sewer on the other side when more cost effective than parallel sewers; and
(B) Pumping units and small diameter lines serving individual structures or groups of structures.

"Combined sewer" means a sewer that is designed as a sanitary sewer and a storm sewer.

"Conservation Commission" means the Oklahoma Conservation Commission.

"Construction" means any one or more of the following: brownfield assessment; preliminary planning to determine feasibility, engineering, architectural, legal, fiscal, or economic investigations or studies, surveys, designs, plans, working drawings, specifications, procedures, or other actions or undertakings necessary to a project; erection, building, acquisition, alteration, remodeling, improvement, or extension of a project; or the inspection or supervision of any of the foregoing items.

"Consultant" means a person duly licensed, registered or certified to practice a profession as required by Oklahoma law who is providing services or advice in that professional capacity. Examples include, but are not limited to, accountants, architects, attorneys, engineers, and financial advisors.

"Contingency section" means that portion of the planning portion of the priority list consisting of projects which

may receive loans due to bypass provision or due to additional funds becoming available.

"Cross-cutting laws and orders" means Federal laws and authorities that apply to all activities supported with funds "directly made available by" capitalization grants.

"DBE" means Disadvantaged Business Enterprises.

"DBE participation" means the federal requirement for negotiation of a "fair share" objective for minority, disadvantaged and women owned businesses applies to assistance in an amount equal to the capitalization grant.

"Department" means the Oklahoma Department of Environmental Quality.

"Enforceable requirements of the Act" means those conditions or limitations of NPDES or other discharge permits which, if violated, could result in the issuance of a compliance order or initiation of a civil or criminal action. If a permit has not been issued, the term shall include any requirement which would be included in the permit when issued. Where no permit applies, the term shall include any requirement which is necessary to meet applicable criteria for best practicable wastewater treatment technology (BPWTT).

"Equivalency projects" means project cited by the Board as meeting the requirement of the capitalization grant.

"Excessive infiltration/inflow" means the quantities of infiltration/inflow above 120 gallons per capita per day (GPCD), which can be economically eliminated from a sewer system as determined in a cost effectiveness analysis that compares the costs for correcting the infiltration/inflow conditions to the total costs for transportation and treatment of the infiltration/inflow.

"Fundable portion" means that portion of the Project Priority List which includes projects scheduled for financial assistance during the funding year.

"Funding year" means the first year of the planning period represented by a project priority list.

"Infiltration" means water other than wastewater that enters a sewer system (including sewer service connections and foundation drains) from the ground through such means as defective pipes, pipe joints, connections, or manholes. Infiltration does not include, and is distinguished from inflow.

"Inflow" means water other than wastewater that enters a sewer system (including sewer service connections) from sources such as, but not limited to, roof leaders, cellar drains, yard drains, area drains, drains from springs and swampy areas, manhole covers, cross connections between storm sewers and sanitary sewers, catch basins, cooling towers, storm waters, surface runoff, street wash waters, or drainage. Inflow does not include, and is distinguished from infiltration.

"In perpetuity" means maintaining the principal amounts of the federal capitalization grants and state matching funds within the CWSRF.

"Intended Use Plan" means a document prepared each year by the State, which identifies the intended uses of the funds in the CWSRF and describes how those uses support the goals of the CWSRF.

"Interceptor sewer" means a sewer which is designed for one or more of the following purposes:

(A) To intercept wastewater from a final point in a collector sewer and convey such wastes directly to a treatment facility or another interceptor.

(B) To replace an existing wastewater treatment facility and transport the wastes to an adjoining collector sewer or interceptor sewer for conveyance to a treatment plant.

(C) To transport wastewater from one or more municipal collector sewers to another municipality or to a regional plant for treatment.

(D) To intercept an existing major discharge of raw or inadequately treated wastewater for transport directly to another interceptor or to a treatment plant.

"Loan" means an agreement between the State and the local recipient through which the Clean Water SRF provides funds for eligible assistance on terms consistent with the federal Water Quality Act of 1987 or otherwise approved by the Environmental Protection Agency.

"Loan Application" means the application that is required to be submitted to approval of the Board and is otherwise known as an L2.

"MGD" means millions of gallons per day.

"Municipality" means a city, town, county, district, association, or other public body (including an intermunicipal agency of two or more of the foregoing entities) created under State law, or an Indian tribe or an authorized Indian tribal organization, having jurisdiction over disposal of sewage, industrial wastes, or other waste, or a designated and approved management agency consistent with the State Water Quality Management Plan.

"NEPA" means the National Environmental Policy Act.

"Nonexcessive infiltration" means the quantity of infiltration which cannot be economically and effectively eliminated from a sewer system as determined in a cost-effectiveness analysis.

"Nonexcessive inflow" means the rainfall induced peak inflow rate which does not result in chronic operational problems related to hydraulic overloading of the treatment works during storm events. These problems may include surcharging, backups, bypasses, and overflows.

"Nonpoint source" means a source of pollution which is diffuse and does not have a single point of origin or is introduced into a receiving stream from a specific outlet.

"Nonpoint source activities" means capital works, capital improvements, capital equipment, environmental cleanups, land acquisition, or implementation of management practices for the purpose of protecting or improving surface or underground water quality through watershed management or reduction of nonpoint source pollution as authorized by the Act.

"NPDES" means National Pollutant Discharge Elimination System.

"Operable treatment works" means a treatment works that, upon completion, will meet the enforceable requirements of the Act.

"Operation and maintenance" means activities required to assure the dependable and economical function of treatment works.

(A) **"Maintenance"** means preservation of functional integrity and efficiency of equipment and structures. This includes preventive maintenance, corrective maintenance and replacement of equipment.

(B) **"Operation"** means control of the unit processes and equipment which make up the treatment works. This includes financial and personnel management, records, laboratory control, process control, safety and emergency operation planning.

"OWQS" means the Oklahoma Water Quality Standards promulgated by the Board at Oklahoma Administrative Code Title 785, Chapter 45, as amended.

"Planning" means the process of evaluating alternative solutions to water pollution problems, and through a systematic screening procedure, selecting the most cost effective environmentally sound alternative.

"Planning portion" means that part of the Project Priority List containing all projects outside the fundable portion of the list that may, under anticipated allotment levels, receive funding during the five-year planning period represented by the list.

"Programmatic Application" means the application that is required prior to being placed on the Project Priority List.

"Project" means the water quality project for which Clean Water SRF assistance is provided. Water quality projects include:

(A) construction and design, or construction of an operable treatment works or segment thereof the principal purpose of which is for the treatment of domestic users' discharges within the jurisdiction, community, sewer service area, region or district concerned; ~~or~~

(B) storm water and Brownfield activities;

(C) nonpoint source activities; or

(D) other water quality projects as defined by 82 O.S. §1085.52, as amended.

"Project completion" means the date operations of the project are initiated or are capable of being initiated, whichever is earlier.

"Project Priority List" means a contiguous list of projects in order of priority for which Clean Water SRF assistance is expected during a five-year planning period.

"Project priority points" means the total number of points assigned to a project by using the priority ranking formula.

"Reallotment" means allotment of previously allotted unused funds.

"Recipient" means a municipality or other entity which receives assistance under the Clean Water SRF program.

"Repayment" means principal and interest payments on loans which must be credited directly to the Clean Water SRF.

"Replacement" means those expenditures for obtaining and installing equipment, accessories, or appurtenances during the useful life of the treatment works necessary to maintain the capacity and performance for which such works are designed and constructed.

"Responsible bidder" means a prospective contractor that currently meets the minimum standards of financial and technical ability to perform the tasks identified in the project specifications.

"Revenue programs" means a formally documented determination of sewer use charges which is designed to provide revenues for operation and maintenance (including replacement) cost, and/or any combination of revenue generating programs necessary to meet local debt service requirements.

"Sewer System Evaluation Survey (SSES)" means a study which shall identify the location, estimated flow rate, method of rehabilitation, and cost of rehabilitation versus the cost of transportation and treatment for each defined source of infiltration/inflow.

"State match" means funds equaling at least 20% of the amount of the capitalization grant which the State must deposit into the Clean Water SRF.

"State Revolving Fund" or **"SRF"** means funds for loans or providing other assistance for pollution control projects established through capitalization grants from EPA and State matching funds.

"Storm sewer" means a sewer designed to carry only storm waters, surface runoff, street wash waters, and drainage.

"Treatment works" means any devices and systems used in the storage, treatment, recycling, and reclamation of municipal sewage, including intercepting sewers, outfall sewers, sewage collection systems, pumping, power, and other equipment, and their appurtenances. In addition

"treatment works" means any other method or system for preventing, abating, reducing, storing, treating, separating, or disposing of municipal waste, including storm water runoff, including on-site systems and waste in combined storm water and sanitary sewer systems.

