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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 #16-729]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 1. General Provisions

252:100-1-3. [AMENDED]

Subchapter 2. Incorporation by Reference

252:100-2-3. [AMENDED]

Subchapter 8. Permits for Part 70 Sources and Major New Source Review (NSR) Sources

Part 5. Permits for Part 70 Sources

252:100-8-2. [AMENDED]

Part 7. Prevention of Significant Deterioration (PSD) Requirements for Attainment Areas

252:100-8-31. [AMENDED]

252:100-8-33. [AMENDED]

252:100-8-35. [AMENDED]

Part 9. Major Sources Affecting Nonattainment Areas

252:100-8-51.1. [AMENDED]

Appendix Q. Incorporation by Reference [REVOKED]

Appendix Q. Incorporation by Reference [NEW]

SUMMARY:

The Department is proposing to amend several definitions in OAC 252:100, Subchapter 1, General Provisions, and Subchapter 8, Permits for Part 70 Sources and Major New Source Review (NSR) Sources, to align the Department's definitions with those promulgated by the U.S. Environmental Protection Agency (EPA). The gist of this rule change and the underlying reason for the rulemaking is so that the State's rules are not less stringent than the federal rules, thereby ensuring that the Department retains the PSD and Title V programs.

The Department is proposing to update OAC 252:100, Appendix Q, Incorporation by Reference. The gist of this rule and the underlying reason for the rulemaking is to incorporate the latest changes to EPA regulations relating to the National Emission Standards for Hazardous Air Pollutants (NESHAP) and New Source Performance Standards (NSPS). 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:

Environmental Quality Board; 27A O.S. Sections 2-2-101, 2-2-201, and 2-5-106.

Air Quality Advisory Council; 27A O.S. Sections 2-2-201 and 2-5-107.

Oklahoma Clean Air Act; 27A O.S. Sections 2-5-101 through -117.

COMMENT PERIOD:

Written comments on the proposed rulemakings will be accepted prior to and at the hearing on October 12, 2016. Oral comments may be made at the October 12, 2016 hearing and at the November 9, 2016 Environmental Quality Board hearing.

PUBLIC HEARINGS:

Before the Air Quality Advisory Council at 9:00 a.m. on Wednesday, October 12, 2016, at TulsaTech, Owasso Campus, 10800 North 140th East Avenue, Owasso, OK 74055.

Before the Environmental Quality Board at its meeting scheduled for 9:30 a.m. on Wednesday, November 9, 2016, at the Carolyn Renfro Event Center, 445 Fairview Avenue, Ponca City, OK 74601.

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, recordkeeping, 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:

Copies of the proposed rules may be obtained from the contact person, reviewed at the Department of Environmental Quality, 707 N. Robinson, Oklahoma City, Oklahoma, or reviewed online at http://www.deq.state.ok.us/AQDnew/council_mtgs/index.htm.

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, 2016 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.

Notices of Rulemaking Intent

CONTACT PERSON:

The contact person for these proposals is Melanie Foster, Environmental Programs Manager, at (405)702-4100. Please send written comments on the proposed rule changes to Ms. Foster at melanie.foster@deq.ok.gov. Mail should be addressed to Department of Environmental Quality, Air Quality Division, P.O. Box 1677, Oklahoma City, OK 73101-1677, ATTN: Melanie Foster. 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 #16-729; filed 8-8-16]

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

[OAR Docket #16-730]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 3. Incorporation by Reference
252:205-3-2. [AMENDED]

SUMMARY:

The purpose of the proposed amendment is to update the Incorporation by Reference date in our state rules and thereby correct an error discovered from a previous rulemaking that resulted in state rules not being equivalent to federal rules. More specifically, the 2014-15 rulemaking incorporated by reference the entirety of 40 CFR Part 261 with two exceptions. Section 261.4(b)(18) was excluded because it specifically referred to the state of Utah and thus was not applicable in Oklahoma. However, by the 2014-15 rulemaking, that specific citation had expired and EPA re-used it for a part of the new Solvent Wipes Rule. DEQ intended to incorporate that new rule in its entirety but instead reincorporated the original exclusion. The gist of the rule, therefore is to reincorporate Part 261 without excluding 261.4(b)(18). The previous intentional exclusion of Part 261.150 is not affected.

AUTHORITY:

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

COMMENT PERIOD:

Written comments may be submitted to the contact person from September 12, 2016 through October 13, 2016. Oral comments may be made at the Hazardous Waste

Advisory Council meeting on October 13, 2016, and at the Environmental Quality Board meeting on November 9, 2016.

PUBLIC HEARINGS:

Before the Hazardous Waste Management Advisory Council on October 13, 2016 at 10:00 a.m. at the Department of Environmental Quality offices, 707 N. Robinson, Oklahoma City, OK 74103.

Before the Environmental Quality Board on November 9, 2016 at 9:30 a.m. at the Carolyn Renfro Event Center, 445 Fairview Avenue, Ponca City, OK 74601.

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

The Department of Environmental Quality requests that business entities affected by these modifications provide 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, reviewed at the Department of Environmental Quality, 707 N. Robinson, Oklahoma City, Oklahoma, or may be viewed online at <http://www.deq.state.ok.us/LPDnew/LPProprules.htm>.

RULE IMPACT STATEMENT:

Copies of the rule impact statement may be requested from the contact person listed below or may be reviewed online at <http://www.deq.state.ok.us/lpdnew/LPProprules.htm>

CONTACT PERSON:

The contact person is Mike Edwards. He can be reached at mike.edwards@deq.ok.gov (e-mail), 405-702-5226 (phone) or (405) 702-5101 (fax). The DEQ is located at 707 N. Robinson, Oklahoma City, Oklahoma 73102. The mailing address is P.O. Box 1677, Oklahoma City, OK 73101 - 1677.

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 #16-730; filed 8-8-16]

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 606. OKLAHOMA POLLUTANT DISCHARGE ELIMINATION SYSTEM (OPDES) STANDARDS

[OAR Docket #16-731]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking.

PROPOSED RULES:

Subchapter 1. Introduction
252:606-1-4. Date of federal regulations incorporated
[AMENDED]

SUMMARY:

The gist of this rule and the underlying reason for the rulemaking is to ensure the Oklahoma Pollutant Discharge Elimination System (OPDES) is in compliance with the Department's delegation agreement and to ensure Oklahoma retains responsibility for administering the National Pollutant Discharge Elimination System (NPDES) Program in Oklahoma. The Department proposes to update its rules concerning the date of the incorporation by reference for the Code of Federal Regulations from July 1, 2015, to July 1, 2016. The most significant federal regulation updates being incorporated are an update regarding electronic reporting for NPDES; an update to the effluent limitations guidelines and standards (ELGs) for the steam electric power generating industry; and an update that establishes pretreatment standards that prevent the discharge of pollutants in wastewater from onshore unconventional oil and gas (UOG) extraction facilities to publicly owned treatment works (POTWs). The electronic reporting update will modernize the reporting of NPDES discharge program information from paper-based reporting to electronic reporting. The ELGs update establishes nationally applicable limits on the amount of toxic metals and other harmful pollutants that coal-fired steam electric power plants are allowed to discharge. The pretreatment standards for the discharge of pollutants in wastewater from onshore UOG extraction facilities to POTWs will help protect the operational integrity of POTWs.

AUTHORITY:

Environmental Quality Board, 27A O.S. § 2-2-101; Water Quality Management Advisory Council, 27A O.S. § 2-2-201; and 27A O.S. §§ 2-6-103, 2-6-203, 2-6-402 and 2-6-501.

COMMENT PERIOD:

Written comments may be submitted to the contact person from September 1, 2016, through October 3, 2016.

Oral comments may be made at the Water Quality Management Advisory Council meeting on October 4, 2016, and at the Environmental Quality Board meeting on November 9, 2016.

PUBLIC HEARING:

Before the Water Quality Management Advisory Council on October 4, 2016, at 2:00 p.m. in the Multi-Purpose Room on the first floor of the Department of Environmental Quality, 707 N. Robinson, Oklahoma City, Oklahoma 73102.

Before the Environmental Quality Board on November 9, 2016, at 9:30 a.m. in the Carolyn Renfro Event Center at 445 Fairview Avenue, Ponca City, OK 74601.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

The DEQ requests that business entities affected by the proposed rules provide to DEQ (during the comment period) the increase (in dollar amounts if possible) in the level of direct costs (e.g., fees) and indirect costs (e.g., reporting, record

keeping, equipment, construction, labor, professional services, revenue loss), or other costs expected to be incurred due to compliance with the proposed rules.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from the contact person, reviewed at the Department of Environmental Quality, 707 N. Robinson, Oklahoma City, Oklahoma, during normal business hours (8:00 am - 4:30 pm Monday through Friday) or reviewed online at <http://www.deq.state.ok.us/wqdnew/index.htm>.

RULE IMPACT STATEMENT:

Copies of the rule impact statement may be obtained from the contact person or may be reviewed online at <http://www.deq.state.ok.us/wqdnew/index.htm>.

CONTACT PERSON:

The contact person is Mark Hildebrand. Mark may be contacted at: Mark.Hildebrand@deq.ok.gov (e-mail), (405) 702-8100 (phone) or (405) 702-8101 (fax). The DEQ is located at 707 N. Robinson, Oklahoma City, Oklahoma 73102. The DEQ's mailing address is P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677.

ADDITIONAL INFORMATION:

Persons with disabilities who desire to attend the rulemaking hearing and need an accommodation should notify the contact person three (3) days in advance of the hearing. For hearing impaired, the TDD relay number is 1-800-522-8506 or 1-800-722-0353, for TDD machine use only.

[OAR Docket #16-731; filed 8-8-16]

**TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 690. WATER QUALITY STANDARDS IMPLEMENTATION**

[OAR Docket #16-732]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking.

PROPOSED RULES:

Subchapter 1. Introduction
252:690-1-4. Incorporation of EPA regulations by reference [AMENDED]
252:690-1-4.1. Date of federal regulations incorporated [NEW]

SUMMARY:

The gist of this rule and the underlying reason for the rulemaking is to ensure the Oklahoma Pollutant Discharge Elimination System (OPDES) is in compliance with the Department's delegation agreement and to ensure Oklahoma retains responsibility for administering the National Pollutant Discharge Elimination System (NPDES) Program in Oklahoma. The Department proposes to update its rules concerning the date of the incorporation by reference for the Code of Federal Regulations from July 1, 2015, to July 1, 2016.

Notices of Rulemaking Intent

Additionally, the Department is separating into two sections the date of incorporation by reference and the list of rules incorporated. This change is consistent with other rules and will ease future rulemaking since the date of incorporation, not the list of rules, must be updated regularly.

AUTHORITY:

Environmental Quality Board, 27A O.S. § 2-2-101; Water Quality Management Advisory Council, 27A O.S. § 2-2-201; and 27A O.S. §§ 2-6-103, 2-6-203, 2-6-402 and 2-6-501.

COMMENT PERIOD:

Written comments may be submitted to the contact person from September 1, 2016, through October 3, 2016.

Oral comments may be made at the Water Quality Management Advisory Council meeting on October 4, 2016, and at the Environmental Quality Board meeting on November 9, 2016.

PUBLIC HEARING:

Before the Water Quality Management Advisory Council on October 4, 2016, at 2:00 p.m. in the Multi-Purpose Room on the first floor of the Department of Environmental Quality, 707 N. Robinson, Oklahoma City, Oklahoma 73102.

Before the Environmental Quality Board on November 9, 2016, at 9:30 a.m. in the Carolyn Renfro Event Center at 445 Fairview Avenue, Ponca City, OK 74601.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

The DEQ requests that business entities affected by the proposed rules provide to DEQ (during the comment period) the increase (in dollar amounts if possible) in the level of direct costs (e.g., fees) and indirect costs (e.g., reporting, record

keeping, equipment, construction, labor, professional services, revenue loss), or other costs expected to be incurred due to compliance with the proposed rules.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from the contact person, reviewed at the Department of Environmental Quality, 707 N. Robinson, Oklahoma City, Oklahoma, during normal business hours (8:00 am - 4:30 pm Monday through Friday) or reviewed online at <http://www.deq.state.ok.us/wqdnew/index.htm>.

RULE IMPACT STATEMENT:

Copies of the rule impact statement may be obtained from the contact person or may be reviewed online at <http://www.deq.state.ok.us/wqdnew/index.htm>.

CONTACT PERSON:

The contact person is Mark Hildebrand. Mark may be contacted at: Mark.Hildebrand@deq.ok.gov (e-mail), (405) 702-8100 (phone) or (405) 702-8101 (fax). The DEQ is located at 707 N. Robinson, Oklahoma City, Oklahoma 73102. The DEQ's mailing address is P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677.

ADDITIONAL INFORMATION:

Persons with disabilities who desire to attend the rulemaking hearing and need an accommodation should notify the contact person three (3) days in advance of the hearing. For hearing impaired, the TDD relay number is 1-800-522-8506 or 1-800-722-0353, for TDD machine use only.

[OAR Docket #16-732; filed 8-8-16]

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 15. OAC GRANT PROGRAM

[OAR Docket #16-588]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

25:15-1-2 through 25:15-1-4 [AMENDED]

AUTHORITY:

Oklahoma Aeronautics Commission; 3 O.S. Section 85

SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:

October 14, 2015

COMMENT PERIOD:

October 16, 2015 through November 16, 2015

PUBLIC HEARING:

November 18, 2015

ADOPTION:

December 3, 2015

SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:

December 4, 2015

APPROVED BY GOVERNOR'S DECLARATION:

Approved by Governor's declaration on June 9, 2016

FINAL ADOPTION:

June 9, 2016

EFFECTIVE:

September 11, 2016

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

ANALYSIS:

The permanent rule allows the Oklahoma Aeronautics Commission (OAC), when federal Non-Primary Entitlement (NPE) funds are being transferred from one airport sponsor to another, to provide half of the required local match for the airport sponsor receiving the NPE funds so long as it will save OAC non-appropriated state funds. While the Commission will have to spend \$8,300.00 each time this rule is triggered, which allows it to assist an airport sponsor with the required local match, the savings insofar as the Commission's non-appropriated state funds will exceed this expense. The Commission will use its non-appropriated funds for these expenditures and there will be no impact on state appropriated funds as the Commission receives no appropriated funds.

CONTACT PERSON:

Jane Mitchell, Chief Operating Officer, Oklahoma Aeronautics Commission, 110 N. Robinson, Suite 200, Oklahoma City, OK 73102, (405) 604-6901.

**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, 2016:**

25:15-1-2. Definitions

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

"Aeronautics Commission" means the Oklahoma Aeronautics Commission, the state agency ~~organizational unit~~ responsible for administering airport aviation grant programs for the State of Oklahoma and the Federal Aviation Administration.

"Capital Improvement Program" means a list of airport capital projects approved by the ~~Aeronautics~~ Commission for implementation within a three-year planning horizon showing a description of the project, the cost of each phase of the project, when the project is expected to occur, and the sources of funding.

"Biennial Element" means a list of those projects in the Capital Improvement Program scheduled for implementation in the most immediate two-year period.

"Airport Development Worksheet" means a listing of the capital projects needed at an airport over a twenty-year planning horizon together with the estimated cost, construction type, objective code, and airport component for each project. Projects identified for a particular airport must be consistent with the service level, functional classification, design standard, and airport reference code identified for the airport in the Oklahoma Airport System Plan. An airport development worksheet is developed and maintained for each system plan airport that is not part of the National Plan of Integrated Airport Systems (NPIAS) cooperatively by the airport sponsor and the ~~Aeronautics~~ Commission staff.

"Airport Sponsor" or **"Municipality"** is used interchangeably throughout this chapter. Either term means any incorporated city, village, or town of this state, any public institution of higher education, and any county or political subdivision or district of this state, or any public trust thereof, which is, or may be, authorized by law to acquire, establish, construct, maintain, improve, and operate airports, airstrips, and aeronautical facilities. To be eligible for the state grant program, the airport sponsor must be one of the governmental entities referenced in the preceding sentence and included in the Oklahoma Airport System Plan. Nothing herein precludes two or more of these entities from acting jointly as an airport sponsor. In the event a public trust is the airport sponsor, the beneficiary of that public trust must also be a record owner of the airport property.

"Oklahoma Airport System Plan" means the plan, adopted by the ~~Aeronautics~~ Commission, which identifies the airports included in the State's airport system and identifies the

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service level, functional classification, design standard, and airport reference code for each system airport.

"Administrative Official" means an official of the airport sponsor who is authorized to legally bind the airport sponsor.

"Emergency" means a condition that could not have been foreseen and which affects the safety of the airport sufficiently that the airport or runway may need to be closed if the situation is not remedied.

"FAA" means the Federal Aviation Administration, a unit of the U.S. Department of Transportation.

"Letter of Interest" means a letter expressing the desire of an airport sponsor to have one or more projects included in the Capital Improvement Program.

"Letter of Intent" means a letter expressing the desire of an airport sponsor to have one or more projects included in the Biennial Program.

"Notification Letter" means correspondence prepared by the ~~Aeronautics~~ Commission staff informing an airport sponsor that one or more of their projects have advanced to the Biennial Program of the Capital Improvement Program. The letter sets forth the terms the ~~Aeronautics~~ Commission imposes on airport sponsors participating in the state grant program, describes the project, authorizes the airport sponsor to begin engineering work for the project and directs the sponsor to prepare a grant application.

"Airport Layout Plan" means the basic plan for the layout of an airport that shows, as a minimum the present boundaries of the airport and of the offsite areas that the airport sponsor owns or controls for airport purposes, and of their proposed additions. It will include the location and nature of existing and proposed airport facilities such as runways, taxiways, aprons, terminal buildings, hangars and roads, and of their proposed modifications and extensions. Also, it will provide the location of existing and proposed non-aviation areas, and of their existing improvements.

"NPIAS Needs Worksheets" are identical to Airport Development Worksheets with the difference being that these are maintained for NPIAS airports.

"Non-Primary Entitlement" or "(NPE) funds" are FAA Airport Improvement Program (AIP) funds set aside for general aviation airports listed in the National Plan of Integrated Airport Systems. These airports can each receive up to \$150,000 per year based on the FAA assessment of needs over a 5 year period.

25:15-1-3. Planning

(a) Planning and Programming Process.

(1) The ~~Aeronautics~~ Commission staff shall, in consultation with airport sponsors, prepare and maintain the Oklahoma Airport System Plan. The Commission shall adopt and approve changes to the plan.

(2) The ~~Aeronautics~~ Commission staff shall assist publicly owned, publicly used airports in identifying airport needs and deficiencies. Airport sponsors eligible to participate in grant programs are sponsors of publicly owned, public use airports included in the Oklahoma Airport System Plan. The ~~Aeronautics~~ Commission staff shall, in consultation with each airport sponsor, prepare

and maintain an airport development worksheet for each airport included in the Oklahoma Airport System Plan. The airport development worksheet shall be reviewed and updated at least once every three years. The airport development worksheet shall identify the capital projects needed at the airport over a 20 year planning horizon, together with the estimated cost, construction type, objective code, and airport component for each project. The identified projects shall be consistent with the service level, functional classification, design standard, and airport reference code identified for the airport in the Oklahoma Airport System Plan.

(3) The ~~Aeronautics~~ Commission staff shall, in consultation with airport sponsors, prepare and update annually the Capital Improvement Program. The ~~Aeronautics~~ Commission shall approve the Capital Improvement Program.

(b) Capital Improvement Program Content.

(1) The Capital Improvement Program shall contain a list of proposed State and FAA funded projects that can be implemented with forecast revenues within the three year planning horizon.

(2) Projects included for an airport in the Capital Improvement Program shall be consistent with service level, functional classification, design standard, and airport reference code identified for the airport in the Oklahoma Airport System Plan.

(3) The Capital Improvement Program shall show the proposed sources of funding for each project.

(4) The Capital Improvement Program shall show the proposed implementation schedule for each project.

(5) The Capital Improvement Program shall include other priorities, policies, and procedures as adopted by the ~~Aeronautics~~ Commission.

(c) Capital Improvement Program Development.

(1) The Capital Improvement Program lists projects for which expenditures are expected to begin within the three-year planning horizon.

(2) On a two-year cycle, the ~~Aeronautics~~ Commission staff shall update the NPIAS needs database and the ADWS database (for Non-NPIAS airports). To update the Commission's database, sponsors will use FAA's Overall Development Objective (ODO) data sheet for each requested project.

(3) The ~~Aeronautics~~ Commission staff shall evaluate projects in the NPIAS and ADWS databases and recommend projects for inclusion in the Capital Improvement Program based on:

(A) Airport system development priorities, policies, and procedures adopted by the Commission and/or the FAA.

(B) Multi-year on-going projects that are currently identified in the approved CIP will be given higher priority during the development of the CIP.

(C) The airport's pavement condition index, pavement life-cycle consideration as developed by the pavement management program.

(D) The National Priority Rating System developed by FAA and included in FAA's Order 5100.39 titled Airports Capital Improvement Plan.

(E) The amount of aviation activity, the types of airplanes served, the numbers of based airplanes at the airport, and the population included in the airport's service area.

(F) Other factors as may be relevant (for example, the services provided at the airport, the sponsor's demonstrated ability to maintain and operate the airport, the sponsor's ability to address safety inspection deficiencies, etc.)

(G) An emergency project request, with verifiable justification, may be submitted to the ~~Aeronautics~~ Commission for inclusion in the Capital Improvement Program any time.

25:15-1-4. Programming Implementation Airport Grant Program Requirements and Procedures

(a) **Contingency.** Implementation of an airport grant program is contingent upon funding being available to the ~~Aeronautics~~ Commission for this purpose.

(b) **Notification to Proceed.**

(1) As funding becomes available, the ~~Aeronautics~~ Commission staff shall send a notification letter to each airport sponsor that has a capital project included in the approved Capital Improvement Program as described in 25:15-1-3.

(2) The notification letter shall:

(A) Advise the airport sponsor of the proposed cost sharing for the project; and identify project development items eligible for funding.

(B) Authorize or direct the airport sponsor to:

(i) confirm in writing within 30 days the airport sponsor's intention to proceed with the project as programmed;

(ii) select an engineering consultant and provide a copy of the contract entered into with the consultant;

(iii) prepare project plans and specifications and to coordinate the project design with the ~~Aeronautics~~ Commission staff;

(iv) prepare to meet the federal and state administrative requirements depending upon the proposed funding sources;

(v) provide updated project costs after the final design is completed;

(vi) proceed to bid when directed by the ~~Aeronautics~~ Commission staff; and

(vii) submit a grant application for the ~~Aeronautics~~ Commission's consideration and approval.

(c) **Grant Application; General Information.**

(1) The airport sponsor shall submit a complete grant application for a capital project for either:

(A) Reimbursement of the cost of engineering; or

(B) Reimbursement for the cost of planning or construction based on the bids received by the airport sponsor.

(2) The airport sponsor's administrative official must sign the grant application form(s).

(3) The ~~Aeronautics~~ Commission shall consider all grant applications in accordance with 25:15-1-3(c).

(4) Reimbursement for the cost of engineering is contingent upon submission of the final set of plans and specifications to the ~~Aeronautics~~ Commission staff.

(d) **Grant Application; Funding Information.**

(1) Each airport sponsor must state in its application that it has on hand funds to pay all estimated costs of the proposed project that are not borne by the ~~Aeronautics~~ Commission or any other state or federal agency. As part of this requirement, each airport sponsor is required to provide written verification in the grant application (designated as Exhibit E) to the ~~Aeronautics~~ Commission that the airports sponsor's share of the project has been deposited in a designated account.

(2) If any of the funds for the project are to be furnished by another state or federal agency, the airport sponsor must provide evidence that the funds are available with the grant application.

(e) **Grant Application; State Cost Share and Matching Information. Information Regarding State Level of Participation and Required Matches.**

(1) For ~~state grants~~non-federal participation projects, the ~~Aeronautics Commission's maximum cost share level of participation for the Commission~~ shall not exceed 95 percent.

(2) For ~~federal FAA grants~~participation for projects that are identified in the Commission's Capital Improvement Program, the "Aeronautics" Commission may provide participate in one-half of the match that is required from the airport sponsor.~~federal required match.~~

(3) For ~~federal FAA grants for projects~~participation projects identified in the Commission's Capital Improvement Program, the Aeronautics Commission may provide supplemental state grant funding for project items. The Aeronautics Commission maximum cost share level of participation for the Commission for their such supplemental funding shall not exceed 95 percent.

(4) For ~~federal participation projects involving federal non-primary entitlement funds only and/or special earmarks, the Aeronautics Commission will not participate in the federal required match.~~

(4) For non-primary entitlement (NPE) grants or special earmarks, the Commission will not provide half the match that is required from the airport sponsor. If NPE grant funds are transferred from other airport sponsors to an airport sponsor for a project identified in the Commission's Capital Improvement Program, the Commission may assist with half of any required match from the receiving airport sponsor so long as it will save the Commission state funds.

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- (5) For terminal building projects, the Aeronautics Commission's maximum cost-share level shall be 50 percent and shall not exceed \$500,000.
- (f) **Grant Application; Project Information.**
- (1) The airport sponsor will provide the following information:
- (A) The airport sponsor shall submit an Airport Layout Plan or sketch with the grant application (designated as Exhibit A) indicating the location of the proposed construction work with all grant applications.
- (B) The airport sponsor shall submit final project plans and specifications with the grant application (designated as Exhibit B).
- (C) The airport sponsor shall submit a project narrative with the grant application describing the items of airport development for which the airport sponsor is requesting assistance (designated as Exhibit B-1).
- (D) The airport sponsor shall submit a project cost list with the grant application that provides a detailed cost breakdown of project. This list will be based on the bid awarded by the airport sponsor. The amounts on this list are considered not to be exceeded amounts and any expenditure over these amounts will not be considered for reimbursement without prior approval of the Aeronautics Commission (designated as Exhibit B-2).
- (E) The airport sponsor shall submit the engineering contract for the project scope and the project engineering fees with the grant application (designated as Exhibit B-3).
- (F) The Sponsor will also submit a certification stating compliance with FAA standards (or state standards with an approved Modification to Standards from funding agencies).
- (G) The airport sponsor shall submit the contract for on-site construction observations (designated Exhibit B-4).
- (H) The airport sponsor shall provide a signed statement in the grant application that the airport sponsor is not currently in default to any state agency for any obligation related to the development, operation or maintenance of the airport (designated as Exhibit C).
- (I) The airport sponsor shall provide a signed statement with the grant application that the airport sponsor will not award any contract to any contractor who is currently suspended or disbarred by any federal agency, the Oklahoma Department of Central Services or the Oklahoma Department of Transportation for the project contemplated under the grant application (designated as Exhibit C-1).
- (J) The airport sponsor shall provide an affidavit with the grant application that states the person signing is the administrative official for the sponsor, that the sponsor has not provided any compensation, donation or gift to an officer or employee of the state in procuring the grant, that any employee of the state compensated by the airport sponsor involved in the development of the grant will not provide any services in the project, and that this project will not result in any duplication of previous grant requests or awards (designated as Exhibit C-2).
- (g) **Grant Application; Height Hazard Zoning and Land Use.** Each airport sponsor shall indicate within the application that it has taken action to restrict the use of land adjacent to or in the immediate vicinity of the airport to activities and purposes compatible with normal airport operations, including landing and take-off of aircraft, and assuring the protection or control of the aerial approaches to the airport (designated as Exhibit D). The adoption and enacting of these zoning regulations is outlined in Title 3, Section 103 through 116, of the Oklahoma State Statutes.
- (h) **Grant Application; Assurances.** The airport sponsor, upon signing the grant application, agrees to the following assurances:
- (1) Upon the approval of the grant by the Aeronautics Commission, the capital project will be completed within a maximum of two years.
- (2) The airport sponsor agrees to the following conditions regarding the users of the airport:
- (A) Neither the airport sponsor nor the occupant of any of the airport facilities shall discriminate against any person or a class of persons in the use of any facility provided to the public on airport property.
- (B) The airport sponsor shall operate the airport in such a manner that the airport is open to all types and classes of users and establish such non-discriminatory conditions required for the safe and efficient operation of the airport.
- (C) Any agreement, contract, lease or other arrangement that the airport sponsor enters into shall include provisions that such services meet the demands of all users of the airport, that services shall be provided on a non-discriminatory basis, that charges for goods and services shall be fair and reasonable, that services allow any user of the airport to perform any and all services to their own aircraft, and that essential facilities will be operated in a manner that these facilities shall be available to all users of the airport. In addition, if the airport sponsor provides any or all of these services, the airport sponsor agrees to the same provisions.
- (3) The airport sponsor certifies that it has the legal authority to carry out all provisions of the grant application in conformity with State and Federal Statutes, Acts, and Regulations.
- (4) The airport sponsor shall reserve sufficient powers and authority when entering into any transaction or arrangement to perform any of the covenants expressed in the grant application.
- (5) The airport sponsor shall provide the following minimum essential facilities: a landing area and an aircraft parking area.
- (6) The airport sponsor shall agree to properly maintain the airport under the following conditions:

- (A) The airport sponsor will operate and maintain the airport and all facilities to meet the needs of all users of the airport.
 - (B) The airport sponsor shall not permit the airport to be used for an activity that would impede or obstruct aeronautical activity.
 - (C) The airport sponsor shall appropriate the funds required to properly maintain the airport to prevent deterioration of the facilities. Failure to have a documented pavement maintenance program shall be cause for the ~~Aeronautics~~ Commission to disqualify the airport sponsor for additional funds. In addition, failure to have a documented pavement maintenance program shall be considered a breach of these assurances.
- (7) The airport sponsor shall maintain an updated Airport Layout Plan that has been prepared in accordance with the FAA's regulations and shall not make any alterations to the airport other than those outlined in the approved Airport Layout Plan, or approved by the FAA or the ~~Aeronautics~~ Commission in writing.
- (8) The ~~Aeronautics~~ Commission shall prepare a financial report of income and expenditures of all project funds. All project records shall be maintained by the airport sponsor for not less than three (3) years from the final acceptance of the project by the ~~Aeronautics~~ Commission, and the airport sponsor shall provide access to these records upon request of the Commission or the FAA. This provision shall in no way affect any requirement imposed upon the airport sponsor by the Oklahoma Open Records Act or any other state or federal law. These records shall include such documentary evidence as invoices, cost estimates, payrolls, vouchers, cancelled checks or warrants, and receipts for cash payments that support each item of project costs. The final 10% of state grant funds will not be released until a satisfactory financial report has been accepted by the ~~Aeronautics~~ Commission staff.
- (9) The ~~Aeronautics~~ Commission shall not pay or be obligated to pay for any work on the project that has been incurred prior to the grant application being submitted to the ~~Aeronautics~~ Commission. In addition, any funds approved by the ~~Aeronautics~~ Commission shall only be used for project costs identified in the grant application.
- (i) **Grant Agreement; Terms and Conditions.** Upon the approval of ~~Aeronautics~~ Commission, the completed grant application shall constitute an agreement between the ~~Aeronautics~~ Commission and the airport sponsor. Both the ~~Aeronautics~~ Commission and the airport sponsor are bound to all the requirements of the grant agreement. In addition, all grants of the ~~Aeronautics~~ Commission shall be subject to the following terms and conditions:
- (1) The time period of the grant agreement between the airport sponsor and the ~~Aeronautics~~ Commission shall be twenty (20) years from the date of the airport sponsor's acceptance and/or the life of the improvements contemplated under the grant application.
 - (2) The airport and all visual navigational aids shall be under the control of and maintained by the airport sponsor for the period covered by the grant agreement.
 - (3) For the purposes of the grant agreement, the airport sponsor must have title free and clear of any reversionary interest, lien, easement, lease, or other encumbrance for all property to be constructed on during the grant agreement. If the property is leased, the airport sponsor asserts that the lease will be maintained no less than the time period of the grant agreement, and in both circumstances, asserts that the property will not be used for any purpose other than the operation of the airport. In addition, airport property as defined in the airport layout plan cannot be transferred by the airport sponsor without the written approval of the ~~Aeronautics~~ Commission.
 - (4) The airport and all visual navigational aids shall be made available to all classes of aeronautical users without discrimination by airport sponsor with adequate access at all times.
 - (5) The airport sponsor will not grant or permit, either directly or indirectly, any exclusive right to any person, firm or corporation for any aeronautical activities, and will terminate any existing exclusive rights now existing before accepting a grant from the ~~Aeronautics~~ Commission.
 - (6) The airport sponsor shall complete the project in accordance with FAA's standard specifications unless prior written modification to standards has been approved by the FAA (for federally funded projects) or the Commission (for state only projects). The airport sponsor shall provide the following reports to the ~~Aeronautics~~ Commission:
 - (A) A weekly progress report using the appropriate FAA form;
 - (B) A copy of all acceptance tests shall be provided by the acceptance testing laboratory as soon as they are available; and
 - (C) An acceptance test summary report shall be provided to the ~~Aeronautics~~ Commission upon completion of the project.
 - (7) The airport sponsor, upon request, shall provide annual statements of airport revenues and expenses.
 - (8) The airport sponsor shall comply with the Municipal Airports Act, Title 3, Section 65, and the provisions thereafter, of the Oklahoma State Statutes, specifically Section 65.12, that requires that revenues from airport operations be deposited in a separate fund and used exclusively for the airport.
 - (9) All airport development using grant funds shall be consistent with the Airport Layout Plan approved by the FAA. A copy of the approved Airport Layout Plan, with any modifications, will be filed with the ~~Aeronautics~~ Commission.
 - (10) The airport sponsor shall comply with all applicable provisions of Title 61 of the Oklahoma State Statutes which governs competitive bidding for public construction contracts.
 - (11) The airport sponsor shall provide a tabulation of all bids for the project with the grant application.

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(12) The airport sponsor shall operate lighting for the airport when such lighting is included in the project.

(13) The ~~Aeronautics~~ Commission and/or the state are not parties to any contract entered into by the airport sponsor to accomplish the project.

(14) The airport sponsor shall understand and agree that should the airport sponsor fail to abide by all of the terms and conditions of the grant agreement, then the funds provided by the ~~Aeronautics~~ Commission shall be withdrawn. In addition, the airport sponsor shall notify the ~~Aeronautics~~ Commission of any delays or problems with the project and request an extension or deviation from the ~~Aeronautics~~ Commission.

(j) **Grant Agreement; Payments.**

(1) The airport sponsor shall request reimbursement for project costs from the ~~Aeronautics~~ Commission on a monthly basis upon initiation of the project. The ~~Aeronautics~~ Commission shall reimburse the sponsor only for bid items at the bid unit price. The ~~Aeronautics~~ Commission will only process the request for reimbursement when accompanied by the following documentation:

(A) For federal participation grants, a copy of a signed FAA form SF 271 Outlay Report and a Cost Distribution Worksheet based upon the line items in the executed grant.

(B) For non-federal participation grants, a Cost Distribution Work sheet based upon line items in the executed grant.

(C) Copies of all vendor invoices.

(D) A construction quantities report from the primary contractor signed by the resident inspector and/or the Engineer-of-record.

(E) All test invoices.

(2) The ~~Aeronautics~~ Commission shall process the monthly requests for reimbursement until 90% of the grant awarded by the ~~Aeronautics~~ Commission is expended. The final 10% will be released upon the completion of the following items:

(A) A copy of all acceptance tests, summary of acceptance testing and if required by the specifications lot-wise percentage within limits (PWL) calculation has been submitted to the ~~Aeronautics~~ Commission. The report shall document the results of all acceptance tests performed, the construction lot, location of the material tested and the quantity represented.

(B) The Resident Inspector or Engineer-of-Record shall submit a report detailing those acceptance tests that were out-of-tolerance and include the pay reductions applied and reasons for accepting any out-of-tolerance material.

(C) All final acceptance and close-out forms for the project have been submitted to the ~~Aeronautics~~ Commission.

(D) A satisfactory financial report has been completed by the ~~Aeronautics~~ Commission.

(k) **Endorsement by the ~~Aeronautics~~ Commission:**

(1) Upon receipt of the fully executed and complete grant application, the ~~Aeronautics~~ Commission staff shall verify compliance with the terms of the notification letter.

(2) If the grant application is found to be in compliance with the terms of the notification letter, the ~~Aeronautics~~ Commission staff shall forward the grant application to the ~~Aeronautics~~ Commission for action.

(3) If the ~~Aeronautics~~ Commission approves the grant application, the ~~Aeronautics~~ Commission staff shall communicate that approval to the airport sponsor with authorization to proceed.

(4) If the ~~Aeronautics~~ Commission staff finds that the grant application is not in compliance with the terms of the notification letter, the ~~Aeronautics~~ Commission staff shall notify the airport sponsor of the non-compliance and suggest possible remedies.

(5) Upon receipt of the ~~Aeronautics~~ Commission staffs finding of non-compliance, the airport sponsor may:

(A) Modify the grant application to bring it into compliance with the terms of the notification letter; or

(B) State the reason that the airport sponsor believes it is in compliance and request that the grant application be forwarded to the ~~Aeronautics~~ Commission for action; or

(C) Agree that it is not in compliance and request that the grant application be forwarded to the ~~Aeronautics~~ Commission as is.

(D) Request the grant application not be forwarded to the ~~Aeronautics~~ Commission.

(6) The ~~Aeronautics~~ Commission staff shall notify the airport sponsor of the ~~Aeronautics~~ Commission's action.

[OAR Docket #16-588; filed 6-17-16]

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

[OAR Docket #16-611]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 1. General Provisions
35:10-1-3 [AMENDED]

AUTHORITY:

Okla. Const., Art. 6, § 31; State Board of Agriculture; 2 O.S. § 2-4(A)(2); and 2 O.S. § 14-31 et seq.

SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:

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Approved by Governor's declaration on June 9, 2016

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June 9, 2016

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September 11, 2016

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

Incorporated Standards:

National Institute of Standards and Technology; Handbook 44 "Specifications, Tolerances and Other Technical Requirements for Commercial Weighing & Measuring Devices" (2016 Edition), Handbook 130 "Uniform Laws and Regulations" (2016 Edition), and "Handbook 133 "Checking the Net Contents of Packaged Goods" (2016 Edition).

Incorporating Rules:

35:10-1-3

Availability:

8:00 a.m. to 4:30 p.m., Monday through Friday at the Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105, (405) 522-5803.

ANALYSIS:

The rule amendments update references to publications and reference materials.

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, 2016:

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" (~~2015~~ 2016 Edition).
- (2) Handbook 130 "Uniform Laws and Regulations" (~~2015~~ 2016 Edition), excluding Section G "Uniform Engine Fuels and Automotive Lubricants Regulation."
- (3) Handbook 133 "Checking the Net Contents of Packaged Goods" (~~2015~~ 2016 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 #16-611; filed 6-22-16]

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

[OAR Docket #16-612]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

35:13-1-1 [AMENDED]

35:13-1-2 [AMENDED]

AUTHORITY:

Okla. Const., Art. 6, § 31; State Board of Agriculture; 2 O.S. § 2-4(A)(2); and 2 O.S. § 11-20 et seq.

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SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

Incorporated Standards:

Title 27 of the Code of Federal Regulation, Part 19.661 et seq. (2015 Revision)

Incorporating Rules:

35:13-1-1

35:13-1-2

Availability:

8:00 a.m. to 4:30 p.m., Monday through Friday at the Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105, (405) 522-5803.

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, 2016:

Permanent Final Adoptions

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) (~~2014~~2015 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 (~~2014~~2015 Revision).

[OAR Docket #16-612; filed 6-22-16]

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

[OAR Docket #16-613]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

- Subchapter 1. General Provisions
- 35:15-1-2. Definitions [AMENDED]
- 35:15-1-6. Animals in Disaster Purpose [NEW]
- Subchapter 3. Animal Health Reportable Diseases
- 35:15-3-2. ~~Oklahoma reportable disease list~~ Reportable diseases [AMENDED]
- Subchapter 5. Biological Products and Laboratories
- 35:15-5-1. Biological products [AMENDED]
- 35:15-5-2. Laboratories [AMENDED]
- Subchapter 11. Importation of Livestock, Poultry, and Pets
- Part 11. Poultry and Other Avian Species
- 35:15-11-41. Poultry and other avian species importation [AMENDED]
- Subchapter 15. Equine Infectious Anemia (EIA)
- Part 11. Requirements for Equidae Entering Oklahoma
- 35:15-15-111. General requirements for Equidae entering Oklahoma [AMENDED]
- Subchapter 16. Contagious Equine Metritis
- 35:15-16-1. Incorporation by reference [AMENDED]
- Subchapter 17. Bovine and Bison Brucellosis
- Part 11. Entry Permit and Retest Requirements
- 35:15-17-80. Rodeo bulls [REVOKED]
- Subchapter 19. Poultry Regulations
- 35:15-19-5. Live bird imports from Avian Influenza quarantined states [AMENDED]
- Subchapter 22. Swine Pseudorabies and Brucellosis
- Part 1. General Provisions
- 35:15-22-3. Change of ownership requirements [AMENDED]
- Part 3. Requirements for Swine Entering Oklahoma
- 35:15-22-33. Entry requirements for transitional production swine [AMENDED]
- Part 5. Requirements for a Validated/Qualified Herd
- 35:15-22-51. Validated/qualified herd establishment [AMENDED]
- Part 7. Requirements for Swine Exhibitions
- 35:15-22-71. Exhibition requirements [AMENDED]
- Subchapter 36. Scrapie

- 35:15-36-1. Incorporation by reference of federal regulations [AMENDED]
- 35:15-36-2. Deleted regulations [AMENDED]
- Subchapter 38. Bovine Trichomoniasis
- 35:15-38-1. Definitions [AMENDED]
- 35:15-38-2. Import requirements for bulls [AMENDED]
- 35:15-38-2.1. Intrastate change of ownership requirements for bulls [AMENDED]
- 35:15-38-3.1. Exposed female cattle [NEW]
- Subchapter 44. Farmed Cervidae
- 35:15-44-19. Entry and export requirements [AMENDED]
- 35:15-44-20. Animal identification requirements [AMENDED]
- Subchapter 47. Chronic Wasting Disease (CWD) in Cervids
- Part 3. Herd Certification Standards
- 35:15-47-6. Minimum requirements for herd certification [AMENDED]

AUTHORITY:

Okla. Const., Art. 6, § 31; State Board of Agriculture; 2 O.S. § 2-4(A)(2); 2 O.S. § 6-1 et seq.; 2 O.S. § 6-21 et seq.; 2 O.S. § 6-91 et seq.; 2 O.S. § 6-121 et seq.; 2 O.S. § 6-141 et seq.; 2 O.S. § 6-150 et seq.; 2 O.S. § 6-281 et seq.; 2 O.S. § 6-301 et seq.; 2 O.S. § 6-400 et seq.; 2 O.S. § 6-501 et seq.; 2 O.S. § 10-2; and 2 O.S. § 11-35 et seq.

SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:

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February 2, 2016

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Approved by Governor's declaration on June 9, 2016.

FINAL ADOPTION:

June 9, 2016

EFFECTIVE:

September 11, 2016

SUPERSEDED EMERGENCY ACTIONS:

Superseded rules:

- Subchapter 11. Importation of Livestock, Poultry, and Pets
- Part 11. Poultry and Other Avian Species
- 35:15-11-41. Poultry and other avian species importation [AMENDED]

Gubernatorial approval:

November 2, 2015

Register publication:

33 Ok Reg 197

Docket number:

15-874

INCORPORATIONS BY REFERENCE:

Incorporated Standards:

Title 9 of the Code of Federal Regulation, Parts 55 and 79 (2015 Revision)

Incorporating Rules:

- 35:15-36-1
- 35:15-36-2
- 35:15-47-6

Availability:

8:00 a.m. to 4:30 p.m., Monday through Friday at the Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105, (405) 522-5803.

ANALYSIS:

The rule amendments update incorporations by reference to the Code of Federal Regulations; add and revise definitions; reduce fees for the annual renewal of biological product under certain conditions; add new language describing the responsibility of the Department to care for animals in a disaster; revise the process for private laboratories to obtain authority to perform official laboratory procedures; allow the Department to grant an exception to the prohibition on movement of poultry from or through areas exposed to certain diseases (replacing emergency rules); allow the Department to grant an exception to certain testing required for the import of equidae; revoke certain testing requirements relating to the movement of rodeo bulls; revise certain testing and identification requirements relating to the change of ownership and importation of swine; establish a new rule relating to the identification

and change of ownership for "exposed female cattle"; revise the Oklahoma reportable disease list; revise identification requirements for farmed cervidae; and revise herd certification requirements for cervidae.

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, 2016:

SUBCHAPTER 1. GENERAL PROVISIONS

35:15-1-2. Definitions

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

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

"Animal disease traceability" means the ability to trace an animal to its site of application of official identification and/or premises of origin as set out in 9 CFR Parts 71, 77, 78, 86, et al. Traceability for Livestock Moving Interstate; Final Rule.

"Approved tagging site" means a premises, authorized by APHIS, State, or Tribal animal health officials, where livestock may be officially identified on behalf of their owner or the person in possession, care, or control of the animals when they are brought to the premises.

"Backtag" means a USDA approved identification system consisting of a tag of special tough paper, bearing identification codes relating to origin of animals, which are stuck to animals a few inches from the midline and just behind the shoulder with very strong glue. The backtag is designed as temporary identification for easy reading in livestock auction markets to help trace the origin of livestock in Department investigations.

"Certificate of veterinary inspection" means an official document or its electronic equivalent approved by the chief livestock official of the state of origin issued by an accredited veterinarian at the point of origin of a shipment of animals that includes the name and address of the consignor; the name and address of the consignee; the entry permit number, if applicable; the age, sex, number, and breed of the animal; sufficient identifying marks or tags to positively identify each animal; purpose of shipment; and the results of all required tests. It shall also include a record of a physical examination of the animal verifying that each animal is free from visible evidence of any contagious, infectious, or communicable diseases and that the animals do not originate from an area of quarantine,

infestation, or infection. A certificate of veterinary inspection is valid for thirty (30) days after the date of issuance. The term certificate of veterinary inspection shall also include an official health certificate, an official certificate, or a certificate.

"Commuter herd" means all cattle under common ownership or supervision, that are located on one (1) or more premises in two (2) or more states and there is an interchange or interstate movement of animals between premises in those states as part of the normal farming, breeding or ranching operation without a change of ownership. A commuter herd agreement shall be completed and approval of commuter herd status shall be obtained from each chief animal health official of all states in which the herd resides.

"Designated epidemiologist" means an epidemiologist selected by the State Veterinarian who has been designated to perform those functions necessary for the classification of livestock suspected to be infected with a particular disease, based on an evaluation of test results and consideration of the animal and herd history, as well as other epidemiological factors.

"Official identification" means any official method of identification approved by USDA, as described by 9 C.F.R. § 86.1, or the State Veterinarian. Official identification for specific species may be further defined within the applicable section of the Oklahoma Administrative Code. Backtags shall not be considered official identification unless the animal is shipped directly to slaughter. The term "official eartag" is synonymous with "official identification."

"Owner-Shipper statement" means a statement signed by the owner or shipper of the livestock being moved stating the location from which the animals are moved interstate; the destination of the animals; the number of animals covered by the statement; the species of animal covered; the name and address of the owner at the time of the movement; the name and address of the shipper; and the identification of each animal, as required by the regulations, unless the regulations specifically provide that the identification does not have to be recorded.

"Quarantine" means a written notice or order issued by an authorized agent of the Department showing the boundaries of the area or premise affected, the animals restricted, and conditions, if any. No livestock held under quarantine may be moved or released without a written permit or quarantine release signed by an authorized agent.

"State animal health official" means the state animal health official, or designee, who is responsible for the livestock and poultry disease control and eradication programs in a state.

35:15-1-6. Animals in disaster purpose

The Care and Disposition of Disaster Animals Act shall only take effect during a Class #1 or Class #2 Event when the Oklahoma Department of Agriculture, Food, and Forestry is administering the event for the applicable jurisdiction.

SUBCHAPTER 3. ANIMAL HEALTH REPORTABLE DISEASES

Permanent Final Adoptions

35:15-3-2. Reportable diseases Oklahoma reportable disease list

(a) Multiple species diseases

- (1) Anthrax
- (2) ~~Aujeszkys~~ Aujeszkys's disease
- (32) Bluetongue
- (43) ~~Brucellosis (Brucella abortus)~~ Brucellosis (all species)
- (5) ~~Brucellosis (Brucella melitensis)~~
- (6) ~~Brucellosis (Brucella suis)~~
- (7) ~~Crimean Congo haemorrhagic fever~~
- (84) Echinococcosis/hydatidosis
- (5) Epizootic hemorrhagic disease
- (96) Foot and mouth disease
- (107) Heartwater
- (8) Influenza
- (119) Japanese encephalitis
- (10) Johne's disease (paratuberculosis)
- (1211) Leptospirosis (canine)
- (12) Malignant catarrhal fever
- (13) ~~New world screwworm (Cochliomyia hominivorax)~~
- (14) ~~Old world screwworm (Chrysomya bezziana)~~
- (15) ~~Paratuberculosis~~
- (13) Pseudorabies
- (14) Q fever
- (1715) Rabies
- (1816) Rift Valley fever
- (19) ~~Rinderpest~~
- (17) Screw worm (old and new world)
- (18) Surra (trypanosoma evansi)
- (2019) Trichinellosis
- (20) Tuberculosis (all species)
- (2121) Tularemia
- (2222) Vesicular stomatitis
- (2323) West Nile fever virus

(b) Other diseases

- (1) Camelpox
- (2) Leishmaniosis

(eb) Cattle diseases

- (1) Bovine anaplasmosis
- (21) Bovine babesiosis (tick fever)
- (3) Bovine genital campylobacteriosis
- (42) Bovine spongiform encephalopathy
- (5) Bovine tuberculosis
- (6) Bovine viral diarrhea
- (73) Contagious bovine pleuropneumonia
- (8) Enzootic bovine leukosis
- (9) Haemorrhagic septicaemia
- (10) Infectious bovine rhinotracheitis/infectious pustular vulvovaginitis
- (114) Lumpy skin disease
- (12) Malignant catarrhal fever
- (135) Theileriosis
- (146) Trichomonosis (bovine genital)
- (15) Trypanosomosis (tsetse transmitted)

(ec) Sheep and goat diseases

- (1) Caprine arthritis/encephalitis
- (2) Contagious agalactia

- (3) Contagious caprine pleuropneumonia
- (4) Enzootic abortion of ewes (ovine chlamydiosis)
- (5) Maedi visna
- (6) Nairobi sheep disease
- (7) Ovine epididymitis (Brucella ovis)
- (81) Peste des petits ruminants
- (9) Salmonellosis (S. abortusovis)
- (102) Scrapie
- (113) Sheep pox and goat pox

(ed) Equine diseases

- (1) African Horse Sickness horse sickness
- (2) Contagious Equine Metritis equine metritis
- (3) Dourine
- (4) Equine Encephalomyelitis (Eastern and Western) (eastern, western, and venezuelan)
- (5) Equine herpes virus
- (56) Equine Infectious anaemia/infectious anemia
- (6) Equine influenza
- (7) Equine piroplasmosis (theileria and babesia)
- (8) Equine rhinopneumonitis
- (98) Equine viral arteritis
- (109) Glanders
- (11) Surra (Trypanosoma evansi)
- (12) Venezuelan equine encephalomyelitis
- (1310) Strangles (Streptococcus streptococcus equi)

(ef) Swine diseases

- (1) African swine fever
- (2) Classical Swine Fever swine fever (hog cholera)
- (3) Nipah virus encephalitis
- (43) Porcine cysticercosis
- (5) Porcine reproductive and respiratory syndrome
- (4) Swine enteric coronavirus disease (PED)
- (65) Swine vesicular disease
- (6) Swine influenza
- (7) Transmissible gastroenteritis

(eg) Avian diseases

- (1) Avian chlamydiosis influenza
- (2) Avian infectious bronchitis
- (3) Avian infectious laryngotracheitis
- (4) Avian mycoplasmosis (M. gallisepticum)
- (5) Avian mycoplasmosis (M. synoviae)
- (6) Duck virus hepatitis
- (72) Fowl cholera
- (83) Fowl typhoid (salmonella gallinarum)
- (9) Avian influenza
- (10) Infectious bursal disease (Gumboro disease)
- (4) Infectious laryngotracheitis
- (115) Marek's disease
- (6) Mycoplasma (M gallisepticum and M synoviae)
- (127) Newcastle disease
- (8) Psitticosis
- (139) Pullorum disease (salmonella pullorum)
- (14) Turkey rhinotracheitis

(g) Zoo, exotic, and wildlife diseases

- (1) Camelpox
- (2) Chronic wasting disease
- (3) Leishmaniosis
- (4) Rabbit hemorrhagic disease

- (h) Cervidae diseases—Chronic Wasting Disease (CWD)
- (h) Other diseases - Persons that observe possible symptoms of disease shall report any highly unusual condition, unusual symptoms of any kind, and any instance of very high morbidity or mortality to the Department. Characteristics of reportable diseases include:

- (1) Hemorrhagic septicemia;
- (2) High morbidity or high mortality;
- (3) Neurologic symptoms;
- (4) Poor or no response to treatment when response is expected;
- (5) Pox or lumpy skin conditions;
- (6) The disease does not fit the classical picture;
- (7) Severe abortion storms of unknown etiology;
- (8) Severe respiratory conditions;
- (9) Suspicious necropsy findings; or
- (10) Vesicular lesions.

(i) Lagomorph diseases

- (1) Myxomatosis
- (2) Rabbit haemorrhagic disease

(j) Fish diseases

- (1) Epizootic haematopoietic necrosis
- (2) Infectious haematopoietic necrosis
- (3) Spring viraemia of carp
- (4) Viral haemorrhagic septicaemia
- (5) Infectious pancreatic necrosis
- (6) Infectious salmon anaemia
- (7) Epizootic ulcerative syndrome
- (8) Bacterial kidney disease (Renibacterium salmoninarum)
- (9) Gyrodactylosis (Gyrodactylus salaris)
- (10) Red sea bream iridoviral disease

(k) Crustacean diseases

- (1) Taura syndrome
- (2) White spot disease
- (3) Yellowhead disease
- (4) Tetrahedral baculovirus (Baculovirus penaei)
- (5) Spherical baculovirus (Penaeus monodon type baculovirus)
- (6) Infectious hypodermal and haematopoietic necrosis
- (7) Crayfish plague (Aphanomyces astaci)

(l) Bee diseases

- (1) Acarapisosis of honey bees
- (2) American foulbrood of honey bees
- (3) European foulbrood of honey bees
- (4) Small hive beetle infestation (Aethina tumida)
- (5) Tropilaelaps infestation of honey bees
- (6) Varroosis of honey bees

(m) Mollusc diseases

- (1) Infection with Bonamia ostreae
- (2) Infection with Bonamia exitiosa
- (3) Infection with Marteilia refringens
- (4) Infection with Mikrocytos mackini
- (5) Infection with Perkinsus marinus
- (6) Infection with Perkinsus olseni
- (7) Infection with Xenohalotis californiensis

SUBCHAPTER 5. BIOLOGICAL PRODUCTS AND LABORATORIES

35:15-5-1. Biological products

(a) No biological product, including antigens, used to immunize, test, or treat livestock or any other species of animals shall be manufactured, produced, transported, distributed, sold, or offered for sale, or possessed in Oklahoma unless the biological product has been licensed or permitted by and produced in an establishment licensed by the United States Veterinary Biologics Division of the United States Department of Agriculture, and approved by the Oklahoma Department of Agriculture, Food, and Forestry. Exemption: Autogenous vaccines and/or bacterins when prepared for use on individual premises or animals may be prepared in laboratories approved by the Department.

(b) Johnes (Paratuberculosis) vaccine is expressly prohibited in Oklahoma without prior approval of the Department. This approval may be obtained only after a written agreement is developed between the producer, attending veterinarian, and state regulatory officials. A plan of herd management, vaccination and any restrictions shall be a part of this agreement.

(c) Each biological product distributed, sold, offered for sale or used in Oklahoma or delivered for transportation or transported in intrastate or interstate commerce shall be registered with the Department on an annual basis.

(d) Each person registering biological products shall pay an annual registration fee of Two Hundred Dollars (\$200.00) for each biological product registered.

(1) The Department may require the submission of the complete formula of any biological product.

(2) Trade secrets and formulations submitted with the registration shall be kept confidential.

(e) A biological product initially registered between October 1 and March 20 shall be eligible for a reduced annual renewal fee of One Hundred and Fifty Dollars (\$150) for the first annual renewal following the initial registration.

(ef) If it appears to the Department that the composition of the biological product is adequate to warrant the proposed claims and if the biological product, its labeling, and other material required to be submitted comply with the requirements of this section, then the biological product shall be registered.

(fg) Additional registration of a biological product shall not be required in the case of a biological product shipped from one location within Oklahoma to another location within Oklahoma so long as the location is operated by the same person.

(gh) All biological product registrations shall expire on March 20 of each year but may be renewed by the Department. Any person who fails to renew a biological product by March 20 of each year shall pay a penalty of an additional Two Hundred Dollars (\$200.00).

(hi) No person shall sell or offer for sale an unregistered biological product or an expired biological product.

(ij) The term "Biological Product" shall mean all viruses, serums, toxins (excluding substances that are selectively toxic to microorganisms, including antibiotics), or analogous products at any stage of production, shipment, distribution, or sale, which are intended for use in the treatment of animals and

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which act primarily through the direct stimulation, supplementation, enhancement, or modulation of the immune system or immune response. The term biological products includes but is not limited to vaccines, bacterins, allergens, antibodies, antitoxins, toxoids, immunostimulants, certain cytokines, antigenic or immunizing components of live organisms, and diagnostic components that are of natural or synthetic origin, or that are derived from synthesizing or altering various substances or components of substances such as microorganisms, genes or genetic sequences, carbohydrates, proteins, antigens, allergens, or antibodies. The term shall not include any product identified and regulated as a pesticide by the Department.

(1) A product's intended use shall be determined through an objective standard and not a subjective one, and would be dependent on factors such as representations, claims (either oral or written), packaging, labeling, or appearance.

(2) The term analogous products shall include the following:

(A) Substances, at any stage of production, shipment, distribution, or sale, which are intended for use in the treatment of animals and which are similar in function to biological products in that they act, or are intended to act, through the stimulation, supplementation, enhancement, or modulation of the immune system or immune response;

(B) Substances, at any stage of production, shipment, distribution, or sale, which are intended for use in the treatment of animals through the detection or measurement of antigens, antibodies, nucleic acids, or immunity; or

(C) Substances, at any stage of production, shipment, distribution, or sale, which resemble or are represented as biological products intended for use in the treatment of animals through appearance, packaging, labeling, claims (either oral or written), representations, or through any other means.

(j) The term "unregistered biological product" shall mean a biological product that has not been registered with the Department or a biological product that has been previously registered with the Department but the registration has lapsed.

(k) The term "expired biological product" shall mean a biological product which exceeds the expiration date established by the manufacturer.

35:15-5-2. Laboratories

(a) **Privately owned laboratories requesting authority to perform certain procedures.** Privately owned laboratories requesting authority to perform certain official laboratory procedures must apply for said approval on an application provided by the ~~Area Veterinarian in Charge (AVIC)~~ Assistant Director (AD) of the United States Department of Agriculture (USDA) Animal Plant Health Inspections Service (APHIS) Veterinary Services (VS) Surveillance Preparedness Response Service (SPRS) which provides for a joint signature of recommendation for approval of the ~~AVIC~~ AD and the ~~Chief Animal Health Official of the Oklahoma Department of Agriculture~~ State Veterinarian or designee.

(b) **Initial request for laboratory approval.** All initial requests for laboratory approval shall be made to the ~~Area Veterinarian in Charge (AVIC) AD or Chief Animal Health Official of the Oklahoma Department of Agriculture~~ State Veterinarian or designee. Laboratories must specify those terms which they are requesting approval to perform. These tests include, but are not limited to, Bluetongue, Bovine Leukosis, Equine Infectious Anemia, Johne's Disease, Pseudorabies, Bovine Trichomoniasis, and those diseases that are reportable to the ~~Oklahoma Department of Agriculture~~.

(c) **Requirements prior to approval of laboratory.** Prior to approval of any laboratory to conduct any official laboratory procedure, the following requirements must be met:

(1) An authorized representative of the ~~Oklahoma Department of Agriculture and/or U.S.D.A. or USDA~~ will review with laboratory officials the responsibilities, regulatory and technical, inherent in conducting and reporting official tests.

(2) The physical facilities of the laboratory will be inspected by a Federal ~~and/or~~ State representative. Inspection results will be recorded on a laboratory inspection worksheet. This inspection must be determined as satisfactory before approval will be considered.

(d) **Procedures to be followed by approved laboratories.**

(1) Only antigen licensed by ~~Animal and Plant Health Inspection Service (APHIS)~~ APHIS or supplied by National Veterinary Services Laboratories (NVSL) and accompanying antiserum will be used.

(2) All tests will be conducted according to protocol provided by NVSL.

(3) Official test results will be reported promptly to State ~~and/or~~ Federal regulatory officials and the veterinarian submitting the sample.

(4) Only samples submitted by a licensed veterinarian, state or federal animal health official, or military veterinarian will be accepted.

(5) Information with sample submission shall include:

(A) Name and address of submitting veterinarian.

(B) Name and address of owner.

(C) Location (including county) or animal(s) at time of test.

(D) Age, breed, and sex of animal tested.

(E) Identification of animal(s) tested, which may include eartag, tattoo, registration number or physical description adequate to provide positive individual identification of animal(s) tested.

(6) Periodic proficiency testing will be required for continuous authority to conduct approved testing. NVSL will supply the samples and evaluate test results.

(7) If any proficiency test is failed, the approved laboratory shall immediately notify the ~~Oklahoma Department of Agriculture~~, and shall suspend further testing until recertified by NVSL.

(e) **Training.**

(1) Personnel who perform any approved official test must be recognized as qualified by Veterinary Services and the ~~Oklahoma Department of Agriculture~~. The ~~AVIC~~ AD and the State ~~animal health official~~ Veterinarian

or designee must recommend personnel for approval and training by NVSL.

(2) The person(s) responsible for conducting official tests for private laboratories will be trained by NVSL.

(3) With approval of the ~~AVICAD~~ and the State ~~animal health official~~ Veterinarian or designee, personnel previously trained by NVSL for Federal, State, and University laboratories may train others in the laboratory to conduct official tests. Training will include regulatory responsibility.

(4) NVSL will certify training of personnel for Federal, State, and University laboratories by proficiency testing which must be completed in accordance with standards established by NVSL, and maintained by periodic proficiency testing.

(f) **Evaluation of personnel.** The ~~AVICAD~~, State ~~animal health official~~ Veterinarian or designee, and NVSL will evaluate personnel who do not successfully complete proficiency testing in order to determine if additional training is necessary.

(g) **Laboratories approved to conduct official tests.** Laboratories approved to conduct official tests must notify in writing the ~~AVICAD~~, State ~~animal health official~~ Veterinarian or designee and NVSL when any person trained by NVSL to conduct official tests is no longer employed. If no one with approved training is available to conduct these tests, approval of the laboratory will be cancelled.

(h) **Recommendation for approval.** The ~~AVICAD~~ and the State ~~animal health official~~ Veterinarian or designee must recommend approval of the laboratory prior to obtaining official status. A jointly signed memorandum and the originals of all completed documents of application and approval shall be mailed through the appropriate Regional Director of APHIS for his or her concurrence to the Director of NVSL.

(i) **Approval of laboratories.** After the requirements of training have been satisfactorily completed, the laboratory will be approved by the Director of NVSL and will be so notified of approval by a telegram or a letter signed by the Director of NVSL.

(j) **Removal or suspension of laboratory approval.**

(1) Laboratory approval will be removed or suspended by the Director of NVSL or State ~~animal health official~~ Veterinarian or designee when any criteria are not met. If the laboratory is approved to perform tests for more than one disease, removal or suspension will apply only to the disease for which proficiency is not maintained. The laboratory will be informed of removal or suspension by a telegram signed by the Director of NVSL, or by certified letter from the ~~Oklahoma Department of Agriculture~~, or both.

(2) Failure to maintain competency or failure to perform within any established protocol, shall constitute a violation of this Section and shall submit the laboratory to actions outlined under the Administrative Procedures Act of the State of Oklahoma, above and beyond any action deemed appropriate by ~~Veterinary Services~~ APHIS.

SUBCHAPTER 11. IMPORTATION OF LIVESTOCK, POULTRY, AND PETS

PART 11. POULTRY AND OTHER AVIAN SPECIES

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

(a) No person shall import poultry or other avian species or products of poultry or other avian species originating from or transported through an area under quarantine by any state or federal animal health official for Avian Influenza or Exotic Newcastle Disease. The State Veterinarian or designee may grant a written exception to this rule and shall base the decision to grant an exception on current science and published guidelines.

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

SUBCHAPTER 15. EQUINE INFECTIOUS ANEMIA (EIA)

PART 11. REQUIREMENTS FOR EQUIDAE ENTERING OKLAHOMA

35:15-15-111. General requirements for Equidae entering Oklahoma

(a) All test eligible Equidae entering Oklahoma for any purpose other than consignment to a veterinarian's clinic or an approved slaughter facility or livestock auction market shall be accompanied by one of the following:

(1) An Official Equine Passport.

(2) A record of a negative official test for EIA conducted within the previous twelve (12) months and a certificate of veterinary inspection.

(3) An equivalent certificate as approved by the State Veterinarian.

(4) A copy or a certified copy of a VS Form 10-11 shall be considered an official record of test when accompanied by a properly completed certificate of veterinary inspection.

(5) An exception to import test requirements may be issued by the Department. To qualify for the exception, the person seeking the exception shall:

(A) Apply for an entry permit during the Department's office hours.

(B) Obtain a certificate of veterinary inspection issued no more than thirty (30) calendar days prior to entry;

(C) Test the Equidae for EIA within thirty (30) days after entry; and

(D) Immediately quarantine the Equidae entering Oklahoma pursuant to this subsection until the Equidae is tested negative for EIA.

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- (b) An Official Equine Passport shall include the following:
- (1) The name, breed, sex, age, color, and an electronic identification, a unique brand, or a tattoo to positively identify each Equidae listed on the form, provided that any owner using electronic identification shall carry and maintain a functional reader or scanner.
 - (2) A record of a physical examination of each Equidae verifying freedom from visible evidence of any contagious, infectious, or communicable diseases at the time of the examination.
 - (3) The negative test results of an official test for EIA, including the name of the approved laboratory, the case or accession number, and the date of the most recent test.
 - (4) A VS Form 10-11 or equivalent EIA test chart for each animal.
- (c) The Official Equine Passport shall be valid and meet import requirements for a period of six (6) months when accompanied by proof of an official negative VS Form 10-11 or equivalent EIA test chart. In no instance shall a permit expiration date exceed twelve (12) months after the date of a negative EIA test.
- (d) An Official Equine Passport shall be accepted from states approved by the State Veterinarian.

SUBCHAPTER 16. CONTAGIOUS EQUINE METRITIS

35:15-16-1. Incorporation by reference

- (a) The contagious equine metritis regulation found in Title 9 of the Code of Federal Regulations (CFR) (~~2010~~2015 Revision), Section 93-301 for the United States Department of Agriculture (USDA) as promulgated and amended in the Federal Register, and USDA VS Guidance Document 13406.1 (2013) Revision is are hereby adopted in itstheir entirety.
- (b) All words and terms defined or used in the federal regulation incorporated by reference by the Department shall mean the state equivalent or counterpart to those words or terms.

SUBCHAPTER 17. BOVINE AND BISON BRUCELLOSIS

PART 11. ENTRY PERMIT AND RETEST REQUIREMENTS

35:15-17-80. Rodeo bulls [REVOKED]

- (a) Rodeo bulls may move into the State of Oklahoma provided:
- (1) ~~The bull is classified as brucellosis negative based upon an official test conducted less than 365 days before the date of interstate movement;~~
 - (2) ~~The bull is identified with permanent official identification;~~
 - (3) ~~There is no change of ownership since the date of the last official test;~~

- (4) ~~A certificate accompanies each interstate movement of the bull; and~~
 - (5) ~~A permit for entry is issued for each interstate movement of the bull.~~
- (b) ~~Rodeo bulls moving within the state shall be tested and meet the following requirements:~~
- (1) ~~The bull is classified as brucellosis negative based upon an official test conducted less than 365 days before the date of intrastate movement;~~
 - (2) ~~The bull is identified with permanent official identification; and~~
 - (3) ~~There is no change of ownership since the date of the last official test.~~
- (c) ~~Rodeo bulls shall be tested prior to any change in ownership.~~

SUBCHAPTER 19. POULTRY REGULATIONS

35:15-19-5. Live bird imports from Avian Influenza quarantined states

- (a) ~~It shall be unlawful for any person to transport poultry or hatching eggs into this state originating from any area subject to a state or federal quarantine for Avian Influenza. No person shall import poultry, other avian species, products of poultry, or other avian species originating from or transported through an area under quarantine by any state or federal animal health official for Avian Influenza or Exotic Newcastle Disease. The State Veterinarian or designee may grant a written exception to this rule and shall base the decision to grant an exception on current science and published guidelines.~~
- (b) ~~Any person may transport poultry or hatching eggs into this state originating from any state with a state or federal quarantine for Avian Influenza and the poultry or hatching eggs are not from the quarantine, or are from a released Avian Influenza infected flock, if one of the following entry requirements is met: Poultry or other avian species determined to be infected with or exposed to Avian Influenza or Exotic Newcastle Disease shall be destroyed.~~
- (1) ~~The poultry or hatching eggs originate from a flock certified as Avian Influenza clean pursuant to the National Poultry Improvement Plan and are accompanied by a Certificate of Veterinary Inspection; or~~
 - (2) ~~The poultry or hatching eggs are accompanied by a Certificate of Veterinary Inspection listing the general description of the birds, test date, test results, and name of the testing laboratory and originate from a flock with:~~
 - (A) ~~A minimum of thirty (30) birds, four (4) weeks of age or older, or the complete flock, if fewer than thirty (30) birds, testing serologically negative to an ELISA, AGID, or other Board approved test for Avian Influenza no more than 72 hours prior to entry, and~~
 - (B) ~~A minimum of ten (10) birds, or five (5) birds per house if more than one house, testing negative on trachea swabs to a Directigen (R) or other Board approved test no more than 72 hours prior to entry.~~
- (c) ~~Any person may transport for slaughter and processing poultry or hatching eggs into this state originating from any~~

state with a state or federal quarantine for Avian Influenza if the Board grants specific written permission or a permit and the following entry requirements are met:

- (1) A minimum of thirty (30) birds per flock are serologically negative to an ELISA, AGID, or other Board approved test for Avian Influenza no more than 72 hours prior to entry; and
- (2) A minimum of ten (10) birds, or five (5) birds per house if more than one house, testing negative on tracheal swabs to a Directigen (R) or other Board approved test no more than 72 hours prior to entry.

(d) These import requirements shall remain in effect for any state until at least three (3) months following the release of a quarantine in that state. The State Veterinarian shall have the discretion to extend the time period for these import requirements up to twelve (12) months if circumstances warrant.

SUBCHAPTER 22. SWINE PSEUDORABIES AND BRUCELLOSIS

PART 1. GENERAL PROVISIONS

35:15-22-3. Change of ownership requirements

- (a) All swine, six (6) months of age or older, shall be tested and found negative to pseudorabies and brucellosis within the previous thirty (30) days prior to changing ownership, or originate from a V/Q herd with current test status.
- (b) ~~Sexually intact swine, greater than~~Swine, six (6) months of age or older, moving directly from a ~~premise~~premises of origin to an approved slaughter facility, or through a livestock auction market to an approved slaughter facility, are exempt from testing requirements provided identity to the herd of origin is maintained.
- (c) Feeder swine moving directly from a ~~premise~~premises of origin or through a livestock auction market for feeding purposes only are exempt from testing requirements, provided identification to the herd of origin is maintained.

PART 3. REQUIREMENTS FOR SWINE ENTERING OKLAHOMA

35:15-22-33. Entry requirements for transitional production swine

- (a) A person importing transitional production swine into Oklahoma shall obtain an entry permit from the Department.
- (b) Transitional production swine entering Oklahoma shall be accompanied by a certificate of veterinary inspection, containing the following information:
 - (1) the entry permit number;
 - (2) official identification~~number, which may be from an official USDA National Uniform Eartagging System (NUES) metal or plastic eartag, a Premise Identification Number (PIN) tag with a unique within herd management number, or an electronic USDA tag beginning with the digits 840; and~~

- (3) a statement from the issuing veterinarian that to the best of the veterinarian's knowledge pseudorabies and brucellosis has not existed in the herd of origin in the past six (6) months, the swine to be imported have not been vaccinated for pseudorabies, and if applicable, the swine to be imported are offspring of a pseudorabies vaccinated sow; and
- (4)~~3~~ if applicable, the V/Q herd number and date of last pseudorabies and brucellosis quarterly test.

- (c) Transitional production exhibition and prospective exhibition swine entering Oklahoma shall either:
 - (1) be accompanied with a negative official pseudorabies and brucellosis test performed within thirty (30) days prior to entry; or
 - (2) originate from a V/Q herd.
- (d) An exception to import test requirements may be issued by the Department to purchasers of exhibition swine. To qualify for the exception, prospective purchasers of exhibition swine shall:

- (1) Apply for an anticipatory entry permit during the Department's office hours prior to traveling to a state where swine for exhibition purposes are proposed to be purchased;
- (2) Contact the Department on the next business day following a purchase to report the number of swine purchased and the seller of the swine or to notify the Department no swine were purchased on the anticipatory entry permit;
- (3) Obtain a certificate of veterinary inspection issued a maximum of thirty (30) calendar days prior to entry for the movement of the swine; and
- (4) Immediately quarantine any swine entering Oklahoma for exhibition purposes pursuant to this subsection until tested negative for brucellosis and pseudorabies within thirty (30) calendar days of entry.

PART 5. REQUIREMENTS FOR A VALIDATED/QUALIFIED HERD

35:15-22-51. Validated/qualified herd establishment

- (a) A person shall establish a swine herd as a V/Q herd status by completing the following:
 - (1) Each pig shall be permanently ~~and individually~~ identified with both ear notches and an 840 button-type electronic official identification ear tag by the time of testing.
 - (2) The herd owner shall submit a completed application and inventory no later than thirty (30) days after a complete herd test for brucellosis and pseudorabies.
 - (A) The application shall include, at a minimum, the herd owner's name, mailing address, telephone number, signature, and date of application.
 - (B) The inventory shall include, at a minimum, animal identification, age, breed, sex, and date of inventory.

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- (3) The herd owner shall test negative all swine six (6) months of age or older to an official brucellosis and pseudorabies test to establish a V/Q herd.
- (4) A minimum of ninety (90) percent of the swine in the herd shall have been on the premises and a part of the herd for at least ninety (90) days prior to the whole herd test or have entered directly from another V/Q herd.
- (b) Swine maintained outside of the primary herd premises shall not be considered a part of the V/Q herd.
- (c) Herd owners shall have a minimum of four (4) adult sows to be eligible for the V/Q herd program.
- (d) V/Q herd status and herd number shall be issued after completion of the first quarterly test following the whole herd test.

PART 7. REQUIREMENTS FOR SWINE EXHIBITIONS

35:15-22-71. Exhibition requirements

- (a) Each person who presents swine for a swine exhibition, special sale, or show shall provide verification of one of the following:
- (1) A federal ~~premise~~premises identification number; or
 - (2) A state location identification number.
- (b) ~~All swine~~Swine shall be individually identified at the time of testing with both ear notches and an 840 button-type electronic official identification ear tag. ~~Out of state swine shall be identified with official individual identification.~~ Untested exhibition swine originating from a V/Q herd shall be similarly identified prior to exhibition.
- (c) All swine shall meet one of the following testing requirements:
- (1) Oklahoma origin swine shall have a negative brucellosis and pseudorabies test after June 1 each year for fall exhibitions and after December 1 each year for spring exhibitions. These tests are valid for the entire respective exhibition season, unless in the opinion of the designated epidemiologist the swine have been exposed to pseudorabies or brucellosis. The swine shall also be accompanied by a copy of the official test chart or a certificate of veterinary inspection listing the test results, laboratory name, laboratory accession number, and individual identification.
 - (2) Swine originating from outside of Oklahoma shall meet the requirements of OAC 35:15-22-33(a) - (c).
 - (3) Each swine shall originate from a V/Q herd and only be exhibited by an immediate family member of the V/Q herd owner. The V/Q herd number, most recent quarterly test date, and official identification of all swine being exhibited shall be listed on the certificate of veterinary inspection.

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 (~~2014~~2015 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.) (~~2014~~2015 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 38. BOVINE TRICHOMONIASIS

35:15-38-1. Definitions

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

"Acceptable specimen" means a specimen determined satisfactory for diagnostic testing by the testing laboratory, including complete documentation.

"Approved Feedlot" means a confined animal feeding operation (CAFO) licensed by the Department.

"Approved laboratory" means any laboratory designated and approved by the state veterinarian for examining T. foetus samples.

"Approved veterinarian" means a licensed accredited veterinarian who has complied with all Department regulations and educational requirements, and who has been approved by the Department to conduct necessary tests, vaccinations, inspections, and other duties.

"Bovine" means any sexually intact male and female animal of the genus bos.

"Change of ownership" means control of an animal being transferred between two (2) persons by sale, lease, or lending.

"Commingle" means animals of opposite sex and/or belonging to different owners in the same enclosure or pasture with a reasonable opportunity for sexual contact.

"Exposed Female" means a female bovine animal that is sexually intact and sexually mature that could have been exposed to a positive T. foetus bull.

"Herd" means the group of animals consisting of all male and female bovines over twelve (12) months of age that have commingled during the last twelve (12) months.

"Official T. foetus laboratory testing" means the laboratory procedures that shall be approved by the state veterinarian for culture and identification of T. foetus.

"Official T. foetus bull test" means the sampling of the preputial content of a bull by a licensed, accredited and trichomoniasis certified veterinarian or a veterinarian from the Oklahoma Department of Agriculture, Food, and Forestry. The test shall be conducted after a one week separation from all female bovine and the bull and sample shall be officially

identified and documented for laboratory submission. The test may consist of three (3) culture tests at least one (1) week apart or one (1) Real Time PCR test. Pooled samples are acceptable

"Pooled sample" means a method of sampling where a sample from each bull is submitted in an individual transport pouch and the laboratory mixes aliquots from up to five (5) samples together to economize the test cost.

"Positive T. foetus bull" means a bull that has had a positive T. foetus test.

"Positive T. foetus herd" means the group of all bovines which have had any opportunity for sexual contact in the previous breeding season and in which any male or female animal has had a positive diagnosis for T. foetus.

"Negative T. foetus bull" means a bull that qualifies by one of the following:

- (A) originate from a herd not known to be infected and has had a negative official T. foetus bull test within the last year;
- (B) originate from a positive herd but has a series of three negative official T. foetus bull tests at intervals of at least one week; or
- (C) a negative official T. foetus bull test within sixty (60) days prior to entry with no sexual activity for one (1) week prior to the test and between the test and movement.

"Suspect T. foetus bull" means a bull from a positive T. foetus herd that has not yet had three (3) consecutive negative official T. foetus bull tests.

"Trichomonas (Tritrichomonas) foetus" or "T. foetus" means a contagious venereal protozoan parasite disease of the trichomonas foetus species that frequently results in lifetime infection of male bovidae as an inapparent carrier and causes infertility, pyometra, abortions and reproductive inefficiency in female bovidae.

"Unacceptable sample" means a sample that is deemed not diagnostic by the official testing laboratory.

"Virgin bull" means a sexually intact male bovine less than twelve (12) months of age or a sexually intact male bovine ~~under twenty four (24) between twelve (12) and eighteen (18) months of age~~ that has had no breeding and no potential breeding contact with females.

"Virgin bull affidavit" means a signed affidavit from the owner, manager, or veterinarian that verifies the bull is ~~less than twenty four (24) between twelve (12) and eighteen (18) months of age~~ and has had no breeding and no potential breeding contact with females.

35:15-38-2. Import requirements for bulls

- (a) All bulls entering Oklahoma shall be accompanied by a certificate of veterinary inspection. All non-virgin bulls shall have a negative official T. foetus test within sixty (60) days prior to entry with no exposure to females from seven (7) days prior to the test to the time of change of ownership.
- (b) The pre-entry test shall be conducted at a laboratory approved by the American Association of Veterinary Diagnostic Laboratories or the Oklahoma state veterinarian.
- (c) No bull that has ever previously tested positive for T. foetus shall enter Oklahoma unless the bull is consigned directly

to slaughter and is individually identified for movement on a VS form 1-27.

(d) No bull from a known positive T. foetus herd shall enter Oklahoma unless the bull has three (3) consecutive negative tests at least a week apart within thirty (30) days prior to entry, in addition to a post entry test and the bulls shall be isolated from all females until the in-state test results are known.

(e) The veterinarian issuing the certificate of veterinary inspection shall list the official identification, date of the test, name of the laboratory, laboratory accession number, type of test, and result of the test for each bull represented on the certificate of veterinary inspection.

- (f) Exceptions to the importation requirements are:
 - (1) transient rodeo or exhibition bulls that will have no sexual contact with a female bovine and are held in a secure facility to prevent contact, excluding pasture while in Oklahoma;
 - (2) bulls consigned direct to slaughter; or
 - (3) bulls consigned to a feedlot for feeding and slaughter purposes where they will be isolated from all females.

35:15-38-2.1. Intrastate change of ownership requirements for bulls

(a) Any bull changing ownership within the state of Oklahoma shall have a negative official T. foetus test within sixty (60) days prior to change of ownership with no exposure to females from seven (7) days prior to the test to the time of change of ownership.

- (b) Exceptions to this rule shall include the following:
 - (1) A bull accompanied by a virgin bull affidavit;
 - (2) A bull sold directly to slaughter; ~~or~~
 - (3) A bull sold for feeding and slaughter to be fed in a registered feedlot only and leaves the feedlot only to be slaughtered; ~~or~~
 - (4) A bull for intrastate change of ownership may be considered a virgin bull up to twenty four (24) months of age with a signed virgin bull affidavit from the owner.

(c) Any bull presented for sale at a livestock auction market without a virgin bull affidavit or verification of a negative official T. foetus test:

- (1) Shall be tagged for slaughter only and sold for slaughter only;
- (2) May go to the purchaser's destination so long as the market veterinarian takes a sample for an official T. foetus test and the purchaser agrees to keep the bull under quarantine at the destination until receipt of negative test results.

(d) A livestock auction market shall not be liable for a virgin bull affidavit and shall not be liable for the results of a market veterinarian's sampling and results for an official T. foetus test.

35:15-38-3.1. Exposed female cattle

Exposed female cattle shall be officially identified and change ownership only:

- (1) If the female bovine is diagnosed at least four (4) months pregnant by an accredited veterinarian;
- (2) The female bovine is sold for slaughter only;

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(3) The female bovine is consigned to an approved feedlot to be fed for slaughter only;

(4) The female bovine has a calf less than thirty (30) days old and has not been exposed to a bull since calving, or;

(5) Six (6) months has passed since the female bovine's exposure to a bull.

SUBCHAPTER 44. FARMED CERVIDAE

35:15-44-19. Entry and export requirements

(a) Import of cervidae shall be accompanied by a Certificate of Veterinary Inspection and a Cervidae Import Permit approved or provided by the Department.

(1) The import permit shall be valid for thirty (30) days from approval.

(2) Cervidae Import Permit applications shall be submitted to the Department no less than three (3) working days prior to the scheduled shipment.

(b) Cervidae shall have two forms of identification. One (1) of these two (2) forms of identification shall be official identification.

(c) All cervidae six (6) months or older shall test negative for brucellosis thirty (30) days prior to entry or originate from a certified brucellosis free herd. The State Veterinarian or designee may require a brucellosis test of any cervidae subject to the provisions of this subchapter.

(d) All cervidae six (6) months or older shall meet one of the following criteria prior to entry:

(1) Classified negative to two (2) official tuberculosis test that were conducted no less than ninety (90) days apart with the second test conducted no more than ninety (90) days prior to the date of movement and recorded on the Certificate of Veterinary Inspection.

(2) Originate from a Qualified Herd and test negative to an official tuberculosis test conducted no more than ninety (90) days prior to the date of movement. The Qualified Herd number and date of the qualifying test shall be recorded on the Certificate of Veterinary Inspection.

(3) Originate from an Accredited Free Herd provided the Accredited Free Herd number and date of last test are recorded on the Certificate of Veterinary Inspection.

(e) All cervidae, with the exception of fallow deer, shall originate from a chronic wasting disease certified herd from a county where no chronic wasting disease has been confirmed in native cervidae populations.

35:15-44-20. Animal identification requirements

(a) All cervids twelve (12) months or older shall be individually identified by at least one form of identification approved by the Department. Non-breeding hunting animals that are natural additions and do not participate in any disease monitoring programs shall be exempt from this identification requirement.

(b) All cervids of any age shall be individually identified by at least one form of identification prior to movement from

the original herd premises unless being moved directly to a licensed commercial hunting area.

(c) The removal of official identification devices is prohibited except at the time of slaughter, at any other location upon death of the animal, or as otherwise approved by the State Veterinarian.

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 (~~2014~~2015 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 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, status downgraded, or combination thereof.

(e) Freezing animal heads or other acts that delay or inhibit quality sampling and testing may result in the suspension, decrease, or loss of CWD status.

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

(fg) 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.

(h) Herd owners shall complete an annual herd inventory with an approved veterinarian during the dates assigned by the Department.

[OAR Docket #16-613; filed 6-22-16]

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

[OAR Docket #16-614]

RULEMAKING ACTION:
PERMANENT final adoption

RULES:

- Subchapter 34. Feral Swine
- 35:15-34-1. Purpose [AMENDED]
- 35:15-34-2. Definitions [AMENDED]
- 35:15-34-3. Importation and transportation of feral swine [NEW]
- 35:15-34-5. Transporter license [AMENDED]
- 35:15-34-5.1. 24 hour permit [NEW]
- 35:15-34-6. Sporting facilities [AMENDED]
- 35:15-34-7. Handling facilities [AMENDED]
- 35:15-34-10. Carcass disposal [AMENDED]
- 35:15-34-13. License fees [AMENDED]
- 35:15-34-19. Feral swine free zone [NEW]

AUTHORITY:

Okla. Const., Art. 6, § 31; State Board of Agriculture; 2 O.S. § 2-4(A)(2); and 2 O.S. § 6-601 et seq.