"User charge" means a charge levied on users of a treatment works for the user's share of the cost of operation and maintenance (including replacement) of such works.

"Water Reuse" means wastewater that is treated to be used for other purposes, may also be called recycled water or reclaimed water.

PART 3. GENERAL PROGRAM REQUIREMENTS

785:50-9-21. Eligible project

(a) The categories of wastewater projects eligible for assistance are as follows:

(1) Category I - Secondary Treatment. The treatment facility necessary to discharge an effluent meeting the secondary treatment definition. This category may include outfall lines and lines which take existing treatment plants out of operation by transporting the effluent to a different plant;

(2) Category II - Advanced Treatment. The additional treatment necessary to meet more stringent than secondary effluent requirements as established in water quality management plans;

(3) Category IIIA - Infiltration/Inflow Correction. The correction of infiltration/inflow conditions including all costs necessary for removing excessive I/I from the sewer

system, such as replacement or relining sewer sections, flow routing systems, etc;

(4) Category IIIB - Sewer System Rehabilitation. Replacement or major rehabilitation of sewers, where it has been determined that such replacement or rehabilitation is necessary to the total integrity and performance of the wastewater treatment works;

(5) Category IVA - New Collector Sewer Systems. Sewage collection system is the common lateral sewers, within a publicly owned treatment system, which are primarily installed to receive wastewaters directly from facilities which convey wastewater from individual structures or from private property, and which include service connection "Y" fittings designed for connection with those facilities. Pumping units, and pressurized lines, for individual structures or groups of structures when such units are cost effective and are owned and maintained by the applicant are included in this category;

(6) Category IVB - New Interceptor Sewer Systems and Appurtenances. A sewer whose primary purpose is to transport wastewaters from collector sewers to a treatment facility;

(7) Category V - Combined Sewer Overflow Correction. Correction of combined sewer overflows including cost of new collectors, interceptors, storm sewers, retention basin, etc., necessary to alleviate the overflow problem;

(8) Category VI - Storm Sewers. Storm—water and Brownfield activities;

(9) Category VII - Nonpoint source activities;

(10) Category X~~VIII~~ - Water Reuse; and

(11) Other water quality projects as defined under 82 O.S. §1085.51, as amended.

(b) The Board will determine annually the amount of funding necessary and the project categories that will be placed on the fundable portion of the Priority List.

(c) Costs associated with the planning or assessing, design and building of the eligible categories of projects are considered allowable by the Board. Eligible construction costs will be based on the lowest responsible bidder.

(d) Eligibility for equivalency projects is subject to the applicable Federal requirements including those identified in 785:50-9-38(e) and 785:50-9-45(2) through (4).

(e) Additionally, the Board shall consider the following issues in determining project eligibility:

(1) **Capacity funding limitations.** The eligible capacity shall be determined using average dry weather flow and peak flows in accordance with population and per capita flow estimates provided by the applicant. Project capacity must be consistent with environmental constraints.

(A) Eligible capacity for treatment plants will be up to a period of the design life of the project from the estimated date of construction completion.

(B) Eligible capacity for interceptors and outfalls will be up to 40 years from the estimated date of construction completion.

(C) Eligible capacity shall be calculated by multiplying the Board approved local population projection by an appropriate local per capita flow figure. The flow thus calculated will be deemed to include all the eligible project flows (residential, commercial, federal facilities, industrial, and infiltration/inflow). Eligible capacity will be determined during the development of the planning documents.

(D) The applicant will be responsible for documenting, in the planning document, the peaking factors used for the project.

(E) Eligible capacity will be determined when planning documents are approved by the Board.

(2) **Collection systems.** The common lateral sewers, within a publicly owned treatment system, which are primarily installed to receive wastewaters directly from facilities which convey wastewater from individual systems, or from private property, and which include service "Y" connections.

(3) **Population and flow projections.** Section 208 Areawide Water Quality Management Plan ~~population and~~ flow projections and Census Population will be used to determine the eligible project capacity. A discussion of the local projections should be included in the planning document.

(4) **Land costs.** Allowable costs for land and rights-of-way include the cost (including associated legal, administrative and engineering costs) of land acquired in fee simple or by lease or easement that will be an integral part of the treatment process,~~or~~ that will be used for the ultimate disposal of residues resulting from such treatment~~,~~and acquisition of other land, and interests in land, that are necessary for construction including:

(A) The cost of a reasonable amount of land, considering irregularities in application patterns and the need for buffer areas, berms, and dikes;

(B) The cost of land acquired for a soil absorption system for a group of two or more homes;

(C) The cost of land acquired for composting or temporary storage of compost residues which result from wastewater treatment; and

(D) The cost of land acquired for storage of treated wastewater in land treatment systems before land application. The total land area for construction of a pond for both treatment and storage of wastewater is allowable if the volume necessary for storage is greater than the volume necessary for treatment. Otherwise, the allowable cost will be determined by the ratio of storage volume to the total volume of the pond.

(5) **On-site systems.** Treatment and collection systems constructed at or near the wastewater source where the system serving individual structures or groups of structures are cost-effective and are owned and operated by the loan recipient.

(6) **Brownfield remediation.** The types of storm water and Brownfield activities that maybe qualified for Clean Water SRF funding include, but are not limited to:

excavation and disposal of underground storage tanks; constructing wetlands or other filtering mechanisms; capping wells; excavation, removal and disposal of contaminated soil or sediments; tunnel demolition; well abandonment; and all phases or brownfield assessments or planning required by the Department.

785:50-9-23. Clean Water SRF Project Priority System

(a) **Preparation.** The Board shall prepare and maintain a current Clean Water SRF Project Priority Listing of potential eligible projects in the order of priority.

(b) **Projects included.**

(1) **Fundable portion.** The fundable portion includes projects scheduled for financial assistance during the current fiscal year, and which are within the limits of currently available funds.

(2) **Planning portion.** The planning portion includes that portion of the priority list containing all of those projects outside the fundable portion of the list, and which are anticipated to receive financial assistance in future fiscal years. The planning portion may also include contingency projects which are scheduled for assistance during the current fiscal year, but for which adequate funds are not available to provide financial assistance. Contingency projects may receive assistance due to bypass provisions or due to additional funds becoming available.

(c) **Public participation.** Before the beginning of each fiscal year, the Board shall ensure that adequate public participation has taken place. A public meeting will be held to discuss the Clean Water SRF Project Priority List and any revisions that were made to the Clean Water SRF Project Priority System. The notice of public meeting shall precede the public meeting by 30 days and shall be published in a statewide publication. At this time, the Board shall circulate information about the Project Priority List including a description of each proposed project. Attendees ~~Attenders~~ of the public meeting will be allowed to express their views concerning the list and system.

(d) **Clean Water SRF Project Priority List.** A Clean Water SRF Project Priority List shall become effective and supersede all previous lists upon the beginning of the fiscal year for which it is designated. A Clean Water SRF Project Priority List, as updated during the funding year, shall remain effective until such time as it is superseded by a new list.

(e) **CWSRF Integrated Priority Rating System.** The Board will utilize an integrated priority ranking system to evaluate and rank proposed projects, including treatment works, Brownfield activities, and stormwater ~~storm water~~ activities, based on the relative impact of the project in achieving the water quality objectives of the Act. This system consists of criteria integrating public health protection and Oklahoma's Water Quality Standards beneficial use maintenance and protection goals and Anti-degradation policy, including project type, water quality restoration, water quality protection, programmatic priorities, and readiness to proceed.

(1) **Project Type Factor.** The Project Type Factor provides a maximum of seventy (70) points for proposed water quality projects based on the following:

(A) Treatment works or water quality projects designed to effectively eliminate or reduce a documented source of human health threat and/or discharge permit limit violation within a watershed of a waterbody being utilized as a public water supply shall receive seventy (70) points.

(B) Treatment works or water quality projects designed to effectively eliminate or reduce a documented source of human health threat and/or discharge permit limit violation shall receive sixty (60) points.

(C) Treatment works or water quality projects designed to sustain compliance with or provide a degree of treatment beyond permit limits; increase capacity, reliability, or efficiency; reclaim/reuse wastewater; reduce a documented water quality threat, or otherwise maintain beneficial uses shall receive thirty (30) points.

(D) All other eligible treatment works or pollution control projects shall receive twenty (20) points.