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APPROVED BY GOVERNOR'S DECLARATION:

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EFFECTIVE:

September 11, 2016

SUPERSEDED EMERGENCY ACTIONS:

Superseded rules:

- Subchapter 34. Feral Swine
- 35:15-34-3. Importation of feral swine [NEW]

Gubernatorial approval:

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15-791

INCORPORATIONS BY REFERENCE:

n/a

ANALYSIS:

The proposed rule amendments adopt aggressive measure for the eradication of feral swine in the State of Oklahoma; establishes a feral swine free zone; revises definitions; revises rules for the importation and transportation of feral swine; revises requirements for licensing and permits, and adds new fees.

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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, 2016:

SUBCHAPTER 34. FERAL SWINE

35:15-34-1. Purpose

The purpose of these rules is to implement the provisions of the Feral Swine Control Act and to adopt aggressive measures for the eradication of all feral swine in the State of Oklahoma. Feral swine are a non-native invasive species to Oklahoma that detrimentally impact agricultural production and natural resources in Oklahoma. As feral swine populations increase, citizens of Oklahoma suffer damage to crops, livestock and wildlife habitat. Feral swine pose a health risk to humans, livestock, companion animals and native wildlife. The Department's goal is to render the State of Oklahoma free of feral swine. The Department shall investigate and implement new population control methods, technologies, and toxicants as they become available to achieve this goal.

35:15-34-2. Definitions

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

"Feral swine" means any hog, pig, or swine species (*Sus scrofa*) including, but not limited to, Russian and European wild boar that are running at large, free roaming, or wild upon public or private lands in this state, and shall also include any hog, pig, or swine species that has lived any part of its life running at large, free roaming, or wild. The term feral swine shall also include any feral phenotype swine, whether or not running at large, free roaming, or wild.

"Feral swine facility" means a handling facility, holding pen, or sporting facility.

"Feral Swine Free Zone" means any region of the state defined by the Board of Agriculture where hunting feral swine or taking feral swine from the region is restricted and the licensing of feral swine facilities or movement of feral swine into or across the region is prohibited.

"Handling facility" means any premises maintaining feral swine captively in captivity for the purpose of temporary holding, breeding, slaughter, re-sale, dog training, competition, exhibition, personal use, or any other purpose.

"Holding pen" means a facility where feral swine are temporarily held for no more than seven (7) days.

"Sporting facility" means a ~~premise containing any premises maintaining~~ feral swine in captivity intended for hunting and feral swine are only removed from the premises through hunting, ~~directly to slaughter, or to another licensed sporting facility.~~

"Transport" means intrastate or interstate movement of one or more feral swine.

35:15-34-3. Importation and transportation of feral swine

(a) No person shall import live feral swine into the State of Oklahoma unless the live feral swine are transported directly to a slaughter facility in a sealed trailer and are accompanied by a written consent order to enter the state signed by the State Veterinarian and a USDA vs 1-27 permit for the movement of restricted animals.

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(b) No person shall transport feral swine within the State of Oklahoma without first obtaining both a transporter license and a 24 hour permit issued by the Department.

(c) Any person who knowingly assists with the illegal importation or transportation of feral swine or who knowingly purchases or receives feral swine illegally imported or transported shall be in violation of this section.

35:15-34-5. Transporter license

(a) All persons that transport live feral swine in this state shall be required to obtain a transporter license from the Department.

(b) Transporter licenses shall be ~~free of charge and~~ active for a period of ~~five (5) years~~ one (1) year and shall not be transferable.

(c) Transporter licenses shall expire each June 30 but may be renewed. Five-year licenses issued by the Department prior to the effective date of these rules shall not be grandfathered and shall expire on June 30, 2017.

(ed) Application for a transporter license shall be on a form prescribed by the Department and shall include the following:

- (1) Name, mailing address, physical address, email address, and telephone number of the applicant,
- (2) Drivers license number of the transporter;
- (3) A brief statement describing the area for which the applicant typically transports feral swine, and
- (4) A description of the vehicles, used to transport feral swine, including any license tag numbers.

(e) Live feral swine shall not be removed from the transport vehicle until released or unloaded pursuant to subsection (f) of this section.

(f) Any person transporting feral swine pursuant to a valid 24 hour permit may park the transport vehicle at a location specified in the 24 hour permit, so long as a new 24 hour permit is obtained prior to further transport of the feral swine to a location specified in subsection (g) of this section.

(dg) Live feral swine shall only be ~~transported to~~ released or unloaded at the following locations:

- (1) A licensed sporting facility;
- (2) A licensed handling facility;
- ~~(3) A holding pen;~~
- ~~(4) Directly to a slaughter facility, or~~
- ~~(5) Pursuant to a location designated in an order issued by the State Veterinarian.~~

(h) Feral swine shall not be commingled with any domestic livestock species at any point during transportation. Common cages or enclosures, water sources or food sources accessible by both domestic livestock species and feral swine shall be prohibited.

35:15-34-5.1. 24 hour permit

(a) A transporter shall apply for a 24 hour permit to transport feral swine using an online system provided by the Department or by phone during regular business hours. The transporter may either request immediate approval or request advance approval by specifying the 24 hour period that the transporter intends to transport feral swine.

(b) If the transporter requests immediate approval, the 24 hour permit shall be valid for twenty-four (24) hours following approval by the Department. The online system shall provide automatic approval for 24 hour permits after the following information is provided:

- (1) The date feral swine are transported;
- (2) The number of feral swine transported;
- (3) The name of the county in which the feral swine were acquired;
- (4) The name of the owner of the property on which the feral swine were acquired;
- (5) A description of the acquisition method (capture or purchase); and
- (6) The name and license number of destination facility or consignee.

(c) If the transporter requests advance approval, the 24 hour permit shall specify the 24 hour period in which the transporter is authorized to transport feral swine.

(d) The 24 hour permit shall describe the number and destination of feral swine transported.

(e) The transporter shall carry paper copy of the approved 24 hour permit in the vehicle transporting feral swine or carry an electronic device capable of accessing and displaying an electronic version of the approved 24 hour permit.

35:15-34-6. Sporting facilities

(a) ~~An owner or operator shall obtain a sporting facility license prior to operation of any new sporting facility. No new sporting facilities shall be licensed by the Department. The Department may issue a license to an unlicensed sporting facility in operation prior to January 27, 2015 and holding a Commercial Hunting Area license issued by the Oklahoma Department of Wildlife Conservation. Licenses for existing sporting facilities shall be renewable and transferrable.~~

(b) The owner or operator of a sporting facility shall comply with the following requirements for a sporting facility license shall be as follows:

- (1) The owner or operator maintains of a sporting facility shall maintain a perimeter fence at least forty-eight (48) inches tall made of solid walls, game fence, or other material constructed in a manner adequate to reasonably prevent the escape of enclosed feral swine, and the unsolicited additions of feral swine from outside the enclosure.
- (2) The owner or operator of a sporting facility shall keep the following records of the following using forms provided by the Department:

(A) ~~Number of head of feral swine added to the facility. The name and license number for each consignee releasing feral swine into the sporting facility with the corresponding date and number of feral swine released; and~~

(B) ~~Name, address, and telephone number of the person who provided the feral swine. The name of each captive hog hunter killing a feral hog at the sporting facility with the corresponding date and number of feral swine killed.~~

~~(C) Date of release of the feral swine into the facility; and~~

~~(D) Number of head removed from the facility, method of removal, and the date of removal.~~

(3) Any person ~~applying for renewing or procuring a Category I~~ sporting facility license shall provide the following information on a form prepared by the Department:

(A) Name, mailing address, email address, and telephone number of the owner;

(B) Name, mailing address, email address, and telephone number of the operator, if different from the owner;

(C) Name, physical address, and county of the sporting facility;

(D) Legal description to the nearest quarter section and GPS coordinates, if available, of the sporting facility;

(E) A map showing topography of the area with a diagram of the facility structures, fencing plan, and perimeter clearly marked;

(F) Whether the applicant has been convicted of a felony, misdemeanor, administrative, or civil violation of any natural resources requirements, including but not limited to wildlife, forestry, fisheries, environment, or animal health within the past three (3) years in Oklahoma or any other jurisdiction;

(G) Whether the property where the sporting facility is located is owned or leased;

(H) Driving directions from the nearest town; and

(I) Signature under oath "I certify under penalty of law this document, all attachments, and information submitted are to the best of my knowledge and belief, true, accurate, and complete. I am aware there are significant penalties for knowingly submitting false, inaccurate, or incomplete information, including the possibility of fines for each violation."

(4) The owner or operator of a sporting facility shall submit a report describing all feral swine released into or killed at the sporting facility in a month by the 10th day of the following month using forms provided by the Department.

(c) Sporting facilities may have a gate device installed in the perimeter fence that allow for the ingress of additional feral swine but does not allow the egress of captive feral swine. These devices shall be inspected and approved by the Department within seven (7) days of installation.

~~(d) Effective July 1, 2013, the expiration date of all active licenses for sporting facilities shall be extended so that the active license expires on June 30, 2014. After July 1, 2013, sporting~~ Sporting facilities shall be licensed for a one year ~~term~~ terms beginning July 1 of each calendar year and ending on June 30 of the following calendar year. ~~Beginning April 1, 2014, applications~~ Applications for the renewal of a sporting facility license shall be due on April 1 of each calendar year.

(e) Feral swine shall not be commingled with any domestic livestock species in any sporting facility. Common pens, water sources or food sources accessible by both domestic livestock species and feral swine shall be prohibited. This subsection is not intended to prohibit a licensee from constructing a feral swine facility along the licensee's property line.

(f) Live feral swine shall not be transported from a sporting facility to any other location.

(g) The sporting facility shall collect a captive hog hunter's fee from each hunter using the sporting facility and remit fees collected to the Department on the 10th day of the month following the hunter's visit. The captive hog hunter's fee:

(1) Shall be collected only once from each hunter during a calendar year;

(2) Shall be valid for the calendar year in which it is purchased;

(3) Shall not restrict the number feral swine the hunter is permitted to kill; and

(4) Shall not restrict the number of visits a hunter may make to any sporting facility.

35:15-34-7. Handling facilities

(a) An owner or operator shall obtain a handling facility license prior to operation of any new handling facility.

(b) The owner or operator of a handling facility shall maintain a perimeter fence at least forty-eight (48) inches tall made of solid walls, game fence, or other material constructed in a manner adequate to reasonably prevent the escape of enclosed feral swine, and the unsolicited additions of feral swine from outside the enclosure.

(c) The owner or operator of a handling facility or operator shall keep the following records of the following using forms provided by the Department:

(1) Number of head of feral swine added to the facility and the date such swine were added to the facility The name and license number of each consignor or consignee releasing feral swine into or transporting feral swine from the handling facility and the corresponding date and number of feral swine released or transported;

(2) Name, address, and telephone number of the person who provided the feral swine The number of feral swine that are killed at the facility and corresponding dates; and

(3) Destination of any removed feral swine; and The number of feral hogs that die of natural causes at the facility and corresponding dates.

~~(4) Number of head removed from the facility, method of removal, date of removal, and the name, mailing address, and phone number of any consignee.~~

(d) The owner or operator of a handling facility shall submit a report describing all feral swine released into, killed, or dying by natural causes at the handling facility in a month by the 10th day of the following month using forms provided by the Department.

~~(de)~~ Any person applying for a handling facility license shall provide the following information on a form prepared by the Department:

(1) Name, mailing address, email address and telephone number of the owner;

(2) Name, mailing address, email address, and telephone number of the operator, if different from the owner;

(3) Name, physical address, and county of the handling facility;

(4) Legal description to the nearest quarter section and GPS coordinates, if available, of the handling facility;

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- (5) A map showing topography of the area with a diagram of the facility structures, fencing plan, and perimeter clearly marked;
- (6) Method of carcass disposal for the facility, including carcass storage sites, carcass burial areas, incineration approval, rendering company, composting plan, or landfill.
- (7) Whether the applicant has been convicted of a felony, misdemeanor, administrative, or civil violation of any natural resources requirements, including but not limited to wildlife, forestry, fisheries, environment, or animal health within the past three (3) years in Oklahoma or any other jurisdiction;
- (8) Whether the property where the handling facility is located is owned or leased;
- (9) Driving directions from the nearest town; and
- (10) Signature under oath "I certify under penalty of law this document, all attachments, and information submitted are to the best of my knowledge and belief, true, accurate, and complete. I am aware there are significant penalties for knowingly submitting false, inaccurate, or incomplete information, including the possibility of fines for each violation."
- (f) ~~Effective July 1, 2013, the expiration date of all active licenses for handling facilities shall be extended so that the active license expires on June 30, 2014. After July 1, 2013, handling~~ Handling facilities shall be licensed for a one year ~~term~~ terms beginning July 1 of each calendar year and ending on June 30 of the following calendar year. ~~Beginning April 1, 2014, applications~~ Applications for the renewal of a handling facility license shall be due on April 1 of each calendar year.
- (g) Feral swine shall not be commingled with any domestic livestock species in a handling facility. Common pens, water sources or food sources accessible by both domestic livestock species and feral swine shall not be permitted. This subsection is not intended to prohibit a licensee from constructing a feral swine facility along the licensee's property line.

35:15-34-10. Carcass disposal

- (a) Owners and operators of feral swine facilities shall comply with all carcass disposal requirements.
- (b) The following methods may be used for disposal of carcasses from a feral swine facility:
- (1) Rendering, or composting are the preferred methods of disposal; and
 - (2) Landfill. If rendering or composting are impractical, the owner or operator may use incineration, burial or landfill as disposal methods.
 - (3) ~~Burial,~~
 - (4) ~~Incineration,~~
 - (5) ~~Composting.~~
- (c) Carcass disposal areas shall be located a minimum of thirty (30) feet from any live swine.
- (d) The owner or operator shall comply with Title 2, Section 2-18.1 and Title 21, Sections 1222, 1223, and 1224 at all times.
- (e) At the request of the Department, licensees shall make carcasses available for disease testing at the Department's expense.

35:15-34-13. License fees

- (a) Sporting facilities that are not licensed as a commercial hunting area by the Oklahoma Department of Wildlife Conservation:
- (1) Application fee - \$325.
 - (2) Renewal fee - \$200.
- (b) Handling facility:
- (1) Application fee - ~~\$125~~ \$200.
 - (2) Renewal fee - ~~\$75~~ \$100.
- (c) Transporter: Application and renewal fee - \$25.
- (d) Captive hog hunter - \$25.

35:15-34-19. Feral swine free zone

- (a) Cimarron, Texas, Beaver, Harper, Woods, Ellis, Woodward, Garfield, Grant, Alfalfa counties shall be a feral swine free zone.
- (b) Transportation of live feral swine into, through, or within a feral swine free zone is prohibited.
- (c) Transporting live feral swine out of a feral swine free zone shall be allowed subject to the other provisions of this subchapter.
- (d) Feral swine facilities are prohibited within any feral swine free zone established by the Board. Licenses for feral swine facilities existing within any feral swine free zone established by the Board shall not be renewed.
- (e) Any person may hunt or capture feral swine within a feral swine free zone pursuant to the provisions of the Feral Swine Control Act and these rules. To assist the Department with tracking and eliminating feral swine populations, a person shall report any feral swine activity to the Department, to include but not limited to any observation, capture, or kill.
- (f) The Board of Agriculture may employ private or public entities to eradicate feral swine anywhere in the State of Oklahoma.

[OAR Docket #16-614; filed 6-22-16]

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

[OAR Docket #16-615]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

- Subchapter 5. Registered Poultry Feeding Operations
- 35:17-5-2. Definitions [AMENDED]
- 35:17-5-3. Registration, Nutrient Management Plan (NMP) ~~and Animal Waste Management Plan (AWMP) required~~ [AMENDED]
- 35:17-5-4. Soil and litter tests required [NEW]
- 35:17-5-5. Nutrient Management Plan ~~and Animal Waste Management Plan requirements~~ [AMENDED]
- 35:17-5-7. Record keeping [AMENDED]
- 35:17-5-10.1. Violation points system [REVOKED]
- Subchapter 7. Poultry Waste Applicators Certification
- 35:17-7-4. Private poultry waste applicators certificate [AMENDED]
- 35:17-7-8. Education requirements [AMENDED]
- Subchapter 9. Agricultural Compost Facilities
- 35:17-9-1. Purpose and applicability [AMENDED]
- 35:17-9-6. Leachate and storm water control [AMENDED]

35:17-9-9. Closure of licensed compost facility retention structures [NEW]

35:17-9-10. Variances [NEW]

AUTHORITY:

Okla. Const., Art. 6, § 31; State Board of Agriculture; 2 O.S. § 2-4(A)(2); and 2 O.S. § 10-2 et seq.

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n/a

INCORPORATIONS BY REFERENCE:

n/a

ANALYSIS:

The rule amendments delete obsolete definitions, references, and sections; incorporate changes to the underlying law pursuant to HB 2208 (approved by the Governor on May 12, 2015); and make minor grammatical corrections.

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, 2016:

SUBCHAPTER 5. REGISTERED POULTRY FEEDING OPERATIONS

35:17-5-2. Definitions

In addition to the terms contained and defined in the Oklahoma Registered Poultry Feeding Operations Act, the following words or terms when used in this subchapter shall have the following meaning unless the context clearly indicates otherwise:

~~"Animal Waste Management Plan" or "AWMP" means a written plan that includes a combination of conservation and management practices designed to protect the natural resources of the State as required by the State Department of Agriculture pursuant to the provisions of Section 10-9.7 at Title 2 of the Oklahoma Statutes. The plan shall be prepared by the USDA NRCS or an entity approved by the State Department of Agriculture.~~

"Discharge" means any release by pumping, pouring, emptying, or dumping of poultry waste directly or through a manmade conveyance into waters of the State.

"Nutrient Management Plan" means a written plan that includes a combination of conservation and management practices designed to protect the natural resources of the state as required by the Oklahoma Department of Agriculture, Food and Forestry pursuant to the provisions of Section 10-9.7 of Title 2 of the Oklahoma Statutes and shall also include a certified nutrient management plan and animal waste management plan.

"Runoff" means any release by leaking, escaping, seeping, or leaching of poultry waste into waters of the State.

"USDA NRCS" means the United States Department of Agriculture Natural Resources Conservation Service.

"Waste facility" means any structure or combination of structures utilized to control poultry waste until it can be utilized in an authorized manner. These structures shall include all treatment and storage structures but not be limited to pits, burial sites, barns, or roof covered structures which house poultry, composters, poultry waste storage sites, or retention structures, and all appurtenances or additions.

35:17-5-3. Registration, Nutrient Management Plan (NMP) and Animal Waste Management Plan (AWMP) required

(a) **Registration.**

(1) Every poultry feeding operation in operation on July 1, 1998 shall register by January 1, 1999. All registrations shall be received by the State Department of Agriculture prior to January 1, 1999.

(2) Every poultry feeding operation shall be required to reregister annually by January 1 to operate.

(3) Any poultry feeding operation that has a valid license pursuant to the Oklahoma Concentrated Animal Feeding Operations Act shall not be required to register pursuant to the Oklahoma Registered Poultry Feeding Operations Act.

(4) The owner or operator of a poultry feeding operation not classified as a poultry feeding operation may register if the owner elects to come under the provisions of the Oklahoma Registered Poultry Feeding Operations Act and the rules of the State Board of Agriculture.

(5) It shall be unlawful for any person to construct or operate a new poultry feeding operation without first registering with the State Board of Agriculture.

(b) ~~Nutrient Management Plan and Animal Waste Management Plan.~~

(1) Every poultry feeding operation shall obtain or apply for an approved NMP ~~and AWMP~~ addressing both nitrogen and phosphorus ~~by January 1, 1999.~~

(2) All new operators of poultry feeding operations shall obtain or apply for an NMP ~~and AWMP~~ prior to construction of the facility.

(3) The NMP ~~and AWMP~~ shall be prepared by USDA NRCS or an entity approved by the State Department of Agriculture.

(4) Plans shall be reviewed and updated at least every six (6) years from the date the NMP ~~and AWMP~~ was obtained. Plans shall also be reviewed and updated in the following circumstances:

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(A) When a change in the waste utilization standards occurs and upon notification by the State Department of Agriculture.

(B) Upon recommendation of the State Department of Agriculture.

(5) Plans shall be updated prior to the expansion of a facility.

~~(6) All poultry feeding operations with an existing NMP and AWMP not based on a soil test and current USDA NRCS phosphorus standards shall update the plan or apply for an update by January 1, 1999 and the plan shall address both nitrogen and phosphorus.~~

~~(7) Implementation of the NMP and AWMP shall occur within ninety (90) days of receipt of the NMP and AWMP unless otherwise determined by the State Department of Agriculture. In no event shall the poultry feeding operation land apply poultry waste in excess of the current USDA NRCS Waste Utilization Standards, unless the State Department of Agriculture approves other standards.~~

~~(8) Beginning on January 1, 2013, registered~~Registered poultry feeding operations may voluntarily submit to the Oklahoma Department of Agriculture, Food, and Forestry an annual assessment of one hundred dollars (\$100.00) for the purpose of securing the ODAFF service of drafting NMP and AWMP for their registered poultry feeding operation(s). ODAFF shall revise plans for poultry operations that pay the voluntary assessment every six years and/or when the poultry operation adds or subtracts poultry litter land application fields or when their carcass disposal method changes. ODAFF will assign a priority of drafting new or revised NMP and AWMP to operations that pay ODAFF the annual voluntary assessment over operations that do not pay the voluntary assessment. ODAFF may assign additional priority to operations based on the receipt date of the voluntary annual assessments.

35:17-5-4. Soil and litter tests required

All soil and poultry waste analysis data shall be dated prior to land application.

35:17-5-5. Nutrient Management Plan and Animal Waste Management Plan requirements

(a) The NMP and AWMP shall contain, at a minimum, the following:

- (1) A description of poultry waste handling procedures and availability of equipment and type of equipment to be used.
- (2) The calculations and assumptions used for determining land application rates.
- (3) All nutrient analysis data, including soil and poultry waste testing.
- (4) Legal description of lands to be used by an operation for land application.
- (5) Soils map with description and type or series.
- (6) Land application rates of poultry waste shall be based on the available nitrogen and phosphorus content of the poultry waste and soil test results.

(7) The procedures documented in the NMP and AWMP shall ensure that the handling and utilization of poultry waste complies with the following requirements:

(A) Adequate poultry waste storage shall be provided. Poultry waste shall not be stored without adequate protection from rainfall and runoff. All new poultry feeding operations shall make provisions for storage of poultry waste prior to operating. Exceptions to storage requirements for poultry waste in emergency situations shall be granted on a case by case basis. Exceptions shall include but not be limited to allowing a contract poultry grower to take such actions as are necessary to meet requirements imposed on a grower by an integrator. However, in all situations growers shall be required to take all actions feasible to prevent pollution from stored poultry waste.

(B) Poultry waste shall not be applied to land when the ground is saturated or during rainfall events. Poultry waste shall not be applied to land when the ground is frozen or snow covered except in conformance with the NMP and AWMP.

(C) Poultry waste shall only be applied to suitable land at appropriate times and rates as specified by the NMP and AWMP. Runoff of poultry waste from the application site is prohibited.

(D) All practices necessary to minimize movement of poultry waste to watercourses shall be utilized and documented in the NMP and AWMP.

(E) Edge of field, grassed strips shall separate water courses from runoff which may be carrying eroded soil and poultry waste.

(F) Poultry waste application shall be prohibited on land subject to excessive erosion.

(G) Land application rates of poultry waste shall provide controls for runoff as appropriate for site conditions.

(b) The NMP and AWMP shall also include a method for the disposal of carcasses. The NMP and AWMP shall include provisions for disposal of carcasses associated with normal mortality and shall include provisions for emergency disposal when a major disease outbreak or other emergency results in deaths significantly higher than normal mortality rates. Accepted methods of carcass disposal include:

- (1) Rendering
 - (A) Disposal of all carcasses shall occur within a reasonable period of time as approved by the State Department of Agriculture.
 - (B) Storage facilities shall be sealed or have lids and maintained so as to prevent pests and odors.
- (2) Burial shall only be allowed as a method of carcass disposal if no reasonable alternative exists and specific measures and practices are identified which will be utilized to protect the ground and surface waters of the State.
- (3) Composting by methods as approved in the NMP and AWMP.
- (4) Incineration shall only be used as a method of carcass disposal if the poultry feeding operation has a

valid air quality permit from the Oklahoma Department of Environmental Quality, Air Quality Division, if required.

(c) Storage and land application of poultry waste shall not cause a discharge or runoff of significant pollutants to waters of the State or cause a water quality violation to waters of the State.

(d) The operator shall notify the State Department of Agriculture within twenty-four (24) hours of a discharge.

35:17-5-7. Record keeping

(a) The following records shall be maintained for a ~~period~~minimum of six (6) years and shall be available at all times to the State Department of Agriculture:

(1) Poultry waste application records, rates, and dates of application.

(2) If the poultry waste is sold or given to other persons, the poultry feeding operation shall maintain a log of:

(A) Date of removal from the poultry feeding operation.

(B) Name of recipient the poultry waste is sold or given to.

(C) Amount in wet tons, dry tons, or cubic yards of poultry waste removed from the poultry feeding operation.

(D) Poultry feeding operations located in a nutrient limited watershed or nutrient vulnerable groundwaters as defined by the Oklahoma Water Resources Board shall make available to the recipient any nutrient sample analysis from that year. Poultry feeding operations located in non-nutrient limited watersheds or non-nutrient vulnerable groundwaters shall make available to the recipient the most recent nutrient sample analysis.

(b) Education certifications shall be maintained for a period of five (5) years and shall be available at all times to the State Department of Agriculture.

(c) Soil and poultry waste analysis data shall be retained by the poultry feeding operation for ~~as long as the site is in operation~~no less than six (6) years.

35:17-5-10.1. Violation points system [REVOKED]

~~In addition to the State Department of Agriculture's enforcement authority, the following violation points system shall be utilized to assess points prior to designating a poultry feeding operation as a concentrated animal feeding operation subject to the Oklahoma Concentrated Animal Feeding Operations Act pursuant to Section 9-201 et seq. of Title 2 of the Oklahoma Statutes.~~

~~(1) When any poultry feeding operation accrues a total of fifteen (15) or more points in any two (2) year time period, that poultry feeding operation shall be designated a concentrated animal feeding operation and shall comply with all aspects of the Oklahoma Concentrated Animal Feeding Operations Act.~~

~~(2) Points shall accrue based on the following violations of the Oklahoma Registered Poultry Feeding Operations Act:~~

~~(A) Knowingly making any false statement, representation, or certification in, omitting material data from, or tampering with any application for registration shall be a significant violation and accrue three (3) to five (5) points.~~

~~(B) Constructing or operating a new poultry feeding operation without first registering with the State Board of Agriculture shall accrue two (2) to five (5) points.~~

~~(C) Failure to register a poultry feeding operation by January 1, 1999 which was in operation on July 1, 1998 shall accrue two (2) to five (5) points.~~

~~(D) Failure by a poultry feeding operation to annually reregister with the State Board of Agriculture shall accrue one (1) to three (3) points.~~

~~(E) Increasing the capacity of a poultry feeding operation in excess of ten percent (10%) of the facility's original licensed capacity prior to reregistering with the State Board of Agriculture shall accrue one (1) to two (2) points.~~

~~(F) Failure of a poultry feeding operation to send written notification to the State Department of Agriculture upon changing integrators shall accrue one (1) point.~~

~~(G) Failure by the operator of a poultry feeding operation to attend the required hours of educational courses on poultry waste handling and management specified by the Oklahoma Registered Poultry Feeding Operations Act shall accrue two (2) to four (4) points.~~

~~(H) Failure by a poultry feeding operation to utilize or comply with Best Management Practices or the NMP and AWMP and the failure results in actual harm to natural resources of the state, ground or surface water quantity or quality, public health, or the environment shall be a significant violation and accrue three (3) to five (5) points.~~

~~(I) Failure by a poultry feeding operation to utilize or comply with Best Management Practices or the NMP and AWMP and the failure results in potential harm to natural resources of the state, ground or surface water quantity or quality, public health, or the environment shall accrue one (1) to three (3) points.~~

~~(J) Failure by a poultry feeding operation to keep all records as required by the Oklahoma Registered Poultry Feeding Operations Act and rules promulgated thereunder shall accrue one (1) to three (3) points.~~

~~(K) Failure by a poultry feeding operation to properly dispose of carcasses or failure to follow the carcass disposal plan as outlined in the NMP and AWMP shall accrue two (2) to four (4) points.~~

~~(L) Failure to allow inspections of the poultry feeding operation facility or records for purposes of routine inspections, complaint investigations, or any other type of inspection shall be a significant violation and accrue three (3) to five (5) points.~~

(M) Knowingly making any false statement, representation, or certification form, notice, or report, or knowingly rendering inaccurate any monitoring device or method required to be maintained shall be a significant violation and accrue three (3) to five (5) points.

(N) Any other violation of the Oklahoma Registered Poultry Feeding Operations Act or any rule promulgated thereunder shall accrue one (1) to five (5) points, depending upon the severity of the violation as determined by the State Board of Agriculture.

(O) If a violation is deemed to be willful or intentional, up to an additional five (5) points may be added to the total points per violation by the State Board of Agriculture and the violation shall be deemed significant.

(3) All violations which are assessed four (4) or five (5) points shall only accrue points upon approval by the State Board of Agriculture. All other violations shall accrue points upon approval by the Water Quality Services Division of the State Department of Agriculture. Assessment of points by the Water Quality Services Division may be appealed in writing to the Division Director. If the accumulated number of points reaches a total of fifteen (15) points, the owner may appeal to the State Board of Agriculture.

(4) In the event that a violation is not corrected within sixty (60) days, an additional accrual of assessed points may occur.

(5) Even if the violation points do not add up to a total of fifteen (15) points, the State Board of Agriculture may deem a violation that results in serious harm to be so significant as to warrant immediate designation as a concentrated animal feeding operation and subject to the Oklahoma Concentrated Animal Feeding Operations Act.

(6) Any poultry feeding operation designated as a concentrated animal feeding operation shall be so designated for a minimum of one (1) year and the registration as a poultry feeding operation shall be suspended. At the State Department of Agriculture's discretion, the poultry feeding operation may reinstate the registration and the designation as a concentrated animal feeding operation may be removed so long as the poultry feeding operation complies with all conditions which the State Department of Agriculture imposes on the poultry feeding operation.

(7) Conditions for removal from the designation as a concentrated animal feeding operation shall at a minimum include compliance during the entire designation with all aspects of the Oklahoma Concentrated Animal Feeding Operations Act and its attendant rules, and correction of all conditions which caused the designation as a concentrated animal feeding operation.

SUBCHAPTER 7. POULTRY WASTE APPLICATORS CERTIFICATION

35:17-7-4. Private poultry waste applicators certificate

(a) Any person who land applies poultry waste as a private poultry waste applicator shall obtain a valid applicator's certificate issued by the Board.

(b) ~~All existing private poultry waste applicators shall apply for a private poultry waste applicator's certificate prior to January 1, 2001.~~ All new private poultry waste applicators shall apply for a private poultry waste applicator's certificate prior to land applying poultry waste in Oklahoma. Education requirements shall be completed within one year of obtaining the private poultry waste applicator's certificate.

(c) A certified private poultry waste applicator may allow employees and other applicators over which direct control is exercised by the certified private poultry waste applicator to land apply poultry waste without obtaining a private poultry waste applicators certificate so long as the following conditions exist:

- (1) The land application is supervised by the certified private poultry waste applicator;
- (2) The certified private poultry waste applicator is the responsible person for all aspects of the land application; and
- (3) The certified private poultry waste applicator is responsible for ensuring employees and other applicators are properly trained regarding poultry waste handling and application.

(d) Every certified private poultry waste applicator shall file an annual report as required by Section 10-9-18 of Title 2 of the Oklahoma Statutes pursuant to 2 O.S. § 10-9.18.

35:17-7-8. Education requirements

(a) All certified poultry waste applicators shall attend educational courses on poultry waste handling provided by Oklahoma Cooperative Extension Service.

(b) All poultry waste applicators shall obtain an initial nine (9) hours of education in the first year and two hours of continuing education every year until the applicator has received a total of nineteen (19) hours of training. Any applicator may attend more hours than are required, however, those hours shall not be carried forward. Upon receiving the nineteen (19) required hours, the applicator will graduate from the program ~~but then~~ shall be required to receive two (2) hours of continuing education every three (3) years.

(c) The Oklahoma Cooperative Extension Service shall develop the educational training course to aid in certification.

(1) Curricula for the training course shall include the Oklahoma Cooperative Extension Service Waste Management Facts series and record books or their current equivalent.

(2) Courses for poultry waste management shall include the following topics:

- (A) Environmental process relevant to protecting water quality in poultry production;
- (B) Basic handling systems to manage poultry waste from all types of poultry operations;

- (C) Nutrient management, including sampling procedures, application rate determination, equipment calibration, and record keeping systems;
- (D) Relevant laws and rules applicable to poultry waste management in the State of Oklahoma; and
- (E) Any other related subject as determined by Oklahoma Cooperative Extension Service in consultation with the Department.

- (d) At the completion of each course, the certified poultry waste applicator shall receive a certification verifying completion. The certificates shall be kept on site for five (5) years.
- (e) Failure to obtain the prerequisite and annual training and education as provided in this subsection shall be deemed a violation of the Oklahoma Poultry Waste Applicators Certification Act.
- (f) All applicators shall obtain the required education no later than December 31st of each calendar year.
- (g) Any certified poultry waste applicator ~~who~~ that has completed education requirements of the Oklahoma Registered Poultry Feeding Operations Act shall be deemed to be in compliance with the education requirements of this section.

SUBCHAPTER 9. AGRICULTURAL COMPOST FACILITIES

35:17-9-1. Purpose and applicability

This subchapter applies to any person who owns or operates any compost facility using source materials within the Department's areas of environmental jurisdiction pursuant to 2 O.S. § 2-4(A)(16). These rules shall not apply to any compost facility located on a facility permitted or licensed as a concentrated animal feeding operation or a registered poultry feeding operation so long as any portion of the source materials is from the concentrated animal feeding operation or registered poultry feeding operation, nor to any compost facility permitted or required to be permitted by the Oklahoma Department of Environmental Quality.

35:17-9-6. Leachate and storm water control

- (a) The owner or operator shall provide a total retention storage structure that is of sufficient size to contain all leachate and contaminated storm water, the 100 year/24 hour storm event, and maintain one foot of free board.
- (b) The owner or operator shall construct a permanent marker that identifies the levels of the 100 year/24 hour storm event volume, the one foot of free board, and the bottom of spillway.
- (~~b~~c) The owner or operator shall provide a drainage system for storm water that prevents erosion at the facility.
- (~~e~~d) The owner or operator shall prevent contact between uncontaminated storm water and source material, composting amendment, composting mix, and final product isolating the material from surface drainage through the use of covers, ditches, dikes, berms, terraces, or other control structures.

35:17-9-9. Closure of licensed compost facility retention structures

- (a) The owner of a leachate retention structure shall notify the Department if the owner intends to permanently cease operations of the structure for any reason, including but not limited to, compliance with orders of the Board of Agriculture. A leachate retention structure that temporarily ceases operations but otherwise remains in full compliance with its license shall not be considered permanently closed.
- (b) Closure requirements of leachate retention structures shall be based on site specific conditions, as follows:
 - (1) The owner shall notify the Department in writing whenever a leachate retention structure is abandoned or permanently ceases operations for any reason. The Department shall consider a leachate retention structure is abandoned or has permanently ceased operations if:
 - (A) The leachate retention structure is closed by order of the Department; or
 - (B) The owner is unable to furnish documents showing receipt of compost material into the leachate retention structure during the previous twenty-four (24) months and the owner is not maintaining the retention structure in compliance with the applicable rules or plans approved by the Department.
 - (2) Liquid contents of a leachate retention structure may be pumped out and land applied according to Department rules.
 - (3) Solids from the leachate retention structure shall be removed and disposed of in an environmentally safe manner.
 - (4) Sludge from the bottom of the leachate retention structure shall be removed without compromising the integrity of the liner. Sludge may be land applied according to Department rules.
 - (5) The owner shall grid sample soil from the bottom of the leachate retention structure and have the samples analyzed in a State certified laboratory for nitrate-nitrogen, total phosphorous, and electrical conductance.
 - (6) The owner shall develop a plan, subject to Department approval, regarding soil removal, if necessary, based on the grid sample data.
 - (7) If soil is to be removed from the bottom of the leachate retention structure, it shall be managed in an environmentally safe manner approved by the Department. Management options may include, but are not limited to, land application, disposal, and reuse.
 - (8) The Department may require monitoring wells if evidence indicates that contamination has migrated to the groundwater based on site specific conditions.
 - (9) An owner may seek an exemption from the closure obligations of this subsection or transfer the responsibility for a leachate waste retention structure to another party. A written request and approval by the Department are required for an owner to be exempt from closure obligations of this subsection or to transfer the responsibility for a leachate waste retention structure to any other party.

Permanent Final Adoptions

35:17-9-10. Variances

Variances from these rules shall only be granted on a case by case basis and the granting of a variance shall not act as a precedent for any other case, whether similar or not. In each case where a variance is granted, the decision shall be thoroughly documented.

[OAR Docket #16-615; filed 6-22-16]

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

[OAR Docket #16-616]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 17. Combined Pesticide

Part 1. Commercial and Non-Commercial Categories of Pesticide Application

35:30-17-1. License Categories [AMENDED]

35:30-17-2. Consultant license [AMENDED]

Part 3. Certification, Conduct of Examinations, and Recertification

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

35:30-17-6. Recertification [AMENDED]

Part 5. Prerequisites for Licensing

35:30-17-11. Application for license required [AMENDED]

Part 6. Pesticidal Product Producing Establishments

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

Part 8. Pesticide Registrations and Permits

35:30-17-17.3. Pesticide and device labeling [NEW]

Part 11. Standards for Application of Pesticide

35:30-17-24. Approved chemicals and equipment [AMENDED]

35:30-17-24.1. Restricted use areas [AMENDED]

Part 15. Minimum Standards for Termite Work for Existing Structures

35:30-17-69.2. Exceptions to minimum standards [AMENDED]

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 [AMENDED]

AUTHORITY:

Okl. Const., Art. 6, § 31; the State Board of Agriculture; 2 O.S. § 2-4(A)(2); and 2 O.S. § 3-81 et seq.

SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:

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Approved by Governor's declaration on June 9, 2016.

FINAL ADOPTION:

June 9, 2016

EFFECTIVE:

September 11, 2016

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

Incorporated Standards:

Title 40 of the Code of Federal Regulations, Part 156, §§ 156.10 and 156.140 et seq. (2015 Revision); Part 167 (2015 Revision) with the exception of § 167.90; and Part 169 (2015 Revision).

Incorporating Rules:

35:30-17-13

35:30-17-17.3

35:30-17-18.9

Availability:

8:00 a.m. to 4:30 p.m., Monday through Friday at the Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105, (405) 522-5803.

ANALYSIS:

The proposed amendments update incorporations by reference to the Code of Federal Regulations, expand license categories and related education requirements, revise the requirements for a consultant license, requires sufficient language proficiency to obtain certain licenses requiring the comprehension of pesticide labels and instructions, add requirements for pesticide and device labeling, and allow for exceptions to minimum standards under certain conditions.

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, 2016:

SUBCHAPTER 17. COMBINED PESTICIDE

PART 1. COMMERCIAL AND NON-COMMERCIAL CATEGORIES OF PESTICIDE APPLICATION

35:30-17-1. License Categories

License categories of pesticide application are as follows:

(1) 1a: Agricultural Plant Category - Includes the application of pesticides to agricultural crops, agricultural grassland, and noncrop agricultural land. This category does not include the production of trees for any purpose.

(2) 1b: Agricultural Animal Category - Includes the application of pesticides to animals, including those in feedlots, sales barns, egg production facilities and the animal holding facilities. This excludes Doctors of Veterinary Medicine applying pesticides as drugs or medication during the course of their normal practice.

(3) 2: Forest Pest Control Category - Includes the application of pesticides in forest nurseries, forest seed production areas, trees grown for the production of forestry products, and other forest areas.

(4) 3a: Ornamental and Turf Outdoor Pest Control Category - Includes the application of pesticides within residential or business areas to lawns, ornamental trees and shrubs, including park areas, golf courses, and other recreational areas, except as defined under licensed categories 2, 3b-c, 7, and 8.

(5) 3b: Interiorscape Category - Includes the application of pesticides to interior plantings inside structures (i.e. hospitals, buildings, shopping malls, etc.) excluding residential structures with the exception of common use areas

of multiple residential structures (i.e. foyers, atriums, indoor swimming pools, management offices, meeting rooms, etc.) except as defined under licensed categories 3c, 7, and 8.

(6) 3c: Nursery/Greenhouse Category - Includes the application of pesticides in nursery and greenhouse facilities and to fields except as defined under licensed categories 2 (Forest Pest Control).

(7) 4: Seed Treatment Category - Includes the application of pesticides to seed for any purpose.

(8) 5: Aquatic Pest Control Category - Includes the application of pesticides to standing or running water in man-made or natural impoundments, streams, etc. This excludes public health activities (e.g. mosquito control) and water in totally closed systems.

(9) 6: Right-of-Way Category - Includes the application of pesticides for public road maintenance, power line maintenance, railroad right-of-way, storage tank areas, and other similar areas.

(10) 7a: General Pest Control Category - Includes the application of pesticides within and immediately adjacent to a structure, except for fumigation activities, control of termites and other wood destroying organisms in or on a structure, and control of birds or predatory animals. "Immediately adjacent to a structure" means not further than three (3) feet from the structure. Applications to restaurants are permitted in this category.

(11) 7b: Structural Pest Control Category - The application of pesticides for the purpose of controlling termites and other wood destroying organisms in or on a structure, including wood borers and fungus.

(12) 7c: Fumigation Category - The use of liberated gas within a structure or storage area, to include railcars, ships, etc.

(13) 8: Public Health Pest Control Category - The application of pesticides by local, state, federal or other governmental employees or commercial pesticide applicators in public health programs, to include municipal and other areawide mosquito control programs.

(14) 9: Regulatory Pest Control Category - Includes the application of pesticides by state, federal or other government employees for the control of designated regulated pests.

(15) 10: Demonstration and Research Pest Control Category - Includes persons engaged in the application of pesticides for scientific research or for the purpose of demonstrating pesticide products or methods of application.

(16) 11a: Bird and Vertebrate Animal Pests Control Category - The application of pesticides for the control of birds or vertebrate animals pests and subject to the rules of the Oklahoma Department of Wildlife Conservation and the Wildlife Services Division of the Board.

(17) 11b: Predatory Animal Control Category - The application of pesticides for the control of predatory animals and subject to the rules of the Oklahoma Department of Wildlife Conservation, and the Wildlife Services Division of the Board.

(18) 12a: Pressure Facility Timber Treating Category - Includes the treatment of wood in a pressure treating facility by the impregnation or application of chemical solutions for the purpose of retarding or preventing deterioration or destruction by insects, fungi, bacteria, or other wood destroying organisms.

(19) 12b: Ground Line Utility Pole Timber Treating Category - Includes the ground line treatment of utility poles with chemical solutions for the purpose of retarding or preventing deterioration or destruction by insects, fungi, bacteria, or other wood destroying organisms.

(20) 12c: Construction Industry Timber Treating Category - Includes the application of chemical solutions to wood members of structure which will be covered by paint, varnish, or similar covering for the purpose of retarding or preventing deterioration or destruction by insects, fungi, bacteria, or other wood destroying organisms.

(21) 12d: Home Owner Timber Treating Category - Includes the application of chemical solutions to wood constructions around the home, including decks, for the purpose of retarding or preventing deterioration or destruction by insects, fungi, bacteria, or other wood destroying organisms.

(22) 13: Antimicrobial Category - Includes applications of an antimicrobial pesticide intended to disinfect, sanitize, reduce, or mitigate growth or development of microbiological organisms or protect inanimate objects, industrial processes or systems, surfaces, water, or other chemical substances from contamination, fouling, or deterioration caused by bacteria, viruses, fungi, protozoa, algae, or slime.

~~(22)~~ ~~13~~: ~~14~~: Specialty Category - Includes any area of pesticide application not defined in Category 1 thru 12 when the pesticide to be used is classified as restricted.

35:30-17-2. Consultant license

(a) Any person who makes a pesticide or device recommendation for hire or compensation; but does not purchase or apply the pesticide or device, or any person evaluating a pest situation or prescribing a mitigation plan of the identified pest using a pesticide or device shall be commercially licensed as a consultant in the category in which the recommendation is made.

(b) Any person recommending a pesticide or device that is incidental to their primary duty or duties and does not receive compensation for the recommendation shall be exempt from the requirement to obtain a consultant license. This exemption shall include, but not be limited to:

(1) a sales clerk employed by a pesticide dealer that routinely recommends pesticides and devices but does not receive compensation for the recommendation; or

(2) an architect that recommends a building be pre-treated for termites using a licensed applicator and a properly registered pesticide but does not receive compensation for the recommendation.

PART 3. CERTIFICATION, CONDUCT OF EXAMINATIONS, AND RECERTIFICATION

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

(a) The written examination for certification of commercial and noncommercial applicators shall include two (2) phases. Phase I shall consist of general knowledge common to all licensed categories and shall be successfully completed before examination is attempted in any license category. Phase II shall consist of specific knowledge for each licensed category. An applicant may test in as many different categories as desired.

(b) A practical examination shall also be required for commercial and noncommercial applicators in the following categories: Structural Pest, General Pest, Fumigation, and Food Processing. An individual shall successfully complete the practical examination within twelve (12) months of passing the Phase II written examination in the above categories. Failure to meet the twelve (12) month deadline shall require an individual to re-take the Phase II written examination.

(c) The practical examination shall be conducted at the training facility at Oklahoma State University and includes the successful completion of an approved training program which demonstrates a thorough knowledge in the handling of pesticides, labels and labeling requirements, storage, transportation, mixing, application, disposal, insect biology and safety. The facility at Oklahoma State University meets the following conditions for treatment in the Structural Pest Category: crawl space, voids, and a concrete floor, garage floor, or patio slab.

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

(1) A determination is made by the Department that the applicant has successfully completed the written examination;

(2) The licensed entity provides a completed service technician identification application form at the time of testing; and

(3) All appropriate fees are paid at the time of testing.

(e) Private applicators shall complete a certification form and an education program or written examination as required by the Board. Private applicators in the Fumigation category shall be required to complete the certification form and a closed book written exam and successfully complete the Fumigation practical at the training facility at Oklahoma State University within twelve (12) months of passing the Fumigation written exam.

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

canceled, or revoked. Recertification may be required by the Board, but shall not exceed one recertification in a five (5) year period.

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

(h) The Department may require that an individual seeking a certified applicator or service technician certification demonstrate the capability to read and write with sufficient proficiency to comprehend the content and instructions of a pesticide label.

35:30-17-6. Recertification

(a) Each certified applicator shall seek recertification every five (5) years.

(b) A certified applicator shall either pass a written examination or earn a specified number of Continuing Education Units (CEU) approved by the Department to successfully complete recertification. Approximately one (1) hour of education shall be the equivalent of one (1) CEU. The CEU requirements for each category are as follows:

- (1) 1a - Agricultural Plant:
 - (A) Total in five years - 20 CEU
 - (B) Maximum in any one year - 10 CEU
- (2) 1b - Agricultural Animal:
 - (A) Total in five years - 5 CEU
 - (B) Maximum in any one year - 2 CEU
- (3) 2 - Forest:
 - (A) Total in five years - 10 CEU
 - (B) Maximum in any one year - 5 CEU
- (4) 3a - Ornamental and Turf Outdoor:
 - (A) Total in five years - 20 CEU
 - (B) Maximum in any one year - 10 CEU
- (5) 3b - Interiorscape:
 - (A) Total in five years - 10 CEU
 - (B) Maximum in any one year - 5 CEU
- (6) 3c - Nursery/Greenhouse:
 - (A) Total in five years - 15 CEU
 - (B) Maximum in any one year - 7 CEU
- (7) 4 - Seed Treatment:
 - (A) Total in five years - 5 CEU
 - (B) Maximum in any one year 2 CEU
- (8) 5 - Aquatic:
 - (A) Total in five years - 5 CEU
 - (B) Maximum in any one year 2 CEU
- (9) 6 - Right-of-Way:
 - (A) Total in five years - 15 CEU
 - (B) Maximum in any one year 7 CEU
- (10) 7a - General Pest:
 - (A) Total in five years - 20 CEU
 - (B) Maximum in one year - 10 CEU
- (11) 7b - Structural Pest:
 - (A) Total in five years - 20 CEU
 - (B) Maximum in one year - 10 CEU
- (12) 7c - Fumigation:
 - (A) Total in five years - 10 CEU
 - (B) Maximum in one year - 5 CEU
- (13) 7d - Food Processing:
 - (A) Total in five years - 15 CEU

- (B) Maximum in one year - 7 CEU
- (14) 8 - Public Health:
 - (A) Total in five years - 15 CEU
 - (B) Maximum in one year - 7 CEU
- (15) 9 - Regulatory:
 - (A) Total in five years - 10 CEU
 - (B) Maximum in one year - 5 CEU
- (16) 10 - Demonstration & Research in app. Category:
 - (A) Total in five years - 20 CEU
 - (B) Maximum in one year - 10 CEU
- (17) 11a - Bird & Vertebrate Animal Pest:
 - (A) Total in five years - 5 CEU
 - (B) Maximum in one year - 2 CEU
- (18) 11b - Predatory Animal
 - (A) Total in five years - 5 CEU
 - (B) Maximum in one year - 2 CEU
- (19) 12 - Timber Treating (all subcategories):
 - (A) Total in five years - 5 CEU
 - (B) Maximum in one year - 2 CEU
- (20) 13 - ~~Specialty Category~~ Antimicrobial:
 - (A) Total in five years - 5 CEU
 - (B) Maximum in any one year - 2 CEU
- (21) 14 - ~~Aerial~~ Specialty Category:
 - (A) Total in five years - 5 CEU
 - (B) Maximum in any one year - 2 CEU
- (22) 15 - Aerial:
 - (A) Total in five years - 5 CEU
 - (B) Maximum in any one year - 2 CEU
- (c) No more than one-half (1/2) of the total credit units shall be accepted for any one (1) calendar year.
 - (1) Credit units shall be obtained in at least three (3) of the five (5) years, in any combination, so that the total number obtained equals or exceeds the five (5) year requirement.
 - (2) The continuing education units may be prorated for any applicator whose recertification period is less than five (5) years.
 - (3) The Department may allow a CEU to be credited to more than one (1) category.
- (d) The CEU shall be structured to provide the following information over the five (5) year period:
 - (1) Laws and rules;
 - (2) Pesticides (formulations, registration, labeling and label comprehension, handling and storage, toxicity, and hazards);
 - (3) Application equipment and calibration;
 - (4) Pests and IPM;
 - (5) Identification of hazardous areas;
 - (6) Drift prevention;
 - (7) Endangered species;
 - (8) Groundwater; and
 - (9) Worker protection.
- (e) Any person may request approval of an education program as CEU.
 - (1) The request for approval shall include the following:

- (A) A list of proposed topics including a description of the content and their relative value for meeting the standards of continuing certification;
- (B) A list of speakers and their qualifications; and
- (C) Method used to verify attendance and evaluate the progress of participants.
- (2) The Department and the Oklahoma State University Pesticide Coordinator shall review the request for approval to determine if it meets the criteria of CEU.
 - (A) If the education program is approved for CEU, the person requesting approval shall be notified of the number of assigned CEU.
 - (B) The person requesting approval may appeal the number of assigned CEU to a three-person review committee with a representative from each of the following:
 - (i) Oklahoma State University;
 - (ii) the Department; and
 - (iii) certified applicators.

PART 5. PREREQUISITES FOR LICENSING

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

- (a) Prior to issuance of any license, an applicant shall properly complete a license application.
- (b) An application for license shall be considered properly filed when the Board has received the following:
 - (1) An application completed and signed prior to January 1 of the license year.
 - (2) Cash, check, or money order in the proper amount.
 - (3) Certificate of insurance.
- (c) A commercial pesticide applicator operating under more than one business identity or name from a single business location shall be licensed separately for each business identity or name, including but not limited to any trade name, "d/b/a", website, alias, or other designation used in commerce for the purpose of offering services regulated by this subchapter.
- (d) The application shall also list the natural person or legal entity lawfully permitted to do business in the State of Oklahoma using or operating under the licensed name.
- (e) The Department shall issue a stop sale order and initiate license revocation proceedings against any person or legal entity that is not lawfully permitted to do business in the State of Oklahoma or is not permitted to do business in the State of Oklahoma under the business identity or name provided in the application.
- (df) A commercial pesticide applicator with a single business identity or name but operating from more than one business location shall be licensed at each separate business location.
- (eg) If the name selected by an applicant for a license to act, operate, or do business or advertise as a commercial or non-commercial applicator in the State of Oklahoma is the same or so near the same as that of another licensee already doing business in the state as to cause confusion in the minds of the people or is likely to deceive the public, the Department may require the applicant to apply for a license under a different name that is distinguishable from the names of existing licensees. Any

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determination made pursuant to this rule shall be at the sole discretion of the Department.

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

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

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

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

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

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

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

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) ~~2014 Revision~~ (2015 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 8. PESTICIDE REGISTRATIONS AND PERMITS

35:30-17-17.3. Pesticide and device labeling

The Department adopts the same requirements for pesticide and device labeling found at 40 CFR § 156.10.

(1) The Department shall accept a copy of the latest fully corrected label accepted by the United States Environmental Protection Agency (EPA) for federal registration of the pesticide provided the label is compliant with labeling requirements existing when the label was submitted to the Department. Additionally, a true and correct copy of the pesticide product label as it appears on the package or container in the marketplace and a copy of the safety data sheet (SDS) shall be submitted with each registration application.

(2) The Department shall accept a copy of the latest fully corrected label accepted by the EPA for federal registration of the device provided the label is compliant with labeling requirements existing when the label was submitted to the Department. Additionally, a true and correct copy of the pesticide product label as it appears on the package or container in the marketplace.

(3) For pesticides exempt from federal registration pursuant 7 USC § 136w(b) (referred to as "FIFRA 25(b) products"), the Department shall accept a true and correct copy of the pesticide product label as it appears on the package or container in the marketplace and a copy of the safety data sheet (SDS) shall be submitted with each registration application.

(4) Notwithstanding the foregoing, Federally accepted labeling does not obligate the Department to register any pesticide or device for use in the State. The Department may refuse to register a product if the Department determines there is insufficient credible evidence concerning the formulation, efficacy, or suitability for use in Oklahoma.

(5) Before registering a pesticide or device for use in Oklahoma, the Department may require the submission of satisfactory data from the registrant supporting any claims about the formulation, efficacy, or suitability for use in Oklahoma.

PART 11. STANDARDS FOR APPLICATION OF PESTICIDE

35:30-17-24. Approved chemicals and equipment

(a) Only chemicals which are properly labeled as pesticide products and registered with the Department shall be approved for use as provided for in 2 O.S., Section 3-85.

(b) Any use inconsistent with the pesticide product labeling, registered with the Department is prohibited unless prior written approval for the use has been obtained from the Board. Approval may be obtained by application with reference to:

(1) Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act as Amended, application procedures.

(2) Section 24(c) of the Federal Insecticide, Fungicide, and Rodenticide Act as Amended, application procedures.

(3) Section 2(ee) of the Federal Insecticide, Fungicide, and Rodenticide Act as Amended, for commercial and noncommercial pesticide applications.

(c) To protect public health and the environment, failure to follow precautionary and recommended language included in

the pesticide product label may be considered a use ~~not suitable or safe~~ inconsistent with the label.

(d) Every applicator of pesticides shall employ an appropriate method to prevent the backflow of spray materials during filling, mixing, and/or application operations. The method shall include, but not be limited to, the employment of a check valve or similar in-line device, or positive mechanical method, such as an air gap, designed to insure that backflow shall not occur.

(e) No person shall use a mist blower or other type of air blasting or misting equipment for the application of hormone type herbicides within the State except where the following specific conditions exist:

- (1) Forest nursery and timber production areas where the control of undesirable vegetation with a hormone type herbicide is necessary and the area cannot be covered by any other type of ground application equipment.
- (2) Range, pasture, and crop areas where control of undesirable vegetation with a hormone type herbicide is necessary and a specific type of terrain feature such as a gully precludes the use of any other type of ground application equipment.

(f) Application of a hormone type herbicide under one of the exceptions given in paragraph (e) of this Section is subject to the following restrictions:

- (1) At no time during the application shall the outlet point above horizontal.
- (2) At no time shall an application be performed in a wind speed over 10 MPH.
- (3) The person making the application shall keep records as required by law.

35:30-17-24.1. Restricted use areas

(a) Applications of products containing 2,4-D esters or dicamba as an active ingredient to agricultural lands shall not be made in Greer, Harmon, and Kiowa counties between 12:01 a.m. of May 1 of each calendar year through 11:59 p.m. of October 15 of each calendar year except in accordance with the provisions of this section.

(b) Applications of products containing 2,4-D, dicamba, picloram, triclopyr, or clopyralid as an active ingredient to agricultural lands shall not be made in Jackson and Tillman counties between 12:01 a.m. of May 1 of each calendar year through 11:59 p.m. of October 15 of each calendar year except in accordance with the provisions of this section.

(c) Any person intending to apply any of the herbicides listed in subsection (a) or (b) in the counties and during the times prohibited shall adhere to the following procedure:

- (1) The person shall notify the Department of the intent to apply herbicides listed in subsection (a) or (b) prior to the application on a form provided by the Department.
- (2) The person shall file a report with the Department on a form provided by the Department no later than seven (7) working days after the last application date provided in the original notification of the herbicide use.

(d) Failure to comply with this section shall be ~~considered a use that is not suitable or safe~~ a violation.

(e) All records and notifications required by this section shall be in addition to any records required to be maintained by a commercial applicator pursuant to other rules.

(f) The provisions of this section shall not apply to applications of 2,4-DB.

PART 15. MINIMUM STANDARDS FOR TERMITE WORK FOR EXISTING STRUCTURES

35:30-17-69.2. Exceptions to minimum standards

(a) Exceptions to minimum standards for a complete treatment shall include the following:

- (1) The property owner agrees with the written explanation in the contract as to why the standard was not performed. Sections 35:30-17-66 and 35:30-17-69 shall in no case be written out of the contract; or
- (2) The termiticide label specifically allows for a variation and the variation is stated in the contract.

(b) Exceptions to minimum standards for a spot or partial treatment shall include the following:

- (1) The property owner agrees with the written explanation in the contract as to why the standard is not performed, or the termiticide label specifically allows for a variation and the variation is stated in the contract. Sections 35:30-17-66 and 35:30-17-69 shall in no case be written out of the contract.
- (2) The contract shall include the statement, "This is a SPOT/PARTIAL treatment," or otherwise clearly convey that the treatment is not a complete termite treatment.
- (3) The contract shall specifically identify the exact location where the spot treatment is performed and the treatment shall meet all minimum standards for the specific location identified. The identified spot treatment location shall not be equal to the entire structure.
- (4) The contract shall not contain any misrepresentations or false claims regarding the effectiveness of a spot or partial treatment.

(c) The Board of Agriculture may grant an exception to existing rules or minimum standards if:

- (1) The registered pesticide allows for the use or application method that is currently prohibited under rule or minimum standards; and
- (2) The manufacturer provides verifiable research data to the Board concerning the efficacy of the chemical or methodology.

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) ~~2014 Revision~~ (2015 Revision), Part 156.140 et

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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.

[OAR Docket #16-616; filed 6-22-16]

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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, 2016:

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

[OAR Docket #16-617]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 3. Meat Inspection

Part 1. General Provisions

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

Subchapter 5. Poultry Products Inspection

Part 1. General Provisions

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

35:37-5-2. Deleted regulations and exemptions [AMENDED]

AUTHORITY:

Okla. Const., Art. 6, § 31; State Board of Agriculture; 2 O.S. § 2-4(A)(2); 2 O.S. § 6-181 et seq., and 2 O.S. § 6-251 et seq.

SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:

November 5, 2015

COMMENT PERIOD:

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PUBLIC HEARING:

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ADOPTION:

January 25, 2016

SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:

February 3, 2016

APPROVED BY GOVERNOR'S DECLARATION:

Approved by Governor's declaration on June 9, 2016

FINAL ADOPTION:

June 9, 2016

EFFECTIVE:

September 11, 2016

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

Incorporated Standards:

Title 9 of the Code of Federal Regulations, Parts 301 to 391; 416; 417; 418; 424; 430; 441; 442; and 500 (2015 Revision) with some exceptions.

Incorporating Rules:

35:37-3-1

35:37-5-1

35:37-5-2

Availability:

8:00 a.m. to 4:30 p.m., Monday through Friday at the Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105, (405) 522-5803.

ANALYSIS:

The rule amendments update legal citations 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

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) (~~2014~~2015 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.

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) (~~2014~~2015 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 Parts 381; 416; 417; 418; 424; 441; 442; and 500), (~~2014~~2015 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.

[OAR Docket #16-617; filed 6-22-16]

**TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY
CHAPTER 40. MARKET DEVELOPMENT**

[OAR Docket #16-618]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

- Subchapter 5. Agriculture Enhancement and Diversification Program
 - Part 1. Definitions
 - 35:40-5-1. Definitions [AMENDED]
 - Part 3. Applicant Eligibility
 - 35:40-5-31. Applicant eligibility [AMENDED]
 - Part 5. Evaluation and Funding Criteria
 - 35:40-5-51. Evaluation and funding criteria [AMENDED]
 - Part 7. Procedure for Loan or Grant Requests
 - 35:40-5-71. Applications for loan or grant requests [AMENDED]
 - Part 9. Supplemental Program Information
 - 35:40-5-91. Supplemental program information [AMENDED]
 - Part 11. Terms of Loans or Grants
 - 35:40-5-111. Terms of loans or grants [AMENDED]
 - Part 19. Disbursements
 - 35:40-5-191. Disbursements [AMENDED]
 - Part 23. Agriculture Event Grants [NEW]
 - 35:40-5-121. Agriculture Event Grants [NEW]
- Subchapter 19. Oklahoma Viticulture and Enology Center Development
 - Revolving Fund [NEW]
 - 35:40-19-1. Purpose [NEW]
 - 35:40-19-2. Definitions [RESERVED]
 - 35:40-19-3. Eligibility [NEW]
 - 35:40-19-4. Evaluation [NEW]
 - 35:40-19-5. Submission of applications [NEW]
 - 35:40-19-6. Supplemental program information [NEW]
 - 35:40-19-7. Disbursements [NEW]

AUTHORITY:

Okla. Const., Art. 6, § 31; State Board of Agriculture; 2 O.S. § 2-4(A)(2); 2 O.S. § 5-3.1, et seq. as amended by HB 1437 (effective November 1, 2015); and 37 O.S. § 563.1 as amended by SB 256 (effective November 1, 2015).

SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:

November 5, 2015

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March 1, 2016

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March 8, 2016

APPROVED BY GOVERNOR'S DECLARATION:

Approved by Governor's declaration on June 9, 2016.

FINAL ADOPTION:

June 9, 2016

EFFECTIVE:

September 11, 2016

SUPERSEDED EMERGENCY ACTIONS:

Superseded rules:

- Subchapter 5. Agriculture Enhancement and Diversification Program
 - Part 3. Applicant Eligibility
 - 35:40-5-31. Applicant eligibility [AMENDED]

Permanent Final Adoptions

- Part 5. Evaluation and Funding Criteria
- 35:40-5-51. Evaluation and funding criteria [AMENDED]
- Part 7. Procedure for Loan or Grant Requests
- 35:40-5-71. Applications for loan or grant requests [AMENDED]
- Part 9. Supplemental Program Information
- 35:40-5-91. Supplemental program information [AMENDED]
- Part 11. Terms of Loans or Grants
- 35:40-5-111. Terms of loans or grants [AMENDED]
- Part 19. Disbursements
- 35:40-5-191. Disbursements [AMENDED]
- Part 23. Agriculture Event Grants [NEW]
- 35:40-5-121. Agriculture Event Grants [NEW]

Gubernatorial approval:

November 2, 2015

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33 Ok Reg 198

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15-873

Superseded rules:

Subchapter 19. Viticulture and Enology Center Development Revolving Fund [NEW]

35:40-19-1. Purpose [NEW]

35:40-19-2. Definitions [RESERVED]

35:40-19-3. Eligibility [NEW]

35:40-19-4. Evaluation [NEW]

35:40-19-5. Submission of applications [NEW]

35:40-19-6. Supplemental program information [NEW]

35:40-19-7. Disbursements [NEW]

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November 2, 2015

Register publication:

33 Ok Reg 201

Docket number:

15-875

INCORPORATIONS BY REFERENCE:

n/a

ANALYSIS:

The proposed amendments incorporate changes to the Oklahoma Agriculture Enhancement and Diversification Act by HB 1437 (effective November 1, 2015) directing the Board of Agriculture to provide grants and loans from the Oklahoma Agriculture Enhancement and Diversification Program to "agricultural events"; and changes to the Oklahoma Viticulture and Enology Center Development Revolving Fund by SB 256 (effective November 1, 2015) directing the Board of Agriculture to administer the Fund.

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., SECTION 250.3(5) AND 308(E) WITH AN EFFECTIVE DATE OF SEPTEMBER 11, 2016:

SUBCHAPTER 5. AGRICULTURE ENHANCEMENT AND DIVERSIFICATION PROGRAM

PART 1. DEFINITIONS

35:40-5-1. Definitions

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

"Advisory Board" means the ~~Oklahoma Agriculture Enhancement and Diversification Advisory Board.~~

"Agricultural product" means a product of cultivating the soil, growing crops, or raising livestock, horticultural commodity, silvicultural commodity, or agricultural product, horticultural product, viticulture, or silvicultural product, or bees and honey, planting seed, rice, livestock or livestock product, or poultry or poultry product, produced in this state, either in its natural state or as processed by the producer.

"Agricultural producer" means a person engaged in the business of cultivating, growing, raising, or processing for commercial purposes an agricultural commodity.

"Agritourism" means a working farm or ranch that is open to the public for purposes of purchasing products, public learning opportunities, recreational activities and stimulate economic growth and viability in rural communities by promoting and fostering agritourism ventures in Oklahoma.

"Applicant" means a person who is requesting loans or grants from the Oklahoma Agriculture Enhancement and Diversification Program.

"Application" means a form provided by the ~~Advisory Board~~ Department, that is used to request funds in the form of a loan or grant.

"Board" means the State Board of Agriculture or its designee.

"Borrower" means an individual, group of individuals, or an individual acting on behalf of a group or a corporation, which have been lent funds, as a loan.

"Contract" means a signed agreement between the State Board of Agriculture and the borrower or grantee outlining the terms and conditions of the loan or grant, including repayment schedules and other guidelines.

"Cooperative" means a group of individuals working together, who have an informal or formal agreement.

"Family farm" means a single family unit or multiple family members of the same lineage engaged in the business of producing or causing to be produced for commercial purposes an agriculture commodity.

"Grant" means funds awarded to an entity by the ~~Advisory~~ State Board of Agriculture, with no reimbursement required.

"Grantee" means an individual, group of individuals, or an individual acting on behalf of a group or a corporation that has been awarded funds as a grant.

"Loan" means funds provided by the ~~Advisory~~ State Board of Agriculture. Terms and conditions of the loan shall be outlined in a contract between the State Board of Agriculture and the borrower.

"Nontraditional crops" "nontraditional livestock" means any crops, livestock or agricultural products except wheat, corn, soybeans, milo, peanuts, cotton, hay, oats, beef cattle, dairy cattle, swine, poultry, and equine.

"Proposal" means a portion of the application that includes the executive summary, project narrative, list of funding sources and a breakdown of planned expenditures by those sources and the project budget.

PART 3. APPLICANT ELIGIBILITY

35:40-5-31. Applicant eligibility

(a) ~~All applicants~~An Applicant shall be individual person of at least 21 years of age and shall reside and be a legal resident of the state of Oklahoma, Oklahoma corporation or legal entity, or Oklahoma governmental subdivision.

(b) Eligibility may be given to those applicants whose:

- (1) Projects demonstrate a shared commitment for funding or in kind services from the applicant and other private or public sources, if any;
- (2) Industrial and nonfood production processes utilize agricultural products;
- (3) Food, feed and fiber products and their uses are innovative and add to the value of agricultural products;
- (4) Applications demonstrate a high feasibility of job creation and return-on-investments;
- (5) Proposals demonstrate a high feasibility of rapid commercialization;
- (6) Proposals center efforts on non-urban locales;
- (7) Principals are individuals, a group of individuals, an individual acting on behalf of a group, or corporations which meet the criteria set forth in Section 951 of Title 18 of the Oklahoma Statutes, to market a product or formulate or implement a marketing plan for products which have not been marketed through existing marketing cooperatives;
- (8) Proposals contain the potential to create additional income for the farm unit;
- (9) Proposals provide for new innovative plans for marketing the product;
- (10) Proposals feature research that is innovative as well as commercially feasible: or
- (11) Proposals shall result in creation or expansion of viable agritourism venues.

(c) Eligibility may be given for new agricultural event applicants that:

- (1) Highlight an agricultural commodity;
- (2) Include an educational component;
- (3) Enhance the economic impact of the agricultural commodity;
- (4) Impact a large geographic region of the state; and
- (5) Are endorsed by a governmental subdivision or local Chamber of Commerce.

(d) Eligibility may be given for an established agricultural event applicants that:

- (1) Enhance the economic impact of an agricultural commodity;
- (2) Include an educational component;
- (3) Include proposals to increase participation and attendance;
- (4) Are endorsed by a governmental subdivision or local Chamber of Commerce; and
- (5) Provide supporting documents demonstrating the economic impact of prior agricultural events.

(ee) Consideration shall not be given to applications for:

- (1) Research or marketing plans which do not clearly meet the stated objectives of the Oklahoma Agriculture Enhancement and Diversification Program;

(2) Proposals which are aimed solely at business expansion or creation without regard to agricultural products utilization; and

(3) Research or marketing plans that cannot reasonably be expected to result in a viable commercial application, or that are or have been duplicated by other research efforts.

PART 5. EVALUATION AND FUNDING CRITERIA

35:40-5-51. Evaluation and funding criteria

(a) ~~The State Board of Agriculture delegates the evaluation of applications for loans or grants to the Advisory Board. The Advisory Board~~Department shall evaluate each proposal. ~~The Advisory Board shall provide a report to the State Board of Agriculture of funding of loan or grant proposals. Each Advisory Board member's evaluation shall be based upon one hundred possible points, according to the following criteria:~~

- (1) ~~An evaluation of the likelihood of the proposal's success.~~
- (2) ~~Demonstration of a high probability of job and wealth creation.~~
- (3) ~~A review of credibility, merit, technical, and commercial feasibility; innovative and commercially plausible research; and relative competence and technical qualifications of project principals.~~
- (4) ~~Demonstration that the proposal can be implemented quickly and has a high probability of rapid commercialization.~~
- (5) ~~Demonstration of a shared commitment for funding from other private or public sources or the applicant in the form of cash, in kind services, or both. Indirect costs may qualify as matching funds. Preference shall be given to the applications with shared cash funding however, disbursement of funds shall be contingent upon evidence that matching funds have been allocated to the proposal.~~
- (6) ~~Centering of efforts on non-urban or rural locales except when the proposal requires specific research that cannot possibly be carried out in rural Oklahoma, consideration shall be given to the ultimate development and commercialization of the results of the proposal, with the same rural preference.~~

(b) Each application evaluation shall be based on the following criteria:

- (1) An evaluation of the likelihood of the proposal's success.
- (2) Demonstration of a high probability of job and wealth creation.
- (3) A review of credibility, merit, technical, and commercial feasibility; innovative and commercially plausible research; and relative competence and technical qualifications of project principals.
- (4) Demonstration that the proposal can be implemented quickly and has a high probability of rapid commercialization.
- (5) Demonstration of a shared commitment for funding from other private or public sources or the applicant in

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the form of cash, in-kind services, or both. Indirect costs may qualify for matching funds. Preference shall be given to the applications with shared cash funding however, disbursement of funds shall be contingent on the production of evidence that matching funds have been allocated to the proposal.

(6) Centering of efforts on non-urban or rural locales except when the proposal requires specific research that cannot possibly be carried out in rural Oklahoma, consideration shall be given to the ultimate development and commercialization of the results of the proposal, with the same rural preference.

(c) Each application evaluation for new or established agricultural events shall be based on the following criteria:

- (1) The completeness of the application;
- (2) The likelihood of success;
- (3) Level of economic impact of the agricultural event;
- (4) A review of educational component;
- (5) The impact to Oklahoma agriculture;
- (6) The size of geographic region of the state impacted;
- (7) The use of grant funds; and
- (8) Endorsements by governmental subdivisions, local Chambers of Commerce, and other community organizations.

PART 7. PROCEDURE FOR LOAN OR GRANT REQUESTS

35:40-5-71. Applications for loan or grant requests

~~Contact the Market Development Services Division of the Oklahoma Department of Agriculture, Food, and Forestry for application guidelines. Applications for loans or grants are limited to the equivalent of twenty (20) typed, single-spaced or double-spaced eight and one-half inch by eleven inch pages including any attachments. Fifteen (15) copies of the proposal shall be delivered to the Oklahoma Agriculture Enhancement and Diversification Advisory Board in care of the Oklahoma Department of Agriculture, Food, and Forestry, P.O. Box 528804 Oklahoma City, OK 73152. Applications shall be submitted electronically to the Oklahoma Department of Agriculture, Food and Forestry.~~

PART 9. SUPPLEMENTAL PROGRAM INFORMATION

35:40-5-91. Supplemental program information

- (a) ~~Proposals are not limited to a specific dollar amount. However, the Advisory Board's loan or grant moneys are finite. The Advisory Board~~ Department reserves the right to recommend an increase or decrease in the amount of requested funding based on its findings and on its level of available funds.
- (b) ~~Proposals may be submitted at anytime any time. Deadline dates for submissions are January 1st, April 1st, July 1st, and October 1st~~ or the next regular business day if the Department offices are closed on the day specified. Reviews for loan and grant requests shall be made on a quarterly basis.

(c) ~~The Oklahoma Department of Agriculture, Food, and Forestry shall complete initial screening for completeness and eligibility of all proposals upon receipt. Should revisions or corrections be deemed necessary, the applicant may withdraw and resubmit so long as they submit the revision by the deadline dates. Each proposal shall be considered individually by the Advisory Board. A decision to accept, modify, or deny each shall then be made, by majority vote of at a quorum of the Advisory Board. Should the Advisory Board adopt~~ Department recommend a funding level less than the amount requested in the proposal, the ~~Advisory Board~~ Department shall confer with the applicant to determine whether the amount recommended would alter the project's feasibility. No ~~member of the Advisory Board individual~~ may participate in, or vote on, a decision of the ~~Advisory Board~~ on an application relating to an organization in which that individual has a direct personal financial interest.

(d) ~~Following approval of the loan or grant request by the State Board of Agriculture, a formal loan or grant contract shall be executed between the Board and the borrower or grantee. This agreement shall specify the agreed upon objectives, tasks to be performed, time line and budget, fund release schedule, and any other conditions specific to the individual proposal. Under the terms of all loan or grant contracts, the borrower or grantee shall submit an interim report to the Advisory Board~~ Department for approval that outlines the projects progress, time lines, and budget compliance prior to the Department issuing each of the subsequent payments. In most cases, the entire loan or grant amount shall not be released at the time of the ~~Advisory Board's~~ decision. The release of funds shall be tied to the loan or grant contract, and any insufficiencies with the contract may result in withholding of further funding. Grant awards exceeding \$2,500 shall be disbursed in two or more installments to the grantee. Borrowers and grantees shall submit a comprehensive final written report describing the work performed and the results obtained no later than sixty (60) days after completion of the contract. This comprehensive report shall be supplemented by the financial report of all expenses actually incurred and income generated by the project.

(e) ~~To protect the investment of the Board and of the people of Oklahoma, those financial documents, books, receipts, orders, expenditures, electronic data, and accounting procedures and practices of the borrower or grantee necessary to evaluate the use of loan or grant funds are subject to examination by or for the Advisory Board~~ Department at any time for three years following the termination of the project.

(f) ~~Oklahoma Agriculture Enhancement and Diversification loan or grant funds may be used to pay salaries, buy supplies, and cover day-to-day expenses of the project.~~

(g) ~~To the extent allowed under Oklahoma law, the Advisory Board~~ Department may limit the dissemination of information concerning a proposal, but in any event, does not assume any liability for inadvertent disclosure.

(h) ~~Subject to the policies, if any, of participating public programs and entities, rights to use products, processes, or services developed under this loan or grant program shall remain with the borrower or grantee. Subject to the same~~

policies, all rights to project outcomes may revert to the ~~Advisory Board~~Department if the borrower, grantee or assignee fails to market the product, process, or service in accordance with individually negotiated funding contracts. In such cases, the ~~Advisory Board~~Department shall provide notice and the opportunity to others to assume control of research projects. In these cases, priority shall be given to any licensee under such property or others who benefit Oklahoma commercially, with first priority being given to small firms in non-urban areas of the state.

(i) In certain cases, the ~~Advisory Board~~Department may receive royalties on the sale or lease of any product, process, or service developed under the ~~Advisory Board~~ loan or grant. Royalty agreements shall be negotiated at the time of the loan or grant contract and shall be structured so that the ~~Advisory Board~~Department can recover a portion of its investment of public funds. Repaid funds shall be used to make new investments in other Oklahoma Agriculture Enhancement and Diversification Program projects.

(j) In the event that a grantee or loan recipient fails to comply with the terms of the agreement, including but not limited to failure to pay back loans pursuant to the terms outlined in the Agreement or failure to submit reports in a timely manner, the grantee or loan recipient shall not participate in any events sponsored by any program of the Oklahoma Department of Agriculture, Food, and Forestry related to market development.

(k) Failure to complete the terms of the agreement shall result in an audit and collection activities by the Oklahoma Department of Agriculture, Food, and Forestry.

PART 11. TERMS OF LOANS OR GRANTS

35:40-5-111. Terms of loans or grants

(a) ~~Funds~~Loan funds shall be provided ~~in the form of a at~~ zero interest ~~loan~~ with repayment terms determined by the Board. Repayment of loans in an amount of \$20,000.00 or less shall begin three (3) years from the date funds are initially issued to the borrower and shall be completed in not more than three (3) years. Repayment of loans in an amount over \$20,000.00 shall begin three (3) years from the date funds are initially issued to the borrower and shall be completed in not more than five (5) years. Loan repayments shall be in equal installments as specified in the loan contract.

(b) In the event the facility or project fails to succeed, the borrower may submit in writing, a petition to the ~~Advisory Board~~Department to convert the balance from a loan to a grant. ~~Petitions to convert loans to grants may be considered by the Advisory Board at the next available quarterly meeting following receipt of the petition.~~ Petitions recommended for approval ~~by the Advisory Board~~ shall be submitted to the State Board of Agriculture for final determination.

(c) Grant funds for Farm Diversification, agritourism venue development and expansion, and Basic and Applied Research projects may be awarded ~~specifically as grants of in amounts~~ up to but not exceeding \$10,000.

(1) Grants awarded for less than \$2,500 shall not be required to provide matching funds.

(2) Grants awarded for ~~\$2,500~~\$2,501 to \$5,000 shall require a matching contribution of funds or in-kind.

(3) Grants awarded in excess of ~~\$5,000~~\$5,001 shall require a dollar for dollar ratio of matching dollars.

(d) Grant funds for Agriculture events may be awarded in amounts up to but not exceeding \$10,000.

(1) Grants awarded in the amount of \$2,500 or less shall have supporting documents projecting an economic impact up to \$5,000.

(2) Grants awarded in the amount of \$2,501 to \$5,000 shall have supporting documents projecting an economic impact of \$5,001 to \$75,000.

(3) Grants awarded in the amount of \$5,001 to \$10,000 shall have supporting documents projecting an economic impact of more than \$75,000.

PART 19. DISBURSEMENTS

35:40-5-191. Disbursements

(a) Upon final approval of the proposal by the State Board of Agriculture, and completion of a ~~mutually agreed upon~~ contract, and issuance of a purchase order, applicants shall receive ~~one third (1/3) of the total loan or grant amount for the proposed project~~ full or partial disbursements pursuant to the terms of the contract between the grantee and the Department.

(b) The grantee or borrower shall submit an invoice and ~~documents~~documentation supporting expenditures with each interim report for approval to the ~~Advisory Board~~Department prior to the disbursement of ~~each~~ subsequent payment~~payments~~.

PART 23. AGRICULTURE EVENT GRANTS

35:40-5-121. Agriculture event grants

(a) Agriculture event grants shall be for the purpose of creating a new agricultural event, highlighting an agricultural commodity, expanding the economic benefits of an established agricultural event, increasing agricultural productivity and participation, or enhancing economic impact of the event on local or regional commerce.

(b) An agricultural event grant shall include an educational component.

SUBCHAPTER 19. OKLAHOMA VITICULTURE AND ENOLOGY CENTER DEVELOPMENT REVOLVING FUND

35:40-19-1. Purpose

The purpose of the Oklahoma Viticulture and Enology Center Development Revolving Fund is to:

(1) Develop viticulture-related and enology-related educational programs;

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- (2) Develop technologies, strategies, or practices that aid in the production of grapes and wine in Oklahoma; and
- (3) Increase the positive economic impact of the Oklahoma wine industry on this state.

35:40-19-2. Definitions [RESERVED]

35:40-19-3. Eligibility

An applicant shall be eligible for funding assistance in the form of a grant from the Oklahoma Viticulture and Enology Center Development Revolving Fund if the applicant meets the following eligibility requirements:

- (1) An applicant shall be an institution of higher education in Oklahoma, a state agency or governmental subdivision of Oklahoma, or a trade group promoting grape or wine production industries within Oklahoma; and
- (2) Projects proposed by the applicant shall be limited to scientific research, education, product development, or marketing projects that support the purpose of the Oklahoma Viticulture and Enology Center Development Revolving Fund.

35:40-19-4. Evaluation

The Department shall evaluate applications for funding in the form of a grant from the Oklahoma Viticulture and Enology Center Development Revolving Fund and may consider some or all of the following factors:

- (1) Whether the application clearly meets the criteria of the Oklahoma Viticulture and Enology Center Development Revolving Fund purpose, goals, and objectives;
- (2) Whether the proposed project is commercially feasible, can be duplicated by other grape and wine producers, or will aid in the production of grapes and wine in Oklahoma and
- (3) Whether the outcome will provide a positive impact on the Oklahoma wine industry.

35:40-19-5. Submission of applications

- (a) Applications shall be electronically submitted to the Department on a form designated by the Department.
- (b) Applications shall identify the category of the proposed project and describe the goals and benefits of the proposed project, as follows:

- (1) For projects related to scientific research, the application shall describe proposed research project and in what manner the project will benefit grape and wine production in Oklahoma;
- (2) For projects related to education, the application shall describe the proposed educational coursework and in what manner the project will educate or provide technical assistance to individuals and businesses engaged in the grape or wine production industries within Oklahoma;
- (3) For projects related to product development, the application shall describe the proposed project and in

what manner the project improves the quality or variety of grapes or wine produced in Oklahoma; and

- (4) For projects related to marketing, the application shall describe the proposed project and how the project will promote grapes and wines produced in Oklahoma.

35:40-19-6. Supplemental program information

- (a) Following approval of the application, a contract shall be executed between the Department and the grantee. The Department shall not disburse grant funding to the grantee until the contract is executed and a purchase order is issued.
- (b) The grantee shall not expend funds for the project until after receiving notice the purchase order has been issued.
- (c) The contract shall specify the agreed upon objectives and tasks to be performed. The release of funds shall be tied to the completion of contract objectives. Failure to complete contract objectives may result in the Department withholding further funding and recovery of previously disbursed funds.
- (d) Before December 31 of each year, the grantee shall submit a final report to the Department in a form specified by the Department. If the applicant received a grant the previous year, the final report shall be submitted before funds are disbursed for the following year.

35:40-19-7. Disbursements

- (a) The grantee shall submit receipts supporting expenditures.
- (b) Grant awards to any applicant shall not exceed \$50,000 per fiscal year.

[OAR Docket #16-618; filed 6-22-16]

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

[OAR Docket #16-619]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

- Subchapter 1. Agriculture Environmental Permitting and AgPDES
- Part 1. General Provisions
- 35:44-1-3. Date of federal regulations incorporated [AMENDED]
- Subchapter 3. Permit Conditions and Requirements
- 35:44-3-3. Date of federal regulations incorporated [AMENDED]

AUTHORITY:

Okla. Const., Art. 6, § 31; State Board of Agriculture; 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.; and 27A O.S. § 1-3-101(D).

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June 9, 2016

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SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

Incorporated Standards:

Title 40 of the Code of Federal Regulation (2015 Revision)

Incorporating Rules:

35:44-1-3

35:44-3-3

Availability:

8:00 a.m. to 4:30 p.m., Monday through Friday at the Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105, (405) 522-5803.

ANALYSIS:

The rule amendments update references to the Code of Federal Regulations.

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, 2016:

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, 2014~~ Title 40 of the Code of Federal Regulations (2015 Revision).

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, 2014~~ Title 40 of the Code of Federal Regulations (2015 Revision).

[OAR Docket #16-619; filed 6-22-16]

TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY CHAPTER 50. AQUACULTURE

[OAR Docket #16-620]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 1. Private Commercial Production
Part 1. General Provisions
35:50-1-2. Definitions [AMENDED]
Part 3. Licensing, Reporting, and Records
35:50-1-37. Technical services [REVOKED]

AUTHORITY:

Okla. Const., Art. 6, § 31; State Board of Agriculture; 2 O.S. § 2-4(A)(2); and 2 O.S. § 6-311 et seq.

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SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

ANALYSIS:

The rule amendments update references to the Code of Federal Regulations.

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, 2016:

SUBCHAPTER 1. PRIVATE COMMERCIAL PRODUCTION

PART 1. GENERAL PROVISIONS

35:50-1-2. Definitions

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

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"Aquaculture operation" means a private commercial producer of catfish, minnows, fingerlings, fish, frogs, or other aquatic species for intrastate or interstate commerce.

"Aquatic species" means any species of finfish, mollusk, crustacean, or other aquatic invertebrates, amphibians, or reptiles. Aquatic species do not include species that are sold for retail aquarium use.

"BMP" means Best Management Practices.

"Fingerling" means a sexually immature fish for a majority of fish species.

"Operator" means the individual who has responsibility for the day to day operations of the facility. The operator may also be the owner.

"Owner" means the individual who has financial responsibility for the aquaculture operation and whose name appears as owner on all legal documents.