(2) **Water Quality Restoration Factor.** The Water Quality Restoration Factor provides a maximum of twenty (20) points for proposed projects located on waterbodies which are not meeting the beneficial uses assigned to them in Oklahoma's Water Quality Standards and which are listed on Oklahoma's 303(d) list as threatened or impaired. The water quality restoration factor will be subject to change whenever the 303(d) List is revised. Water quality projects meeting the following criteria shall receive additional priority points:

(A) A project located in a watershed listed as a "Top Ten NPS Priority Watershed" in Oklahoma's Nonpoint Source Management Program shall receive an additional ten (10) points.

(B) A project listed on Oklahoma's 303(d) list of threatened or impaired stream segments shall receive an additional five (5) points.

(C) A project that implements the recommendations of a conservation plan, site-specific water quality remediation plan, TMDL or modified 208 water quality management plan, which has been approved by an agency of competent jurisdiction, in a sub-watershed where discharge or runoff from nonpoint sources are identified as causing, or significantly contributing to water quality degradation shall receive an additional five (5) points.

(3) **Water Quality Protection Factor.** The Water Quality Protection Factor provides a maximum of ten (10) priority points to proposed water quality projects that provide maintenance of beneficial uses and protection for water bodies afforded special protection under OWQS. Projects shall receive ten (10) points for satisfying the following criteria:

(A) A water quality project located within the watershed of a stream segment or in a groundwater basin underlying a watershed of a stream segment (known as "Special Source" groundwater):

(i) listed in OWQS Appendix A. as an Outstanding Resources Water, High Quality Water, Sensitive Water Supply, Scenic River or Culturally Significant Water;

(ii) listed in OWQS Appendix B.--"Areas with Waters of Recreational and/or Ecological Significance"; or

(iii) located in a delineated "source water protection area"; or

(B) A water quality project located in an area overlying a groundwater classified in OWQS with a vulnerability level of Very High, High, Moderate, or Nutrient Vulnerable.

(4) **Programmatic Priority Factor.** The Programmatic Priority Factor provides a maximum of one hundred (100) priority bonus points to projects that address specific programmatic priorities set forth by the Environmental Protection Agency or Board and detailed in the Annual Intended Use Plan.

(5) **Readiness to Proceed Factor.** The Readiness to Proceed Factor provides a maximum of four hundred (400) points depending on the relative "readiness to proceed" with a loan commitment among proposed projects.

(A) A project requesting to be considered for funding within the five-year planning period shall receive one hundred (100) points.

(B) In addition to a request for funding, a project for which preliminary planning documents have been submitted shall receive two hundred (200) points. Preliminary planning documents include a preliminary engineering report and a preliminary environmental information document, and must be submitted to the Board and to the Department or the Conservation Commission as appropriate.

(C) In addition to a request for funding and preliminary planning documents, a project for which a completed loan application has been submitted shall receive three hundred (300) points.

(D) In addition to a request for funding, preliminary planning documents, and a completed loan application, a project for which the appropriate technical plans and specifications necessary to implement the project have been approved by the Department or the Conservation Commission, as appropriate, shall receive four hundred (400) points.

(f) **Management of the Project Priority List.**

(1) **Tie breaking procedure.** A tie breaking procedure shall be utilized when two or more projects have equal points under the Project Priority System and are in competition for funds. Projects will be ranked according to existing population~~. According to the most recent 208 Water Quality Management Plan,~~ i.e., the project with the greatest existing population will receive the higher ranking.

(2) **Project bypass.** A project on the fundable portion of the list may be bypassed if it is determined that the project will not be ready to proceed during the funding year. This determination will be made on projects that are unable to meet the schedule established on the priority list. The applicant whose project is affected shall be given written notices that the project is to be bypassed. Projects that have been bypassed may be reinstated on the funded portion of the list if sufficient funds are available, and the project completes the necessary tasks to proceed. Funds which become available due to the utilization of these bypass procedures will be treated in the same manner as additional allotments.

(3) **Project Priority List update.** The priority list is continually reviewed and changes (i.e., loan award dates, estimated construction assistance amounts, project bypass, addition of new projects, etc.) may occur as necessary.

(4) **Additional allotments.** After defining the fundable portion of the Clean Water SRF Project Priority List, the Board may determine that it is necessary or desirable to obligate additional funds that are available and the list may be extended to include the next highest ranked project or projects on the planning portion of the list. Any sum made available to a state by reallotment or deobligation shall be treated in the same manner as the most recent allotment.

(5) **Project removal.** The Board may remove a project from the Clean Water SRF Project Priority List when the project has been funded, the project is found to be ineligible, it is indicated that the applicant does not intend to continue in the Clean Water State Revolving Loan Program, or the Board has determined that the applicant does not have financial, legal, or managerial capability to construct the project.

(6) **Amount of financial assistance.** The amount of financial assistance shall be the sum of the total eligible costs related to construction. The amount is contingent upon the availability of funds for this purpose. During each funding year, loans totaling twenty-five (25) percent of the funds available from the capitalization grant and state match for that year shall be provided to those eligible small municipalities with a population of 10,000 or less. However, if the state has not met the federal requirement of making binding commitments in an amount equal to one hundred and twenty (120) percent of each quarterly grant payment within one year of receipt of each quarterly payment, other eligible applicants may apply for a loan or an increase to an existing loan to utilize the small community set aside, if such actions will permit the state to comply with the federal binding commitment requirement.

(7) **Addition of new projects to the Clean Water SRF Project Priority List.**

(A) **General.** Prior to the placement of any new projects on the Clean Water SRF Project Priority List, the applicant must submit a Programmatic Application ~~request~~ for such placement to the Board. If the applicant is not a previous borrower then an L1 also needs to be submitted prior to being placed on the project priority list. The Programmatic Application ~~request~~ must specify that the applicant intends to apply for financial assistance from the Clean Water

SRF. The Board will evaluate the Programmatic Application. ~~request, and if~~ If it is indicated that a viable project could result which would be in conformance with Clean Water SRF requirements and the applicant is an eligible entity, then the potential project will be added to the Clean Water SRF Priority List.

(B) **Brownfield Activities.** Requests received for Brownfield activity projects must satisfy the following requirements before they will be placed on the Clean Water SRF fundable portion of the project priority list:

(i) Submit a certification from the Department that the project is a Brownfield project;

(ii) Submit a certification from the Department that urban runoff from the project site potentially impacts water quality; and

(iii) Submit project documents which determine the water quality benefits of the proposed project.

(C) **Nonpoint source activities.** Requests received for nonpoint source activity projects must satisfy the requirements of 82 O.S. §1085.58(G), as amended, before they will be placed on the Clean Water SRF fundable portion of the project priority list.

(8) **Categories of need.** All projects receiving financial assistance must fit into at least one of the categories of need listed in 785:50-9-21(a).

(A) A project may include all eligible categories of need.

(B) If a point source project consists of more than one category including a nonpoint source project, its project ranking calculation will be based on that category which will result in the greatest priority points.

(9) **Change of scope.** A change of scope, such as the addition of new construction items, will not be eligible after loan closing unless:

(A) The change of scope is necessary to result in an operable treatment works due to an oversight and not to replace faulty construction or equipment already funded, or

(B) The change of scope is necessary due to changes in Federal or State requirements.

785:50-9-24. Intended use plan

(a) Each fiscal year the Board shall prepare an Intended Use Plan (IUP) which shall be subjected to a public participation. The IUP will identify projects anticipated to receive financial assistance from that year's available funds. The IUP will comply with Federal Clean Water Act SRF guidance and shall include the following items:

(1) A description of both the short and long term goals and objectives of the fund.

(2) A list of projects for construction of sewage facilities and storm–water and Brownfield activities which are included on the priority list and a list of activities eligible for assistance under Section 319 of the Act. The list of projects will include the following items:

(A) Name of the recipient,

(B) Facility description,

(C) Project treatment/use categories,

(D) Treatment requirements,

(E) Terms of financial assistance,

(F) Type of Assistance,

(G) NPDES or other Discharge Permit Number,

(H) Types of Environmental Documentation Required ~~Projects that require an EIS~~,

(I) Projected assistance amount, and

(J) Clean Water SRF policies on types of assistance.

(3) Assurances for meeting the requirements of Section 602(b) of the Act:

(A) The Board will enter into binding commitments equal to 120% of the capitalization grant payments within one year after the receipt of the grant payment,

(B) All funds will be expended in an expeditious manner,

(C) All capitalization grant funds will first be used toward compliance with the enforceable requirements of the Act, including the municipal compliance deadline of July 1, 1988.

(4) A payment and disbursement schedule.

(5) Additional subsidy may be provided in accordance with the Clean Water Act and Board approval.