PART 3. LICENSING, REPORTING, AND RECORDS

35:50-1-37. Technical services [REVOKED]

~~At the owner's request the Department may provide technical assistance recommendations to owners of licensed aquaculture operations at the rate of thirty dollars (\$30.00) per hour. In addition, any costs for supplies, mileage, or other expenses shall be paid by the owner.~~

[OAR Docket #16-620; filed 6-22-16]

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

[OAR Docket #16-621]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 3. Standards of Care

35:55-3-1. Incorporation by reference [AMENDED]

35:55-3-6.1 Canine Brucellosis [NEW]

AUTHORITY:

Okla. Const., Art. 6, § 31; State Board of Agriculture; 2 O.S. § 2-4(A)(2); and 4 O.S. § 30.1 et seq.

SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:

November 5, 2015

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FINAL ADOPTION:

June 9, 2016

EFFECTIVE:

September 11, 2016

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

Incorporated Standards:

Title 9 of the Code of Federal Regulations, Part 3 (2015 Revision) unless otherwise specified.

Incorporating Rules:

35:55-3-1

Availability:

8:00 a.m. to 4:30 p.m., Monday through Friday at the Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105, (405) 522-5803.

ANALYSIS:

The rule amendments update incorporations by reference to the Code of Federal Regulations and establish testing and quarantine procedures for canine brucellosis.

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, 2016:

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, 2014(2015).

35:55-3-6.1. Canine brucellosis

(a) A commercial pet breeder shall have a biosecurity plan in place for the detection and eradication of canine brucellosis. The biosecurity plan shall be developed in consultation with the commercial pet breeder's attending veterinarian and shall include, but not be limited to, the following:

- (1) New breeding stock shall be initially quarantined prior to release into the general facility population.
- (2) New breeding stock shall test negative on two consecutive brucellosis tests conducted four to six weeks apart prior to exiting the initial quarantine.

(b) If canine brucellosis is confirmed in any dog on the premises of a commercial pet breeder, the premises shall be quarantined by the State Veterinarian. The parameters of the quarantine shall be determined by the State Veterinarian in consultation with the commercial pet breeder's attending veterinarian, and may include, but not be limited to, the following:

- (1) Any dog that is confirmed positive for canine brucellosis shall be humanely euthanized.
- (2) All dogs six weeks of age or older shall test negative on two consecutive brucellosis tests conducted four to six weeks apart.
- (3) Records of each sampling event, including identification of each euthanized dog, identification of each animal tested, laboratory sample results from an approved laboratory, and any other pertinent information, shall be provided to the Department upon request.
- (4) The State Veterinarian may, upon consultation with the commercial pet breeder's attending veterinarian, may modify the quarantine to allow for testing of fewer animals and quarantine of only a portion of the premises.

[OAR Docket #16-621; filed 6-22-16]

**TITLE 40. BOARD OF TESTS FOR ALCOHOL AND DRUG INFLUENCE
CHAPTER 1. ORGANIZATION, OPERATIONS, PROCEDURES AND POLICIES**

[OAR Docket #16-590]

RULEMAKING ACTION:
PERMANENT final adoption

RULES:
40:1-1-2 [AMENDED]
40:1-1-3 [AMENDED]
40:1-1-5 [AMENDED]

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

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n/a

INCORPORATIONS BY REFERENCE:

n/a

ANALYSIS:

The rule amendments update and clarify the roles and responsibilities of the members of the Board, and update the membership of the Board in accordance with amendments to 47 O.S. §759. The proposed rules eliminate language related to the Administrative Assistant to the Board, rendered superfluous by amendments to 47 O.S. §759. The proposed rules update renumbered statutory citation.

CONTACT PERSON:

Kevin Behrens, State Director of Tests, Board of Tests for Alcohol and Drug Influence, P.O. Box 36307, Oklahoma City, OK 73136-2307, 405-425-2460, kevin.behrens@dps.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, 2016:

40:1-1-2. Organization, powers, and duties

(a) **Statutory basis.** The Board of Tests for Alcohol and Drug Influence, in this Title called the Board, was recreated pursuant to Title 47, Section 759 of the Oklahoma Statutes, and is the successor agency to the Board of Chemical Tests for Alcoholic Influence.

(b) **Composition.** The Board consists of the following seven(8) members:

- (1) The Dean of the University of Oklahoma College of Medicine, or ~~the Dean's designee, who shall receive an appointment in writing, as Chairman~~
- (2) The Commissioner of Public Safety, or designee
- (3) The Director of the Oklahoma State Bureau of Investigation, or designee
- (4) The State Commissioner of Health, or designee
- (5) The Director of the Council on Law Enforcement Education and Training, or designee
- (6) A certified peace officer, who is a member of a local law enforcement agency, selected by the Oklahoma Sheriffs and Peace Officers Association
- (7) A person selected by the Oklahoma Association of Chiefs of Police.
- (8) The Dean of the Oklahoma State University College of Osteopathic Medicine, or a designee.

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(c) **Powers, authority, and duties.** The powers, authority, and duties of the Board are set forth in Title 47, Sections 751-761 of the Oklahoma Statutes, and in other applicable provisions of the Oklahoma Statutes.

(d) **Officers of the board.** ~~The Chairman of the Board is designated by Statute (47 O.S., Section 759). The Board elects a Chair and Vice-Chair from its membership every two years. A State Director of Tests for Alcohol and Drug Influence and an Administrative Assistant are each appointed by the Board, from among qualified persons, and serve—serves at the pleasure of the Board and until each such appointment is terminated by the Board or by resignation or other termination of service by the appointee.~~

40:1-1-3. General course and method of operation

(a) **Office(s) of the board.** The principal Administrative Office of the Board shall be located in Oklahoma City, Oklahoma, at a site designated by the Board.

(b) **Transaction of business with the board by the public.** Members of the public and others desiring to contact or make inquiries and submissions to the Board may do so in person at the principal Administrative Office of the Board, during normal and usual business hours for State of Oklahoma agencies, or by mail addressed to: State Director of Tests for Alcohol and Drug Influence, Board of Tests for Alcohol and Drug Influence, P.O. Box 36307 Oklahoma City, Oklahoma 73136, or through the Board's website at www.ok.gov/bot.

(c) **Access to records.**

(1) Copies of all Rules and Regulations adopted by the Board, and of all other written statements of policy or interpretations of general applicability by the Board, and of all final orders, decisions, and opinions of general applicability may be inspected, unless otherwise provided by law, ~~for proper purposes and in a proper manner,~~ at the principal Administrative Office of the Board during its normal business hours. Such records shall not be removed from the Board's office or the Board's custody and control for the purpose of inspection.

(2) Copies of Rules and Regulations adopted by the Board are also on file and available for public inspection in the Office of Administrative Rules, Office of the Secretary of State.

(d) **Meetings.** Meetings of the Board are conducted, in compliance with the Oklahoma Administrative Procedures Act, the Oklahoma Open Meeting Act and other applicable statutes, as follows:

(1) Regularly scheduled meetings of the Board will be held at least twice yearly with proper public notice.

(2) Special meetings of the Board may be called at any time by the Chairman, or upon written request of any four members of the Board, with proper public notice.

(3) Emergency meetings of the Board may be called by the Chairman or by any four members of the Board, whenever required and statutorily permitted, and without prior public notice if so required by exigent circumstances.

(4) Continued or reconvened meetings of the Board may be called by the Chairman, or upon written request of

any four members of the Board, as required to complete business of a prior meeting.

(5) All meetings of the Board shall be open to the public and other properly interested parties, except as otherwise provided by law.

(6) Meetings of the Board shall be presided over by the Chairman of the Board. In the absence of the Chairman, the Vice-Chairman will preside over the meeting. In the event that the Chairman and Vice-Chairman are not present at a meeting, the Board may elect from its members a chairman pro-tempore who shall preside at that meeting. All meetings of the Board shall be governed by applicable Oklahoma statutes; and ROBERT'S RULES OF ORDER, latest available edition, shall serve as the parliamentary authority for meetings of the Board unless otherwise required by law or otherwise voted. An affirmative vote by a simple majority of the members present at a meeting, at which a quorum exists, shall be necessary to adopt any motion presented before the meeting.

(7) Minutes or proceedings of all meetings of the Board shall be timely prepared and kept by ~~the Administrative Assistant to the Board, under the direction of the State Director of Tests for Alcohol and Drug Influence, or a designee.~~ They shall consist of a summary of the proceedings of each meeting showing:

(A) Members of the Board present or absent

(B) All matters considered by the Board

(C) All actions taken by the Board

(D) The vote of each member of the Board on any motion or other action taken by vote

(E) Manner and time of public notice of the meeting

(F) Other items as required.

(e) **Administration.**

(1) The general conduct and administration of the affairs and functions of the Board, between meetings thereof, shall be vested in the State Director of Tests for Alcohol and Drug Influence, ~~with the assistance of the Administrative Assistant to the Board and functioning under the direction and guidance of the Chairman of the Board. The Chairman of the Board, the State Director of Tests for Alcohol and Drug Influence, and the Administrative Assistant to the Board shall each have authority to act appropriately on behalf and as agents, agent of the Board, as permitted or required by law, on all matters within the Rules adopted by the Board or within existing Board policy, or as otherwise directed by the Board.~~

(2) The Chairman, or in the absence of the Chairman, the Vice-Chairman, or in the absence of the Chairman and Vice-Chairman the Chairman pro-tempore, shall have the following duties, responsibilities, and authority:

(A) Call meetings as set forth in these rules.

(B) Conduct meetings as set forth in these rules.

(C) Sign documents, on behalf of the Board, memorializing Board action.

(3) The State Director of Tests for Alcohol and Drug Influence shall have the following duties, responsibilities, and authority:

(A) Under the overall guidance of ~~the Chairman of the Board, and with the assistance of the Administrative Assistant to the Board,~~ to conduct and administer the affairs and functions of the Board between meetings thereof.

(B) As permitted or required by law, to act appropriately on behalf and as agent of the Board on all matters within the Rules adopted by the Board or within existing Board policy, or as otherwise directed by the Board.

(C) To function as the technical and administrative director of the State's program of testing for alcohol and drug influence in connection with traffic law enforcement, and of pertinent educational and training activities; and to provide direction, supervision, consultation, advice, and assistance as required on the technical and administrative aspects of such program and activities to all State and local agencies and officials.

(D) To administer, implement, enforce, and carry out the provisions of the Rules and the policies and procedures adopted by the Board, ~~with the assistance of the Administrative Assistant to the Board when appropriate.~~

(E) To attend meetings of the Board and render reports at such meetings, and otherwise when requested by the Board ~~or its Chairman.~~

(F) To carry on correspondence and other communications on behalf and as an agent of the Board.

(G) To perform other duties and functions as directed from time to time by the Board, or as required by law, or as required properly to effectuate the provisions of the Chemical Tests Act (47 O.S., Sections 751-761) and other statutes within the purview of the Board.

~~(3) The Administrative Assistant to the Board shall have the following duties, responsibilities, and authority:~~

~~(A) To act as Records Officer of the Board, to keep and maintain the official files and records of the Board, and to perform other duties as required by law.~~

~~(B) To attend meetings of the Board and render reports at such meetings, and otherwise when requested by the Board or its Chairman, or the State Director of Tests for Alcohol and Drug Influence.~~

~~(C) To prepare timely minutes of meetings of the Board and maintain a file of such official meeting minutes or proceedings.~~

~~(D) To assist the State Director of Tests for Alcohol and Drug Influence in the general conduct and administration of the affairs of the Board between meetings thereof.~~

~~(E) As required or permitted by law, to act appropriately on behalf of the Board as its agent on matters within the Rules adopted by the Board or within existing Board policy, or as otherwise directed by the Board.~~

~~(F) To assist the State Director of Tests for Alcohol and Drug Influence with correspondence and other communications, on behalf and as an agent of the Board and in cooperation with the State Director of Tests for Alcohol and Drug Influence and the Chairman of the Board.~~

~~(G) To perform other duties and functions as directed from time to time by the Board, or as requested by the Chairman of the Board or by the State Director of Tests for Alcohol and Drug Influence in order properly to effectuate the provisions of the Chemical Tests Act (47 O.S., Sections 751-761) and other statutes within the purview of the Board.~~

(f) **Seal.** The official seal of the Board shall consist of the words 'Board of Tests for Alcohol and Drug Influence-State of Oklahoma' in a circular band surrounding the official Star of the Great Seal of the State of Oklahoma.

40:1-1-5. Rules of practice for individual proceedings

(a) **General policies.** This Section applies to Orders formulated by the Board and to Individual Proceedings of the Board, where those terms have the respective meaning set forth in Title 75, O.S., Section ~~301-250.3~~. In formulating orders or conducting individual proceedings, the Board shall act in full compliance with the Oklahoma Administrative Procedures Act, and other applicable provisions of law, and otherwise in accordance with procedure and practices determined or designated by the Board.

(b) **Declaratory rulings and other orders.** Declaratory rulings as to the applicability of any Rule and Regulation or other order of the Board may be commenced and issued by the Board on its own initiative. Other orders, constituting all or part of an intermediate or final decision, and whether affirmative, negative, injunctive or declaratory in form [in matters other than rule-making and the exceptions provided for in 75 O.S., Section ~~301-(6)250.3(17)~~] may also be made and issued by the Board on its own initiative. Any properly interested party may also petition the Board, in accordance with procedures set forth hereinafter, to make and issue a declaratory ruling, or to amend any such declaratory ruling, or to make and issue any other order as defined in this Section. The Board will afford all properly interested parties reasonable opportunity to request a declaratory ruling or other order and to submit views, data, information, or arguments in support of such a request.

(c) **Petitions for declaratory rulings and other orders.** Petitions to the Board for declaratory rulings or other orders shall be in the following form and contain the following information:

(1) Petitions must be submitted in legible typewritten form, with the original copy submitted, and shall be submitted in person or by mail to the State Director of Tests for Alcohol and Drug Influence at the Board's principal Administrative Office.

(2) Petitions must clearly identify the submitting party or parties by name, address, official title, and complete business address; and must include a clear statement reflecting the interest of the submitter(s) in such petition and

the action to which it pertains, and the real party(ies) of interest if submission is by an agent or attorney.

(3) Every petition must clearly state that such petition is (a) for promulgation of a declaratory ruling as to applicability of any Rule and Regulation or order of the Board (which Rule and Regulation or other order shall be clearly and fully identified), or (b) for promulgation of any other order. A given petition may pertain to only one requested declaratory ruling or other order, and individual petitions are required for requested declaratory rulings or other orders on separate subjects.

(4) If the petition requests a declaratory ruling on a Rule and Regulation or any other order of the Board, the complete verbatim text of the existing rule or order language shall be included in the petition, together with the exact inquiry relating thereto. If the petition pertains to promulgation of a new order or amendment of an existing order, the petition shall set forth in clear itemized form the specific detailed matter(s) which the Board is asked to consider and the action(s) the Board is requested to take.

(5) All petitions must clearly and separately state the factual basis, reason, legal grounds, and public policy and technical justifications for each action requested of the Board. All available supporting documents, records, studies, and information bearing on the issue and available to the petitioner(s) must accompany the petition. The petition shall also contain or be accompanied by the names and addresses of all persons known to the petitioner(s) who are concerned with the subject matter of the petition.

(6) Petitions must be signed and endorsed by all petitioning parties, or their authorized legal representative(s); and such signature(s) and endorsement(s) must be duly attested to by a notary public.

(d) **Action on petitions.** All petitions shall be examined to determine whether the procedural requirements have been met and whether the facts, justifications and other submissions afford a reasonable basis for the requested declaratory ruling, other order, or other individual proceeding. Petitions found to be not in proper form or lacking the necessary reasonable basis for consideration by the Board will be returned to the submitter(s). Petitioner(s) will be notified whether and, if so, when the Board will consider a given petition. Action on accepted petitions will be considered by the Board at a regularly scheduled meeting or at a special meeting, as appropriate. If a petition for a declaratory ruling, other order, or other individual proceeding by the Board is accepted, the proposed action(s) shall thereafter be treated by the Board in full accordance with the Administrative Procedures Act. The Board may, in its discretion, refuse to make and issue a declaratory ruling or other order.

(e) **Costs associated with Individual proceedings.** If any party or parties in an individual proceeding before the Board desire and request stenographic or other recording of any hearing and the transcription into a written record of any such recording, the Board will make arrangements for such recording and transcription by a certified court reporter, upon written request for such action received by the Board not less

than ten (10) days before the hearing date, and upon receipt of an appropriate cash deposit in an amount to be determined by the Chairman of the Board or by the State Director of Tests for Alcohol and Drug Influence. A copy of any resulting written record of such hearings(s) shall be provided to the Board at the expense of the party or parties requesting such written record.

(f) **Hearings.** All hearings required in connection with individual proceedings by this Board shall be conducted in accordance with all applicable provisions of the Oklahoma Administrative Procedures Act, and otherwise in accordance with procedures and practices determined or designated by the Board.

[OAR Docket #16-590; filed 6-20-16]

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

[OAR Docket #16-591]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 3. Breath-Alcohol Analysts
40:10-3-3 [AMENDED]

AUTHORITY:

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

**SUBMISSION OF PROPOSED RULES TO GOVERNOR AND
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n/a

INCORPORATIONS BY REFERENCE:

n/a

ANALYSIS:

The proposed rule amendments update and clarify the process and time periods for renewing breath alcohol operator permits.

CONTACT PERSON:

Kevin Behrens, State Director of Tests, Board of Tests for Alcohol and Drug Influence, P.O. Box 36307, Oklahoma City, OK 73136-2307, 405-425-2460, kevin.behrens@dps.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, 2016:**

SUBCHAPTER 3. BREATH-ALCOHOL ANALYSTS

40:10-3-3. Qualifications and requirements for breath-alcohol operators (renewal permits)

Qualifications for breath-alcohol operators (renewal permits) are as follows:

- (1) Must be a qualified employee of a recognized Oklahoma law enforcement agency, or the Board of Tests for Alcohol and Drug Influence.
- (2) Minimum age of 21 years
- (3) Good moral character.
- (4) Graduation from a state-accredited high school, or satisfactory passing of the 'General Education Development Test,' or equivalent education background.
- (5) Possession of a valid Breath-Alcohol Analysis Operator Permit issued by the Board of Tests for Alcohol and Drug Influence, ~~within the preceding year upon compliance with~~
 - (A) ~~Qualifications and Requirements for Initial Issuance of such Permits then in force, or~~
 - (B) ~~Qualifications and Requirements for Renewal of such Permits then in force.~~
- (6) ~~Satisfactory Annual completion, within one (1) year prior to renewal of the Operator Permit,~~ of a requalification or retraining course of instruction in breath alcohol analysis as applicable, consisting of such instruction as deemed applicable and necessary by the State Director of Tests for Alcohol and Drug Influence.
- (7) ~~Establishment within one (1) year prior to renewal of the Operator Permit~~ Annual establishment, to the satisfaction of the ~~Board of Tests for Alcohol and Drug Influence~~ State Director of Tests for Alcohol and Drug Influence, of the applicant's competence to operate Board approved breath test instrument(s).

[OAR Docket #16-591; filed 6-20-16]

**TITLE 40. BOARD OF TESTS FOR ALCOHOL AND DRUG INFLUENCE
CHAPTER 25. APPARATUS, DEVICES, EQUIPMENT, AND MATERIALS**

[OAR Docket #16-592]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

40:25-1-4 [AMENDED]

AUTHORITY:

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

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SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

ANALYSIS:

The proposed rule amendments update and clarify the requirements related to the use of mouthpieces in breath test instrumentation. Outdated language is eliminated in the proposed rule. Existing misspellings in the rule are also corrected.

CONTACT PERSON:

Kevin Behrens, State Director of Tests, Board of Tests for Alcohol and Drug Influence, P.O. Box 36307, Oklahoma City, OK 73136-2307, 405-425-2460, kevin.behrens@dps.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, 2016:

40:25-1-4. Disposable materials, supplies, and paraphernalia

(a) **Items for breath-alcohol analysis.** In the collection and analysis of breath specimens for the determination of the alcohol concentration thereof by means of any apparatus, device, instrument, method, or procedure approved for that purpose by the Board of Tests for Alcohol and Drug Influence or its predecessor agency, the following safeguards additional to the prescribed operating procedure shall be employed in every such collection and/or analysis involving a human subject.

(1) ~~All disposable materials, supplies, and paraphernalia of whatever kind (including but not limited to mouthpieces, saliva traps, reagent ampoules, bubbler tubes, record cards, etc.) employed in any given collection, analysis, or breath test shall be new, previously unused, commercial items designed and manufactured for that purpose and specifically approved for such use by the State Director of Tests for Alcohol and Drug Influence. For the purpose of this rule, breath test means the completion of the steps contained in 40 O.A.C. 30-1-3 and the operating procedure prescribed by the State Director of Tests.~~

(2) Any such disposable materials, supplies, and paraphernalia shall not be reused for the collection or analysis of breath specimens from any other human subject.

(3) All such disposable materials, supplies, and paraphernalia, other than required records or report or other documents ~~or retained specimens~~, shall be safely disposed of as soon as practicable ~~after~~ after use.

(4) All such disposable materials, supplies, or paraphernalia with which the tested subject will or may come

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into physical contact shall be stored, handled, and used in a properly safe and sanitary manner.

(b) **Items for blood-alcohol analysis.** All materials, supplies, and paraphernalia of whatever kind (including but not limited to hypodermic needles, syringes, partially evacuated tubes and other containers, anticoagulants, preservatives, etc.) employed in the withdrawal and collection of blood and storage of blood specimens shall be new, previously unused, sterile or otherwise suitable single-use disposable commercial items designed and manufactured for that purpose and approved for such use by the State Director of Tests for Alcohol and Drug Influence; or shall be other suitable items, materials, or supplies specifically approved for such use by the State Director of Tests for Alcohol and Drug Influence.

[OAR Docket #16-592; filed 6-20-16]

TITLE 40. BOARD OF TESTS FOR ALCOHOL AND DRUG INFLUENCE CHAPTER 35. ANALYSIS OF ALCOHOL IN BLOOD

[OAR Docket #16-593]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

40:35-1-3. Analysis of blood specimens for alcohol

AUTHORITY:

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

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SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

ANALYSIS:

The rule updates the requirements for reporting the results of the analysis of blood specimens for alcohol.

CONTACT PERSON:

Kevin Behrens, State Director of Tests, Board of Tests for Alcohol and Drug Influence, P.O. Box 36307, Oklahoma City, OK 73136-2307, 405-425-2460, kevin.behrens@dps.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, 2016:

40:35-1-3. Analysis of blood specimens for alcohol

(a) **Methods and procedures.** Analysis of State's or retained blood specimens for alcohol may be carried out by any method or procedure approved by authority of the Board of Tests for Alcohol and Drug Influence.

(b) **Laboratory and analyst.** Analysis of a State's or retained blood specimen shall be carried out only and in its entirety in the Forensic Alcohol Laboratory, approved by the Board of Tests for Alcohol and Drug Influence, to which such retained blood specimen was originally sent or delivered by the law enforcement agency responsible for its collection. Such analysis shall be performed by a person holding a currently valid Forensic Alcohol Analysis Permit, issued by authority of the Board of Tests for Alcohol and Drug Influence.

(c) **Reporting results.** The results of analyses for alcohol of State's or retained blood specimens shall be reported in terms of the concentration of alcohol in the subject's blood, in grams per one hundred (100) milliliters of blood (g/100 mL), and shall be stated to the second or third decimal place (~~0.XX g/100 mL or 0.XXX g/100mL~~), truncated, deleting entirely the third decimal digit. Results of analyses of retained blood specimens which are within three-hundredths (0.030) grams of alcohol per one hundred (100) milliliters of blood of the results of the corresponding analysis performed upon the State's blood specimen obtained from the same subject shall be deemed confirmatory and substantiative of such blood-alcohol analysis results on the State's blood specimen, as a scientifically acceptable tolerance.

[OAR Docket #16-593; filed 6-20-16]

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

[OAR Docket #16-594]

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PERMANENT final adoption

RULES:

40:50-1-1.1 [AMENDED]

40:50-1-3 [AMENDED]

40:50-1-3.2 [AMENDED]

40:50-1-7 [AMENDED]

40:50-1-7.3 [AMENDED]

AUTHORITY:

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

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n/a

ANALYSIS:

The rules add absconding to the list of reportable violations and provide a definition for absconding. The rules make changes to the retest and confirmatory test requirements to address problems with reporting retest violations and confirmatory test results. The rules create time frames for the manufacturer to take certain required actions in the event of a service center inactivation or revocation. The rules provide vendors an alternative to having a licensed ignition interlock technician on site at all times. The proposed rules also eliminate some confusing references to the Board's website.

CONTACT PERSON:

Kevin Behrens, State Director of Tests, Board of Tests for Alcohol and Drug Influence, P.O. Box 36307, Oklahoma City, OK 73136-2307, 405-425-2460, kevin.behrens@dps.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, 2016:

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.

"Absconding" means a failure of an interlock program participant to remedy a permanent lockout in accordance with these rules within 30 days of the occurrence of such permanent lockout.

"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".

"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 a breath alcohol test or tests required in accordance with 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

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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.

40:50-1-3. 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.
- (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.

40:50-1-3.2. Reportable violations

- (a) Reportable violations are as follows:
- (1) Three (3) penalty fails, at startup, within a fifteen (15) minute time frame.
 - (2) 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.
 - (6) Absconding.
- (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 or prominently displays the days and times at which the ignition interlock technician is on duty at the location and ignition interlock services are available, 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 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 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 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 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.

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(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 40 driven miles, as determined by the Board, of the service center that was inactivated or revoked. Failure of the manufacturer to license a new service center in accordance with this paragraph within 30 days of the inactivation or revocation will subject the manufacturer to the provisions of paragraph (f) of this rule. 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 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 within the timeframe established by paragraph (e) of this rule, 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.

[OAR Docket #16-594; filed 6-20-16]

TITLE 75. ATTORNEY GENERAL CHAPTER 1. ADMINISTRATION

[OAR Docket #16-666]

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PERMANENT final adoption

RULES:

Subchapter 3. Contracts for Domestic Violence and Sexual Assault Services

Part 3. Contracts and Contracting Processes

75:1-3-17 [AMENDED]

75:1-3-20 [AMENDED]

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Office of Attorney General; 74 O.S., Sections 18p-1 et seq.

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n/a

ANALYSIS:

These rules are promulgated pursuant to the requirements of the Administrative Procedures Act, 75 O.S. § 250, et seq. The purpose of these rules is to effectively implement and enforce the provisions of Title 74 § 18p-1 et seq. of the Oklahoma Statutes. These rules supplement existing state and federal laws, and being duly promulgated, have the force and effect of law. Amendments are necessary to correct a change in agency name.

CONTACT PERSON:

Lesley March(405) 522-0042

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, 2016:

SUBCHAPTER 3. CONTRACTS FOR DOMESTIC VIOLENCE AND SEXUAL ASSAULT SERVICES

PART 3. CONTRACTS AND CONTRACTING PROCESSES

75:1-3-17. Competitive bidding

With regard to competitive bidding:

- (1) Contracts which are not based upon fixed uniform rates shall be competitively bid unless said contract is exempt from competitive bidding or meets the requirements for sole source justification.

(2) Contracts based upon fixed uniform rates, which have been previously approved by the Office of Management and Enterprise Services ~~Department of Central Services~~, set by the Attorney General, are not subject to competitive bidding [74 O.S. § 85.7 (11)].

75:1-3-20. Contractor reimbursement rates

Reimbursements to contractors for domestic violence and sexual assault services shall be considered and set in the manner described as follows:

- (1) Contractors shall annually, or as otherwise prescribed, submit to the Chief of the Victims Services Unit a uniform cost report in the form and format determined by the Office of the Attorney General, and within time-frames established by the Office of the Attorney General.
- (2) The Chief of the Victims Services Unit shall review and analyze these cost reports, requesting where deemed necessary the submission of supporting clarifying information within fifteen (15) days of said request.
- (3) The Chief of the Victims Services Unit may recommend to the Attorney General fixed uniform rates for services, taking into consideration variables such as average costs, appropriate inflationary factors, capitation methods, performance outcome measures, staff credentials and available funding.
- (4) Prior to approval by the Attorney General of the proposed rates or changes to existing rates, the following shall occur:
 - (A) The Victims Services Unit shall provide written notice of an open hearing before the Domestic Violence and Sexual Assault Advisory Council on the proposed fixed rates to each applicable contractor of record.
 - (B) The Domestic Violence and Sexual Assault Advisory Council shall conduct, and make a summary of, the scheduled Open Meeting.
- (5) Consideration of the proposed fixed rate by the Attorney General shall not occur until the Director of the Office of Management and Enterprise Services ~~Department of Central Services~~ has been provided with, pursuant to 74 O.S. § 85.7:
 - (A) Thirty (30) days written notice of the meeting in which the Attorney General will consider the uniform rates of reimbursement;
 - (B) A copy of the meeting agenda item(s) concerning the proposed rate(s); and
 - (C) All supporting documentation and materials regarding the reimbursement rates being proposed.
- (6) The Attorney General shall, at the meeting referenced in (5)(A) and (B) of this section, separately consider each proposed fixed and uniform rate of reimbursement. These rates, if adopted, shall then take effect on a date determined by the Attorney General when the rates are considered for adoption; and remain in effect until subsequent action by the Attorney General.

(7) All revisions shall be examined, proposed, considered and adopted pursuant to this section.

[OAR Docket #16-666; filed 7-6-16]

**TITLE 75. ATTORNEY GENERAL
CHAPTER 15. STANDARDS AND CRITERIA
FOR DOMESTIC VIOLENCE AND SEXUAL
ASSAULT PROGRAMS**

[OAR Docket #16-667]

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RULES:

- Subchapter 1. General Provisions [AMENDED]
- Subchapter 2. Domestic Violence and Sexual Assault Programs [AMENDED]
- Subchapter 5. Client Records and Confidentiality [AMENDED]
- Subchapter 7. Physical Environments [AMENDED]
- Subchapter 9. Physical Environments [AMENDED]
- Subchapter 13. Personnel and Volunteers [AMENDED]
- Subchapter 15. Governing Authority [AMENDED]
- Subchapter 17. Clients Rights [AMENDED]

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n/a

ANALYSIS:

The Attorney General is required to adopt and promulgate rules and standards for certification of domestic violence and sexual assault programs in this state. These rules set forth the requirements which are necessary to provide services pursuant to 74 O.S. § 18p-1 et seq. Amendments are necessary to screen for strangulation and head trauma. Amendments are also necessary to clarify the requirement for programs to provide victims with access to emergency transportation to SANE exams twenty-four (24) hours a day. Several sections in the standards did not include guidelines for determining compliance; amendments will correct this. Amendments are also necessary to correct grammatical errors and formatting.

CONTACT PERSON:

Lesley March, (405) 522-0042

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, 2016:

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SUBCHAPTER 1. GENERAL PROVISIONS

75:15-1-1.1. Mission and underlying philosophy

(a) The mission of the standards and criteria for domestic violence and sexual assault programs is to eliminate domestic violence, sexual assault, and stalking in the State of Oklahoma.

(b) The philosophy underlying the standards and criteria for domestic violence and sexual assault programs is that:

- (1) All persons have the right to live without fear, abuse, oppression and violence;
- (2) There should be equality in relationships and survivors of domestic violence, sexual assault and stalking should be helped to assume power over their own lives;
- (3) No one deserves to be victimized by assaultive or abusive behavior;
- (4) Survivors should be treated with dignity and respect;
- (5) All people involved in violent crimes are affected victims, children, families, partners, friends, the community, and perpetrators;
- (6) Offending is a choice, and perpetrators of domestic violence, sexual assault and stalking are solely responsible for their behavior;
- (7) These perpetrators must be held accountable for their behavior;
- (8) A coordinated community response is the best approach to eliminating domestic violence, sexual assault, ~~sex trafficking~~ and stalking in Oklahoma; ~~and~~
- (9) Safety for the victims/survivors and their dependents is the primary focus of intervention and services;
- (10) Intervention and services shall be based upon the safety and well-being of individuals and communities. Services to victims are provided in a non-judgmental, non-coercive, trauma-informed environment; ~~and~~
- (11) Participation in ~~victim/survivor~~ victims services is voluntary and based on self-determined needs, preferences and values.

75:15-1-2. Definitions

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

"Admission" means to accept a client for services or treatment.

"Advocacy" means the assistance provided ~~which that~~ supports, supplements, intervenes and/or links clients and their dependents with the appropriate service components to encourage self-determination, autonomy, physical and emotional safety, and to offer information that will enable independence. This can be viewed as a combination of active listening and facilitating personal problem solving, along with researching options of action, safety planning, community outreach and education; ~~it and may~~ include medical, dental, financial, employment, legal and housing assistance.

"Advocate" means a person who offers clients appropriate services.

"Assessment" means an appropriate course of assistance based on a face-to-face formal screening.

"Behavioral Health Professional" means either licensed or under supervision for licensure as a Licensed Professional Counselor, Licensed Marriage and Family Therapist, Licensed Behavioral Practitioner, Licensed Clinical Social Worker, psychiatrist, or psychologist with clients in individual, group or family settings to promote positive emotional or behavioral change. A practicum student or intern in an accredited graduate program in preparation for one of the above licenses may provide counseling to victims of domestic violence, sexual assault or stalking and their dependents.

"Business day" shall mean a calendar day other than a Saturday, Sunday, or state holiday. In computing any period of time where the last day would fall on a Saturday, Sunday, or state holiday, the period shall run until 5:00 o'clock p.m. of the next business day.

"Case consultation" means review of a client's case by the primary service provider and other program personnel, consultants or both.

"Case management" means the process of supporting and helping victims/survivors and their dependents as they cope with and overcome the effects of domestic violence, sexual assault and stalking. Actions may include activities such as: 1) developing, reviewing, and updating the service plan that is designed to solve specific problems in the current life situation; 2) supporting adult/child survivors' skills in making ~~their~~ desired life changes through activities such as introducing new skills, modifying previous ways of coping with their situations and linking to resources to address immediate needs and secondary issues, and/or 3) exit planning as part of ~~the~~ individual supportive services. The service provider must be a Certified Domestic and Sexual Violence Response Professional (CDSVRP) certified by the Oklahoma Coalition Against Domestic Violence and Sexual Assault.

"Certified Domestic and Sexual Violence Response Professional" means a professional certified by the Oklahoma Coalition Against Domestic Violence and Sexual Assault.

"Certified domestic violence and sexual assault program" or **"Certified DVSA DV / SA program"** means a status which is granted to an entity by the Oklahoma Attorney General, and indicates approval to offer domestic violence, sexual assault and stalking services pursuant to 74 O.S. § 18p-6. In accordance with the Administrative Procedures Act, 75 O.S. § 250.3(8), certification is defined as a "license."

"Child" or **"Children"** means any unmarried individual from birth to eighteen years of age.

"Children's Activities" means direct child contact that is temporary in nature and is not intended to address the effects of domestic violence, sexual assault/abuse and trauma on children; i.e., child care, special events such as Christmas parties, Easter egg hunts, that ~~is~~ are supervised by program personnel or volunteers.

"Children's Services" means direct child contact that is intended to address the effects of domestic violence, sexual assault/abuse and trauma on children including but not limited to intake, needs assessment, groups, advocacy, and any other

service related to domestic violence, sexual assault/abuse and trauma.

"Client" means an individual, adult or child, who has applied for, is receiving or has received assistance or services ~~off from a DV/SADVSA or batterer's program.~~

"Client record" includes but is not limited to, all communication, records and information ~~on~~ about an individual client.

"Community" means ~~mean~~ people, groups, agencies, or other facilities within the locality served by the program.

"Contract" means a formal document adopted by the governing authority of the program and any other organization, agency, or individual that specifies services, personnel or space to be provided to the program and the monies to be expended in exchange.

"Counseling" means a face-to-face therapeutic session with one-on-one interaction between a behavioral health professional and an individual to promote emotional and/or behavioral change focused on victim safety and perpetrator accountability. Those individuals providing professional therapy to adult and ~~child~~ victims ~~survivors~~ of domestic violence, ~~sexual assault or and~~ and ~~stalking~~ must be prepared to offer education and information about:

- (A) Physical and emotional safety;
- (B) How perpetrators maintain control and dominance over their victims;
- (C) The need to hold perpetrators accountable for their actions; and;
- (D) The recognition that individuals victimized are not responsible for a perpetrator's violent behavior, ~~and the role of society in perpetuating violence against women and the social change necessary to eliminate violence against women, including the elimination of discrimination based on race, color, gender, sexual orientation, age, disabilities, economic or educational status, religion and national origin.~~

"Court advocate" means a qualified, trained staff or volunteer whose duties are to offer assistance to victims and any dependents in legal matters relevant to their situation. A Court Advocate provides court advocacy through support, information, assistance, safety planning, accompaniment, and intervention with any aspect of the civil or criminal legal system on behalf of a victim of domestic violence, sexual assault or stalking.

"Crisis intervention" means short-term, immediate assistance and advocacy given by phone or in person to victims of domestic violence, sexual assault or stalking. Crisis intervention services include but are not limited to assessing dangerousness, safety planning, information about available legal remedies, establishing rapport and communication, identifying major problems, exploring feelings and providing support, exploring possible alternatives, and/or formulating an action plan and follow-up measures.

"Critical incident" means an occurrence or set of events inconsistent with the routine operation of the facility, or the routine care of a client. Critical incidents specifically include but are not necessarily limited to the following: adverse drug events; self-destructive behavior; deaths and injuries to clients,

personnel, volunteers and visitors; incidents involving medication; neglect or abuse of a client; fire; unauthorized disclosure of information; damage to or theft of property belonging to a client or the facility; other unexpected occurrences; or events potentially subject to litigation. A critical incident may involve multiple individuals or results.

"Cultural diversity" means the spectrum of differences that exists among groups of people with definable and unique cultural backgrounds.

"Direct services" means services delivered by a qualified staff member or volunteer, in direct contact with a client or client's child, including child care and telephone contact.

"Director" means the person hired by the governing authority to direct all the activities of the organization.

"DV/SADVSA" means domestic violence and sexual assault.

"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, announcements, correspondence, and photographs.

"Domestic violence" means ~~assaultive or coercive behaviors, including physical, sexual and psychological attacks and economic coercion, against another adult, emancipated minor or minor child, who are family or household members or who are or were in a dating relationship~~ a pattern of abusive behavior in any relationship that is used by one partner to gain or maintain power and control over a current or former partner or family member. Domestic violence can be physical, sexual, emotional, economic, or psychological actions or threats of actions that influence another person. This includes behaviors that intimidate, manipulate, humiliate, isolate, frighten, terrorize, coerce, threaten, blame, hurt, injure, or wound someone.

"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 domestic violence, sexual assault, stalking, or batterer's intervention and other related problems and services and may include a systematic presentation of selected information to impart knowledge or instructions; to increase understanding of specific issues or programs, to examine attitude or behaviors and to stimulate social action or community support of the program and its clients.

"Emergency services" or **"crisis services"** ~~mean~~ means a twenty-four (24) hour capability for danger assessment, intervention and resolution of a client crisis or emergency that is provided in response to unanticipated, unscheduled emergencies requiring prompt intervention.

"Emergency transportation" means transportation for a victim of DV/SADVSA to a secure ~~secured~~ identified location at which emergency services or crisis services can be offered.

"Executive director" means the person in charge of a facility, as defined in this section.

"Facility" means the physical location(s) of a certified program governed by this chapter of Title 75.

"Family" means the children, spouses, parents, brothers, sisters, other relatives, foster parents, guardians, and others

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who perform the roles and functions of family members in the lives of clients.

"Governing authority" means a group of persons having the legal authority, and final responsibility for the operations and functions of the entire DV/SADVSA program, or shelter, in and of all geographical locations and administrative divisions.

"Group counseling" means a face-to face therapeutic session with a group of adult/child victims/survivors to promote emotional or behavioral change. Those individuals providing professional therapy to victims/survivors of domestic violence must be prepared to provide education and information about:

- (A) Physical and emotional safety;
- (B) How perpetrators maintain control and dominance over their victims;
- (C) The need to hold perpetrators accountable for their actions; and;
- (D) The recognition that individuals victimized are not responsible for a perpetrator's violent behavior, ~~and the role of society in perpetuating violence against women and the social change necessary to eliminate violence against women, including the elimination of discrimination based on race, color, gender, sexual orientation, age, disabilities, economic or educational status, religion, or national origin.~~

"Guardian" means an individual who has been given the legal authority ~~for managing~~ to manage the affairs of another individual.

"Indirect services" means services delivered by a staff member or volunteer, that does not involve direct services with a client or client's child.

"Initial contact" means a person's first contact with the program or facility requesting information or service by telephone or in person.

"Intake" means an interaction intended to discover what has happened, determine what the crisis is, assess dangerousness indicators, do safety planning, and/or establish the immediate needs of domestic violence, ~~sexual assault,~~ ~~& and~~ and stalking victims and any dependents to determine appropriate services and referrals. This includes interaction with an individual determined to be appropriate for ongoing service in order to obtain basic demographic information, gather vital information on ~~the~~ adults and/or ~~the~~ children, and/or orient the ~~victim/survivor~~ victims to the program, program rules, and if applicable, the facilities. Cultural needs should also be identified at this time.

"Language Interpretation" means activities that involve a client who is deaf or hearing impaired or has limited English proficiency requiring an interpreter for a staff member or ~~volunteer~~ volunteers to offer services.

"Licensure" means the official or legal permission to persons or health facilities meeting qualifications to engage in a given occupation or use a particular title.

"Medical care" means those diagnostic and treatment services ~~which~~ that can only be provided or supervised by a licensed physician.

"Medication" means any drug that is legally in the possession of the client, her children, or a person seeking admittance to the shelter or her children; this definition includes prescription medications and medications available for legal purchase without a prescription.

"Mental health services" means a range of diagnostic, therapeutic, and rehabilitative services used in treating mental illness or emotional disorders.

"Neglect" means failing to offer adequate personal care or maintenance, or access to medical care ~~which~~ that results or may result in physical or mental injury or harm to a client.

"OAG" means the Office of the Attorney General.

"Objectives" means a specific statement of planned accomplishments or results ~~which~~ that are quantitative, qualitative, time-limited, and realistic.

"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.

"Operation" means that clients are receiving services offered by the program.

"Personnel record" means a file containing the employment history and actions relevant to individual personnel and volunteer activities within an organization such as application, evaluation, salary data, job description, citations, credentials, etc.

"Persons with special needs" means 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 and hard of hearing, blind, physically disabled, developmentally disabled, persons with disabling illness, and persons with mental illness. See "Americans with Disabilities Handbook," published by U.S. Equal Employment Opportunity Commission and U.S. Department of Justice.

"Policies" means statements of program intent, strategy, principle, or rules for providing effective and ethical services.

"Primary Victim" means a client who has experienced domestic violence, sexual assault, stalking, or the consequences of these crimes first hand.

"Procedures" means the standard methods by which policies are implemented.

"Program" means a set of activities designed and structured to achieve specific objectives relative to the needs of the clients.

"Program evaluation" means the documented assessment activities, performed internally or externally, of a program or a service and its staff, volunteers, activities, and planning process to determine whether program goals are met, staff, volunteers and activities are effective, and what effect, if any, a program or service has on the problem ~~which~~ it was created to address or on the population ~~which~~ it was created to serve.

"Program goals" means broad general statements of purpose or intent.

"Qualified staff" means someone who has met the criteria for provision of direct services as defined in 75:15-13-20.1.

"Rape crisis response services" means "sexual assault services" as defined in this section.

"Release" or **"Waiver"** means consent that is informed, written and reasonably time-limited. The terms may be used interchangeably to mean the same thing. "Release" implies that confidential information is released (despite confidentiality or privilege protection), and "Waiver" implies waiving the right (to maintain privilege). If release of information is compelled by statutory or court mandate, the program shall make reasonable attempts to provide notice to victims affected by the disclosure of information and take steps necessary to protect the privacy and safety of the persons affected by the release of the information.

"Referral" means information disseminated and/or coordinated access to agency and community services to meet victims'/survivors' and their dependents' identified needs.

"Safe Home" means private dwellings available for the temporary housing of victims of domestic violence, sexual assault and stalking to ensure safety of victims and any dependents until other housing arrangements can be made.

"Safe Home Provider" means an individual or family providing Safe Home services through a formal agreement with a Certified DV/SADVSA Program.

"Safety Planning" means the process of working with the adult and child victim/victims/survivor to develop tools in advance of potential abuse or violence for the immediate and long term safety of the victims/victim/survivor. The plans/Plans should be based on the individual's dangerousness and lethality indicators and should include the safety needs of dependents.

"Screening" means the process of determining, preliminarily the nature and extent of a person's problem in order to establish the service needs of an individual. At a minimum, a screening shall include a brief personal history related to abuse, a review of the individual's strengths and resources, risk factors and referral needs.

"Secondary Victim" means a person with who has a relationship with the primary victim.

"Self Determination" means the right to make one's own choices.

"Service agreement/Agreement" means a written agreement between two or more service agencies, or service agencies and individual service providers defining that defines the roles and responsibilities of each party. The purpose of service agreements is to promote coordination and integration of service programs for the purpose of curbing fragmentation and unnecessary service duplication in order to assure a continuation of services.

"Service note/Note" means the documentation of the time, date, location, and description of services offered or provided, and signature, including electronic signature, of staff or volunteer offering or providing the services.

"Service plan/Plan" means a plan of action developed and agreed upon by the client and service provider that contains service appropriate goals and objectives for the client.

"Sexual Assault" means a range of behaviors, including but not limited to rape, attempted rape, sexual battery, sex trafficking, sexual abuse of children, sodomy, and sexual harassment.

"Sexual assault services/Assault Services" means personal advocacy and support services provided to primary and secondary victims of rape and sexual assault, in settings such as law enforcement, medical settings or program offices.

"Shelter services/Services" means a certified residential living arrangement in a secure setting with support and advocacy services provided by qualified staff, for victims of domestic violence, sexual assault and stalking and their dependents.

"Staff" means personnel that who function with a defined role within the program whether full-time, part-time or contracted.

"Stalking" means a course of conduct directed at a specific person that would cause a reasonable person to feel fear.

"Substance Abuse services/Services" means the assessment and treatment of diagnosable substance abuse and dependence disorders, as defined by current DSM criteria, by qualified alcohol and drug treatment professionals.

"Support" or **"Supportive Services"** means the provision of direct services to primary and secondary victims and their dependents for the purposes of preventing further violence, helping such victims to gain access to civil and criminal courts and other community services, facilitating the efforts of such victims to make decisions concerning their lives in the interest of safety, and assisting such victims in healing from the effects of the violence.

"Transitional living/Living services/Services" means temporary, independent living programs with support services provided by the staff or volunteers of the sponsoring domestic violence, sexual assault and stalking program. These services are extensions of domestic violence shelter services to victims of domestic violence, sexual assault and/or stalking and their dependents. These services permit victims to develop their financial capacity and other means to live independently.

"Trauma-informed services" means a service approach that recognizes the impact of trauma and acknowledges the role of trauma in the lives of primary and secondary victims/survivors and their dependents.

"Universal precautions for transmission of infectious diseases" means those guidelines promulgated by the U.S. Occupational Health and Safety Administration which that are designed to prevent the transmission of Human Immunodeficiency Virus, hepatitis and other infectious diseases.

"Update" means a dated and signed review of a report, plan or program with or without revision.

"Voluntary Services" means a program shall not mandate participation in supportive services as a condition of shelter residency or emergency services (Family Violence Prevention and Services Act (426 U.S.C. 10401 et seq.))

"Volunteer" means any person who is not on the program's payroll, but provides either indirect or direct services and fulfills a defined role within the program, and includes including interns and practicum students.

75:15-1-3. Meaning of verbs in rules

The attention of the facility is drawn to the distinction between the use of the words "shall," "should," and "may" in this chapter:

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- (1) "Shall" is the term used to indicate a mandatory statement, the only acceptable method under the present standards;
- (2) "Should" is the term used to reflect the most preferable procedure, yet allowing for the use of effective alternatives; ~~and~~;
- (3) "May" is the term used to reflect an acceptable method that is recognized but not necessarily preferred.

SUBCHAPTER 2. DOMESTIC VIOLENCE AND SEXUAL ASSAULT PROGRAMS

75:15-2-1. Service programs core services

- (a) All certified programs shall serve residential and non-residential victims of domestic violence, sexual assault and stalking and their dependents or family members.
- (b) All certified programs shall provide safe, accessible, and trauma-informed services for victims survivors of domestic violence, sexual assault and stalking and their dependents or family members.
- (c) The program shall develop a philosophy of service provision based upon voluntary services and individual self-determination. The written statement of the philosophy of services shall be approved by the governing authority and made available to the community, staff, volunteers, and clients.
- (d) The program shall have ~~policy and policies~~ and procedures to maintain facilities, staffing, and operational methods, including a policy ~~on~~ for the recruitment of board members, staff and volunteers who are representative of ~~the~~ diversity in the local community and ~~the~~ diversity of ~~their~~ clients.
- (e) All certified programs shall provide sexual assault services.
- (f) All certified programs shall offer crisis intervention services.
- (g) All certified programs shall offer danger assessment, safety planning, counseling or support, support groups, and advocacy in a trauma-informed environment.
- (h) All certified programs shall offer services that are free from all forms of unlawful discrimination based on race, gender, religion, color, age, national origin, and/or disability (i.e., physical, mental illness, and substance abuse), including a policy stating that services to immigrant women will not be denied or diminished on the basis of immigration status.
- (i) All certified programs shall provide public education to increase the community's awareness and understanding of domestic violence, sexual assault and stalking, available and needed resources, and to identify the role community can play in eliminating domestic violence, sexual assault, and stalking.
- (j) Compliance with 75:15-2-1 shall be determined by a review of the program's ~~policy~~ policies and procedures, service agreements, ~~on-site~~ on-site observation observations, client and staff or volunteer interviews and/or other supporting documentation.

75:15-2-2. Shelter program

- (a) All shelter programs shall comply with section 75:15-2-1 and each shelter program shall provide long-term (thirty [30] days or more) shelter services and staffing to offer services twenty-four (24) hours per day, seven (7) days per week, and offer the following:
 - (1) Shelter programs shall provide room, food, bathing and laundry facilities, necessary clothing, and toiletries for victims and their children free of charge. Programs shall not ask clients to use their nutrition assistance benefits to supplement food for the facility;
 - (2) Shelters shall be staffed at all times when clients are in residence. When there are no clients in residence, each shelter program must assure availability for immediate contact or services;
 - (3) The shelter's policy shall have written procedures regarding the supervision of children;
 - (4) ~~In the event the~~ The shelter shall ~~does not~~ offer services to clients with dependent boys over the age of twelve; ~~the shelter shall have written policies regarding linkage to alternative provision of services, including emergency shelter.~~
 - (5) Shelter programs shall offer screening, referral and linkage to clients and callers to appropriate community resources, to include assistance in making initial contact;
 - (6) The shelter program shall maintain cooperation/liason with the local school system;
 - (7) Each shelter program must ensure to the best of its ability the physical and emotional safety, security, and confidentiality of clients and the location of the shelter; and;
 - (8) The shelter shall maintain a written policy for involuntary exit criteria.
- (b) Compliance with 75:15-2-2 shall be determined by a review of ~~policy and procedures~~ policies and procedures, service agreements, ~~on-site~~ on-site observation observations, and/or other supporting documentation.

75:15-2-3. Transitional living program

- (a) All transitional living programs shall comply with 75:15-2-1 and the following:
 - (1) The program shall maintain homes, apartments, or other residential living environments suitable for victims survivors of domestic and sexual violence, stalking and their dependents, if applicable, and which provide the reasonable safety and privacy needed by this population. The program shall offer access to necessary furniture and equipment;
 - (2) The program shall include heating and refrigerated cooling systems to maintain a reasonable comfort level;
 - (3) Supportive services for residents are available through the twenty-four (24) hour program hotline by trained staff or volunteers;
 - (4) The program shall assign staff or a volunteer as the advocate or liaison for the clients residing in the transitional living program(s). This person, or a crisis line staff person or volunteer, shall be available for emergencies at all times;

(5) The program shall have a written agreement with each resident that outlines specific responsibilities of both the program and the resident to include expectations, responsibilities, and limitations. The agreement shall be signed by both parties;

(6) The program shall offer weekly support groups for transitional living residents and children; and-

(7) The program shall offer at least one 30 minute face-to-face service contact per week with each transitional living resident resident and children.

(b) Compliance with 75:15-2-3 shall be determined by a review of program ~~policy and procedures~~ policies and procedures, client records, ~~on-site~~ on-site observations observation, written agreements and/or other supporting documentation.

75:15-2-4. Safe Home program

(a) All Safe Home programs shall comply with section 75:15-2-1 and the following:

(1) The program shall offer confidential housing 24 hours a day, 365 days a year.

(2) Certified DVSA DV/SA providers that have a formal agreement for a Safe Home shall:

(A) assure that each Safe Home offers residents with access to minimum necessities including bedding, clothing, articles for grooming and personal hygiene, and food;

(B) develop and disseminate to Safe Home providers and residents written rules, policies and procedures that include admission and exit criteria, including security measures;

(C) have written procedures for monitoring Safe Homes to ensure that the homes meet standards for cleanliness and safety;

(D) offer orientation to all clients and require they sign a contract acknowledging they have read and understand the rules of their stay;

(E) assign an advocate or liaison for clients. This person, or a crisis line staff or volunteer, shall be available for emergencies and support at all times; and

(F) offer at least one 30 minute face-to-face service contact per week with each Safe Home resident.

(b) The program shall establish criteria to screen potential Safe Home providers. Screening will include an application with references, an interview, and a site visit. Each Safe Home will be reassessed annually.

(c) All Safe Homes must be supervised by the certified program, who will conduct on-site observations at least monthly when clients are in residence.

(d) The certified program shall have a written agreement with each Safe Home provider that outlines specific responsibilities of both the program and the provider to include expectations and limitations (e.g., no babysitting or individual advocacy) and compliance with confidentiality. The agreement shall clearly state that the program will not be held liable for damage incurred by the Safe Home provider. Both parties will sign the agreement.

(e) Compliance with 75:15-2-4 shall be determined by a review of program ~~policy and procedures~~ policies and procedures, client records, ~~on-site~~ on-site observations observation, written agreements, and/or other program documentation.

75:15-2-5. Crisis intervention services

(a) All certified DVSA DV/SA programs shall offer crisis intervention services which include:

(1) Twenty-four (24) hour crisis telephone services staffed by trained staff or volunteers, and 24-hour immediate, direct access to crisis advocates. Pagers, answering machines or answering services that do not offer immediate access to a crisis advocate shall not be sufficient to meet this requirement;

(2) Emergency housing such as hotel or motel available for victims and their dependent(s);

(3) Arrangement for safe shelter, food, clothing, and incidentals needed by victim/dependents;

(4) The program shall provide twenty-four (24) hour emergency transportation or access to shelter, to and from SANE exams or other emergency services. Additionally, transportation shall be offered for necessary services. This shall not require service providers to be placed in a situation that could result in injury;

(5) Cooperation with law enforcement to offer assistance to the victim and accompanying dependent(s). Programs should ensure victims are educated about participating in the legal prosecution of their offenders and that an appropriate release or waiver may be necessary;

(6) Provision of advocacy and referral to assist the victims in obtaining needed services or resources;

(7) Foreign language interpretation; and-

(8) Follow-up services shall be offered to all victims if victim safety is not compromised.

(b) Group and/or individual counseling or support services shall be made available before or after normal business hours (8:00 a.m. to 5:00 p.m.), if needed by clients. These services shall minimally offer the following:

(1) A facility with offices, and individual and group counseling space to offer services;

(2) Advocacy services, both in person and by telephone, either in the locations of other community services and systems, or in the program's offices. Other locations include but are not limited to those necessary to provide court advocacy services to clients; ~~and~~

~~(3) Current service agreement to be renewed every three (3) years with available community services to offer access to a continuum of needed services for the client. If unable to establish a current service agreement with all appropriate resources in the community, efforts to do so or reasons/opinions why this is not or cannot be done shall be documented.~~

(4) A resource document of local, area, or state resources to facilitate referrals for clients.

(35) Service approaches shall that focus on the empowerment of victims to access needed resources and to make healthy and safe decisions for themselves and dependents.

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~~(6) For agencies that do not have a behavioral health professional on staff, the agency shall maintain an updated list of identified behavioral health professionals in their community who treat clients with sexual assault related trauma who need additional mental health or substance abuse services.~~

(c) Programs shall maintain at a minimum the following client resources:

(1) Service agreements with community service providers for client services, which shall be renewed every three (3) years. If unable to establish a service agreement, attempts shall be documented;

(2) A resource document of local, area, or state resources to facilitate referrals for clients; and

(3) For agencies that do not have a behavioral health professional on staff, the agency shall maintain an updated list of identified behavioral health professionals in their community who treat clients with related trauma and need mental health or substance abuse services.

~~(d) Compliance with 75:15-2-5 shall be determined by a review of program policy and procedures policies and procedures, client records, on-site on-site observations observation, written agreements, and/or other program documentation.~~

75:15-2-6. Sexual assault services

(a) All certified programs shall be part of a sexual assault response team in their service area, providing that there is a sexual assault response team in place. The program shall collaborate with other certified DVSA DVSA providers in their service area. ~~When appropriate staff or volunteers are available, the program shall assist the Council on Law Enforcement Education and Training (CLEET) by providing appropriate staff or volunteers to assist in sexual assault and sexual violence training to law enforcement.~~ The program shall offer at a minimum the following services:

(1) Counseling or advocacy and support services shall be offered ~~in the social service, legal, law enforcement or medical setting, in program offices or at any safe and appropriate site, as needed by the client;~~

~~(2) Twenty four (24) hours, seven (7) days per week access to these services through the program's crisis hotline;~~

~~(3) A twenty-four (24) hour crisis hotline line, crisis intervention, in-person advocacy as needed, active listening, or support by trained staff or volunteers with a knowledge of the issues and processes of sexual assault, rape trauma recovery, assessment, referral when indicated, and family involvement where when chosen by the victim;~~

~~(34) Needed clothing Clothing, if needed, for the sexual assault victim victims; and-~~

~~(45) Follow-up contact that does not compromise privacy and safety needs of the victim shall be offered to all sexual assault clients seen in the medical setting. If written permission is granted by the client for follow-up contact, it shall be done no later than fourteen (14) business days after face-to-face crisis intervention. Follow-up will offer the client agency services or other available resources needed by the client.~~

(b) When appropriate staff or volunteers are available, the program shall assist the Council on Law Enforcement Education and Training (CLEET) by providing appropriate staff or volunteers to assist in sexual assault and sexual violence training to law enforcement.

~~(c) Agencies without For agencies that do not have a behavioral health professional professionals on staff, the agency shall maintain an updated list of identified behavioral health professionals in their community who treat clients with sexual assault related trauma, who need additional mental health or substance abuse services.~~

(d) Compliance with 75:15-2-6 shall be determined by a review of program policy and procedures policies and procedures, client records, ~~on-site on-site observation observations,~~ written agreements, and/or other program documentation.

75:15-2-7. Children Children's services

(a) Client records for both residential and non-residential children shall contain, at a minimum, the following information:

(1) Intake and screening information:

(A) Client's name;

(B) Date of initial contact/intake;

(C) Age;

~~(D) Pertinent medical information;~~

~~(E) Mothers Mother's name;~~

~~(F) Biological father's name; and-~~

~~(G) Mother's abuser (if different from child's biological father);~~

(2) Custody

(A) Has a court entered a custody order? If yes, what does the order provide? Legal custody of the child;

(B) Physical custody of the child;

(C) Does the child have contact with his or her biological father; and;

(D) Is visitation court ordered with the offender/perpetrator;

(3) Safety, including but not limited to:

(A) History of child abuse or neglect;

(B) Exposure or witnessing violence;

(C) Child's response to witnessing violence; and

(D) History of involvement in the child welfare system; including the presence of current child welfare involvement;

(4) Service notes, which shall minimally include:

~~(A) The date, location, start time, duration and description of services provided delineated by time spent and service code, if applicable, or documentation of referral to other services or case management;~~

(b) Within five (5) business days of entry into residential services (excluding advocacy or children's activities or crisis intervention), all certified programs shall offer to assess the risk and needs of the children accompanying primary victims and offer children's services to address the impact of violence and trauma in their lives and to facilitate healing. A risk and needs screening and assessment on each child, when accepted, shall minimally include ~~information on his or her:~~

- (1) Brief trauma screening to assess the impact of trauma;
 - (2) Developmental history to include speech and language, hearing and visual;
 - (3) Medical or physical health history;
 - (4) Social history to include interactions with peers;
 - (5) History of use of tobacco, alcohol or other drugs;
 - (6) Parent/guardian custodial status; and
 - (7) Community referral needs.
- (c) Services provided to each child shall be culturally sensitive while addressing identified risks and needs, and shall minimally include:
- (1) ~~safety~~Safety planning that is appropriate with respect to the child or adolescent's age, development, and education;
 - (2) ~~a~~ specific safe, protected play area for children;
 - (3) ~~advocacy~~Advocacy with community systems;
 - (4) ~~referral~~Referral to community resources for needed services;
 - (5) ~~linkage~~Linkage and advocacy with the local school system to provide for ~~ongoing~~ educational needs;
 - (6) ~~parenting~~Parenting support for clients, if applicable; and
 - (7) ~~children's~~Children's groups using age appropriate topics and based on established best practices.
- (d) Pursuant to Title 10A O.S. § 1-2-101, any person having reason to believe that a child under the age of eighteen (18) years is a victim of abuse or neglect, shall report the matter promptly to the Department of Human Services.
- (e) Compliance with 75:15-2-7 shall be determined by a review of program ~~policy and procedures~~policies and procedures, client records, ~~on-site~~on-site observations~~observation~~, written agreements, and/or other program documentation.

SUBCHAPTER 5. CLIENT RECORDS AND CONFIDENTIALITY

75:15-5-1. Purpose

The purpose of this subchapter is to set forth the standards and criteria governing client records and confidentiality of client information, including client records, for domestic violence, sexual assault and stalking clients.

75:15-5-2. Client records

- (a) A certified program shall have and maintain a master client index system containing the client's name, and the program's discreet numerical or letter identifier. No identifying information such as initials, age, year of birth, or gender shall be part of the client ~~ID~~id. That same discreet identifier shall be the client ID that is entered into the OAG database without further encryption.
- (b) A certified program shall have written ~~policy and procedures~~policies and procedures for correcting errors on record material by lining through, initialing the error, and inserting the correct material either above the error or at the end of the

entry. Further, the ~~policy and procedures~~policies and procedures shall forbid the use of "white-out" or any action which obliterates the error.

(c) Compliance with 75:15-5-2 shall be determined by on-site observation, client records and any other supporting program documentation.

75:15-5-3. Record content - general

(a) Client records for both residential and non-residential clients shall contain, at a minimum, the following information:

- (1) Intake and screening information:
 - (A) Client's name;
 - (B) Date of initial contact/intake;
 - (C) Pertinent medical information, ~~including substance abuse~~;
 - (D) Emergency contact information;
 - (E) History/nature of abuse including an evidence-based, dangerousness assessment and screening for stalking and trauma including a description of the event that precipitated the request for services and safety planning; ~~and~~
 - (F) Screening for strangulation and head trauma, if applicable, information shall be given to client's; and
 - (G) ~~Perpetrator~~ information if known.
- (2) Service notes, which shall minimally include:
 - (A) The date, location, start time, duration and description of ~~services~~ service provided delineated by time spent and service code; and
 - (B) The signature of staff or volunteer providing the services, ~~and volunteer, and~~
- (3) Service plan shall focus on victim safety and well-being which shall minimally include: ~~Goals~~ goals and objectives of the client, which shall be agreed upon between the client and staff or volunteer.
- (4) Exit information, which shall minimally include:
 - (A) Documentation that the client participated in planning for his or her exit from the program;
 - (B) The reasons for the client's exit or departure; and
 - (C) Client and staff or volunteer dated signatures or an explanation if staff or the volunteer were unable to obtain the client's signature.

(b) Each client record entry shall be legible, dated, and signed by the staff member or volunteer making the entry.

(c) Compliance with 75:15-5-3 shall be determined by a review of program ~~policy and procedures~~policies and procedures, review of the client records for content; and/or other supporting program documentation.

75:15-5-3.1. Record content - service specific

(a) Client records for specific services shall conform to the following:

- (1) **Shelter Services:**
 - (A) On a client's entry to the shelter, staff or volunteer shall record the client's name, emergency contact person(s) and any referral for medical or emergency services. This information may be a part of the full

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intake interview if the full intake is done on entering the shelter. An evidence-based, dangerousness assessment and safety planning shall be offered also to be done at this time;

(B) Shelter clients shall be offered have the full intake interview and screening within forty-eight (48) hours of entry into the shelter. If a client declines to participate with intake process, staff or volunteer shall document offer of services;

(C) Service plans shall be offered and completed within five (5) business days of the shelter client's entry to the shelter. If a client declines to participate with the formation of a service plan, staff or volunteer shall document offer of services;

(D) The service plan shall be offered to be reviewed and updated at least every two (2) weeks. If the client declines to review the service plan, staff or volunteer shall document offer of services;

(E) The client's service plan shall be offered to include components which address the needs of each child accompanying the client. If the client declines to add components for their children, staff or volunteer shall document offer of services;

(F) The service plan shall be offered to include safety issues for client and children. If the client declines to include safety issues, staff or volunteer shall document offer of services, and

(G) A daily note.

(2) Crisis Intervention Services:

(A) All face-to-face contacts with clients are documented and contacts with persons not receiving additional services shall be offered and documented. Documentation shall minimally include the following:

- (i) Staff/Volunteer Name and signature;
- (ii) Date, time, length, and location of intervention;
- (iii) Safety planning based on risk;
- (iv) Client's name, age, race, county of residence, and contact number if given;
- (v) Protective order information if applicable;
- (vi) Personnel involved such as police, hospital, etc.;
- (vii) Summary of contact including ~~visible~~ injuries observed, treatment and services requested; and
- (viii) Outcome;

(B) All telephone contacts shall be documented. Documentation shall minimally include the following:

- (i) Staff/Volunteer name;
- (ii) Date, time and length of call;
- (iii) Safety planning based on risk;
- (iv) Caller's name and contact number, if given; ~~However~~ however, no caller shall be required to give a name, phone number or any other identifying information as a condition to receive information or domestic violence, sexual assault or stalking services;

(v) Summary of the call including services needed and offered;

(vi) Outcome; and

(vii) Follow-up contact information services offered if victim safety is not compromised.

(C) Contact information is kept by the program.

(D) Clients to be transported to shelter facilities shall be screened before the shelter referral is made. If the client is in immediate danger, or no safe housing is available, this screening may be initially waived. If the screening is waived, documentation shall reflect the reason(s) and the notification of such to the shelter.

(3) Counseling, Support and Advocacy Services:

(A) An assessment of the client's needs shall be completed by the third (3rd) counseling or advocacy session. If a client declines to participate staff or volunteer shall document offer of services;

(B) A service plan shall be completed by the fifth (5th) advocacy or counseling session. If a client declines to participate staff or volunteer shall document offer of services; and

(C) A service plan review and update shall be completed at a minimum of once every six (6) months. If a client declines to participate staff or volunteer shall document offer of services;

(4) Sexual Assault Services:

(A) For victims who continue in support or counseling sessions, a service plan shall be developed by the fifth (5th) visit. If a client declines to participate staff or volunteer shall document offer of services; and

(B) Service plans shall be reviewed and updated at a minimum of once every ninety (90) days. If a client declines to participate staff or volunteer shall document offer of services.

(5) Transitional Living Services:

(A) A service plan including safety issues for the client and dependents shall be developed within five (5) business days of the client moving in; and

(B) The service plan shall be reviewed and updated at least every ninety (90) days.

(6) Safe Home Services:

(A) A service plan that includes goals agreed upon by the client and sponsoring family shall be developed within five (5) business days of the client moving in. On a client's entry to the Safe Home, the safe home provider shall record the client's name, emergency contact information, and pertinent medical information;

(B) Safe Home clients shall receive a full intake interview and screening by program staff or volunteer within twenty-four (24) hours of admission or by the first business day following admission;

(C) A service plan shall be developed within five (5) business days of the client's entry to the Safe Home; and.

(D) All records regarding the client shall be retained in the client's record at the sponsoring program.

(b) Where required information is not obtained, efforts to comply with the requirements of this subsection shall be documented in the client record.

(c) Compliance with ~~this~~ 75:15-5-3.1 shall be determined by a review of client records, policy and procedures, call logs, and/or other supporting documentation.

75:15-5-4. Client confidentiality

(a) The DVSA program must comply with both ~~the~~ state and federal laws governing confidentiality and any exceptions to those laws.

(1) State Law: Case or client records, files or notes, of a ~~DV/SADVSA~~ DVSA program shall be confidential and shall only be released under certain prescribed conditions (74 O.S. § 18p-3);-

(A) The case records, case files, case notes, client records, or similar records of a domestic violence or sexual assault program certified by the Attorney General or of any employee or trained volunteer of a program regarding an individual who is residing or has resided in such program or who has otherwise utilized or is utilizing the services of any domestic violence or sexual assault program or counselor shall be confidential and shall not be disclosed;-

(B) For purposes of this subsection, the term "client records" shall include, but not be limited to, all communications, records, and information regarding clients of domestic violence and sexual assault programs; and-

(C) The case records, case files, or case notes of programs specified in paragraph 1 of this subsection shall be confidential and shall not be disclosed except with the written consent of the individual, or in the case of the individual's death or disability, of the individual's personal representative or other person authorized to sue on the individual's behalf or by court order for good cause shown by the judge in camera.

(2) Federal Law:

(A) VAWA- 42 U.S.C. § 13925 (b)(2). Federally, the U.S. Violence Against Women Act January, 2006, ~~and~~ mandates ~~that~~ programs that receive VAWA funds may not reveal personally identifying information about victims without "reasonably time-limited," written, and informed consent. Under this provision, VAWA-funded programs are prohibited from disclosing personally identifying victim information to any third party, including to any database operated by any party outside of the domestic violence program. "Reasonably time-limited" is not defined in the statute, but it is determined by the circumstances and the purposes for which the client is requesting the release of information. It could be a few minutes, a few hours, ~~and/or~~ a few days. In no event should it be for more than ~~60~~ 15 days, ~~or 60 at the outside~~;-

(B) FVPSA U.S. Family Violence Prevention and Services Act (FVPSA) each have specific confidentiality protections that apply to many domestic violence and sexual assault programs. (42 U.S.C.

10402(a)(2)(E)). Grantees and subgrantees under this title shall protect the confidentiality and privacy of persons receiving services. ~~subgrantees~~Subgrantees shall not:—

(i) ~~disclose~~Disclose any personally identifying information or individual information collected in connection with services requested, utilized, or denied through grantees' and subgrantees' programs; or

(ii) ~~reveal~~Reveal individual client information without the informed, written, reasonably time-limited consent of the person (or in the case of an unemancipated minor, the minor and the parent or guardian or in the case of persons with disabilities, the guardian) about whom information is sought, whether for this program or any other Federal, State, tribal, or territorial grant program, except that consent for release may not be given by the abuser of the minor, person with disabilities, ~~or~~ the abuser of the other parent of the minor.

(C) Housing Assistance Emergency Shelter Grants 42 U.S.C. § 11375 (c)(5). Grant recipients are required to implement procedures to ensure confidentiality of records pertaining to any individual who is provided family violence prevention or treatment services. All grant recipients must also certify that the address of the family violence shelter will not be made public without permission of the agency; and-

(D) Stewart B. McKinney Homeless Assistance Act 42 U.S.C. § 11301. The Violence Against Women Act also specifically added a provision that specifies ~~that~~ a domestic violence program provider shall not disclose any personally identifying information about any client to the Homeless Management Information System (HMIS).

(b) Compliance with 75:15-5-4 shall be determined by a review of the program's ~~policy and procedures~~ policies and procedures; and on-site observation of the handling and review of client records.

75:15-5-4.1. Waiver of Confidential Information

(a) For a waiver of confidentiality to be valid, it must:

- (1) Be voluntary;
- (2) Relate only to the participant or the participant's dependents;
- (3) Clearly describe the scope and any limitations of the information to be released;
- (4) Include an expiration date; ~~and~~
- (5) Inform the participant that consent can be withdrawn at any time, orally or in writing;-
- (6) Programs may only share the specific information the client allows in the release. The client gets to choose when, how and what personal information will be shared, or not shared, and with whom;-
- (7) Even when a court mandate requires the program to disclose or release information about the client, the program may only share the minimum information necessary to meet the statutory or court mandate; and-

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- (8) The program/agency shall notify the victim of any disclosure and to continue taking steps to protect the victim's safety and privacy.
- (b) A valid written release form for disclosure of client information shall have, at a minimum, the following elements:
- (1) the specific name or general designation of the program or person permitted to make the disclosure;
 - (2) the name and title of the individual within the organization to which disclosure is to be made;
 - (3) the name of the client whose records are to be released;
 - (4) the purpose of the disclosure;
 - (5) a description of the information to be disclosed;
 - (6) the dated signature of the client or authorized representative or both when required;
 - (7) a statement of the right of the client to revoke the release in writing and a description of how the client may do so; and;
 - (8) an expiration date, specified event or condition which, if not revoked before, shall ensure the release will last no longer than 90 days reasonably necessary to serve the purpose for which it is given. In no event shall the waiver extend for longer than sixty (60) days.
- (c) "In the event of my death" clause: Some programs have chosen to talk with clients about the lethality of domestic violence and ask if they would like the program to share information with police, prosecutors, the Oklahoma Fatality Review Board, or others the client may indicate in the event that the client dies (due or not due to DV). Because clients may have to sign multiple releases, programs shall have the "in the event of my death" exception on a different form.
- (d) The program shall have written ~~policy and procedures~~ policies and procedures to ensure confidentiality of client information and identity and shelter location and govern the disclosure of information, including verbal disclosure, contained in client records. When a client record is established, the program shall discuss the confidentiality requirements with each client and maintain documentation in the client record that they have reviewed the circumstances under which confidential information may be revealed.
- (e) Compliance with 75:15-5-4.1 shall be determined by a review of the program's ~~policy and procedures~~ policies and procedures; and on-site observation of the handling and review of client records.

75:15-5-5. Physical safety and integrity of client records

- (a) Client records shall be maintained in a locked and secure manner. The program shall have written policies and procedures to safeguard the record and information contained in the record against loss, theft, defacement, tampering, or unauthorized access or use.
- (b) Compliance with 75:15-5-5 shall be determined by a review of the program ~~policy and procedures~~ policies and procedures; on-site review of locking mechanisms and procedures to assure security; and onsite observation of the handling of client records.

75:15-5-6. Client record, handling, retention, and disposal

- (a) A program shall have written ~~policy and procedures~~ policies and procedures addressing the storage, retention period, and method of disposal of client records. ~~This~~ ~~These~~ ~~policy and procedures~~ policies and procedures shall be compatible with protecting clients' rights against unauthorized confidential information disclosures.
- (b) Client records shall be easily retrieved by staff or volunteer as needed for providing and documenting services.
- (c) Compliance with 75:15-5-6 shall be determined by a review of the program's ~~policy and procedures~~ policies and procedures, and a review of office and files.

75:15-5-7. Shelter Policy on Medications

- (a) The shelter shall seek to afford shelter residents with the greatest possible privacy and autonomy in regard to their medication, while also providing a safe shelter environment, as follows:
- (1) Staff and volunteers ~~will~~ shall not dispense medication;
 - (2) The shelter will provide every resident with an individual locking box, locker, or locking cabinet ("locked space") for storage of medications and valuables or lock the clients' medication in a safe but accessible location;
 - (3) The shelter will not limit or monitor the survivor's access to her medication;
 - (4) If a client indicates that she needs access to refrigerated storage space, the shelter will provide refrigerated storage space in the manner that provides the greatest possible privacy and autonomy; and;
 - (5) The shelter shall have a policy for the disposal of unused or abandoned medication or other substances.
- (b) Safety Agreement: During a resident's stay at shelter, the client shall be asked to make sure that any medications ~~the client she/he~~ has are safely secured. ~~(4)~~ The shelter will ask every resident to sign an agreement that ~~the client she/he~~ will store any medications in ~~the client's her/his~~ individual locking box, locker, or locking cabinet provided, or if it is one requiring refrigeration, as otherwise provided. The agreement will provide that residents who have medications that must be taken in the event of a medical emergency may carry them on their person (e.g., in a fanny pack).
- (c) Compliance with 75:15-5-7 shall be determined by a review of the program's ~~policy and procedures~~ policies and procedures, and on-site observation.

SUBCHAPTER 7. PHYSICAL ENVIRONMENTS

75:15-7-1. Physical plant, primary role

- (a) The primary role of programs is to offer safety; they must also ~~and to~~ protect the confidentiality and privacy of victims of domestic violence, sexual assault, stalking and their dependent family members. The programs' physical plants ~~of programs~~ shall not be utilized in any manner ~~which~~ that fails to guarantee

the confidentiality, safety, and protection of the victims, their dependents and staff or volunteers.

(b) Facilities that serve both victims and batterers in the same facility shall have written procedures to ensure that ~~those~~ services do not jeopardize the safety and psychological well-being of victims.

(c) Compliance with 75:15-7-1 shall be determined by a review of program policies and procedures and a tour of the facility.

75:15-7-2. Fire and safety codes and inspections

(a) The physical environments of shelter facilities, housing options and all office space shall meet safety, zoning, and building code regulations required by local, state, and federal authorities, and shall obtain and maintain an annual fire and safety inspection from local or state authorities.

(b) Compliance with 75:15-7-2 shall be determined by a review of the annual fire and safety inspection report.

75:15-7-5. Persons with special needs

(a) Pursuant to the Americans with Disabilities Act of 1990, the program shall ensure that persons with disabilities are not excluded from services. Programs are required to integrate a person with a disability into agency services, unless providing separate services is the only way to offer equal opportunities for services. Referrals must be offered when necessary, and the program shall have written procedures for referrals of disabled persons who cannot be served on-site. Service and companion animals should be allowed in facilities unless the animal poses a direct threat to the health/safety of others. Auxiliary aids/services should be offered as necessary to ensure effective communication unless doing so would cause an undue burden (i.e., significant difficulty or expense) or fundamental alteration in services. Alterations to existing buildings must be accessible to the maximum extent feasible. All newly constructed facilities must be accessible to persons with disabilities unless it is structurally impractical. (Americans with Disabilities Act of 1990) Resource: Americans with Disabilities Handbook, published by (U.S.) Equal Employment Opportunities Commission, and the (U.S.) Department of Justice.

(b) Compliance with 75:15-7-5 shall be determined by a review of program ~~policy and procedures~~ policies and procedures.

75:15-7-6. Program environment

(a) The program environment shall meet the following conditions:

- (1) The facility shall be accessible by an all-weather road;
- (2) The facility shall have adequate space in which to carry out the program's goals and objectives, including outdoor areas and equipment when appropriate;
- (3) The facility shall have heating and air conditioning equipment adequate to maintain the temperature in areas utilized by clients at between 65°F and 85°F;

(4) The facility shall have adequate ventilation and air circulation provided in the facility to assure an environment that will be comfortable for the clients;

(5) The facility shall have water from an approved tested potable source;

(6) The facility shall have, at minimum, a commode and lavatory facility. The privacy of individuals shall be assured while using these facilities;

(7) All doors, including those for each closet, bedroom, bathroom, and office, shall be easily opened from both sides;

(8) Smoking shall not be allowed in any indoor portion of any facility;

(9) Facility sanitation shall be maintained to prevent offensive odors and insect infestation.

(10) All facilities shall have emergency backup lighting;

(11) Telephones shall be provided for the convenience of the staff or volunteers, and the necessary accommodation of the clients. Pay telephones only are not acceptable;

(12) There shall be written ~~policy and procedures~~ policies and procedures addressing the use of any outdoor recreational space, including required supervision and the safety of children;

(13) Toxic materials and dangerous substances, such as toxic cleaners, insecticides, and matches shall be stored in a non-client area, locked space where they are not accessible to children;

(14) Combustible materials shall be stored in locked non-flammable containers; ~~and~~

(15) The Poison Control Center's toll-free telephone number shall be posted and visible to staff, volunteers and clients at all times.

(b) Compliance with 75:15-7-6 shall be determined by a review of program ~~policy and procedures~~ policies and procedures, staff, volunteer and client interviews, and on-site observation.

75:15-7-7. Program environment, shelter services programs

(a) All certified shelter services programs shall comply with section 75:15-7-6 and the following:

(1) Baby beds and high chairs that ensure children's safety and comfort shall be available for infants and small children;

(2) The facility shall have access to outdoor recreational space and playground equipment located, installed, and maintained as to ensure the safety of the clients and their children. The grounds and access thereto shall be maintained in a manner that shall ensure the area is free of any hazard to health or safety;

(3) Safe and adequate internal play space for children, including outlet protectors and gated stairwells;

(4) Kitchens used for meal preparation in the residential facility shall be provided with the necessary equipment for the preparation, storage, serving, and clean-up of all meals. All equipment shall be maintained in working order;

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(5) Provisions shall be made to assist or make food available for meal preparation that accommodates special diets;:-

(6) The facility shall have, at minimum, a commode, lavatory, and bathing facility at a ratio of one (1) to twelve (12) residents, including infants and children. The privacy of individuals or families shall be assured while using these facilities;:-

(7) Residents' rooms shall be so arranged that the client has direct access to a hallway or common area without having to pass through other resident's rooms or areas;:-

(8) There shall be written ~~policy and procedures~~policies and procedures for laundry and linens, addressing frequency of changing linens, and laundry arrangements within the facility;:-

(9) Laundry equipment shall be provided within the residential facility, and shall be kept clean, well-maintained, and properly ventilated;:-

(10) Reasonable space shall be provided for storage of clients' personal belongings;:-

(11) Written ~~policy and procedures~~policies and procedures shall address secure storage of client valuables;:-

(12) Written ~~policy and procedures~~policies and procedures shall address the secure handling and storage of client medications, including policy to document client access to medication;:-

(13) The facility shall be secured by double locks or locking devices such as chains, bolts, etc., on ground floor doors. However, documentation that the locking system meets state and local fire code inspection shall be accepted. When key-locked deadbolts are used, the location of the keys must be identified and readily accessible;:-

(14) All outdoor openings such as windows shall be covered for privacy; ~~and~~-

(15) Provision shall be made for cleaning the facility minimally once per week. A written work schedule or other form of notification shall be posted, ~~which that~~ clearly delineates each individual's responsibility for various tasks.

(b) Compliance with 75:15-7-7 shall be determined by a review of program ~~policy and procedures~~policies and procedures; shelter rules, staff, volunteer and client interviews where appropriate, and on-site observation.

75:15-7-8. Program environment, Safe Home services program

(a) All Safe Home services programs shall comply with section 75:15-7-6 (a) (1)-(11) and the following:

(1) The facility shall have, at minimum, a commode, lavatory, and bathing facility at a ratio of one (1) for every eight (8) persons, including infants and children. The privacy of individuals or families shall be assured while using these facilities;:-

(2) Written ~~policy and procedures~~policies and procedures shall address the secure handling and storage of client medications, including policy to document client access to medication;:-

(3) The Safe Home shall be secured by double locks or locking devices such as chains, bolts, etc., on ground floor doors which meets state and local fire code inspection. When key-locked deadbolts are used, the location of the keys must be identified and readily accessible; ~~and~~-

(4) All outdoor openings such as windows shall be covered for privacy.

(b) Compliance with 75:15-7-8 shall be determined by a review of program ~~policy and procedures~~policies and procedures, provider and client interviews where appropriate, and on-site observation.

75:15-7-9. Program environment, transitional living services program

(a) All transitional living services programs shall comply with section 75:15-7-6 (a) (1)-(10) and the following:

(1) operable smoke detectors;

(2) 24-hour access to a telephone for emergencies;

(3) secured by double locks or locking devices such as chains, bolts, etc., which ~~meets~~meet state and local fire code inspection; ~~and~~-

(4) outdoor openings such as windows shall be covered for privacy; ~~and~~-

(5) the facility shall have, at minimum, a commode, lavatory and bathing facility at a ratio of one (1) for every eight (8) persons, including infants and children. The privacy of individuals or families shall be assured while using these facilities.

(b) Compliance with 75:15-7-9 shall be determined by a review of program ~~policy and procedures~~policies and procedures, provider and client interviews where appropriate, and on-site observation.

SUBCHAPTER 9. PROGRAM MANAGEMENT AND PERFORMANCE IMPROVEMENT

75:15-9-1. Admission criteria

(a) The agency shall have specific written criteria for each program service component identifying persons for whom the services are intended, and persons who are excluded from receiving services.

(b) The program shall have a written policy requiring referral of any individual who does not meet services criteria.

(c) Compliance with 75:15-9-1 shall be determined by a review of written program ~~policy and procedures~~policies and procedures.

75:15-9-2. Program management, ~~policy and procedures~~policies and procedures

(a) The agency shall maintain written ~~policy and procedures~~policies and procedures that ~~which~~ describe each program service component, the rules clients are expected to follow for each component and staff or volunteer duties. Policies shall include but are not limited to:

(1) Physical punishment of children shall not be allowed;:-

- (2) Length of stay limitations, if any; ~~and-~~
- (3) Participation in housekeeping, food preparation or other activities, if applicable.
- (b) Clients shall be given a copy of program rules and the provision of such shall be documented in the client record.
- (c) The program shall have a written policy of the intent to comply with the Americans with Disabilities Act of 1990.
- (d) Compliance with 75:15-9-2 shall be determined by a review of the program's written ~~policy and procedures~~policies and procedures; rules; client interviews and record documentation.

75:15-9-8. Annual program evaluation

- (a) The agency shall conduct an annual evaluation of the program's services, facilities and ~~policy and procedures~~policies and procedures. This evaluation shall be carried out according to a written plan established in ~~policy and procedures~~policies and procedures to include the plan of evaluation, data to be reviewed, and the persons to conduct the evaluation, e.g., governing body members, staff, volunteers or other persons. The evaluation shall include an assessment to identify special populations of victims of sexual assault, domestic violence and stalking who are underserved or who have special needs.
- (b) Upon completion, this evaluation shall be submitted and reviewed by the governing body, and made available to staff and volunteers.
- (c) Compliance with 75:15-9-8 shall be determined by a review of the program evaluation, ~~policy and procedures~~policies and procedures, staff meeting minutes, and/or any other supporting documentation.

75:15-9-9. Critical incidents

- (a) The program shall have ~~policy and procedures~~policies and procedures requiring documentation and reporting of critical incidents.
- (b) Each critical incident shall be recorded and monitored as follows:
 - (1) agency name and name and signature of the person(s) reporting the critical incident;
 - (2) Client ID(s), staff member(s), volunteers, and/or property, involved in the critical incident;
 - (3) the date, time and physical location of the critical incident, if known, and the name of the staff or volunteer the incident was reported to;
 - (4) a description of the incident;
 - (5) severity of each injury, if applicable. Severity shall be indicated as follows:
 - (A) no off-site medical care required or first aid care administered on-site;
 - (B) medical care by a physician or nurse or follow-up attention required; or
 - (C) hospitalization or immediate off-site medical attention was required; and
 - (6) resolution or action taken, date action taken and signature of the agency director or authorized designee;
- (c) Critical incidents that shall be reported to the Office of the Attorney General are reported as follows:

- (1) ~~critical incidents~~Incidents requiring medical care by a physician or nurse or follow-up attention and incidents requiring hospitalization or immediate off-site medical attention shall be delivered via fax or mail, including electronic mail, to the Office of the Attorney General Victims Services Unit within forty-eight (48) hours, or if the incident occurs on a weekend or holiday, the next business day of the incident being documented; ~~and-~~
- (2) ~~Critical incidents~~Incidents involving disaster at a facility, death or client abuse shall be reported to the Safe-line at 1-800-522-7233 immediately via telephone. The notification shall be followed with a written report from the reporting agency within twenty-four (24) hours of the incident and delivered via fax or mail including electronic mail to the Office of the Attorney General Victims Services Unit.
- (d) Compliance with 75:15-9-9 shall be determined by a review of ~~policy and procedures~~policies and procedures, critical incident reports at the program and those submitted to the Office of the Attorney General Victims Services Unit.

SUBCHAPTER 13. PERSONNEL AND VOLUNTEERS

PART 1. PERSONNEL

75:15-13-1. Personnel policies and procedures

- (a) The program shall have written policies and procedures governing the conditions of agency employment to include appropriate screening and background inquiries to ensure client safety and confidentiality. Prior to employment and at least annually, all certified programs are required to conduct a name search of employees against the registries maintained pursuant to the Oklahoma Sex Offenders Registration Act and the Mary Rippy ~~Violence~~Violent Crime Offenders Registration Act ~~while such persons are working with or serving children.~~
- (b) The agency's ~~policy and procedures~~policies and procedures shall be accessible to all personnel and each shall be informed of personnel policies and procedures, and any other materials regulating or governing the conditions of their employment.
- (c) Written policies and procedures shall ensure personnel are informed of any changes to these afore stated materials.
- (d) Compliance with 75:15-13-1 shall be determined by a review of the program's personnel policies and procedures, interviews with staff and volunteers, review of staff meeting minutes and/or other supporting documentation.

75:15-13-3. Non-discrimination

- (a) The agency's policies and procedures shall include provisions for non-discrimination with regard to the agency's relationship with personnel in accordance with applicable state and federal laws.
- (b) Compliance with 75:15-13-3 shall be determined by a review of the program's written policy and procedure, and staff or volunteer interviews.

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75:15-13-4. Selection of personnel

(a) The methods for selecting personnel shall be described in ~~policy and procedures~~ policies and procedures and shall include, but not be limited to:

- (1) The processes for recruitment, selection and appointment; and
 - (2) Written criteria demonstrably related to the position being filled.
- (b) Compliance with 75:15-13-4 shall be determined by:
- (1) ~~A review~~ Review of the policies and procedures; ~~;~~
 - (2) ~~A review~~ Review of job descriptions for personnel; ~~and~~ and;
 - (3) ~~A review~~ Review of any other supporting documentation.

75:15-13-5. Job descriptions, personnel

(a) The agency shall have written job descriptions for personnel defining the duties of, and minimum qualifications for, each position.

- (b) Compliance with 75:15-13-5 shall be determined by:
- (1) ~~a review~~ Review of the program's policies and procedures; ~~;~~ and
 - (2) ~~a review~~ Review of the program's job descriptions.

75:15-13-8. Personnel records

(a) The agency shall maintain record(s) for each staff member or volunteer selected and utilized; documentation shall minimally include:

- (1) ~~job~~ Job description;
- (2) ~~employment~~ Employment application or resume;
- (3) ~~documentation~~ Documentation of current qualifications and training as required and defined in the job description;
- (4) ~~duty~~ Duty or work assignment;
- (5) ~~record~~ Record of hours worked or hours of service performed;
- (6) ~~record~~ Record of participation in training;
- (7) ~~staff~~ Staff or volunteer performance evaluation(s); ~~;~~ and
- (8) ~~emergency~~ Emergency notification information.

(b) Compliance with 75:15-13-8 shall be determined by a review of personnel records.

75:15-13-9. Supervision of personnel

(a) A certified program shall establish in writing lines of supervision for all personnel.

(b) Compliance with 75:15-13-9 shall be determined through a review of the program's ~~policy and procedures~~ policies and procedures, or any other supporting documentation provided; including, but not limited to, personnel manuals, organizational charts, job descriptions, and personnel files.

75:15-13-10. Performance evaluation of personnel

(a) The agency shall have policies and procedures mandating the evaluation of personnel employment and service

performance. These policies and procedures shall minimally include:

- (1) ~~performance~~ Performance evaluations shall be completed at least annually, to include an evaluation of the executive director;
- (2) ~~define~~ Define the reason(s) for any evaluation other than annual;
- (3) ~~performance~~ Performance evaluations shall be in writing and based on the staff's or volunteer's job description;
- (4) ~~each~~ Each evaluation shall be individually discussed with the staff or volunteer; ~~and~~ and;
- (5) ~~personnel~~ Personnel shall have a documented opportunity to respond, in writing, to each of their individual performance evaluations; and
- (6) ~~both~~ Both staff or volunteer and supervisor shall sign and date the performance evaluation. However, the evaluation document shall state the ~~staff~~ staff's or volunteer's signature does not necessarily constitute agreement with the evaluation content.

(b) Compliance with 75:15-13-10 shall be determined by a review of:

- (1) ~~program~~ Program policies and procedures, governing authority meeting minutes where applicable; ~~;~~ and
- (2) ~~review~~ Review of personnel files.

PART 2. VOLUNTEERS

75:15-13-12. Volunteer policies and procedures

(a) The program shall have written policies and procedures governing volunteer utilization to include appropriate screening and background inquiries to ensure client safety and confidentiality.

(b) The agency's policies and procedures shall include provisions for non-discrimination with regard to the agency's relationship with volunteers in accordance with applicable state and federal laws.

(c) Compliance with 75:15-13-12 shall be determined by a review of the program's written ~~policy and procedure~~ policies and procedures, and volunteer interviews.

75:15-13-13. Supervision of volunteers

(a) ~~The A-certified~~ program shall establish in writing lines of supervision for all volunteers.

(b) ~~The A-certified~~ program shall ensure each volunteer has the knowledge appropriate to his or her job duties and ~~is~~ is supervised by personnel.

(c) Compliance with 75:15-13-13 shall be determined through a review of the program's ~~policy and procedures~~ policies and procedures, and any other supporting documentation provided; including, but not limited to, volunteer manuals, and organizational charts.

75:15-13-14. Volunteer records

- (a) The ~~program~~ agency shall maintain record(s) for each volunteer selected and utilized; documentation shall minimally include:
- (1) ~~duty~~Duty or work assignment;
 - (2) ~~record~~Record of hours worked or hours of service performed;
 - (3) ~~record~~Record of participation in training; and
 - (4) ~~emergency~~Emergency notification information.
- (b) Compliance with 75:15-13-14 shall be determined by a review of personnel records.

PART 3. TRAINING

75:15-13-20.1. Orientation - general, personnel and volunteers

- (a) A certified program shall provide a minimum of ~~30~~46 hours of orientation training that incorporates the use of adult learning techniques (i.e., scenarios, role playing, shadowing) to familiarize new personnel and volunteers providing direct services with the program which includes, but is not limited to:
- (1) Program goals and services of each service component;
 - (2) Program ~~policy and procedures~~policies and procedures;
 - (3) Confidentiality; to include verbal confidentiality, whether inside or outside the facility and client records;
 - (4) Facility safety and disaster plans;
 - (5) First aid kits and fire extinguishers, their location, contents, and use;
 - (6) Universal precautions;
 - (7) Client rights;
 - (8) Domestic violence and its effects on victims and children;
 - ~~(9) The cycle of domestic violence;~~
 - ~~(9) Power and control tactics of abuse;~~
 - (10) Dangerousness and lethality assessment including strangulation and head trauma;
 - (11) Crisis intervention techniques;
 - (12) Sexual assault;
 - (13) Stalking;
 - (14) Victim advocacy;
 - (15) Parenting and disciplinary techniques for children who have been exposed to domestic violence and trauma;
 - (16) Active and empathetic listening techniques including hotline skills;
 - (17) Accessing resources needed by victims and their families including how to ensure services and access resources for persons with special needs, including cognitive disabilities or who are deaf or hard of hearing, non-English speaking persons, or undocumented immigrants to include basic information on U visas and T visas;
 - (18) Safety planning for adults and age appropriate safety planning for children;
 - (19) Basic child development;
 - (20) Legal and ethical issues;
 - (21) Cultural Sensitivity;

(22) Effects of trauma including post-traumatic stress disorder;~~;~~~~and~~

(23) Victim's use of force; and
~~(24) Documentation of services.~~

- (b) Staff and volunteers providing indirect services and children's activities are required to complete orientation as prescribed by the Executive Director which shall include training on confidentiality, ~~and~~ facility safety and disaster plans.
- (c) Orientation for personnel must take place within 30 days of employment or prior to unsupervised direct client contact and services. Volunteer orientation must occur within 6 months or prior to unsupervised, direct client contact and services. The Executive Director of a facility may waive orientation training if it is documented that the staff or volunteer has completed the requisite program training within the past year.
- (d) Program directors shall attend New Director Orientation and training offered by the Oklahoma Office of the Attorney General, within the first six months of employment.
- (e) Compliance with 75:15-13-20.1 shall be determined by a review of the written policies and procedures, and personnel and volunteer training manuals and records.

75:15-13-20.2. In-service and ongoing training for personnel and volunteers

- (a) A certified program shall have ~~policy and procedures~~policies and procedures mandating, at the minimum, sixteen (16) hours of annual training of all staff which shall include:
- (1) Confidentiality, to include verbal confidentiality, whether inside or outside the facility and client records;
 - (2) Facility safety and disaster plans;
 - (3) First aid kits and fire extinguishers, their location, contents, and use;
 - (4) Universal precautions;
 - (5) Client rights;~~;~~~~and~~
 - (6) Legal and ethical issues;~~;~~~~and~~
 - (7) The remaining hours of annual training shall be related to domestic violence, sexual assault, stalking, batterers' intervention and administration as prescribed and approved by the Executive Director.
- (b) A certified program shall have ~~policy and procedures~~policies and procedures mandating a minimum of four hours annual training of all volunteers providing direct services; related to domestic violence, sexual assault, and stalking as prescribed and approved by the Executive Director.
- (c) Staff and volunteers who provide indirect services and do not meet the requirements for staff and volunteers providing direct services as defined in OAC 75:15-1-2 shall receive annual training as prescribed by the Executive Director, but do not have a minimum number of training hours required.
- (d) Documentation of training must include the topic of the training, the name of the trainer(s), the date of the training, the length of the training session, the sponsor of the training, and approval of the training by the Executive Director of the agency.
- (e) A Certified Domestic and Sexual Violence Response Professional in good standing with the Oklahoma Coalition Against Domestic Violence and Sexual Assault (OCADVSA)

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shall be deemed to be current with annual training requirements upon completion of required annual training set forth in subsection (a) above. A copy of the current certification card issued by the OCADVSA shall be evidence of good standing.

(f) Compliance with 75:15-13-20.2 shall be determined by a review of ~~policy and procedures~~policies and procedures; review of training records and other provided documentation of personnel training; and a review of personnel or volunteer records.

75:15-13-24. Personnel training, children's services

(a) Prior to providing any direct services, children's services personnel shall receive the prescribed orientation training and minimally have one (1) year employment or volunteer experience in a child care or service related field, or an equivalent combination of education, training and experience in child care or development issues.

(b) Compliance with 75:15-13-24 shall be determined by:

- (1) Review of program's ~~policy and procedures~~policies and procedures;
- (2) Review of program's training records and other provided documentation of staff or volunteer training; and;
- (3) Review of personnel or volunteer records.

75:15-13-25. Personnel training, sexual assault services

(a) Prior to providing any direct services or CLEET training, all sexual assault services staff or volunteers shall receive a minimum of six (6) hours classroom training in addition to basic orientation which shall include, but not be limited to:

- (1) Sexual abuse within the family (i.e., incest, sibling abuse, marital and domestic relationship rapes);
- (2) Sexual assault outside the family (i.e., stranger, non-stranger, abuse by professionals, sexual harassment, and bullying);
- (3) Sexual assault within institutions (i.e., nursing homes, residential facilities, prisons, military);
- (4) Commercial sexual exploitation (i.e., prostitution, trafficking, pornography, escort services);
- (5) Non-traditional client populations (i.e., males, ~~victims~~ of same sex, bisexual or transgender victims, non-English speaking, undocumented immigrants, victims with cognitive disabilities or who are deaf or hard of hearing; and;
- (6) Other topics to increase skills, such as post-traumatic stress syndrome as it relates to rape trauma, rape trauma syndrome, self-injury, and alcohol and drug use.

(b) Compliance with 75:15-13-25 shall be determined by:

- (1) Review of program's ~~policy and procedures~~policies and procedures;
- (2) Review of program's training records and other provided documentation of staff or volunteer training; and;
- (3) Review of personnel or volunteer records.

75:15-13-26. Personnel training, transitional living services

(a) Prior to providing any direct services, all transitional living services personnel shall receive the prescribed orientation training in 75: 15-13-20.1.

(b) The program shall have policies and procedures mandating a minimum of sixteen (16) hours annual training for transitional living services personnel.

(~~c~~) Compliance with 75:15-13-26 shall be determined by:

- (1) Review of program's ~~policy~~policies and procedures;
- (2) Review of program's training records and other provided documentation of staff or volunteer training; and;
- (3) Review of personnel records.

75:15-13-27. Provider training, Safe Home services

(a) Prior to providing any direct services, all Safe Home providers shall receive the prescribed orientation training in 75: 15-13-20.1 ~~minimally receive ten (10) training hours provided by a staff member or volunteer of a DV/SA program certified to provide Safe Home services, which shall minimally include:~~

- (~~1~~) ~~the nature and scope of domestic violence and sexual assault including its effects on victims and children;~~
- (~~2~~) ~~societal attitudes toward domestic violence and sexual assault;~~
- (~~3~~) ~~orientation in the services, structure, philosophy and history of the sponsoring agency;~~
- (~~4~~) ~~safety planning and disaster plans;~~
- (~~5~~) ~~first aid kit and fire extinguisher use;~~
- (~~6~~) ~~confidentiality, to include verbal confidentiality whether inside or outside the home;~~
- (~~7~~) ~~client rights; and~~
- (~~8~~) ~~universal precautions.~~

(b) The program shall have ~~policy and procedures~~policies and procedures mandating a minimum of four (4) hours annual training for Safe Home providers.

(c) Compliance with 75:15-13-27 shall be determined by:

- (1) Review of program's ~~policy~~policies and procedures; and;
- (2) Review of program's training records.

75:15-13-29. Personnel training, Court Advocates

(a) Prior to providing services, Court Advocates shall receive the prescribed orientation training, and training in the following:

- (1) ~~protective~~Protective orders (i.e., the requirements for obtaining an ex parte emergency protective order and permanent protective order and an understanding of what happens after a protective order is issued);
- (2) ~~full~~Full faith and credit;
- (3) ~~the~~The court process including safety planning during this time; and;
- (4) ~~at~~At least three (3) hours of accompanied court time with a trained court advocate that includes observation of an ex parte emergency protective order hearing and a final protective order hearing.

- (b) Compliance with 75:15-13-29 shall be determined by:
 - (1) Review of program's ~~policy and procedures~~policies and procedures;
 - (2) Review of program's training records and other provided documentation of staff or volunteer training; and;
 - (3) Review of personnel records.

SUBCHAPTER 15. GOVERNING AUTHORITY

75:15-15-1. Governing authority

- (a) The agency shall have a governing authority. In the instance of Native American programs, the tribal council may be the governing body.
- (b) The governing authority shall establish, and function under, written by-laws. These ~~bylaws~~by-laws shall minimally include:
 - (1) Designation of regular quarterly meetings to be held in accordance with the Open Meeting Act;
 - (2) Recording and retention of written minutes;
 - (3) Eligibility criteria, selection, terms, responsibilities, power, and duties of members;
 - (4) Term limitations, removal and filling of vacancies;
 - (5) Attendance policy;
 - (6) Prohibition on staff serving as voting members of the governing authority;
 - (7) Establishment of a quorum; and
 - (8) Conflict of interest agreement.
- (c) Compliance with 75:15-15-1 shall be determined by:
 - (1) Documents of incorporation or registration as a business entity or documentation from the appropriate Tribal Council;
 - (2) Review of the written by-laws; and;
 - (3) Review of the governing authority's minutes.

75:15-15-3. Duties of the governing authority

- (a) The duties of the governing authority shall include, but are not limited to:
 - (1) Approving all ~~policy~~policies for the operation of the agency, and ensuring procedures for the implementation of ~~policy~~policies are in place and enforced;
 - (2) Ensuring the agency operates in compliance with established agency policy, applicable state and federal law and administrative rules;
 - (3) Compliance with the by-laws of the governing authority;
 - (4) Ensuring all financial transactions and events requiring the approval of the governing authority are reviewed and authorized by the governing authority prior to any commitment by agency personnel;
 - (5) The selection, annual evaluation and continuance of retention of the executive director;
 - (6) Review and approve all contractual agreements;
 - (7) Review the program audit and certification reports from the VSU and approve ~~any~~any plans of correction; and;
 - (8) Oversee the financial administration of the program.

- (b) Compliance with 75:15-15-3 shall be determined by a review of:
 - (1) ~~by laws~~By-laws and minutes of the meetings of the governing authority;
 - (2) ~~posted~~Posted, or otherwise distributed, written materials regarding decisions, and other notifications, of the governing authority;
 - (3) ~~personnel~~Personnel meeting minutes of the program and its various divisions or geographical locations ~~various divisions or geographical locations~~ where applicable; and
 - (4) ~~written~~Written evaluation, and any other documentation regarding the retention or selection or hiring, of the executive director.

75:15-15-4. Governing authority, meeting minutes

- (a) Minutes of the governing authority shall be kept in written form; reviewed at the next following meeting; corrected if such is approved; and signed by the presiding or authorized officer or chairperson.
- (b) Meeting minutes shall include, but are not limited to, recording of:
 - (1) ~~the~~The date, time and place of the meeting;
 - (2) ~~names~~Names of those members attending;
 - (3) ~~whether~~Whether, or not, the meeting was convened; and if not why;
 - (4) ~~approval~~Approval of minutes from past meeting;
 - (5) ~~topics~~Topics and issues discussed and decisions reached;
 - (6) ~~recording~~Recording of motions and of votes on the motion; and
 - (7) ~~time~~Time of adjournment.
- (c) Compliance with 75:15-15-4 shall be determined by the review of the meeting minutes of the governing authority.

75:15-15-5. Governing authority, orientation

- (a) A certified program shall provide a minimum of 2 hours orientation training to members of the governing authority which includes, but is not limited to:
 - (1) Program goals and services of each service component;
 - (2) Program ~~policy and procedures~~policies and procedures;
 - (3) Underlying philosophy [OAC 75:15-1-1.1];
 - (4) Confidentiality, to include verbal confidentiality, whether inside or outside of the facility and client records;
 - (5) Client rights and grievance procedure;
 - (6) Legal and ethical issues;
 - (7) Overview of domestic violence, sexual assault & and stalking;
 - (8) Open Meeting Act and recording of meeting minutes;
 - (9) Open Records Act;
 - (10) Rules, including standards and criteria to ensure multi-cultural needs of clients are met, used in certifying programs;

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- (11) Role and responsibility of the executive director; and
- (12) Role and responsibility of the governing authority.
- (b) Orientation training shall take place within 90 days of election to the governing authority.
- (c) Members of the governing authority providing volunteer direct or indirect services to clients shall receive the prescribed orientation and training required for program personnel in addition to the orientation set forth in this Section.
- (d) Compliance with 75:15-15-5 shall be determined by a review of written ~~policy and procedures~~ policies and procedures, training materials, training records, and minutes of meetings.

SUBCHAPTER 17. CLIENTS RIGHTS

75:15-17-1. Applicability

This Part is applicable to those domestic violence, ~~and~~ sexual assault and stalking programs and shelters certified by the OAG pursuant to 74 O.S. § 18p-1 et seq.

75:15-17-3. Client rights

- (a) Each client shall be afforded all constitutional and statutory rights of all citizens of the State of Oklahoma and the United States, unless abridged through due process of law by a court of competent jurisdiction. Each program shall ensure each client has the rights which are listed below:
 - (1) Each client has the right to be treated with respect and dignity. This shall be construed to protect and promote human dignity and respect for individual dignity;:-
 - (2) Each client has the right to a safe, sanitary, and humane living environment;:-
 - (3) Each client has the right to a humane psychological environment protecting him or her from harm, abuse, and neglect;:-
 - (4) Each client has the right to an environment that provides reasonable privacy, promotes personal dignity, and provides physical and emotional safety;:-
 - (5) Each client has the right to receive services suited to her or his needs without regard to his or her race, religion, gender, ethnic origin, age, degree of disability, or legal status;:-
 - (6) Each client, on admission, has the absolute right to communicate with a relative, friend, clergy, or attorney, by telephone or mail, at the expense of the program if the client is indigent;:-
 - (7) Each client shall have and retain the right to confidential communication with an attorney, personal physician, or clergy;:-
 - (8) Each client has the right to uncensored, private communications including, but not limited to, letters and telephone calls. Copies of any personal letter, sent or received, by a client shall not be kept in her or his client record without the written consent of the client;:-
 - (9) No client shall be neglected or sexually, physically, verbally, or otherwise abused;:-

- (10) Each client shall have the right to practice his or her own religious beliefs, and be afforded the opportunity for religious worship that does not infringe on the health or safety of others. No client shall be coerced into engaging in, or refraining from, any personal religious activity, practice, or belief;:-
- (11) Each client has the right to be offered prompt, competent, appropriate services and an individualized service plan.
 - (A) The client shall be afforded the opportunity to participate in her or his service plan.
 - (B) The client may consent; or refuse to consent; to the proposed services;:-
- (12) The records of each client shall be confidential. This confidentiality remains intact even after the client's death;:-
- (13) Each client has the right to refuse to participate in any research project or medical experiment without informed consent of the client, as defined ~~by law~~ by law. A refusal to participate shall not affect the services available to the client;:-
- (14) Each client has the right to assert grievances with respect to any alleged infringement of these stated rights of clients, or any other subsequently statutorily granted rights;:-
- (15) No client shall ever be retaliated against, or be subject to; any adverse conditions or services solely or partially because of having asserted the her or his rights as stated in this section;:-
- (16) Each client has the right to review the client's his or her own records; or authorize an his or her attorney or other others person to do so. However, where the program is providing the treatment for of a mental health or substance abuse illness treatment, the provisions of 43A O.S. § 1-109 and 42 CFR shall then apply. Each client also has the right that all information and records regarding him or her shall be treated as confidential;:-
- (17) Each client has the right to know why services are refused and can expect an explanation concerning the reason he or she was refused certain services;:-
- (18) Each client has the right to voluntary services that are and self-determined services; and:-
- (19) Each client has the right to decide whether or not to participate in supportive services offered by the program;:-
- (b) Each client shall be given a copy of these rights and the provision of such shall be documented in the client record.
- (c) Programs shall have written ~~policy~~ policies and a procedure to ensure each client is afforded, and has received explanation of explained to him or her, these rights; and these rights are visibly posted in client areas of the facility.
- (d) Client rights shall be visibly posted in client areas of the facility.
- (e) The OAG, in any investigation or program monitoring regarding client rights, shall have unimpeded access to clients, program records and program staff or volunteers.
- (f) Compliance with 75:15-17-3 and applicable federal laws and regulations shall be determined by a review of program ~~policy and procedures~~ policies and procedures, client records,

~~on-site~~ on-site observation, written agreements, and/or other program documentation.

75:15-17-4. Client grievance ~~policy and procedures~~ policies and procedures

(a) Each program shall have a written client grievance policy providing for, but not limited to, the following:

(1) Written notice of the grievance and appeal procedure provided to the client; and, if involved with the client, to family members or significant others;

(2) Time frames for the grievance policy's procedures, which allow for an expedient resolution of client grievances as follows:

(A) Transitional living, shelter services, and Safe Home timeframes for resolution of grievances by program staff or volunteers shall be seven (7) days unless appealed; and

(B) Non-transitional living and non-shelter services' timeframes for resolution of grievances by program staff or volunteers shall be fourteen (14) days unless appealed;

(3) Name(s) of the individual(s) who are responsible for coordinating the grievance policy and the individual responsible for or with the authority to make decision(s) for resolution of the grievance ~~and the individual responsible for or authorized to make decisions for resolution of grievance~~. In the instance where the decision maker is the subject of a grievance, decision-making authority shall be delegated;

(4) Provide for notice to the client that he or she has a right to make a complaint to the OAG Victims Services Unit;

(5) Clients shall be given a copy of the grievance policy, including the right to make a complaint to the OAG, and the provision of such shall be documented in the client record, including the phone number, mailing address, and email address of the Victims Services Unit of the Office of the Attorney General;

(6) Mechanism to monitor the grievance process and improve performance based on outcomes; and

(7) Annual review of the grievance ~~policy and procedures~~ policies and procedures, with revisions as needed.

(b) Compliance with 75:15-17-4 shall be determined by a review of program ~~policy and procedures~~ policies and procedures, client records, ~~on-site~~ on-site observation, written agreements, and/or other program documentation.

[OAR Docket #16-667; filed 7-6-16]

**TITLE 75. ATTORNEY GENERAL
CHAPTER 20. ADDRESS
CONFIDENTIALITY PROGRAM**

[OAR Docket #16-668]

RULEMAKING ACTION:
PERMANENT final adoption

- RULES:**
- 75:20-1-2 [AMENDED]
 - 75:20-1-3 [AMENDED]
 - 75:20-1-4 [AMENDED]
 - 75:20-1-5 [AMENDED]
 - 75:20-1-6 [AMENDED]
 - 75:20-1-7 [AMENDED]
 - 75:20-1-8 [AMENDED]
 - 75:20-1-9 [AMENDED]
 - 75:20-1-10 [AMENDED]
 - 75:20-1-11 [AMENDED]
 - 75:20-1-12 [AMENDED]
 - 75:20-1-13 [AMENDED]
 - 75:20-1-14 [AMENDED]

AUTHORITY:
Office of Attorney General; 74 O.S., Sections 18p-1 et seq.
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APPROVED BY GOVERNOR'S DECLARATION:
Approved by Governor's declaration on June 9, 2016

FINAL ADOPTION:
June 9, 2016

EFFECTIVE:
September 11, 2016

SUPERSEDED EMERGENCY ACTIONS:
n/a

INCORPORATIONS BY REFERENCE:
n/a

ANALYSIS:
The Attorney General is required to adopt and promulgate rules for the management of the Address Confidentiality Program. These rules set forth the requirements which are necessary to meet the responsibilities of oversight, management, evaluation, improvement and participation in the program. Amendments are necessary to amend language that is obsolete or inaccurate due to the transfer of the administration of the Secretary of State to the Office of the Attorney General. Amendments are also necessary due to updated forms and changes to administrative process.

CONTACT PERSON:
Lesley March (405) 522-0042

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, 2016:

75:20-1-2. Definitions

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

"ACP" means Address Confidentiality Program.

"Address Confidentiality Program" means the statutorily created program responsible for implementing the provisions of 22 O.S., §§ 60.14 et. seq. within the Office of the Oklahoma Attorney General.

"Application Assistant" means a representative of a designated agency who is a domestic violence and/or sexual assault advocate that has been trained and registered by the

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Office of the Oklahoma Attorney General to assist individuals in the application process.

"Authorization Card" means the card issued by the ACP Program Manager to a program participant upon certification identifying them as a program participant.

"Authorization Number" means a number assigned to a program participant by the ACP Program Manager upon certification.

"Certification" means the process by which an applicant is determined eligible to participate in the program.

"Designated Agency" means a state or local agency, federal government, a federally recognized tribal government agency, or a nonprofit agency that provides counseling, shelter, or other services to victims of domestic abuse, sexual assault, or stalking that has been designated by the Office of Attorney General as a place where persons apply to be program participants.

"Minor" means a person who is less than eighteen (18) years of age.

"Program Manager" means the employee of the Victim Services Unit of the Office of Attorney General designated by the Oklahoma Attorney General to administer the Address Confidentiality Program.

"Record" means a public record as defined in 51 O.S., § 24A.3.

"Substitute Mailing Address" means the address assigned to a program participant by the Victim Services Unit of the Office of Attorney General.

75:20-1-3. Forms and informational material

The Attorney General has prepared the following forms and informational materials related to this Chapter:

- (1) Application Assistant Agreement Form
- (2) Application Assistant Training Manual
- (3) Application Assistant Guide
- (4) Address Confidentiality Program Application
- (5) Checklist for Application
- (6) Authorization Card ~~Form~~
- (7) Change of Address Form
- (8) Address Confidentiality Program Brochure
- (9) ACP Implementation in Public Schools
- (10) Participant Verification Form

75:20-1-4. Application assistants

(a) Prior to being designated as an application assistant, an individual must:

- (1) Attend required training sessions provided by the ACP;
- (2) Agree to adhere to the policies, procedures and directions provided by the ACP for rendering assistance to program applicants; and
- (3) Complete and sign an application assistant agreement form.

(b) Upon completion of the registration process, the ACP will notify the application assistant of such designation.

(c) Designation as an application assistant is valid for one year.

(d) The application assistant agrees not to discriminate against any client, or potential program participant, because of race, creed, color, national origin, gender, sexual orientation, age, or mental, physical or sensory disability.

(e) An application assistant is not deemed to be an employee of the Office of ~~the Attorney General Secretary of State~~ nor an agent of the ~~Secretary of State~~ Office of Attorney General in any manner whatsoever. An application assistant ~~shall not will not hold himself/herself out as, nor~~ claim to be an officer or employee of the Office of ~~the Attorney General Secretary of State~~ or ~~the State of Oklahoma~~ and ~~shall will~~ not make any claim, demand, or application to or for any right or privilege applicable to an officer or employee of the Office of ~~the Attorney General Secretary of State~~ or of the State of Oklahoma.

(f) In the event an application assistant no longer wishes to be designated as such or leaves ~~the his or her present~~ position, the application assistant ~~shall must~~ provide written notification to the ACP Program Manager.

(g) An application assistant's designation may be canceled by the Office of ~~the Attorney General Secretary of State~~ for failing to abide by the requirements set forth in this Section or for failing to act in accordance with the requirements of the Address Confidentiality Program.

75:20-1-5. Criteria for program participation

To participate in the Address Confidentiality Program, an individual must meet the following criteria:

- (1) A person attempting to escape from actual or threatened domestic violence, sexual assault, or stalking, or a person residing with another person who is attempting to escape from actual or threatened domestic violence, sexual assault or stalking;
- (2) ~~Fears~~ Fear for ~~personal~~ his or her safety and/or the safety of other family members;
- (3) Recently established a residence address in Oklahoma unknown to the ~~offender~~ abuser or is planning to move in the near future, and
- (4) Is eighteen (18) years of age or older or a parent or guardian acting on behalf of a minor or incapacitated person.

75:20-1-6. Applying for participation

(a) Any person meeting the criteria to be a program participant who wishes to apply to the Address Confidentiality Program shall complete the required application packet. ~~The application consists of an Address Confidentiality Program Application, Checklist for Application, and Authorization Card Form.~~

(b) The application packet ~~Forms~~ shall be obtained from an Application Assistant at a designated agency to assist persons in the application process.

(c) The completed and signed application packet documents shall be filed with the ACP.

(d) ~~Any assistance or and counseling rendered by the Office of Attorney General or its designees to applicants shall in no way be construed as legal advice.~~ [22 O.S., § 60.14(H)]

75:20-1-7. Certification

- (a) Upon ~~approval of the completed receipt of a properly completed~~ application by the ACP, the applicant is certified as a program participant, assigned a substitute address, and issued an authorization card. The authorization card includes the program participant's name, date of birth, authorization number, substitute mailing address, certification expiration date, and participant's signature.
- (b) The term of a program participant's certification shall be four (4) years.

75:20-1-8. Certification renewal

- (a) A program participant may renew ~~his or her~~ program certification by filing with the ACP the following information:
 - (1) The participant's ~~His or her~~ current authorization card;
 - (2) A properly completed renewal application; and
 - (3) A new signed authorization card ~~form~~.
- (b) ~~The term of renewal program participant shall be certified for an additional another~~ four (4) year term.

75:20-1-9. Certification withdrawal and cancellation

- (a) A program participant may withdraw ~~from the ACP from participating in the program~~ by submitting to the ACP written notice of withdrawal and the participant's ~~his or her~~ current authorization card. The withdrawal ~~shall will~~ be effective on the day ACP receives ~~of receipt of the~~ notification of withdrawal ~~by the ACP~~.
- (b) The ACP Program Manager shall cancel a program participant's certification and invalidate the participant's ~~his or her~~ authorization card if:
 - (1) A program participant's certification term has expired and a renewal application ~~had has~~ not been filed.
 - (2) A program participant knowingly provided false or incorrect information when applying for certification.
 - (3) A program participant obtains a name change.
- (c) The ACP Program Manager may cancel a program participant's certification for any of the following reasons:
 - (1) The program participant no longer resides at the ~~residential~~ address listed on the application and has not provided written notice after the change in address has occurred.
 - (2) Mail forwarded to the participant is returned non-deliverable or unclaimed.
- (d) The ACP shall attempt to send written notification of the cancellation to the participant at the last known ~~mailing or residential~~ address.

75:20-1-10. Use of the substitute address

- (a) The substitute address serves as the participant's ~~residential~~ residence, school, and work address.
- (b) When creating state and local government or tribal records or updating existing records, a program participant shall show the participant's ~~his or her~~ authorization card to the agency and request address confidentiality using ~~through the use of~~ the substitute address as it appears on the authorization card, in lieu of ~~his or her~~ actual address.

- (c) The agency employee assisting the program participant may make a file photocopy of the authorization card.
- (d) The agency shall accept the substitute address unless the agency has received a written exemption from the Office of Attorney General. See OAC 75:20-1-14.
- (e) The agency shall not question the program participant about the details or circumstances of the participant's ~~his or her~~ inclusion in the program.
- (f) All mail addressed to the participant at the substitute address shall include the authorization number appearing on the participant's authorization card.
- (g) Mail received at the substitute address will be forwarded by the ACP Program Manager at no charge to the participant at the participant's ~~his or her~~ actual mailing address with the exception of magazines, books, periodicals, packages, and junk mail.
- (h) Delivery of a participant's mail may be delayed as much as three (3) to five (5) days. It is important to remember this fact when sending time sensitive documents to a participant.
- (i) The Office of Attorney General shall not be required to track or otherwise maintain records of any mail received on behalf of a participant unless the mail is certified or registered ~~mail~~.

75:20-1-11. Public schools

- (a) At the time of enrollment, a ~~students~~ student participating in the ~~ACP Address Confidentiality Program~~ shall go to the school's administrative office for assistance and present the student's ~~his or her~~ authorization card.
- (b) The school shall contact the ACP Program Manager and request verification of enrollment eligibility.
- (c) Eligibility for enrollment will be determined using the ~~residential~~ residence address shown in the participant's records.
- (d) The ACP will notify the school of its findings both verbally and in writing.
- (e) If questions are raised regarding the student's eligibility, the ACP Program Manager will work directly with the school superintendent or the superintendent's ~~his or her~~ designee to resolve the matter.
- (f) All school correspondence mailed to the student and/or the student's parent or guardian shall be sent to the substitute address.
- (g) Requests for the transfer of a student's records from one school to another shall be handled by the ACP Program Manager ~~Director~~ upon written authorization from the parent or ~~legal~~ guardian.

75:20-1-12. Voter registration

- (a) An ~~ACP Address Confidentiality Program~~ participant who is otherwise qualified to vote may register to vote as an ACP participant voter through the State Election Board. [OAC 230:15-5-83.1]
- (b) ACP participants who become registered as ACP participant voters may vote only by absentee ballot. ACP participant voters will receive absentee ballots by mail at the participant's ~~their~~ substitute address for all local, state and national elections

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in which ~~the participant is they are~~ eligible to vote. [OAC 230:15-5-83.1(a)]

(c) All records pertaining to an ACP participant voter shall be maintained in a manner ensuring these records are accessible only to authorized personnel and shall not be publicly accessible.

(d) The name, address, ~~and~~ precinct number, and absentee ballots of ~~any~~ ACP participant voter shall not be released to any person for any purpose except by court order. Additionally, the name, address, ~~and~~ precinct number, and absentee ballots of ~~any~~ ACP participant voter shall not appear on any list or report produced by either the State Election Board or County Election Board. [OAC 230:15-5-73(d)]

(e) The ACP shall notify the State Election Board when an ACP participant voter's ~~Voter's~~:

- (1) ~~Program~~program certification has expired;
- (2) ~~Program~~program certification has been withdrawn or canceled;
- (3) ~~Absentee~~absentee ballot is returned non-deliverable;
- (4) ~~Residence~~residence address changes.

75:20-1-13. Service of process

(a) The Victim Services Unit of the Office of ~~the~~ Attorney General is designated as agent for service of process and receipt of mail for all ACP program participants.

(b) Service on the Office of Attorney General of any summons, writ, notice, demand or process can be made by mailing to the substitute address or by delivering in person to the Victim Services Unit of the Office of ~~the~~ Attorney General, 313 NE 21st Street, Oklahoma City, OK 73105.

(c) When a summons, writ, notice, demand or process is served on the Office of Attorney General, the ACP Program Manager shall immediately forward a copy to the program participant by first-class mail at the participant's current mailing address shown on the ACP records.

(d) The ACP Program Manager shall maintain in the program participant's file, a record of all summonses, writs, notices, demands, and processes served upon the Office of Attorney General for that participant, which shall include the date of such service and the action taken.

75:20-1-14. Agency exemption

(a) An agency requesting an exemption under 22 O.S., § 60.14(F) must provide in writing to the Office of Attorney General the following:

- (1) Identification of the statute or administrative rule that which demonstrates the agency's bona fide requirement and authority for the use of the actual address of the participant;
- (2) Identification and description of the specific record for which the exemption is requested;
- (3) Identification of the individual(s) who will have access to the record;
- (4) An explanation of how the acceptance of a substitute address will prevent the agency from meeting its obligations under the statute or rule identified above; and

(5) An explanation of why the agency cannot meet its statutory or administrative obligations by a change in its internal procedures.

(b) The determination of the Office of Attorney General ~~General's determination~~ to grant or deny a request for exemption will be based on, but not limited to, an evaluation of the information provided under this Section.

(c) If the Office of Attorney General determines that an agency has a bona fide statutory or administrative requirement for the use of a program participant's actual address and that the address will be used only for those statutory and administrative purposes, the Office of Attorney General may issue a written exemption for the agency. The written exemption may include:

- (1) An agency's obligation to maintain the confidentiality of a program participant's address;
- (2) Limitations on the use and access to the address;
- (3) Term during which the exemption is authorized for the agency;
- (4) Designation of the record format on which the address information may be maintained;
- (5) Designation of an address information disposition date after which the agency may no longer maintain a record of the address information.
- (6) Any provisions and qualifications determined appropriate by the Office of Attorney General.

(d) The denial by the Office of Attorney General ~~General's denial~~ of an agency exemption request shall be made in writing and include a statement of the specific reasons therefore.

(e) The Office of Attorney General shall keep a record of all exemptions and all documentation relating to requests for exemption.

75:20-1-15. Disclosure of records

(a) The Office of Attorney General shall not make any records in a program participant's files available for inspection or copying unless directed by a court order to the person identified in the order. [22 O.S., § 60.14(G)] The participant information disclosed to a person identified in a court order shall be maintained in strict confidentiality by the party receiving the information.

(b) The Office of Attorney General may verify the participation of a specific program participant to state, local, federal or tribal government agencies, in which case the Office of Attorney General may only confirm information supplied in writing to the Office of Attorney General by the requestor. State or local agencies are prohibited from knowingly and intentionally disclosing a program participant's actual address unless disclosure is permitted by law.

(c) The substitute address assigned to ~~an ACP program~~ participant is not confidential.

(d) The ACP Program Manager shall provide immediate notification of disclosure to ~~the ACP a program~~ participant when disclosure takes place, if not otherwise prohibited by law.

[OAR Docket #16-668; filed 7-6-16]

**TITLE 75. ATTORNEY GENERAL
CHAPTER 25. STANDARDS AND CRITERIA
FOR BATTERERS INTERVENTION
PROGRAMS**

[OAR Docket #16-669]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

- Subchapter 1. General Provisions
 - 75:25-1-2.1 [AMENDED]
 - 75:25-1-3 [AMENDED]
- Subchapter 3. Batterers Intervention
 - 75:25-3-1 [AMENDED]
 - 75:25-3-2 [AMENDED]
 - 75:25-3-3 [AMENDED]
 - 75:25-3-4 [AMENDED]
- Subchapter 5. Personnel and Volunteers
 - Part 1. Personnel
 - 75:25-5-3 [AMENDED]
 - 75:25-5-7 [AMENDED]
 - Part 5. Training
 - 75:25-5-19 [AMENDED]
 - 75:25-5-20 [AMENDED]
 - 75:25-5-21 [AMENDED]

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ANALYSIS:

The Attorney General is required to adopt and promulgate rules and standards for certification of batterers intervention programs (BIPs) in this state. These rules set forth the requirements which are necessary to provide services pursuant to 74 O.S. § 18p-1 et seq. Amendments are necessary to include referrals from DHS as well as the courts. Amendments are necessary to emphasize that batterers intervention programs are psychoeducational groups, rather than therapy and that certified programs must be fifty-two (52) weeks in length.

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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, 2016:

SUBCHAPTER 1. GENERAL PROVISIONS

75:25-1-2.1. Underlying Philosophy

(a) The philosophy underlying the standards and criteria for batterers intervention programs is that:

- (1) battering is instrumental, strategic, and purposeful behavior designed to bring about a particular outcome.
- (2) therapy will not work on those who chose to batter, because it is not the underlying emotions that are the core issue, but the thinking process. Therapy fails with the batterer because a batterer cannot be relied upon to be honest.

(3+) battering is primarily a sociocultural issue that is criminal in nature;

(4) battering is never justified;

(5) battering is not caused by disease, diminished intellect, alcoholism/addiction, intoxication, mental illness or any external person or event;

(6) batterers are solely responsible for their actions and must be held accountable for their abusive behavior;

(7) the use of violence and coercion is a choice, decision or a tactic;

(8) no behavior of the victim causes or excuses domestic violence;

(9) because batterers choose to use violence, they can also choose to stop violence and eliminate coercive control and other controlling tactics from their intimate relationships;

(10) intervention services recognize that batterers can learn alternatives to violent and coercive behavior such as mutuality, shared decision making, trust negotiation and fairness; and

(11) safety for the victims/survivors and their dependents is the primary focus of intervention and services.

(b) Although women can perpetrate violence against their partners, the vast majority of BIPs are addressaddressing men's violence against towards women. Therefore, in this Chapter the male pronouns are used for batterers while female pronouns are used for the partners, except in the context wherein same-sex relationship violence or women's use of force is specifically discussed.

75:25-1-3. Definitions

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

"Admission" means to accept a client for services or treatment.

"Assessment" means an appropriate course of assistance based on a face-to-face formal screening.

"Batterer" means a person, male or female, who perpetrates domestic violence, stalking or other harassment against present or past intimate partners, another adult, emancipated minor or minor child, who are family or household members or who are or were in a dating relationship.

"Batterers Intervention Program" (BIP) means a status which is granted to an entity by the Oklahoma Office of the Attorney General. These services are provided to batterers, or perpetrators of domestic violence that hold a batterer accountable for his abusive behavior, provide consequences for

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engaging in violent or abusive behavior, provide monitoring of a batterer's behavior, and require him or her to change his or her behavior and attitudes and are also protective of the victim(s). Anger control or management, substance abuse treatment or mental health treatment alone or in combination with each other shall not constitute batterers intervention; neither may these interventions alone nor in combination with each other be utilized as the primary means of facilitating the required changes in behavior and attitudes.

"Battering" means a pattern of behavior used to establish power and control over another person through fear and intimidation, often including the threat or use of violence.

"Business day" shall mean a calendar day other than a Saturday, Sunday, or state holiday. In computing any period of time where the last day would fall on a Saturday, Sunday, or state holiday, the period shall run until 5:00 o'clock p.m. of the next business day.

"Certified batterers intervention program" Indicates approval to provide batterers intervention programs pursuant to 74 O.S. § 18p-6. In accordance with the Administrative Procedures Act, 75 O.S. § 250.3(8), certification is defined as a "license."

"Child" or **"Children"** means any individual from birth to eighteen years of age.

"Client" means an individual, adult or child, who has applied for, is receiving or has received assistance or services of a DVSA or batterer's program.

"Client record" includes, but is not limited to, all communication, records and information on an individual client.

"Community" means the people, groups, agencies or other facilities within the locality served by the program.

"Coordinated Community Response Team" means a multi-disciplinary group of individuals from agencies and programs in the community whose purpose is to keep victims safe and hold batterers accountable.

"Counseling" means a method of using various commonly acceptable treatment approaches provided face-to-face by a behavioral health professional either licensed or under supervision for licensure as a Licensed Professional Counselor, Licensed Marriage and Family Therapist, Licensed Behavioral Practitioner, Licensed Clinical Social Worker, psychiatrist or psychologist with clients in individual, group or family settings to promote positive emotional or behavioral change. Counseling is goal directed and utilizes techniques such as cognitive behavioral treatment, narrative therapy, solution-focused brief therapy, psycho-educational interventions or another widely accepted theoretical framework for treatment.

"Critical incident" means an occurrence or set of events inconsistent with the routine operation of the facility, or the routine care of a client. Critical incidents specifically include but are not necessarily limited to the following: adverse drug events; self-destructive behavior; deaths and injuries to clients, personnel, volunteers and visitors; incidents involving medication; neglect or abuse of a client; fire; unauthorized disclosure of information; damage to or theft of property belonging to a client or the facility; other unexpected occurrences; or events potentially subject to litigation. A critical incident may involve multiple individuals or results.

"Director" means the person hired by the governing authority to direct all the activities of the organization.

"DVSA" means domestic violence and sexual assault.

"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, announcements, correspondence, and photographs.

"Domestic violence" means assaultive or coercive behaviors, including physical, sexual and psychological attacks and economic coercion, against another adult, emancipated minor or minor child, who are family or household members or who are or were in a dating relationship. means a pattern of abusive behavior in any relationship that is used by one partner to gain or maintain power and control over a current or former partner or family member. Domestic violence can be physical, sexual, emotional, economic, or psychological actions or threats of actions that influence another person. This includes behaviors that intimidate, manipulate, humiliate, isolate, frighten, terrorize, coerce, threaten, blame, hurt, injure, or wound someone.

"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 domestic violence, sexual assault or batterer's intervention and other related problems and services and may include a systematic presentation of selected information to impart knowledge or instructions, to increase understanding of specific issues or programs, to examine attitude or behaviors and stimulate social action or community support of the program and its clients.

"Executive director" means the person in charge of a facility as defined in this section.

"Facility" means the physical location(s) of a certified program governed by this chapter of Title 75.

"Family" means the children, spouse, parents, brothers, sisters, other relatives, foster parents, guardians and others who perform the roles and functions of family members in the lives of clients.

"Intake" means the written information about a client as a basis for assessment or services, obtained by the program at time of admission.

"Licensure" means the official or legal permission to persons or health facilities meeting qualifications to engage in a given occupation or use a particular title.

"Mental health services" means a range of diagnostic, therapeutic, and rehabilitative services used in treating mental illness or emotional disorders, including substance abuse.

"Neglect" means failing to provide adequate personal care or maintenance, or access to medical care which results or may result in physical or mental injury or harm to a client.

"Non-abusive behavior" includes planning for the prevention of violent, coercive, controlling, and abusive behavior; assisting the batterer to develop tools in advance of potential abuse or violence for the immediate and long-term safety of the victim/survivor. The plans should be based on the individual's dangerousness indicators and should include the safety needs of the victim and dependents.

"OAG" means the Oklahoma Office of the Attorney General.

"Objectives" means a specific statement of planned accomplishments or results which are quantitative, qualitative, time-limited and realistic.

"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.

"Operation" means that clients are receiving services provided by the program.

"Personnel record" means a file containing the employment history and actions relevant to individual personnel and volunteer activities within an organization such as application, evaluation, salary data, job description, citations, credentials, etc.

"Persons with special needs" means 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 and hard of hearing, blind, 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.

"Policies" means statements of program intent, strategy, principle, or rules for providing effective and ethical services.

"Procedures" means the standard methods by which policies are implemented.

"Program" means a set of activities designed and structured to achieve specific objectives relative to the needs of the clients.

"Program evaluation" means the documented assessment activities, performed internally or externally, of a program or a service and its staff, activities and planning process to determine whether program goals are met, staff and activities are effective, and what effect, if any, a program or service has on the problem which it was created to address or on the population which it was created to serve.

"Program goals" means broad general statements of purpose or intent.

"Screening" means the process of determining, preliminarily the nature and extent of a person's problem in order to establish the service needs of an individual. At a minimum, a screening shall include a brief personal history related to abuse, a review of the individual's strengths and resources, risk factors and referral needs.

"Service agreement" means a written agreement between service agencies and/or individual service providers defining the roles and responsibilities of each party to promote coordination and integration of service.

"Service note" means the documentation of the time, date, location and description of services provided, and signature, including electronic signature, of staff or volunteer providing the services.

"Staff" means personnel that function with a defined role within the program whether full-time, part-time or contracted.

"Victim" is a person against whom the perpetrator directs abuse or battering. This may include partners, children and other family or household members. The perpetrator is never a victim even if abused persons direct violence against the perpetrator to defend themselves or to stop the perpetrator's abuse.

"Volunteer" means any person who is not on the program's payroll, but provides either indirect or direct services and fulfills a defined role within the program and includes interns and practicum students.

SUBCHAPTER 3. BATTERERS INTERVENTION

75:25-3-1. Batters intervention program

(a) Each certified batterer intervention program shall have the policy, procedures, staffing, training, operational methods and facilities to meet the following requirements:

~~(13)~~ Batters intervention programs are educational programs based on a model of power and control designed to help teach batterers to end stop violence and coercion violent and coercive behaviors on in their intimate domestic violence relationships by challenging their belief systems and holding them accountable for their behavior.

~~(24)~~ Program The focus shall be ~~on~~ victim safety and batterer accountability. The service shall be based on non-victim blaming strategies.

~~(35)~~ Batters intervention shall not be confused with anger control or management, substance abuse treatment and/or mental health treatment.

~~(44)~~ Services shall be provided in a facility with offices available for private individual and group sessions.

~~(52)~~ Services shall be provided to self-referred, or court-referred, batterers or Department of Human Services referred batterers. Group services shall be the primary modality. ~~Referral to domestic violence services is provided for the batterer's partner or victim, when possible.~~

(6) Groups shall not provide substance abuse treatment and batterers intervention in the same program; batterers who have substance abuse issues need to be referred for in recovery and to be receiving separate substance abuse services for substance abuse.

(7) The majority of group session time should be focused on the subject abuse itself, and not on peripheral problems, past victimization experienced by the batterer, self-actualization, sensitivity training, or any other theme not directly related to abuse.

(8) Facilitators shall challenge minimization, denial and blame. These are tactics used by the batterer to justify the use of violence.

(9) Batterers shall be held accountable for their behavior; BIP facilitators shall report new offenses to the court.

(b) The goal of the batterers program is to end the offender's abusive behavior. This shall be achieved by confronting and dispelling the individual batterer's justifications for the use of violence within the relationship. Particular attention shall be paid to the belief systems that promote the use of intimidation, violence and coercion against intimate partners and children.

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Theories or methods which attribute to the victim any responsibility for the batterer's behavior or diminish the batterer's responsibility for the violence are inappropriate. Education shall be provided to the batterer utilizing written curriculum specifically developed for batterers intervention that comprehensively addresses, at a minimum:

- (1) abuse and violence as a form of control, and an explanation of the need to give up all forms of controlling and coercive behavior;
- (2) a detailed explanation of the range of abusive power and control behaviors, including coercive behavior, chronic verbal abuse, economic abuse, sexual abuse/mistreatment, psychological/mental abuse, physical abuse, abuse of animals, and use of the children as weapons;
- (3) support for and perpetuation of abuse are based on traditional gender roles and privilege. issues of sexism and gender role stereotyping which include but are not limited to attitudes such as entitlement to service and to deference; lack of respect for the partner and for women in general; double standards; the female partner's right to freedom of movement, freedom of expression, and other basic human rights; viewing the partner as inferior to him and others;
- (4) non-abusive communication techniques;
- (5) effective coping strategies;
- (6) parenting in the context of domestic violence; the impact of battering on children and the incompatibility of violence and abuse with responsible parenting;
- (7) the batterer must be able to identify all abusive conduct, the pattern of that conduct, and the culture which legitimizes or excuses both individual acts and the larger pattern of battering. This may include but not be limited to accepting personal as well as financial responsibility including but not limited to for child support, court costs, restitution, and BIP related costs;
- (8) developing healthy relationships; including techniques for achieving non-abusive, non-controlling attitudes and behavior.
- (9) non-abusive behavior planning for the prevention of violent, controlling and abusive behavior;
- (10) effects of domestic violence on victims from a victim perspective, and
- (11) the potential consequences of domestic violence to the batterer.

(c) Inappropriate Methods of Intervention. The following methods have been determined to be inadequate and/or inappropriate, and shall not be the focus of intervention:

- (1) therapy, whether psycho-dynamic, individual or group;
- (2) communication enhancement, anger management or stress management techniques that blame anger as the root cause of domestic violence;
- (3) systems theory approaches that treat domestic violence as a result of mutual actions of the victim and perpetrator, thereby attributing some responsibility to the victim;
- (4) addiction counseling models that identify domestic violence as an addiction;

(5) gradual containment and de-escalation of domestic violence;

(6) theories that identify poor impulse control as the primary cause of domestic violence;

(7) methods that identify psychopathology on either parties' part as a primary cause of domestic violence; and
(de) Services shall be provided during hours which make them available for clients whose work hours are between 8:00 A.M. and 5:00 P.M. Monday through Friday.

(ed) The program shall maintain admission criteria for batterers intervention services.

(fe) The program shall provide individual assessment sessions and group sessions.

(gf) Service policy shall not permit the substitution of individual sessions/counseling appointments for group participation except in a situation where only one batterer of a gender has been ~~court ordered~~ accepted into to the program.

(hg) Group sizes shall be limited to not less than two (2) and not more than sixteen (16) clients.

(ih) Exit criteria shall be contingent on the satisfactory meeting of specific criteria by the participant, and NOT only upon the end of a specified period of time or a specified number of sessions.

(ji) Joint participation shall not be allowed of the victim as part of batterers intervention.

(kj) Male and female batterers shall not be served, or counseled, in the same group or session, i.e., together.

(lk) The program shall maintain annually renewed service agreements with appropriate referral sources such as, but not limited to:

- (1) substance abuse; ~~and~~
- (2) mental health services; ~~and~~.
- (3) local domestic violence program

(ml) In the case of court referred clients, the program shall develop a written ~~process~~ policy for coordinating with and reporting to the court, judge, probation officer, and/or district attorney.

(nm) If other services for the batterer are necessary, appropriate referrals shall be made for such issues, including but not limited to mental health and/or substance abuse issues.

(on) Certified batterer intervention programs shall not be less than 52 weeks in duration. The 52 weekly group sessions shall be no less than ninety (90) minutes in length. Completion of a batterers intervention program requires at a minimum 52 weekly attended sessions as well as a favorable evaluation from the program.

(po) The batterers intervention program shall not allow re-~~port to the court~~ three (3) ~~unexcused~~ absences in succession or a total of seven (7) ~~unexcused~~ absences in a period of fifty-two (52) weeks, ~~to the court and the~~ The batterer shall be terminated from the program as per 21 O.S. § 644 and the court or other referring party shall be notified of the termination.

(q) If the batterer is terminated for any reason as set forth herein, the batterer shall be required to obtain a new assessment and commence a new fifty-two (52) week program. No credit for prior program attendance shall be allowed. Termination from a program terminates any and all credits accumulated by said batterer.

(p) Compliance with 75:25-3-1 shall be determined by a review of program policy and procedures; client records; service referral agreements, and other program documentation.

75:25-3-2. Victim safety and confidentiality

(a) **Victim safety.** Whereas confidentiality is a fundamental underpinning of services for victims of domestic violence, limited confidentiality is critical in batterers intervention services. Victim safety shall supersede all consideration of batterer confidentiality.

(b) There shall be a written, cooperative, accountable working relationship between the batterers intervention program, and the DVSA/DV/SA providers that serve victims so potential victims and others are warned of imminent danger.

(c) Collaboration shall be established with other domestic violence/sexual assault programs certified by the Attorney General.

(d) Compliance with 75:25-3-2 shall be determined by a review of program policy and procedures; client records; service referral and cooperative agreements, and/or other program documentation.

75:25-3-3. Client records

(a) A certified program that uses hand written records shall have written policy and procedures for correcting errors on hand written record material by lining through, initialing the error, and inserting the correct material either above the error or at the end of the entry. Further, the policy and procedures shall forbid the use of "white-out" or any action which obliterates the error.

(b) Each client record entry shall be legible, dated, and signed by the staff member making the entry.

(c) Copies of all service documentation including assessments, exit interviews and reports shall be kept in the batterer's file.

(d) Compliance with 75:25-3-3 shall be determined by on-site observation, client records, policy and procedures and any other supporting program documentation.

75:25-3-4. Record content

(a) Client records shall contain, at a minimum, the following information:

- (1) Intake and screening information:
 - (A) ~~Client's~~ client's name;
 - (B) ~~Date~~ date of initial contact/intake;
 - (C) ~~Pertinent~~ pertinent medical information, including substance abuse and incidents of traumatic brain injuries;
 - (D) ~~Emergency~~ emergency contact information (not the abused partner, and)
 - (E) ~~Copies~~ copies of the Court court Order;
 - (F) ~~Copies~~ copies of the Probable Cause Affidavit or police report, if applicable;
 - (G) ~~Copies~~ copies of the Department of Human Services Individual Service Plan, if applicable.

(2) An assessment of the batterer shall be made prior to acceptance into the program. The assessment shall at a minimum include:

- (A) current and past history of violence;
- (B) lethality risk indicators using an evidence-based assessment risk instrument ~~must be evidence based and developed specifically for batterers intervention;~~
- (C) drug and alcohol use/abuse history and screening;
- (D) mental health history and screening;
- (E) criminal history and including a report of the incident that generated the referral; and
- (F) current or past history with child protective or adult protective services. If currently involved with Child Protective Services, the assessment shall include a review of the Individualized Service Plan.
- (G) family and social history
- (H) access to weapons
- (I) history of animal abuse or cruelty
- (J) history of sexual abuse victimization

(3) Service notes shall be completed for each batterer after every session which shall minimally include:

- (A) The time, date, location and description of services provided;
- (B) The signature of staff providing the services; and
- (C) A service note for each contact for services that shall include:
 - (i) personal responsibility and accountability;
 - (ii) level of participation in services;
 - (iii) change(s) in family, social, personal, legal or work environment(s);
 - (iv) inference of use or increased use of drugs/alcohol;
 - (v) whether or not facilitator observed sufficient indications of risk requiring notification of victim or others, and
 - (vi) referrals for supplemental services.

(D) Service notes shall document the ongoing provision of educational components addressing the risk of battering and other violence as set forth in 75:25-3-1(b).

(4) An individualized written contract shall be completed upon acceptance into the program prior to the first (1st) group session; signed by the batterer; and shall include, but not be limited to:

- (A) Notice that the batterer is joining an educational program, not a therapeutic program, and will not have the same level of confidentiality afforded by mental health services. The program will not assure confidentiality with respect to:
 - (i) Judge, District Attorney or referring agent
 - (ii) current partner
 - (iii) past or current ~~the~~ victim(s)
 - (iv) parent(s) or guardians of any of the batterers children
 - (v) probation and parole

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- (vi) law enforcement
 - (vii) individuals toward whom there is a risk of imminent harm by the batterer
 - (viii) coordinated Community Response Team
 - (ix) the domestic violence victim services program serving the area where the batterer lives or where the current or ex-partner lives, where guardians of the batterers' children live or with the domestic violence program where the batterer is currently residing
 - (x) the program will promise confidentiality with respect to: the general public, news media and anyone else not covered in the expectations set forth above.
- (B) Attendance policy, including the length of intervention, minimum number of sessions required and the maximum length of time for completion of the required sessions. Inability to pay shall not be considered an excused absence.
- (C) The criteria for suspension and termination.
- (D) The program's rules.
- (E) A written notice in bold type which specifies **"Please be advised any reasonable knowledge or suspicion of illegal activities or bodily harm, or a threat of such, to the victim, her or his property, or to third persons, or any attempt, threat or gesture to commit suicide, or any belief that child abuse or neglect is present or has occurred, will be reported to the appropriate person(s) or authorities."**
- (F) A list of provider program expectations, such as participation, homework and that the batterer will be held accountable for all abusive and violent behavior or threats of harm or expressions of intent to do harm. This includes harm to current or past victims or partners. Such acts include but are not limited to child abduction, court actions for divorce or custody, underhanded economic maneuvers, substance use, and intentionally exposing the victim(s) or partner(s) to risk of sexually transmitted diseases.
- (5) Reports. In the case of court-ordered or otherwise referred batterers, a written report to the court or referring agent, shall be submitted within seven (7) business days of the following events:
- (A) Acceptance into or rejection from the program including but not limited to a summary of the results of the initial assessment or the reason for rejection;
 - (B) Reasonable knowledge or suspicion of illegal activities or bodily harm, or a threat of such, to the victim or to third persons; and;
 - (C) Exit from the program including but not limited to the service termination report.
- (6) All reports shall include any perceived areas of concern which may include, but are not limited to, substance abuse or mental health issues that the court may want to seriously consider.
- (7) Initial victim or partner contact shall be attempted when the batterer has been accepted or denied admission to the program. Efforts to notify the victim or the victim's

advocate shall be documented in the batterer's file, which may include an electronic file, without including any confidential victim identification information. A victim questionnaire approved by OAG shall be completed by phone, face to face with the victim, or mailed to the victim. All victim information shall be confidential.

(8) Whenever possible, the batterers intervention program shall maintain contact with the victim or partner at the victim's discretion. If the victim or partner elects not to receive information, the program is still required to notify the individual in the case of imminent threat or danger to the victim's safety.

(9) If the victim or partner elects to receive information after initial contact by the program, at a minimum, partner or victim notification is required when:

(A) ~~The~~the batterer begins attending the intervention program;

(B) ~~The~~the batterer terminates the intervention program for noncompliance; and

(C) ~~There~~there is an imminent threat or danger to the victim's safety.

(10) The efforts to find and notify the batterer's partner or victim shall be documented.

(11) Service termination reports shall be completed for all types of conditions under which services are ended and shall include, at a minimum, the reason for termination, summary of lethality risk indicators, and any concerns for the safety of victims, children, and/or others. Types and reasons for terminating services include:

(A) **Rejection.** Reasons for rejection shall be documented and include, but are not limited to: psychiatric history, including active or recent mental health related problems; criminal record of violent crimes; chemical dependency requiring completion of an inpatient or residential treatment program; or inability to function in a group due to limited mental cognitive abilities;

(B) **Involuntary termination.** Reasons for involuntary termination shall be documented and include, but are not limited to: recurrence of violence; arrest; absences from program sessions and activities; failure to actively participate in group sessions attended; attending a group session when under the influence of alcohol or drugs; violation of any rules of the treating program or violation of the BIP contract.

(C) **Completion.** Upon completion of the program, an exit interview and service termination report shall be completed and documented in the client record. The service termination report shall include a disclosure stating that completion of batterers intervention does not indicate that the client will not re-offend; it is a report that the person has completed the necessary requirements of the certified program without any other known or reported re-offending during the time of enrollment in the program.

(12) Exit information, which shall minimally include:

(A) documentation that the batterer participated in planning for his or her exit from the program;

- (B) the reasons for the batterer's exit or departure; and
- (C) client and staff dated signatures or an explanation if staff were unable to obtain the client's signature.

(b) Where required information is not obtained, efforts to comply with the requirements of this subsection shall be documented in the client record.

(c) Compliance with this 75:25-3-4 shall be determined by a review of client records for content, review of program policy and procedures; or other supporting program documentation.

SUBCHAPTER 5. PERSONNEL AND VOLUNTEERS

PART 1. PERSONNEL

75:25-5-3. Selection of personnel

(a) The methods for selecting personnel shall be described in policy and procedures and shall include, but not be limited to:

- (1) The processes for recruitment, selection and appointment; ~~and~~
- (2) Written criteria demonstrably related to the position being filled; ~~and~~
- (3) Completion of a name search against the Mary Rippey and Violence Crime Offender registries;

(b) The BIP shall have a written policy that prohibits anyone with a prior history of domestic violence perpetration from conducting assessments and/or leading any group.

~~(c)~~ Compliance with 75:25-5-3 shall be determined by:

- (1) A review of the policies and procedures.
- (2) A review of job descriptions for personnel.
- (3) A review of any other supporting documentation.

75:25-5-7. Performance evaluation of personnel

(a) The agency shall have policies and procedures mandating the evaluation of personnel employment and service performance. These policies and procedures shall minimally include:

- (1) performance evaluations shall be completed at least annually, to include an evaluation ~~of the executive director for all staff working in the BIP;~~
- (2) define the reason(s) for any evaluation other than annual;
- (3) performance evaluations shall be in writing and based on the staff's job description;
- (4) each evaluation shall be individually discussed with the staff;
- (5) personnel shall have a documented opportunity to respond, in writing, to each of their individual performance evaluations; and
- (6) both staff and supervisor shall sign and date the performance evaluation. However, the evaluation document shall state the staff's signature does not necessarily constitute agreement with the evaluation content.

(b) Compliance with 75:25-5-7 shall be determined by a review of:

- (1) program policies and procedures, governing authority meeting minutes where applicable; and
- (2) review of personnel files.

PART 5. TRAINING

75:25-5-19. Orientation - general, personnel and volunteers

(a) A certified program shall provide a minimum of 8 hours orientation training to familiarize new personnel and volunteers providing direct services with the BIP which includes, but is not limited to:

- (1) ~~Standards~~ standards for the BIP;
- (2) ~~Program~~ program policy and procedures;
- (3) ~~Confidentiality~~ confidentiality, in relation to the BIP;
- (4) ~~Facility~~ facility safety and disaster plans;
- (5) ~~First~~ first aid kits and fire extinguishers, their location, contents and use;
- (6) ~~Universal~~ universal precautions; and
- (7) ~~Client~~ client rights;

(b) Orientation for personnel must take place within 30 days of employment or prior to unsupervised direct client contact and services. Volunteer orientation must occur within 6 months or prior to unsupervised, direct client contact and services.

(c) Compliance with 75:25-5-19 shall be determined by a review of the written policies and procedures, and personnel and volunteer training manuals and records.

75:25-5-20. In-service and ongoing training for personnel and volunteers

(a) A certified program shall have policy and procedures mandating, at the minimum, twelve (12) hours of annual training of all staff which shall include:

- (1) ~~Confidentiality~~ confidentiality;
- (2) ~~Facility~~ facility safety and disaster plans;
- (3) ~~First~~ first aid kits and fire extinguishers, their location, contents and use;
- (4) ~~Universal~~ universal precautions, and
- (5) ~~Legal~~ legal and ethical issues.

(b) The remaining hours of annual training shall be related to domestic violence, sexual assault, stalking, and batterers intervention as prescribed and approved by the Executive Director as appropriate for the assigned staff duties.

(c) A certified program shall have policy and procedures mandating a minimum of four hours annual training of all volunteers providing direct services, related to domestic violence, sexual assault, and stalking as prescribed and approved by the Executive Director.

(d) Individuals that volunteer indirect services and do not meet the requirements for a volunteer providing direct services as defined in OAC 75:25-1-3 shall receive annual training as prescribed by the Executive Director, but do not have a minimum number of training hours required.

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(e) Documentation of training must include the topic of the training, the name of the trainer(s), the date of the training, the length of the training session, the sponsor of the training, and approval of the training by the Executive Director of the agency.

(f) Compliance with 75:25-5-20 shall be determined by a review of policy and procedures; review of training records and other provided documentation of personnel training; and a review of personnel or volunteer records.

75:25-5-21. Personnel training, batterers intervention services

(a) Personnel facilitating batterers intervention groups shall minimally have a graduate degree in a behavioral health or criminal justice related field and one-year related work experience, have a Bachelor's degree in a behavioral health or criminal justice related field and two years related work experience, or have been employed as a facilitator in a certified batterers intervention program prior to July 1, 2008.

(b) A certified batterers intervention program shall contract with or employ a qualified licensed professional as defined in 75:25-1-3 under "Counseling" for purposes of providing case and programmatic consultation to personnel facilitating batterers intervention groups and for conducting individual client evaluations before and after attendance of the program. ~~The licensed~~ All facilitators and supervisors professional shall complete batterers intervention facilitator orientation training sponsored by the Oklahoma Office of the Attorney General within six three months of employment.

(c) Prior to providing any direct services, personnel facilitating batterers intervention services shall observe a minimum of 12 batterers intervention group sessions from an OAG certified program, and must complete ~~46~~20 hours of training that includes, but is not limited to:

- (1) ~~Causes~~causes and dynamics of domestic violence;
 - (2) ~~Identification~~identification of cultural and social influences that contribute to violence;
 - (3) ~~Identification~~identification of coercive behavior and the development of cooperative skills;
 - (4) ~~Coercive~~coercive sexual behavior;
 - (5) ~~Impact~~impact of domestic violence on children and the dynamics of the batterer as a parent;
 - (6) basic defense mechanisms of batterers that promote deception, distortion and misrepresentation of the facts of the domestic abuse and the experience of the victim; and
 - (7) new trends in batterer intervention programming;
- (8) Lethality indicators and assessment procedures such as:

- (A) perceived loss of control over the victim through separation, divorce, victim fleeing,
- (B) extreme jealousy,
- (C) escalation of abuse,
- (D) acts of abuse,
- (E) suicide/homicide threats, plan to carry out either of above,
- (F) use of, or threat to use weapon (especially a gun),
- (G) strangulation,

- (H) stalking,
- (I) history of mental health problems, substance abuse,
- (J) history of sexual abuse of victim or children
- (K) kidnapping of partner,
- (L) unemployment; and
- (M) abuse or cruelty to animals

(9) ~~The~~the effects of alcohol and drug use/abuse and domestic violence;

(10) ~~Exploring~~exploring myths and beliefs about domestic violence, including myths about provocation;

(11) ~~Impact~~impact of domestic violence on victims;

(12) ~~Batterers~~batterers who re-offend;

(13) ~~Group~~group dynamics and group structure;

(14) ~~Planning~~planning for non-violence and victim and dependent safety; ~~and~~

(15) ~~Power~~power and control; ~~and~~

(16) ~~Facilitator~~facilitator boundaries and collusion with the batterer; and

(17) ~~The~~the remaining hours of orientation training shall be supplemented by reading materials as approved by OAG VSU regarding batterers behavior. Staff/volunteers shall sign document that they have read the approved reading list.

(d) Personnel who provide batterers intervention service may not provide services for the victim that may result in a conflict of interest.

(e) Personnel who provide batterers intervention must declare in writing that they are:

- (1) violence free in their own lives,
- (2) not abusing drugs or alcohol, and
- (3) seeking to rid themselves of sexist attitudes.

(f) Compliance with 75:25-3- 21 shall be determined by:

- (1) Review of program's policy and procedures.
- (2) Review of program's training records and other provided documentation of staff training.
- (3) Review of personnel records.

[OAR Docket #16-669; filed 7-6-16]

TITLE 75. ATTORNEY GENERAL CHAPTER 30. STANDARDS AND CRITERIA FOR ADULT VICTIMS OF HUMAN SEX TRAFFICKING PROGRAMS

[OAR Docket #16-670]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

- Subchapter 1. General Provisions [AMENDED]
- Subchapter 3. Sexual Assault Programs for Adult Victims/Survivors of Sexual Violence as a Result of Human Sex Trafficking [AMENDED]
- Subchapter 5. Client Records and Confidentiality [AMENDED]
- Subchapter 7. Physical Environments [AMENDED]
- Subchapter 9. Program Management and Performance Improvement [AMENDED]
- Subchapter 11. Personnel and Volunteers [AMENDED]
- Subchapter 13. Governing Authority [AMENDED]

Subchapter 15. Client Rights, for Adult Victims of Human Sex Trafficking Programs [AMENDED]

AUTHORITY:

Office of Attorney General; 74 O.S., Sections 18p-1 et seq.

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ANALYSIS:

This chapter sets forth the rules, including standards and criteria, used in certifying sexual assault programs and shelters for adult victims/survivors of sexual violence as a result of human sex trafficking pursuant to 74 O.S. § 18p-6. Although similarities exist between services provided to victims of domestic or sexual violence and victims of sex trafficking, there are also important differences between the two groups of victims. Victims of human sex trafficking are often eligible for special benefits including housing, legal assistance and refugee services that differ from the types of services that are available to domestic violence or sexual violence victims. Because certification of services for human sex trafficking is relatively new to Oklahoma, this chapter requires many amendments. When the chapter was originally codified in 2011, it was based largely on the standards for sexual assault services in 75 OAC 15. After careful review, the Domestic Violence & Sexual Assault Advisory Council recommended that the Attorney General amend the current chapter to more specifically meet the needs of victims of human sex trafficking and their children. These amendments include: stressing the importance of client safety and confidentiality, reflecting the clients' right to self-determination, incorporating definitions that were unintentionally omitted from the chapter, redefining core services and orientation training to more accurately meet the needs of human sex trafficking survivors and requiring programs to conduct an annual employee name search against the Sex Offenders Registration Act and the Mary Rippey Violence Crime Offenders Registration Act.

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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, 2016:

SUBCHAPTER 1. GENERAL PROVISIONS

75:30-1-1. Purpose

This chapter sets forth the rules, including standards and criteria, used in certifying sexual assault programs and shelters for adult victims/survivors of sexual violence as a result of human sex trafficking pursuant to 74 O.S. § 18p-6. Human sex

trafficking occurs when a person uses force, fraud, or coercion to get a victim to perform sexual acts for commercial reasons. The victim is recruited, transferred, harbored, obtained or moved by a person. The person uses force, fraud, coercion, abduction, threat, deception or the abuse of power to gain control over the victim. The victim is exploited for forced labor, involuntary servitude, slavery, and/or debt bondage of commercial sex acts. Under state and federal law, the use of minors for commercial sexual activity is a severe form of trafficking, even if there is no force, fraud or coercion. Minors are intended to be served under a different program. However, minors may still need immediate medical care, housing, food, clothing and other services to assure safety until they can be transferred. Although similarities exist between services provided to victims of domestic or sexual violence and victims of human sex trafficking, there are also important differences between the two groups of victims. International ~~Victims~~ victims of human sex trafficking are often eligible for special benefits including housing, legal assistance and refugee services that differ from the types of services that are available to domestic ~~violence~~ human sex trafficking or sexual violence victims. These standards serve as guidance in understanding, providing and advocating for the needs of victims of human sex trafficking. The rules regarding factors relating to the process to determine status as a certified program including, but not necessarily limited to, applications, fees, requirements for and administrative sanctions, are found in OAC Title 75, Chapter 1.

75:30-1-1.1. Mission and underlying philosophy

- (a) The mission of the standards and criteria for programs serving adult victims of sexual assault is to eliminate human sex trafficking in the State of Oklahoma.
- (b) The philosophy underlying the standards and criteria for victims of human sex trafficking is that:
 - (1) All persons have the right to live without fear, abuse, oppression and violence;
 - (2) No one deserves to be victimized by assaultive or abusive behavior;
 - (3) Survivors should be treated with dignity and respect;
 - (4) All people involved in violent crimes are affected, including victims, children, families, partners, friends, the community, and perpetrators;
 - (5) Perpetrators must be held accountable for their behavior;
 - (6) A coordinated community response is the best approach to eliminating human sex trafficking in Oklahoma;
 - (7) Safety for the victims/survivors and their dependents is the primary focus of intervention and services;
 - (8) Intervention and services shall be based upon the safety and well-being of individuals and communities. Services to victims are provided in a non-judgmental, non-coercive, trauma-informed environment; and
 - (9) Participation in victim/survivor services is voluntary and based on self-determined needs, preferences and values.

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75:30-1-2. Definitions

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

"Admission" means to accept a client for services or treatment.

"Advocacy" means the assistance provided which supports, supplements, intervenes and/or links the client and their dependents with the appropriate service components to encourage self-determination, autonomy, physical and emotional safety, and to offer information that will support independence. This can be viewed as a combination of active listening and facilitating personal problem solving along with researching options of action, safety planning, community outreach and education; ~~it may~~ include medical, dental, financial, employment, legal and housing assistance.

"Advocate" means a person, who offers clients appropriate services.

"Assessment" means an appropriate course of assistance based on a face-to-face formal screening.

"Behavioral Health Professional" means either licensed or under supervision for licensure as a Licensed Professional Counselor, Licensed Marriage and Family Therapist, Licensed Behavioral Practitioner, Licensed Clinical Social Worker, psychiatrist or psychologist with clients in individual, group or family settings to promote positive emotional or behavioral change. A practicum student or intern in an accredited graduate program in preparation for one of the above licenses may provide counseling to victims of domestic violence, sexual assault, human sex trafficking or stalking and their dependents.

"Business day" shall mean a calendar day other than a Saturday, Sunday, or state holiday. In computing any period of time where the last day would fall on a Saturday, Sunday, or state holiday, the period shall run until 5:00 ~~o'clock p.m.~~ P.M. of the next business day.

"Case consultation" means review of a client's case by the primary service provider and other program personnel, consultants or both.

"Case management" means a professional practice in which the service recipient is a partner, to the greatest extent possible, in assessing needs, defining desired outcomes, obtaining services, treatments, and supports, and in preventing and managing crisis. Case management is a central service that includes: explanation of social services, service system advocacy, basic case coordination, assessments, and service plan development. It may also include transportation, translation, emotional support and counseling depending upon the training and resources of the case manager.

"Case manager" means someone with experience serving victims of crime, human sex trafficking victims, refugees, immigrants, crime victims or other related populations. Ideally, they will have received specific training to serve trafficking victims. The Case Manager will ensure that victims receive the services they need and facilitate access to community services.

"Certification" means a process that the Department of Health and Human Services, Office of Refugee Resettlement (HHS or ORR) uses to officially say that a person is a victim of

a severe form of human sex trafficking. Advocates assisting victims of human sex trafficking can assist in the certification process by informing victims of their rights generally, and working with law enforcement and attorneys to ensure that they understand and advocate for the victim's individual needs once certified.

"Certified Domestic and Sexual Violence Response Professional" means a professional certified by the Oklahoma Coalition Against Domestic Violence and Sexual Assault.

"Certified adult victims of human sex trafficking program" means a status which is granted to an entity by the Oklahoma Attorney General, and indicates approval to offer shelter and services pursuant to 74 O.S. § 18p-6. In accordance with the Administrative Procedures Act, 75 O.S. § 250.3(8), certification is defined as a "license."

"Child" or **"Children"** means any unmarried individual from birth to eighteen years of age.

"Children's Activities" means direct child contact that is temporary in nature and is not intended to address the effects of ~~domestic violence, human sex trafficking,~~ sexual assault/abuse and trauma on children i.e., child care, special events such as Christmas parties, Easter egg hunts, that is supervised by program personnel or volunteers.

"Children's Services" means direct child contact that is intended to address the effects of ~~domestic violence, human sex trafficking,~~ sexual assault/abuse and trauma on children including but not limited to intake, needs assessment, groups, advocacy and any other service related to ~~domestic violence, human sex trafficking,~~ sexual assault/abuse and trauma.

"Client" means an adult individual who has applied for, is receiving or has received assistance or services of a certified sexual assault program for adult victims of human sex trafficking.

"Client record" includes, but is not limited to, all communication, records and information on an individual client.

"Commercial sex" means any form of commercial sexual activity such as sexually explicit performances, prostitution, participation in the production of pornography, performance in a strip club, or exotic dancing or display.

"Community" means the people, groups, agencies or other facilities within the locality served by the program.

"Contract" means a formal document adopted by the governing authority of the program and any other organization, agency, or individual that specifies services, personnel or space to be provided to the program and the monies to be expended in exchange.

"Court advocate" means a qualified, trained staff or volunteer whose duties are to offer assistance to victims and any dependents in legal matters relevant to their situation. A Court Advocate provides court advocacy through support, information, assistance, safety planning, accompaniment and intervention with any aspect of the civil or criminal legal system on behalf of a victim of ~~domestic violence, sexual assault or stalking, human sex trafficking,~~

"Counseling" means face-to-face therapeutic session with one-on-one interaction between a licensed behavioral health professional and an individual to promote emotional

and/or behavioral change focused on victim safety and perpetrator accountability. Those individuals providing professional therapy to adult/child victims/survivors of human sex trafficking as a result of sexual violence understand that victims of trafficking may exhibit depression, post-traumatic stress disorder, memory problems, fear, suspicion, rape trauma syndrome and physical distress as a result of the psychological stress, such as headaches, stomachaches, chest pain and numbing of parts of the body. Interviews requiring them to recount their experiences can trigger these behaviors. Initially, many victims may be more comfortable with less formal, supportive counseling or "conversations" (not counseling) geared toward immediate problem solving, adjusting to life at the center and coping with loneliness and isolation from their communities.

"Crisis intervention" means short-term, immediate assistance and advocacy given by phone or in person to adult victims of human sex trafficking. Crisis intervention services include but are not limited to assessing dangerousness, safety planning, information about available legal remedies, establishing rapport and communication, identifying major problems, exploring feelings and providing support, exploring possible alternatives, and/or formulating an action plan and follow-up measures.

"Critical incident" means an occurrence or set of events inconsistent with the routine operation of the facility, or the routine care of a client. Critical incidents specifically include but are not necessarily limited to the following: adverse drug events; self-destructive behavior; deaths and injuries to clients, personnel, volunteers and visitors; incidents involving medication; neglect or abuse of a client; fire; unauthorized disclosure of information; damage to or theft of property belonging to a client or the facility; other unexpected occurrences; or events potentially subject to litigation. A critical incident may involve multiple individuals or results.

"Cultural — diversity" means the spectrum of differences that exists among groups of people with definable and unique cultural backgrounds.

"Direct services" means services delivered by a qualified staff member or volunteer, in direct contact with a client including telephone or other electronic contact.

"Director" means the person hired by the governing authority to direct all the activities of the organization.

"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, announcements, correspondence, services, and photographs.

"Education" means the dissemination of relevant information specifically focused on increasing the awareness of the community and the receptivity and sensitivity of human sex trafficking problems and services and may include a systematic presentation of selected information to impart knowledge or instructions, to increase understanding of specific issues or programs, to examine attitude or behaviors and stimulate social action or community support of the program and its clients.

"Emergency services" or **"crisis services"** means a twenty-four (24) hour capability for danger assessment, intervention and resolution of a client crisis or emergency that is

provided in response to unanticipated, unscheduled emergencies requiring prompt intervention.

"Emergency transportation" means transportation for a victim of human sex trafficking to a secured identified location at which emergency services or crisis services can be offered.

"Executive director" means the person in charge of a facility as defined in this section.

"Facility" means the physical location(s) of a certified program governed by this chapter of Title 75.

"Family" means the children, spouse, parents, brothers, sisters, other relatives, foster parents, guardians and others who perform the roles and functions of family members in the lives of clients.

"Governing authority" means a group of persons having the legal authority, and final responsibility for the operations and functions of the entire certified adult victims of human sex trafficking program, or shelter, in and of all geographical locations and administrative divisions.

"Group counseling" means a face-to-face therapeutic session with a group of adult/child victims/survivors to promote emotional or behavioral change. Those individuals providing professional therapy to victims/survivors of ~~domestic violence~~ human sex trafficking must be prepared to provide education and information about:

- (A) Physical and emotional safety;
- (B) How perpetrators maintain control and dominance over their victims;
- (C) The need to hold perpetrators accountable for their actions; and
- (D) The recognition that individuals victimized are not responsible for a perpetrator's violent behavior, and the role of society in perpetuating violence against women and the social change necessary to eliminate violence against women, including the elimination of discrimination based on race, color, gender, sexual orientation, age, disabilities, economic or educational status, religion or national origin. ~~responsible for a perpetrator's violent behavior, and the role of society in perpetuating violence against women and the social change necessary to eliminate violence against women, including the elimination of discrimination based on race, color, gender, sexual orientation, age, disabilities, economic or educational status, religion or national origin.~~

"Guardian" means an individual who has been given the legal authority for managing the affairs of another individual.

"Indirect services" means services delivered by a staff member or volunteer, that does not involve direct services with a client or client's child.

"Initial contact" means a person's first contact with the program or facility requesting information or service by telephone or in person.

"Intake" means an interaction intended to discover what has happened, determine what the crisis is, assess dangerousness indicators, do safety planning, and/or establish the immediate needs of adult victims and any dependents of human sex trafficking to determine appropriate services and referrals. This includes ~~includes~~ interaction with an individual

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determined to be appropriate for ongoing service in order to obtain basic demographic information, gather vital information on the adult and the children, ~~client~~, orient the victim/survivor to the program, program rules, and, if applicable, the facilities. Cultural needs should also be identified at this time.

"Language Interpretation" means activities that involve a client who is deaf or hearing impaired or has limited English proficiency requiring an interpreter for a staff member or ~~volunteer~~ volunteers to offer services.

"Licensure" means the official or legal permission to persons or health facilities meeting qualifications to engage in a given occupation or use a particular title.

"Medical care" means those diagnostic and treatment services which can only be provided or supervised by a licensed physician.