(b) Included in the IUP are the criteria and method that are established for distribution of funds.

(1) The Board shall prepare a preliminary IUP prior to the beginning of each fiscal year. The applicants considered for funding will be those legal entities that have indicated to the Board that they desire to receive assistance within the next fiscal year. The preliminary IUP will be subjected to public comments and review before being submitted to EPA.

(2) Each project to be included in the IUP shall be ranked according to priority points and shall be rated under the priority rating process set out in Section 785:50-9-23 of this chapter.

(3) Projects will be ranked as follows:

(A) Each project shall be ranked according to the priority ranking system.

(B) Projects which are to be refinanced shall be rated on facility conditions which existed prior to start of construction on their treatment works.

(4) The apportionment of funds shall be as follows:

(A) Projects within the range of available funds shall be eligible to receive financial assistance. Other projects shall be eligible for financial assistance at such time funds become available.

(B) Applicants designated to receive financial assistance must submit an approvable application.

785:50-9-28. Pre-application for funding

(a) The applicant will complete the Programmatic Application and the L1as necessary~~,and Pre-application for funding,~~ and submit applicable documents ~~it~~ to the Board. The applicant must demonstrate that it has the legal, managerial, and

financial capability to assure adequate construction, operation, and maintenance of the treatment works throughout the applicants jurisdiction.

(b) Receipt of Programmatic Applications ~~pre-applications~~ that are acceptable to the Board will be sufficient for remaining on the State's priority list.

(c) The Board shall make an initial determination of whether *an entity meets the criteria to receive funding* [82:1085.58(B)] and the Board shall advise the applicants whether or not to proceed with planning documents for financial assistance based on the information provided in the Programmatic Application~~preapplication form~~.

(d) The Board staff shall make a preliminary recommendation for approval or rejection of the loan application.

(1) If the preliminary recommendation is for rejection, the Board shall provide a written recommendation including the reasons for rejection. The entity may then be allowed to modify or supplement any documents in order to comply with Board requirements and resubmit the same to the Board.

(2) If the preliminary recommendation is for approval, the Board shall notify the applicant.

785:50-9-33. Application for financial assistance

(a) **Application filing.** An application shall be filed with the Board. The information required on all applications for financial assistance must meet the requirements of the Board presented to the applicant at the preapplication conference and must be on the project ~~State~~ priority list and included on the current year Intended Use Plan. A copy of the adopted generating program necessary to meet local debt service requirement will be submitted with the application.

(b) **Action on application.**

(1) After a preliminary recommendation for approval of a pre-application is made as provided in 785:50-9-28 and an application is filed as provided in (a) of this Section, the Board shall conduct an in-depth review and evaluation of the application and wastewater project to determine whether it complies with applicable state and federal laws. Board staff may request additional information from the applicant and have further conferences as deemed necessary and beneficial to complete the application review.

(2) In the review and consideration for financial assistance under the Clean Water SRF Program, the Board shall give consideration to the following general and non-exclusive criteria for application approval:

(A) **Compliance with laws.** The application and proposed project must be found to be in compliance with all applicable and relevant federal, state and local laws and regulations, and applicant must possess all necessary and incidental legal rights and privileges necessary to project commencement and operation.

(B) **Eligibility.** The applicant and proposed project must be determined to be eligible for the assistance sought as described in the Programmatic Application.

(C) **Economic feasibility.** The Board shall consider the overall apparent economic viability and feasibility of the project as a whole including proposed revenues from the project and the adequacy and reliability of estimated revenues necessary for loan repayment when indicated.

(D) **Availability of funds.** The Board shall take into consideration the current and anticipated availability of assistance funds needed to provide the financial assistance requested.

(E) **Bidding Requirements.** The applicant must have the appropriate bidding documents including all addenda, approved in accordance with 785:50-9-32, a tabulation of all bids received and an explanation for any rejected bids or otherwise disqualified bidders.

(3) The Board may deny an application for a loan from the Clean Water SRF program for any of the following reasons:

(A) The applicant or the entity which stands to receive the benefit of the financial assistance is not an eligible entity.

(B) The applicant does not have a demonstrated history of sound management.

(C) The applicant's financial condition is not sound enough to assure the Board that the loan would be satisfactorily repaid (including but not limited to circumstances such as inability to meet debt service, inability to meet any applicable rate covenant or additional indebtedness requirements, a substantial increase in operation and maintenance costs due to the proposed project, substantial revenue collection problems, substantial negative financial trends, a default or record of late payment(s) on previous indebtedness, etc.).

(D) The economic conditions pertinent for the applicant show negative trends (including but not limited to conditions such as substantial declines in sales tax revenues, population, per capita income, building permits, or water and/or sewer connections; a substantial increase in unemployment; or detrimental changes in the bases of ten largest customers or ten largest taxpayers).

(E) Any other reason based upon applicable law or the Board's judgment and discretion.

(4) Once the Board staff deems its review complete, the matter will be placed on the Board's agenda for consideration. The Board may approve the application, reject the application, or request additional information. The Board shall notify the applicant as to any such action taken.

(c) **Continuing review after approval of application.** If the application and loan receives final approval, the Board and applicant will coordinate the setting of the date, time and place for the closing of the loan. In the period between the date the application and loan were approved and the date of loan closing, the Board shall continue to review loan documents and shall consult with the applicant's representatives as deemed necessary.

785:50-9-35. Loan closing

(a) **Documentation to be submitted prior to loan closing.** Prior to loan closing the applicant will submit to the Board, the following bid and contract documents:

~~(1) Bidding documents, including all addenda, approved in accordance with 785:50-9-32.~~

~~(2) A tabulation of all bids received and an explanation for any rejected bids or otherwise disqualified bidders.~~

(1~~3~~) Other or additional engineering data and information, if deemed necessary by the Board staff.

(2~~4~~) A certification that all required acquisitions, leases, easements, rights-of-way, relocations, (both voluntary and involuntary) have been obtained for the project to be built.

(3~~5~~) Evidence that the applicant has obtained all required permits and financing to build the project.

(4~~6~~) Information requested by the Board regarding loan closing documents.

(5~~7~~) A detailed project budget which limits the contingency to the maximum allowable change order amount set forth in Section 121 of the Public Competitive Bidding Act of 1974 as amended.

(6~~8~~) Copies of all legal, financial, engineering and inspection contracts that will be paid in whole or in part from the loan proceeds.

(7~~9~~) If an applicant wishes to close a loan prior to receiving bids, it may do so subject to approval from the OWRB. In order to receive approval, documentation must be provided to the OWRB showing the applicant has the financial ability to pay any costs that exceed the estimated loan amount. This documentation shall include but not be limited to financial statements from the applicant.

(b) **General conditions for all loans.**

(1) Under the Clean Water Act ~~federal Water Quality Act of 1987~~ and 82 O.S., §1085.54, the Board is authorized to make available financial assistance from the Clean Water State Revolving Fund Loan Account under the following conditions:

(A) The financial assistance application, project and planning documents have been approved by the Board pursuant to Section 1085.58 of Title 82 or the Oklahoma Conservation Commission pursuant to Section 1085.65 of Title 82 of the Oklahoma Statutes.

(B) The loan is made at or below market interest rates, including interest-free loans, at terms consistent with the Clean Water Act ~~federal Water Quality Act of 1987~~.

(C) Principal and interest payments will begin not later than one year after completion of any project, which completion date shall be determined by the Board, and all loans will be fully amortized consistent with the Clean Water Act ~~federal Water Quality Act of 1987~~.

(D) The applicant demonstrates to the satisfaction of the Board the financial capability to assure sufficient revenues to pay debt service.

(E) The recipient of the loan establishes a dedicated source of revenue for payment of debt service for the loan.

(F) The recipient agrees to maintain financial records in accordance with governmental accounting standards, to conduct an annual audit of the financial records relating to the wastewater project and to submit the audit report to the Board on a scheduled annual basis, and

(G) The project is identified in the Boards current Intended Use Plan.

(H) DBE participation requirements apply to projects constructed with funds directly made available by the federal capitalization grant (equivalency projects).

(i) EPA and the State will negotiate a "Fair Share Objective" (which shall represent a percentage of DBE participation).

(ii) When soliciting for a subcontractor (A/E or construction contractor), the loan recipient shall take the following six good faith efforts:

(I) Include qualified Small, DBE businesses on solicitation lists.

(II) Assure that Small, DBE businesses are solicited whenever they are potential sources.

(III) When economically feasible, divide total requirements into smaller tasks or quantities so as to permit maximum Small, DBE business participation.

(IV) Where the requirements of the work permits, establish delivery schedules which will encourage participation by Small, DBE businesses.

(V) Use the services and assistance of the Small Business Administration, the Office of Minority Business Enterprise of the United States Department of Commerce, as appropriate.

(VI) If any subcontracts are to be let, require the prime contractor or A/E to take the good faith efforts in (A) through (E) of this paragraph (2).

(I) The applicant complies with the procurement process for all architectural and engineering contracts as identified in the Clean Water Act and in accordance with Oklahoma state statutes, 61 O.S. §§60-65.

(J) The recipient complies with the American Iron and Steel provision requirements of the Clean Water Act.

(K) The recipient will create a fiscal sustainability plan that is in accordance with the Clean Water Act and the IUP.

(2) Financial assistance shall not be made from the Wastewater Revolving Loan Account until the conditions in (1) of this subsection are met.

(c) **Evidence of indebtedness.** The financial assistance loans contemplated within this subchapter shall be provided by the Board for approved projects pursuant to such notes, bonds, revenue bonds or other appropriate form of evidence of indebtedness from the applicant as the Board may require.

(d) **Criteria for determining interest rates.**

(1) The interest rates on loans to be made from the Clean Water State Revolving Fund Loan Account shall be at or below market rates for similar indebtedness by eligible entities.

(A) Interest rates for interim construction loans may be reviewed and determined by the Board every six (6) months.

(B) The percentage of the market interest rate to be utilized for long-term loans is set by the Board based on recommendations made by Board staff.

(2) Factors which may be used to calculate the interest rate for a particular entity or class of entities include without limitation the following:

(A) Guidelines utilized by the United States Environmental Protection Agency and federal Farmers Home Administration or successor agency for similar type financial assistance for facilities that could qualify as Clean Water SRF projects.

(B) Maintenance of the Clean Water State Revolving Fund Loan Account in perpetuity. (C) Statewide needs for Clean Water SRF project financial assistance.

(D) Five-year demand projections of the Board of Clean Water SRF project financial assistance.

(E) Prevailing market interest rates which shall be the interest rates on long-term bonds maintaining a rating of AA.

(F) Debt service requirements of investment certificates issued by the Board to provide funds for the Clean Water State Revolving Fund Loan Account.

(G) Financial resources of the entity.

(H) The ability of the entity to repay the loan.

(I) Whether the entity discharges municipal wastewater into scenic river areas as defined in Section 1452 of Title 82 of the Oklahoma Statutes.

(e) **Security for loan.**

(1) As security for the assistance loan provided by the Board to an approved applicant, applicant must provide if required by the Board a mortgage on any or all facilities of the project for which application is made.

(2) The Board shall require a pledge and lien on revenues to be derived from the operation of the project.

(3) For purposes of this subsection, the pledge of lien on project revenues shall be a pledge of and lien on such project revenue, as is necessary to secure repayment of the loan obligation of applicant.

(4) Also, for purposes of this subsection, if the specific project for which application is made and approved is not of itself a revenue producing unit, then such pledge of an lien on revenues shall be on the revenues of the revenue producing system of which the specific project is a part and on such other additional revenue sources or systems which may be pledged by the applicant to satisfy the loan security requirements necessary to obtain assistance from the Board.

(5) The Board may require additional security which the Board deems necessary, which such additional security may include such pledges, liens, revenues and/or mortgages on additional facilities or systems of and as may be tendered by the applicant.

(f) **Conditions for disbursement of funds.** At or following the loan closing, the following conditions and requirements must be met prior to the release and disbursement of any financial assistance funds:

(1) Applicant and Board, and all other necessary parties, shall have executed all necessary and incidental instruments and documents for loan closing, including but not limited to all mortgages, notes, financing statements and pledges of project security and revenues where appropriate.

(2) Recipient sends disbursement requests based on costs incurred to the Board, who shall review the requests and approve them as appropriate.

(3) Executed contract and agreements to be entered into by the applicant for building of the projects containing the appropriately executed bonds, insurance certificates, act of assurance, and other documents required by this chapter.

785:50-9-38. Construction phase

(a) **Awarding construction contracts.** The recipient shall be responsible for assuring that every appropriate procedure and incidental legal requirement is observed in advertising for bids and awarding the construction contract. The text of the construction contract shall not vary from the text of the Board approved draft contract documents in the approved plans and specifications or addenda to the plans and specifications.

(b) **Inspection during construction.** During the building phase of the project, the recipient shall provide independent engineering or other professional services necessary to assure completion of the project in accordance with the loan agreement and the approved plans and specifications.

(c) **Resident inspection.** After the construction contract is awarded, the recipient shall provide for adequate full-time independent resident inspector of the project and require assurance that the work is being performed in a satisfactory manner in accordance with the approved plans and specifications, approved alterations, and in accordance with sound engineering principles and building practices. The Board is authorized to inspect the building of any project at any time in order to assure that plans and specifications are being followed and that the works are being built in accordance with sound engineering principles and building practices, but such inspection shall never subject the State of Oklahoma to any action for damages. The Board shall bring to the attention of the recipient and the project engineer any variances from the approved plans and specifications. The recipient and the project engineer shall immediately initiate necessary action rectifying construction deficiencies.

(d) **Inspection of materials.**

(1) The Board is also authorized to inspect all materials furnished, including inspection of the preparation or manufacture of the materials to be used. The state inspector is to report the manner and progress of the building or to report conditions relating to the materials furnished and the compliance by the contractor with approved plans and

specifications for the project. Such inspection will not release the contractor from any obligation to perform the work in accordance with the requirements of the contract documents or the project engineer from determining compliance with the requirements of the contract documents.

(2) In the event building procedures or materials are determined by the Board to be substandard or otherwise unsatisfactory and/or not in conformity with approved plans and specifications, the Board may order the recipient to take such action in the manner provided for in the construction contract to correct any such deficiency.

(3) In those instances of dispute between the recipient project engineer and the Board's representative as to whether material furnished or work performed conforms with the terms of the construction contract, the Board may order the recipient to direct the project engineer to reject questionable materials and/or initiate other action provided for in the construction contract, including suspension where necessary, until all disputed issues are resolved in accordance with the terms of the construction contract.

(4) The contractor and recipient shall furnish the Board's representative with every reasonable facility for ascertaining whether the work as performed is in accordance with the requirements and intent of the contract.

(5) In addition to normal testing procedures required of the recipient, the Board may require reasonable additional tests of building materials of processes which the Board determines to be necessary during the building of projects financed in whole or in part by Clean Water SRF funds. All tests, whether for the Board or the project engineer, will conform to current American Water Works Association, American Association of State Highway and Transportation Officials, American Society of Testing and Materials, and the Oklahoma Department of Transportation published procedures, or similar criteria. The Board shall specify which tests are applicable. Samples for testing shall be furnished free of cost to the Board upon request on the construction site.

~~(e) DBE participation requirements apply to projects constructed with funds directly made available by the federal capitalization grant (equivalency projects).~~

~~(1) EPA and the State will negotiate a "Fair Share Objective" (which shall represent a percentage of DBE participation).~~

~~(2) When soliciting for a subcontractor (A/E or construction contractor), the loan recipient shall take the following six good faith efforts:~~

~~(A) Include qualified Small, DBE businesses on solicitation lists.~~

~~(B) Assure that Small, DBE businesses are solicited whenever they are potential sources.~~

~~(C) When economically feasible, divide total requirements into smaller tasks or quantities so as to permit maximum Small, DBE business participation.~~

~~(D) Where the requirements of the work permits, establish delivery schedules which will encourage participation by Small, DBE businesses.~~

~~(E) Use the services and assistance of the Small Business Administration, the Office of Minority Business Enterprise of the United States Department of Commerce, as appropriate.~~

~~(F) If any subcontracts are to be let, require the prime contractor or A/E to take the good faith efforts in (A) through (E) of this paragraph (2).~~

785:50-9-45. Compliance with federal authorities

The recipients who construct equivalency projects must comply with all applicable federal laws, executive orders, and other sources of authority. These include but are not limited to the following:

(1) **Environmental.**

(A) Archeological and Historic Preservation Act of 1974, PL 93-291

(B) Clean Air Act, 42 U.S.C. 7506(c)

~~(C) Coastal Barrier Resources Act, 16 U.S.C. 3501 et seq.~~

~~(D) Coastal Zone Management Act of 1972, as amended.~~

(C~~E~~) Endangered Species Act 16 U.S.C. 1531, et seq.