"Medication" means any drug that is legally in the possession of the client, his/her children, or a person seeking admittance to the shelter or his/her children; this definition includes prescription medications and medications available for legal purchase without a prescription.

"Mental health services" means a range of diagnostic, therapeutic, and rehabilitative services used in treating mental illness or emotional disorders, including substance abuse.

"Neglect" means failing to provide adequate personal care or maintenance, or access to medical care which results or may result in physical or mental injury or harm to a client.

"OAG" means the Office of the Oklahoma Attorney General.

"Objectives" means a specific statement of planned accomplishments or results which are quantitative, qualitative, time-limited and realistic.

"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.

"Operation" means that clients are receiving services offered by the program.

"Personnel record" means a file containing the employment history and actions relevant to individual personnel and volunteer activities within an organization such as application, evaluation, salary data, job description, citations, credentials, etc.

"Persons with special needs" means 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 and hard of hearing, blind, 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.

"Policies" means statements of program intent, strategy, principle, or rules for providing effective and ethical services.

"Primary Victim" means a client who has experienced human sex trafficking or the consequences of the crimes first hand.

"Procedures" means the standard methods by which policies are implemented.

"Program" means a set of activities designed and structured to achieve specific objectives relative to the needs of the clients.

"Program evaluation" means the documented assessment activities, performed internally or externally, of a program or a service and its governing authority, staff, volunteers, activities and planning process to determine whether program goals are met, staff, volunteers, and activities are effective, and what effect, if any a program or service has on the problem which it was created to address or on the population which it was created to serve.

"Program goals" means broad general statements of purpose or intent.

"Qualified staff" means someone who has met the criteria for provision of direct services as defined in 75:30-11-12.

"Release" or "Waiver" means consent that is informed, written and reasonably time-limited. The terms may be used interchangeably to mean the same thing. 'Release' implies that confidential information is released (despite confidentiality or privilege protection), and 'Waiver' implies waiving the right (to maintain privilege). If release of information is compelled by statutory or court mandate, the program shall make reasonable attempts to provide notice to victims affected by the disclosure of information and take steps necessary to protect the privacy and safety of the persons affected by the release of the information.

"Referral" means information disseminated and/or coordinated access to agency and community services to meet ~~victim/survivor's~~ victim/survivor's and their dependents identified needs.

"Safety Planning" means the process of working with the victim/survivor to develop tools in advance of potential abuse or violence for the immediate and long term safety of the victim/survivor. The plans should be based on the individual's dangerousness indicators and should include the safety needs of dependents. Human sex trafficking victims face danger from organized crime, and the levels of danger depend on a host of factors including how much a victim's testimony can harm the perpetrators and how violent and extensive a human sex trafficking organization may be. Additional risks may include isolation due to inability to speak English and distrust of law enforcement and the criminal justice system and unfamiliarity with ways to seek help and safety.

"Screening" means the process of determining, preliminarily the nature and extent of a person's problem in order to establish the service needs of an individual. At a minimum, a screening shall include a brief personal history related to abuse, a review of the individual's strengths and resources, risk factors and referral needs.

"Secondary Victim" means a person with a relationship with the primary victim.

"Self Determination" means the right to make one's own choices.

"Service agreement" means a written agreement between two or more service agencies and individual service providers defining the roles and responsibilities of each party.

The purpose of service agreements is to promote coordination and integration of service programs for the purpose of curbing fragmentation and unnecessary service duplication in order to assure a continuation of services.

"Service note" means the documentation of the time, date, location and description of services offered or provided, and signature, including electronic signature of staff or volunteer offering or providing the services.

"Service plan" means a plan of action developed and agreed upon by the client and service provider that contains service appropriate goals and objectives for the client.

"Sexual Assault" means a range of behaviors, including but not limited to rape, attempted rape, sexual battery, human sex trafficking, sexual abuse of children, sodomy and sexual harassment.

"Sexual assault services" means personal advocacy and support services provided to adult victims of human sex trafficking in settings such as law enforcement, medical settings or program offices.

"Sex trafficking" also known as "Human Sex Trafficking for Commercial Sex" means recruiting, enticing, harboring, maintaining, transporting, providing or obtaining, by any means, another person through deception, force, fraud, threat or coercion for purposes of engaging the person in a commercial sex act, or benefiting, financially or by receiving anything of value, from participating in a venture that has engaged in an act of human sex trafficking for commercial sex.

"Shelter services" means a certified residential living arrangement in a secure setting with support and advocacy services provided by qualified staff, for adult victims of sexual assault as a result of human sex trafficking and their dependents.

"Staff" means personnel that who function with a defined role within the program whether full-time, part-time or contracted.

"Substance Abuse Services" means the assessment and treatment of diagnosable substance abuse and dependence disorders, as defined by current DSM criteria, by qualified alcohol and drug treatment professionals.

"Support" or "Supportive Services" means the provision of direct services to victims and their dependents for the purposes of preventing further violence, helping such victims to gain access to civil and criminal courts and other community services, facilitating the efforts of such victims to make decisions concerning their lives in the interest of safety, and assisting such victims in healing from the effects of human sex trafficking.

"Transitional living services" means temporary, independent living programs with support services provided by the staff or volunteers of the sponsoring ~~domestic violence, sexual assault and stalking~~ human sex trafficking program. These services are extensions of ~~domestic violence~~ human sex trafficking shelter services to victims of ~~domestic violence, sexual assault and/or stalking~~ human sex trafficking and their dependents. These services permit victims to develop their financial capacity and other means to live independently.

"Trauma-informed services" means a service approach that recognizes the impact of trauma and acknowledges the role of trauma in the lives of victims/survivors and their dependents.

"Universal precautions for transmission of infectious diseases" means those guidelines promulgated by the U.S. Occupational Health and Safety Administration which are designed to prevent the transmission of Human Immunodeficiency Virus, hepatitis and other infectious diseases.

"Update" means a dated and signed review of a report, plan or program with or without revision.

"Voluntary Services" means a program shall not mandate participation in supportive services as a condition of shelter residency or emergency services (Family Violence Prevention and Services Act (426 U.S.C. 10401 et seq.)

"Volunteer" means any person who is not on the program's payroll, but provides either indirect or direct services and fulfills a defined role within the program and includes interns and practicum students.

75:30-1-3. Meaning of verbs in rules

The attention of the facility is drawn to the distinction between the use of the words "shall," "should," and "may" in this chapter:

- (1) "Shall" is the term used to indicate a mandatory statement, the only acceptable method under the present standards;
(2) "Should" is the term used to reflect the most preferable procedure, yet allowing for the use of effective alternatives; and
(3) "May" is the term used to reflect an acceptable method that is recognized but not necessarily preferred.

SUBCHAPTER 3. SEXUAL ASSAULT PROGRAMS FOR ADULT VICTIMS/ SURVIVORS OF SEXUAL VIOLENCE AS A RESULT OF HUMAN SEX TRAFFICKING

75:30-3-1. Service programs core services

- (a) Programs serving victims of sexual violence as a result of human sex trafficking and their dependents or family members should consider special service needs when developing a plan to offer services.
(b) Programs shall serve residential and non-residential victims of human sex trafficking.
(c) All certified programs shall provide safe, accessible, and trauma-informed services for victims of human sex trafficking and their dependents or non-offending family members.
(d) The program shall develop a philosophy of service provision based upon voluntary, trauma-informed services and individual self-determination. The written statement of the philosophy of services shall be approved by the governing authority and made available to the community, staff, volunteers and clients.
(e) The program shall have policy policies and protocols for accepting victims of human sex trafficking and develop procedures to maintain facilities, staffing, and operational methods,

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including a policy on the recruitment of board members, staff and volunteers who are representative of the diversity in the local community and the diversity of their clients.

(f) All certified programs shall ensure shelter is provided and be able to respond to special needs which may include:

(1) Length of stay shall be determined by staff based on the needs of the client.

(2) ~~Safety planning:~~ Safety planning should be designed to meet individual, unique needs. Safety planning can be complex due to danger created by an extensive human sex trafficking organization. Perpetrators often threaten the trafficked person's family in the country of origin as well, and such threats impact decisions made by a human sex trafficking victims.

(3) Human sex trafficking victims may never have assimilated into the local community or U.S. culture. Such lack of assimilation, in addition to language barriers and lack of family or community support may make it difficult to meet shelter requirements such as communal meals, support groups and roommates of different ethnic, cultural or religious backgrounds.

(4) Human sex trafficking victims may have language interpretation needs. The program shall provide access to an interpreter. It may be necessary for the program to provide translations of written consent forms and other documents.

(5) ~~Intensive Case Management:~~ Human sex trafficking victims often need intensive case management and advocacy for long periods of time. Human ~~Sex~~ sex trafficking victims may need to see a case manager daily. Because their goals are often obtained in incremental steps, human sex trafficking victims may need to be accompanied by staff or volunteers to access outside services.

(6) ~~Labor exploitation:~~ A victim of human sex trafficking may feel that she has to babysit for free, cook meals or do more than her fair share of the chores. Programs should be aware of this dynamic and ensure that staff, volunteers and other residents do not unwittingly allow this dynamic to occur.

(7) ~~Cooperation with law enforcement:~~ Programs should ensure victims are educated about the value of participating in the legal prosecution of offenders and that an appropriate release or waiver may be necessary. It is the human sex trafficking victim's choice to cooperate with law enforcement. Programs may have to educate law enforcement about certain policies, confidentiality and privilege laws, victim issues, including safety concerns, and whether or not law enforcement may enter the shelter. Programs shall also inform law enforcement that victims cannot be restricted from leaving the shelter. Programs shall provide alternate, secure locations for interviews.

(8) Victims of human sex trafficking may be charged with federal or state crimes. Shelters should develop relationships with qualified criminal defense lawyers, including the federal and state public defender offices that can assist them.

(9) Establishing networks with additional service providers: Because of the unique needs of human sex trafficking victims, shelters may have to identify and establish relationships with service providers such as those who do refugee settlement, with whom they have no previous relationship, and assess the providers as potential referral sources.

(g) All certified programs shall provide services free from all forms of unlawful discrimination based on race, color, gender, sexual orientation, age; disabilities (i.e., physical, mental illness and substance abuse), economic or educational status, religion and national origin, including a policy that services to immigrant women will not be denied or diminished on the basis of immigration status.

(h) Compliance with 75:30-3-1 shall be determined by a review of the program's ~~policy~~ policies and procedures, service agreements, ~~on-site~~ on-site observation, client and staff interviews and/or other supporting documentation.

75:30-3-1.1. Crisis intervention services

(a) All certified human sex trafficking programs shall offer crisis intervention services including, but not limited to:

(1) Twenty-four (24) hour crisis telephone services shall be staffed by trained staff or volunteers, and provide 24-hour immediate, direct access to crisis advocates. Pagers, answering machines or answering services that do not offer immediate access to a crisis advocate shall not be sufficient to meet this requirement;

(2) Screenings for immediate needs including safety; medical including screening for tuberculosis, sexually transmitted diseases, HIV, Hepatitis B and Hepatitis C, vaccinations/immunizations, medical treatment for physical injuries, and dental care; mental health; substance abuse; and status including eligibility for other services and HHS or ORR certification;

(3) Emergency housing such as hotel or motel available for victim and any dependent(s);

(4) Arrangement for safe shelter, food, clothing, and incidentals needed by victim and any dependent(s) as soon as practical;

(5) Provide protection if the safety of the victim is at risk or if there is a danger of additional harm by recapture of the victim by a perpetrator, including: taking measures to protect human sex trafficking victims and their family members from intimidation and threats of reprisals and ensuring that the names and identifying information of human sex trafficking victims and their family members are not disclosed to the public;

(6) The program shall provide transportation or access to transportation for necessary or emergency services. This shall not require service providers to be placed in a situation that could result in injury;

(7) Assignment or referral to Case Manager;

(8) Provision of advocacy and referral to assist the victims in obtaining needed services or resources;

(9) Follow-up services shall be offered to all victims if victim safety is not compromised;

(10) Crisis intervention or support services, case management or referral for case management, advocacy, and victim recovery services. These programs shall minimally either directly provide or make provision for the following services:

- (11) Life and job skills training;
- (12) Establishment of contact with families of victims if appropriate and desired by the client;
- (13) Advocacy services, both in person and by telephone or other electronic means, either in the locations of other community services and systems, or in the program's offices to assist with obtaining certification and public benefits;
- (14) A resource document of local, area, or state resources to facilitate referrals for clients for longer term counseling and housing and legal services, particularly immediate legal assistance from an attorney;
- (15) The agency shall maintain an updated list of identified behavioral health professionals in the community who treat clients with trauma related to human sex trafficking as well as victims who need additional mental health or substance abuse services; and
- (16) Provide referral to legal assistance, information about their rights and translation services as necessary.

~~(b) All certified programs shall provide services free from all forms of unlawful discrimination based on race, color, gender, sexual orientation, age, disabilities (i.e., physical, mental illness and substance abuse), economic or educational status, religion and national origin, including a policy that services to immigrant women will not be denied or diminished on the basis of immigration status.~~

~~(be) Compliance with 75:30-3-275:30-3-1.1 shall be determined by a review of the program's policy policies and procedures, service agreements, on-site on-site observation, client and staff interviews and/or other supporting documentation.~~

75:30-3-1.2. Court advocacy services

(a) All certified programs shall provide assistance to victims and their dependents in legal matters relevant to their situation. Court advocacy services include provision of information, support, assistance, safety planning, accompaniment and intervention with any aspect of the civil or criminal legal system on behalf of a victim of human sex trafficking. Court advocacy services must be provided by qualified, trained staff members or volunteers.

(b) Advocacy services must both be in person or by telephone, either in the ~~locations~~ location of other community locations and systems, or in the program's offices. Other locations include but are not limited to those necessary to provide court advocacy services to clients.

(c) Compliance with 75:30-3-2.1 shall be determined by a review of policies and procedures, client files and personnel files.

75:30-3-2. Shelter program

(a) All shelters shall comply with section 75:30-3-1. Each shelter program shall provide long-term shelter services and staffing twenty-four (24) hours per day, seven (7) days per week and offer the following services:

- (1) Shelter programs shall provide room, food, bathing and laundry facilities, necessary clothing and toiletries for victims and their children free of charge. Programs shall not ask clients to use their nutrition assistance benefits to supplement food for the facility;
- (2) Shelters shall be staffed at all times when clients are in residence. When there are no clients in residence, each shelter program must assure availability for immediate contact or services;
- (3) Shelter programs shall offer screening, referral and linkage to clients and callers to appropriate community resources, to include assistance in making initial contact;
- (4) Each shelter program must ensure to the best of ~~their~~ its ability the physical and emotional safety, security, and confidentiality of clients and the location of the shelter;
- (5) The shelter shall established and maintain involuntary exit criteria;
- (6) The shelter's policy shall have written procedures regarding the supervision of children; and
- (7) In the event the shelter does not offer services to clients with dependent boys over the age of twelve, the shelter shall have written policies regarding linkage to alternative provision of services including emergency shelter;
- ~~(8) Shelter programs shall offer screening, referral and linkage to clients and callers to appropriate community resources, to include assistance in making initial contact.~~
- ~~(9) The shelter program shall maintain cooperation/li-
aison with the local school system.~~
- ~~(10) Each shelter program must ensure to the best of its ability the physical and emotional safety, security, and confidentiality of clients and the location of the shelter.~~
- ~~(11) The shelter shall maintain a written policy for in-
voluntary exit criteria.~~

(b) Compliance with 75:30-3-2 shall be determined by a review of ~~policy policies~~ and procedures, service agreements, ~~on-site~~ on-site observation, and/or other supporting documentation.

75:30-3-4. Transitional living program

(a) All transitional living programs shall comply with ~~75:30-3-3-1.1, 75:30-3-1, 75:30-3.2~~ 75:30-3-1.1 and the following:

- (1) The program shall maintain homes, apartments, or other residential living environments suitable for survivors of ~~domestic and sexual violence, stalking~~ human sex trafficking and their dependents, if applicable, and which provide the reasonable safety and privacy needed by this population. The program shall offer access to necessary furniture and equipment;
- (2) The program shall include heating and refrigerated cooling systems to maintain a reasonable comfort level;

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- (3) Supportive services for residents are available through the twenty-four (24) hour program hotline by trained staff or volunteers;
 - (4) The program shall assign staff or a volunteer as the advocate or liaison for the clients residing in the transitional living program(s). This person, or a crisis line staff person or volunteer, shall be available for emergencies at all times;
 - (5) The program shall have a written agreement with each resident that outlines specific responsibilities of both the program and the resident to include expectations, responsibilities, and limitations. The agreement shall be signed by both parties.
 - (6) The program shall offer weekly support groups for transitional living residents and their children; and
 - (7) The program shall offer at least one 30 minute ~~face to face~~ face-to-face service contact per week with each transitional living residents and their children.
- (b) Compliance with ~~75:30-3-575:30-3-4~~ shall be determined by a review of program ~~policy~~ policies and procedures, client records, ~~onsite~~ on-site observation, written agreements and/or other supporting documentation.

75:30-3-5. Children's services

- (a) Client records for both residential and non-residential children shall contain, at a minimum, the following information:
- (1) Intake and screening information:
 - (A) Client's name;
 - (B) Date of initial contact/intake;
 - (C) Age;
 - (D) Pertinent medical information;
 - (E) ~~Mothers~~ Mother's name;
 - (F) Biological father's name; and
 - (G) Mother's abuser (if different from child's biological father).
 - (2) Custody
 - (A) Legal custody of the child;
 - (B) Physical custody of the child;
 - (C) Does the child have contact with his or her biological father? and
 - (D) Is visitation court ordered with the perpetrator?
 - (3) Safety, including but not limited to:
 - (A) History of child abuse or neglect;
 - (B) Exposure or witnessing violence;
 - (C) Child's response to witnessing violence; and
 - (D) History of involvement in the child welfare system; including the presence of current child welfare involvement;
 - (4) Service notes, which shall minimally include:
 - (A) ~~the~~ The date, location, start time, duration and description of services provided delineated by time spent and service code, if applicable, or documentation of referral to other services or case management;
- (b) Within five (5) business days of entry into residential services (excluding advocacy or children's activities or crisis intervention), all certified programs shall offer to assess the

risk and needs, including culturally specific needs, of the children accompanying primary victims and offer children's services to address the impact of violence and trauma in their lives and to facilitate healing. A risk and needs screening and assessment on each child, when accepted, shall minimally include information on his or her:

- (1) Brief trauma screening to assess the impact of trauma;
 - (2) Developmental history to include speech and language, hearing and visual;
 - (3) Medical or physical health history;
 - (4) Social history to include interactions with peers;
 - (5) History of use of tobacco, alcohol or other drugs;
 - (6) Parent/guardian custodial status; and
 - (7) Community referral needs.
- (c) Services provided to each child shall be culturally sensitive while addressing identified risks and needs, and shall minimally include:
- (1) ~~safety~~ Safety planning that is appropriate with respect to the child or adolescent's age, development, and education;
 - (2) ~~a~~ A specific safe, protected play area for children;
 - (3) ~~advocacy~~ Advocacy with community systems;
 - (4) ~~referral~~ Referral to community resources for needed services;
 - (5) ~~linkage~~ Linkage and advocacy with the local school system to provide for ~~ongoing~~ educational needs;
 - (6) ~~parenting~~ Parenting support for clients, if applicable; and
 - (7) Children's groups using age appropriate topics and based on established best practices.
- (d) Pursuant to Title 10A O.S. § 1-2-101, any person having reason to believe that a child under the age of eighteen (18) years is a victim of abuse or neglect, shall report the matter promptly to the Department of Human Services.
- (e) Compliance with this ~~75:30-3-775:30-3-5~~ shall be determined by a review of client records, ~~policy~~ program policies and procedures, ~~call logs~~, on-site observation, written agreements, and/or other program supporting documentation.

SUBCHAPTER 5. CLIENT RECORDS AND CONFIDENTIALITY

75:30-5-1. Purpose

The purpose of this subchapter is to set forth the standards and criteria governing client records and confidentiality of client information, including client records, for victims of ~~sex~~ human sex trafficking.

75:30-5-2. Client records

(a) A certified program shall have and maintain a master client index system containing the client's name, and the program's discreet numerical or letter identifier. No identifying information such as initials, age, year of birth or gender shall be part of the client ID. That same discreet identifier shall be

the client ID that is entered into ~~an~~the OAG ~~approved~~ data base without further encryption.

(b) A certified program shall have written ~~policy~~policies and procedures for correcting errors on record material by lining through, initialing the error, and inserting the correct material either above the error or at the end of the entry. Further, the ~~pol-icy~~policy ~~policies~~ and procedures shall forbid the use of "white-out" or any action which obliterates the error.

(c) Compliance with 75:30-5-2 shall be determined by on-site observation, client records and any other supporting program documentation.

75:30-5-3. Record content - general

(a) Client records for both residential and non-residential clients shall contain, at a minimum, the following information:

- (1) Intake and screening information:
 - (A) Client's name;
 - (B) Date of initial contact/intake;
 - (C) Pertinent medical information, including substance abuse;
 - (D) Emergency contact information, if applicable, ~~and~~;
 - (E) History/nature of abuse including an evidence-based dangerousness assessment and safety planning, screening for medical, mental health and substance abuse, status including eligibility for other services and HHS or ORR certification; ~~and~~
 - (F) Perpetrator(s) information, if known; ~~and~~
- (2) Service notes, which shall minimally include:
 - (A) The date, location, start time, duration and description of services provided delineated by time spent and service code, if applicable, or documentation of referral to other services or case management; ~~and~~
 - (B) The signature of staff or volunteer providing the services or referral, ~~and~~;
- (3) Service plan focusing on victim safety and, well-being which shall minimally include:
 - (A) Goals and objectives of the client, which shall be developed and agreed upon between the client and staff or volunteer, and
 - (B) Service plans and their updates shall be signed and dated by the client and staff.
- (4) Exit information, which shall minimally include:
 - (A) Documentation that the client participated in planning for his or her exit from the program;
 - (B) The reasons for the client's exit or departure; ~~and~~
 - (C) Client and staff or volunteer dated signatures or an explanation if staff were unable to obtain the client's signature.

(b) Each client record entry shall be legible, dated, and signed by the staff member or volunteer making the entry.

(c) Compliance with 75:30-5-3 shall be determined by a review of program ~~policy~~policies and procedures; review of the client records for content; ~~and~~ or other supporting program documentation.

75:30-5-3.1. Record content - service specific

(a) Client records for specific services shall conform to the following:

(1) **Shelter Services:**

(A) On a client's entry to the shelter, staff or volunteers shall record the client's name, emergency contact person(s), if applicable, known allergies, and any referrals for medical or emergency services. This information may be a part of the full intake interview if the full intake is done on entering the shelter. Assessing client's lethality and danger risks and safety planning shall also be done at the time of the full intake; ~~and~~;

(B) Shelter clients shall have the full intake interview and screening completed within fourteen (14) days of entry into the shelter; ~~and~~;

(C) Service plans shall be offered within ~~30~~thirty (30) business days of client's entry to the shelter and at the client's discretion; ~~and~~;

(D) The service plan shall be reviewed and updated at least every two (2) weeks; ~~and~~;

(E) The client's service plan shall include components which address the needs of each child accompanying the client;

~~(E)~~ The service plan shall include safety issues for the client and children; ~~and~~

~~(F)~~ A daily note.

(2) **Crisis Intervention Services:**

(A) All face-to-face contacts with ~~active~~ clients are documented and contacts with persons not receiving additional services shall be offered, ~~and~~ documented. Documentation shall minimally include the following:

- (i) Staff/Volunteer Name and signature;
- (ii) Date, time, length, and location of intervention;
- (iii) Safety Planning based on risk; ~~and~~;
- (iv) Client's name, age, race, county of residence, and contact number if given; ~~and~~;
- (v) Protective order information, if applicable;
- (vi) Personnel involved such as police, hospital, etc;
- (vii) Summary of contact including visible injuries, treatment and services requested; ~~and~~
- (viii) Outcome; ~~and~~

(B) All telephone contacts shall be documented. Documentation shall minimally include the following:

- (i) Staff/Volunteer name;
- (ii) Date, time and length of call;
- (iii) Safety planning based on risk; ~~and~~;
- (iv) Caller's name and contact number, if given; However, no caller shall be required to give a name, phone number or any other identifying information as a condition to receive information about human sex trafficking services;
- (v) Summary of the call including services needed;

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- (vi) Outcome; and
 - (vii) Follow-up services offered if victim safety is not compromised.
- (C) Contact information is kept by the program.
- (D) Clients to be transported to shelter facilities shall be screened before the shelter referral is made. If the client is in immediate danger, or no safe housing is available, this screening may be initially waived. If the screening is waived, documentation shall reflect the reason(s) and the notification of such to the shelter.
- (3) **Counseling, Support and Advocacy Services:**
- (A) An assessment of the client's needs, including culturally specific needs shall be completed by the third (3rd) counseling or advocacy session;
 - (B) A service plan shall be completed by the fifth (5th) advocacy or counseling session; and
 - (C) A service plan review and update shall be completed at ~~least~~ at a minimum of once every six (6) months.
- (4) **Transitional Living Services:** A service plan including safety issues for the client and dependents shall be developed within five (5) business days of the client moving in.
- (b) Where required information is not obtained, efforts to comply with the requirements of this subsection shall be documented in the client record.
- (c) Compliance with this 75:30-5-3.1 shall be determined by a review of client records, ~~policy~~ policies and procedures, call logs, and/or other supporting documentation.

75:30-5-4. Client confidentiality

- (a) Protecting the confidentiality of human sex trafficking victims is critical to protecting their safety and establishing trust. Case or client records, files or notes, of a certified sexual assault program for adult victims of human sex trafficking program shall be confidential and shall only be released under certain prescribed conditions pursuant to Oklahoma law (74 O.S. § 18p-3).
- (b) The program shall have written ~~policy~~ policies and procedures to ensure confidentiality of client information and identity ~~and~~ the shelter location and govern the disclosure of information including verbal disclosure contained in client records. When a client record is established, the program shall discuss the confidentiality requirements and limitations with each client and maintain documentation in the client record that they have reviewed the circumstances under which confidential information may be revealed. Assisting human sex trafficking victims requires the release of confidential information more often, and to more organizations, than when assisting non-trafficked victims. This is particularly true if the victim is seeking certification from HHS or ORR. Staff or volunteers should always obtain the informed, written consent of the victim when relaying confidential information to any person, including law enforcement, federal prosecutors, state attorneys, victim advocates and social services agencies. The written consent forms must be translated into the victim's native language, state the

name of the person or organization receiving the information, and contain an expiration date.

(c) The human sex trafficking program must comply with both the state and federal laws that govern confidentiality and any exceptions to those laws.

- (1) **State Law:** Case or client records, files or notes, of a human sex trafficking program shall be confidential and shall only be released under certain prescribed conditions (74 O.S. § 18p-3);

(A) The case records, case files, case notes, client records, or similar records of a human sex trafficking program certified by the Attorney General or of any employee or trained volunteer of a program regarding an individual who is residing or has resided in such program or who has otherwise utilized or is utilizing the services of any human sex trafficking program or counselor shall be confidential and shall not be disclosed;

(B) For purposes of this subsection, the term "client records" shall include, but not be limited to, all communications, records, and information regarding clients of human sex trafficking programs; and

(C) The case records, case files, or case notes of programs specified in paragraph 1 of this subsection shall be confidential and shall not be disclosed except with the written consent of the individual, or in the case of the individual's death or disability, of the individual's personal representative or other person authorized to sue on the individual's behalf or by court order for good cause shown by the judge in camera.

- (2) **Federal Law:**

(A) VAWA- 42 U.S.C. § 13925 (b)(2). Federally, the U.S. Violence Against Women Act January, 2006 mandates that programs that receive VAWA funds may not reveal personally identifying information about victims without "reasonably time-limited," written, and informed consent. Under this provision, VAWA-funded programs are prohibited from disclosing personally identifying victim information to any third party, including to any database operated by any party outside of the ~~domestic violence~~ human sex trafficking program. "Reasonably time-limited" is not defined in the statute, but it is determined by the circumstances and the purposes for which the client is requesting the release of information. It could be a few minutes, a few hours, and a few days. In no event should it be for more than ~~15 days, or sixty (60) 60 at the outside days.~~

(B) FVPSA U.S. Family Violence Prevention and Services Act (FVPSA) each have specific confidentiality protections that apply to many domestic violence and sexual assault programs. (42 U.S.C. 10402(a)(2)(E)). Grantees and subgrantees under this title shall protect the confidentiality and privacy of persons receiving services. subgrantees shall not:

- (i) ~~disclose~~ Disclose any personally identifying information or individual information collected in connection with services requested,

utilized, or denied through grantees' and sub-grantees' programs; or

(ii) ~~reveal~~ Reveal individual client information without the informed, written, reasonably time-limited consent of the person (or in the case of an unemancipated minor, the minor and the parent or guardian or in the case of persons with disabilities, the guardian) about whom information is sought, whether for this program or any other Federal, State, tribal, or territorial grant program, except that consent for release may not be given by the abuser of the minor, person with disabilities, or the abuser of the other parent of the minor.

(C) Housing Assistance Emergency Shelter Grants 42 U.S.C. § 11375 (c)(5) Grant recipients are required to implement procedures to ensure confidentiality of records pertaining to any individual who is provided family violence prevention or treatment services. All grant recipients must also certify that the address of the family violence shelter will not be made public without permission of the agency; ~~and~~

(D) Stewart B. McKinney Homeless Assistance Act 42 U.S.C. § 11301. The Violence Against Women Act also specifically added a provision that specifies that a domestic violence program provider shall not disclose any personally identifying information about any client to the Homeless Management Information System (HMIS).

(d) Compliance with 75:30-5-4 shall be determined by a review of the program's policy policies and procedures; and on-site observation of the handling and review of client records.

75:30-5-4.1. Waiver of Confidential Information

(a) For a waiver of confidentiality to be valid, it must:

- (1) Be voluntary;
- (2) Relate only to the participant or the participant's dependents;
- (3) Clearly describe the scope and any limitations of the information to be released;
- (4) Include an expiration date; ~~and~~
- (5) Inform the participant that consent can be withdrawn at any time, orally or in writing; ~~;~~
- (6) Programs may only share the specific information the client allows in the release. The client gets to choose when, how and what personal information will be shared, or not shared, and with whom; ~~;~~
- (7) Even when a court mandate requires the program to disclose or release information about the client, the program may only share the minimum information necessary to meet the statutory or court mandate; ~~and~~
- (8) The program/agency shall notify the victim of any disclosure and to continue taking steps to protect the victim's safety and privacy.

(b) A valid written release form for disclosure of client information shall have, at a minimum, the following elements:

- (1) ~~the~~ The specific name or general designation of the program or person permitted to make the disclosure; ~~;~~

(2) ~~the~~ The name and title of the individual within the organization to which disclosure is to be made; ~~;~~

(3) ~~the~~ The name of the client whose records are to be released; ~~;~~

(4) ~~the~~ The purpose of the disclosure; ~~;~~

(5) ~~a~~ A description of the information to be disclosed; ~~;~~

(6) ~~the~~ The dated signature of the client or authorized representative or both when required; ~~;~~

(7) ~~a~~ A statement of the right of the client to revoke the release in writing and a description of how the client may do so; ~~and~~

(8) ~~an~~ An expiration date, specified event or condition which, if not revoked before, shall ensure the release will last no longer than ~~90 days~~ reasonably necessary to serve the purpose for which it is given. In no event shall the waiver extend for longer than sixty (60) days.

(c) "In the event of my death" clause: Some programs have chosen to talk with clients about the lethality of ~~domestic violence~~ human sex trafficking and ask if they would like the program to share information with police, prosecutors, the Oklahoma Fatality Review Board, or others the client may indicate in the event that the client dies (due or not due to ~~DV~~ ST). Because clients may have to sign multiple releases, programs shall have the "in the event of my death" exception on a different form.

(d) The program shall have written ~~policy~~ policies and procedures to ensure confidentiality of client information and identity and shelter location and govern the disclosure of information including verbal disclosure contained in client records. When a client record is established, the program shall discuss the confidentiality requirements with each client and maintain documentation in the client record that they have reviewed the circumstances under which confidential information may be revealed.

(e) Compliance with ~~75:15-5-4.1~~ 75:30-5-4.1 shall be determined by a review of the program's policy policies and procedures; and on-site observation of the handling and review of client records.

75:30-5-5. Physical safety and integrity of client records

(a) Client records shall be maintained in a locked and secure manner. The program shall have written policies and procedures to safeguard the record and information contained in the record against loss, theft, defacement, tampering, or unauthorized access or use.

(b) Compliance with 75:30-5-5 shall be determined by a review of the program policy policies and procedures; on-site review of locking mechanisms and procedures to assure security; and ~~onsite~~ on-site observation of the handling of client records.

75:30-5-6. Client record, handling, retention, and disposal

(a) A program shall have written policy policies and procedures addressing the storage, retention period, and method of disposal of client records. This policy and procedures shall be

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compatible with protecting clients' rights against unauthorized confidential information disclosures.

(b) Client records shall be easily retrieved by staff as needed for providing and documenting services.

(c) Compliance with 75:30-5-6 shall be determined by a review of the program's ~~policy~~ policies and procedures, and a review of office and files.

75:30-5-7. Shelter Policy on Medications

(a) The shelter shall seek to afford shelter residents with the greatest possible privacy and autonomy in regard to their medication, while also providing a safe shelter environment: as follows:

(1) Staff and volunteers will not dispense medication;

(2) The shelter will provide every resident with an individual locking box, locker, or locking cabinet ("locked space") for storage of medications and valuables or lock the clients' medication in a safe but accessible location;

(3) The shelter will not limit or monitor the survivor's access to her medication;

(4) If a client indicates that she needs access to refrigerated storage space, the shelter will provide refrigerated storage space in the manner that provides the greatest possible privacy and autonomy; and

(5) The shelter shall have a policy for the disposal of unused or abandoned medication or other substances.

(b) Safety Agreement: During a resident's stay at shelter, the client shall be asked to make sure that any medications ~~she~~ the client has are safely secured.

(1) The shelter will ask every resident to sign an agreement that ~~she~~ the client will store any medications in ~~her~~ the client's individual locking box, locker, or locking cabinet provided, or if it is one requiring refrigeration, as otherwise provided. The agreement will provide that residents who have medications that must be taken in the event of a medical emergency may carry them on their person (e.g., in a fanny pack).

(c) Compliance with 75:30-5-7 shall be determined by a review of the program's ~~policy~~ policies and procedures, and on-site observation.

(c) Compliance with 75:30-7-1 shall be determined by a review of program policies and procedures and a tour of the facility.

75:30-7-2. Fire and safety codes and inspections

(a) The physical environments of shelter facilities, housing options and all office space shall meet safety, zoning, and building code regulations required by local, state, and federal authorities; and shall obtain and maintain an annual fire and safety inspection from local or state authorities.

(b) Compliance with ~~75:30-4-2~~ 75:30-7-2 shall be determined by a review of the annual fire and safety inspection report.

75:30-7-3. Firefighting and first aid equipment

(a) All facilities shall have a first aid supply kit and annually maintained fire extinguishers.

(b) Compliance with ~~75:30-4-3~~ 75:30-7-3 shall be determined by on-site observation and by interviewing staff.

75:30-7-4. Disaster procedures

(a) There shall be written procedures describing the emergency plans in case of a disaster, whether internal or external, or in case of threat to the safety of any client, staff or volunteer. Evacuation routes, inside sheltering sites and fire extinguisher locations shall be posted.

(b) Fire, tornado, bomb threat and intruder drills shall be conducted annually. The date, time, and type of the drill shall be documented.

(c) Compliance with 75:30-7-4 shall be determined by on-site observation, a review of written procedures, staff or volunteer interviews, and documentation of drills.

75:30-7-5. Persons with special needs

(a) Pursuant to the Americans with Disabilities Act of 1990, the program shall ensure that persons with disabilities are not excluded from services. Programs are required to integrate a person with a disability into agency services, unless providing separate services is the only way to ~~provide~~ offer equal opportunities for services. Referrals must be ~~provided~~ offered when necessary, and the program shall have written procedures for referrals of disabled persons who cannot be served on-site. Service and companion animals should be allowed in facilities unless the animal poses a direct threat to the health/safety of others. Auxiliary aids/services should be offered as necessary to ensure effective communication unless doing so would cause an undue burden (i.e., significant difficulty or expense) or fundamental alteration in services. Alterations to existing buildings must be accessible to the maximum extent feasible. ~~Alterations to existing buildings must be accessible to the maximum extent feasible.~~ All newly constructed facilities must be accessible to persons with disabilities unless it is structurally impractical. (Americans with Disabilities Act of 1990) Resource: Americans with Disabilities Handbook, published by (U.S.) Equal Employment Opportunities Commission, and the (U.S.) Department of Justice.

SUBCHAPTER 7. PHYSICAL ENVIRONMENTS

75:30-7-1. Physical plant, primary role

(a) The primary role of programs is to provide safety; and ~~to they~~ must also protect the confidentiality and privacy of victims of sexual violence as a result of human sex trafficking and their dependent family members. The physical plants of programs shall not be utilized in any manner which fails to guarantee the confidentiality, safety, and protection of the victims, their dependents and staff and volunteers.

(b) Facilities that serve both victims of human sex trafficking as well as domestic violence victims in the same facility shall have written procedures to ensure that its services do not jeopardize the safety and psychological well-being of either victims.

(b) Compliance with 75:30-7-5 shall be determined by a review of program ~~policy policies~~ and procedures.

75:30-7-6. Program environment

(a) The program environment shall meet the following conditions:

- (1) The facility shall be accessible by an all-weather road;
- (2) The facility shall have adequate space in which to carry out the program's goals and objectives, including outdoor areas and equipment when appropriate;
- (3) The facility shall have heating and air conditioning equipment adequate to maintain the temperature in areas utilized by clients at between 65°F and 85°F;
- (4) The facility shall have adequate ventilation and air circulation provided in the facility to assure an environment that will be comfortable for the clients;
- (5) The facility shall have water from an approved tested potable source;
- (6) The facility shall have, at minimum, a commode and, lavatory facility. The privacy of individuals shall be assured while using these facilities;
- (7) All doors, including those for each closet, bedroom, bathroom, and office, shall be easily opened from both sides;
- (8) Smoking shall not be allowed in any indoor portion of any facility;
- (9) Facility sanitation shall be maintained to prevent offensive odors and insect infestation;
- (10) All facilities shall have emergency backup lighting;
- (11) Telephones shall be provided for the convenience of the staff or volunteers, and the necessary accommodation of the clients. Pay telephones only are not acceptable;
- (12) There shall be written ~~policy policies~~ and procedures addressing the use of any outdoor recreational space, including required supervision and ~~child~~ the safety of children;
- (13) Toxic materials and dangerous substances, such as toxic cleaners, insecticides, and matches shall be stored in a non-client area, locked space where they are not ~~available-accessible~~ to children;
- (14) Combustible materials shall be stored in locked non-flammable containers; and
- (15) The Poison Control Center's toll-free telephone number shall be posted and visible to staff, volunteers and clients at all times.
- ~~(16) Baby beds and high chairs that ensure children's safety and comfort shall be available for infants and small children.~~

(b) Compliance with 75:30-7-6 shall be determined by a review of program ~~policy policies~~ and procedures, staff, volunteer and client interviews, and on-site observation.

75:30-7-7. Program environment, shelter services programs

(a) All certified shelters shall comply with section 75:30-7-6 and the following:

- (1) The facility shall have access to outdoor recreational space and playground equipment located, installed, and maintained as to ensure the safety of the clients and their children. The grounds and access thereto shall be maintained in a manner that shall ensure the area is free of any hazard to health or safety;
- (2) Kitchens used for meal preparation in the residential facility shall be provided with the necessary equipment for the preparation, storage, serving, and clean-up of all meals. All equipment shall be maintained in working order;
- (3) Provisions shall be made to assist or make food available for meal preparation that accommodates special diets;
- (4) The facility shall have, at minimum, a commode, lavatory, and bathing facility at a ratio of one (1) to twelve (12) resident, including infants and children. The privacy of individuals or families shall be assured while using these facilities;
- (5) Residents' rooms shall be so arranged that the client has direct access to a hallway or common area without having to pass through other resident's rooms or areas;
- (6) There shall be written ~~policy policies~~ and procedures for laundry and linens, addressing frequency of changing linens, and laundry arrangements within the facility;
- (7) Laundry equipment shall be provided within the residential facility, and shall be kept clean, well-maintained, and properly ventilated;
- (8) Reasonable space shall be provided for storage of clients' personal belongings;
- (9) Written ~~policy policies~~ and procedures shall address secure storage of client valuables;
- (10) Written ~~policy policies~~ and procedures shall address the secure handling and storage of client medications, including policy to document client access to medication;
- (11) The facility shall be secured by double locks or locking devices such as chains, bolts, etc. on ground floor doors. However, documentation that the locking system meets state and local fire code inspection shall be accepted. When key-locked deadbolts are used, the location of the keys must be identified and readily accessible;
- (12) All outdoor openings such as windows shall be covered for privacy;
- (13) Provision shall be made for cleaning the facility minimally once per week. A written work schedule or other form of notification shall be posted, which clearly delineates each individual's responsibility for various tasks;
- (14) Safe and adequate internal play space for children, including outlet protectors and gated stairwells; and
- (15) Baby beds and high chairs that ensure children's safety and comfort shall be available for infants and small children.

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(b) Compliance with 75:30-7-7 shall be determined by a review of program ~~policy~~policies and procedures; shelter rules, staff, volunteer and client interviews where appropriate, and on-site observation.

75:30-7-9. Program environment, transitional living services program

(a) All transitional living services programs shall comply with section 75:30-7-6 (a) (1)-(10) and the following:

- (1) ~~operable~~ Operable smoke detectors;
- (2) 24-hour access to a telephone for emergencies;
- (3) ~~secured~~ Secured by double locks or locking devices such as chains, bolts, etc. which meets state and local fire code inspection; ~~and~~
- (4) outdoor Outdoor openings such as windows shall be covered for privacy; ~~and~~
- (5) the The facility shall have, at minimum, a commode, lavatory and bathing facility at a ratio of one (1) for every eight (8) persons, including infants and children. The privacy of individuals or families shall be assured while using these facilities.

(b) Compliance with 75:30-7-9 shall be determined by a review of program ~~policy~~policies and procedures, provider and client interviews where appropriate, and on-site observation.

SUBCHAPTER 9. PROGRAM MANAGEMENT AND PERFORMANCE IMPROVEMENT

75:30-9-1. Admission criteria

(a) The agency shall have specific written criteria for each program service component identifying persons for whom the services are intended, and persons who are excluded from receiving services.

(b) The program shall have a written policy requiring referral of any individual who does not meet services criteria.

(c) Compliance with 75:30-9-1 shall be determined by a review of written program ~~policy~~policies and procedures.

75:30-9-2. Program management, ~~policy~~policies and procedures

(a) The agency shall maintain written ~~policy~~policies and procedures ~~which~~that describe each program service component, the rules clients are expected to follow for each component, and staff or volunteer duties. Policies shall include but are not limited to:

- (1) Length of stay limitations, if any;
- (2) Participation in housekeeping, food preparation or other activities, if applicable; ~~and~~
- (3) Physical punishment of children shall not be allowed.

(b) Clients shall be given a copy of program rules and the provision of such shall be documented in the client record.

(c) The program shall have a written policy of the intent to comply with the Americans with Disabilities Act of 1990.

(d) Compliance with 75:30-9-2 shall be determined by a review of the program's written ~~policy~~policies and procedures; rules; client interviews and record documentation.

75:30-9-3. Program mission and goals

(a) The program shall have a written mission statement, and annually state in writing the program's goals.

(b) The annual program goals shall be approved by the agency's governing body each year, and shall be disseminated to ~~personnel~~ staff and volunteers.

(c) Compliance with 75:30-9-3 shall be determined by a review of the mission statement, program's annual goals, governing body minutes, staff meeting minutes and any other relevant documentation provided by the program.

75:30-9-4. Annual program evaluation

(a) The agency shall conduct an annual evaluation of the program's services, facilities and ~~policy~~policies and procedures. This evaluation shall be carried out according to a written plan established in ~~policy~~policies and procedures to include the plan of evaluation, data to be reviewed, and the persons to conduct the evaluation, e.g., governing body members, staff, volunteers or other persons. The evaluation shall include an assessment to identify special populations of victims of human sex trafficking who are underserved or who have special needs including culturally or specific needs.

(b) Upon completion, this evaluation shall be submitted and reviewed by the governing body, and made available to personnel and volunteers.

(c) Compliance with 75:30-9-4 shall be determined by a review of the program evaluation, ~~policy~~policies and procedures, staff meeting minutes and/or any other supporting documentation.

75:30-9-5. Critical incidents

(a) The program shall have ~~policy~~policies and procedures requiring documentation and reporting of critical incidents.

(b) Each critical incident shall be recorded and monitored as follows:

- (1) ~~agency~~ Agency name, ~~and~~ name and signature of the person(s) reporting the critical incident;
- (2) Client ID(s), staff member(s), volunteers and/or property, involved in the critical incident;
- (3) ~~the~~ The date, time and physical location of the critical incident, if known, and the name of the staff ~~person~~ or volunteer the incident was reported to;
- (4) ~~a~~ A description of the incident;
- (5) ~~severity~~ Severity of each injury, if applicable.

Severity shall be indicated as follows:

- (A) ~~no~~ No off-site medical care required or first aid care administered on-site;
- (B) ~~medical~~ Medical care by a physician or nurse or follow-up attention required; or
- (C) ~~hospitalization~~ Hospitalization or immediate off-site medical attention was required; and

- (6) ~~resolution~~Resolution or action taken, date action taken and signature of the agency director or authorized designee;
- (c) Critical incidents that shall be reported to the Office of the Attorney General are reported as follows:
 - (1) Critical incidents requiring medical care by a physician or nurse or follow-up attention and incidents requiring hospitalization or immediate off-site medical attention shall be delivered via fax, or mail, including electronic mail, to the Office of the Attorney General Victims Services Unit within forty-eight (48) hours, or if the incident occurs on a weekend or holiday, the next business day of the incident being documented; and
 - (2) Critical incidents involving disaster at a facility, death or client abuse shall be reported to the Safeline at 1-800-522-7233 immediately via telephone. The notification shall be followed with a written report from the reporting agency within twenty-four (24) hours of the incident and delivered via fax or mail, including electronic mail to the Office of the Attorney General Victims Services Unit.
- (d) Compliance with 75:30-9-5 shall be determined by a review of ~~policy~~policies and procedures, critical incident reports at the program and those submitted to the Office of the Attorney General Victims Services Unit.

SUBCHAPTER 11. PERSONNEL AND VOLUNTEERS

PART 1. PERSONNEL

75:30-11-1. Personnel policies and procedures

- (a) The program shall have written policies and procedures governing the conditions of agency employment to include appropriate screening and background inquiries to ensure client safety and confidentiality. Prior to employment and at least annually, all certified programs are required to conduct a name search of employees against the registries maintained pursuant to the Oklahoma Sex Offenders Registration Act and the Mary Rippy Violent Crime Offenders Registration Act while such persons are working with or serving children.
- (b) The agency's ~~policy~~policies and procedures shall be accessible to all personnel and each shall be informed of personnel policies and procedures, and any other materials regulating or governing the conditions of their employment.
- (c) Written policies and procedures shall ensure personnel are informed of any changes to these afore stated materials.
- (d) Compliance with 75:30-11-1 shall be determined by a review of the program's personnel policies and procedures, interviews with staff and volunteers, review of staff meeting minutes and/or other supporting documentation.

75:30-11-2. Non-discrimination

- (a) The agency's policies and procedures shall include provisions for non-discrimination with regard to the agency's

- relationship with personnel in accordance with applicable state and federal laws.
- (b) Compliance with ~~75:30-6-3~~75:30-11-2 shall be determined by a review of the program's written policy and procedure, and staff interviews.

75:30-11-3. Selection of personnel

- (a) The methods for selecting personnel shall be described in ~~policy~~policies and procedures and shall include, but not be limited to:
 - (1) The processes for recruitment, selection and appointment; and
 - (2) Written criteria demonstrably related to the position being filled.
- (b) Compliance with ~~75:30-6-4~~75:30-11-3 shall be determined by:
 - (1) ~~A review~~Review of the policies and procedures;
 - (2) ~~A review~~Review of job descriptions for personnel; and
 - (3) ~~A review~~Review of any other supporting documentation.

75:30-11-4. Job descriptions, personnel

- (a) The agency shall have written job descriptions for personnel defining the duties of, and minimum qualifications for, each position.
- (b) Compliance with ~~75:30-6-5~~75:30-11-4 shall be determined by:
 - (1) ~~a review~~Review of the program's policies and procedures; and
 - (2) ~~a review~~Review of the program's job descriptions.

75:30-11-5. Personnel records

- (a) The agency shall maintain record(s) for each staff member or volunteer selected and utilized; documentation shall minimally include:
 - (1) ~~job~~Job description;
 - (2) ~~employment~~Employment application or resume;
 - (3) ~~documentation~~Documentation of current qualifications and training as required and defined in the job description;
 - (4) ~~duty~~Duty or work assignment;
 - (5) ~~record~~Record of hours worked or hours of service performed;
 - (6) ~~record~~Record of participation in training;
 - (7) ~~staff~~Staff performance evaluation(s); and
 - (8) ~~emergency~~Emergency notification information.
- (b) Compliance with ~~75:30-6-8~~75:30-11-5 shall be determined by a review of personnel records.

75:30-11-6. Supervision of personnel

- (a) A certified program shall establish in writing lines of supervision for all personnel.
- (b) Compliance with ~~75:30-6-9~~75:30-11-6 shall be determined through a review of the program's ~~policy~~policies and procedures, or any other supporting documentation provided,

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including, but not limited to, personnel manuals, organizational charts, job descriptions, and personnel files.

75:30-11-7. Performance evaluation of personnel

(a) The agency shall have policies and procedures mandating the evaluation of personnel employment and service performance. These policies and procedures shall minimally include:

- (1) ~~performance~~ Performance evaluations shall be completed at least annually, to include an evaluation of the Executive Director;
- (2) ~~define~~ Define the reason(s) for any evaluation other than annual;
- (3) ~~performance~~ Performance evaluations shall be in writing and based on the staff's or volunteer's job description;
- (4) ~~each~~ Each evaluation shall be individually discussed with the staff or volunteer;
- (5) ~~personnel~~ Personnel shall have a documented opportunity to respond, in writing, to each of their individual performance evaluations; and
- (6) ~~both~~ Both staff or volunteer and supervisor shall sign and date the performance evaluation. However, the evaluation document shall state the staff's or volunteer's signature does not necessarily constitute agreement with the evaluation content.

(b) Compliance with ~~75:30-6-10~~ 75:30-11-7 shall be determined by a review of:

- (1) ~~program~~ Program policies and procedures, governing authority meeting minutes where applicable, and
- (2) ~~review~~ Review of personnel files.

PART 3. VOLUNTEERS

75:30-11-8. Volunteer policies and procedures

(a) The program shall have written policies and procedures governing volunteer utilization to include appropriate screening and background inquiries to ensure client safety and confidentiality.

(b) The agency's policies and procedures shall include provisions for non-discrimination with regard to the agency's relationship with volunteers in accordance with applicable state and federal laws.

(c) Compliance with ~~75:30-6-12~~ 75:30-11-8 shall be determined by a review of the program's written ~~policy and procedure~~ policies and procedures, and volunteer interviews.

75:30-11-9. Supervision of volunteers

(a) A certified program shall establish in writing lines of supervision for all volunteers.

(b) A certified program shall ensure each volunteer has the knowledge appropriate to his or her job duties and ~~are~~ is supervised by personnel.

(c) Compliance with ~~75:30-6-13~~ 75:30-11-9 shall be determined through a review of the program's ~~policy~~ policies and procedures, and any other supporting documentation provided,

including, but not limited to, volunteer manuals, and organizational charts.

75:30-11-10. Volunteer records

(a) The agency shall maintain record(s) for each volunteer selected and utilized; documentation shall minimally include:

- (1) ~~duty~~ Duty or work assignment;
- (2) ~~record~~ Record of hours worked or hours of service performed;
- (3) ~~record~~ Record of participation in training; and
- (4) ~~emergency~~ Emergency notification information.

(b) Compliance with ~~75:30-6-14~~ 75:30-11-10 shall be determined by a review of personnel records.

PART 5. TRAINING

75:30-11-12. Orientation - general, personnel and volunteers

(a) Personnel and volunteers must receive specific training to understand the unique needs of human sex trafficking victims.

(b) A certified program shall provide a minimum of ~~twenty four (24) hours orientation training~~ forty (40) hours of orientation training that incorporates the use of adult learning techniques (i.e., scenarios, role playing) to familiarize new personnel and volunteers providing direct services with the program which includes, but is not limited to:

- (1) Program goals and services of each service component;
- (2) Program policy and procedures;
- (3) Confidentiality, to include verbal confidentiality whether inside or outside the facility and client records;
- (4) Facility safety and disaster plans;
- (5) First aid kits and fire extinguishers, their location, contents and use;
- (6) Universal precautions;
- (7) Learning Interviewing interviewing skills and techniques for working with victims of human sex trafficking; including:

(~~A8~~) Hotline calls from trafficking victims and active and empathetic listening techniques;

(~~B9~~) Safety planning for human sex trafficking victims; and

(~~C10~~) Dynamics involved in the prosecution of persons who commit human sex trafficking;

(~~811~~) Staff Vicarious trauma and self-care;

(~~912~~) Client rights;

(~~1013~~) Power and control tactics of human sex trafficking;

(~~1114~~) Dynamics and impact of ~~Sexual~~ sexual assault;

(~~1215~~) Dynamics and impact of captivity and human sex trafficking;

(~~1316~~) Mental Behavioral health issues related to human sex trafficking; including but not limited to:

(~~A17~~) Cultural information about victims coming from the world of human sex trafficking to a "normal" world;

~~(B18)~~ Effects of trauma, including high risk behaviors, adaptive survival strategies and coping skills; Post-Traumatic Stress Disorder (PTSD); and

~~(C19)~~ Trauma triggers;

~~(20)~~ Coping skills of human sex trafficking victims;

~~(1421)~~ Ethical documentation—Documentation of services;

~~(1522)~~ Sexual abuse within the family (i.e., incest, sibling abuse, marital and domestic relationship rapes);

~~(1623)~~ Sexual assault outside the family (stranger, non-stranger, abuse by professionals, sexual harassment and bullying);

~~(1724)~~ Commercial sexual exploitation (i.e., prostitution, trafficking, pornography, escort services, and massage parlors);

~~(1825)~~ Non-traditional client populations (i.e., males, victims of the same gender, bisexual or transgender, non-English speaking, undocumented immigrants, victims with cognitive disabilities, or who are deaf or hard of hearing) or other disability as defined by the Americans with Disabilities Act; and

~~(1926)~~ Other Topic topics to increase skills to identify such as Post-traumatic Stress Disorder (PTSD) as it relatedrelates to rape trauma, rape trauma syndrome, self injury and alcohol and substance use.

~~(20)~~ Training on professional ethics and boundaries necessary for working with trauma survivors.

(c) Staff and Volunteers volunteers providing indirect services and children's activities are required to complete orientation as prescribed by the Executive Director which shall include training on confidentiality and facility safety and disaster plans.

(d) Orientation for personnel must take place within thirty 30(30) days of employment or prior to unsupervised direct client contact and services. Volunteer orientation must occur within six (6) months or prior to unsupervised, direct client contact and services. The Executive Director of a facility may waive orientation training if it is documented that the staff or volunteer has completed the requisite program training within the past year.

(e) Compliance with 75:30-11-12 shall be determined by a review of the written policies and procedures, and personnel and volunteer training manuals and records.

75:30-11-12.1. In-service and ongoing training for personnel and volunteers

(a) A certified program shall have policy policies and procedures mandating, at the minimum, twenty-four (24) hours of annual training of all staff which shall include:

- (1) Confidentiality, to include verbal confidentiality whether inside or outside the facility and client records;
- (2) Facility safety and disaster plans;
- (3) First aid kits and fire extinguishers, their location, contents and use;
- (4) Universal precautions,
- (5) Client rights and;
- (6) Legal and ethical issues;;
- (7) Trauma; and

(8) The remaining hours of annual training shall be related to human sex trafficking and administration as prescribed and approved by the Executive Director.

(b) A certified program shall have policy policies and procedures mandating a minimum of four (4) hours annual training of all volunteers providing direct services, related to human sex trafficking as prescribed and approved by the Executive Director.

(c) ~~Individuals that volunteer~~Staff and volunteers who provide indirect services and do not meet the requirements for ~~a volunteer staff and volunteers~~ providing direct services as defined in OAC 75:30-1-2 shall receive annual training as prescribed by the Executive Director, but do not have a minimum number of training hours required.

(d) Documentation of training must include the topic of the training, the name of the trainer(s), the date of the training, the length of the training session, the sponsor of the training, and approval of the training by the Executive Director of the agency.

(e) A Certified Domestic and Sexual Violence Response Professional in good standing with the Oklahoma Coalition Against Domestic Violence and Sexual Assault (OCADVSA) shall be deemed to be current with annual training requirements upon completion of required annual training set forth in subsection (a) above. A copy of the current certification card issued by the OCADVSA shall be evidence of good standing.

(f) Compliance with 75:30-11-12.1 shall be determined by a review of policy policies and procedures; review of training records and other provided documentation of personnel training; and a review of personnel or volunteer records.

75:30-11-15. Personnel training, transitional living services

(a) Prior to providing any direct services, all transitional living services personnel shall receive the prescribed orientation training in 75:30-11-12.

- (b) Compliance with 75:30-11-15 shall be determined by:
 - (1) Review of program's policy policies and procedures;;
 - (2) Review of program's training records and other provided documentation of staff or volunteer training;; and
 - (3) Review of personnel records.

75:30-11-16. Personnel training, Court Advocates

(a) Prior to providing services, Court Advocates shall receive the prescribed orientation training, and training in the following:

- (1) ~~protective~~Protective orders (i.e., the requirements for obtaining an ex parte emergency protective order and permanent protective order and an understanding of what happens after a protective order is issued);
- (2) ~~full~~Full faith and credit;
- (3) ~~the~~The court process including safety planning during this time; and;
- (4) ~~at~~At least three (3) hours of accompanied court time with a trained court advocate that includes observation of

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an ex parte emergency protective order hearing and a final protective order hearing.

(b) Compliance with ~~75:30-11-17~~75:30-11-16 shall be determined by:

- (1) Review of program's ~~policy~~polices and procedures;
- (2) Review of program's training records and other provided documentation of staff or volunteer training; and
- (3) Review of personnel records.

75:30-11-17. Personnel training, children's services

(a) Prior to providing any direct services, children's services personnel shall receive the prescribed orientation training and minimally have one (1) year employment or volunteer experience in a child care or service related field, or an equivalent combination of education, training and experience in child care or development issues.

(b) Compliance with 75:30-11-17 shall be determined by:

- (1) Review of program's policies and procedures;
- (2) Review of program's training records and other provided documentation of staff or volunteers training; and
- (3) Review of personnel or volunteer records.

SUBCHAPTER 13. GOVERNING AUTHORITY

75:30-13-1. Governing authority

(a) The agency shall have a governing authority. In the instance of Native American programs, the tribal council may be the governing body.

(b) The governing authority shall establish, and function under, written by-laws. These ~~by-laws~~by-laws shall minimally include:

- (1) Designation of regular quarterly meetings to be held in accordance with the Open Meeting Act;
- (2) Recording and retention of written minutes;
- (3) Eligibility criteria, selection, terms, responsibilities, power and duties of members;
- (4) Term limitations, removal and filling of vacancies;
- (5) Attendance policy;
- (6) Prohibition on staff serving as voting members of the governing authority;
- (7) Establishment of a quorum; and
- (8) Conflict of interest agreement.

(c) Compliance with ~~75:30-7-475:30-13-1~~ shall be determined by:

- (1) Documents of incorporation or registration as a business entity or documentation from the appropriate Tribal Council;
- (2) Review of the written by-laws; and
- (3) Review of the governing authority's minutes.

75:30-13-2. Duties of the governing authority

(a) The duties of the governing authority shall include, but are not limited to:

(1) Approving all ~~policy~~polices for the operation of the agency, and ensuring procedures for the implementation of ~~policy~~polices are in place and enforced;

(2) Ensuring the agency operates in compliance with established agency policy, applicable state and federal law and administrative rules;

(3) Compliance with the by-laws of the governing authority;

(4) Ensuring all financial transactions and events requiring the approval of the governing authority are reviewed and authorized by the governing authority prior to any commitment by agency personnel;

(5) The selection, annual evaluation and continuance of retention of the Executive Director;

(6) Review and approve all contractual agreements;

(7) Review the program audit and ~~site visit~~certification reports from the VSU and approve all plans of correction; and

(8) Oversee the financial administration of the program.

(b) Compliance with ~~75:30-7-375:30-13-2~~ shall be determined by a review of:

(1) ~~by-laws~~By-laws and minutes of the meetings of the governing authority;

(2) ~~posted~~Posted, or otherwise distributed, written materials regarding decisions, and other notifications, of the governing authority;

(3) ~~personnel~~Personnel meeting minutes of the program and its various divisions or geographical locations where applicable; and

(4) ~~written~~Written evaluation, and any other documentation regarding the retention or selection or hiring, of the Executive Director.

75:30-13-3. Governing authority, meeting minutes

(a) Minutes of the governing authority shall be kept in written form; reviewed at the next following meeting; corrected if such is approved; and signed by the presiding or authorized officer or chairperson.

(b) Meeting minutes shall include, but are not limited to, recording of:

(1) ~~the~~The date, time and place of the meeting;

(2) ~~names~~Names of those members attending;

(3) ~~whether~~Whether, or not, the meeting was convened; and if not why;

(4) ~~approval~~Approval of minutes from past meeting;

(5) ~~topics~~Topics and issues discussed and decisions reached;

(6) ~~recording~~Recording of motions and of votes on the motion; and

(7) ~~time~~Time of adjournment.

(c) Compliance with ~~75:30-7-475:30-13-3~~ shall be determined by the review of the meeting minutes of the governing authority.

75:30-13-4. Governing authority, orientation

- (a) A certified program shall provide a minimum of ~~2~~two (2) hours orientation training to members of the governing authority which includes, but is not limited to:
- (1) Program goals and services of each service component;
 - (2) Program ~~policy~~policies and procedures;
 - (3) Underlying philosophy [OAC 75:30-1-1.1];
 - (4) Confidentiality, to include verbal confidentiality whether inside or outside of the facility and client records;
 - (5) Client rights and grievance procedure;
 - (6) Legal and ethical issues;
 - (7) Sexual violence as a result of human sex trafficking;
 - (8) Open Meeting Act and recording of meeting minutes;
 - (9) Open Records Act;
 - (10) Rules, including standards and criteria to ensure multi-cultural needs of clients are met, used in certifying programs;
 - (11) Role and responsibility of the Executive Director; and
 - (12) Role and responsibility of the governing authority.
- (b) Orientation training shall take place within ~~ninety~~ 90 (90) days of election to the governing authority.
- (c) Members of the governing authority providing volunteer direct or indirect services to clients shall receive the prescribed orientation and training required for program personnel in addition to the orientation set forth in this Section.
- (d) Compliance with 75:30-13-4 shall be determined by a review of written ~~policy~~policies and procedures, training materials, training records, and minutes of meetings.

**SUBCHAPTER 15. CLIENT RIGHTS,
FOR ADULT VICTIMS OF HUMAN SEX
TRAFFICKING PROGRAMS**

75:30-15-2. Client rights

- (a) Each client shall ~~be afforded~~ ~~have and enjoy~~ all constitutional and statutory rights of all citizens of the State of Oklahoma and the United States, unless abridged through due process of law by a court of competent jurisdiction. Each program shall ensure each client has the rights which are listed below:
- (1) Each client has the right to be treated with respect and dignity. This shall be construed to protect and promote human dignity and respect for individual dignity;
 - (2) Each client has the right to a safe, sanitary, and humane living environment;
 - (3) Each client has the right to a humane psychological environment protecting him or her from harm, abuse, and neglect;
 - (4) Each client has the right to an environment which provides reasonable privacy, promotes personal dignity, and provides physical and emotional safety;
 - (5) Each client has the right to receive services suited to her or his needs without regard to his or her race, religion,

gender, ethnic origin, age, degree of disability, handicapping condition, ~~or legal status, or ability to pay for the services;~~

- (6) Each client, on admission, has the absolute right to communicate with a relative, friend, clergy, or attorney, by telephone or mail, at the expense of the program if the client is indigent;
- (7) Each client shall have and retain the right to confidential communication with an attorney, personal physician, or clergy;
- (8) Each client has the right to uncensored, private communications including, but not limited to, letters and telephone calls. Copies of any personal letter, sent or received, by a client shall not be kept in her or his client record without the written consent of the client;
- (9) No client shall be neglected or sexually, physically, verbally, or otherwise abused;
- (10) Each client shall have the right to practice his or her own religious beliefs, and be afforded the opportunity for religious worship that does not infringe on the health or safety of others. No client shall be coerced into engaging in, or refraining from, any personal religious activity, practice, or belief;
- (11) Each client has the right to be offered prompt, competent, appropriate services and an individualized service plan.
 - (A) The client shall be afforded the opportunity to participate in her or his service plan;
 - (B) The client may consent, or refuse to consent, to the proposed services.
- (12) The records of each client shall be treated as confidential. This confidentiality remains intact even after the client's death;
- (13) Each client has the right to refuse to participate in any research project or medical experiment without informed consent of the client, as defined by law. A refusal to participate shall not affect the services available to the client;
- (14) Each client has the right to assert grievances with respect to any alleged infringement of these stated rights of clients, or any other subsequently statutorily granted rights;
- (15) No client shall ever be retaliated against, or ~~be~~ subject to, any adverse conditions or services solely or partially because of having asserted her or his rights as stated in this section;
- (16) Each client has the right to review his or her own records, or authorize ~~his or her~~an attorney or ~~others~~other person to do so. However, where the program is providing the treatment of a mental health or substance abuse ~~illness~~ treatment, the provisions of 43A O.S. § 1-109 and 42 CFR ~~then~~shall apply. Each client also has the right that all information and records regarding him or her shall be treated as confidential;
- (17) Each client has the right to know why services are refused and can expect an explanation concerning the reason he or she was refused certain services;

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(18) Each client has the right to ~~self-determination and~~ voluntary services which are self-determined; and-

(19) Each client has the right to decide whether or not to participate in supportive services offered by the program.

(b) Each client shall be given a copy of these rights and the provision of such shall be documented in the client record.

(c) Programs shall have written policy ~~and a procedure~~ to ensure each client is afforded, and has explained to him or her, these rights; and these rights shall be visibly posted in client areas of the facility.

(d) The OAG, in any investigation or program monitoring regarding client rights, shall have unimpeded access to clients, program records and program staff or volunteers.

(e) Compliance with 75:30-15-2 and applicable federal laws and regulations shall be determined by a review of program ~~policy~~policies and procedures, client records, ~~on-site~~on-site observation, written agreements, and/or other program documentation.

75:30-15-3. Client grievance policy and procedures

(a) Each program shall have a written client grievance policy providing for, but not limited to, the following:

(1) Written notice of the grievance and appeal procedure provided to the client; and, if involved with the client, to family members or significant others;

(2) Time frames for the grievance policy's procedures, which allow for an expedient resolution of client grievances;

(A) Transitional living, and shelter services timeframes for resolution of grievances by program staff or volunteers shall be seven (7) days unless appealed;

(B) Non-transitional living and non-shelter services' timeframes for resolution of grievances by program staff or volunteers shall be fourteen (14) days unless appealed;

(3) Name(s) of the individual(s) who are responsible for coordinating the grievance policy and the individual responsible for or authority to make decision(s) for resolution of the grievance and the individual responsible for or authorized to make decisions for resolution of grievance. In the instance where the decision maker is the subject of a grievance, decision-making authority shall be delegated;

(4) Provide for notice to the client that he or she has a right to make a complaint to the OAG Victims Services Unit;

(5) Clients shall be given a copy of the grievance policy, including the right to make a complaint to the OAG, and the provision of such shall be documented in the client record, including the phone number, ~~and~~ mailing address, and email address of the VSU of the OAG;

(6) Mechanism to monitor the grievance process and improve performance based on outcomes; and
(7) Annual review of the grievance ~~policy~~policies and procedures, with revisions as needed.

(b) Compliance with 75:30-15-3 shall be determined by a review of program ~~policy~~policies and procedures, client

records, ~~on-site~~on-site observation, written agreements, and/or other program documentation.

[OAR Docket #16-670; filed 7-6-16]

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

[OAR Docket #16-674]

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PERMANENT final adoption

RULES:

Subchapter 1. General Provisions

86:10-1-1. [AMENDED]

86:10-1-2. [AMENDED]

86:10-1-3. [AMENDED]

Subchapter 3. Rules of Professional Conduct

86:10-3-1. [AMENDED]

86:10-3-2. [AMENDED]

86:10-3-3. [AMENDED]

86:10-3-4. [AMENDED]

86:10-3-5. [AMENDED]

86:10-3-6. [AMENDED]

Subchapter 15. Licensure Examinations

86:10-15-5. [AMENDED]

Subchapter 29. Enforcement

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86:10-29-2. [REVOKED]

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86:10-29-16. [NEW]

Subchapter 33. Declaration of Emergency Licensure by Endorsement
[NEW]

86:10-33-1. [NEW]

86:10-33-2. [NEW]

86:10-33-3. [NEW]

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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 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, 2016:

SUBCHAPTER 1. GENERAL PROVISIONS

86:10-1-1. Purpose

The rules in this Chapter ("Rules") 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 and/or terms shall have the following meaning unless the context of the sentence clearly requires another meaning otherwise:

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

"Administrative Procedures Act" ("APA") means Article I and/or Article II of the Administrative Procedures Act, 75 O.S. §§ 250 *et seq.*

"Applicant" means a person who has made a formal application with the Board.

"Approved LPC Supervisor" ("Supervisor") means an individual who meets the qualifications to become an approved supervisor and is approved by the Board pursuant to Section 86:10-11-4 of this Chapter.

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

"Complainant" means any person who files a Request for Inquiry against a LPC, Candidate, or a person who delivers licensed professional counseling services without a license.

"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~~LPC and the client shall be in the physical presence of the other during counseling.

"Face-to-face supervision" means the ~~supervisor~~Supervisor and the ~~supervisee~~Candidate 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.

"Formal Complaint" means a written statement of alleged violation(s) of the Act and/or Rules which is filed by the Assistant Attorney General. The Formal Complaint schedules an Individual Proceeding before the Board in accordance with 75 O.S. §309.

"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~~Candidates.

"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. 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.

"Licensed Professional Counselor" ("LPC") means a person holding a current license issued pursuant to the provision of the Professional Counselor Licensure Act.

"Licensed Professional Counselor Candidate" ("Candidate") means a person whose application for licensure has been accepted and who is under supervision for licensure as provided in 59 O.S. §1906.

"Licensure Licensure Committee" means two LPC Board members, ~~one Staff member~~the Executive Director, 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.

"Request for Inquiry" ("RFI") means a written or oral statement of complaint from any person alleging possible violation(s) of the Act and/or Rules.

"Respondent" means the person against whom an Individual Proceeding is initiated.

"Staff" means the personnel of the Board.

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"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~~ 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

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

86:10-3-4. Professional standards

- (a) **Violations of other laws.** It shall be unprofessional conduct for an LPC to ~~violate~~ plead guilty to or no contest to or be convicted of 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 current 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~~ A 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.

86:10-3-5. 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".** ~~A~~A 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.** ~~A~~A 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.** ~~A~~A 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 ~~a~~a 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. ~~A~~A 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 ~~a~~a 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 ~~a~~a 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.** ~~A~~A 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.** ~~A~~A 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 a Licensed Professional Counselor or LPC.

86:10-3-6. Failure to comply

~~A~~A LPC who does not comply with Subchapter 3 - Rules of Professional Conduct - shall be subject to disciplinary action under Subchapter 29.

SUBCHAPTER 15. LICENSURE EXAMINATIONS

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~~National Counselor Examination shall be that score accepted as passing by the National Board for Certified Counselors.

(c) The passing score on the Oklahoma Legal and Ethical Responsibilities Examination shall be that score accepted as passing by the Board.

SUBCHAPTER 29. ENFORCEMENT

86:10-29-1. Purpose

The purpose of this subchapter is to specify the procedure ~~of for~~ processing of ~~Requests for Inquiry~~RFIs filed by citizens ~~and with the Board and the authorization to take filing of~~ disciplinary ~~actions~~action against LPCs, ~~Candidates,~~ or against persons who practice licensed professional counseling without a license or exemption.

86:10-29-2. Definitions [REVOKED]

~~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.~~

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"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 (RFI) against a Licensed Professional Counselor ("LPC"), Candidate, or a person who delivers licensed professional counseling services without a license. A person wishing to report a concern shall notify the Board in writing of an 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 (RFI), the Executive Director will:

- (1) Stamp the first all page pages of the RFI with a Board stamp indicating date of receipt;
- (2) Review the Request for Inquiry (RFI) to determine if the person against whom the Request for Inquiry (RFI) 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 (RFI);
- (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 Request for Inquiry.** 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. If the Complaint Committee decides to meet with an individual, the Complaint Committee shall proceed by:

(1) The Executive Director has the authority to do the following:

(A) Respond directly to a Complainant without need for referral to the Complaint Committee when matters do not allege a violation of the Act and/or Rules; or

(B) Refer a RFI to the Complaint Committee when allegations would be a violation of the Act and/or Rules.

(2) The Complaint Committee has authority to do the following:

(A) Meet with individuals who are under the jurisdiction of the Board and are the subject of the RFI;

(B) Appoint an investigator to investigate the RFI;

(C) Outline the terms of a proposed Stipulation, Agreed Settlement, or Consent Order for the informal disposition of the RFI to be submitted to the Board for approval;

(D) Authorize the filing of a Formal Complaint and Notice of Hearing in order to initiate an Individual Proceeding; and

(E) Close the RFI.

(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.

(c) **Informal Interviews.**

- (1) If the Complaint Committee decides to meet with an individual, the Complaint Committee shall proceed by:
 - (A) Notifying the LPC or Candidate that a RFI has been received, outlining the nature of the inquiry; and
 - (B) Requesting a prompt letter to the Board responding to the merits of the RFI and a meeting with the Complaint Committee for an interview at a date and time determined by the Complaint Committee.

- (2) If the LPC or candidate fails to respond with a prompt letter or fails to meet with the Complaint Committee at their request, the Complaint Committee may refer the RFI for investigation.

(d) **Requests for Investigation.**

- (1) If the Complaint Committee decides to forward the RFI for investigation, the Complaint Committee shall proceed by:

- (A) Contacting an investigator designated by the Board to address the RFI;
- (B) Providing the designated investigator with the name and address of the complainant, if available, and the LPC or candidate; and
- (C) Notifying the LPC or candidate by certified mail that a RFI has been received and an investigation is being conducted.

- (2) The Complaint Committee may request that LPC or candidate be interviewed by the designated investigator or by the Assistant Attorney General in a setting under oath.

- (3) The Complaint Committee may refer the RFI to a law enforcement agency for criminal investigation, if the Committee determines that a crime has or may have been committed.

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(e) **Summary Suspension.** After the filing of a Formal Complaint and Notice of Hearing, but prior to an Individual Proceeding, in the event of an emergency, a summary suspension hearing may be held as set forth herein. If the Chair of the Board and the Complaint Committee determine that an emergency exists for which the immediate suspension of a license is imperative for the protection of the public health, safety or welfare, the Board may conduct a summary suspension hearing to temporarily suspend the license of any person under the jurisdiction of the Board. The Chair or Vice-Chair may issue an Order of Temporary Summary Suspension upon a finding by 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 APA. The LPC or Candidate 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 Order, an Individual Hearing on the merits of said Formal Complaint and Notice of Hearing shall be held promptly.

86:10-29-4. Investigation [REVOKED]

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

~~Licenses~~LPCs and Candidates shall cooperate when Board staff, Complaint Committee members, and/or investigators make inquiries concerning a ~~RFI~~Request for Inquiry made against ~~them~~a licensee. Failure of a licensee to cooperate is grounds for further disciplinary action under the Act and/or Rules.

86:10-29-6. Service of Formal Complaint petition and notice Notice of Hearing

(a) **Service.** The ~~Formal Complaint petition and notice~~ Notice of Hearing shall be served ~~on the respondent(s) personally or~~ by certified mail, return receipt requested, to the LPC or Candidate's address of the respondent(s) on file with the Board. It is the duty of the LPC or Candidate licensee to provide current address information.

(b) **Proof of service.** Proof of service shall be filed with the Board office.

~~(d)~~ **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.

(e) **Service of other papers and documents.** Service of all other papers and documents connected with an individual proceeding shall be served on the LPC, Candidate parties or his/her ~~their~~ counsel by delivering a copy in person or via facsimile, or regular mail, or hand-delivery.

86:10-29-7. Hearing Individual Proceedings

~~Hearings~~Individual Proceedings shall be conducted by the Board in accordance with the APA, 75 O.S., ~~§Sections~~ 309-321 et seq. The Board shall recommend the most appropriate penalty at the conclusion of the evidence, which may include but is not limited to probation, suspension, revocation, and an administrative penalty not to exceed Ten Thousand Dollars (\$10,000.00). Informal disposition may be made of any individual proceeding by stipulation, agreed settlement, consent order, or default.

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, by with notice or motion.

(b) ~~Continuance~~**Continuances by motion of parties.** Except for good cause shown, or by agreement of all parties, no continuance ~~shall will~~ be granted upon motion of a party unless written request ~~therefore~~ is filed with the board and served on all parties of record, including 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. An agreement to continue by stipulation for continuance among all parties of record ordinarily will shall 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~~ issue Protective orders Orders as they relate relating to discovery ~~as may be necessary or appropriate for the protection of the parties, and as they may to prevent hardship to and excessive burden upon a party, prevent excessive burden on a party, or as they may be necessary or appropriate for the protection of the parties.~~

86:10-29-11. Subpoenas

(a) **Issuance of subpoenas for witnesses and physical evidence.** All parties, including the The Board, may compel the attendance of witnesses, and the production of physical evidence ~~before it from witnesses, upon whom process is if~~ service of process has been made 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 subpoenas subpoenas will be the responsibility of the requesting party. Subpoenas shall be served and ~~return~~ returns made in the manner prescribed by general civil law.

86:10-29-12. Final order

The Board shall issue a final order ~~for~~ all disciplinary matters. Final orders are subject to Judicial Review pursuant to APA ~~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~~ any order issued or approved by the Board includes a finding that the individual:

- (1) Violated any provision of the Act, including practicing licensed professional counseling without being licensed, under supervision, licensure or exempt ~~exemption;~~ ~~or~~
- (2) Violated any rule of the OAC as it relates to licensed professional counseling ~~within this Chapter;~~ or
- (3) Violated any order issued by the Board ~~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 [REVOKED]

~~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.~~

86:10-29-16. RFI confidentiality

The RFI and the identity of the Complainant shall be confidential and shall not be available for public inspection.

SUBCHAPTER 33. DECLARATION OF EMERGENCY LICENSURE BY ENDORSEMENT RULES

86:10-33-1. Submission of verification of license

An applicant applying for a non-renewable license by endorsement pursuant to a declaration of emergency shall submit verification stating the applicant is active and in good standing in the state in which they are currently licensed. The Board may require the applicant to submit a copy of the statutes and rules from the state out of which such license was issued.

86:10-33-2. Licensing procedures

An applicant must submit an application form, related documents as requested, and licensure fees.

86:10-33-3. Non-renewable declaration of emergency license by endorsement

(a) The Board shall issue a non-renewable license by endorsement pursuant to a declaration of emergency 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 the following criteria is met:

- (1) A declaration of emergency is issued by the Governor or the Legislature pursuant to the Oklahoma Emergency Management Act of 2003 or a declaration of a catastrophic health emergency issued by the Governor pursuant to the Catastrophic Health Emergency Powers Act;
- (2) The applicant's professional counselor license in the other jurisdiction is active and in good standing and allows the applicant to practice independently without supervision;
- (3) The applicant's license has never been suspended or revoked and fulfills all of the requirements as stated in Subchapter 5;
- (4) The applicant fulfills the requirements as stated in 59 O.S. §1906(A) and 59 O.S. §§(B)(1)(3)(4)(5); and
- (5) The applicant has at least a Master's Degree in counseling or a mental health related field from a regionally accredited college or university.

(b) A non-renewable license by endorsement pursuant to a declaration of emergency shall only be valid for the duration of the emergency as determined by the Governor or the Legislature pursuant to the Oklahoma Emergency Management Act of 2003 or the Catastrophic Health Emergency Powers Act.

(c) Services that are provided shall be pro bono or reimbursed by nongovernmental entities.

[OAR Docket #16-674; filed 7-7-16]

**TITLE 86. STATE BOARD OF BEHAVIORAL HEALTH LICENSURE
CHAPTER 15. LICENSED MARITAL AND FAMILY THERAPISTS**

[OAR Docket #16-675]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

- Subchapter 1. General Provisions
- 86:15-1-1. [AMENDED]
- 86:15-1-3. [AMENDED]
- 86:15-1-4. [AMENDED]
- Subchapter 3. Rules of Professional Conduct
- 86:15-3-3. [AMENDED]
- Subchapter 7. Licensure Examinations
- 86:15-7-7. [NEW]
- Subchapter 15. Enforcement
- 86:15-15-1. [AMENDED]
- 86:15-15-2. [REVOKED]
- 86:15-15-3. [AMENDED]
- 86:15-15-4. [REVOKED]
- 86:15-15-5. [AMENDED]
- 86:15-15-6. [AMENDED]
- 86:15-15-7. [AMENDED]
- 86:15-15-8. [AMENDED]
- 86:15-15-9. [AMENDED]

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86:15-15-10. [AMENDED]

86:15-15-11. [AMENDED]

86:15-15-12. [AMENDED]

86:15-15-13. [AMENDED]

86:15-15-14. [AMENDED]

86:15-15-15. [REVOKED]

86:15-15-16. [NEW]

Subchapter 17. Post-Military Service Occupation, Education, and Credentialing Rules

86:15-17-3. [AMENDED]

Subchapter 19. Declaration of Emergency Licensure by Endorsement Rules [NEW]

86:15-19-1. [NEW]

86:15-19-2. [NEW]

86:15-19-3. [NEW]

AUTHORITY:

State Board of Behavioral Health Licensure; 59 O.S. 2011; 59 O.S. 2001, Section 1901 et. seq

SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY

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September 11, 2016

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

ANALYSIS:

The following permanent rules interpret the Oklahoma Licensed Marital and Family Therapist Act, (59 O.S. 1991, Sections 1901 et seq.)

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, 2016:

SUBCHAPTER 1. GENERAL PROVISIONS

86:15-1-1. Purpose

The rules in this Chapter ("Rules") implement the Marital and Family Therapist Licensure Act, 59 O.S. Section 1925.1 et seq.

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" ("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.

"Complainant" means any person who files a Request for Inquiry against a LMFT, Candidate, or a person who delivers marital and/or family therapy without a license.

"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 therapeutic relationship with a client, or engaging in any activity with another person that interferes or conflicts with the LMFT's or LMFT Candidate's professional obligation to a client.

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

"Face-to-face supervision" means the Supervisor and the Candidate 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.

"Formal Complaint" means a written statement of alleged violation(s) of the Act and/or Rules which is filed by the Assistant Attorney General. The Formal Complaint schedules an Individual Proceeding before the Board in accordance with 75 O.S. §309.

"Full time" means at least twenty (20) hours of on-the-job experience per week.

"Group supervision" means an assemblage of two (2) to six (6) Candidates.

"Home-study" or "technology-assisted distance learning" ~~refers to~~ means 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.

"Licensed marital and family therapist" or "LMFT" or "Licensee" means a person holding a current license issued pursuant to the provisions of the Marital and Family Therapist Licensure Act;

"Licensed marital and family therapist candidate" ("Candidate") means a person whose application for licensure has been accepted and who is under supervision for licensure as provided in 59 O.S. §1925.6;

"License Licensure Committee" means two LMFT Board members, ~~one Staff member~~ the Executive Director,

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 and who is available to the candidate at all times when counseling services are being rendered by the LMFT Candidate.

"Request for Inquiry" ("RFI") means a written or oral statement of complaint from any person alleging possible violation(s) of the Act and/or Rules.

"Respondent" means the person against whom an Individual Proceeding is initiated.

"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~~ Candidate, unless specifically provided otherwise.

SUBCHAPTER 3. RULES OF PROFESSIONAL CONDUCT

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); or
(3) engage in conduct which could lead to conviction of felonies, or misdemeanors related to their qualifications or functions;

(4) It shall be unprofessional conduct for a LMFT to plead guilty to or no contest to or be convicted of a state or federal statute if the violation directly relates to the duties and responsibilities of the therapist or if the violation involves moral turpitude.

(5) have their licenses or certificates suspended or revoked; or

(6) 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

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- (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.

SUBCHAPTER 7. LICENSURE EXAMINATIONS

86:15-7-7. Grading

(a) Licensure examinations shall be graded by the Board or its designated representatives.

(b) The passing score on the National Marital and Family Therapy Examination shall be that score accepted as passing by the Association of Marital and Family Therapy Regulatory Boards or its designated representatives.

(c) The passing score on the Oklahoma Licensed Marital and Family Therapist Examination shall be that score accepted as passing by the Board.

SUBCHAPTER 15. ENFORCEMENT

86:15-15-1. Purpose

The purpose of this subchapter is to specify the procedure ~~of for processing of Requests for Inquiry~~ RFIs filed by citizens and with the Board and the authorization to take filing of disciplinary actions against ~~Licensed Marital and Family Therapist ("LMFT")~~ LMFTs, Candidates, or against persons who practice licensed marital and family therapy without a license or exemption.

86:15-15-2. Definitions [REVOKED]

~~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 Marital and Family Therapy 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 RFI against a Licensed Professional Counselor ("LMFT"), Candidate, or a person who delivers licensed marital and family therapy services without a license. A person wishing to report a concern shall notify the Board in writing of alleged violation against a LMFT or a person delivering licensed marital and family 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 RFI, the Executive Director will:

- (1) Stamp the first all pages/page of the RFI with a Board stamp indicating date of receipt;
- (2) Review the Request for Inquiry RFI to determine if the person against whom the Request for Inquiry RFI 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 RFI;
- (4) Notify the members of the Complaint Committee by providing a copy of the Request for Inquiry RFI 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.