(D~~F~~) Executive Order 12898, Environmental Justice

(E~~G~~) Executive Order 11988, Floodplain Management

(F~~H~~) Executive Order 11990, Protection of Wetlands

(G~~I~~) Farmland Protection Policy Act, 7 U.S.C. 4201 et seq.

(H~~J~~) Fish and Wildlife Coordination Act, PL 85-624, as amended

(I~~K~~) National Historic Preservation Act of 1966, PL 89-665, as amended

(J~~L~~) Safe Drinking Water Act, section 1424(e), PL 92-523, as amended

(K~~M~~) Wild and Scenic Rivers Act, PL 90-542, as amended

(L~~N~~) Magnunson-Stevens Fishery Conservation and Management Act, Pub. L. 94-265

(2) **Economic.**

(A) Demonstration Cities and Metropolitan Development Act of 1966, PL 89- 754, as amended

(B) Section 306 of the Clean Air Act and Section 508 of the Clean Water Act, including Executive Order 11738, Administration of the Clean Air Act and the Federal Water Pollution Control Act with Respect to Federal Contracts, Grants, or Loans

(C) Drug-Free Workplace Act, Pub. L. 100-690

(D) New Restrictions on Lobbying, Section 319 of Pub. L. 101-121

(E) Davis-Bacon Act, 40 U.S.C. 276a to 276a-7, and related guidance and regulations

(3) **Social Legislation.**

(A) Age Discrimination Act, PL 94-135

(B) Civil Rights Act of 1964, PL 88-352

(C) Section 13 of PL 92-500; Prohibition against sex discrimination under the Federal Water Pollution Control Act

(D) Executive Order 11246, Equal Employment Opportunity

(E) Executive Order 11625 and 12138, Women's and Minority Business Enterprise

(F) Rehabilitation Act of 1973, PL 93-112 (including Executive Orders 11914 and 11250)

(G) Section 129 of the Small Business Administration Reauthorization and Amendment Act of 1988, Pub. L. 100-590

(H) Executive Order 13208, Preservation of Open Competition and Government Neutrality Toward Government Contractor's Labor Relations on Federal Construction Contracts

(I) Byrd Anti-Lobbying Amendment, Title 40 CFR 34

(J) Trafficking Victim Protection Act of 2000, Section 106

(4) **Miscellaneous authority.**

(A) Uniform Relocation and Real Property Acquisition Policies Act of 1970, PL 91-646

(B) Executive Order 12549, Debarment and Suspension

PART 7. SRF ENVIRONMENTAL REVIEW PROCESS

785:50-9-60. Requirement of environmental review

As required by the provisions of Section 602(b) (6) of the Clean Water Act, the Board shall conduct an interdisciplinary environmental review consistent with the National Environmental Policy Act of the project proposed for funding through the Clean Water State Revolving Fund Loan Account. This review will insure that the project will comply with the applicable local, state and federal laws and Board regulations relating to the protection and enhancement of the environment. Based upon the staff's review, the Board will make formal determinations regarding the potential social and environmental impacts of the proposed project. As necessary, the determination will include mitigative provisions as a condition of financial assistance for building and no financial assistance will be provided until a final environmental determination has been made. Nothing in this Part shall prohibit any public, private or governmental party from seeking administrative or legal relief from the determinations of the Board. Potential applicants to the Clean Water State Revolving Fund Loan Account should obtain guidance from the staff regarding the scope of the environmental review to be conducted by the Board and the environmental information which the applicant will be required to submit in support of the proposed project.

(1) **Basic environmental determination.** There are three (3) basic environmental determinations that will apply to projects proposed to be implemented with assistance from the Clean Water State Revolving Fund Loan Account. These are: a determination to categorically exclude a project from a formal environmental review; a finding of no significant impact (FONSI) based upon a formal environmental review supported by an environmental assessment (EA) ~~information document (EID)~~; and a determination to provide or not to provide financial assistance based upon a Record of Decision (ROD) following the preparation of an environmental impact statement (EIS). The appropriate determination will be based on the following criteria.

(A) The categorical exclusion (CatEx) determination applies to categories of projects that have shown over time not to entail significant impacts on the quality of the human environment.

(i) Projects which meet any of the following criteria may be categorically excluded from formal environmental review requirements.

(I) The project is directed solely toward rehabilitation of existing facilities, functional replacement of equipment, or toward the construction of related facilities adjoining the existing facilities that do not affect the degree of treatment or the capacity of the works (i.e. infiltration and inflow correction, rehabilitation of existing equipment and structures, and the construction of small structures adjacent to or on existing sites).

(II) The project is in a community of less than 10,000 population and is for minor expansions or upgrading of existing treatment works or on-site disposal systems are proposed.

(III) The project is in an unsewered community involving the replacement of existing onsite systems, providing the new onsite systems do not result in substantial increases in the volume of discharge or the loadings of pollutants from existing sources, or relocate existing discharge.

(IV) The project involves re-issuance of a NPDES permit for a new source providing the conclusions of the NEPA document are still valid (including the appropriate mitigation), there will be no degradation of the receiving waters, and the permit conditions do not change or are more environmentally protective.

(V) The project is for an award of grants authorized by Congress under EPA's annual Appropriations Act that are solely for the reimbursement of the costs of a project that was completed prior to the date the appropriation was enacted.

(VI) The project relates to existing infrastructure systems (such as sewer systems; and stormwater systems, including combined sewer overflow systems) that involve minor upgrading, or minor expansion of system capacity or rehabilitation (including functional replacement) of the existing system and system components (such as the sewer collection

network and treatment system; and stormwater systems, including combined sewer overflow systems) or construction of new minor ancillary facilities adjacent to or on the same property as existing facilities. This category does not include actions that: involve new or relocated discharges to surface or ground water; will likely result in the substantial increase in the volume or the loading of pollutant to the receiving water; will provide capacity to serve a population 30% greater than the existing population; are not supported by the state, or other regional growth plan or strategy; or directly or indirectly involve or relate to upgrading or extending infrastructure systems primarily for the purposes of future development.

~~(ii) Categorical exclusions will not be granted for projects that entail:~~

~~(I) the construction of new collection lines;~~

~~(II) a new discharge or relocation of an existing discharge;~~

~~(III) a substantial increase in the volume or loading of pollutants;~~

~~(IV) providing capacity for a population thirty (30) percent greater than the existing population;~~

~~(V) known or expected impacts to cultural resources, threatened or endangered species, or other environmentally sensitive areas; and~~

~~(VI) the construction of facilities that are known or expected to be not cost-effective or are likely to cause significant public controversy.~~

(ii~~i~~) The responsible official must review actions eligible for categorical exclusion to determine whether any extraordinary circumstances are involved. Extraordinary circumstances are when:

(I) The proposed action is known or expected to have potentially significant environmental impacts on the quality of the human environment either individually or cumulatively over time.

(II) The proposed action is known or expected to have disproportionately high and adverse human health or environmental effects on any community, including minority communities, low-income communities, or federally-recognized Indian tribal communities.

(III) The proposed action is known or expected to significantly affect federally listed threatened or endangered species or their critical habitat.

(IV) The proposed action is known or expected to significantly affect national natural landmarks or any property with nationally significant historic, architectural, prehistoric, archeological, or cultural value, including but not limited to, property listed on or eligible for the National Register of Historic Places.

(V) The proposed action is known or expected to significantly affect environmentally important natural resource areas such as wetlands, floodplains, significant agricultural lands, aquifer recharge zones, coastal zones, barrier islands, wild and scenic rivers, and significant fish or wildlife habitat.

(VI) The proposed action is known or expected to cause significant adverse air quality effects.

(VII) The proposed action is known or expected to have a significant effect on the pattern and type of land use (industrial, commercial, agricultural, recreational, residential) or growth and distribution of population including altering the character of existing residential areas, or may not be consistent with state or local government, or federally-recognized Indian tribe approved land use plans or federal land management plans.

(VIII) The proposed action is known or expected to cause significant public controversy about a potential environmental impact of the proposed action.

(IX) The proposed action is known or expected to be associated with providing financial assistance to a federal agency through an interagency agreement for a project that is known or expected to have potentially significant environmental impacts.

(X) The proposed action is known or expected to conflict with federal, state or local government, or federally-recognized Indian tribe environmental, resource-protection, or land-use laws or regulations.

(iii~~iv~~) Categorical exclusions will be granted for the following projects without additional required documentation:

(I) Procedural, ministerial, administrative, financial, personnel, and management actions necessary to support the normal conduct of EPA business.

(II) Acquisition actions (compliant with applicable procedures for sustainable procurement) and contracting actions necessary to support the normal conduct of EPA business.

(III) Actions involving information collection, dissemination, or exchange; planning; monitoring and sample collection wherein no significant alteration of existing ambient conditions occurs; educational and training programs; literature searches and studies; computer studies and activities; research and analytical activities; development of compliance assistance tools; and architectural and engineering studies. These actions include those

conducted directly by EPA and EPA actions relating to contracts or assistance agreements involving such actions.

(IV) Actions relating to or conducted completely within a permanent, existing contained facility, such as a laboratory, or other enclosed building, provided that reliable and scientifically-sound methods are used to appropriately dispose of wastes and safeguards exist to prevent hazardous, toxic, and radioactive materials in excess of allowable limits from entering the environment. Where such activities are conducted at laboratories, the Lab Director or other appropriate official must certify in writing that the laboratory follows good laboratory practices and adheres to all applicable federal, state, local, and federally-recognized Indian tribal laws and regulations. This category does not include activities related to construction and/or demolition within the facility.

(V) Actions involving emergency preparedness planning and training activities.

(VI) Actions involving the acquisition, transfer, lease, disposition, or closure of existing permanent structures, land, equipment, materials, or personal property provided that the property: has been used solely for office functions; has never been used for laboratory purposes by any party; does not require site remediation; and will be used in essentially the same manner such that the type and magnitude of the impacts will not change substantially. This category does not include activities related to construction and/or demolition of structures on the property.

(VII) Actions involving providing technical advice to federal agencies, state or local governments, federally-recognized Indian tribes, foreign governments, or public or private entities.

(VIII) Actions involving approval of EPA participation in international "umbrella" agreements for cooperation in environmental-related activities that would not commit the United States to any specific projects or actions.

(IX) Actions involving containment or removal and disposal of asbestos- containing material or lead-based paint from EPA owned or operated facilities when undertaken in accordance with applicable regulations.

(X) Actions involving new source NPDES permit modifications that make only technical corrections to the NPDES permit (such as correcting typographical errors) that do not result in a change in environmental impacts or conditions.

(iv~~v~~) The Board may exclude, by amendment to these regulations, other categories of projects for which there is sufficient documentation demonstrating that they are not likely to have significant effects on the quality of the human environment.

(B) The FONSI ~~FNSI~~ will be based upon a~~an~~ prepared EA~~environmental review~~ by the staff supported by an EID prepared by the applicant in conformance with 785:50-9-61(2)(A). ~~Based upon~~Upon~~its~~ review of the EID, the staff will issue ~~prepare an environmental assessment (EA) resulting in the issuance of~~ either a FONSI ~~FNSI~~ or a public notice that the preparation of an EIS will be required. All applicants whose projects do not meet the criteria for either a categorical exclusion or EIS will be required to prepare an EID. The Board's issuance of a FONSI~~FNSI~~ will be based upon an EA documenting that the potential environmental impacts will not be significant or that they may be mitigated without extraordinary measures.

(C) The ROD ~~Record of Decision~~ may only be based upon an EIS in conformance with the format and guidelines described in 785:50-9-61(3). An EIS will be required when the Board determines any of the following:

(i) the project will significantly affect the pattern and type of land use or growth and distribution of the population;

(ii) the effects of the project's construction or operation will conflict with local or state laws or policies;

(iii) the project may have significant adverse impacts upon:

(I) wetlands,

(II) floodplains,

(III) threatened and endangered species or their habitats,

(IV) cultural resources including parklands, reserves, other public lands or areas of recognized scenic, recreational, agricultural, archeological or historic value;

(iv) the project will displace population or significantly alter the characteristics of existing residential areas;

(v) the project may directly or indirectly (i.e., through induced development) have significant adverse effect upon local ambient air quality, local noise levels, surface and ground water quality or quantity, fish, shellfish, wildlife or their natural habitats;

(vi) the project may generate significant public controversy;

(vii) the treated effluent will be discharged into a body of water where the present classification is too lenient or is being challenged as too low to protect present or recent uses, and the effluent will not be of sufficient quality to meet the requirements of those uses.

(2) **Other determinations that are required of the Board.**

(A) Recognizing that a project may be altered at some time after an environmental determination on the project has been issued, the Board will provide that, prior to approval, the plans and specifications, assistance application, and related documents will be examined for consistency with the environmental determination. If inconsistencies are found, the Board may revoke a categorical exclusion and require the preparation of an EID or an EIS, consistent with the criteria of this subsection, or require the preparation of amendments to an EID or supplements to an EIS, as appropriate. Based upon the staff's review of the amended project, the Board will:

(i) reaffirm the original determination through the issuance of a public notice or statement of finding;

(ii) issue a FONSI~~FNSI~~ for a project for which a categorical exclusion has been revoked, or issue a public notice that the preparation of an EIS will be required;

(iii) issue an amendment to a FONSI~~FNSI~~, or revoke a FONSI~~FNSI~~ and issue a public notice that the preparation of an EIS will be required, or

(iv) issue a supplement to a ROD~~record of decision~~, or revoke a ROD ~~record of decision~~ and issue a public notice that financial assistance will not be provided.

(B) When the environmental determination is five years old or older, and for which the subject action has not yet been implemented, the Board staff must re-evaluate the proposed action, environmental conditions, and public views to determine whether to conduct a supplemental environmental review of the action and complete an appropriate decision document in accordance with 785:50-9-60(2)(A) or reaffirm original determination.

(3) **Other determinations that are available to the Board.**

(A) An applicant may request advance authority to construct part of the proposed wastewater treatment project prior to completion of the necessary environmental review when the part of the project will:

(i) immediately remedy a severe public health, water quality or environmental problem;

(ii) not preclude any reasonable alternatives identified for the complete system;

(iii) not cause significant or indirect environmental impacts including those which cannot be acceptably mitigated without completing the entire project; and

(iv) not be highly controversial.

(B) Based upon the review of the information required by Section 785:50-9-61, the Board will issue a FONSI~~FNSI~~ so conditioned as to prohibit construction of the remainder of the project until a complete environmental review has been performed and a subsequent environmental determination has been issued.

(C) The Board may choose to accept determinations made by a federal agency in a previously issued environmental decision in lieu of conducting a formal environmental review when the proposed project will not cause adverse impacts to the environment and is not highly controversial.

(4) **Projects exempt from environmental review.** The Board is not required to perform an environmental review of the following projects:

(A) Projects that are not defined as Section 212 projects~~Nonpoint source projects that~~

~~(i) cannot be defined as Section 212 projects; and~~

~~(ii) are not funded with funds directly made from a capitalization grant~~

(B) Projects that consist of design and planning fees only.

785:50-9-61. Environmental information required by the Board

Documentation required in this subsection will be submitted to the Board.

(1) Except as otherwise provided in OAC 785:50-9-60(1)(A)(iii), applicants seeking a categorical exclusion will provide the Board with sufficient documentation to demonstrate compliance with the criteria of Section 785:50-9-60(1)(i) of this Chapter and shall satisfy the provisions of 40 C.F.R. Section 6.204. At a minimum, this will consist of:

(A) a brief, complete description of the proposed project and its costs;

(B) statement identifying the categorical exclusion that applies to the action;

(C) a statement explaining why no extraordinary circumstances apply to the proposed action; and

(D) a plan map or maps of the proposed project showing: (i) the location of all construction areas,

(ii) the planning area boundaries, and

(iii) any known environmentally sensitive areas.

(2) An EID must be submitted by those applicants whose proposed projects do not meet the criteria for a categorical exclusion and for which the Board has made a preliminary determination that an EIS will not be required. The Board will provide guidance on both the format and contents of the EID to potential applicants prior to initiation of planning.

(A) At a minimum, the contents of an EID will include:

(i) The description and need for the proposed action;

(ii) the alternatives, including the no action alternative (which must be assessed even when the proposed action is specifically required by consent order);

(iii) the effected environment, including baseline conditions that may be impacted by the proposed action and alternatives;

(iv) the environmental impacts of the proposed action and alternatives, including any unresolved conflicts concerning alternative uses of available resources;

(v) the environmental impacts of the proposed action and alternatives on the other applicable environmental laws and executive orders;

(vi) a listing or summary of any coordination or consultation undertaken with any federal agency, state or local government, or federally-recognized Indian tribe regarding compliance with applicable laws and executive orders; and

(vii) identification and description of any mitigation measures considered, including any mitigation measures that must be adopted to ensure the action will not have significant impacts.