(e) **Reviewing Request for Inquiry.** 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. If the Complaint Committee decides to meet with an individual, the Complaint Committee shall proceed by:
 - (1) The Executive Director has the authority to do the following:
 - (A) Respond directly to a Complainant without need for referral to the Complaint Committee when matters do not allege a violation of the Act and/or Rules; or
 - (B) Refer a RFI to the Complaint Committee when allegations would be a violation of the Act and/or Rules.
 - (2) The Complaint Committee has authority to do the following:
 - (A) Meet with individuals who are under the jurisdiction of the Board and are the subject of the RFI;
 - (B) Appoint an investigator to investigate the RFI;
 - (C) Outline the terms of a proposed Stipulation, Agreed Settlement, or Consent Order for the informal disposition of the RFI to be submitted to the Board for approval;
 - (D) Authorize the filing of a Formal Complaint and Notice of Hearing in order to initiate an Individual Proceeding; and
 - (E) Close the RFI.

(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

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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.

(c) **Informal Interviews.**

(1) If the Complaint Committee decides to meet with an individual, the Complaint Committee shall proceed by:

(A) Notifying the LMFT or Candidate that a RFI has been received, outlining the nature of the inquiry; and

(B) Requesting a prompt letter to the Board responding to the merits of the RFI and a meeting with the Complaint Committee for an interview at a date and time determined by the Complaint Committee.

(2) If the LMFT or candidate fails to respond with a prompt letter or fails to meet with the Complaint Committee at their request, the Complaint Committee may refer the RFI for investigation.

(d) **Requests for Investigation.**

(1) If the Complaint Committee decides to forward the RFI for investigation, the Complaint Committee shall proceed by:

(A) Contacting an investigator designated by the Board to address the RFI;

(B) Providing the designated investigator with the name and address of the complainant, if available, and the LMFT or candidate; and

(C) Notifying the LMFT or candidate by certified mail that a RFI has been received and an investigation is being conducted.

(2) The Complaint Committee may request that LMFT or candidate be interviewed by the designated investigator or by the Assistant Attorney General in a setting under oath.

(3) The Complaint Committee may refer the RFI to a law enforcement agency for criminal investigation, if the Committee determines that a crime has or may have been committed.

(e) **Summary Suspension.** After the filing of a Formal Complaint and Notice of Hearing, but prior to an Individual Proceeding, in the event of an emergency, a summary suspension hearing may be held as set forth herein. If the Chair of the Board and the Complaint Committee determine that an emergency exists for which the immediate suspension of a license is imperative for the protection of the public health, safety or welfare, the Board may conduct a summary suspension hearing to temporarily suspend the license of any person under the jurisdiction of the Board. The Chair or Vice-Chair may issue an Order of Temporary Summary Suspension upon a finding by 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 APA. The LMFT or Candidate 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 Order, an Individual Hearing on the merits of said Formal Complaint and Notice of Hearing shall be held promptly.

86:15-15-4. Investigation [REVOKED]

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, LMFTs and Candidates shall cooperate when Board staff, Complaint Committee members, and/or investigators make inquiries concerning a RFI Request for Inquiry made against the licensee. Failure of a licensee to cooperate is grounds for further disciplinary action under the Act and/or Rules.

86:15-15-6. Service of Formal Complaint petition and notice Notice of Hearing

(a) **Service.** The Formal Complaint petition and Notice of Hearing shall be served on the respondent(s) personally or by certified mail, return receipt requested, to the LMFT or Candidate's address of the respondent(s) on file with the Board. It is the duty of the LMFT or Candidate 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.

(e) **Service of other papers and documents.** Service of all other papers and documents connected with an individual proceeding shall be served on the LMFT, Candidate parties

or his/her their counsel by delivering a copy in person or via facsimile, or regular mail, or hand-delivery.

86:15-15-7. Hearing Individual Proceedings

Hearings Individual Proceedings shall be conducted by the Board in accordance with the APA, 75 O.S., Sections 309-321 et seq. The Board shall recommend the most appropriate penalty at the conclusion of the evidence, which may include but is not limited to probation, suspension, revocation, and an administrative penalty not to exceed Ten Thousand Dollars (\$10,000.00). Informal disposition may be made of any individual proceeding by stipulation, agreed settlement, consent order, or default.

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, by with notice or motion.

(b) **Continuances by motion of parties.** Except for good cause shown, or by agreement of all parties, no continuance shall will be granted upon motion of a party unless written request therefore is filed with the board and served on all parties of record, including 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. An agreement to continue by A stipulation for continuance among all parties of record ordinarily will shall 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 issue Protective orders Orders as they relate relating to discovery as may be necessary or appropriate for the protection of the parties, and as they may to prevent hardship to and excessive burden upon a party, prevent excessive burden on a party, or as they may be necessary or appropriate for the protection of the parties.

86:15-15-11. Subpoenas

(a) **Issuance of subpoenas for witnesses and physical evidence.** All parties, including the The Board, may compel the attendance of witnesses, and the production of physical evidence before it from witnesses, upon whom process is if service of process has been made 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 subpoenas subpoenas will

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be the responsibility of the requesting party. Subpoenas shall be served and ~~return~~returns made in the manner prescribed by general civil law.

86:15-15-12. Final order

The Board shall issue a final order ~~for~~on all disciplinary matters. Final orders are subject to Judicial Review pursuant to APA~~appealable under the Administrative Procedures Act to the district courts.~~

86:15-15-13. Unauthorized practice

Any person found to be practicing licensed professional counseling without being ~~either~~—properly licensed, exempt or under the approved supervision of an 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~~any order issued or approved by the Board includes a finding that the individual:

- (1) Violated any provision of the Act, including practicing licensed professional counseling without being licensed, under supervision, licensure or exempt~~exemption;~~ ~~or~~
- (2) Violated any rule of the OAC as it relates to licensed professional counseling within this Chapter; or
- (3) Violated any order issued by the Board 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 [REVOKED]

~~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.~~

86:15-15-16. RFI confidentiality

The RFI and the identity of the Complainant shall be confidential and shall not be available for public inspection.

SUBCHAPTER 17. POST-MILITARY SERVICE OCCUPATION, EDUCATION, AND CREDENTIALING RULES

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~~marital and family therapist while completing those requirements.

SUBCHAPTER 19. DECLARATION OF EMERGENCY LICENSURE BY ENDORSEMENT RULES

86:15-19-1. Submission of verification of license

An applicant applying for a non-renewable license by endorsement pursuant to a declaration of emergency shall submit verification stating the applicant is active and in good standing in the state in which they are currently licensed. The Board may require the applicant to submit a copy of the statutes and rules from the state out of which such license was issued.

86:15-19-2. Licensing procedures

An applicant must submit an application form, related documents as requested, and licensure fees.

86:15-19-3. Non-renewable declaration of emergency license by endorsement

(a) The Board shall issue a non-renewable license by endorsement pursuant to a declaration of emergency 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 the following criteria is met:

- (1) A declaration of emergency is issued by the Governor or the Legislature pursuant to the Oklahoma Emergency Management Act of 2003 or a declaration of a catastrophic health emergency issued by the Governor pursuant to the Catastrophic Health Emergency Powers Act;
- (2) The applicant's professional counselor license in the other jurisdiction is active and in good standing and allows the applicant to practice independently without supervision;
- (3) The applicants license has never been suspended or revoked and fulfills all of the requirements as stated in Subchapter 5-1;
- (4) The applicant fulfills the requirements as stated in 59 O.S. 1925.6 (A), (B); and
- (5) The applicant has at least a Masters Degree in counseling or a mental health related field from a regionally accredited college or university.

(b) A non-renewable license by endorsement pursuant to a declaration of emergency shall only be valid for the duration

of the emergency as determined by the Governor or the Legislature pursuant to the Oklahoma Emergency Management Act of 2003 or the Catastrophic Health Emergency Powers Act, (c) Services that are provided shall be pro bono or reimbursed by nongovernmental entities.

[OAR Docket #16-675; filed 7-7-16]

TITLE 86. STATE BOARD OF BEHAVIORAL HEALTH LICENSURE
CHAPTER 20. LICENSED BEHAVIORAL PRACTITIONERS

[OAR Docket #16-676]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

- Subchapter 1. General Provisions
86:20-1-1. [AMENDED]
86:20-1-2. [AMENDED]
Subchapter 3. Forms
86:20-3-2. [AMENDED]
Subchapter 5. Rules of Professional Conduct
86:20-5-2. [AMENDED]
86:20-5-6. [AMENDED]
Subchapter 11. Academic Requirements
86:20-11-2. [AMENDED]
Subchapter 17. Licensure Examination
86:20-17-4 [AMENDED]
Subchapter 29. Enforcement
86:20-29-1. [AMENDED]
86:20-29-2. [REVOKED]
86:20-29-3. [AMENDED]
86:20-29-4. [REVOKED]
86:20-29-5. [AMENDED]
86:20-29-6. [AMENDED]
86:20-29-7. [AMENDED]
86:20-29-8. [AMENDED]
86:20-29-9. [AMENDED]
86:20-29-10. [AMENDED]
86:20-29-11. [AMENDED]
86:20-29-12. [AMENDED]
86:20-29-13. [AMENDED]
86:20-29-14. [AMENDED]
86:20-29-15. [REVOKED]
86:20-29-16. [NEW]
Subchapter 31. Post-Military Service Occupation, Education, and Credentialing Rules
86:20-31-3. [AMENDED]
Subchapter 33. Declaration of Emergency Licensure by Endorsement Rules [NEW]
86:20-33-1. [NEW]
86:20-33-2. [NEW]
86:20-33-3. [NEW]

AUTHORITY:

State Board of Behavioral Health Licensure; 59 O.S. 2011; 59 O.S. 2001, Section 1901 et. seq]

SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY

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September 11, 2016

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

ANALYSIS:

The following permanent rules interpret the Oklahoma Licensed Behavioral Practitioners Act, (59 O.S. 1991, Sections 1901 et seq.)

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, 2016:

SUBCHAPTER 1. GENERAL PROVISIONS

86:20-1-1. Purpose

The rules in this Chapter ("Rules") 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 Licensing Act, 59 O.S. §§ 1930 et seq., as amended.

"Administrative Procedures Act" 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.

"Complainant" means any person who files a Request for Inquiry against a LBP, Candidate, or a person who delivers behavioral health services without a license.

"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.

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

"Formal Complaint" means a written statement of alleged violation(s) 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 of the Act and/or Rules which is filed by the Assistant Attorney General. The Formal Complaint schedules an Individual Proceeding before the Board in accordance with 75 O.S. §309.

"Full time practice" means working at least 20 hours per week.

"Group supervision" means an assemblage of two (2) to six (6) LBP Candidates.

"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. 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.

"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.

"Licensed behavioral practitioner" or "LBP" or "Licensee" means any person who offers professional behavioral health services to any person and is licensed pursuant to the provisions of the Licensed Behavioral Practitioner Act. The term shall not include those professions exempted by Section 1932 of this title;

"Licensed behavioral practitioner candidate" or "LBP Candidate" or "Candidate" means a person whose application for licensure has been accepted and who is under supervision for licensure as provided in Section 1935 of this title;

"LicenseLicensure Committee" means two LBP Board members, ~~one Staff member~~ the Executive Director, 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 LBP supervisor but is licensed by the state of Oklahoma as a Licensed Marital and Family Therapist, Licensed Professional Counselor, Psychologist, Clinical Social Worker, Psychiatrist, or Licensed Alcohol and Drug Counselor employed by the agency employing the LBP Candidate whose assigned job duties include acting as the immediate supervisor to the LBP Candidate and who is available to the candidate at all times when behavioral health services are being rendered by the LBP Candidate.

"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.~~

"Request for Inquiry" ("RFI") means a written or oral statement of complaint from any person alleging possible violation(s) of the Act and/or Rules.

"Respondent" means the person against whom an individual proceeding is initiated.

"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.

SUBCHAPTER 3. FORMS

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) Licensee'sLBP's name and license number;
 - (2) Total number of hours accrued and Licensee'sLBP'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

86:20-5-2. 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 (NAMPP), federal and state laws, rules, and scientific standards governing research with human subjects.

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(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 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 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 LBP candidates and licensees~~ shall prepare a written report and include a separate section therein containing the authors 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 reports publication unless otherwise required by law or court order.

(3) ~~LBP 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 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) ~~Licensees and Candidates 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) ~~Licensees and Candidates LBPs 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. ~~LBPs 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~~ ~~LBP candidates and licensees~~ role as a neutral participant. Fact witness testimony means evidentiary statements that are limited to direct observations made by the ~~LBP~~ ~~LBP candidates and licensees~~ 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.

86:20-5-6. Professional standards

(a) **Violations of other laws.** It shall be unprofessional conduct for a LBP to ~~violate~~ plead guilty to or no contest to or be convicted of a state or federal ~~law~~ statute if the ~~law~~ violation 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.

SUBCHAPTER 11. ACADEMIC REQUIREMENTS

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~~ practicums/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 17. LICENSURE EXAMINATION

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 ~~Practitioners Examination of Psychological Knowledge~~ examination shall be the passing score as set by the authors of the examination.

(c) The passing score on the LBP State Standards Exam shall be that score accepted as passing by the Board.

SUBCHAPTER 29. ENFORCEMENT

86:20-29-1. Purpose

The purpose of this subchapter is to specify the procedure ~~of for processing of Requests for Inquiry~~ RFIs ~~filed by citizens and with the Board and the authorization to take~~ filing ~~of disciplinary action~~ actions against LBPs, Candidates, or against

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persons who practice licensed behavioral health practitioner services without a license or exemption.

86:20-29-2. Definitions [REVOKED]

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 Practitioners 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 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.

86:20-29-3. Complaint Procedure

(a) **Receiving Requests for Inquiry.** Any person may file a Request for Inquiry RFI against a Licensed Professional Counselor ("LPC"), Candidate, or a person who delivers licensed behavioral practitioner services without a license. A person wishing to report a concern shall notify the Board in writing 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 RFI, the Executive Director will:

- (1) Stamp the first all pagepages of the RFI with a Board stamp indicating date of receipt;
- (2) Review the Request for Inquiry RFI to determine if the person against whom the Request for Inquiry RFI 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 RFI;

(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 LBP 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.

(eb) **Reviewing Request for Inquiry.** 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.

(1) The Executive Director has the authority to do the following:

(A) Respond directly to a Complainant without need for referral to the Complaint Committee when matters do not allege a violation of the Act and/or Rules; or

(B) Refer a RFI to the Complaint Committee when allegations would be a violation of the Act and/or Rules.

(2) The Complaint Committee has the authority to do the following:

(A) Meet with individuals who are under the jurisdiction of the Board and are the subject of the RFI;

(B) Appoint an investigator to investigate the RFI;

(C) Outline the terms of a proposed Stipulation, Agreed Settlement, or Consent Order for the informal disposition of the RFI to be submitted to the Board for approval;

(D) Authorize the filing of a Formal Complaint and Notice of Hearing in order to initiate an Individual Proceeding; and

(E) Close the RFI.

(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 Boards website or be reported to a national data bank.
- (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.
- (c) **Informal Interviews.**
 - (1) If the Complaint Committee decides to meet with an individual, the Complaint Committee shall proceed by:
 - (A) Notifying the LPC or Candidate that a RFI has been received, outlining the nature of the inquiry; and
 - (B) Requesting a prompt letter to the Board responding to the merits of the RFI and a meeting with the Complaint Committee for an interview at a date and time determined by the Complaint Committee.

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(2) If the LBP or candidate fails to respond with a prompt letter or fails to meet with the Complaint Committee at their request, the Complaint Committee may refer the RFI for investigation.

(d) **Requests for Investigation.**

(1) If the Complaint Committee decides to forward the RFI for investigation, the Complaint Committee shall proceed by:

(A) Contacting an investigator designated by the Board to address the RFI;

(B) Providing the designated investigator with the name and address of the complainant, if available, and the LBP or candidate; and

(C) Notifying the LBP or candidate by certified mail that a RFI has been received and an investigation is being conducted.

(2) The Complaint Committee may request that LBP or candidate be interviewed by the designated investigator or by the Assistant Attorney General in a setting under oath.

(3) The Complaint Committee may refer the RFI to a law enforcement agency for criminal investigation, if the Committee determines that a crime has or may have been committed.

(e) **Summary Suspension.** After the filing of a Formal Complaint and Notice of Hearing, but prior to an Individual Proceeding, in the event of an emergency, a summary suspension hearing may be held as set forth herein. If the Chair of the Board and the Complaint Committee determine that an emergency exists for which the immediate suspension of a license is imperative for the protection of the public health, safety or welfare, the Board may conduct a summary suspension hearing to temporarily suspend the license of any person under the jurisdiction of the Board. The Chair or Vice-Chair may issue an Order of Temporary Summary Suspension upon a finding by 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 APA. The LBP or Candidate 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 Order, an Individual Hearing on the merits of said Formal Complaint and Notice of Hearing shall be held promptly.

86:20-29-4. Investigation [REVOKED]

~~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

Licenses~~LBP~~s and Candidates shall cooperate when Board staff, Complaint Committee members, and/or investigators make inquiries concerning a RFI~~Request for Inquiry~~ made

against ~~the~~ licensee. Failure of a licensee to cooperate is grounds for further disciplinary action under the Act and/or Rules.

86:20-29-6. Service of Formal Complaint ~~petition and~~ Notice of Hearing

(a) **Service.** ~~The Formal Complaint petition and notice~~Notice of Hearing shall be served ~~on the respondent(s) personally or by certified mail, return receipt requested,~~ to the LBP or Candidate's address of the respondent(s) on file with the Board. It is the duty of the LBP or Candidate~~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.

~~(e) Service of other papers and documents.~~ Service of all other papers and documents connected with an individual proceeding shall be served on the LBP, Candidate parties or his/her ~~their counsel by delivering a copy in person or via facsimile, or regular mail, or hand-delivery.~~

86:20-29-7. Hearing-Individual Proceedings

~~Hearings~~Individual Proceedings shall be conducted by the Board in accordance with the APA, 75 O.S., ~~§Sections~~ 309-321 et seq. The Board shall recommend the most appropriate penalty at the conclusion of the evidence, which may include but is not limited to probation, suspension, revocation, and an administrative penalty not to exceed Ten Thousand Dollars (\$10,000.00). Informal disposition may be made of any individual proceeding by stipulation, agreed settlement, consent order, or default.

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, ~~by~~ with notice or motion.

(b) ~~Continuance~~Continuances **by motion of parties.** Except for good cause shown, or by agreement of all parties, no continuance ~~shall~~ will be granted upon motion of a party unless written request ~~therefore~~ is filed with the board and served on all parties of record, ~~including 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. ~~An agreement to continue by stipulation for continuance among all parties of record ordinarily will~~ shall 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 issue~~ Orders as they relate relating to discovery as ~~may be necessary or appropriate for the protection of the parties, and as they may to prevent hardship to and excessive burden upon a party, prevent excessive burden on a party, or as they may be necessary or appropriate for the protection of the parties.~~

86:20-29-11. Subpoenas

(a) **Issuance of subpoenas for witnesses and physical evidence.** ~~All parties, including The Board, may compel the attendance of witnesses, and the production of physical evidence before it from witnesses, upon whom process is if service of process has been made 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 subpoenas will be the responsibility of the requesting party. Subpoenas shall be served and return returns made in the manner prescribed by general civil law.~~

86:20-29-12. Final order

The Board shall issue a final order ~~for~~ all disciplinary matters. Final orders are subject to Judicial Review pursuant to APA ~~appealable under the Administrative Procedures Act to the district courts.~~

86:20-29-13. Unauthorized practice

Any person found to be practicing licensed behavioral health practitioner 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 any order issued or approved by the Board~~ includes a finding that the individual:

- (1) Violated any provision of the Act, ~~including practicing licensed behavioral health practitioner services without being licensed, under supervision, licensure or exempt exemption; or~~
- (2) Violated any rule of the OAC as it relates to licensed behavioral health practitioner services within this Chapter; or
- (3) Violated any order issued by the Board pursuant to this Chapter.

(b) The total amount of the administrative penalty assessed shall not exceed ~~ten thousand dollars~~ Ten Thousand Dollars (\$10,000.00) ~~for any related series of violations.~~

86:20-29-15. Costs of investigation [REVOKED]

~~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.~~

86:20-29-16. RFI confidentiality

The RFI and the identity of the Complainant shall be confidential and shall not be available for public inspection.

SUBCHAPTER 31. POST-MILITARY SERVICE OCCUPATION, EDUCATION AND CREDENTIALING RULES

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 ~~behavioral practitioner~~ while completing those requirements.

SUBCHAPTER 33. DECLARATION OF EMERGENCY LICENSURE BY ENDORSEMENT RULES

86:20-33-1. Submission of verification of license

An applicant applying for a non-renewable license by endorsement pursuant to a declaration of emergency shall submit verification stating the applicant is active and in good standing in the state in which they are currently licensed. The Board may require the applicant to submit a copy of the statutes and rules from the state out of which such license was issued.

86:20-33-2. Licensing procedures

An applicant must submit an application form, related documents as requested, and licensure fees.

86:20-33-3. Non-renewable declaration of emergency license by endorsement

(a) The Board shall issue a non-renewable license by endorsement pursuant to a declaration of emergency to an applicant who is licensed or certified as a professional counselor

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by another state or territory of the United States or the District of Columbia and the following criteria is met:

- (1) A declaration of emergency is issued by the Governor or the Legislature pursuant to the Oklahoma Emergency Management Act of 2003 or a declaration of a catastrophic health emergency issued by the Governor pursuant to the Catastrophic Health Emergency Powers Act;
 - (2) The applicants professional counselor license in the other jurisdiction is active and in good standing and allows the applicant to practice independently without supervision;
 - (3) The applicants license has never been suspended or revoked and fulfills all of the requirements as stated in Subchapter 7; and
 - (4) The applicant fulfills the requirements as stated in 59 O.S. 1935 (A), (B), and (C).
- (b) A non-renewable license by endorsement pursuant to a declaration of emergency shall only be valid for the duration of the emergency as determined by the Governor or the Legislature pursuant to the Oklahoma Emergency Management Act of 2003 or the Catastrophic Health Emergency Powers Act.
- (c) Services that are provided shall be pro bono or reimbursed by nongovernmental entities.

[OAR Docket #16-676; filed 7-7-16]

TITLE 90. COUNCIL OF BOND OVERSIGHT CHAPTER 1. ADMINISTRATIVE OPERATIONS

[OAR Docket #16-581]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 3. General Operations of the Council

90:1-3-1 [AMENDED]

90:1-3-2 [AMENDED]

AUTHORITY:

Title 62 O.S. Section 695.8(A)5; Council of Bond Oversight

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Approved by Governor's declaration on June 9, 2016

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September 11, 2016

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

ANALYSIS:

The rule amendments change the reference to the permanent Office address and correct the reference to Council meeting dates following a statutory change.

CONTACT PERSON:

James C. Joseph, Director, Office of the State Bond Advisor, 9220 N. Kelley Avenue, Oklahoma City, OK 73131, 405-602-3100, jjoseph@oksba.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, 2016:**

SUBCHAPTER 3. GENERAL OPERATIONS OF THE COUNCIL

90:1-3-1. Official office

The Offices of the Council of Bond Oversight and the State Bond Advisor are located at ~~9220 N. Kelley Avenue~~ ~~5900 N. Classen Court~~, Oklahoma City, Oklahoma ~~73131~~ ~~73118~~. The telephone number is (405) 602-3100 and telecopier number is (405) 848-3314. The office hours are from 8:00 a.m. to 5:00 p.m. Central Time, Monday through Friday, except legal holidays.

90:1-3-2. Meetings of the Council

~~Section 695.6(A) of the Act requires the Council to meet at least once a month on the last Thursday of each month or on another day at the call of the Chair of the Council. The Council will set the schedule of regular meetings each year and file the schedule with the Secretary of State. A schedule of meetings may be obtained upon request of the office.~~

[OAR Docket #16-581; filed 6-17-16]

TITLE 90. COUNCIL OF BOND OVERSIGHT CHAPTER 10. ADMINISTRATION OF THE OKLAHOMA BOND OVERSIGHT AND REFORM ACT

[OAR Docket #16-582]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 5. Fees

90:10-5-2 [AMENDED]

AUTHORITY:

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SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

ANALYSIS:

The rule amendments will revise the statutorily authorized fees assessed to each state bond issue.

CONTACT PERSON:

James C. Joseph, Director, Office of the State Bond Advisor, 9220 N. Kelley Avenue, Oklahoma City, OK 73131, 405-602-3100, jjoseph@oksba.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, 2016:

SUBCHAPTER 5. FEES

90:10-5-2. Fee schedule

(a) Fees (calculated by multiplying the principal amount times the applicable fee, as shown in the table below):

Principal Amount Fee (expressed as basis points times principal amount of issuance or obligation)

<u>Principal Amount</u>	<u>Fee (expressed as basis points times principal amount of issuance or obligation)</u>
<u>First \$5 million</u>	<u>3 basis points (.0003)</u>
<u>In excess of \$5 million, up to and including \$50 million</u>	<u>2 basis points (.0002)</u>
<u>All amounts in excess of \$50 million</u>	<u>1 basis point (.0001)</u>
\$200,00 or less	No Fee
Greater than \$200,000 up to and including \$2 million	5 basis points (.0005)
Next \$3 million	3 basis points (.0003)
Next \$10 million	2 basis points (.0002)
Over 15 million	1 basis point (.0001)

(b) Examples reflecting the calculation of fees are:

(1) The fee for a \$205,000 lease purchase obligation is calculated as follows:

$$\$205,000 \times .0005 = \$102.50 \text{ (fee due)}$$

(2) The fee for a \$5,500,000 bond issue or lease purchase obligation is calculated as follows:

$$\$2,000,000 \times .0005 = \$1,000$$

$$\$3,000,000 \times .0003 = \$900$$

$$\$500,000 \times .0002 = \$100$$

$$\text{Fee due} = \$2000$$

[OAR Docket #16-582; filed 6-17-16]

**TITLE 140. BOARD OF CHIROPRACTIC EXAMINERS
CHAPTER 1. ADMINISTRATIVE ORGANIZATION AND OPERATIONS**

[OAR Docket #16-662]

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PERMANENT final adoption

RULES:

Subchapter 1. General Provisions

140:1-1-2 [AMENDED]

AUTHORITY:

Oklahoma Board of Chiropractic Examiners; 59, O.S., 2001, Section 161.2

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n/a

INCORPORATIONS BY REFERENCE:

n/a

ANALYSIS:

The rule amendment deletes language "and which has been approved by the Board". In accordance with A.G. Opinion 02-22, the rule itself is the approval. There is no approval outside the rule process. As a result, the proposed amendment adds language stating explicitly that "the Board hereby approves" the procedures described.

CONTACT PERSON:

Beth Carter, Executive Director, 421 N.W. 13th Street, Suite 180, Oklahoma City, OK 73103, 405-522-3400.

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, 2016:

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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 140:10-3-4; 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.

"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 January 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. Pursuant to 59O.S. § 161.2, the Board hereby approves ~~The scope of practice of chiropractic shall include those diagnostic and treatment services and procedures related to the science and art of chiropractic as defined herein and as described in the Oklahoma Chiropractic Practice Act, and 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 authorized by is currently the law in Title 59 Section 161.12 of Title 59 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 #16-662; filed 7-6-16]

**TITLE 140. BOARD OF CHIROPRACTIC EXAMINERS
CHAPTER 3. DISCIPLINARY PROCEDURES**

[OAR Docket #16-663]

RULEMAKING ACTION:
PERMANENT final adoption

RULES:
Subchapter 3. Filing and Disposition of Complaints
140:3-3-2 [AMENDED]
140:3-3-9 [AMENDED]
140:3-3-10 [NEW]

AUTHORITY:
Oklahoma Board of Chiropractic Examiners; 59, O.S., 2001, Section 161.6
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:

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INCORPORATIONS BY REFERENCE:
n/a

ANALYSIS:
The rule amendments are necessary in order to be compliant with statutory amendments in Title 59 O.S. 161.6.

CONTACT PERSON:
Beth Carter, Executive Director, 421 N.W. 13th Street, Suite 180, Oklahoma City, OK 73103, 405-522-3400.

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, 2016:

SUBCHAPTER 3. FILING AND DISPOSITION OF COMPLAINTS

140:3-3-2. Procedures for complaints against chiropractic physicians

(a) Any person may submit to the Board a complaint against a chiropractic physician. In the event a complaint is made against a member of the Board or the Advisory Committee that member of the Board or Advisory Committee shall recuse himself from further action, investigation or other matter related to said complaint.

(b) The Board shall make available a form which may be used for the filing of complaints.

(c) After a complaint is received by the Board, the Executive Director and the Chair of the Advisory Committee, or a member of the Advisory Committee appointed by the Chair to serve as the Chair's designee, Advisory Committee shall meet and determine whether the complaint merits further investigation. If a determination is made that the complaint merits further investigation, the Executive Director, in consultation with the Chair of the Advisory Committee or the Chair's designee, shall assign the complaint to an investigator.~~The Advisory~~

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~~Committee may utilize the services of an investigator who shall have the authority to investigate a complaint only upon directive of a simple majority of the Advisory Committee or the chair of the Advisory Committee. The focus and scope of the investigation shall pertain only to the subject of the complaint.~~

(d) No member of the Board shall review any complaint or discuss any complaint with any member of the Advisory Committee or any other person, including the complainant and the chiropractic physician named in the complaint, except that the Board may review the written report of the Advisory Committee as provided in (h), (i) and (j) of this section.

(e) No member of the Advisory Committee or the investigator may, in any way, discuss any complaint or the details therein with any person without order from the Board or a Court of competent jurisdiction. Discussion or disclosure of any complaint or information therein by an Advisory Committee member may result in that Advisory Committee member's removal from the investigation committee and other such sanctions as the Board deems appropriate.

(f) The amount of time for investigation of a complaint received by the Advisory Committee shall not exceed thirty-six (36) months.

(g) ~~Upon receipt of the complaint, the Advisory Committee or~~The investigator shall provide the chiropractic physician named in the complaint with a notice of the complaint and shall require said chiropractic physician to provide a written response to the complaint within thirty (30) calendar days of mailing of a copy of the notice to said chiropractic physician. The failure of a chiropractic physician to respond to such a request of the Advisory Committee or investigator shall be grounds for disciplinary action by the Board. In addition, the chiropractic physician named in the complaint shall not contact, attempt to contact or allow anyone else to contact the person(s) who filed the complaint or the person(s) who the chiropractic physician named in the complaint believes may have filed the complaint.

(h) It shall be the duty of the ~~Advisory Committee or~~investigator to investigate the complaint fully and in a manner consistent with due process requirements and the APA and to present the findings of the investigation to the Advisory Committee for review. At the conclusion of the investigation, the Advisory Committee, in consultation with the Board's prosecuting attorney, shall:

(1) ~~refer the matter to the~~The Executive Director may to issue a field citation pursuant to 140:3-3-9 and thereafter submit a written report to the Board detailing the facts concerning the citation; ~~or;~~

(2) ~~The Executive Director, a member of the Advisory Committee or the investigator shall~~ submit a written report to the Board detailing the findings and determinations of the Advisory Committee ~~or investigator~~ and making a recommendation ~~in its written report~~ as to further action by the Board.

(i) The written report of the Advisory Committee ~~or investigator~~ shall be drafted so as to keep anonymous the name of the Complainant and the chiropractic physician named in the complaint. The report shall include a brief recitation of the

facts of the complaint and a statement whether the Advisory Committee ~~or investigator~~ found competent evidence to support the allegations contained in the complaint.

(j) The Board shall review the report of the Advisory Committee ~~or investigator~~ at a meeting of the Board, provided, however that the Board's review of the report shall not be conducted as a hearing and the Board shall not hear testimony or receive evidence. Upon review of the report, the Board may:

(1) dismiss the complaint if the Board finds there is not reasonable cause to believe that there was a violation of the Chiropractic Practice Act or Title 140 of the Oklahoma Administrative Code;

(2) issue a letter of concern, pursuant to 140:3-3-3, to the chiropractic physician named in the complaint if the Board finds that there is reasonable cause to believe that said chiropractic physician has committed a violation, but such violation, if proven, is not of such a nature as to warrant the imposition of a penalty by the Board; or

(3) initiate an individual proceeding, pursuant to 140:3-3-4, against the chiropractic physician named in the complaint if the Board finds that there is reasonable cause to believe that said chiropractic physician has committed a violation and that such violation, if proven, is of such a nature as to warrant the imposition of a penalty by the Board.

(k) In the event the Board votes to issue a letter of concern in regard to a complaint, it shall thereupon be the duty of the Advisory Committee or investigator to ~~provide~~provide the board sufficient details as to the nature of the complaint so as to assist the Board to render a meaningful letter of concern.

140:3-3-9. Field Citations

(a) At the conclusion of an investigation of a complaint filed with the Board, the Advisory Committee, in consultation with the Board's prosecuting attorney, may recommend that the Executive Director issue a field citation to the chiropractic physician named in the complaint if ~~the Executive Director~~ or the Advisory Committee ~~has~~have reasonable cause to believe that the chiropractic physician violated the provisions of the Chiropractic Practice Act (the "Act") or Title 140 of the Oklahoma Administrative Code (the "OAC"). ~~The Executive Director~~Advisory Committee will thereafter submit a written report to the Board detailing the facts concerning the citation. Prior to making therecommendation to the Executive Director, the Advisory Committee may contact the chiropractic physician to discuss and resolve the alleged violation.

(b) Field citations shall be in writing and shall describe the nature of the violation including, but not limited to, a reference to the provision of the Act and/or the OAC alleged to have been violated.

(c) Field citations may contain an order of abatement fixing a reasonable time for abatement of the violation and may contain an assessment of an administrative penalty not to exceed Two Hundred Fifty Dollars (\$250.00) for a first offense and One Thousand Dollars (\$1,000.00) for a second or subsequent offense. Each day such violation continues shall constitute a separate offense. Payment of an administrative penalty shall

be represented as satisfactory resolution of the matter for the purpose of public disclosure.

(d) Field citations shall be served upon the chiropractic physician personally or by certified mail, return receipt requested.

~~(e) Before any field citation is issued to a chiropractic physician, the Executive Director shall submit the alleged violation for review and examination to the Advisory Committee. The Advisory Committee during its review may contact the chiropractic physician to discuss and resolve the alleged violation. Upon conclusion of the Advisory Committee's review, the Committee shall prepare a written report and a recommendation. If the Committee concludes that reasonable cause exists that the chiropractic physician has violated any provisions of the Act or the OAC, an administrative penalty may be assessed upon the chiropractic physician. Payment of an administrative penalty shall be represented as satisfactory resolution of the matter for the purpose of public disclosure.~~

(e-f) Any chiropractic physician who has received a field citation and desires to contest that field citation and/or the proposed assessment of an administrative penalty shall, within thirty (30) calendar days after service of the field citation, notify the Executive Director in writing, requesting an informal conference with the Advisory Committee. If the chiropractic physician fails to request an informal conference within thirty (30) calendar days after service of the field citation, the field citation and/or the proposed assessment of the administrative penalty shall be deemed to be final and not subject to further review.

(f-g) If an informal conference is requested, the Advisory Committee shall hold the informal conference within sixty (60) calendar days from the receipt of the written request. At the conclusion of the informal conference, the Executive Director, upon recommendation from the Advisory Committee, may affirm, modify or dismiss the field citation and/or proposed assessment of an administrative penalty. The Executive Director shall state in writing the reasons for the action, and shall, within thirty (30) calendar days of the informal conference, transmit a copy of the decision to the chiropractic physician and the person who submitted the complaint.

(g-h) Any chiropractic physician who desires to contest a decision made after the informal conference shall inform the Executive Director in writing within thirty (30) calendar days after such chiropractic physician receives the decision resulting from the informal conference. The Board shall thereafter hold a hearing in accordance with the APA, the Act and the OAC. After the hearing, the Board shall issue an Order affirming, modifying or vacating the citation, or directing other appropriate relief as the Board deems necessary.

(h-i) Any chiropractic physician who has received a field citation and desires not to contest that field citation or the proposed assessment of an administrative penalty may transmit to the Board the amount assessed in the citation as an administrative penalty, within thirty (30) calendar days after service of the field citation. Payment of any penalty shall not constitute an admission of the violation charged.

(i-j) Failure of a chiropractic physician to pay a penalty within thirty (30) calendar days of the date of assessment,

unless the field citation is being appealed, may result in action being taken by the Board. When a citation is not contested and a fine is not paid, the full amount of the assessed penalty shall be added to the fee for the renewal of the license. A license shall not be renewed without payment of the renewal fee and penalty.

140:3-3-10. Complaint confidentiality

(a) In order to encourage the public and affected individuals to come forward with complaints regarding licensees and fully share the particulars, the Board will hold all complainant and informant names, addresses or other personal information as confidential and shall not release this information.

(b) The Board shall use all complainant and informant information provided in conducting its investigations and may use the information in cases filed against licensees.

(c) Information obtained during an investigation but not introduced in administrative proceedings shall not be subject to subpoena or discovery in any civil or criminal proceeding except that the Board may give such information to law enforcement and other state agencies as necessary and appropriate in the discharge of the duties of that agency and only under circumstances that ensure against unauthorized access to the information.

(d) The respondent may acquire information obtained during an investigation, unless the disclosure of such information is otherwise prohibited, except for the investigation report, if the respondent signs a protective order whereby the respondent agrees to use the information solely for the purposes of defense in the Board proceeding and in any appeal there from and agrees not to otherwise disclose the information.

[OAR Docket #16-663; filed 7-6-16]

**TITLE 140. BOARD OF CHIROPRACTIC EXAMINERS
CHAPTER 10. LICENSURE OF CHIROPRACTIC PHYSICIANS**

[OAR Docket #16-664]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 3. Application, Examination and Licensing
140:10-3-1 [AMENDED]

AUTHORITY:

Oklahoma Board of Chiropractic Examiners; 59, O.S., 2001, Section 161.7

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Permanent Final Adoptions

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September 11, 2016

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

ANALYSIS:

The rule amendments are necessary in order to be compliant with statutory amendments in Title 59 O.S. 161.7 to allow for international applicants.

CONTACT PERSON:

Beth Carter, Executive Director, 421 N.W. 13th Street, Suite 180, Oklahoma City, OK 73103, 405-522-3400.

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, 2016:

SUBCHAPTER 3. APPLICATION, EXAMINATION AND LICENSING

140:10-3-1. Application for an original license by examination

(a) An application to the Board for an original license to practice chiropractic shall be made on forms created and approved by the Board and shall be signed and verified under oath by the applicant. The application shall include:

- (1) A passport photo
- (2) the affidavits of two (2) chiropractic physicians who are not related to or under financial obligation to the applicant and which state that the applicant is of good moral character;
- (3) a copy of the applicant's high school diploma or transcripts, certified as being a true and correct copy
- (4) a copy of the applicant's pre-chiropractic college or university transcript or transcripts, certified:
 - (A) by an official of the issuing college or university as being true and correct; and
 - (B) by an official of the University of Oklahoma as containing at least ninety (90) hours of college credit accepted by the University of Oklahoma;
- (5) a copy of the applicant's diploma from ~~an accredited~~ chiropractic school, college or program accredited by an accrediting agency either recognized by the U.S. Secretary of Education or a Board-approved chiropractic school, college or program, certified by an official of the issuing school, college or program as being true and correct, except as provided in (b) and (c) of this Section;

(6) A money order, certified check or cashier's check payable to the Board in the amount of One Hundred Seventy-Five Dollars (\$175.00) as payment of the application fee. Such fee is not refundable under any circumstances.

(b) An applicant who has graduated from a chiropractic program outside the United States must have completed an educational program leading to a degree in chiropractic from an

institution authorized to operate by the government having jurisdiction in which it is domiciled. The applicant must submit a diploma or equivalent documentation of successful completion of the program as certified by an official of the institution or the government having jurisdiction. All credentials, diplomas, and other documentation submitted to the Board in a foreign language shall be accompanied by a notarized English translation. The applicant shall provide satisfactory evidence of meeting the requirements for permanent residence or temporary non-immigrant status as set forth by the United States Citizenship and Immigration Services.

(bc) A senior student at an accredited chiropractic college may, prior to graduation, make application for an original license by examination. In such event, the application shall be accompanied by a statement on a form approved by the Board containing certification by an official of such college that the applicant is a senior at the college and is expected to graduate within one (1) year from the date of the certificate. An original license shall not, however, be issued to such an applicant until the applicant has submitted to the Board a copy of the applicant's diploma from said accredited chiropractic college, certified as true and correct.

(ed) Applicants shall submit documentary evidence of completion of Parts I, II, III, IV and physiotherapy as administered by the National Board of Chiropractic Examiners with a passing score.

(ee) An application and all accompanying documents must be completed and received by the Board no later than thirty (30) days prior to the date of the next scheduled examination in order to be eligible to take the examination.

(ef) A fee of One Hundred Seventy-Five Dollars (\$175.00) as payment for the examination if approved by the Board of Chiropractic examiners. Such fee is not refundable under any circumstances.

[OAR Docket #16-664; filed 7-6-16]

TITLE 150. OKLAHOMA DEPARTMENT OF COMMERCE CHAPTER 1. GENERAL RULES OF PRACTICE AND PROCEDURE

[OAR Docket #16-642]

RULEMAKING ACTION:

PERMANENT Final Adoption

RULES:

- Subchapter 21. Audits
- 150:1-21-2. Definitions [AMENDED]
- 150:1-21-3. Applicability of various acts and rules; incorporation by reference [AMENDED]
- 150:1-21-4. Audit requirements [AMENDED]
- 150:1-21-5. Content of audit [AMENDED]
- 150:1-21-7. Review of audits; appeals [AMENDED]
- 150:1-21-8. Charge for audits [AMENDED]

AUTHORITY:

The legislation establishing the Oklahoma Department of Commerce; 74 O.S. §§ 5001 et seq.

SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:

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September 11, 2016

SUPERSEDED EMERGENCY ACTIONS:
n/a

INCORPORATIONS BY REFERENCE:
n/a

ANALYSIS:
This action is to clarify the existing rules for audits to update the legal references due to OMB Circulars being superseded by the Uniform Guidance for Federal Awards

CONTACT PERSON:
Donald R. Hackler, Jr. (405) 815-5359

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, 2016:

SUBCHAPTER 21. AUDITS

150:1-21-2. 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 Single Audit Act of 1984, as amended by the "Single Audit Act Amendments of 1996", both codified at 31 U.S.C. Sections 7501 et seq.

"Contractor" means a grantee or subrecipient.

"Department" means the Oklahoma Department of Commerce established pursuant to 74 O.S. Section 5001, and any successor agencies thereto.

"Government Auditing Standards" means the publication titled "Government Auditing Standards" (commonly referred to as the "Yellowbook") issued by the Comptroller General of the United States, as may be revised from time to time.

"OMB" means the United States Office of Management and Budget.

~~**"OMB Circular A-102"** means the Office of Management and Budget Circular A-102, "Grants and Cooperative Agreements with State and Local Governments".~~

~~**"OMB Circular A-110"** means the Office of Management and Budget Circular A-110, "Uniform Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals and other Non-Profit Organizations".~~

~~**"OMB Circular 1-133"** means the Office of Management and Budget Circular A-133, "Audits of States, Local Governments and Non-Profit Organizations", effective for~~

~~fiscal years beginning after June 30, 1996, except as otherwise specified in Subpart D of the Attachment to OMB Circular A-133.~~

"Professional service contractors" means those contractors that, because of special education, knowledge or skills, are contracted with by the Department to exercise such specialties in service on behalf of the Department.

"Program Audit" means an audit only on the Department's contracts.

"Single Entity Audit" means a single audit on the entire organization which includes all of the funds the organization receives and expends.

"Uniform Guidance for Federal Awards" means the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards found in Title 2 of the Code of Federal Regulations.

150:1-21-3. Applicability of various acts and rules; incorporation by reference

(a) The Department is subject to the Act. It is the policy of the Department to comply with the provisions of the Act and ~~OMB Circular A-133~~ Uniform Guidance for Federal Awards.

(b) The applicability of the Act is as follows:
 (1) The provisions of the Act apply to contractors of federal funds administered by the Department as subrecipients under the Act and ~~OMB Circular A-133~~ Uniform Guidance for Federal Awards. Contractors defined as state and local governments and non-profit organizations by the Act are independently subject to:

- (A) The Act;
- (B) ~~OMB Circular A-133~~ Uniform Guidance for Federal Awards;
- (C) "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments" (Text of the "Common Rules for Contracts" beginning October 1, 1988 published in the "Federal Register", March 11, 1988); and
- (D) "Government Auditing Standards"; and
- ~~(E) OMB Circular A-133 "Compliance Supplement".~~

(2) The provisions of the Act, the federal rules and regulations and OMB publications cited herein are hereby incorporated by reference.

(c) Contractors are required as follows:
 (1) Contractors that are not subject to the Act shall be subject to audit requirements which conform to the requirements of these rules:

- (A) "Government Auditing Standards"; and
- (B) ~~OMB Circular A-133 "Compliance Supplement"~~ Uniform Guidance for Federal Awards.
- ~~(C) OMB Circular A-110, OMB Circular A-102 or OMB Circular A-133.~~

(2) The provisions of the Act, the federal rules and regulations, and OMB publications are hereby incorporated by reference.

(d) Federal documents cited in the rules of this subchapter are published by the United States Government Printing Office, Superintendent of Documents, Washington, D.C. 20402-9325.

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(e) Municipalities shall comply with applicable provisions of Oklahoma law, including specifically, without limitation, 11 O.S. Section 17-105.

(f) Counties shall comply with applicable provisions of Oklahoma law, including specifically, without limitation, 19 O.S. Sections 177.1 and 177.5.

150:1-21-4. Audit requirements

(a) The Department's audit requirements shall apply to all contractors unless otherwise exempted.

(b) The following contractors shall be exempt from the provisions of this subchapter:

- (1) Professional services contractors;
- (2) Vendors of products; and
- (3) Foreign office contractors.

(c) Audits shall be performed annually.

(d) Audits required by the Department shall be for both financial and program compliance. Program compliance shall be determined by reference to the ~~OMB Circular A 133 "Compliance Supplement"~~ Uniform Guidance for Federal Awards or such documents as OMB or its designee may issue to replace it. For those programs not covered in the Compliance Supplements, the auditor should ascertain compliance requirements by reviewing the statutes, regulations, and agreements governing individual programs.

(e) All "government entities", as such term is defined by applicable law, shall comply with the applicable provisions of 74 O.S. Section 212A.

(f) Any contractor not subject to the provisions of subsection (c) of this section or otherwise exempted from the provisions of this subchapter shall be subject to the following requirements:

- (1) If a contractor receives less than twenty-five thousand dollars (\$25,000.00) from the Department during the contractor's fiscal year, no audit is required;
- (2) If the contractor is a municipality with an income of twenty-five thousand dollars (\$25,000.00) or more during a fiscal year, it is required by 11 O.S. Section 17-105 to have an audit prepared; and the contractor shall provide one original, complete, bound audit report to the Department within thirty (30) days of the issuance of the report;
- (3) If the contractor is a county, an audit is required by 19 O.S. Sections 177.1 and 177.5; and the contractor shall provide one original, complete, bound audit report to the Department within thirty (30) days of the issuance of the report; and
- (4) If a contractor expends funds that total ~~three hundred seven~~ three hundred fifty thousand dollars (~~\$300,000.00~~) (\$750,000.00) or more of federal funds during the contractor's fiscal year, then an audit is required. The required audit shall be a Single Entity Audit.

(g) A Program Audit report is due within ninety (90) days of the end of the contract period.

(h) A Single Entity Audit report is due within thirty (30) days of the completion of the audit. This audit should be completed and the report submitted no later than nine (9) months after the end of the contractor's fiscal year, pursuant to ~~OMB~~

~~Circular A 133, Subpart C, Section .320~~ Uniform Guidance for Federal Awards.

(i) The contractor shall submit one (1) original, complete bound audit report.

(j) If the Department does not require an audit, but the contractor has an audit performed that includes Department funds, the contractor shall provide one (1) original, complete, bound audit report to the Department within thirty (30) days of the issuance of the report.

150:1-21-5. Content of audit

The contents of an audit shall include at minimum the following:

- (1) The requirements of the "Government Auditing Standards" and/or ~~OMB Circular A 133~~ Uniform Guidance for Federal Awards, whichever is applicable;
- (2) A schedule of state awards, if state funds were received. This schedule shall include all state programs and shall be on such form(s) as may be prescribed by the Department;
- (3) A schedule of federal awards, if applicable. This schedule shall include all federal programs and shall be on such form(s) as may be prescribed by the Department.

150:1-21-7. Review of audits; appeals

(a) After receipt of an audit, the Department shall have six (6) months to review the audit. The Department is required to "ensure that appropriate corrective action is taken within six (6) months after receipt of the (contractor's) audit report in instances of noncompliance with Federal laws and regulations", as provided in ~~OMB Circular A 133, Subpart D, Section 400(d)(5)~~ Uniform Guidance for Federal Awards.

(b) After review, if it is determined that funds are owed to the Department, the Department shall issue a Notice to Show Cause pursuant to the provisions of Sections 150:1-15-1 et seq. of this chapter.

(c) Any part aggrieved by a final order of the Department may request an appeal pursuant to the provisions of Section 150:1-15-14 of this chapter.

150:1-21-8. Charges for audits

(a) Contractors may charge audit fees in a reasonable proportional share unless in conflict with applicable federal requirements, when audits are conducted in accordance with the Act, ~~OMB Circular A 133~~ Uniform Guidance for Federal Awards and the rule of this subchapter.

(b) Contractors shall not charge audit fees for Department contracts when audits are not conducted in accordance with the Act, ~~OMB Circular A 133~~ Uniform Guidance for Federal Awards and the rules of this subchapter.

(c) Hospital contractors must conduct their audit in accordance with the rules of this subchapter and ~~OMB A 110~~ Uniform Guidance for Federal Awards in order to charge the audit fees to Department contracts.

[OAR Docket #16-642; filed 6-27-16]

TITLE 150. OKLAHOMA DEPARTMENT OF COMMERCE
CHAPTER 15. SMALL CITIES COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

[OAR Docket #16-643]

RULEMAKING ACTION:

PERMANENT Final Adoption

RULES:

- Subchapter 9. Consultant Certification
150:15-9-2. Requirements for certification [AMENDED]
150:15-9-4. Duration and recertification [AMENDED]
150:15-9-5. Disciplinary action and complaint process [AMENDED]
150:15-9-6. Penalties [AMENDED]
150:15-9-7. Process to impose penalties [AMENDED]
150:15-9-8. Interim certification and use of mentor [AMENDED]
150:15-9-9. Unethical conduct per se [AMENDED]

AUTHORITY:

The legislation establishing the Oklahoma Department of Commerce; 74 O.S. §§ 5001 et seq.

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December 18, 2015

SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:

December 21, 2015

APPROVED BY GOVERNOR'S DECLARATION:

Approved by Governor's declaration on June 9, 2016

FINAL ADOPTION:

June 9, 2016

EFFECTIVE:

September 11, 2016

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

ANALYSIS:

This action is to clarify the existing Consultant Certification program rules at the Oklahoma Department of Commerce for the Small Cities Community Development Block Grant Program.

CONTACT PERSON:

Donald R. Hackler, Jr. (405) 815-5359

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, 2016:

SUBCHAPTER 9. CONSULTANT CERTIFICATION

150:15-9-2. Requirements for certification

All applicants for certification must be citizens of the United States, attend a certification-training workshop and pass a certification examination, including an ethical behavior

component. Applicants who fail to pass the required examination may apply to re-test after two months one year.

150:15-9-4. Duration and recertification

Certification lasts for one (1) year. During the year each Each certified CDBG administrator is required to participate in at least one continuing education or training activity per year. Continuing education or training consists of the following: CDBG continuing education workshop or the actual certification course.

150:15-9-5. Disciplinary action and complaint process

(a) In order to assure the highest level of performance by certified CDBG administrators, ODOC may take disciplinary action based on activities including, but not limited to, the following:

- (1) Violation of Federal or State Statute, Regulation, or Rule, or the Small Cities Community Development Block Grant Program rules or program designs.
(2) Ethical violations as set forth herein.
(3) A certified CDBG administrator pleading guilty, nolo contendere, or being convicted of any felony.
(4) Failure to certify or recertify.
(5) Failure to properly supervise an interim CDBG administrator.
Grievances or requests for investigation regarding certified CDBG administrators shall be confidential and shall be forwarded in writing to the Director, Division of Community Affairs and Development, of ODOC. All grievances and requests for investigation must be filed within six (6) months of the alleged activity, and all will be investigated and a report prepared on each. If the investigation warrants disciplinary action, the uniform hearing process of the Oklahoma Administrative Procedures Act shall be followed before such penalty may be imposed. If criminal activity is verified, the appropriate authorities will be notified.

(b) Grievances or requests for investigation regarding certified CDBG administrators shall be confidential and shall be forwarded in writing to the Director, Division of Community Development, of ODOC. All grievances and requests for investigation must be filed within six (6) months of the alleged activity, and all will be investigated and a report prepared on each. If the investigation warrants disciplinary action, the uniform hearing process of the Oklahoma Administrative Procedures Act shall be followed before such penalty may be imposed. If criminal activity is verified, the appropriate authorities will be notified.

150:15-9-6. Penalties

(a) Depending on the nature of the proven violation, penalties to be imposed may include:

- (1) Decertification
(2) Placing an administrator on probation
(3) Letter of admonishment
(4) Suspension of certified status
(5) Combination of the above

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(b) Decertification will be automatic for failure to recertify, or attend a continuing education workshop, following notice with compliance date specified. All other violations will require a hearing.

150:15-9-7. Process to impose penalties

(a) Upon Department of Commerce, the Division Director of the Division of Community Affairs and Development, or his/her designees, are charged with investigating the grievance or request for investigation. The investigation will be undertaken within fifteen days of the receipt of the grievance or request for investigation.

(b) The Division Director makes a report of the findings of the investigation to the Administrator Responsibility Commission. The Administrator Responsibility Commission is a five-(5) person panel with representatives of ~~the Administrative Consultants Association of Oklahoma, the Oklahoma Municipal League, the Oklahoma Association of Community Action Agencies, Oklahoma Association of Regional Councils, and the Association of County Commissioners of Oklahoma~~ one (1) representative from the Oklahoma Department of Commerce, two (2) representatives from the Council of Governments, and two (2) private Certified Grant Administrators. There shall be two (2) alternates, one (1) from the Council of Governments and one (1) from the private Certified Grant Administrators. The above representatives shall be selected by the executive director, president, or equivalent of the named organizations.

(c) On the basis of the investigative report and the grievance or request for investigation the Administrator Responsibility Commission shall determine if a formal disciplinary proceeding be commenced by the filing of a written complaint formal Grievance Form obtained from the Oklahoma Department of Commerce website (www.okcommerce.gov). The Administrator Responsibility Commission can also find that no formal action be taken, a letter of admonishment be written or direct the Division Director to take any other action permitted by the contract between the Oklahoma Department of Commerce and the general purpose local government.

(d) The complaint will be served on the Certified CDBG Administrator who shall have twenty (20) days to respond to the complaint.

(e) If a formal hearing is conducted, the hearing will be presided by the Administrator Responsibility Commission who shall be assisted by legal counsel to be retained by the Oklahoma Department of Commerce. The hearing shall be conducted pursuant to the provisions of the Oklahoma Administrative Procedures Act.

(f) At the conclusion of the disciplinary proceedings the Administrator Responsibility Commission shall present their proposed findings of fact and conclusions of law and recommendations to the Executive Director of the Oklahoma Department of Commerce.

(g) The Executive Director of the Oklahoma Department of Commerce shall issue final findings of fact and conclusions of law, impose discipline after considering the proposed findings of fact and conclusions of law and recommendations of the Administrator Responsibility Commission.

(h) Any person who is aggrieved by a decision regarding the imposition of a penalty shall be entitled to an administrative appeal pursuant to 75 O.S. 1991, 250 et seq. Oklahoma Administrative Procedures Act.

150:15-9-8. Interim certification and use of mentor

(a) In the event an individual wishes to act as an administrator, and the individual has not previously been tested and failed, and individual can act as an interim CDBG administrator upon the completion of the following:

(1) The individual must provide written notice to the Oklahoma Department of Commerce of the interim CDBG administrator's name, address, telephone number; and the name of the certified CDBG administrator that has agreed to be the mentor and supervise the interim CDBG administrator. The Mentor form may be obtained from the Oklahoma Department of Commerce Website (www.okcommerce.gov).

(2) A statement that the interim CDBG administrator understands that he/she is subject to all of the same rules and standards as if they were a certified CDBG administrator, and is also subject to discipline.

(b) Interim certification is effective only until the next certification class and examination.

(c) The mentor must be a certified CDBG administrator in good standing and will cosign all forms, applications, and other documents with the interim CDBG administrator. In the event that a grievance or request for investigation is filed against the interim CDBG administrator, an automatic investigation will be instituted against the mentor to determine if the mentor properly supervised the interim CDBG administrator. The mentor may be subject to discipline for failure to properly supervise an interim CDBG administrator.

150:15-9-9. Unethical conduct per se

The following practices are considered unethical conduct per se by the Oklahoma Department of Commerce.

(1) Certified CDBG Administrators shall not enter into contracts with an applicant ~~that provides that if the CDBG Administrator is selected as the Administrator for a project, the Administrator's fee for the reparation of the application is waived~~ offering to prepare an application to ODOC for CDBG funding assistance with the understanding that no fee for preparing the application will be charged if that administrator is selected to administer the project. Administrators shall enter into a separate contract for the preparation of the application if the Administrator wishes to be paid. The previous contract and/or fee shall have no impact on the fee negotiated between the Administrators and the city, town, or county the Administrator is negotiating with.

(2) All CDBG award recipients are to procure their CDBG Administrators from the list of certified CDBG Administrators, unless the recipient wishes to self-administer the project. Any attempt by a certified CDBG administrator to influence the selection of the certified

CDBG administrator by the recipient of the CDBG award is unethical conduct.

[OAR Docket #16-643; filed 6-27-16]

**TITLE 160. DEPARTMENT OF CONSUMER CREDIT
CHAPTER 3. PROCEDURE**

[OAR Docket #16-673]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

160:3-1-4 [AMENDED]

AUTHORITY:

Administrator of Consumer Credit; 14A O.S. § 6-104(1)(e); 75 O.S. § 302(A).

SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:

January 4, 2016

COMMENT PERIOD:

February 1, 2016 to March 2, 2016

PUBLIC HEARING:

March 2, 2016

ADOPTION:

March 9, 2016

SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:

March 11, 2016

APPROVED BY GOVERNOR'S DECLARATION:

Approved by Governor's declaration on June 9, 2016

FINAL ADOPTION:

June 9, 2016

EFFECTIVE:

September 11, 2016

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

ANALYSIS:

The Administrator is required to issue a Final Agency Order regarding an individual proceeding that has not been resolved pursuant to a Consent Order. The Administrator is required to issue a Final Agency Order within a reasonable period of time after reviewing the administrative record and a proposed order from the hearing examiner. The Administrator is required to schedule a hearing within twenty (20) days from the date of service of an emergency order.

CONTACT PERSON:

Roy John Martin, General Counsel, Department of Consumer Credit, 3613 N.W. 56th Street, Suite 240, Oklahoma City, OK 73112, 405-522-4665, rmartin@okdocc.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, 2016:

160:3-1-4. Requirements for individual proceedings

(a) **Purpose.** The purpose of this rule is to prescribe procedures and requirements for references of parties, entries of appearance, continuances, subpoenas and Consent Orders for individual proceedings at the Department of Consumer Credit (Department). This rule supplements rules in subsequent chapters of this title concerning individual proceedings

and hearing procedures. Any conflicts between this rule and rules in subsequent chapters of this title concerning individual proceedings and hearing procedures shall be resolved in favor of the requirements of this rule.

(b) **Definition of individual proceeding.** For purposes of this rule, individual proceeding has the same meaning as defined in 75 O.S. § 250.3.

(c) **Computation of time.** For purposes of this rule and any subsequent rules in this title concerning individual proceedings and hearing requirements, computation of time shall be as provided in 75 O.S. § 250.8.

(d) **Names of parties.** The Department shall be referred to as the Petitioner in an individual proceeding. A licensee or any entity or individual that is the subject of an individual proceeding initiated by the Department shall be referred to as the Respondent.

(e) **Entry of Appearance.** Attorneys representing the Department and attorneys representing Respondents in an individual proceeding shall file an entry of appearance. The entry of appearance shall include the case caption of the individual proceeding, the name, address, telephone number, electronic mail address and Oklahoma Bar Association number of the attorney filing an entry of appearance. An attorney filing an entry of appearance shall also indicate the party being represented by the attorney.

(f) **Continuances.**

(1) **Continuance motion by the Respondent.** A Respondent that wishes to continue a scheduled hearing pursuant to an individual proceeding shall file a motion for continuance with the Department. The motion for continuance shall be in writing, shall indicate the reason(s) for the requested continuance, shall include the signature of the Respondent or attorney representing the Respondent and shall be filed at least seven (7) calendar days prior to the scheduled hearing date. The calendar day filing requirement may be waived by the hearing examiner for good cause shown, upon motion of the Respondent.

(2) **Continuance by the Department.** The Department may continue a scheduled hearing pursuant to an individual proceeding by submitting written notification to the Respondent via certified mail, return receipt requested, or electronic mail at least seven (7) calendar days prior to the scheduled hearing date. The attorney for the Department shall prepare and sign the continuance order. The continuance order shall be filed at the Department. The submission date shall be the date a continuance is mailed to the Respondent. The calendar day notification requirement may be waived by the hearing examiner for good cause shown, upon motion of the Department.

(3) **Contested continuance motions.** If the Department opposes a motion for continuance filed by the Respondent, the attorney for the Department shall file a motion opposing the motion for continuance and include the reasons why the Department opposes the motion for continuance. The motion for continuance and the motion opposing the continuance shall be submitted to the hearing examiner by the attorney for the Department. The motion for continuance and the motion opposing the continuance

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shall be submitted via electronic mail at least five (5) calendar days prior to the scheduled hearing. The hearing examiner shall issue an order concerning the contested motion for continuance at least three (3) calendar days prior to the scheduled hearing. The hearing examiner shall submit the order to the Department and the Respondent via electronic mail. The continuance order shall be filed at the Department.

(4) **Unopposed continuance motions.** If the Department does not object to a motion for continuance filed by the Respondent, the attorney for the Department shall issue and sign a continuance order and shall submit the continuance order to the Respondent via certified mail, return receipt requested or via electronic mail. The continuance order shall be filed at the Department.

(g) **Subpoenas.**

(1) **Subpoenas by the Department.** If the Department wishes to issue a subpoena for document production or testimony concerning any issue involved in an individual proceeding, the attorney for the Department, the Administrator or Deputy Administrator may issue and sign the subpoena. The subpoena shall be served as authorized by the Oklahoma Civil Procedure Code.

(2) **Subpoenas by a Respondent.** If the Respondent wishes to issue a subpoena for document production or testimony concerning any issue involved in an individual proceeding, the Respondent shall submit a written request to the attorney for the Department or Administrator via electronic mail or regular United States mail. The Administrator, Deputy Administrator or the hearing examiner may issue and sign the subpoena. The subpoena shall be served by the Respondent as authorized by the Oklahoma Civil Procedure Code.

(h) **Consent Orders.**

(1) **Process.** After a Notice of Hearing is filed pursuant to an individual proceeding initiated by the Department, a Respondent may waive their right to a hearing and enter into a Consent Order with the Department. A Respondent that wishes to waive their right to a hearing and enter into a Consent Order shall submit notification to the attorney for the Department. The notification may be submitted via electronic mail or regular United States Mail. The notification shall indicate that the Respondent wishes to waive their right to a hearing and enter into a Consent Order with the Department.

(2) **Time requirements.** Notification that a Respondent wishes to enter into a Consent Order shall be received by the Department at least five (5) calendar days prior to the scheduled hearing date. If the written notification is not received within the required period of time, the hearing shall be heard as scheduled unless waived by written agreement of both parties. Upon receipt of notification that a Respondent wishes to enter into a Consent Order, the attorney for the Department shall prepare a Consent Order for signature by the Respondent and the Administrator or Deputy Administrator. A Consent Order shall be signed by both parties and filed within thirty (30) calendar days of receipt of notification that the Respondent wishes to enter

into a Consent Order. If a Consent Order is not signed by both parties and filed within the required period of time, a hearing shall be re-scheduled for the next regularly scheduled hearing docket at the Department.

(3) **Signatures.** The Deputy Administrator is authorized to sign any Consent Order entered into by a Respondent and the Department. A Respondent shall verify the truth of the statements contained in a Consent Order in the presence of a notary public.

(i) **Final Agency Orders.** The Administrator shall issue a Final Agency Order regarding an individual proceeding that has not been resolved pursuant to a Consent Order. The Administrator shall issue a Final Agency Order within a reasonable period of time after reviewing the administrative record and a proposed order from the hearing examiner.

(j) **Emergency orders.** The Administrator may issue an emergency order, pending the final outcome of the proceeding, that includes the suspension of a license instantler or a cease and desist instantler if the public health, safety, or welfare imperatively requires such action. An emergency order shall include an order for a hearing that is scheduled within twenty (20) days from the date of service of the emergency order. The Administrator shall serve an emergency order by certified mail, return receipt requested, or by personal delivery.

[OAR Docket #16-673; filed 7-7-16]

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

[OAR Docket #16-724]

RULEMAKING ACTION:

PERMANENT final adoption of subject matter standards pursuant to 70 O.S. § 11-103.6a-1

RULES:

Subchapter 3. ~~Priority Academic Student Skills~~ Oklahoma Academic Standards

Part 5. Language Arts

210:15-3-11. Overview [REVOKED]

210:15-3-11.1. Reading/literature [REVOKED]

210:15-3-11.2. Definitions [REVOKED]

210:15-3-12. Language arts for grade 1 [REVOKED]

210:15-3-13. Language arts for grade 2 [REVOKED]

210:15-3-14. Language arts for grade 3 [REVOKED]

210:15-3-15. Language arts for grade 4 [REVOKED]

210:15-3-16. Language arts for grade 5 [REVOKED]

210:15-3-17. Language arts for grade 6 [REVOKED]

210:15-3-18. Language arts for grade 7 [REVOKED]

210:15-3-19. Language arts for grade 8 [REVOKED]

210:15-3-20. Language arts for grade 9 [REVOKED]

210:15-3-21. Language arts for grade 10 [REVOKED]

210:15-3-22. Language arts for grade 11 [REVOKED]

210:15-3-23. Language arts for grade 12 [REVOKED]

AUTHORITY:

70 O.S. § 3-104; 70 O.S. § 11-103.6a; 70 O.S. § 11-103.6a-1; State Board of Education

ADOPTION:

January 28, 2016

SUBMISSION OF ADOPTED STANDARDS TO LEGISLATURE:

February 1, 2016

LEGISLATIVE APPROVAL:

Because the Legislature did not adopt a joint resolution approving or disapproving the standards within thirty (30) legislative days after submission for review, the standards were deemed approved pursuant to 70 O.S. § 11-103.6a-1(C) as of March 23, 2016. The newly adopted standards supersede these previous standards for English Language Arts, and the old sections must be revoked.

EFFECTIVE:

September 11, 2016

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

ANALYSIS:

The revoked rules contain Oklahoma's previous subject matter standards for the study of English Language Arts. 70 O.S. § 11-103.6a(B) directed the State Board of Education to adopt English Language Arts standards in consultation with the State Regents for Higher Education, the State Board of Career and Technology Education, and the Oklahoma Department of Commerce, as well as stakeholder input through public comment. The former standards for English Language Arts codified in these rules were superseded by the newly adopted standards, and these superseded rules must be revoked.

CONTACT PERSON:

Lori Murphy, Assistant General Counsel, Oklahoma State Department of Education, Room 1-17, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma. Telephone number: (405) 522-5260

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 LEGAL SERVICES OFFICE OF THE STATE DEPARTMENT OF EDUCATION, 2500 NORTH LINCOLN BOULEVARD, OKLAHOMA CITY, OKLAHOMA, AND AT THE SECRETARY OF STATE'S OFFICE OF ADMINISTRATIVE RULES AT 421 NORTHWEST 13TH STREET, SUITE 220, OKLAHOMA CITY, OKLAHOMA. THE FOLLOWING SUMMARY HAS BEEN PREPARED PURSUANT TO 75 O.S., SECTION 255(B):

SUMMARY:

The revoked rules in Part 5: Language Arts codified the previous academic standards for English Language Arts (ELA), which have now been superseded by ELA standards adopted in the spring of 2016. The revoked ELA standards were organized into separate sections by grade level, while the new ELA standards are arranged into thematic sections that vertically integrate each specific standard across all grades from pre-kindergarten through grade 12.

[OAR Docket #16-724; filed 8-5-16]

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

[OAR Docket #16-725]

RULEMAKING ACTION:

PERMANENT final adoption of subject matter standards pursuant to 70 O.S. § 11-103.6a-1

RULES:

- Subchapter 3. ~~Priority Academic Student Skills~~ Oklahoma Academic Standards
- Part 5. Language Arts
- 210:15-3-24. English Language Arts education [NEW]
- 210:15-3-25. Definitions [NEW]
- 210:15-3-26. Standard One: Speaking and Listening [NEW]
- 210:15-3-27. Standard Two: Reading and Writing Process/Reading Foundations [NEW]
- 210:15-3-28. Standard Three: Critical Reading and Writing [NEW]
- 210:15-3-29. Standard Four: Vocabulary [NEW]

- 210:15-3-30. Standard Five: Language [NEW]
- 210:15-3-31. Standard Six: Research [NEW]
- 210:15-3-32. Standard Seven: Multimodal Literacies [NEW]
- 210:15-3-33. Standard Eight: Independent Reading and Writing [NEW]

AUTHORITY:

70 O.S. § 3-104; 70 O.S. § 11-103.6a; 70 O.S. § 11-103.6a-1; State Board of Education

ADOPTION:

January 28, 2016

SUBMISSION OF ADOPTED STANDARDS TO LEGISLATURE:

February 1, 2016

LEGISLATIVE APPROVAL:

Because the Legislature did not adopt a joint resolution approving or disapproving the standards within thirty (30) legislative days after submission for review, the standards were deemed approved pursuant to 70 O.S. § 11-103.6a-1(C) as of March 23, 2016.

EFFECTIVE:

September 11, 2016

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

ANALYSIS:

The rules set forth Oklahoma's new subject matter standards for the study of English Language Arts (ELA) in Pre-Kindergarten through Grade 12. House Bill 3399 (2014) directed the State Board of Education to adopt ELA standards in consultation with the State Regents for Higher Education, the State Board of Career and Technology Education, the Oklahoma Department of Commerce, and the public. The State Board of Education approved the new Oklahoma Academic Standards for ELA on January 28, 2016, and submitted the standards for legislative review. The Legislature did not adopt a joint resolution approving or disapproving the standards within thirty (30) legislative days after submission for review, and the standards were deemed approved pursuant to 70 O.S. § 11-103.6a-1(C) on March 23, 2016. 70 O.S. § 11-103.6a-1(E) directs the State Board of Education to submit final approved standards for publication in the Oklahoma Administrative Code in the same manner as agency rules.

CONTACT PERSON:

Lori Murphy, Assistant General Counsel, Oklahoma State Department of Education, Room 1-17, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma. Telephone number: (405) 522-5260

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE EFFECTIVE AS OF SEPTEMBER 11, 2016:

SUBCHAPTER 3. PRIORITY ACADEMIC STUDENT SKILLS OKLAHOMA ACADEMIC STANDARDS

PART 5. LANGUAGE ARTS

210:15-3-24. English Language Arts education

(a) Goal of English language arts education. The overarching goal of English language arts education in Oklahoma is to develop curriculum and instruction that is appropriately engaging, challenging, and sequenced for the students. The students are supported to possess the skills required to analyze, evaluate, act upon, and compose a wide range of communications with the goal of becoming independent, critical readers and writers. The ultimate goal of language arts education is for students to grow increasingly independent for college and career readiness and to be informed citizens who can contribute to the common good.

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(b) **Format of the standards.** The Oklahoma College- and Career- Ready English Language Arts Standards consist of eight overarching English Language Arts standards for pre-kindergarten through high school students. All eight of the standards for each grade level are to be examined as a whole to have a coherent understanding of what is required. Each of the eight standards establishes objective performance criteria for reading and writing. The content to be emphasized and assessed at specific grade levels are clearly identified with the knowledge and skills delineated at the appropriate level. The eight standards are to be used to develop curriculum and instruction that is appropriately engaging, challenging, and sequenced for students. The eight standards are intertwined to develop the total literacy of a student and overlaps grades to interconnect the progression of language arts for the recursive integration of concepts and skills. The progression should reflect a grade-level appropriate relationship between the level of critical thinking students use and the actual listening, speaking, reading, and writing experiences students have, and allows for the development of the total literacy of a student.

210:15-3-25. Definitions

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

"Abbreviation" means a shortened or contracted form of a word or phrase, used to represent the whole, as Dr. for Doctor, U.S. for United States, and lb. for pound.

"Academic vocabulary" means to refer to words associated with content knowledge. Within every discipline there is a specific set of words to represent its concepts and processes.

"Active listening" means the active pursuit of what another person is saying and feeling, as a way to improve mutual understanding. Active listening involves hearing content, listening for tone, observing body language, paraphrasing, summarizing, questioning, clarifying, and reflecting.

"Affix" means a morpheme or meaningful part of a word attached before or after a root to modify its meaning. Principal kinds of affixes are prefixes and suffixes. The prefix un- is an affix, which added to balanced, makes unbalanced. The suffix -ed is an affix which, added to wish, makes wished.

"Alliteration" means the repetition of the same initial consonant sound of each word in connected text (e.g. Harry the happy hippo hula-hoops with Henrietta).

"Allusion" means a brief and indirect reference to a person, place, thing, or idea of historical, cultural, literary, or political significance.

"Analogy" means a comparison of the similar aspects of two different things.

"Annotation" means a critical or explanatory note or body of notes added to a text.

"Antagonist" means the adversary of the hero or protagonist of a drama or other literary work.

"Antonyms" means words which have opposite meanings (e.g. hot and cold).

"Appropriate technology" means technology that students can use independently or with minimal scaffolding.

"Archetype" means a symbol, plot pattern, character type, or theme that recurs in many different cultures.

"Argument essay" means a genre of writing that requires the student to investigate a topic; collect, generate, and evaluate evidence; and establish and defend a position on the topic in a concise manner.

"Argumentation" means writing that seeks to influence through appeals that direct readers to specific goals or try to win them to specific beliefs.

"Audience" means writer's targeted reader or readers.

"Author's craft" means specific techniques that an author chooses to relay an intended message.

"Automaticity" means reading without conscious effort or attention to decoding.

"Base" means a free morpheme to which affixes can be added, usually of Anglo-Saxon origin.

"Blending" means the task of combining sounds rapidly to accurately represent the word.

"Cause and effect" means text structure that notes a relationship in which an event or events (the cause) makes(s) another event or action happen (effect).

"Citing sources" means a quotation of or explicit reference to a source indicating where the paraphrased or quoted materials came. Examples of citation style include MLA (Modern Language Association) and APA (American Psychological Association).

"Claim" means an assertion of the truth of something.

"Close reading" means a strategy that requires a student to focus on and arrive at a deep understanding of individual texts by reading and re-reading. Fisher, Frey, and Lapp (2012) describe four reader roles that help the reader uncover meaning in a text:

(A) **Code Breaker** understanding the text at the surface level (i.e. alphabetic, structural).

(B) **Meaning maker** comprehending the text at the level intended by the author.

(C) **Text user** analyzing the factors that influenced the author and the text, including a historical grounding of the context within which it was written.

(D) **Text critic** understanding that the text is not neutral and that existing biases inform calls to action.

"Closed syllable" means a written syllable containing a single vowel and ending in one or more consonants; the vowel sound is short.

"Coherence" means continuity of meaning that enables others to make sense of a text.

"Collaborative discussions" means discussions that provide opportunities for speakers and listeners to use dialogue and interaction to raise issues, explore ideas, make claims, discover differences, and find ways to explore all aspects of ELA. These take many forms like a Socratic seminar, debate, or blog and combine students in small or large discourse communities.

"Compare" means find similarities between two or more texts or text elements.

"Comparison" means text structure in which ideas are related to one another on the basis of similarities and differences. The text presents ideas organized to compare, to contrast, or to provide an alternative perspective.

"Compound word" means a word made by putting two or more words together (e.g. cowboy).

"Comprehension" means understanding what one is reading, the ultimate goal of all reading activity.

"Conflict" means struggle or clash between opposing characters, forces, or emotions.

"Connotation" means a meaning that is implied by a word apart from the thing it describes explicitly. Words carry cultural and emotional associations or meanings in addition to their literal meanings or denotations.

"Consonant blend" means two or more consecutive consonants that retain their individual sounds (e.g. /bl/ in block; /str/ in string).

"Consonant trigraph" means a combination of three letters used to represent a single speech sound or phoneme (e.g. /tch/).

"Content-specific" means vocabulary that includes technical words related to specific academic disciplines. (See also academic and domain-specific vocabulary)

"Context" means the parts of a written or spoken statement/text that precede or follow a specific word or passage, usually influencing its meaning or effect.

"Context clue" means the information from the textual setting that helps identify a word or word group.

"Contraction" means a short way to write two words as one by writing the two words together, leaving out one or more letters and replacing the missing letters with an apostrophe (e.g. cannot = can't).

"Conventional writing" means expressing thought and ideas with agreed upon symbols, like the alphabet.

"Counterclaim" means a claim made to rebut a previous claim.

"Declarative sentence" means the kind of sentence that makes a statement or "declares" something.

"Decode" means translate a word from print to speech, usually by employing knowledge of sound symbol correspondences; also the act of deciphering a new word by sounding it out.

"Denotation" means the literal or dictionary meaning of a word.

"Description" means text structure that presents a topic, along with the attributes, specifics, or setting information that describe that topic.

"Detail" means piece of information revealed by the author or speaker that supports the attitude or tone in a piece of poetry or prose. In informational text, details provide information to support the author's main point.

"Diction" means the choice and use of words by a speaker or a writer.

"Digital media" means media created, viewed, distributed, modified, and preserved on digital devices (e.g. computers, tablets, phones). Digital media include computer programs, digital videos, video games, web pages and websites, social media, databases, audio, and e-books. Digital media are contrasted with print media such as books, newspapers, magazines, pictures, film, and audiotape.

"Domain-specific vocabulary" means "relatively low-frequency, content-specific words that appear in textbooks and other instructional materials; for example, apex in math, escarpment in geography, and isobar in science" (Blachowicz, C. & Fisher, P., p.1). (See also academic and content-specific vocabulary)

"Edit" means to review writing to make sure it is free of any grammatical errors or strange phrases that make it difficult for readers to understand the meaning.

"Emergent writing" means that children begin to understand that writing is a form of communication and their marks on paper convey a message" (Mayer, 2007, p. 35). Emergent writing progresses along a developmental continuum.

"Ethical and legal guidelines for research" means guidelines for correctly citing print and digital text when using primary and secondary sources for research. In addition, copying and pasting texts, purchasing essays online, using another author's work, or violating copyright laws are unethical and could result in legal action.

"Exclamatory sentence" means a type of sentence that expresses strong feelings by making an exclamation.

"Fiction" means imaginative literary works representing invented rather than actual persons, places, or events.

"Figurative language" means writing or speech not meant to be taken literally but used to express ideas in vivid or imaginative ways. Figurative language includes simile, metaphor, personification, analogy, hyperbole, and idiom.

"Flashback" means scene that interrupts the action of a work to show a previous event.

"Fluency" means ability to read grade-level text accurately, with expression, and with automaticity. The combination of accuracy, automaticity, and prosody allow the reader to build comprehension.

"Foreshadowing" means use of hints or clues in a Narrative to suggest future action.

"Generalize" means to make general or broad statements by inferring from text details.

"Genre" means a category used to classify literary and other words, usually by form, technique, or content. The novel, the short story, and the lyric poems are all examples of literary genres.

"Grammar" means rules of language.

"Grapheme" means a letter or letter combination that spells a phoneme; can be one, two, three, or four letters in English (e.g. e, ei, igh, eigh).

"Graphic features" means pictorial representation of data or ideas using columns, matrices, or other formats. Graphics can be simple or complex, present information in a straightforward way as in a list or pie graph, or embed or nest information within the document's structure. Graphics may be included in texts or be stand-alone documents.

"High frequency Irregular words" means words in print containing letters that stray from the most common sound pronunciation because they do not follow common phonic patterns (e.g. were, was, laugh, been).

"High frequency words" means a small group of words (300-500) that account for a large percentage of the words in

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print and can be regular or irregular words. Often, they are referred to as "sight words" since automatic recognition of these words is required for fluent reading.

"Homographs" means words that are spelled alike but have different sounds and meanings (e.g. bow used with an arrow vs. bow of a ship).

"Homonyms" means words that sound the same but have different spellings and meanings (e.g. bear, bare).

"Hyperbole" means obvious and deliberate exaggeration; an extravagant statement.

"Idiom" means an expression that does not mean what it literally says (e.g. to have the upper hand has nothing to do with the hands).

"Imagery" means multiple words or a continuous phrase that a writer uses to represent persons, objects, actions, feelings, or ideas descriptively by appealing to the senses.

"Imperative sentence" means a sentence that gives a command, makes a request, or expresses a wish.

"Indent" means to set in or back from the margin, as the first line of a paragraph.

"Independent reading levels" means the level at which a reader can read text with 95% accuracy (i.e. no more than one error per 20 words read). Independent reading level is relatively easy text for the reader.

"Inference" means act or process of deriving logical conclusions from premises known or assumed to be true; the conclusions drawn from this process.

"Inferring" means making a reasonable assumption about meaning that is not explicitly stated in the text.

"Inflectional endings" means in English, a suffix that expresses plurality or possession when added to a noun, tense when added to a verb, and comparison when added to an adjective and some adverbs; Added to verbs, nouns, or adjectives do not change the grammatical role or part of speech of the base words (-s, -es, -ing, -ed).

"Informational" means non-fiction books; also referred to as expository text, that contain facts and information.

"Interactive texts" means multimodal texts in which readers may determine the order and duration of reading. For example, interactive texts, may include hyperlinks to other pages containing embedded images, videos and audio.

"Interrogative sentence" means the kind of sentence that asks a question and uses a question mark.

"Irony" means the use of words to express something other than and especially the opposite of the literal meaning.

"Legend" means inscription or title on an object (e.g. a key to symbols used on a map).

"Letter-sound correspondences" means the matching of an oral sound to its corresponding letter or group of letters.

"Lexile" means a quantitative measure of text complexity and individual reading level that can be used to predict how well a reader will likely comprehend a text.

"Literal" means information directly from the text (e.g. on the line).

"Literary nonfiction" means text that conveys factual information. The text may or may not employ a Narrative structure and characteristics such as dialogue.

"Main idea" means the central thought or premise of a reading passage.

"Meaning vocabulary" means application of one's understanding of word meanings to passage comprehension.

"Memoir" means type of autobiography that usually focuses on a single time period or historical event.

"Metaphor" means a direct comparison of two unlike things.

"Modified citation style" means using author, title, and publication date of sources to document research. This special style is used only at the fifth grade level to ease students into more stringent citation styles which are used in later grades.

"Mood" means atmosphere or predominant emotion in a literary work.

"Morpheme" means the smallest meaningful unit of the language.

"Morphology" means the study and description of how words are formed from prefixes, roots, and suffixes (e.g. misspell-ing), and how words are related to each other.

"Multimodal" means multiple + mode. A mode refers to a way of meaning-making or communicating. The New London Group (1996) outlines five modes through which meaning is made: Linguistic, Aural, Visual, Gestural, and Spatial. Any combination of modes makes a multimodal text, and all texts - every piece of communication that a human composes - use more than one mode. Thus, all writing is multimodal. "All Writing is Multimodal," Cheryl Ball and Colin Charlton, in Naming What We Know: Threshold Concepts of Writing Studies, Linda Adler-Kassner & Elizabeth Wardle (Eds.), forthcoming from Utah State University Press.

"Multimodal content" means content utilizing more than one mode (e.g. still images + words, words + video) to convey a meaning.

"Multimodal literacy" means "the interplay of meaning-making systems (alphabetic, oral, visual, etc.) that teachers and students should strive to study and produce." NCTE Position Statement on Multimodal Literacies.

"Multisyllabic" means these are words with more than one syllable. A systematic introduction of prefixes, suffixes, and multisyllabic words should occur throughout a reading program. The average number of syllables in the words students read should increase steadily throughout the grades.

"Narrative writing" means writing that tells a story. This writing is often anecdotal, experiential, and personal - allowing students to express themselves in creative and, quite often, moving ways.

"Nonfiction" means text that is factual and may be presented by detailed descriptions or examples; organization follows a logical pattern and may include textual aids.

"Nonverbal cues" means nonverbal messages that are a key aspect of speaking, for example, intonation, pauses, facial expressions, eye contact, gestures, and body language. Listeners should study these cues to determine a speaker's message, argument, and credibility.

"Nonverbal texts" means in place of words, nonverbal texts may include images, gestures, and movement.

"Onomatopoeia" means use of words that mimic the sounds they describe; imitative harmony.

"Onset" means all of the sounds in a syllable that come before the first vowel.

"Opinion writing" means writing that clearly states a view or judgment about a topic, supported by examples, and offering reasons for assertions and/or explaining cause and effect.

"Parallel structure" means repetition of words, phrases, or sentences that have the same grammatical structure or that restate a similar idea.

"Paraphrase" means to sum something up or clarify a statement by rephrasing it; to say something in other simpler words.

"Personification" means the bestowing of human qualities on animals, ideas, or things.

"Persuasion" means form of discourse whose function is to convince an audience or to prove or refute a point of view or an issue.

"Phoneme" means a speech sound that combines with others in a language system to make words.

"Phonemic awareness" means the ability to notice, think about, or manipulate the individual phonemes (sounds) in words. It is the ability to understand that sounds in spoken language work together to make words. This term is used to refer to the highest level of phonological awareness: awareness of individual phonemes in words.

"Phonics" means the study of the relationships between letters and the sounds they represent; also used to describe reading instruction that teaches sound-symbol correspondences. Sound-symbol correspondence are the rules and patterns by which letters and letter combinations represent speech sounds.

"Phonological awareness" means one's sensitivity to, or explicit awareness of, the phonological structure of words in one's language. This is an "umbrella" term that is used to refer to a student's sensitivity to any aspect of phonological structure in language. It encompasses awareness of individual words in sentences, syllables, an onset-rime segments as well as awareness of individual phonemes.

"Picture walk" means a strategy for previewing a book prior to reading by looking at the cover and illustrations and asking questions that require students to make predictions about the text.

"Plagiarism" means using another person or source's words or ideas without giving credit or obtaining permission.

"Plot" means the sequence of events or actions in a short story, novel, drama, or narrative poem.

"Point of view" means the way in which an author reveals a viewpoint or perspective. This can be done through characters, ideas, events, and narration.

"Prefix" means a morpheme that precedes a root and that contributes to or modifies the meaning of a word, as "re" in reprint.

"Pre-reading strategies" means strategies for preparing students to read a text prior to reading. Examples include: picture walk, brainstorming about the topic/text, advance organizers, activating prior knowledge, vocabulary previews, structural organizers, establishing a purpose for reading, etc.

"Primary source" means firsthand account of an event or a time period written or created during that time period (examples: Diary of Anne Frank, Dorothea Lange's photographs, newspaper article about Hurricane Katrina).

"Print concepts" means the ability of a child to know and recognize the ways in which print "works" for the purposes of reading, particularly with regard to books.

"Prior knowledge" means refers to schema, the knowledge and experience that readers bring to the text.

"Problem/solution" means text structure in which the main ideas are organized into two parts: a problem and a subsequent solution that responds to the problem, or a question and an answer that responds to the question.

"Protagonist" means central character of a short story, novel, or Narrative poem. The antagonist is the character who stands directly opposed to the protagonist.

"Purpose" means the specific reason or reasons for the writing. It conveys what the readers have to gain by reading the selection. Purpose is the objective or the goal that the writer wishes to establish.

"Quote" means, in research, to directly copy down the words from a source, set off in quotation marks.

"R-controlled vowels" means the modified sound of a vowel immediately preceding /r/ in the same syllable (e.g. care, never, sir, or).

"Rate" means the speed at which a person reads.

"Recursive" means moving back and forth through a text in either reading or writing, as new ideas are developed or problems encountered. In reading a text, recursive processes might include rereading earlier portions in light of later ones, looking ahead to see what topics are addressed or how a Narrative ends, and skimming through text to search for particular ideas or events before continuing a linear reading. In creating a written composition, recursive processes include moving back and forth among the planning, drafting, and revising phases of writing.

"Reenact" means to act out the events of a text.

"Retell" means recall the content of what was read or heard.

"Revise" means the process of rereading a text and making changes (in content, organization, sentence structures, and word choice) to improve it; not to be confused with edit.

"Rhetorical device" means technique used by writers to persuade an audience (e.g. alliteration, hyperbole, metaphor, etc.).

"Rhyme" means words that have the same ending sound.

"Rime" means a vowel plus the consonants that follow in a syllable (e.g. -ame, -ick, - out).

"Root" means a bound morpheme, usually of Latin origin, that cannot stand alone but is used to form a family of words with related meanings.

"Schema" means to refer to prior knowledge, the knowledge and experience that readers bring to the text.

"Secondary source" means an interpretation or analysis of a primary source (examples: book about diaries kept during the Holocaust, book about Great Depression photography, an op-ed about how New Orleans handled the Hurricane Katrina aftermath from a later date).

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"Segmenting" means separating the individual phonemes, or sounds, or a word into discrete units.

"Semantic relationships" means associations that exist between the meanings of words.

"Semantics" means the study of meaning in language.

"Sequential structure" means text structure in which ideas are grouped on the basis of order of time.

"Setting" means time and place in which events in a short story, novel, drama, or Narrative poem take place.

"Shared reading" means an interactive reading experience that occurs when students join in or share the reading of a big book or other enlarged text while guided and supported by a teacher or other experienced reader.

"Simile" means a combination of two things that are unlike, usually using the words like or as.

"Stem" means the base form of a word; also called the root word.

"Structural analysis" means a procedure for teaching students to read words formed with prefixes, suffixes, or other meaningful word parts.

"Style" means writer's characteristic manner of employing language.

"Suffix" means a derivational morpheme added to the end of root or base that often changes the word's part of speech and that modifies its meaning.

"Summarize" means reducing large selections of text to their base essentials: the gist, the key ideas, the main points that are worth noting and remembering.

"Supporting details" means reasons, examples, facts, steps, or other kinds of evidence that back up and explain a main idea. Details make up most of the information in what a person reads, but some details are more important than others.

"Syllable" means a unit of pronunciation that is organized around a vowel sound; it may or may not have consonants before or after the vowel.

"Symbol" means object, person, place, or action that has both a meaning in itself and that stands for something larger than itself, such as a quality, attitude, belief, or value.

"Synonyms" means words which have the same meaning (e.g. example, instance, occurrence).

"Syntax" means arrangement of words and order of grammatical elements in a sentence.

"Synthesize" means creating original insights, perspectives, and understanding by reflecting on text(s) and merging elements from text and existing schema.

"Text complexity" means, based on Fisher and Frey (2013), three inter-related aspects determine text complexity:

(A) **Quantitative evaluation** readability measures and other scores of text complexity.

(B) **Qualitative evaluation** levels of meaning, structure, language features, and knowledge demands.

(C) **Matching readers with texts and tasks** reader variables (such as motivation, knowledge, and experiences) and task variables (such as purpose and the complexity generated by the task assigned and the questions posed).

"Theme" means central meaning of a literary work. A literary work can have more than one theme. Most themes are not directly stated but rather are implied. A literary theme is not the same as a topic or main idea.

"Thesis statement" means the guiding, arguable statement or claim an essay attempts to prove through evidence and reasoning.

"Tone" means writer or speaker's attitude toward a subject, character, or audience conveyed through the author's choice of words and detail. Tone can be serious, humorous, sarcastic, objective, etc.

"Topic" means the subject of the entire paragraph/text section; tells what the passage is mainly about.

"Track print" means look and process all the letters in order from left-to-right.

"Trait" means distinguishing feature, as of a person's character.

"Verbal cues" means words and phrases that speakers use to add emphasis, clarify organization, make connections, and create ethos. Listeners should be focusing on these cues as it helps listeners determine a speaker's message, argument, and credibility.

"Vocabulary notebook" means a teaching strategy used to help students learn new vocabulary.

"Voice" means distinctive style or manner of expression of an author or of a character.

"Vowel digraph" means two vowels together that represent one phoneme, or sound (e.g. ea, ai, oa).

"Vowel diphthong" means a sound made by combining two vowels, specifically when it starts as one vowel sound and proceeds to another, like oy sound in oil.

"Word family" means group of words that share a rime (a vowel plus the consonants that follow; e.g. -ame, -ick, -out).

"Word study" means the integration of phonics, spelling, and vocabulary instruction. This approach teaches students how to look closely at words to discover the regularities and conventions of English orthography, or spelling. The purpose is twofold: (1) develop a general knowledge of English spelling and discover generalizations about spelling, and (2) increase students' specific knowledge of words and their meanings.

"Word wall" means a literacy tool used for displaying commonly used vocabulary and/or sight words in large print so that all students can read the words from their desks. The purpose of a word wall is to help students naturally gain familiarity with high frequency words, as well as to gain reinforcement of vocabulary.

"Writing modes" means major types of writing (Narrative, Opinion, Informational, Argumentation).

"Writing process" means steps contained in the writing process prewriting, drafting, revising, editing, and publishing. This process is often recursive.

210:15-3-26. Standard One: Speaking and Listening

(a) **Statement of the standard.** Students will speak and listen effectively in a variety of situations including, but not limited to, responses to reading and writing.

(b) **Standard One objectives for Pre-Kindergarten.** The following objectives apply for students in Pre-Kindergarten:

(1) **Reading.** Students will develop and apply effective communication skills through speaking and active listening.

(A) **Objective 1.** Students will actively listen and speak using agreed upon rules with guidance and support.

(B) **Objective 2.** Students will begin to ask and answer questions about information presented orally or through text or other media with guidance and support.

(C) **Objective 3.** Students will begin to engage in collaborative discussions about appropriate topics and texts with peers and adults in small and large groups with guidance and support.

(D) **Objective 4.** Students will follow simple oral directions.

(2) **Writing.** Students will develop and apply effective communication skills through speaking and active listening to create individual and group projects and presentations.

(A) **Objective 1.** Students will begin to orally describe personal interests or tell stories to classmates with guidance and support.

(B) **Objective 2.** Students will work respectfully with others with guidance and support.

(c) **Standard One objectives for Kindergarten.** The following objectives apply for students in Kindergarten:

(1) **Reading.** Students will develop and apply effective communication skills through speaking and active listening.

(A) **Objective 1.** Students will actively listen and speak using agreed upon rules for discussion with guidance and support.

(B) **Objective 2.** Students will ask and answer questions to seek help, get information, or clarify about information presented orally or through text or other media with guidance and support.

(C) **Objective 3.** Students will engage in collaborative discussions about appropriate topics and texts with peers and adults in small and large groups with guidance and support.

(D) **Objective 4.** Students will follow one and two step directions.

(2) **Writing.** Students will develop and apply effective communication skills through speaking and active listening to create individual and group projects and presentations.

(A) **Objective 1.** Students will orally describe personal interests or tell stories, facing the audience and speaking clearly in complete sentences and following implicit rules for conversation, including taking turns and staying on topic.

(B) **Objective 2.** Students will work respectfully with others with guidance and support.

(d) **Standard One objectives for Grade 1.** The following objectives apply for students in Grade 1:

(1) **Reading.** Students will develop and apply effective communication skills through speaking and active listening.

(A) **Objective 1.** Students will actively listen and speak using agreed upon rules for discussion.

(B) **Objective 2.** Students will ask and answer questions to seek help, get information, or clarify about information presented orally or through text or other media, to confirm understanding.

(C) **Objective 3.** Students will engage in collaborative discussions about appropriate topics and texts with peers and adults in small and large groups.

(D) **Objective 4.** Students will restate and follow simple two step directions.

(2) **Writing.** Students will develop and apply effective communication skills through speaking and active listening to create individual and group projects and presentations.

(A) **Objective 1.** Students will orally describe people, places, things, and events with relevant details expressing their ideas.

(B) **Objective 2.** Students will work respectfully in groups.

(e) **Standard One objectives for Grade 2.** The following objectives apply for students in Grade 2:

(1) **Reading.** Students will develop and apply effective communication skills through speaking and active listening.

(A) **Objective 1.** Students will actively listen and speak using appropriate discussion rules.

(B) **Objective 2.** Students will ask and answer questions to seek help, get information, or clarify about information presented orally, through text or other media to confirm understanding.

(C) **Objective 3.** Students will engage in collaborative discussions about appropriate topics and texts with peers and adults in small and large groups.

(D) **Objective 4.** Students will restate and follow multi-step directions.

(2) **Writing.** Students will develop and apply effective communication skills through speaking and active listening to create individual and group projects and presentations.

(A) **Objective 1.** Students will report on a topic or text, tell a story, or recount an experience with appropriate facts and relevant, descriptive details, speaking audibly in coherent sentences.

(B) **Objective 2.** Students will work respectfully within groups, share responsibility for collaborative work, and value individual contributions made by each group member.

(f) **Standard One objectives for Grade 3.** The following objectives apply for students in Grade 3:

(1) **Reading.** Students will develop and apply effective communication skills through speaking and active listening.

(A) **Objective 1.** Students will actively listen and speak clearly using appropriate discussion rules.

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- (B) **Objective 2.** Students will ask and answer questions to seek help, get information, or clarify about information presented orally through text or other media to confirm understanding.
- (C) **Objective 3.** Students will engage in collaborative discussions about appropriate topics and texts, expressing their own ideas clearly in pairs, diverse groups, and whole class settings.
- (2) **Writing.** Students will develop and apply effective communication skills through speaking and active listening to create individual and group projects and presentations.
- (A) **Objective 1.** Students will report on a topic or text, tell a story, or recount an experience with appropriate facts and relevant, descriptive details, speaking audibly in coherent sentences at an appropriate pace.
- (B) **Objective 2.** Students will work respectfully within diverse groups, share responsibility for collaborative work, and value individual contributions made by each group member.
- (g) **Standard One objectives for Grade 4.** The following objectives apply for students in Grade 4:
- (1) **Reading.** Students will develop and apply effective communication skills through speaking and active listening.
- (A) **Objective 1.** Students will actively listen and speak clearly using appropriate discussion rules.
- (B) **Objective 2.** Students will ask and answer questions to seek help, get information, or clarify information presented orally through text or other media to confirm understanding.
- (C) **Objective 3.** Students will engage in collaborative discussions about appropriate topics and texts, expressing their own ideas clearly while building on the ideas of others in pairs, diverse groups, and whole class settings.
- (2) **Writing.** Students will develop and apply effective communication skills through speaking and active listening to create individual and group projects and presentations.
- (A) **Objective 1.** Students will report on a topic or text, tell a story, or recount an experience with appropriate facts and relevant, descriptive details, speaking audibly in coherent sentences at an appropriate pace.
- (B) **Objective 2.** Students will work effectively and respectfully within diverse groups, share responsibility for collaborative work, and value individual contributions made by each group member.
- (h) **Standard One objectives for Grade 5.** The following objectives apply for students in Grade 5:
- (1) **Reading.** Students will develop and apply effective communication skills through speaking and active listening.
- (A) **Objective 1.** Students will actively listen and speak clearly using appropriate discussion rules with awareness of verbal and nonverbal cues.
- (B) **Objective 2.** Students will ask and answer questions to seek help, get information, or clarify information presented orally through text or other media to confirm understanding.
- (C) **Objective 3.** Students will engage in collaborative discussions about appropriate topics and texts, expressing their own ideas clearly while building on the ideas of others in pairs, diverse groups, and whole class settings.
- (2) **Writing.** Students will develop and apply effective communication skills through speaking and active listening to create individual and group projects and presentations.
- (A) **Objective 1.** Students will give formal and informal presentations in a group or individually, organizing information and determining appropriate content for audience.
- (B) **Objective 2.** Students will work effectively and respectfully within diverse groups, share responsibility for collaborative work, and value individual contributions made by each group member.
- (i) **Standard One objectives for Grade 6.** The following objectives apply for students in Grade 6:
- (1) **Reading.** Students will develop and apply effective communication skills through speaking and active listening.
- (A) **Objective 1.** Students will actively listen and speak clearly using appropriate discussion rules with awareness of verbal and nonverbal cues.
- (B) **Objective 2.** Students will actively listen and interpret a speaker's messages (both verbal and nonverbal) and ask questions to clarify the speaker's purpose and perspective.
- (C) **Objective 3.** Students will engage in collaborative discussions about appropriate topics and texts, expressing their own ideas clearly while building on the ideas of others in pairs, diverse groups, and whole class settings.
- (2) **Writing.** Students will develop and apply effective communication skills through speaking and active listening to create individual and group projects and presentations.
- (A) **Objective 1.** Students will give formal and informal presentations in a group or individually, organizing information and determining appropriate content and purpose for audience.
- (B) **Objective 2.** Students will work effectively and respectfully within diverse groups, share responsibility for collaborative work, and value individual contributions made by each group member.
- (j) **Standard One objectives for Grade 7.** The following objectives apply for students in Grade 7:
- (1) **Reading.** Students will develop and apply effective communication skills through speaking and active listening.
- (A) **Objective 1.** Students will actively listen and speak clearly using appropriate discussion rules with awareness and control of verbal and nonverbal cues.

(B) **Objective 2.** Students will actively listen and interpret a speaker's messages (both verbal and non-verbal) and ask questions to clarify the speaker's purpose and perspective.

(C) **Objective 3.** Students will engage in collaborative discussions about appropriate topics and texts, expressing their own ideas clearly while building on the ideas of others in pairs, diverse groups, and whole class settings.

(2) **Writing.** Students will develop and apply effective communication skills through speaking and active listening to create individual and group projects and presentations.

(A) **Objective 1.** Students will give formal and informal presentations in a group or individually, providing evidence to support a main idea.

(B) **Objective 2.** Students will work effectively and respectfully within diverse groups, show willingness to make necessary compromises to accomplish a goal, share responsibility for collaborative work, and value individual contributions made by each group member.

(k) **Standard One objectives for Grade 8.** The following objectives apply for students in Grade 8:

(1) **Reading.** Students will develop and apply effective communication skills through speaking and active listening.

(A) **Objective 1.** Students will actively listen and speak clearly using appropriate discussion rules with control of verbal and nonverbal cues.

(B) **Objective 2.** Students will actively listen and interpret a speaker's messages (both verbal and non-verbal) and ask questions to clarify the speaker's purpose and perspective.

(C) **Objective 3.** Students will engage in collaborative discussions about appropriate topics and texts, expressing their own ideas clearly while building on the ideas of others in pairs, diverse groups, and whole class settings.

(2) **Writing.** Students will develop and apply effective communication skills through speaking and active listening to create individual and group projects and presentations.

(A) **Objective 1.** Students will give formal and informal presentations in a group or individually, providing textual and visual evidence to support a main idea.

(B) **Objective 2.** Students will work effectively and respectfully within diverse groups, show willingness to make necessary compromises to accomplish a goal, share responsibility for collaborative work, and value individual contributions made by each group member.

(l) **Standard One objectives for Grade 9 - English I.** The following objectives apply for students in Grade 9 - English I:

(1) **Reading.** Students will develop and apply effective communication skills through speaking and active listening.

(A) **Objective 1.** Students will actively listen and speak clearly using appropriate discussion rules with control of verbal and nonverbal cues.

(B) **Objective 2.** Students will actively listen and interpret a speaker's messages (both verbal and non-verbal) and ask questions to clarify the speaker's purpose and perspective.

(C) **Objective 3.** Students will engage in collaborative discussions about appropriate topics and texts, expressing their own ideas clearly while building on the ideas of others in pairs, diverse groups, and whole class settings.

(2) **Writing.** Students will develop and apply effective communication skills through speaking and active listening to create individual and group projects and presentations.

(A) **Objective 1.** Students will give formal and informal presentations in a group or individually, providing textual and visual evidence to support a main idea.

(B) **Objective 2.** Students will work effectively and respectfully within diverse groups, show willingness to make necessary compromises to accomplish a goal, share responsibility for collaborative work, and value individual contributions made by each group member.

(m) **Standard One objectives for Grade 10 - English II.** The following objectives apply for students in Grade 10 - English II:

(1) **Reading.** Students will develop and apply effective communication skills through speaking and active listening.

(A) **Objective 1.** Students will actively listen and speak clearly using appropriate discussion rules with control of verbal and nonverbal cues.

(B) **Objective 2.** Students will actively listen and evaluate, analyze, and synthesize a speaker's messages (both verbal and nonverbal) and ask questions to clarify the speaker's purpose and perspective.

(C) **Objective 3.** Students will engage in collaborative discussions about appropriate topics and texts, expressing their own ideas clearly while building on the ideas of others in pairs, diverse groups, and whole class settings.

(2) **Writing.** Students will develop and apply effective communication skills through speaking and active listening to create individual and group projects and presentations.

(A) **Objective 1.** Students will give formal and informal presentations in a group or individually, providing textual and visual evidence to support a main idea.

(B) **Objective 2.** Students will work effectively and respectfully within diverse groups, show willingness to make necessary compromises to accomplish a goal, share responsibility for collaborative work, and value individual contributions made by each group member.

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(n) **Standard One objectives for Grade 11 - English III.** The following objectives apply for students in Grade 11 - English III:

(1) **Reading.** Students will develop and apply effective communication skills through speaking and active listening.

(A) **Objective 1.** Students will actively listen and speak clearly using appropriate discussion rules with control of verbal and nonverbal cues.

(B) **Objective 2.** Students will actively listen and evaluate, analyze, and synthesize a speaker's messages (both verbal and nonverbal) and ask questions to clarify the speaker's purpose and perspective.

(C) **Objective 3.** Students will engage in collaborative discussions about appropriate topics and texts, expressing their own ideas by contributing to, building on, and questioning the ideas of others in pairs, diverse groups, and whole class settings.

(2) **Writing.** Students will develop and apply effective communication skills through speaking and active listening to create individual and group projects and presentations.

(A) **Objective 1.** Students will give formal and informal presentations in a group or individually, providing textual and visual evidence to support a main idea.

(B) **Objective 2.** Students will work effectively and respectfully within diverse groups, demonstrate willingness to make necessary compromises to accomplish a goal, share responsibility for collaborative work, and value individual contributions made by each group member.

(o) **Standard One objectives for Grade 12 - English IV.** The following objectives apply for students in Grade 12 - English IV:

(1) **Reading.** Students will develop and apply effective communication skills through speaking and active listening.

(A) **Objective 1.** Students will actively listen and speak clearly using appropriate discussion rules with control of verbal and nonverbal cues.

(B) **Objective 2.** Students will actively listen and evaluate, analyze, and synthesize a speaker's messages (both verbal and nonverbal) and ask questions to clarify the speaker's purpose and perspective.

(C) **Objective 3.** Students will engage in collaborative discussions about appropriate topics and texts, expressing their own ideas by contributing to, building on, and questioning the ideas of others in pairs, diverse groups, and whole class settings.

(2) **Writing.** Students will develop and apply effective communication skills through speaking and active listening to create individual and group projects and presentations.

(A) **Objective 1.** Students will give formal and informal presentations in a group or individually, providing textual and visual evidence to support a main idea.

(B) **Objective 2.** Students will work effectively and respectfully within diverse groups, demonstrate willingness to make necessary compromises to accomplish a goal, share responsibility for collaborative work, and value individual contributions made by each group member.

210:15-3-27. Standard Two: Reading and Writing Process/Reading Foundations

(a) **Statement of the standard.** Students will use a variety of recursive reading and writing processes. Students will develop foundational skills for future reading success by working with sounds, letters, and text.

(b) **Standard Two objectives for Pre-Kindergarten.** The following objectives apply for students in Pre-Kindergarten:

(1) **Reading.** Students will read and comprehend increasingly complex literary and informational texts.

(A) **Objective 1.** Students will begin to retell or reenact major events from a read-aloud with guidance and support to recognize the main idea.

(2) **Writing.** Students will develop and strengthen writing by engaging in a recursive process that includes prewriting, drafting, revising, editing, and publishing.

(A) **Objective 1.** Students will begin to express themselves through drawing, dictating, and emergent writing.

(3) **Phonological Awareness.** Students will develop and apply the ability to recognize, think about, and manipulate sounds in spoken language without using text.

(A) **Objective 1.** Students will distinguish spoken words in a sentence with guidance and support.

(B) **Objective 2.** Students will recognize spoken words that rhyme.

(C) **Objective 3.** Students will begin to recognize syllables in spoken words (e.g. sunshine = sun + shine).

(D) **Objective 4.** Students will begin to isolate initial and final sounds in spoken words.

(E) **Objective 5.** Students will begin to recognize initial sounds in a set of spoken words (i.e. alliteration).

(F) **Objective 6.** Students will combine onsets and rimes to form familiar one syllable spoken words with pictorial support (e.g. /c/ at = cat).

(4) **Print Concepts.** Students will demonstrate their understanding of the organization and basic features of print, including book handling skills and the understanding that printed materials provide information and tell stories.

(A) **Objective 1.** Students will write the majority of the letters in their first name and some uppercase and lowercase letters with guidance and support.

(B) **Objective 2.** Students will understand that print carries a message by recognizing labels, signs, and other print in the environment with guidance and support.

- (C) **Objective 3.** Students will begin to demonstrate correct book orientation and identify the front and back covers of a book.
 - (D) **Objective 4.** Students will recognize that written words are made up of letters and are separated by spaces with guidance and support.
 - (E) **Objective 5.** Students will begin to understand that print moves from top to bottom, left to right, and front to back.
 - (F) **Objective 6.** Students will recognize ending punctuation marks in print during shared reading or other text experiences with guidance and support.
- (5) **Phonics and Word Study.** Students will decode and read words in context and isolation by applying phonics and word analysis skills.
- (A) **Objective 1.** Students will name the majority of the letters in their first name and many uppercase and lowercase letters with guidance and support.
 - (B) **Objective 2.** Students will produce some sounds represented by letters with guidance and support.
- (6) **Fluency.** Students will recognize high-frequency words and read grade-level text smoothly and accurately, with expression that connotes comprehension.
- (A) **Objective 1.** Students will read first name in print.
- (c) **Standard Two objectives for Kindergarten.** The following objectives apply for students in Kindergarten:
- (1) **Reading.** Students will read and comprehend increasingly complex literary and informational texts.
- (A) **Objective 1.** Students will begin to retell or reenact major events from a read-aloud with guidance and support to recognize the main idea.
 - (B) **Objective 2.** Students will discriminate between fiction and nonfiction/informational text with guidance and support.
 - (C) **Objective 3.** Students will sequence the events/plot (i.e. beginning, middle, and end) of a story or text with guidance and support.
- (2) **Writing.** Students will develop and strengthen writing by engaging in a recursive process that includes prewriting, drafting, revising, editing, and publishing.
- (A) **Objective 1.** Students will begin to develop first drafts by expressing themselves through drawing and emergent writing.
 - (B) **Objective 2.** Students will begin to develop first drafts by sequencing the action or details of stories/texts.
 - (C) **Objective 3.** Students will begin to edit first drafts using appropriate spacing between letters and words.
- (3) **Phonological Awareness.** Students will develop and apply the ability to recognize, think about, and manipulate sounds in spoken language without using text.
- (A) **Objective 1.** Students will distinguish spoken words in a sentence.
 - (B) **Objective 2.** Students will recognize and produce pairs of rhyming words, and distinguish them from non-rhyming pairs.
 - (C) **Objective 3.** Students will isolate and pronounce the same initial sounds in a set of spoken words (e.g. alliteration) (e.g. "the puppy pounces").
 - (D) **Objective 4.** Students will recognize the short or long vowel sound in one syllable words.
 - (E) **Objective 5.** Students will count, pronounce, blend, segment, and delete syllables in spoken words.
 - (F) **Objective 6.** Students will blend and segment onset and rime in one syllable spoken words (e.g. Blending: /ch/ + at = chat; segmenting: cat = /c/ + at).
 - (G) **Objective 7.** Students will blend phonemes to form one syllable spoken words with 3 to 5 phonemes (e.g. /f/ /a/ /s/ /t/ = fast).
 - (H) **Objective 8.** Students will segment phonemes in one syllable spoken words with 3 to 5 phonemes (e.g. "fast" = /f/ /a/ /s/ /t/).
 - (I) **Objective 9.** Students will add, delete, and substitute phonemes in one syllable spoken words (e.g. "add /c/ to the beginning of "at" to say "cat;" "remove the /p/ from "pin," to say "in;" "change the /d/ in "dog" to /f/ /t/ to say "frog").
- (4) **Print Concepts.** Students will demonstrate their understanding of the organization and basic features of print, including book handling skills and the understanding that printed materials provide information and tell stories.
- (A) **Objective 1.** Students will correctly form letters to write their first and last name and most uppercase and lowercase letters correctly.
 - (B) **Objective 2.** Students will demonstrate their understanding that print carries a message by recognizing labels, signs, and other print in the environment.
 - (C) **Objective 3.** Students will demonstrate correct book orientation and identify the title, title page, and the front and back covers of a book.
 - (D) **Objective 4.** Students will recognize that written words are made up of letters and are separated by spaces.
 - (E) **Objective 5.** Students will recognize that print moves from top to bottom, left to right, and front to back (does not have to be matched to voice).
 - (F) **Objective 6.** Students will recognize the distinguishing features of a sentence (e.g. capitalization of the first word, ending punctuation: period, exclamation mark, question mark) with guidance and support.
- (5) **Phonics and Word Study.** Students will decode and read words in context and isolation by applying phonics and word analysis skills.
- (A) **Objective 1.** Students will name all uppercase and lowercase letters.
 - (B) **Objective 2.** Students will sequence the letters of the alphabet.

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- (C) **Objective 3.** Students will produce the primary or most common sound for each consonant, short and long vowel sounds (e.g. c = /k/, c = /s/, s = /s/, s = /z/, x = /ks/, x = /z/).
- (D) **Objective 4.** Students will blend letter sounds to decode simple Vowel / Consonant (VC) and Consonant / Vowel / Consonant (CVC) words (e.g. VC words = at, in, up; CVC words = pat, hen, lot).
- (6) **Fluency.** Students will recognize high-frequency words and read grade-level text smoothly and accurately, with expression that connotes comprehension.
- (A) **Objective 1.** Students will read first and last name in print.
- (B) **Objective 2.** Students will read common high frequency grade-level words by sight (e.g. not, was, to, have, you, he, is, with, are).
- (d) **Standard Two objectives for Grade 1.** The following objectives apply for students in Grade 1:
- (1) **Reading.** Students will read and comprehend increasingly complex literary and informational texts.
- (A) **Objective 1.** Students will retell or reenact major events in a text, focusing on important details to recognize the main idea.
- (B) **Objective 2.** Students will discriminate between fiction and nonfiction/informational text.
- (C) **Objective 3.** Students will sequence the events/plot (i.e. beginning, middle, and end) of a story or text.
- (2) **Writing.** Students will develop and strengthen writing by engaging in a recursive process that includes prewriting, drafting, revising, editing, and publishing.
- (A) **Objective 1.** Students will begin to develop and edit first drafts using appropriate spacing between letters, words, and sentences using left-to-right and top-to-bottom progression.
- (B) **Objective 2.** Students will develop drafts by sequencing the action or details in a story or about a topic through writing sentences with guidance and support.
- (C) **Objective 3.** Students will correctly spell grade-appropriate, highly decodable words (e.g. cup, like, cart) and common, irregularly spelled sight words (e.g. the) while editing.
- (D) **Objective 4.** Students will use resources to find correct spellings of words (e.g. word wall, vocabulary notebook).
- (3) **Phonological Awareness.** Students will develop and apply the ability to recognize, think about, and manipulate sounds in spoken language without using text.
- (A) **Objective 1.** Students will blend and segment onset and rime in spoken words (e.g. /ch/ + /at/ = chat).
- (B) **Objective 2.** Students will differentiate short from long vowel sounds in one syllable words.
- (C) **Objective 3.** Students will isolate and pronounce initial, medial, and final sounds in spoken words.
- (D) **Objective 4.** Students will blend phonemes to form spoken words with 4 to 6 phonemes, including consonant blends (e.g. /s/ /t/ /r/ /i/ /ng/ = string).
- (E) **Objective 5.** Students will segment phonemes in spoken words with 4 to 6 phonemes (e.g. string = /s/ /t/ /r/ /i/ /ng/).
- (F) **Objective 6.** Students will add, delete, and substitute phonemes in spoken words (e.g. "add /g/ to the beginning of "low" to say "glow;" "remove the /idge/ from "bridge," to say "br;" "change the /ar/ in "charm" to /u/ to say "chum").
- (4) **Print Concepts.** Students will demonstrate their understanding of the organization and basic features of print, including book handling skills and the understanding that printed materials provide information and tell stories.
- (A) **Objective 1.** Students will correctly form letters and use appropriate spacing for letters, words, and sentences using left-to-right and top-to-bottom progression.
- (B) **Objective 2.** Students will recognize the distinguishing features of a sentence (e.g. capitalization of the first word, ending punctuation, comma, quotation marks).
- (C) Students will continue to review and apply earlier grade level expectations for this standard. If print concepts skills are not mastered, students will address skills from previous grades.
- (5) **Phonics and Word Study.** Students will decode and read words in context and isolation by applying phonics and word analysis skills.
- (A) **Objective 1.** Students will decode phonetically regular words by using their knowledge of:
- (i) single consonants (e.g. c = /k/, c = /s/, s = /s/, s = /z/, x = /ks/, x = /z/).
- (ii) consonant blends (e.g. bl, br, cr).
- (iii) consonant digraphs and trigraphs (e.g. sh-, -tch).
- (iv) vowel sounds:
- (I) long.
- (II) short.
- (v) r-controlled vowels (e.g. ar, er, ir, or, ur).
- (vi) vowel spelling patterns:
- (I) vowel digraphs (e.g. ea, oa, ee).
- (II) vowel-consonant-silent-e (e.g. lake).
- (B) **Objective 2.** Students will decode words by applying knowledge of structural analysis.
- (i) most major syllable patterns (e.g. closed, open, vowel team, vowel silent e, r-controlled).
- (ii) inflectional endings (e.g. -s, -ed, -ing).
- (iii) compound words.
- (iv) contractions.
- (C) **Objective 3.** Students will read words in common word families (e.g. -at, -ab, -am, -in).
- (6) **Fluency.** Students will recognize high-frequency words and read grade-level text smoothly and accurately, with expression that connotes comprehension.

- (A) **Objective 1.** Students will read high frequency and/or common irregularly spelled grade-level words with automaticity in text.
- (B) **Objective 2.** Students will orally read grade-level at an appropriate rate, smoothly and accurately, with expression that connotes comprehension.
- (e) **Standard Two objectives for Grade 2.** The following objectives apply for students in Grade 2:
- (1) **Reading.** Students will read and comprehend increasingly complex literary and informational texts.
- (A) **Objective 1.** Students will locate the main idea and supporting details of a text.
- (B) **Objective 2.** Students will begin to compare and contrast details (e.g. plots or events, settings, and characters) to discriminate genres.
- (C) **Objective 3.** Students will begin to summarize events or plots (i.e. beginning, middle, end, and conflict) of a story or text.
- (2) **Writing.** Students will develop and strengthen writing by engaging in a recursive process that includes prewriting, drafting, revising, editing, and publishing.
- (A) **Objective 1.** Students will develop drafts by sequencing the action or details in a story or about a topic through writing sentences.
- (B) **Objective 2.** Students will develop and edit first drafts using appropriate spacing between letters, words, and sentences.
- (C) **Objective 3.** Students will correctly spell grade-appropriate words while editing.
- (D) **Objective 4.** Students will use resources to find correct spellings of words (e.g. word wall, vocabulary notebook).
- (3) **Phonological Awareness.** Students will develop and apply the ability to recognize, think about, and manipulate sounds in spoken language without using text. Students will continue to review and apply earlier grade level expectations for this standard. If phonological awareness skills are not mastered, students will address skills from previous grades.
- (4) **Print Concepts.** Students will demonstrate their understanding of the organization and basic features of print, including book handling skills and the understanding that printed materials provide information and tell stories.
- (A) **Objective 1.** Students will correctly form letters in print and use appropriate spacing for letters, words, and sentences.
- (B) Students will continue to review and apply earlier grade level expectations for this standard. If print concept skills are not mastered, students will address skills from previous grades.
- (5) **Phonics and Word Study.** Students will decode and read words in context and isolation by applying phonics and word analysis skills.
- (A) **Objective 1.** Students will decode one- and two- syllable words by using their knowledge of:
- (i) single consonants, including those with two different sounds (e.g. soft and hard c [cent, cat] and g [gem, goat]).
- (ii) consonant blends (e.g. bl, br, cr).
- (iii) consonant digraphs and trigraphs (e.g. sh-, -tch).
- (iv) vowel sounds:
- (I) long.
- (II) short.
- (III) "r" controlled vowels (e.g. ar, er, ir, or, ur).
- (v) vowel spelling patterns:
- (I) vowel digraphs (e.g. ea, oa, ee).
- (II) vowel-consonant-silent-e (e.g. lake).
- (III) vowel diphthongs [vowel combinations having two vowel sounds (e.g. oi as in boil, oy as in boy)].
- (B) **Objective 2.** Students will decode words by applying knowledge of structural analysis:
- (i) all major syllable patterns (e.g. closed, consonant +le, open, vowel team, vowel silent e, r-controlled).
- (ii) inflectional endings (e.g. -s, -ed, -ing).
- (iii) compound words.
- (iv) contractions.
- (v) abbreviations.
- (vi) common roots and related prefixes and suffixes.
- (C) **Objective 3.** Students will read words in common word families (e.g. -ight, -ink, -ine, -ow).
- (D) Students will continue to review and apply earlier grade level expectations for this standard. If these decoding skills are not mastered, students will address skills from previous grades.
- (6) **Fluency.** Students will recognize high-frequency words and read grade-level text smoothly and accurately, with expression that connotes comprehension.
- (A) **Objective 1.** Students will read high frequency and/or common irregularly spelled grade-level words with automaticity in text.
- (B) **Objective 2.** Students will orally read grade-level text at an appropriate rate, smoothly and accurately, with expression that connotes comprehension.
- (C) Students will continue to review and apply earlier grade level expectations for this standard. If these fluency skills are not mastered, students will address skills from previous grades.
- (f) **Standard Two objectives for Grade 3.** The following objectives apply for students in Grade 3:
- (1) **Reading.** Students will read and comprehend increasingly complex literary and informational texts.
- (A) **Objective 1.** Students will locate the main idea and key supporting details of a text or section of text.
- (B) **Objective 2.** Students will compare and contrast details (e.g. plots or events, settings, and characters) to discriminate genres.

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- (C) **Objective 3.** Students will summarize events or plots (i.e. beginning, middle, end, and conflict) of a story or text.
- (2) **Writing.** Students will develop and strengthen writing by engaging in a recursive process that includes prewriting, drafting, revising, editing, and publishing.
- (A) **Objective 1.** Students will develop drafts by categorizing ideas and organizing them into paragraphs using correct paragraph indentations.
- (B) **Objective 2.** Students will edit drafts and revise for clarity and organization.
- (C) **Objective 3.** Students will correctly spell grade-appropriate words while editing.
- (D) **Objective 4.** Students will use resources to find correct spellings of words (e.g. word wall, vocabulary notebook, print and electronic dictionaries).
- (3) **Phonological Awareness.** Students will develop and apply the ability to recognize, think about, and manipulate sounds in spoken language without using text. Students will continue to review and apply earlier grade level expectations for this standard. If phonological awareness skills are not mastered, students will address skills from previous grades.
- (4) **Print Concepts.** Students will demonstrate their understanding of the organization and basic features of print, including book handling skills and the understanding that printed materials provide information and tell stories.
- (A) **Objective 1.** Students will correctly form letters in print and cursive and use appropriate spacing for letters, words, and sentences.
- (B) Students will continue to review and apply earlier grade level expectations for this standard. If print concept skills are not mastered, students will address skills from previous grades.
- (5) **Phonics and Word Study.** Students will decode and read words in context and isolation by applying phonics and word analysis skills.
- (A) **Objective 1.** Students will decode multisyllabic words using their knowledge of:
- (i) "r" controlled vowels (e.g. ar, er, ir, or, ur).
- (ii) vowel diphthongs [vowel combinations having two vowel sounds (e.g. oi as in boil, oy as in boy)].
- (B) **Objective 2.** Students will decode multisyllabic words by applying knowledge of structural analysis:
- (i) all major syllable patterns.
- (ii) contractions.
- (iii) abbreviations.
- (iv) common roots and related prefixes and suffixes.
- (C) **Objective 3.** Students will use decoding skills and semantics in context when reading new words in a text, including multisyllabic words.
- (D) Students will continue to review and apply earlier grade level expectations for this standard. If these
- decoding skills are not mastered, students will address skills from previous grades.
- (6) **Fluency.** Students will recognize high-frequency words and read grade-level text smoothly and accurately, with expression that connotes comprehension.
- (A) **Objective 1.** Students will read high frequency and/or irregularly spelled grade-level words with automaticity in text.
- (B) **Objective 2.** Students will orally read grade-level text at an appropriate rate, smoothly and accurately, with expression that connotes comprehension.
- (C) Students will continue to review and apply earlier grade level expectations for this standard. If these fluency skills are not mastered, students will address skills from previous grades.
- (g) **Standard Two objectives for Grade 4.** The following objectives apply for students in Grade 4:
- (1) **Reading.** Students will read and comprehend increasingly complex literary and informational texts.
- (A) **Objective 1.** Students will distinguish how key details support the main idea of a passage.
- (B) **Objective 2.** Students will compare and contrast details in literary and nonfiction/informational texts to discriminate various genres.
- (C) **Objective 3.** Students will summarize events or plots (i.e. beginning, middle, end, conflict, and climax) of a story or text.
- (D) **Objective 4.** Students will begin to paraphrase main ideas with supporting details in a text.
- (2) **Writing.** Students will develop and strengthen writing by engaging in a recursive process that includes prewriting, drafting, revising, editing, and publishing.
- (A) **Objective 1.** Students will develop drafts by categorizing ideas and organizing them into paragraphs.
- (B) **Objective 2.** Students will edit drafts and revise for clarity and organization.
- (C) **Objective 3.** Students will correctly spell grade-appropriate words while editing.
- (D) **Objective 4.** Students will use resources to find correct spellings of words (e.g. word wall, vocabulary notebook, print and electronic dictionaries, and spell-check).
- (3) **Phonological Awareness.** Students will develop and apply the ability to recognize, think about, and manipulate sounds in spoken language without using text. Students will continue to review and apply earlier grade level expectations for this standard. If phonological awareness skills are not mastered, students will address skills from previous grades.
- (4) **Print Concepts.** Students will demonstrate their understanding of the organization and basic features of print, including book handling skills and the understanding that printed materials provide information and tell stories.
- (A) **Objective 1.** Students will correctly form letters in print and cursive and use appropriate spacing for letters, words, and sentences.

(B) Students will continue to review and apply earlier grade level expectations for this standard. If print concept skills are not mastered, students will address skills from previous grades.

(5) **Phonics and Word Study.** Students will decode and read words in context and isolation by applying phonics and word analysis skills.

(A) **Objective 1.** Students will use their combined knowledge of letter-sound correspondences, syllable patterns, morphology and semantics to accurately read unfamiliar words, including multisyllabic words.

(B) Students will continue to review and apply earlier grade level expectations for this standard. If these decoding skills are not mastered, students will address skills from previous grades.

(6) **Fluency.** Students will recognize high-frequency words and read grade-level text smoothly and accurately, with expression that connotes comprehension.

(A) **Objective 1.** Students will read high frequency and/or irregularly spelled grade-level words with automaticity in text.

(B) **Objective 2.** Students will orally read grade-level text at an appropriate rate, smoothly and accurately, with expression that connotes comprehension.

(C) Students will continue to review and apply earlier grade level expectations for this standard. If these fluency skills are not mastered, students will address skills from previous grades.

(h) **Standard Two objectives for Grade 5.** The following objectives apply for students in Grade 5:

(1) **Reading.** Students will read and comprehend increasingly complex literary and informational texts.

(A) **Objective 1.** Students will create an objective summary, including main idea and supporting details, while maintaining meaning and a logical sequence of events.

(B) **Objective 2.** Students will compare and contrast details in literary and nonfiction/informational texts to distinguish genres.

(C) **Objective 3.** Students will begin to paraphrase main ideas with supporting details in a text.

(2) **Writing.** Students will develop and strengthen writing by engaging in a recursive process that includes prewriting, drafting, revising, editing, and publishing.

(A) **Objective 1.** Students will apply components of a recursive writing process for multiple purposes to create a focused, organized, and coherent piece of writing.

(B) **Objective 2.** Students will plan (e.g. outline) and prewrite a first draft as necessary.

(C) **Objective 3.** Students will develop drafts by choosing an organizational structure (e.g. description, compare/contrast, sequential, problem/solution, cause/effect, etc.) and building on ideas in multi-paragraph essays.

(D) **Objective 4.** Students will edit and revise multiple drafts for intended purpose (e.g. staying on topic), organization, and coherence.

(E) **Objective 5.** Students will use resources to find correct spellings of words (e.g. word wall, vocabulary notebook, print and electronic dictionaries, and spell-check).

(3) **Fluency.** Students will recognize high-frequency words and read grade-level text smoothly and accurately, with expression that connotes comprehension. Students will continue to review and apply earlier grade level expectations for this standard. If these fluency skills are not mastered, students will address skills from previous grades.

(i) **Standard Two objectives for Grade 6.** The following objectives apply for students in Grade 6:

(1) **Reading.** Students will read and comprehend increasingly complex literary and informational texts.

(A) **Objective 1.** Students will create an objective summary, including main idea and supporting details, while maintaining meaning and a logical sequence of events.

(B) **Objective 2.** Students will analyze details in literary and nonfiction/informational texts to distinguish genres.

(C) **Objective 3.** Students will paraphrase main ideas with supporting details in a text.

(2) **Writing.** Students will develop and strengthen writing by engaging in a recursive process that includes prewriting, drafting, revising, editing, and publishing.

(A) **Objective 1.** Students will apply components of a recursive writing process for multiple purposes to create a focused, organized, and coherent piece of writing.

(B) **Objective 2.** Students will plan (e.g. outline) and prewrite a first draft as necessary.

(C) **Objective 3.** Students will develop drafts by choosing an organizational structure (e.g. description, compare/contrast, sequential, problem/solution, cause/effect, etc.) and building on ideas in multi-paragraph essays.

(D) **Objective 4.** Students will edit and revise multiple drafts for intended purpose (e.g. staying on topic), organization, coherence, using a consistent point of view.

(E) **Objective 5.** Students will use resources to find correct spellings of words (e.g. word wall, vocabulary notebook, print and electronic dictionaries, and spell-check).

(3) **Fluency.** Students will recognize high-frequency words and read grade-level text smoothly and accurately, with expression that connotes comprehension. Students will continue to review and apply earlier grade level expectations for this standard. If these fluency skills are not mastered, students will address skills from previous grades.

(j) **Standard Two objectives for Grade 7.** The following objectives apply for students in Grade 7:

(1) **Reading.** Students will read and comprehend increasingly complex literary and informational texts.

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- (A) **Objective 1.** Students will create an objective summary, including main idea and supporting details, while maintaining meaning and a logical sequence of events.
- (B) **Objective 2.** Students will analyze details in literary and nonfiction/informational texts to distinguish genres.
- (C) **Objective 3.** Students will paraphrase main ideas with supporting details in a text.
- (2) **Writing.** Students will develop and strengthen writing by engaging in a recursive process that includes prewriting, drafting, revising, editing, and publishing.
- (A) **Objective 1.** Students will apply components of a recursive writing process for multiple purposes to create a focused, organized, and coherent piece of writing.
- (B) **Objective 2.** Students will plan (e.g. outline) and prewrite a first draft as necessary.
- (C) **Objective 3.** Students will develop drafts by choosing an organizational structure (e.g. description, compare/contrast, sequential, problem/solution, cause/effect, etc.) and building on ideas in multi-paragraph essays.
- (D) **Objective 4.** Students will edit and revise multiple drafts for organization, transitions, to improve coherence and meaning, using a consistent point of view.
- (E) **Objective 5.** Students will use resources to find correct spellings of words (e.g. word wall, vocabulary notebook, print and electronic dictionaries, and spell-check).
- (3) **Fluency.** Students will recognize high-frequency words and read grade-level text smoothly and accurately, with expression that connotes comprehension. Students will continue to review and apply earlier grade level expectations for this standard. If these fluency skills are not mastered, students will address skills from previous grades.
- (k) **Standard Two objectives for Grade 8.** The following objectives apply for students in Grade 8:
- (1) **Reading.** Students will read and comprehend increasingly complex literary and informational texts.
- (A) **Objective 1.** Students will summarize and paraphrase ideas, while maintaining meaning and a logical sequence of events, within and between texts.
- (B) **Objective 2.** Students will analyze details in literary and nonfiction/informational texts to evaluate patterns of genres.
- (C) **Objective 3.** Students will generalize main ideas with supporting details in a text.
- (2) **Writing.** Students will develop and strengthen writing by engaging in a recursive process that includes prewriting, drafting, revising, editing, and publishing.
- (A) **Objective 1.** Students will apply components of a recursive writing process for multiple purposes to create a focused, organized, and coherent piece of writing.
- (B) **Objective 2.** Students will plan (e.g. outline) and prewrite a first draft as necessary.
- (C) **Objective 3.** Students will develop drafts by choosing an organizational structure (e.g. description, compare/contrast, sequential, problem/solution, cause/effect, etc.) and building on ideas in multi-paragraph essays.
- (D) **Objective 4.** Students will edit and revise multiple drafts for organization, transitions, to improve coherence and meaning, sentence variety, and use of consistent tone and point of view.
- (E) **Objective 5.** Students will use resources to find correct spellings of words (e.g. word wall, vocabulary notebook, print and electronic dictionaries, and spell-check).
- (B) **Objective 2.** Students will plan (e.g. outline) and prewrite a first draft as necessary.
- (C) **Objective 3.** Students will develop drafts by choosing an organizational structure (e.g. description, compare/contrast, sequential, problem/solution, cause/effect, etc.) and building on ideas in multi-paragraph essays.
- (D) **Objective 4.** Students will edit and revise multiple drafts for organization, transitions, to improve coherence and meaning, sentence variety, and use of consistent point of view.
- (E) **Objective 5.** Students will use resources to find correct spellings of words (e.g. word wall, vocabulary notebook, print and electronic dictionaries, and spell-check).
- (3) **Fluency.** Students will recognize high-frequency words and read grade-level text smoothly and accurately, with expression that connotes comprehension. Students will continue to review and apply earlier grade level expectations for this standard. If these fluency skills are not mastered, students will address skills from previous grades.
- (l) **Standard Two objectives for Grade 9 - English I.** The following objectives apply for students in Grade 9 - English I:
- (1) **Reading.** Students will read and comprehend increasingly complex literary and informational texts.
- (A) **Objective 1.** Students will summarize, paraphrase, and generalize ideas, while maintaining meaning and a logical sequence of events, within and between texts.
- (B) **Objective 2.** Students will analyze details in literary and nonfiction/informational texts to evaluate patterns of genres.
- (C) **Objective 3.** Students will synthesize main ideas with supporting details in a text.
- (2) **Writing.** Students will develop and strengthen writing by engaging in a recursive process that includes prewriting, drafting, revising, editing, and publishing.
- (A) **Objective 1.** Students will apply components of a recursive writing process for multiple purposes to create a focused, organized, and coherent piece of writing.
- (B) **Objective 2.** Students will plan (e.g. outline) and prewrite a first draft as necessary.
- (C) **Objective 3.** Students will develop drafts by choosing an organizational structure (e.g. description, compare/contrast, sequential, problem/solution, cause/effect, etc.) and building on ideas in multi-paragraph essays.
- (D) **Objective 4.** Students will edit and revise multiple drafts for organization, transitions, to improve coherence and meaning, sentence variety, and use of consistent tone and point of view.
- (E) **Objective 5.** Students will use resources to find correct spellings of words (e.g. word wall, vocabulary notebook, print and electronic dictionaries, and spell-check).

(m) **Standard Two objectives for Grade 10 - English II.** The following objectives apply for students in Grade 10 - English II:

(1) **Reading.** Students will read and comprehend increasingly complex literary and informational texts.

(A) **Objective 1.** Students will summarize, paraphrase, and synthesize ideas, while maintaining meaning and a logical sequence of events, within and between texts.

(B) **Objective 2.** Students will analyze details in literary and nonfiction/informational texts to connect how genre supports the author's purpose.

(2) **Writing.** Students will develop and strengthen writing by engaging in a recursive process that includes prewriting, drafting, revising, editing, and publishing.

(A) **Objective 1.** Students will apply components of a recursive writing process for multiple purposes to create a focused, organized, and coherent piece of writing.

(B) **Objective 2.** Students will plan (e.g. outline) and prewrite a first draft as necessary.

(C) **Objective 3.** Students will develop drafts by choosing an organizational structure (e.g. description, compare/contrast, sequential, problem/solution, cause/effect, etc.) and building on ideas in multi-paragraph essays.

(D) **Objective 4.** Students will edit and revise multiple drafts for organization, enhanced transitions and coherence, sentence variety, and consistency in tone and point of view to establish meaningful texts.

(E) **Objective 5.** Students will use resources to find correct spellings of words (e.g. word wall, vocabulary notebook, print and electronic dictionaries, and spell-check).

(n) **Standard Two objectives for Grade 11 - English III.** The following objectives apply for students in Grade 11 - English III:

(1) **Reading.** Students will read and comprehend increasingly complex literary and informational texts.

(A) **Objective 1.** Students will summarize, paraphrase, and synthesize ideas, while maintaining meaning and a logical sequence of events, within and between texts.

(B) **Objective 2.** Students will evaluate details in literary and nonfiction/informational texts to connect how genre supports the author's purpose.

(2) **Writing.** Students will develop and strengthen writing by engaging in a recursive process that includes prewriting, drafting, revising, editing, and publishing.

(A) **Objective 1.** Students will apply components of a recursive writing process for multiple purposes to create a focused, organized, and coherent piece of writing.

(B) **Objective 2.** Students will plan (e.g. outline) and prewrite a first draft as necessary.

(C) **Objective 3.** Students will develop drafts by choosing an organizational structure (e.g. description, compare/contrast, sequential, problem/solution,

cause/effect, etc.) and building on ideas in multi-paragraph essays.

(D) **Objective 4.** Students will edit and revise multiple drafts for logical organization, enhanced transitions and coherence, sentence variety, and use of tone and point of view through specific rhetorical devices to establish meaningful texts.

(E) **Objective 5.** Students will use resources to find correct spellings of words (e.g. word wall, vocabulary notebook, print and electronic dictionaries, and spell-check).

(o) **Standard Two objectives for Grade 12 - English IV.** The following objectives apply for students in Grade 12 - English IV:

(1) **Reading.** Students will read and comprehend increasingly complex literary and informational texts.

(A) **Objective 1.** Students will summarize, paraphrase, and synthesize ideas, while maintaining meaning and a logical sequence of events, within and between texts.

(B) **Objective 2.** Students will evaluate details in literary and nonfiction/informational texts to connect how genre supports the author's purpose.

(2) **Writing.** Students will develop and strengthen writing by engaging in a recursive process that includes prewriting, drafting, revising, editing, and publishing.

(A) **Objective 1.** Students will apply components of a recursive writing process for multiple purposes to create a focused, organized, and coherent piece of writing.

(B) **Objective 2.** Students will plan (e.g. outline) and prewrite a first draft as necessary.

(C) **Objective 3.** Students will develop drafts by choosing an organizational structure (e.g. description, compare/contrast, sequential, problem/solution, cause/effect, etc.) and building on ideas in multi-paragraph essays.

(D) **Objective 4.** Students will edit and revise multiple drafts for logical organization, enhanced transitions and coherence, sentence variety, and use of tone and point of view through specific rhetorical devices to establish meaningful texts.

(E) **Objective 5.** Students will use resources to find correct spellings of words (e.g. word wall, vocabulary notebook, print and electronic dictionaries, and spell-check).

210:15-3-28. Standard Three: Critical Reading and Writing

(a) **Statement of the standard.** Students will apply critical thinking skills to reading and writing.

(b) **Standard Three objectives for Pre-Kindergarten.** The following objectives apply for students in Pre-Kindergarten:

(1) **Reading.** Students will comprehend, interpret, evaluate, and respond to a variety of complex texts of all literary and informational genres from a variety of historical, cultural, ethnic, and global perspectives.

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- (A) **Objective 1.** Students will describe the role of an author and illustrator, telling how they contribute to a story, with guidance and support.
- (B) **Objective 2.** Students will describe characters in a story with guidance and support.
- (C) **Objective 3.** Students will tell what is happening in a picture or illustration with guidance and support.
- (D) **Objective 4.** Students will ask and answer basic questions (e.g. who, what, where, and when) about texts during shared reading or other text experiences with guidance and support.
- (2) **Writing.** Students will write for varied purposes and audiences in all modes, using fully developed ideas, strong organization, well-chosen words, fluent sentences, and appropriate voice.
- (A) **Objective 1.** Students will use drawing, labeling, and dictating to express thoughts and ideas with guidance and support.
- (c) **Standard Three objectives for Kindergarten.** The following objectives apply for students in Kindergarten:
- (1) **Reading.** Students will comprehend, interpret, evaluate, and respond to a variety of complex texts of all literary and informational genres from a variety of historical, cultural, ethnic, and global perspectives.
- (A) **Objective 1.** Students will name the author and illustrator, and explain the roles of each in a particular story.
- (B) **Objective 2.** Students will describe characters and setting in a story with guidance and support.
- (C) **Objective 3.** Students will tell what is happening in a picture or illustration.
- (D) **Objective 4.** Students will ask and answer basic questions (e.g. who, what, where, and when) about texts during shared reading or other text experiences with guidance and support.
- (2) **Writing.** Students will write for varied purposes and audiences in all modes, using fully developed ideas, strong organization, well-chosen words, fluent sentences, and appropriate voice.
- (A) **Objective 1.** Students will use drawing, labeling, dictating, and writing to tell a story, share information, or express an opinion with guidance and support.
- (d) **Standard Three objectives for Grade 1.** The following objectives apply for students in Grade 1:
- (1) **Reading.** Students will comprehend, interpret, evaluate, and respond to a variety of complex texts of all literary and informational genres from a variety of historical, cultural, ethnic, and global perspectives.
- (A) **Objective 1.** Students will identify the author's purpose (i.e. tell a story, provide information) with guidance and support.
- (B) **Objective 2.** Students will describe who is telling the story (i.e., point of view).
- (C) **Objective 3.** Students will find textual evidence with provided with examples of literary elements and organization:
- (i) setting (i.e. time, place).
- (ii) plot.
- (iii) main characters and their traits in a story.
- (D) **Objective 4.** Students will ask and answer basic questions (e.g. who, what, where, why, and when) about texts.
- (E) **Objective 5.** Students will begin to locate facts that are clearly stated in a text.
- (2) **Writing.** Students will write for varied purposes and audiences in all modes, using fully developed ideas, strong organization, well-chosen words, fluent sentences, and appropriate voice.
- (A) **Objective 1. Narrative** Students will begin to write narratives incorporating characters, plot (i.e. beginning, middle, end), and a basic setting (i.e. time, place) with guidance and support.
- (B) **Objective 2. Informative** Students will begin to write facts about a subject in response to a text read aloud to demonstrate understanding with guidance and support.
- (C) **Objective 3. Opinion** Students will express an opinion in writing about a topic and provide a reason to support the opinion.
- (e) **Standard Three objectives for Grade 2.** The following objectives apply for students in Grade 2:
- (1) **Reading.** Students will comprehend, interpret, evaluate, and respond to a variety of complex texts of all literary and informational genres from a variety of historical, cultural, ethnic, and global perspectives.
- (A) **Objective 1.** Students will determine the author's purpose (i.e. tell a story, provide information).
- (B) **Objective 2.** Students will infer whether a story is narrated in first or third person point of view in grade-level literary and/or informational text.
- (C) **Objective 3.** Students will find textual evidence when provided with examples of literary elements and organization:
- (i) setting (i.e. time, place).
- (ii) plot.
- (iii) characters.
- (iv) characterization.
- (D) **Objective 4.** Students will find examples of literary devices:
- (i) simile.
- (ii) metaphor.
- (E) **Objective 5.** Students will locate facts that are clearly stated in a text.
- (F) **Objective 6.** Students will describe the structure of a text (e.g. description, compare/contrast, sequential, problem/solution, cause/effect) with guidance and support.
- (G) **Objective 7.** Students will answer inferential questions (e.g. how and why) with guidance and support.
- (2) **Writing.** Students will write for varied purposes and audiences in all modes, using fully developed ideas, strong organization, well-chosen words, fluent sentences, and appropriate voice.

- (A) **Objective 1. Narrative** Students will write narratives incorporating characters, plot (i.e. beginning, middle, end), and a basic setting (i.e. time, place) with guidance and support.
- (B) **Objective 2. Informative** Students will write facts about a subject and include a main idea with supporting details.
- (C) **Objective 3. Opinion** Students will express an opinion about a topic and provide reasons as support.
- (f) **Standard Three objectives for Grade 3.** The following objectives apply for students in Grade 3:
- (1) **Reading.** Students will comprehend, interpret, evaluate, and respond to a variety of complex texts of all literary and informational genres from a variety of historical, cultural, ethnic, and global perspectives.
- (A) **Objective 1.** Students will determine the author's stated and implied purpose (i.e. entertain, inform, persuade).
- (B) **Objective 2.** Students will infer whether a story is narrated in first or third person point of view in grade-level literary and/or informational text.
- (C) **Objective 3.** Students will find textual evidence when provided with examples of literary elements and organization:
- (i) setting (i.e. time, place).
- (ii) plot.
- (iii) characters.
- (iv) characterization.
- (v) theme.
- (D) **Objective 4.** Students will find examples of literary devices:
- (i) simile.
- (ii) metaphor.
- (iii) personification.
- (iv) onomatopoeia.
- (v) hyperbole.
- (E) **Objective 5.** Students will distinguish fact from opinion in a text.
- (F) **Objective 6.** Students will describe the structure of a text (e.g. description, compare/contrast, sequential, problem/solution, cause/effect) with guidance and support.
- (G) **Objective 7.** Students will ask and answer inferential questions using the text to support answers with guidance and support.
- (2) **Writing.** Students will write for varied purposes and audiences in all modes, using fully developed ideas, strong organization, well-chosen words, fluent sentences, and appropriate voice.
- (A) **Objective 1. Narrative - Grade Level Focus** Students will write narratives incorporating characters, plot, setting, point of view, and conflict (i.e. solution and resolution).
- (B) **Objective 2. Informative - Grade Level Focus** Students will write facts about a subject, including a main idea with supporting details, and use transitional and signal words.
- (C) **Objective 3. Opinion** Students will express an opinion about a topic and provide reasons as support.
- (g) **Standard Three objectives for Grade 4.** The following objectives apply for students in Grade 4:
- (1) **Reading.** Students will comprehend, interpret, evaluate, and respond to a variety of complex texts of all literary and informational genres from a variety of historical, cultural, ethnic, and global perspectives.
- (A) **Objective 1.** Students will determine the author's purpose (i.e. entertain, inform, persuade) and infer the difference between the stated and implied purpose.
- (B) **Objective 2.** Students will infer whether a story is narrated in first or third person point of view in grade-level literary and/or informational text.
- (C) **Objective 3.** Students will describe key literary elements:
- (i) setting.
- (ii) plot.
- (iii) characters (i.e. protagonist, antagonist).
- (iv) characterization.
- (v) theme.
- (D) **Objective 4.** Students will find examples of literary devices (for items marked with an asterisk, students will find textual evidence when provided with examples):
- (i) simile.
- (ii) metaphor.
- (iii) personification.
- (iv) onomatopoeia.
- (v) hyperbole.
- (vi) imagery.
- (vii) symbolism*.
- (viii) tone*.
- (E) **Objective 5.** Students will distinguish fact from opinion in a text and investigate facts for accuracy.
- (F) **Objective 6.** Students will describe the structure of a text (e.g. description, compare/contrast, sequential, problem/solution, cause/effect).
- (G) **Objective 7.** Students will ask and answer inferential questions using the text to support answers.
- (2) **Writing.** Students will write for varied purposes and audiences in all modes, using fully developed ideas, strong organization, well-chosen words, fluent sentences, and appropriate voice.
- (A) **Objective 1. Narrative** Students will write narratives incorporating characters, plot, setting, point of view, conflict (i.e. solution and resolution), and dialogue.
- (B) **Objective 2. Informative - Grade Level Focus** Students will write facts about a subject, including a clear main idea with supporting details, and use transitional and signal words.
- (C) **Objective 3. Opinion** Students will express an opinion about a topic and provide fact-based reasons as support.
- (h) **Standard Three objectives for Grade 5.** The following objectives apply for students in Grade 5:

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(1) **Reading.** Students will comprehend, interpret, evaluate, and respond to a variety of complex texts of all literary and informational genres from a variety of historical, cultural, ethnic, and global perspectives.

(A) **Objective 1.** Students will determine an author's stated or implied purpose and draw conclusions to evaluate how well the author's purpose was achieved.

(B) **Objective 2.** Students will determine the point of view and describe how it affects grade-level literary and/or informational text.

(C) **Objective 3.** Students will describe and find textual evidence of key literary elements:

- (i) setting.
- (ii) plot.
- (iii) characters (i.e. protagonist, antagonist).
- (iv) characterization.
- (v) theme.

(D) **Objective 4.** Students will evaluate literary devices to support interpretations of literary texts (for items marked with an asterisk, students will find textual evidence when provided with examples):

- (i) simile.
- (ii) metaphor.
- (iii) personification.
- (iv) onomatopoeia.
- (v) hyperbole.
- (vi) imagery.
- (vii) symbolism*.
- (viii) tone*.

(E) **Objective 5.** Students will distinguish fact from opinion in non-fiction text and investigate facts for accuracy.

(F) **Objective 6.** Students will distinguish the structures of texts (e.g. description, compare/contrast, sequential, problem/solution, cause/effect) and content by making inferences about texts and use textual evidence to support understanding.

(G) **Objective 7.** Students will compare and contrast texts and ideas within and between texts.

(2) **Writing.** Students will write for varied purposes and audiences in all modes, using fully developed ideas, strong organization, well-chosen words, fluent sentences, and appropriate voice.

(A) **Objective 1. Narrative** Students will write narratives incorporating characters, plot, setting, point of view, conflict (i.e. internal and external), and dialogue.

(B) **Objective 2. Informative - Grade Level Focus** Students will introduce and develop a topic, incorporating evidence (e.g. specific facts, examples, details) and maintaining an organized structure.

(C) **Objective 3. Opinion** Students will clearly state an opinion supported with facts and details.

(D) **Objective 4. Opinion** Students will show relationships among facts, opinions, and supporting details.

(i) **Standard Three objectives for Grade 6.** The following objectives apply for students in Grade 6:

(1) **Reading.** Students will comprehend, interpret, evaluate, and respond to a variety of complex texts of all literary and informational genres from a variety of historical, cultural, ethnic, and global perspectives.

(A) **Objective 1.** Students will compare and contrast stated or implied purposes of authors writing on the same topic in grade-level literary and/or informational texts.

(B) **Objective 2.** Students will evaluate how the point of view and perspective affect grade-level literary and/or informational text.

(C) **Objective 3.** Students will analyze how key literary elements contribute to the meaning of the literary work:

- (i) setting.
- (ii) plot.
- (iii) characters (i.e. protagonist, antagonist).
- (iv) characterization.
- (v) theme.
- (vi) conflict (i.e. internal and external).

(D) **Objective 4.** Students will evaluate literary devices to support interpretations of literary texts (for items marked with an asterisk, students will find textual evidence when provided with examples):

- (i) simile.
- (ii) metaphor.
- (iii) personification.
- (iv) onomatopoeia.
- (v) hyperbole.
- (vi) imagery.
- (vii) symbolism*.
- (viii) tone*.

(E) **Objective 5.** Students will categorize facts included in an argument as for or against an issue.

(F) **Objective 6.** Students will analyze the structures of texts (e.g. description, compare/contrast, sequential, problem/solution, cause/effect) and content by making inferences about texts and use textual evidence to support understanding.

(G) **Objective 7.** Students will analyze texts and ideas within and between texts and provide textual evidence to support their inferences.

(2) **Writing.** Students will write for varied purposes and audiences in all modes, using fully developed ideas, strong organization, well-chosen words, fluent sentences, and appropriate voice.

(A) **Objective 1. Narrative** Students will write narratives incorporating characters, plot, setting, point of view, conflict (i.e. internal and external), and dialogue.

(B) **Objective 2. Informative** Students will compose essays and reports about topics, incorporating evidence (e.g. specific facts, examples, details) and maintaining an organized structure.

(C) **Objective 3. Opinion - Grade Level Focus** Students will clearly state an opinion supported with facts and details.

(D) **Objective 4. Opinion - Grade Level Focus** Students will show relationships among facts, opinions, and supporting details.

(j) **Standard Three objectives for Grade 7.** The following objectives apply for students in Grade 7:

(1) **Reading.** Students will comprehend, interpret, evaluate, and respond to a variety of complex texts of all literary and informational genres from a variety of historical, cultural, ethnic, and global perspectives.

(A) **Objective 1.** Students will compare and contrast stated or implied purposes of authors writing on the same topic in grade-level literary and/or informational texts.

(B) **Objective 2.** Students will evaluate how the point of view and perspective affect grade-level literary and/or informational text.

(C) **Objective 3.** Students will analyze how key literary elements contribute to the meaning of the literary work:

- (i) **setting.**
- (ii) **plot.**
- (iii) **characters (i.e. protagonist, antagonist).**
- (iv) **characterization.**
- (v) **theme.**
- (vi) **conflict (i.e. internal and external).**

(D) **Objective 4.** Students will evaluate literary devices to support interpretations of literary texts (for item marked with an asterisk, students will find textual evidence when provided with examples):

- (i) **simile.**
- (ii) **metaphor.**
- (iii) **personification.**
- (iv) **onomatopoeia.**
- (v) **hyperbole.**
- (vi) **imagery.**
- (vii) **symbolism.**
- (viii) **tone.**
- (ix) **irony*.**

(E) **Objective 5.** Students will distinguish factual claims from opinions.

(F) **Objective 6.** Students will analyze the structures of texts (e.g. compare/contrast, problem/solution, cause/effect, claims/evidence) and content by making inferences about texts and use textual evidence to draw simple logical conclusions.

(G) **Objective 7.** Students will make connections (e.g. thematic links) between and across multiple texts and provide textual evidence to support their inferences.

(2) **Writing.** Students will write for varied purposes and audiences in all modes, using fully developed ideas, strong organization, well-chosen words, fluent sentences, and appropriate voice.

(A) **Objective 1. Narrative** Students will write narratives incorporating characters, plot, setting,

point of view, conflict, dialogue, and sensory details to convey experiences and events.

(B) **Objective 2. Informative** Students will compose essays and reports about topics, incorporating evidence (e.g. specific facts, examples, details) and maintaining an organized structure and a formal style.

(C) **Objective 3. Argument - Grade Level Focus** Students will introduce a claim and organize reasons and evidence, using credible sources.

(D) **Objective 4. Argument - Grade Level Focus** Students will show relationships among the claim, reasons, and evidence.

(k) **Standard Three objectives for Grade 8.** The following objectives apply for students in Grade 8:

(1) **Reading.** Students will comprehend, interpret, evaluate, and respond to a variety of complex texts of all literary and informational genres from a variety of historical, cultural, ethnic, and global perspectives.

(A) **Objective 1.** Students will analyze works written on the same topic and compare the methods the authors use to achieve similar or different purposes and include support using textual evidence.

(B) **Objective 2.** Students will evaluate points of view and perspectives and describe how this affects grade-level literary and/or informational text.

(C) **Objective 3.** Students will analyze how authors use key literary elements to contribute to the meaning of a text:

- (i) **setting.**
- (ii) **plot.**
- (iii) **characters (i.e. protagonist, antagonist).**
- (iv) **characterization.**
- (v) **theme.**
- (vi) **conflict (i.e. internal and external).**

(D) **Objective 4.** Students will evaluate literary devices to support interpretations of literary texts:

- (i) **simile.**
- (ii) **metaphor.**
- (iii) **personification.**
- (iv) **onomatopoeia.**
- (v) **hyperbole.**
- (vi) **imagery.**
- (vii) **symbolism.**
- (viii) **tone.**
- (ix) **irony.**

(E) **Objective 5.** Students will evaluate textual evidence to determine whether a claim is substantiated or unsubstantiated.

(F) **Objective 6.** Students will analyze the structures of texts (e.g. compare/contrast, problem/solution, cause/effect, claims/evidence) and content by making complex inferences about texts to draw logical conclusions from textual evidence.

(G) **Objective 7.** Students will make connections (e.g. thematic links, literary analysis) between and across multiple texts and provide textual evidence to support their inferences.

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(2) **Writing.** Students will write for varied purposes and audiences in all modes, using fully developed ideas, strong organization, well-chosen words, fluent sentences, and appropriate voice.

(A) **Objective 1. Narrative** Students will write narratives incorporating characters, plot (i.e. flash-back and foreshadowing), setting, point of view, conflict, dialogue, and sensory details.

(B) **Objective 2. Informative** Students will compose essays and reports about topics, incorporating evidence (e.g. specific facts, examples, details) and maintaining an organized structure and a formal style.

(C) **Objective 3. Argument - Grade Level Focus** Students will introduce a claim, recognize at least one claim from an opposing viewpoint, and organize reasons and evidence, using credible sources.

(D) **Objective 4. Argument - Grade Level Focus** Students will show relationships among the claim, reasons, and evidence and include a conclusion that follows logically from the information presented.

(1) **Standard Three objectives for Grade 9 - English I.** The following objectives apply for students in Grade 9 - English I:

(1) **Reading.** Students will comprehend, interpret, evaluate, and respond to a variety of complex texts of all literary and informational genres from a variety of historical, cultural, ethnic, and global perspectives.

(A) **Objective 1.** Students will analyze works written on the same topic and compare the methods the authors use to achieve similar or different purposes and include support using textual evidence.

(B) **Objective 2.** Students will evaluate points of view and perspectives in more than one grade-level literary and/or informational text and explain how multiple points of view contribute to the meaning of a work.

(C) **Objective 3.** Students will analyze how authors use key literary elements to contribute to meaning and interpret how themes are connected across texts:

- (i) setting.
- (ii) plot.
- (iii) characters (i.e. protagonist, antagonist).
- (iv) character development.
- (v) theme.
- (vi) conflict (i.e. internal and external).
- (vii) archetypes.

(D) **Objective 4.** Students will evaluate literary devices to support interpretations of texts, including comparisons across texts:

- (i) simile.
- (ii) metaphor.
- (iii) personification.
- (iv) onomatopoeia.
- (v) hyperbole.
- (vi) imagery.
- (vii) symbolism.
- (viii) irony.

(E) **Objective 5.** Students will evaluate textual evidence to determine whether a claim is substantiated or unsubstantiated.

(F) **Objective 6.** Students will comparatively analyze the structures of texts (e.g. compare/contrast, problem/solution, cause/effect, claims/counter-claims/evidence) and content by inferring connections among multiple texts and providing textual evidence to support their inferences.

(G) **Objective 7.** Students will make connections (e.g. thematic links, literary analysis) between and across multiple texts and provide textual evidence to support their inferences.

(2) **Writing.** Students will write for varied purposes and audiences in all modes, using fully developed ideas, strong organization, well-chosen words, fluent sentences, and appropriate voice.

(A) **Objective 1. Narrative - Grade Level Focus** Students will write nonfiction narratives (i.e. memoirs, personal essays).

(B) **Objective 2. Informative - Grade Level Focus** Students will compose essays and reports to objectively introduce and develop topics, incorporating evidence (e.g. specific facts, examples, details, data) and maintaining an organized structure and a formal style.

(C) **Objective 3. Informative - Grade Level Focus** Students will elaborate on ideas by using logical reasoning and illustrative examples to connect evidences to claim(s).

(D) **Objective 4. Argument** Students will introduce claims, recognize and distinguish from alternate or opposing claims, and organize reasons and evidences, using credible sources.

(E) **Objective 5. Argument** Students will show relationships among the claim, reasons, and evidence and include a conclusion that follows logically from the information presented and supports the argument.

(F) **Objective 6. Argument** Students will blend multiple modes of writing to produce effective argumentative essays.

(m) **Standard Three objectives for Grade 10 - English II.** The following objectives apply for students in Grade 10 - English II:

(1) **Reading.** Students will comprehend, interpret, evaluate, and respond to a variety of complex texts of all literary and informational genres from a variety of historical, cultural, ethnic, and global perspectives.

(A) **Objective 1.** Students will evaluate the extent to which historical, cultural, and/or global perspectives affect authors' stylistic and organizational choices in grade-level literary and informational genres.

(B) **Objective 2.** Students will evaluate points of view and perspectives in more than one grade-level literary and/or informational text and explain how multiple points of view contribute to the meaning of a work.

(C) **Objective 3.** Students will analyze how authors use key literary elements to contribute to meaning and interpret how themes are connected across texts:

- (i) character development.
- (ii) theme.
- (iii) conflict (i.e. internal and external).
- (iv) archetypes.

(D) **Objective 4.** Students will evaluate literary devices to support interpretations of texts, including comparisons across texts:

- (i) figurative language.
- (ii) imagery.
- (iii) tone.
- (iv) symbolism.
- (v) irony.

(E) **Objective 5.** Students will distinguish among different kinds of evidence (e.g. logical, empirical, anecdotal) used to support conclusions and arguments in texts.

(F) **Objective 6.** Students will comparatively analyze the structures of texts (e.g. compare/contrast, problem/solution, cause/effect, claims/counter-claims/evidence) and content by inferring connections among multiple texts and providing textual evidence to support their inferences.

(G) **Objective 7.** Students will make connections (e.g. thematic links, literary analysis) between and across multiple texts and provide textual evidence to support their inferences.

(2) **Writing.** Students will write for varied purposes and audiences in all modes, using fully developed ideas, strong organization, well-chosen words, fluent sentences, and appropriate voice.

(A) **Objective 1. Narrative** Students will write narratives in other modes as appropriate.

(B) **Objective 2. Informative - Grade Level Focus** Students will compose essays and reports to objectively introduce and develop topics, incorporating evidence (e.g. specific facts, examples, details, data) and maintaining an organized structure and a formal style.

(C) **Objective 3. Informative - Grade Level Focus** Students will elaborate on ideas by using logical reasoning and illustrative examples to connect evidences to claim(s).

(D) **Objective 4. Argument - Grade Level Focus** Students will introduce precise claims and distinguish them from counterclaims and provide sufficient evidences to develop balanced arguments, using credible sources.

(E) **Objective 5. Argument - Grade Level Focus** Students will use words, phrases, and clauses to connect claims, counterclaims, evidence, and commentary to create a cohesive argument and include a conclusion that follows logically from the information presented and supports the argument.

(F) **Objective 6. Argument - Grade Level Focus** Students will blend multiple modes of writing to produce effective argumentative essays.

(n) **Standard Three objectives for Grade 11 - English III.** The following objectives apply for students in Grade 11 - English III:

(1) **Reading.** Students will comprehend, interpret, evaluate, and respond to a variety of complex texts of all literary and informational genres from a variety of historical, cultural, ethnic, and global perspectives.

(A) **Objective 1.** Students will analyze the extent to which historical, cultural, and/or global perspectives affect authors' stylistic and organizational choices in grade-level literary and informational genres.

(B) **Objective 2.** Students will evaluate points of view and perspectives in more than one grade-level literary and/or informational text and explain how multiple points of view contribute to the meaning of a work.

(C) **Objective 3.** Students will analyze how authors use key literary elements to contribute to meaning and interpret how themes are connected across texts:

- (i) theme.
- (ii) archetypes.

(D) **Objective 4.** Students will evaluate literary devices to support interpretations of texts, including comparisons across texts:

- (i) imagery.
- (ii) tone.
- (iii) symbolism.
- (iv) irony.

(E) **Objective 5.** Students will evaluate how authors writing on the same issue reached different conclusions because of differences in assumptions, evidence, reasoning, and viewpoints.

(F) **Objective 6.** Students will comparatively analyze the structures of texts (e.g. compare/contrast, problem/solution, cause/effect, claims/counter-claims/evidence) and content by inferring connections among multiple texts and providing textual evidence to support their conclusions.

(G) **Objective 7.** Students will make connections (e.g. thematic links, literary analysis, authors' style) between and across multiple texts and provide textual evidence to support their inferences.

(2) **Writing.** Students will write for varied purposes and audiences in all modes, using fully developed ideas, strong organization, well-chosen words, fluent sentences, and appropriate voice.

(A) **Objective 1. Narrative** Students will write narratives embedded in other modes as appropriate.

(B) **Objective 2. Informative** Students will compose essays and reports to objectively introduce and develop topics, incorporating evidence (e.g. specific facts, examples, details, data) and maintaining an organized structure and a formal style.

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(C) **Objective 3. Informative** Students will elaborate on ideas by using logical reasoning and illustrative examples to connect evidences to claim(s).

(D) **Objective 4. Argument** Students will:

- (i) introduce precise, informed claims,
- (ii) distinguish them from alternate or opposing claims,
- (iii) organize claims, counterclaims, and evidence in a way that provides a logical sequence for the entire argument, and
- (iv) provide the most relevant evidences to develop balanced arguments, using credible sources.

(E) **Objective 5. Argument** Students will use words, phrases, clauses, and varied syntax to connect all parts of the argument and create cohesion and include a conclusion that follows logically from the information presented and supports the argument.

(F) **Objective 6. Argument** Students will blend multiple modes of writing to produce effective argumentative essays.

(o) **Standard Three objectives for Grade 12 - English IV.** The following objectives apply for students in Grade 12 - English IV:

(1) **Reading.** Students will comprehend, interpret, evaluate, and respond to a variety of complex texts of all literary and informational genres from a variety of historical, cultural, ethnic, and global perspectives.

(A) **Objective 1.** Students will analyze the extent to which historical, cultural, and/or global perspectives affect authors' stylistic and organizational choices in grade-level literary and informational genres.

(B) **Objective 2.** Students will evaluate points of view and perspectives in more than one grade-level literary and/or informational text and explain how multiple points of view contribute to the meaning of a work.

(C) **Objective 3.** Students will analyze how authors use key literary elements to contribute to meaning and interpret how themes are connected across texts.

(D) **Objective 4.** Students will evaluate literary devices to support interpretations of texts, including comparisons across texts.

(E) **Objective 5.** Students will evaluate how authors writing on the same issue reached different conclusions because of differences in assumptions, evidence, reasoning, and viewpoints.

(F) **Objective 6.** Students will comparatively analyze the structures of texts (e.g. compare/contrast, problem/solution, cause/effect, claims/counterclaims/evidence) and content by inferring connections among multiple texts and providing textual evidence to support their conclusions.

(G) **Objective 7.** Students will make connections (e.g. thematic links, literary analysis, authors' style) between and across multiple texts and provide textual evidence to support their inferences.

(2) **Writing.** Students will write for varied purposes and audiences in all modes, using fully developed ideas, strong organization, well-chosen words, fluent sentences, and appropriate voice.

(A) **Objective 1. Narrative** Students will write narratives embedded in other modes as appropriate.

(B) **Objective 2. Informative** Students will compose essays and reports to objectively introduce and develop topics, incorporating evidence (e.g. specific facts, examples, details, data) and maintaining an organized structure and a formal style.

(C) **Objective 3. Informative** Students will elaborate on ideas by using logical reasoning and illustrative examples to connect evidences to claim(s).

(D) **Objective 4. Argument** Students will:

- (i) introduce precise, informed claims,
- (ii) distinguish them from alternate or opposing claims,
- (iii) organize claims, counterclaims, and evidence in a way that provides a logical sequence for the entire argument, and
- (iv) provide the most relevant evidences to develop balanced arguments, using credible sources.

(E) **Objective 5. Argument** Students will use words, phrases, clauses, and varied syntax to connect all parts of the argument and create cohesion and include a conclusion that follows logically from the information presented and supports the argument.

(F) **Objective 6. Argument** Students will blend multiple modes of writing to produce effective argumentative essays.

210:15-3-29. Standard Four: Vocabulary

(a) **Statement of the standard.** Students will expand their working vocabularies to effectively communicate and understand texts.

(b) **Standard Four objectives for Pre-Kindergarten.** The following objectives apply for students in Pre-Kindergarten:

(1) **Reading.** Students will expand academic, domain-appropriate, grade-level vocabularies through reading, word study, and class discussion.

(A) **Objective 1.** Students will acquire new academic, content-specific, grade-level vocabulary and relate new words to prior knowledge with guidance and support.

(B) **Objective 2.** Students will begin to develop an awareness of context clues through read-alouds and other text experiences.

(C) **Objective 3.** Students will name and sort familiar objects into categories based on common attributes with guidance and support.

(2) **Writing.** Students will apply knowledge of vocabularies to communicate by using descriptive, academic, and domain-appropriate abstract and concrete words in their writing.

(A) **Objective 1.** Students will begin to use new vocabulary to produce and expand complete sentences in shared language activities.