(B) Prior to the applicant's adoption of the planning document, the applicant will hold a public hearing on the proposed project and the EID, and provide the Board with a transcript of the hearing. The Board will provide guidance to the applicant regarding the contents of the hearing notice and of the hearing. The hearing will ~~generally~~ be advertised at least thirty (30) days in advance in a local newspaper of general circulation. Concurrent with the advertisement, a notice of the public hearing and availability of the documents will be sent to all local, state, and federal agencies and public and private parties that may have an interest in the proposed project. Included with the transcript will be a list of attendees~~attenders~~, and ~~written~~ testimony, and the applicant's responses to the issues raised. The transcript of hearing can be audio recorded but must be provided to the Board in the form of either a cd, a dvd or a digital file in mp3 or mp4 format.

(C) The applicant will make copies of the EID available to all federal, state, and local agencies and others with an interest in the project. The Board will provide guidance to the applicant regarding coordination requirements.

(3) The format of an EIS will encourage sound analysis and clear presentation of alternatives, including the no action alternative and the selected alternative, and their environmental, economic and social impacts. The following format must be followed by the applicant unless the Board determines there are compelling reasons to do otherwise.

(A) A cover sheet identifying the applicant, the project(s), the program through which financial assistance is requested, and the date of publication.

(B) An executive summary of the critical issues of the EIS in sufficient detail that the reader may become familiar with the proposed project and its cumulative effects. The summary will include:

(i) a description of the existing problem;

(ii) a description of each alternative;

(iii) a listing of each alternative's potential environmental impacts, mitigative measures and any areas of controversy; and

(iv) any major conclusions.

(C) The body of the EIS, which will contain the following information.

(i) A complete and clear description of the purpose and need for the proposed project that clearly identifies its goals and objectives.

(ii) A balanced description of each alternative considered by the applicant. The description will include the size and location of the facilities and pipelines, land requirements, and construction schedules. The alternative of no action will be discussed and the applicant's preferred alternative(s) will be identified. Alternatives that are eliminated from examinations will be presented with the reasons for their elimination.

(iii) A description of the alternatives available to the Board including:

(I) providing financial assistance to the proposed project;

(II) requiring that the proposed project be modified prior to providing
financial assistance to reduce adverse impacts, or providing assistance with conditions requiring the implementation of mitigative measures; and

(III) not providing financial assistance.

(iv) A description of the alternatives available to other local, state, and federal agencies which may have the ability to issue or deny a permit, provide financial assistance or otherwise affect or have an interest in any of the alternatives.

(v) A description of the affected environment and environmental consequences of each alternative. The affected environment on which the evaluation of each alternative will be based includes, as a partial listing, hydrology, geology, air quality, noise, biology, socioeconomic, land use, and cultural resources of the facilities planning area. The Board will provide guidance, as necessary, to the applicant regarding the evaluation of the affected environment. The discussion will present the total impacts of each alternative in manner that will facilitate comparison. The effects of the no action alternative must be included to serve as a baseline for comparison of the adverse and beneficial impacts of the other alternatives. A description of the existing environment will be included in the no action section to provide background information. The detail in which the affected environment is described will be commensurate with the complexity of the situation and the significance of the anticipated impacts.

(D) The draft EIS will be provided to all local, state and federal agencies and public groups with an interest in the proposed project and be made available to the public for review. The final EIS will include all objections and suggestions made before and during the draft EIS review process, along with the issues of public concern expressed by individuals or interested

groups. The final EIS must include discussions of any such comments pertinent to the project or the EIS. All commentors will be identified. If a comment has led to a change in either the project or the EIS, the reason should be given. The Board will always endeavor to resolve any conflicts that may have arisen, particularly among permitting agencies, prior to the issuance of the final EIS. In all cases, the comment period will be no less than 45 days.

(E) Material incorporated into an EIS by reference will be organized to the extent possible into a Supplemental Information Document and be made available for public review upon request. No material may be incorporated by reference unless it is reasonably available for inspection by interested persons within the comment periods specified in 785:50-9-61(3)(D) and 785:50-9-61(3)(G)(ii) and (iii).

(F) When an EIS is prepared by contractors, either in the service of the applicant or the Board, the Board will independently evaluate the EIS prior to issuance of the ~~Record of Decision (~~ROD~~)~~ and take responsibility for its scope and contents. The Board staff who undertake this evaluation will be identified under the list of preparers along with those of the contractor and any other parties responsible for the content of the EIS.

(G) The public participation required for an EIS is extensive; but should, depending upon the nature and scope of the proposed project, be supplemented by the applicant. The following requirements represent the minimum allowable to the applicant and the Board.

(i) Upon making the determination that an EIS will be required of a proposed project, the Board will publish in the Oklahoma Register and distribute a notice of intent to prepare an EIS.

(ii) As soon as possible after the notice of intent has been issued, the Board will convene a meeting of the affected federal, state and local agencies, the applicant, and other interested parties to determine the scope of the EIS. A notice of this scoping meeting may be incorporated into the Notice of Intent or prepared as in (2)(B) of this subsection except that in no case will the notification period be less than forty-five (45) days. As part of the scoping meeting the Board will, at a minimum:

(I) determine the significance of issues for and the scope of those significant issues to be analyzed in depth in the EIS;

(II) identify the preliminary range of alternatives to be considered;

(III) identify potential cooperating agencies and determine the information or analyses that may be needed from cooperating agencies or other parties;

(IV) discuss the method for EIS preparation and the public participation strategy;

(V) identify consultation requirement of other laws and regulations;

(VI) determine the relationship between the preparation of the EIS and the completion of the facilities plan and any necessary arrangements for coordination of the preparation of both documents.

(iii) Following the scoping process the Board will begin the identification and evaluation of all potentially viable alternatives to adequately address the range of issues developed in the scoping. A summary of this including a list of the significant issues identified will be provided to the applicant and other interested parties. Preparation of the EIS will be done, at the discretion of the Board: directly, by its own staff; by consultants to the Board; or by a consultant, contracted by the applicant subject to approval by the Board. In the latter two cases, the consultant will be required to execute a disclosure statement prepared by the Board signifying they have no financial or other conflicting interest in the outcome of the project. Both the draft EIS and final EIS will be distributed and made available for public review in a fashion consistent with the requirements of (2)(B) of this section except that the advertisement and comment period for the public participation will be no less than forty-five (45) days. The Board will publish, in The Oklahoman and a newspaper(s) of general circulation in the project area, a notice of availability of the EIS giving locations at which it will be available for public review at least forty-five (45) days prior to making any environmental determination.

785:50-9-62. Environmental review by the Board

(a) When the Board has determined that an applicant's proposed project may be excluded from a formal environmental review or has determined that a categorical exclusion is to be rescinded, the Board will prepare a public notice of the determination to categorically exclude the project and stating the availability of supporting documentation for public inspection. The Board, concurrent with the publication, will distribute the notice to all interested parties.

(b) An environmental review of the proposed project, supported by the applicant's EID, will be conducted by the Board to determine whether any significant impacts are anticipated and any changes may be made in the proposed project to eliminate significant adverse impacts. As part of this review, the Board may require the applicant to submit additional information or undertake additional public participation and coordination to support its environmental determination. Based on the environmental review, the Board will prepare an environmental assessment, describing:

(1) the purpose and need for the proposed project;

(2) the proposed project, including its costs;

(3) the alternatives considered and the reasons for their rejection or acceptance;

(4) the existing environment;

(5) any potential adverse impacts and mitigative measures;

(6) any proposed conditions to the provision of financial assistance and any means provided for the monitoring of compliance with the conditions; and

(7) other environmental laws and executive orders as applicable.

(c) Based upon this environmental assessment, the Board will issue a FONSI~~FNSI~~ or a notice of intent to prepare an EIS. The FONSI~~FNSI~~ will include a brief description of the proposed project, its costs, any mitigative measures required of the applicant as a condition of its receipt of financial assistance, and a statement to the effect that comments supporting or disagreeing with the FONSI~~FNSI~~ may be submitted for consideration by the Board. The environmental assessment will be attached when mitigative measures are specified by conditions of the financial assistance. The FONSI~~FNSI~~ will be distributed to all parties, governmental entities, and agencies that may have an interest in the proposed project. No action regarding approval of the facilities plan or the provision of financial assistance will be taken by the Board for at least thirty (30) days after the issuance of a FONSI~~FNSI~~.

(d) Following the comment period and public hearings on the final EIS and at the time of the decision to approve the facilities plan or to provide or deny financial assistance to the proposed project, the Board will prepare a concise public ROD~~record of decision~~. The ROD~~record of decision~~ will describe those mitigative measures to be taken which will make the selected alternative environmentally acceptable.

(e) In accordance with this Part, the Board will conduct environmental reviews and issue public notices or amended determinations, as appropriate.

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