- (B) **Objective 2.** Students will begin to select appropriate language according to purpose.
- (c) **Standard Four objectives for Kindergarten.** The following objectives apply for students in Kindergarten:
- (1) **Reading.** Students will expand academic, domain-appropriate, grade-level vocabularies through reading, word study, and class discussion.
- (A) **Objective 1.** Students will acquire new academic, content-specific, grade-level vocabulary and relate new words to prior knowledge with guidance and support.
- (B) **Objective 2.** Students will begin to develop an awareness of context clues through read-alouds and other text experiences.
- (C) **Objective 3.** Students will name and sort pictures of objects into categories based on common attributes with guidance and support.
- (2) **Writing.** Students will apply knowledge of vocabularies to communicate by using descriptive, academic, and domain-appropriate abstract and concrete words in their writing.
- (A) **Objective 1.** Students will use new vocabulary to produce and expand complete sentences in shared language activities with guidance and support.
- (B) **Objective 2.** Students will select appropriate language according to purpose with guidance and support.
- (d) **Standard Four objectives for Grade 1.** The following objectives apply for students in Grade 1:
- (1) **Reading.** Students will expand academic, domain-appropriate, grade-level vocabularies through reading, word study, and class discussion.
- (A) **Objective 1.** Students will acquire new academic, content-specific, grade-level vocabulary and relate new words to prior knowledge, and apply vocabulary in new situations.
- (B) **Objective 2.** Students will use word parts (e.g. affixes, roots, stems) to define unfamiliar words with guidance and support.
- (C) **Objective 3.** Students will use context clues to determine the meaning of words with guidance and support.
- (D) **Objective 4.** Students will name and sort words into categories based on common attributes.
- (E) **Objective 5.** Students will use a dictionary (print and/or electronic) to find words.
- (2) **Writing.** Students will apply knowledge of vocabularies to communicate by using descriptive, academic, and domain-appropriate abstract and concrete words in their writing.
- (A) **Objective 1.** Students will use domain-appropriate vocabulary to communicate ideas in writing with guidance and support.
- (B) **Objective 2.** Students will select appropriate language according to purpose in writing with guidance and support.
- (e) **Standard Four objectives for Grade 2.** The following objectives apply for students in Grade 2:

- (1) **Reading.** Students will expand academic, domain-appropriate, grade-level vocabularies through reading, word study, and class discussion.
- (A) **Objective 1.** Students will acquire new academic, content-specific, grade-level vocabulary and relate new words to prior knowledge, and apply vocabulary in new situations.
- (B) **Objective 2.** Students will use word parts (e.g. affixes, roots, stems) to define and determine the meaning of new words.
- (C) **Objective 3.** Students will use context clues to determine the meaning of words with guidance and support.
- (D) **Objective 4.** Students will infer relationships among words, including synonyms, antonyms, and simple multiple-meaning words.
- (E) **Objective 5.** Students will use a dictionary or glossary (print and/or electronic) to determine or clarify the meanings of words or phrases.
- (2) **Writing.** Students will apply knowledge of vocabularies to communicate by using descriptive, academic, and domain-appropriate abstract and concrete words in their writing.
- (A) **Objective 1.** Students will use domain-appropriate vocabulary to communicate ideas in writing.
- (B) **Objective 2.** Students will select appropriate language according to purpose in writing.
- (f) **Standard Four objectives for Grade 3.** The following objectives apply for students in Grade 3:
- (1) **Reading.** Students will expand academic, domain-appropriate, grade-level vocabularies through reading, word study, and class discussion.
- (A) **Objective 1.** Students will increase knowledge of academic, domain-appropriate, grade-level vocabulary to infer meaning of grade-level text.
- (B) **Objective 2.** Students will use word parts (e.g. affixes, roots, stems) to define and determine the meaning of new words.
- (C) **Objective 3.** Students will use context clues to determine the meaning of words or distinguish among multiple-meaning words.
- (D) **Objective 4.** Students will infer relationships among words, including synonyms, antonyms, homographs, and homonyms.
- (E) **Objective 5.** Students will use a dictionary or glossary (print and/or electronic) to determine or clarify the meanings, syllabication, and pronunciation of words.
- (2) **Writing.** Students will apply knowledge of vocabularies to communicate by using descriptive, academic, and domain-appropriate abstract and concrete words in their writing.
- (A) **Objective 1.** Students will use domain-appropriate vocabulary to communicate ideas in writing.
- (B) **Objective 2.** Students will select appropriate language according to purpose in writing.
- (g) **Standard Four objectives for Grade 4.** The following objectives apply for students in Grade 4:

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- (1) **Reading.** Students will expand academic, domain-appropriate, grade-level vocabularies through reading, word study, and class discussion.
- (A) **Objective 1.** Students will increase knowledge of academic, domain-appropriate, grade-level vocabulary to infer meaning of grade-level text.
- (B) **Objective 2.** Students will use word parts (e.g. affixes, Greek and Latin roots, stems) to define and determine the meaning of new words.
- (C) **Objective 3.** Students will use context clues to determine the meaning of words or distinguish among multiple-meaning words.
- (D) **Objective 4.** Students will infer relationships among words with multiple meanings, including synonyms, antonyms, and more complex homographs and homonyms.
- (E) **Objective 5.** Students will use a dictionary or glossary (print and/or electronic) to determine or clarify the meanings, syllabication, and pronunciation of words.
- (2) **Writing.** Students will apply knowledge of vocabularies to communicate by using descriptive, academic, and domain-appropriate abstract and concrete words in their writing.
- (A) **Objective 1.** Students will use domain-appropriate vocabulary to communicate ideas in writing.
- (B) **Objective 2.** Students will select appropriate language to create a specific effect according to purpose in writing.
- (h) **Standard Four objectives for Grade 5.** The following objectives apply for students in Grade 5:
- (1) **Reading.** Students will expand academic, domain-appropriate, grade-level vocabularies through reading, word study, and class discussion.
- (A) **Objective 1.** Students will increase knowledge of academic, domain-appropriate, grade-level vocabulary to infer meaning of grade-level text.
- (B) **Objective 2.** Students will use word parts (e.g. affixes, Greek and Latin roots, stems) to define new words and determine the meaning of new words.
- (C) **Objective 3.** Students will use context clues to determine or clarify the meaning of words or distinguish among multiple-meaning words.
- (D) **Objective 4.** Students will infer relationships among words with multiple meanings, including synonyms, antonyms, analogies, and more complex homographs and homonyms.
- (E) **Objective 5.** Students will use a dictionary, glossary, or a thesaurus (print and/or electronic) to determine or clarify the meanings, syllabication, pronunciation, synonyms, and parts of speech of words.
- (2) **Writing.** Students will apply knowledge of vocabularies to communicate by using descriptive, academic, and domain-appropriate abstract and concrete words in their writing.
- (A) **Objective 1.** Students will use domain-appropriate vocabulary to communicate ideas in writing clearly.
- (B) **Objective 2.** Students will select appropriate language to create a specific effect according to purpose in writing.
- (i) **Standard Four objectives for Grade 6.** The following objectives apply for students in Grade 6:
- (1) **Reading.** Students will expand academic, domain-appropriate, grade-level vocabularies through reading, word study, and class discussion.
- (A) **Objective 1.** Students will increase knowledge of academic, domain-appropriate, grade-level vocabulary to infer meaning of grade-level text.
- (B) **Objective 2.** Students will use word parts (e.g. affixes, Greek and Latin roots, stems) to define and determine the meaning of increasingly complex words.
- (C) **Objective 3.** Students will use context clues to determine or clarify the meaning of words or distinguish among multiple-meaning words.
- (D) **Objective 4.** Students will infer relationships among words with multiple meanings, including synonyms, antonyms, analogies, and more complex homographs and homonyms.
- (E) **Objective 5.** Students will use a dictionary, glossary, or a thesaurus (print and/or electronic) to determine or clarify the meanings, syllabication, pronunciation, synonyms, and parts of speech of words.
- (2) **Writing.** Students will apply knowledge of vocabularies to communicate by using descriptive, academic, and domain-appropriate abstract and concrete words in their writing.
- (A) **Objective 1.** Students will use domain-appropriate vocabulary to communicate ideas in writing clearly.
- (B) **Objective 2.** Students will select appropriate language to create a specific effect according to purpose in writing.
- (j) **Standard Four objectives for Grade 7.** The following objectives apply for students in Grade 7:
- (1) **Reading.** Students will expand academic, domain-appropriate, grade-level vocabularies through reading, word study, and class discussion.
- (A) **Objective 1.** Students will increase knowledge of academic, domain-appropriate, grade-level vocabulary to infer meaning of grade-level text.
- (B) **Objective 2.** Students will use word parts (e.g. affixes, Greek and Latin roots, stems) to define and determine the meaning of increasingly complex words.
- (C) **Objective 3.** Students will use context clues to determine or clarify the meaning of words or distinguish among multiple-meaning words.
- (D) **Objective 4.** Students will infer relationships among words with multiple meanings and recognize the connotation and denotation of words.

(E) **Objective 5.** Students will use a dictionary, glossary, or a thesaurus (print and/or electronic) to determine or clarify the meanings, syllabication, pronunciation, synonyms, and parts of speech of words.

(2) **Writing.** Students will apply knowledge of vocabularies to communicate by using descriptive, academic, and domain-appropriate abstract and concrete words in their writing.

(A) **Objective 1.** Students will use domain-appropriate vocabulary to communicate ideas in writing clearly.

(B) **Objective 2.** Students will select appropriate language to create a specific effect according to purpose in writing.

(k) **Standard Four objectives for Grade 8.** The following objectives apply for students in Grade 8:

(1) **Reading.** Students will expand academic, domain-appropriate, grade-level vocabularies through reading, word study, and class discussion.

(A) **Objective 1.** Students will increase knowledge of academic, domain-appropriate, grade-level vocabulary to infer meaning of grade-level text.

(B) **Objective 2.** Students will use word parts (e.g. affixes, Greek and Latin roots, stems) to define and determine the meaning of increasingly complex words.

(C) **Objective 3.** Students will use context clues to determine or clarify the meaning of words or distinguish among multiple-meaning words.

(D) **Objective 4.** Students will infer relationships among words with multiple meanings and recognize the connotation and denotation of words.

(E) **Objective 5.** Students will use a dictionary, glossary, or a thesaurus (print and/or electronic) to determine or clarify the meanings, syllabication, pronunciation, synonyms, and parts of speech of words.

(2) **Writing.** Students will apply knowledge of vocabularies to communicate by using descriptive, academic, and domain-appropriate abstract and concrete words in their writing.

(A) **Objective 1.** Students will use domain-appropriate vocabulary to communicate ideas in writing clearly.

(B) **Objective 2.** Students will select appropriate language to create a specific effect according to purpose in writing.

(l) **Standard Four objectives for Grade 9 - English I.** The following objectives apply for students in Grade 9 - English I:

(1) **Reading.** Students will expand academic, domain-appropriate, grade-level vocabularies through reading, word study, and class discussion.

(A) **Objective 1.** Students will increase knowledge of academic, domain-appropriate, grade-level vocabulary to infer meaning of grade-level text.

(B) **Objective 2.** Students will use word parts (e.g. affixes, Greek and Latin roots, stems) to define

and determine the meaning of increasingly complex words.

(C) **Objective 3.** Students will use context clues to determine or clarify the meaning of words or distinguish among multiple-meaning words.

(D) **Objective 4.** Students will analyze relationships among words with multiple meanings and recognize the connotation and denotation of words.

(E) **Objective 5.** Students will use a dictionary, glossary, or a thesaurus (print and/or electronic) to determine or clarify the meanings, syllabication, pronunciation, synonyms, parts of speech, and etymology of words or phrases.

(2) **Writing.** Students will apply knowledge of vocabularies to communicate by using descriptive, academic, and domain-appropriate abstract and concrete words in their writing.

(A) **Objective 1.** Students will use domain-appropriate vocabulary to communicate complex ideas in writing clearly.

(B) **Objective 2.** Students will select appropriate language to create a specific effect according to purpose in writing.

(m) **Standard Four objectives for Grade 10 - English II.** The following objectives apply for students in Grade 10 - English II:

(1) **Reading.** Students will expand academic, domain-appropriate, grade-level vocabularies through reading, word study, and class discussion.

(A) **Objective 1.** Students will increase knowledge of academic, domain-appropriate, grade-level vocabulary to infer meaning of grade-level text.

(B) **Objective 2.** Students will use word parts (e.g. affixes, Greek and Latin roots, stems) to define and determine the meaning of increasingly complex words.

(C) **Objective 3.** Students will use context clues to determine or clarify the meaning of words or distinguish among multiple-meaning words.

(D) **Objective 4.** Students will analyze relationships among words with multiple meanings and recognize the connotation and denotation of words.

(E) **Objective 5.** Students will use a dictionary, glossary, or a thesaurus (print and/or electronic) to determine or clarify the meanings, syllabication, pronunciation, synonyms, parts of speech, and etymology of words or phrases.

(2) **Writing.** Students will apply knowledge of vocabularies to communicate by using descriptive, academic, and domain-appropriate abstract and concrete words in their writing.

(A) **Objective 1.** Students will use domain-appropriate vocabulary to communicate complex ideas in writing clearly.

(B) **Objective 2.** Students will select appropriate language to create a specific effect according to purpose in writing.

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(n) **Standard Four objectives for Grade 11 - English III.** The following objectives apply for students in Grade 11 - English III:

(1) **Reading.** Students will expand academic, domain-appropriate, grade-level vocabularies through reading, word study, and class discussion.

(A) **Objective 1.** Students will increase knowledge of academic, domain-appropriate, grade-level vocabulary to infer meaning of grade-level text.

(B) **Objective 2.** Students will use word parts (e.g. affixes, Greek and Latin roots, stems) to define and determine the meaning of increasingly complex words.

(C) **Objective 3.** Students will use context clues to determine or clarify the meaning of words or distinguish among multiple-meaning words.

(D) **Objective 4.** Students will analyze relationships among words with multiple meanings and recognize the connotation and denotation of words.

(E) **Objective 5.** Students will use general and specialized dictionaries, thesauri, glossaries, histories of language, books of quotations, and other related references (print and/or electronic) as needed.

(2) **Writing.** Students will apply knowledge of vocabularies to communicate by using descriptive, academic, and domain-appropriate abstract and concrete words in their writing.

(A) **Objective 1.** Students will use domain-appropriate vocabulary to communicate complex ideas in writing clearly.

(B) **Objective 2.** Students will select appropriate language to create a specific effect according to purpose in writing.

(o) **Standard Four objectives for Grade 12 - English IV.** The following objectives apply for students in Grade 12 - English IV:

(1) **Reading.** Students will expand academic, domain-appropriate, grade-level vocabularies through reading, word study, and class discussion.

(A) **Objective 1.** Students will increase knowledge of academic, domain-appropriate, grade-level vocabulary to infer meaning of grade-level text.

(B) **Objective 2.** Students will use word parts (e.g. affixes, Greek and Latin roots, stems) to define and determine the meaning of increasingly complex words.

(C) **Objective 3.** Students will use context clues to determine or clarify the meaning of words or distinguish among multiple-meaning words.

(D) **Objective 4.** Students will analyze relationships among words with multiple meanings and recognize the connotation and denotation of words.

(E) **Objective 5.** Students will use general and specialized dictionaries, thesauri, glossaries, histories of language, books of quotations, and other related references (print and/or electronic) as needed.

(2) **Writing.** Students will apply knowledge of vocabularies to communicate by using descriptive, academic,

and domain-appropriate abstract and concrete words in their writing.

(A) **Objective 1.** Students will use domain-appropriate vocabulary to communicate complex ideas in writing clearly.

(B) **Objective 2.** Students will select appropriate language to create a specific effect according to purpose in writing.

210:15-3-30. Standard Five: Language

(a) **Statement of the standard.** Students will apply knowledge of grammar and rhetorical style to reading and writing.

(b) **Standard Five objectives for Pre-Kindergarten.** The following objectives apply for students in Pre-Kindergarten:

(1) **Reading.** Students will apply knowledge of grammar and rhetorical style to analyze and evaluate a variety of texts.

(A) **Objective 1.** Students will begin to understand the function of grammar through exposure to conversations, read-alouds, and interactive reading.

(B) **Objective 2.** Students will recognize concrete objects as persons, places, or things (i.e. nouns) with guidance and support.

(C) **Objective 3.** Students will recognize words as actions (i.e. verbs) with guidance and support.

(D) **Objective 4.** Students will group pictures and movement, and determine spatial and time relationships such as up, down, before, and after with guidance and support.

(2) **Writing.** Students will demonstrate command of Standard English grammar, mechanics, and usage through writing and other modes of communication. Students will begin Writing Standards in Kindergarten.

(c) **Standard Five objectives for Kindergarten.** The following objectives apply for students in Kindergarten:

(1) **Reading.** Students will apply knowledge of grammar and rhetorical style to analyze and evaluate a variety of texts.

(A) **Objective 1.** Students will begin to understand the function of grammar through exposure to conversations, read-alouds, and interactive reading.

(B) **Objective 2.** Students will recognize concrete objects as persons, places, or things (i.e. nouns) with guidance and support.

(C) **Objective 3.** Students will recognize words as actions (i.e. verbs) with guidance and support.

(D) **Objective 4.** Students will group pictures and movement, and determine spatial and time relationships such as up, down, before, and after with guidance and support.

(2) **Writing.** Students will demonstrate command of Standard English grammar, mechanics, and usage through writing and other modes of communication.

(A) **Objective 1.** Students will capitalize, with guidance and support:

- (i) their first name.
- (ii) the pronoun "I."

- (B) **Objective 2.** Students will being to compose simple sentences that begin to compose simple sentences that begin with a capital letter and end with a period or question mark.
- (d) **Standard Five objectives for Grade 1.** The following objectives apply for students in Grade 1:
- (1) **Reading.** Students will apply knowledge of grammar and rhetorical style to analyze and evaluate a variety of texts.
- (A) **Objective 1.** Students will recognize nouns as concrete objects (i.e. people persons, places, and things) and use the pronoun "I."
- (B) **Objective 2.** Students will recognize verbs as actions.
- (C) **Objective 3.** Students will recognize color and number adjectives.
- (D) **Objective 4.** Students will recognize the prepositions (e.g. The dog is on top of the doghouse) through pictures and movement.
- (E) **Objective 5.** Students will recognize singular and plural nouns with correct verbs in simple sentences (e.g. He sits; we sit).
- (2) **Writing.** Students will demonstrate command of Standard English grammar, mechanics, and usage through writing and other modes of communication.
- (A) **Objective 1.** Students will capitalize, with guidance and support:
- (i) the first letter of a sentence.
- (ii) proper names.
- (iii) months and days of the week.
- (B) **Objective 2.** Students will compose grammatically correct simple and compound sentences and questions (interrogatives) with appropriate end marks.
- (e) **Standard Five objectives for Grade 2.** The following objectives apply for students in Grade 2:
- (1) **Reading.** Students will apply knowledge of grammar and rhetorical style to analyze and evaluate a variety of texts.
- (A) **Objective 1.** Students will recognize nouns, pronouns, and irregular plural nouns.
- (B) **Objective 2.** Students will recognize different types of tenses of verbs.
- (C) **Objective 3.** Students will recognize adjectives.
- (D) **Objective 4.** Students will recognize prepositions.
- (E) **Objective 5.** Students will recognize the subject and predicate of a sentence.
- (2) **Writing.** Students will demonstrate command of Standard English grammar, mechanics, and usage through writing and other modes of communication.
- (A) **Objective 1.** Students will capitalize and appropriately punctuate:
- (i) the first letter of a quotation.
- (ii) holidays.
- (iii) proper names.
- (iv) initials.
- (v) months and days of the week.
- (B) **Objective 2.** Students will use simple contractions (e.g. isn't, aren't, can't).
- (C) **Objective 3.** Students will compose grammatically correct simple and compound declarative, interrogative, imperative, and exclamatory sentences with appropriate end marks.
- (f) **Standard Five objectives for Grade 3.** The following objectives apply for students in Grade 3:
- (1) **Reading.** Students will apply knowledge of grammar and rhetorical style to analyze and evaluate a variety of texts.
- (A) **Objective 1.** Students will recognize pronouns and possessive nouns.
- (B) **Objective 2.** Students will recognize irregular and past participle verbs and verb tense to identify settings, times, and sequences in text.
- (C) **Objective 3.** Students will recognize adjectives, articles as adjectives, and adverbs.
- (D) **Objective 4.** Students will recognize prepositions and conjunctions.
- (E) **Objective 5.** Students will recognize the subject and verb agreement.
- (2) **Writing.** Students will demonstrate command of Standard English grammar, mechanics, and usage through writing and other modes of communication.
- (A) **Objective 1.** Students will capitalize and appropriately punctuate:
- (i) titles of respect.
- (ii) appropriate words in titles.
- (iii) geographical names.
- (B) **Objective 2.** Students will use complex contractions (e.g. should've, won't).
- (C) **Objective 3.** Students will compose and expand grammatically correct sentences and questions with appropriate commas, apostrophes, quotation marks, and end marks as needed for dialogue.
- (D) **Objective 4.** Students will compose simple, compound and complex declarative, interrogative, imperative, and exclamatory sentences.
- (g) **Standard Five objectives for Grade 4.** The following objectives apply for students in Grade 4:
- (1) **Reading.** Students will apply knowledge of grammar and rhetorical style to analyze and evaluate a variety of texts.
- (A) **Objective 1.** Students will recognize pronouns and irregular possessive nouns.
- (B) **Objective 2.** Students will recognize present perfect verbs and verb tense to identify settings, times, sequences, and conditions in text.
- (C) **Objective 3.** Students will recognize comparative and superlative adjectives and adverbs.
- (D) **Objective 4.** Students will recognize prepositional phrases and conjunctions.
- (E) **Objective 5.** Students will recognize the subject and verb agreement.

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- (2) **Writing.** Students will demonstrate command of Standard English grammar, mechanics, and usage through writing and other modes of communication.
- (A) **Objective 1.** Students will capitalize:
- familial relations.
 - proper adjectives.
 - conventions of letter writing.
- (B) **Objective 2.** Students will compose and expand grammatically correct sentences and questions with appropriate commas, end marks, apostrophes, and quotation marks as needed for dialogue.
- (C) **Objective 3.** Students will compose simple, compound and complex sentences and questions, create sentences with an understood subject, and correct fragments and run-on sentences.
- (D) **Objective 4.** Students will compose declarative, interrogative, imperative, and exclamatory sentences.
- (h) **Standard Five objectives for Grade 5.** The following objectives apply for students in Grade 5:
- (1) **Reading.** Students will apply knowledge of grammar and rhetorical style to analyze and evaluate a variety of texts.
- (A) **Objective 1.** Students will recognize conjunctions, prepositions, and interjections and explain their effect in particular sentences.
- (B) **Objective 2.** Students will recognize verb tense to signify various times, sequences, states, and conditions in text.
- (C) **Objective 3.** Students will recognize the subject and verb agreement.
- (2) **Writing.** Students will demonstrate command of Standard English grammar, mechanics, and usage through writing and other modes of communication.
- (A) **Objective 1.** Students will write using correct mechanics with a focus on commas, apostrophes, and quotation marks as needed for dialogue and quoted material.
- (B) **Objective 2.** Students will compose simple, compound and complex sentences and questions, create sentences with an understood subject, and correct fragments and run-on sentences.
- (C) **Objective 3.** Students will form and use the present and past verb tenses.
- (D) **Objective 4.** Students will form and use verb tense to convey various times, sequences, states, and conditions.
- (E) **Objective 5.** Students will recognize and correct inappropriate shifts in verb tense.
- (i) **Standard Five objectives for Grade 6.** The following objectives apply for students in Grade 6:
- (1) **Reading.** Students will apply knowledge of grammar and rhetorical style to analyze and evaluate a variety of texts.
- (A) **Objective 1.** Students will recognize simple and compound sentences to signal differing relationships among ideas.
- (B) **Objective 2.** Students will recognize verb tense to signify various times, sequences, states, and conditions in text.
- (C) **Objective 3.** Students will recognize the subject and verb agreement.
- (2) **Writing.** Students will demonstrate command of Standard English grammar, mechanics, and usage through writing and other modes of communication.
- (A) **Objective 1.** Students will write using correct mechanics with a focus on commas, apostrophes, quotation marks, colons, and semi-colons.
- (B) **Objective 2.** Students will compose simple, compound, complex, and compound-complex sentences to signal differing relationships among ideas.
- (C) **Objective 3.** Students will use prepositional phrases and clauses (e.g. dependent and independent) in writing.
- (k) **Standard Five objectives for Grade 8.** The following objectives apply for students in Grade 8:
- (1) **Reading.** Students will apply knowledge of grammar and rhetorical style to analyze and evaluate a variety of texts.
- (A) **Objective 1.** Students will recognize the use of verbals (e.g. gerunds, participles, infinitives) and clauses.

- (B) **Objective 2.** Students will recognize the use of active and passive voice.
- (C) **Objective 3.** Students will recognize and correct inappropriate shifts in verb tense.
- (D) **Objective 4.** Students will recognize the subject and verb agreement, and correct as necessary.
- (2) **Writing.** Students will demonstrate command of Standard English grammar, mechanics, and usage through writing and other modes of communication.
- (A) **Objective 1.** Students will write using correct mechanics with a focus on commas, apostrophes, quotation marks, colons, and semi-colons.
- (B) **Objective 2.** Students will compose simple, compound, complex, and compound-complex sentences and questions to signal differing relationships among ideas.
- (C) **Objective 3.** Students will use verbals (e.g. gerunds, participles, infinitives) in writing.
- (D) **Objective 4.** Students will form and use verbs in the active and passive voice.
- (E) **Objective 5.** Students will form and use verbs in the indicative, imperative, interrogative, conditional, and subjunctive mood.
- (l) **Standard Five objectives for Grade 9 - English I.** The following objectives apply for students in Grade 9 - English I:
- (1) **Reading.** Students will apply knowledge of grammar and rhetorical style to analyze and evaluate a variety of texts.
- (A) **Objective 1.** Students will examine the function of parallel structures, various types of phrases, and clauses to convey specific meanings.
- (B) **Objective 2.** Students will recognize the use of active and passive voice.
- (C) **Objective 3.** Students will recognize and correct inappropriate shifts in verb tense.
- (D) **Objective 4.** Students will recognize the subject and verb agreement, and correct as necessary.
- (2) **Writing.** Students will demonstrate command of Standard English grammar, mechanics, and usage through writing and other modes of communication.
- (A) **Objective 1.** Students will write using correct mechanics with a focus on punctuation marks as needed.
- (B) **Objective 2.** Students will compose simple, compound, complex, and compound-complex sentences and questions to signal differing relationships among ideas.
- (C) **Objective 3.** Students will use parallel structure.
- (D) **Objective 4.** Students will use various types of phrases (e.g. appositive, adjectival, adverbial, participial, prepositional) and clauses (e.g. independent, dependent, adverbial) to convey specific meanings and add variety and interest to writing or presentations.
- (m) **Standard Five objectives for Grade 10 - English II.** The following objectives apply for students in Grade 10 - English II:

- (1) **Reading.** Students will apply knowledge of grammar and rhetorical style to analyze and evaluate a variety of texts.
- (A) **Objective 1.** Students will examine the function of parallel structures, various types of phrases, clauses, and active and passive voice to convey specific meanings and/or reflect specific rhetorical styles.
- (2) **Writing.** Students will demonstrate command of Standard English grammar, mechanics, and usage through writing and other modes of communication.
- (A) **Objective 1.** Students will write using correct mechanics.
- (B) **Objective 2.** Students will compose simple, compound, complex, and compound-complex sentences and questions to signal differing relationships among ideas.
- (C) **Objective 3.** Students will practice their use of Standard American English, grammar, mechanics, and usage through writing, presentations, and/or other modes of communication to convey specific meanings and interests.
- (n) **Standard Five objectives for Grade 11 - English III.** The following objectives apply for students in Grade 11 - English III:
- (1) **Reading.** Students will apply knowledge of grammar and rhetorical style to analyze and evaluate a variety of texts.
- (A) **Objective 1.** Students will apply their knowledge of grammar and rhetorical style to analyze and evaluate a variety of texts, understanding that usage and convention change over time and using that understanding to manipulate style when appropriate.
- (2) **Writing.** Students will demonstrate command of Standard English grammar, mechanics, and usage through writing and other modes of communication.
- (A) **Objective 1.** Students will write using correct mechanics.
- (B) **Objective 2.** Students will compose simple, compound, complex, and compound-complex sentences and questions, including the use of phrases and clauses, to signal differing relationships among ideas.
- (C) **Objective 3.** Students will demonstrate command of Standard American English, grammar, mechanics, and usage through writing, presentations, and/or other modes of communication to convey specific meanings and interests.
- (o) **Standard Five objectives for Grade 12 - English IV.** The following objectives apply for students in Grade 12 - English IV:
- (1) **Reading.** Students will apply knowledge of grammar and rhetorical style to analyze and evaluate a variety of texts.
- (A) **Objective 1.** Students will apply their knowledge of grammar and rhetorical style to analyze and evaluate a variety of texts, understanding that usage and convention change over time and using that understanding to manipulate style when appropriate.

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(2) **Writing.** Students will demonstrate command of Standard English grammar, mechanics, and usage through writing and other modes of communication.

(A) **Objective 1.** Students will write using correct mechanics.

(B) **Objective 2.** Students will compose simple, compound, complex, and compound-complex sentences and questions, including the use of phrases and clauses, to signal differing relationships among ideas.

(C) **Objective 3.** Students will demonstrate command of Standard American English, grammar, mechanics, and usage through writing, presentations, and/or other modes of communication to convey specific meanings and interests.

210:15-3-31. Standard Six: Research

(a) **Statement of the standard.** Students will engage in inquiry to acquire, refine, and share knowledge.

(b) **Standard Six objectives for Pre-Kindergarten.** The following objectives apply for students in Pre-Kindergarten:

(1) **Reading.** Students will comprehend, evaluate, and synthesize resources to acquire and refine knowledge.

(A) **Objective 1.** Students will begin to identify pictures, charts, grade-appropriate texts, or people as sources of information on a topic of interest.

(2) **Writing.** Students will summarize and paraphrase, integrate evidence, and cite sources to create reports, projects, papers, texts, and presentations for multiple purposes.

(A) Students will generate topics of interest and decide if a friend, teacher, or expert can answer their questions with guidance and support.

(c) **Standard Six objectives for Kindergarten.** The following objectives apply for students in Kindergarten:

(1) **Reading.** Students will comprehend, evaluate, and synthesize resources to acquire and refine knowledge.

(A) **Objective 1.** Students will identify relevant pictures, charts, grade-appropriate texts, or people as sources of information on a topic of interest.

(B) **Objective 2.** Students will identify graphic features to understand a text including photos, illustrations, and titles to understand a text.

(2) **Writing.** Students will summarize and paraphrase, integrate evidence, and cite sources to create reports, projects, papers, texts, and presentations for multiple purposes.

(A) **Objective 1.** Students will generate topics of interest and decide if a friend, teacher, or expert can answer their questions with guidance and support.

(B) **Objective 2.** Students will find information from provided sources during group research with guidance and support.

(d) **Standard Six objectives for Grade 1.** The following objectives apply for students in Grade 1:

(1) **Reading.** Students will comprehend, evaluate, and synthesize resources to acquire and refine knowledge.

(A) **Objective 1.** Students will decide who can answer questions about their topic or what resources they will need to find the information.

(B) **Objective 2.** Students will identify graphic features including photos, illustrations, titles, labels, headings, charts, and graphs to understand a text.

(C) **Objective 3.** Students will identify the location and purpose of various visual and text reference sources.

(2) **Writing.** Students will summarize and paraphrase, integrate evidence, and cite sources to create reports, projects, papers, texts, and presentations for multiple purposes.

(A) **Objective 1.** Students will generate questions about topics of interest.

(B) **Objective 2.** Students will organize information found during group or individual research, using graphic organizers or other aids with guidance and support.

(C) **Objective 3.** Students will make informal presentations of information gathered.

(e) **Standard Six objectives for Grade 2.** The following objectives apply for students in Grade 2:

(1) **Reading.** Students will comprehend, evaluate, and synthesize resources to acquire and refine knowledge.

(A) **Objective 1.** Students will create their own questions to find information on their topic.

(B) **Objective 2.** Students will use graphic features including photos, illustrations, titles, labels, headings, subheadings, charts, and graphs to understand a text.

(C) **Objective 3.** Students will consult various visual and text reference sources to gather information.

(2) **Writing.** Students will summarize and paraphrase, integrate evidence, and cite sources to create reports, projects, papers, texts, and presentations for multiple purposes.

(A) **Objective 1.** Students will generate a list of questions about topics of interest and individual questions about one specific topic of interest.

(B) **Objective 2.** Students will organize information found during group or individual research, using graphic organizers or other aids.

(C) **Objective 3.** Students will organize and present their information in written and/or oral reports or display.

(f) **Standard Six objectives for Grade 3.** The following objectives apply for students in Grade 3:

(1) **Reading.** Students will comprehend, evaluate, and synthesize resources to acquire and refine knowledge.

(A) **Objective 1.** Students will use their own questions to find information on their topic.

(B) **Objective 2.** Students will use graphic features including photos, illustrations, captions, titles, labels, headings, subheadings, italics, sidebars, charts, graphs, and legends to define a text.

(C) **Objective 3.** Students will locate information in visual and text reference sources, electronic resources, and/or interviews.

- (D) **Objective 4.** Students will determine the relevance and reliability of the information for their specific topic of interest with guidance and support.
- (2) **Writing.** Students will summarize and paraphrase, integrate evidence, and cite sources to create reports, projects, papers, texts, and presentations for multiple purposes.
- (A) **Objective 1.** Students will generate a list of questions about topics of interest and individual questions about one specific topic of interest.
- (B) **Objective 2.** Students will organize information found during group or individual research, using graphic organizers or other aids.
- (C) **Objective 3.** Students will summarize and present information in a report.
- (g) **Standard Six objectives for Grade 4.** The following objectives apply for students in Grade 4:
- (1) **Reading.** Students will comprehend, evaluate, and synthesize resources to acquire and refine knowledge.
- (A) **Objective 1.** Students will use their own viable research questions to find information about a specific topic.
- (B) **Objective 2.** Students will use graphic features including photos, illustrations, captions, titles, labels, headings, subheadings, italics, sidebars, charts, graphs, and legends to interpret a text.
- (C) **Objective 3.** Students will determine the relevance and reliability of the information gathered.
- (2) **Writing.** Students will summarize and paraphrase, integrate evidence, and cite sources to create reports, projects, papers, texts, and presentations for multiple purposes.
- (A) **Objective 1.** Students will generate a viable research question about a specific topic.
- (B) **Objective 2.** Students will organize information found during research, following a modified citation style (e.g. author, title, publication date) with guidance and support.
- (C) **Objective 3.** Students will summarize and present information in a report.
- (h) **Standard Six objectives for Grade 5.** The following objectives apply for students in Grade 5:
- (1) **Reading.** Students will comprehend, evaluate, and synthesize resources to acquire and refine knowledge.
- (A) **Objective 1.** Students will use their own viable research questions to find information about a specific topic.
- (B) **Objective 2.** Students will record and organize information from various print and/or digital sources.
- (C) **Objective 3.** Students will determine the relevance and reliability of the information gathered.
- (2) **Writing.** Students will summarize and paraphrase, integrate evidence, and cite sources to create reports, projects, papers, texts, and presentations for multiple purposes.
- (A) **Objective 1.** Students will write research papers and/or texts independently over extended periods of time (e.g. time for research, reflection, and revision) and for shorter timeframes (e.g. a single setting or a day or two).
- (B) **Objective 2.** Students will formulate a viable research question from findings.
- (C) **Objective 3.** Students will organize information found during research, following a modified citation style (e.g. author, title, publication date) with guidance and support.
- (D) **Objective 4.** Students will summarize and present information in a report.
- (i) **Standard Six objectives for Grade 6.** The following objectives apply for students in Grade 6:
- (1) **Reading.** Students will comprehend, evaluate, and synthesize resources to acquire and refine knowledge.
- (A) **Objective 1.** Students will use their own viable research questions to find information about a specific topic.
- (B) **Objective 2.** Students will record and organize information from various primary and secondary sources (e.g. print and digital).
- (C) **Objective 3.** Students will determine the relevance, reliability, and validity of the information gathered.
- (2) **Writing.** Students will summarize and paraphrase, integrate evidence, and cite sources to create reports, projects, papers, texts, and presentations for multiple purposes.
- (A) **Objective 1.** Students will write research papers and/or texts independently over extended periods of time (e.g. time for research, reflection, and revision) and for shorter timeframes (e.g. a single setting or a day or two).
- (B) **Objective 2.** Students will refine and formulate a viable research question and/or topic from initial findings.
- (C) **Objective 3.** Students will organize information found during research, following a citation style (e.g. MLA, APA, etc.) with guidance and support.
- (D) **Objective 4.** Students will summarize and present information in a report.
- (j) **Standard Six objectives for Grade 7.** The following objectives apply for students in Grade 7:
- (1) **Reading.** Students will comprehend, evaluate, and synthesize resources to acquire and refine knowledge.
- (A) **Objective 1.** Students will use their own viable research questions and thesis statements to find information about a specific topic.
- (B) **Objective 2.** Students will follow ethical and legal guidelines for finding and recording information from a variety of primary and secondary sources (e.g. print and digital).
- (C) **Objective 3.** Students will determine the relevance, reliability, and validity of the information gathered.
- (2) **Writing.** Students will summarize and paraphrase, integrate evidence, and cite sources to create reports,

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projects, papers, texts, and presentations for multiple purposes.

(A) **Objective 1.** Students will write research papers and/or texts independently over extended periods of time (e.g. time for research, reflection, and revision) and for shorter timeframes (e.g. a single setting or a day or two).

(B) **Objective 2.** Students will refine and formulate a viable research question and report findings clearly and concisely, using a thesis statement.

(C) **Objective 3.** Students will quote, paraphrase, and summarize findings following an appropriate citation style (e.g. MLA, APA, etc.) and avoiding plagiarism.

(D) **Objective 4.** Students will summarize and present information in a report.

(k) **Standard Six objectives for Grade 8.** The following objectives apply for students in Grade 8:

(1) **Reading.** Students will comprehend, evaluate, and synthesize resources to acquire and refine knowledge.

(A) **Objective 1.** Students will use their own viable research questions and well-developed thesis statements to find information about a specific topic.

(B) **Objective 2.** Students will follow ethical and legal guidelines for finding and recording information from a variety of primary and secondary sources (e.g. print and digital).

(C) **Objective 3.** Students will determine the relevance, reliability, and validity of the information gathered.

(2) **Writing.** Students will summarize and paraphrase, integrate evidence, and cite sources to create reports, projects, papers, texts, and presentations for multiple purposes.

(A) **Objective 1.** Students will write research papers and/or texts independently over extended periods of time (e.g. time for research, reflection, and revision) and for shorter timeframes (e.g. a single setting or a day or two).

(B) **Objective 2.** Students will refine and formulate a viable research question and report findings clearly and concisely, using a well-developed thesis statement.

(C) **Objective 3.** Students will quote, paraphrase, and summarize findings following an appropriate citation style (e.g. MLA, APA, etc.) and avoiding plagiarism.

(D) **Objective 4.** Students will summarize and present information in a report.

(l) **Standard Six objectives for Grade 9 - English I.** The following objectives apply for students in Grade 9 - English I:

(1) **Reading.** Students will comprehend, evaluate, and synthesize resources to acquire and refine knowledge.

(A) **Objective 1.** Students will use their own viable research questions and well-developed thesis statements to find information about a specific topic.

(B) **Objective 2.** Students will follow ethical and legal guidelines for finding and recording information

from a variety of primary and secondary sources (e.g. print and digital).

(C) **Objective 3.** Students will evaluate the relevance, reliability, and validity of the information gathered.

(2) **Writing.** Students will summarize and paraphrase, integrate evidence, and cite sources to create reports, projects, papers, texts, and presentations for multiple purposes.

(A) **Objective 1.** Students will write research papers and/or texts independently over extended periods of time (e.g. time for research, reflection, and revision) and for shorter timeframes (e.g. a single setting or a day or two).

(B) **Objective 2.** Students will refine and formulate a viable research question, integrate findings from sources, and clearly use a well-developed thesis statement.

(C) **Objective 3.** Students will quote, paraphrase, and summarize findings following an appropriate citation style (e.g. MLA, APA, etc.) and avoiding plagiarism.

(D) **Objective 4.** Students will summarize and present information in a report.

(m) **Standard Six objectives for Grade 10 - English II.** The following objectives apply for students in Grade 10 - English II:

(1) **Reading.** Students will comprehend, evaluate, and synthesize resources to acquire and refine knowledge.

(A) **Objective 1.** Students will use their own viable research questions and well-developed thesis statements to find information about a specific topic.

(B) **Objective 2.** Students will synthesize the most relevant information from a variety of primary and secondary sources (e.g. print and digital), following ethical and legal citation guidelines.

(C) **Objective 3.** Students will evaluate the relevance, reliability, and validity of the information gathered.

(2) **Writing.** Students will summarize and paraphrase, integrate evidence, and cite sources to create reports, projects, papers, texts, and presentations for multiple purposes.

(A) **Objective 1.** Students will write research papers and/or texts independently over extended periods of time (e.g. time for research, reflection, and revision) and for shorter timeframes (e.g. a single setting or a day or two).

(B) **Objective 2.** Students will refine and formulate a viable research question, integrate findings from sources, and clearly use a well-developed thesis statement.

(C) **Objective 3.** Students will integrate into their own writing quotes, paraphrases, and summaries of findings following an appropriate citation style (e.g. MLA, APA, etc.) and avoiding plagiarism.

(D) **Objective 4.** Students will synthesize and present information in a report.

(n) **Standard Six objectives for Grade 11 - English III.** The following objectives apply for students in Grade 11 - English III:

(1) **Reading.** Students will comprehend, evaluate, and synthesize resources to acquire and refine knowledge.

(A) **Objective 1.** Students will use their own viable research questions and well-developed thesis statements to find information about a specific topic.

(B) **Objective 2.** Students will synthesize the most relevant information from a variety of primary and secondary sources (e.g. print and digital), following ethical and legal citation guidelines.

(C) **Objective 3.** Students will evaluate the relevance, reliability, and validity of the information gathered.

(2) **Writing.** Students will summarize and paraphrase, integrate evidence, and cite sources to create reports, projects, papers, texts, and presentations for multiple purposes.

(A) **Objective 1.** Students will write research papers and/or texts independently over extended periods of time (e.g. time for research, reflection, and revision) and for shorter timeframes (e.g. a single setting or a day or two).

(B) **Objective 2.** Students will integrate findings from sources using a well-developed thesis statement.

(C) **Objective 3.** Students will integrate into their own writing quotes, paraphrases, and summaries of findings following an appropriate citation style (e.g. MLA, APA, etc.) and avoiding plagiarism.

(D) **Objective 4.** Students will synthesize and present information in a report.

(o) **Standard Six objectives for Grade 12 - English IV.** The following objectives apply for students in Grade 12 - English IV:

(1) **Reading.** Students will comprehend, evaluate, and synthesize resources to acquire and refine knowledge.

(A) **Objective 1.** Students will use their own viable research questions and well-developed thesis statements to find information about a specific topic.

(B) **Objective 2.** Students will synthesize resources to acquire and refine knowledge, following ethical and legal citation guidelines.

(C) **Objective 3.** Students will evaluate the relevance, reliability, and validity of the information gathered.

(2) **Writing.** Students will summarize and paraphrase, integrate evidence, and cite sources to create reports, projects, papers, texts, and presentations for multiple purposes.

(A) **Objective 1.** Students will write research papers and/or texts independently over extended periods of time (e.g. time for research, reflection, and revision) and for shorter timeframes (e.g. a single setting or a day or two).

(B) **Objective 2.** Students will integrate findings from sources using a well-developed thesis statement.

(C) **Objective 3.** Students will integrate into their own writing quotes, paraphrases, and summaries of findings following an appropriate citation style (e.g. MLA, APA, etc.) and avoiding plagiarism.

(D) **Objective 4.** Students will synthesize and present information in a report.

210:15-3-32. Standard Seven: Multimodal Literacies

(a) **Statement of the standard.** Students will acquire, refine, and share knowledge through a variety of written, oral, visual, digital, non-verbal, and interactive texts.

(b) **Standard Seven objectives for Pre-Kindergarten.** The following objectives apply for students in Pre-Kindergarten:

(1) **Reading.** Students will evaluate written, oral, visual, and digital texts in order to draw conclusions and analyze arguments.

(A) **Objective 1.** Students will recognize formats of print and digital text with guidance and support.

(2) **Writing.** Students will create multimodal texts to communicate knowledge and develop arguments.

(A) **Objective 1.** Students will use appropriate technology to communicate with others with guidance and support.

(c) **Standard Seven objectives for Kindergarten.** The following objectives apply for students in Kindergarten:

(1) **Reading.** Students will evaluate written, oral, visual, and digital texts in order to draw conclusions and analyze arguments.

(A) **Objective 1.** Students will recognize formats of print and digital text with guidance and support.

(B) **Objective 2.** Students will explore how ideas and topics are depicted in a variety of media and formats.

(2) **Writing.** Students will create multimodal texts to communicate knowledge and develop arguments.

(A) **Objective 1.** Students will use appropriate technology to communicate with others with guidance and support.

(B) **Objective 2.** Students will use appropriate props, images, or illustrations to support verbal communication.

(d) **Standard Seven objectives for Grade 1.** The following objectives apply for students in Grade 1:

(1) **Reading.** Students will evaluate written, oral, visual, and digital texts in order to draw conclusions and analyze arguments.

(A) **Objective 1.** Students will use provided print and digital resources with guidance and support.

(B) **Objective 2.** Students will explore and compare how ideas and topics are depicted in a variety of media and formats.

(2) **Writing.** Students will create multimodal texts to communicate knowledge and develop arguments.

(A) **Objective 1.** Students will select and use appropriate technology or media to communicate with others with guidance and support.

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- (B) **Objective 2.** Students will use visual displays to support verbal communication and clarify ideas, thoughts, and feelings.
- (e) **Standard Seven objectives for Grade 2.** The following objectives apply for students in Grade 2:
- (1) **Reading.** Students will evaluate written, oral, visual, and digital texts in order to draw conclusions and analyze arguments.
- (A) **Objective 1.** Students will locate and use print and digital resources with guidance and support.
- (B) **Objective 2.** Students will explain how ideas and topics are depicted in a variety of media and formats.
- (2) **Writing.** Students will create multimodal texts to communicate knowledge and develop arguments.
- (A) **Objective 1.** Students will select and use appropriate technology or media to communicate with others with guidance and support.
- (B) **Objective 2.** Students will create a simple presentation using audio, visual, and/or multimedia tools to support communication and clarify ideas, thoughts, and feelings.
- (f) **Standard Seven objectives for Grade 3.** The following objectives apply for students in Grade 3:
- (1) **Reading.** Students will evaluate written, oral, visual, and digital texts in order to draw conclusions and analyze arguments.
- (A) **Objective 1.** Students will locate, organize, and use information from a variety of written, oral, visual, digital, non-verbal, and interactive texts to generate and answer literal questions.
- (B) **Objective 2.** Students will compare how ideas and topics are depicted in a variety of media and formats.
- (2) **Writing.** Students will create multimodal texts to communicate knowledge and develop arguments.
- (A) **Objective 1.** Students will create multimodal content that communicates an idea using technology or appropriate media.
- (B) **Objective 2.** Students will create presentations using video, photos, and other multimedia elements to support communication and clarify ideas, thoughts, and feelings.
- (g) **Standard Seven objectives for Grade 4.** The following objectives apply for students in Grade 4:
- (1) **Reading.** Students will evaluate written, oral, visual, and digital texts in order to draw conclusions and analyze arguments.
- (A) **Objective 1.** Students will locate, organize, and analyze information from a variety of written, oral, visual, digital, non-verbal, and interactive texts to generate and answer literal and interpretive questions to create new understandings.
- (B) **Objective 2.** Students will compare and contrast how ideas and topics are depicted in a variety of media and formats.
- (2) **Writing.** Students will create multimodal texts to communicate knowledge and develop arguments.
- (A) **Objective 1.** Students will create multimodal content that effectively communicates an idea using technology or appropriate media.
- (B) **Objective 2.** Students will create presentations using video, photos, and other multimedia elements to support communication and clarify ideas, thoughts, and feelings.
- (h) **Standard Seven objectives for Grade 5.** The following objectives apply for students in Grade 5:
- (1) **Reading.** Students will evaluate written, oral, visual, and digital texts in order to draw conclusions and analyze arguments.
- (A) **Objective 1.** Students will analyze the characteristics and effectiveness of a variety of written, oral, visual, digital, non-verbal, and interactive texts to generate and answer literal and interpretive questions to create new understandings.
- (B) **Objective 2.** Students will compare and contrast how ideas and topics are depicted in a variety of media and formats.
- (2) **Writing.** Students will create multimodal texts to communicate knowledge and develop arguments.
- (A) **Objective 1.** Students will create multimodal content that effectively communicates an idea using technology or appropriate media.
- (B) **Objective 2.** Students will create presentations that integrate visual displays and other multimedia to enrich the presentation.
- (i) **Standard Seven objectives for Grade 6.** The following objectives apply for students in Grade 6:
- (1) **Reading.** Students will evaluate written, oral, visual, and digital texts in order to draw conclusions and analyze arguments.
- (A) **Objective 1.** Students will compare and contrast the effectiveness of a variety of written, oral, visual, digital, non-verbal, and interactive texts to generate and answer literal, interpretive, and applied questions to create new understandings.
- (B) **Objective 2.** Students will analyze the impact of selected media and formats on meaning.
- (2) **Writing.** Students will create multimodal texts to communicate knowledge and develop arguments.
- (A) **Objective 1.** Students will create multimodal content that effectively communicates ideas using technologies and appropriate media.
- (B) **Objective 2.** Students will create presentations that integrate visual displays and other multimedia to enrich the presentation.
- (j) **Standard Seven objectives for Grade 7.** The following objectives apply for students in Grade 7:
- (1) **Reading.** Students will evaluate written, oral, visual, and digital texts in order to draw conclusions and analyze arguments.
- (A) **Objective 1.** Students will compare and contrast the effectiveness of techniques used in a variety

of written, oral, visual, digital, non-verbal, and interactive texts to generate and answer literal, interpretive, and applied questions to create new understandings.

(B) **Objective 2.** Students will analyze the impact of selected media and formats on meaning.

(2) **Writing.** Students will create multimodal texts to communicate knowledge and develop arguments.

(A) **Objective 1.** Students will select, organize, or create multimodal content to complement and extend meaning for a selected topic.

(B) **Objective 2.** Students will utilize multimedia to clarify information and strengthen claims or evidence.

(k) **Standard Seven objectives for Grade 8.** The following objectives apply for students in Grade 8:

(1) **Reading.** Students will evaluate written, oral, visual, and digital texts in order to draw conclusions and analyze arguments.

(A) **Objective 1.** Students will determine the intended purposes of techniques used for rhetorical effects in written, oral, visual, digital, non-verbal, and interactive texts to generate and answer interpretive and applied questions to create new understandings.

(B) **Objective 2.** Students will analyze the impact of selected media and formats on meaning.

(2) **Writing.** Students will create multimodal texts to communicate knowledge and develop arguments.

(A) **Objective 1.** Students will select, organize, or create multimodal content that encompasses different points of view.

(B) **Objective 2.** Students will utilize multimedia to clarify information and emphasize salient points.

(l) **Standard Seven objectives for Grade 9 - English I.** The following objectives apply for students in Grade 9 - English I:

(1) **Reading.** Students will evaluate written, oral, visual, and digital texts in order to draw conclusions and analyze arguments.

(A) **Objective 1.** Students will analyze and evaluate the effectiveness of techniques used in a variety of written, oral, visual, digital, non-verbal, and interactive texts with a focus on persuasion and argument to generate and answer literal, interpretive, and applied questions to create new understandings.

(B) **Objective 2.** Students will analyze the impact of selected media and formats on meaning.

(2) **Writing.** Students will create multimodal texts to communicate knowledge and develop arguments.

(A) **Objective 1.** Students will create a variety of multimodal content to engage specific audiences.

(B) **Objective 2.** Students will create engaging visual and/or multimedia presentations, using a variety of media forms to enhance understanding of findings, reasoning, and evidence for diverse audiences.

(m) **Standard Seven objectives for Grade 10 - English II.** The following objectives apply for students in Grade 10 - English II:

(1) **Reading.** Students will evaluate written, oral, visual, and digital texts in order to draw conclusions and analyze arguments.

(A) **Objective 1.** Students will analyze techniques used to achieve the intended rhetorical purposes in written, oral, visual, digital, non-verbal, and interactive texts to generate and answer interpretive and applied questions to create new understandings.

(B) **Objective 2.** Students will analyze the impact of selected media and formats on meaning.

(2) **Writing.** Students will create multimodal texts to communicate knowledge and develop arguments.

(A) **Objective 1.** Students will critique the sources of multimodal content.

(B) **Objective 2.** Students will create visual and/or multimedia presentations using a variety of media forms to enhance understanding of findings, reasoning, and evidence for diverse audiences.

(n) **Standard Seven objectives for Grade 11 - English III.** The following objectives apply for students in Grade 11 - English III:

(1) **Reading.** Students will evaluate written, oral, visual, and digital texts in order to draw conclusions and analyze arguments.

(A) **Objective 1.** Students will analyze and evaluate the various techniques used to construct arguments in written, oral, visual, digital, non-verbal, and interactive texts, to generate and answer applied questions, and to create new understandings.

(B) **Objective 2.** Students will analyze the impact of selected media and formats on meaning.

(2) **Writing.** Students will create multimodal texts to communicate knowledge and develop arguments.

(A) **Objective 1.** Students will design and develop multimodal content for a variety of purposes.

(B) **Objective 2.** Students will construct engaging visual and/or multimedia presentations using a variety of media forms to enhance understanding of findings, reasoning, and evidence for diverse audiences.

(o) **Standard Seven objectives for Grade 12 - English IV.** The following objectives apply for students in Grade 12 - English IV:

(1) **Reading.** Students will evaluate written, oral, visual, and digital texts in order to draw conclusions and analyze arguments.

(A) **Objective 1.** Students will analyze and evaluate written, oral, visual, digital, non-verbal, and interactive texts in order to draw conclusions and defend arguments.

(B) **Objective 2.** Students will analyze the impact of selected media and formats on meaning.

(2) **Writing.** Students will create multimodal texts to communicate knowledge and develop arguments.

(A) **Objective 1.** Students will create multimodal content to communicate knowledge and defend arguments.

(B) **Objective 2.** Students will construct engaging visual and/or multimedia presentations using a variety

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of media forms to enhance understanding of findings, reasoning, and evidence for diverse audiences.

210:15-3-33. Standard Eight: Independent Reading and Writing

(a) **Statement of the standard.** Students will read and write for a variety of purposes including, but not limited to, academic and personal, for extended periods of time.

(b) **Standard Eight objectives for Pre-Kindergarten.** The following objectives apply for students in Pre-Kindergarten:

(1) **Reading.** Students will read independently for a variety of purposes and for extended periods of time. Students will select appropriate texts for specific purposes.

(A) **Objective.** Students will demonstrate interest in books during read-alouds and shared reading, and interact independently with books.

(2) **Writing.** Students will write independently for extended periods of time. Students will vary their modes of expression to suit audience and task.

(A) **Objective.** Students will express their ideas through a combination of drawing and emergent writing with guidance and support.

(c) **Standard Eight objectives for Kindergarten.** The following objectives apply for students in Kindergarten:

(1) **Reading.** Students will read independently for a variety of purposes and for extended periods of time. Students will select appropriate texts for specific purposes.

(A) **Objective.** Students will demonstrate interest in books during read-alouds and shared reading, and interact independently with books.

(2) **Writing.** Students will write independently for extended periods of time. Students will vary their modes of expression to suit audience and task.

(A) **Objective.** Students will express their ideas through a combination of drawing and emergent writing with guidance and support.

(d) **Standard Eight objectives for Grade 1.** The following objectives apply for students in Grade 1:

(1) **Reading.** Students will read independently for a variety of purposes and for extended periods of time. Students will select appropriate texts for specific purposes.

(A) **Objective.** Students will select appropriate texts for academic and personal purposes and read independently for extended periods of time with guidance and support.

(2) **Writing.** Students will write independently for extended periods of time. Students will vary their modes of expression to suit audience and task.

(A) **Objective.** Students will write independently for extended and shorter periods of time through a combination of emergent and conventional writing with guidance and support.

(e) **Standard Eight objectives for Grade 2.** The following objectives apply for students in Grade 2:

(1) **Reading.** Students will read independently for a variety of purposes and for extended periods of time. Students will select appropriate texts for specific purposes.

(A) **Objective.** Students will select appropriate texts for academic and personal purposes and read independently for extended periods of time.

(2) **Writing.** Students will write independently for extended periods of time. Students will vary their modes of expression to suit audience and task.

(A) **Objective.** Students will write independently over extended periods of time (e.g. time for reflection and revision) and for shorter timeframes (e.g. a single sitting or a day or two).

(f) **Standard Eight objectives for Grade 3.** The following objectives apply for students in Grade 3:

(1) **Reading.** Students will read independently for a variety of purposes and for extended periods of time. Students will select appropriate texts for specific purposes.

(A) **Objective.** Students will select appropriate texts for specific purposes and read independently for extended periods of time.

(2) **Writing.** Students will write independently for extended periods of time. Students will vary their modes of expression to suit audience and task.

(A) **Objective.** Students will write independently over extended periods of time (e.g. time for reflection and revision) and for shorter timeframes (e.g. a single sitting or a day or two) to communicate with different audiences for a variety of purposes.

(g) **Standard Eight objectives for Grade 4.** The following objectives apply for students in Grade 4:

(1) **Reading.** Students will read independently for a variety of purposes and for extended periods of time. Students will select appropriate texts for specific purposes.

(A) **Objective.** Students will select appropriate texts for specific purposes and read independently for extended periods of time.

(2) **Writing.** Students will write independently for extended periods of time. Students will vary their modes of expression to suit audience and task.

(A) **Objective.** Students will write independently over extended periods of time (e.g. time for reflection and revision) and for shorter timeframes (e.g. a single sitting or a day or two) to communicate with different audiences for a variety of purposes.

(h) **Standard Eight objectives for Grade 5.** The following objectives apply for students in Grade 5:

(1) **Reading.** Students will read independently for a variety of purposes and for extended periods of time. Students will select appropriate texts for specific purposes.

(A) **Objective.** Students will select appropriate texts for specific purposes and read independently for extended periods of time.

(2) **Writing.** Students will write independently for extended periods of time. Students will vary their modes of expression to suit audience and task.

(A) **Objective.** Students will write independently over extended periods of time (e.g. time for research, reflection and revision) and for shorter timeframes (e.g. a single sitting or a day or two) to communicate with different audiences for a variety of purposes.

(i) **Standard Eight objectives for Grade 6.** The following objectives apply for students in Grade 6:

(1) **Reading.** Students will read independently for a variety of purposes and for extended periods of time. Students will select appropriate texts for specific purposes.

(A) **Objective.** Students will select appropriate texts for specific purposes and read independently for extended periods of time.

(2) **Writing.** Students will write independently for extended periods of time. Students will vary their modes of expression to suit audience and task.

(A) **Objective.** Students will write independently over extended periods of time (e.g. time for research, reflection and revision) and for shorter timeframes (e.g. a single sitting or a day or two), vary their modes of expression to suit audience and task, and explain how concepts relate to one another.

(j) **Standard Eight objectives for Grade 7.** The following objectives apply for students in Grade 7:

(1) **Reading.** Students will read independently for a variety of purposes and for extended periods of time. Students will select appropriate texts for specific purposes.

(A) **Objective.** Students will select appropriate texts for specific purposes and read independently for extended periods of time.

(2) **Writing.** Students will write independently for extended periods of time. Students will vary their modes of expression to suit audience and task.

(A) **Objective.** Students will write independently over extended periods of time (e.g. time for research, reflection and revision) and for shorter timeframes (e.g. a single sitting or a day or two), vary their modes of expression to suit audience and task, and discover different perspectives.

(k) **Standard Eight objectives for Grade 8.** The following objectives apply for students in Grade 8:

(1) **Reading.** Students will read independently for a variety of purposes and for extended periods of time. Students will select appropriate texts for specific purposes.

(A) **Objective.** Students will select appropriate texts for specific purposes and read independently for extended periods of time.

(2) **Writing.** Students will write independently for extended periods of time. Students will vary their modes of expression to suit audience and task.

(A) **Objective.** Students will write independently over extended periods of time (e.g. time for research, reflection and revision) and for shorter timeframes (e.g. a single sitting or a day or two), vary their modes of expression to suit audience and task, and analyze different perspectives.

(l) **Standard Eight objectives for Grade 9 - English I.** The following objectives apply for students in Grade 9 - English I:

(1) **Reading.** Students will read independently for a variety of purposes and for extended periods of time. Students will select appropriate texts for specific purposes.

(A) **Objective.** Students will select appropriate texts for specific purposes and read independently for extended periods of time.

(2) **Writing.** Students will write independently for extended periods of time. Students will vary their modes of expression to suit audience and task.

(A) **Objective.** Students will write independently over extended periods of time (e.g. time for research, reflection and revision) and for shorter timeframes (e.g. a single sitting or a day or two), vary their modes of expression to suit audience and task, and draw appropriate conclusions.

(m) **Standard Eight objectives for Grade 10 - English II.** The following objectives apply for students in Grade 10 - English II:

(1) **Reading.** Students will read independently for a variety of purposes and for extended periods of time. Students will select appropriate texts for specific purposes.

(A) **Objective.** Students will select appropriate texts for specific purposes and read independently for extended periods of time.

(2) **Writing.** Students will write independently for extended periods of time. Students will vary their modes of expression to suit audience and task.

(A) **Objective.** Students will write independently over extended periods of time (e.g. time for research, reflection and revision) and for shorter timeframes (e.g. a single sitting or a day or two), vary their modes of expression to suit audience and task, and draw and justify appropriate conclusions.

(n) **Standard Eight objectives for Grade 11 - English III.** The following objectives apply for students in Grade 11 - English III:

(1) **Reading.** Students will read independently for a variety of purposes and for extended periods of time. Students will select appropriate texts for specific purposes.

(A) **Objective.** Students will select appropriate texts for specific purposes and read independently for extended periods of time.

(2) **Writing.** Students will write independently for extended periods of time. Students will vary their modes of expression to suit audience and task.

(A) **Objective.** Students will write independently over extended periods of time (e.g. time for research, reflection and revision) and for shorter timeframes (e.g. a single sitting or a day or two), vary their modes of expression to suit audience and task, and be able to apply new understandings in an original way.

(o) **Standard Eight objectives for Grade 12 - English IV.** The following objectives apply for students in Grade 12 - English IV:

(1) **Reading.** Students will read independently for a variety of purposes and for extended periods of time. Students will select appropriate texts for specific purposes.

(A) **Objective.** Students will select appropriate texts for specific purposes and read independently for extended periods of time.

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(2) **Writing.** Students will write independently for extended periods of time. Students will vary their modes of expression to suit audience and task.

(A) **Objective.** Students will write independently over extended periods of time (e.g. time for research, reflection and revision) and for shorter timeframes (e.g. a single sitting or a day or two), vary their modes of expression to suit audience and task, synthesize information across multiple sources, and articulate new perspectives.

[OAR Docket #16-725; filed 8-5-16]

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

[OAR Docket #16-726]

RULEMAKING ACTION:

PERMANENT final adoption of subject matter standards pursuant to 70 O.S. § 11-103.6a-1

RULES:

~~Subchapter 3. Priority Academic Student Skills~~ Oklahoma Academic Standards

Part 7. Mathematics

210:15-3-40. Overview grades 1 through 5 [REVOKED]

210:15-3-40.1. Definitions [REVOKED]

210:15-3-40.2. Mathematics process standards grades 1-5 [REVOKED]

210:15-3-41. Mathematics content standards grade 1 [REVOKED]

210:15-3-42. Mathematics content standards grade 2 [REVOKED]

210:15-3-43. Mathematics content standards grade 3 [REVOKED]

210:15-3-44. Mathematics content standards grade 4 [REVOKED]

210:15-3-45. Mathematics content standards grade 5 [REVOKED]

210:15-3-46. Overview grades 6 - 8 [REVOKED]

210:15-3-46.1. Mathematics process standards grades 6 - 8 [REVOKED]

210:15-3-47. Mathematics content standards grade 6 [REVOKED]

210:15-3-48. Mathematics content standards grade 7 [REVOKED]

210:15-3-49. Mathematics content standards grade 8 [REVOKED]

210:15-3-50. Overview high school [REVOKED]

210:15-3-50.1. Process standards high school [REVOKED]

210:15-3-51. Mathematics content skills algebra I [REVOKED]

210:15-3-52. Mathematics content standards geometry [REVOKED]

210:15-3-53. Mathematics content standards algebra II [REVOKED]

210:15-3-54. Mathematics education [NEW]

210:15-3-55. Definitions [NEW]

210:15-3-56. Standard One: Number and Operations [NEW]

210:15-3-57. Standard Two: Algebraic Reasoning and Algebra [NEW]

210:15-3-58. Standard Three: Geometry and Measurement [NEW]

210:15-3-59. Standard Four: Data and Probability [NEW]

Appendix A. Mathematics Standards - The Properties of Operations [NEW]

Appendix B. Mathematics Standards - The Properties of Equality [NEW]

Appendix C. Mathematics Standards - The Properties of Inequality [NEW]

Appendix D. Mathematics Standards - Fluency Expectations [NEW]

AUTHORITY:

70 O.S. § 3-104; 70 O.S. § 11-103.6a; 70 O.S. § 11-103.6a-1; State Board of Education

ADOPTION:

January 28, 2016

SUBMISSION OF ADOPTED STANDARDS TO LEGISLATURE:

February 1, 2016

LEGISLATIVE APPROVAL:

Failure of the Legislature to disapprove the standards within 30 legislative days of submission resulted in approval of the standards pursuant to 70 O.S. § 11-103.6a-1(C) on March 23, 2016.

EFFECTIVE:

September 11, 2016

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

ANALYSIS:

The rules set forth Oklahoma's new subject matter standards for the study of Mathematics in Pre-Kindergarten through Grade 12. 70 O.S. § 11-103.6a(B) directed the State Board of Education to adopt Mathematics standards in consultation with the State Regents for Higher Education, the State Board of Career and Technology Education, and the Oklahoma Department of Commerce, as well as stakeholder input through public comment. The State Board of Education approved the Mathematics standards on January 28, 2016. 70 O.S. § 11-103.6a-1(A) provides that all subject matter standards adopted by the State Board of Education are subject to legislative review, and the standards were submitted to the Legislature for review on February 1, 2016. Failure of the Legislature to adopt a joint resolution approving or disapproving the standards within thirty (30) legislative days after submission resulted in the standards being deemed approved pursuant to 70 O.S. § 11-103.6a-1(C) as of March 23, 2016. 70 O.S. § 11-103.6a-1(E) directs the State Board of Education to submit final approved standards for publication in the Oklahoma Administrative Code in the same manner as agency rules.

CONTACT PERSON:

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**PURSUANT TO THE ACTIONS DESCRIBED HEREIN,
THE FOLLOWING RULES ARE EFFECTIVE AS OF
SEPTEMBER 11, 2016:**

SUBCHAPTER 3. PRIORITY ACADEMIC STUDENT SKILLS OKLAHOMA ACADEMIC STANDARDS

PART 7. MATHEMATICS

210:15-3-40. Overview grades 1 through 5 [REVOKED]

~~Developmentally appropriate mathematics curriculum for Grades 1 through 5 must encourage the exploration of a wide variety of mathematical ideas and promote in-depth levels of understanding by focusing on the key concepts and processes. Programs should fit the needs of the learner. Student success depends largely on the quality of the foundation that is established during the first years of school. The mathematics curriculum for Grades 1 through 5 must:~~

~~(1) Help children develop conceptual understanding of number, space, and situational problems by designing explorations and investigations that make use of everyday objects and specially designed materials (e.g., base 10 blocks).~~

~~(2) Actively involve children in doing mathematics with extensive and thoughtful use of manipulatives (concrete materials) in an environment that encourages children to develop, discuss, test, and apply ideas.~~

~~(3) Develop newly introduced mathematics concepts by beginning instruction with concrete experiences, progressing to pictorial representations and culminating with abstract symbols.~~

- (4) Require appropriate reasoning and problem solving experiences from the outset, instilling in students a sense of confidence in their ability to think and communicate mathematically, to detect patterns, and to analyze data.
- (5) Emphasize the power of mathematics in helping children understand and interpret their world and solve problems that occur in it.
- (6) Include a broad range of content by incorporating an informal approach to measurement, geometry, data analysis, and patterns (algebra). This helps students see the usefulness of mathematics and establishes a foundation for further study.
- (7) Provide appropriate and ongoing use of technology by enabling children to explore number ideas and patterns; to focus on problem solving processes, and to investigate realistic applications. Calculators do not replace the need for students to be fluent with basic facts, have efficient computation strategies, be able to compute mentally, and do paper and pencil computation.

210:15-3-40.1. Definitions [REVOKED]

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

- "**Addend**" means in the addition problem $3 + 2 + 6 = 11$, the addends are 3, 2, and 6.
- "**Algorithm**" means step by step procedure for solving a problem.
- "**Analog time**" means time displayed on a timepiece having hour and minute hands.
- "**Array**" means (rectangular) an orderly arrangement of objects into a rectangular configuration (e.g., take 6 tiles and arrange two long and three wide to form a rectangle).
- "**Attribute**" means characteristics (e.g., size, shape, color, weight).
- "**Combinations**" means a selection of objects without regard to order.
- "**Complementary angles**" means two angles whose measure have a sum of 90 degrees.
- "**Complex numbers**" means numbers of the form $a + bi$, where a and b are real numbers and i equals the square root of -1 .
- "**Composite numbers**" means any positive integer exactly divisible by one or more positive integers other than itself and 1.
- "**Congruent**" means geometric figures having exactly the same size and shape.
- "**Conic sections**" means circles, parabolas, ellipses, and hyperbolas which can all be represented by passing a plane through a hollow double cone.
- "**Conjecture**" means a statement believed to be true but not proved.
- "**Cosine**" means in a right triangle, the cosine of an acute angle is the ratio of the length of the leg adjacent to the angle to the length of the hypotenuse.

- "**Dependent events**" means events that influence each other. If one of the events occurs, it changes the probability of the other event.
- "**Domain of a relation**" means the set of all the first elements or x coordinates of a relation.
- "**Exponential function**" means an exponential function with base b is defined by $y = b^x$, where $b > 0$ and b is not equal to 1.
- "**Expression**" means a mathematical phrase that can include operations, numerals and variables. In algebraic terms: $2m + 3x$; in numeric terms: $2.4 - 1.37$.
- "**Fibonacci sequence**" means the sequence of numbers, 1, 1, 2, 3, 5, 8, 13, 21, . . . where each number, except the first two, is the sum of the two preceding numbers.
- "**Function**" means a relation in which each element of the domain is paired with exactly one element of the range.
- "**Function machine**" means an input/output box (often made with milk cartons, boxes, or drawn on the board) to show one number entering and a different number exiting. Students guess the rule that produced the second number (e.g., enter 3, exit 5, rule: add 2).
- "**Histogram**" means a bar graph of a frequency distribution.
- "**Imaginary number**" means any complex number, $a + bi$, for which $a = 0$ and b does not = 0.
- "**Independent events**" means events that do not influence one another. Each event occurs without changing the probability of the other event.
- "**Integers**" . . . 2, 1, 0, 1, 2, . . .
- "**Interecepts (x & y)**" means the x (y) coordinate of the point where a graph intercepts the x (y) axis.
- "**Inverse operations**" means operations that undo each other (e.g., addition and subtraction are inverse operations; multiplication and division are inverse operations).
- "**Irrational numbers**" means nonterminating, nonrepeating decimals (e.g., square root of 2, pi).
- "**Logarithmic functions**" means logarithmic function with base b is the inverse of the exponential function, and is defined by $x = \log_b y$ ($y > 0$, $b > 0$, b not equal to 1).
- "**Manipulatives**" means concrete materials (e.g., buttons, beans, egg and milk cartons, counters, attribute and pattern blocks, interlocking cubes, base 10 blocks, geometric models, geoboards, fractions pieces, rulers, balances, spinners, dot paper) to use in mathematical calculations.
- "**Mean**" means in a set of n numbers, the sum of the numbers divided by n .
- "**Median**" means the middle number in the set, or the mean of the two middle numbers, when the numbers are arranged in order from least to greatest.
- "**Mode**" means a number in a set of data that occurs most often.
- "**Multiple**" means a number that is the product of a given integer and another integer (e.g., 6 and 9 are multiples of 3).
- "**Natural numbers**" means (counting numbers) 1, 2, 3, 4, . . .
- "**Nonstandard measurement**" means a measurement determined by the use of nonstandard units like hands, paper clips, beans, cotton balls, etc.

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"Number sense" means involves the understanding of number size (relative magnitude), number representations, number operations, referents for quantities and measurements used in everyday situations, etc.

"Operation" means addition, subtraction, multiplication, division, etc.

"Order of operations" means rules for evaluating an expression: work first within parentheses; then calculate all powers, from left to right; then do multiplications or divisions, from left to right; then do additions and subtractions, from left to right.

"Ordinal" means a number that is used to tell order (e.g., first, fifth).

"Permutation" means an arrangement of a set of objects in a particular order (the letters a, b, c have the following permutations: abc, acb, bac, bca, cab, cba).

"Prime number" means an integer greater than one whose only positive factors are 1 and itself (e.g., 2, 3, 5, 7, 11, 13...).

"Probability" means the study and measure of the likelihood of an event happening.

"Properties of arithmetic" means for all real numbers a, b, and c:

- (A) commutative property: $a + b = b + a$ and $a \cdot b = b \cdot a$
- (B) associative property: $(a + b) + c = a + (b + c)$ and $(a \cdot b) \cdot c = a \cdot (b \cdot c)$
- (C) distributive property: $a(b + c) = (a \cdot b) + (a \cdot c)$
- (D) identity property: $a + 0 = a$ and $a \cdot 1 = a$
- (E) inverse property: $a + (-a) = 0$ and $a \cdot \frac{1}{a} = 1$.

"Proportion" means a statement that ratios are equal.

"Quadrants" means the four regions formed by the axes in a coordinate plane.

"Quadratic equation" means an equation of the form $ax^2 + bx + c = 0$, where a, b and c are real numbers and a is not equal to 0.

"Quadratic formula" means if $ax^2 + bx + c = 0$, where a, b and c are real numbers and a is not equal to 0, then $x = [-b \text{ plus or minus the square root of } (b^2 - 4ac)] \text{ divided by } 2a$.

"Range of a relation" means the set of all the second elements or y coordinates of a relation is called the range.

"Ratio" means the comparison of two quantities by division.

"Rational numbers" means quotients of integers (commonly called fractions – includes both positive and negative).

"Real numbers" means the set of all rational and irrational numbers.

"Recursive patterns" means patterns in which each number is found from the previous number by repeating a process (e.g., Fibonacci numbers).

"Relation" means a set of one or more pairs of numbers.

"Relative magnitude" means the size of an object or number compared to other objects and numbers.

"Scatter plot" means a dot or point graph of data.

"Sequence" means a set of numbers arranged in a pattern.

"Sine" means in a right triangle, the sine of an acute angle is the ratio of the length of the leg opposite the angle to the length of the hypotenuse.

"Slope of a line" means the ratio of the change in y to the corresponding change in x. For any two points (x_1, y_1) and (x_2, y_2) , $m = (y_2 - y_1) \text{ divided by } (x_2 - x_1)$.

"Spatial sense" means involves building and manipulating mental representations of 2 and 3 dimensional objects and ideas.

"Standard deviation" means measures how much each value in the data differs from the mean of the data.

"Statistics" means the study of data.

"Stem and leaf plot" means a frequency distribution made by arranging data in the following way (e.g., student scores on a test were 96, 87, 77, 93, 85, 85, and 75 would be displayed as

- (A) 9|6,3
- (B) 8|7,5,5
- (C) 7|7,5

"Supplementary angles" means two angles whose measures have a sum of 180 degrees.

"Supposition" means (act of supposing) making a statement or assumption without proof.

"Tangent" means in a right triangle, the tangent is the ratio of the length of the leg opposite the angle to the length of the leg adjacent to the angle.

"Transformation" means motion of a geometric figure (rotation [turn], translation [slide], and reflection [flip]).

"Whole numbers" means 0, 1, 2, 3, 4, ...

210:15-3-40.2. Mathematics process standards grades 1-5 [REVOKED]

(1) Process standard – problem solving.

(A) Use problem solving approaches (e.g., act out situations, represent problems with drawings and lists, use concrete, pictorial, graphical, oral, written, and/or algebraic models, understand a problem, devise a plan, carry out the plan, look back).

(B) Formulate problems from everyday and mathematical situations (e.g., how many forks are needed?, how many students are absent?, how can we share/divide these cookies?, how many different ways can we find to compare these fractions?).

(C) Develop, test, and apply strategies to solve a variety of routine and nonroutine problems (e.g., look for patterns, make a table, make a problem simpler, process of elimination, trial and error).

(D) Verify and interpret results with respect to the original problem (e.g., students explain verbally why an answer makes sense, explain in a written format why an answer makes sense, verify the validity of each step taken to obtain a final result).

(E) Distinguish between necessary and irrelevant information in solving problems (e.g., play games and discuss "best" clues, write riddles with sufficient information, identify unnecessary information in written story problems).

(2) Process standard – communication.

(A) Express mathematical ideas coherently and clearly to peers, teachers, and others (e.g., with

verbal ideas, models or manipulatives, pictures, or symbols).

(B) Extend mathematical knowledge by considering the thinking and strategies of others (e.g., agree or disagree, rephrase another student's explanation, analyze another student's explanation).

(C) Relate manipulatives, pictures, diagrams, and symbols to mathematical ideas.

(D) Represent, discuss, write, and read mathematical ideas and concepts. Start by relating everyday language to mathematical language and symbols and progress toward the use of appropriate terminology (e.g., "add more" becomes "plus," "repeated addition" becomes "multiplication," "fair share" becomes "divide," "balance the equation" becomes "solve the equation").

(3) **Process standard—reasoning.**

(A) Explain mathematical situations using patterns and relationships (e.g., identify patterns in situations, represent patterns in a variety of ways, extend patterns to connect with more general cases).

(B) Demonstrate thinking processes using a variety of age appropriate materials and reasoning processes (e.g., manipulatives, models, known facts, properties and relationships, inductive [specific to general], deductive [general to specific], spatial, proportional, logical reasoning ["and," "or," "not"] and recursive reasoning).

(C) Make predictions and draw conclusions about mathematical ideas and concepts. Predictions become conjectures and conclusions become more logical as students mature mathematically.

(4) **Process standard—connections.**

(A) Relate various concrete and pictorial models of concepts and procedures to one another (e.g., use two colors of cubes to represent addition facts for the number 5, relate patterns on a hundreds chart to multiples, use base 10 blocks to represent decimals).

(B) Link concepts to procedures and eventually to symbolic notation (e.g., represent actions like snap, clap, clap with symbols A B B, demonstrate $3 \cdot 4$ with a geometric array, divide a candy bar into 3 equal pieces that represent one piece as $1/3$).

(C) Recognize relationships among different topics within mathematics (e.g., the length of an object can be represented by a number, multiplication facts can be modeled with geometric arrays, $1/2$ can be written as .5 and 50%).

(D) Use mathematical strategies to solve problems that relate to other curriculum areas and the real world (e.g., use a timeline to sequence events, use symmetry in art work, explore fractions in quilt designs and to describe pizza slices).

(5) **Process standard—representation.**

(A) Create and use a variety of representations appropriately and with flexibility to organize, record,

and communicate mathematical ideas (e.g., dramatizations, manipulatives, drawings, diagrams, tables, graphs, symbolic representations).

(B) Use representations to model and interpret physical, social, and mathematical situations (e.g., counters, pictures, tally marks, number sentences, geometric models; translate between diagrams, tables, charts, graphs).

210:15-3-41. Mathematics content standards grade 1 [REVOKED]

(a) **Standard—algebraic reasoning: patterns and relationships.** The student will use a variety of problem solving approaches to model, describe and extend patterns.

(1) Describe, extend and create patterns using concrete objects (e.g., sort a bag of objects by attributes and orally communicate the pattern for each grouping).

(2) Describe, extend, and create patterns with numbers in a variety of situations (e.g., addition charts, skip counting, calendars).

(3) Demonstrate number patterns by counting as many as 100 objects by 1's, 2's, 5's, and 10's.

(4) Recognize and apply the commutative and identity properties of addition, using models and manipulatives to develop computational skills (e.g., $2 + 4 = 4 + 2$, $3 + 0 = 3$).

(b) **Standard—number sense and operation.** The student will read, write and model numbers and number relationships. The student will use models to construct basic addition and subtraction facts with whole numbers.

(1) **Number Sense**

(A) Use concrete models of tens and ones to develop the concept of place value.

(B) Compare objects by size and quantity (e.g., more than, less than, equal to).

(C) Read and write numerals to 100.

(D) Manipulate physical models and recognize graphical representation of fractional parts (e.g., halves, thirds, fourths).

(2) **Number Operations**

(A) Develop and apply the concepts of addition and subtraction.

(i) Use models to construct addition and subtraction facts with sums up to twenty (e.g., counters, cubes).

(ii) Perform addition by joining sets of objects and subtraction by separating and by comparing sets of objects.

(iii) Demonstrate fluency with basic addition and subtraction facts (i.e., memorize and apply) to make a maximum sum of 10 and the associated subtraction facts (e.g., $7 + 3 = 10$ and $10 - 7 = 3$).

(B) Write addition and subtraction number sentences for problem solving situations.

(C) Acquire strategies for making computations using tens and ones to solve two digit addition and subtraction problems without regrouping (e.g., use

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estimation, number sense to judge reasonableness, counting on, use base ten blocks).

(e) **Standard—geometry.** The student will use geometric properties and relationships to recognize and describe shapes.

- (1) Sort and identify congruent shapes.
- (2) Identify, name, and describe two-dimensional geometric shapes (including rhombi) and objects in everyday situations (e.g., the face of a round clock is a circle, a desk-top is a rectangle).
- (3) Identify, name, and describe three-dimensional geometric shapes (including cones) and objects in everyday situations (e.g., a can is a cylinder, a basketball is a sphere).
- (4) Use language to describe relationships of objects in space (e.g., above, below, behind, between).

(d) **Standard—measurement.** The student will develop and use measurement skills to solve problems in a variety of situations.

- (1) **Linear Measurement.** Measure objects with one-inch tiles and with a standard ruler to the nearest inch.
- (2) **Time.**
 - (A) Tell time on digital and analog clocks to the hour and half hour.
 - (B) Develop the concepts of days, weeks, and months using a calendar.
- (3) **Money.** Identify and name the value of pennies, dimes, nickels, and quarters.

(e) **Standard—data analysis.** The student will demonstrate an understanding of data collection and display.

- (1) Organize, describe, and display data using concrete objects, pictures, or numbers.
- (2) Formulate and solve problems that involve collecting and analyzing data common to children's lives (e.g., color of shoes, numbers of pets, favorite foods).

210:15-3-42. Mathematics content standards grade 2 [REVOKED]

(a) **Standard—algebraic reasoning: patterns and relationships.** The student will use a variety of problem-solving approaches to model, describe, and extend patterns.

- (1) Describe, extend, and create patterns using symbols, shapes or numbers (e.g., repeating and growing patterns made up of sets of shapes or designs, create patterns by combining different shapes and taking them apart).
- (2) Formulate and record generalizations about number patterns in a variety of situations (e.g., addition and subtraction patterns; even and odd numbers; build a table showing the cost of one pencil at 10 cents, 2 pencils at 20 cents).
- (3) Find unknown values in open number sentences with a missing addend to solve everyday problems.
- (4) Recognize and apply the associative property of addition (e.g., $3 + (2 + 1) = (3 + 2) + 1$).

(b) **Standard—number sense and operation.** The student will use numbers and number relationships to acquire basic facts and will compute with whole numbers less than 100.

- (1) **Number Sense**

(A) Use concrete models of hundreds, tens, and ones to develop the concepts of place value and link the concepts to the reading and writing of numbers (e.g., base 10 blocks).

(B) Represent a number in a variety of ways (e.g., write 15 as $8 + 7$, write 25 as 2 tens + 5 ones or as 1 ten + 15 ones).

(C) Write a number sentence to compare numbers less than 1,000 (e.g., $425 > 276$, $73 < 107$, page 351 comes after 350, 753 is between 700 and 800).

(D) Demonstrate (using concrete objects, pictures, and numerical symbols) fractional parts including halves, thirds, fourths, and common percents (25%, 50%, 75%, and 100%).

(2) **Number Operations**

(A) Demonstrate fluency (i.e., memorize and apply) with basic addition facts to make a maximum sum of 18 and the associated subtraction facts (e.g., $15 + 3 = 18$ and $18 - 3 = 15$).

(B) Use strategies to estimate and solve sums and differences (e.g., compose, decompose and regroup numbers, use knowledge of 10 to estimate quantities and sums (two numbers less than 10 cannot add up to more than 20)).

(C) Solve two digit addition and subtraction problems with and without regrouping using a variety of techniques.

(D) Use concrete models to develop understanding of multiplication as repeated addition and division as successive subtraction.

(e) **Standard—geometry.** The student will use geometric properties and relationships to recognize and describe shapes.

- (1) Identify symmetric and congruent shapes and figures.
- (2) Investigate and predict the results of putting together and taking apart two-dimensional shapes.

(d) **Standard—measurement.** The student will use appropriate units of measure in a variety of situations to solve problems.

(1) **Linear Measurement**

- (A) Measure objects using standard units (e.g., measure length to the nearest foot, inch, or half inch).
- (B) Select and use appropriate units of measurement in problem solving and everyday situations.

(2) **Time**

- (A) Tell time on digital and analog clocks to the quarter hour.
- (B) Solve problems involving number of days in a week, month, or year and problems involving weeks in a month and year.

(3) **Money**

- (A) Identify and count money up to a twenty dollar bill.
- (B) Recognize and write different amounts of money using dollar and cent notation.

(e) **Standard—data analysis.** The student will demonstrate an understanding of data collection, display and interpretation.

- (1) Collect, sort, organize, and display data in charts, bar graphs, and tables (e.g., collect data on teeth lost and display results in a chart).
- (2) Summarize and interpret data in charts, bar graphs, and tables.

210:15-3-43. Mathematics content standards grade 3 [REVOKED]

~~(a) Standard—Algebraic reasoning: patterns and relationships. The student will use a variety of problem-solving approaches to extend and create patterns.~~

- ~~(1) Describe (orally or in written form), create, extend and predict patterns in a variety of situations (e.g., 3, 6, 9, 12 ...), use a function machine to generate input and output values for a table, show multiplication patterns on a hundreds chart, determine a rule and generate additional pairs with the same relationship).~~
- ~~(2) Find unknowns in simple arithmetic problems by solving open sentences (equations) and other problems involving addition, subtraction, and multiplication.~~
- ~~(3) Recognize and apply the commutative and identity properties of multiplication using models and manipulative to develop computational skills (e.g., $3 \cdot 5 = 5 \cdot 3$, $7 \cdot 1 = 7$).~~

~~(b) Standard—number sense and operations. The student will use numbers and number relationships to acquire basic facts. The student will estimate and compute with whole numbers.~~

- ~~(1) Number Sense

 - ~~(A) Place Value

 - ~~(i) Model the concept of place value through 4 digits (e.g., base 10 blocks, bundles of 10s, place value mats).~~
 - ~~(ii) Read and write whole number up to 4 digits (e.g., expanded form, standard form).~~~~
 - ~~(B) Whole Number and Fractions

 - ~~(i) Compare and order whole numbers up to 4 digits.~~
 - ~~(ii) Create and compare physical and pictorial models of equivalent and nonequivalent fractions including halves, thirds, fourths, eighths, tenths, twelfths, and common percents (25%, 50%, 75%, 100%) (e.g., fraction circles, pictures, egg cartons, fraction strips, number lines).~~~~~~
- ~~(2) Number Operations

 - ~~(A) Estimate and find the sum or difference, (with and without regrouping) of 3- and 4 digit number using a variety of strategies to solve application problems.~~
 - ~~(B) Multiplication Concepts and Fact Families

 - ~~(i) Use physical models and a variety of multiplication, algorithms to find the product of multiplication problems with one digit multipliers.~~
 - ~~(ii) Demonstrate fluency (memorize and apply) with basic multiplication facts up to 10×10 and the associated division facts (e.g., $5 \times 6 = 30$ and $30 \div 6 = 5$).~~~~~~

~~(iii) Estimate the product of 2-digit by 2-digit numbers by rounding to the nearest multiple of 10 to solve application problems.~~

~~(c) Standard—geometry. The student will use geometric properties and relationships to recognize and describe shapes.~~

- ~~(1) Identify and compare attributes of two- and three-dimensional shapes and develop vocabulary to describe the attributes (e.g., count the edges and faces of a cube, the radius of half of a circle, lines of symmetry).~~
- ~~(2) Analyze the effects of combining and subdividing two- and three-dimensional figures (e.g., folding paper, tiling, nets, and rearranging pieces of solids).~~
- ~~(3) Make and use coordinate systems to describe locations and shapes on a grid with ordered pairs and to describe paths from one point to another point on a grid.~~

~~(d) Standard—measurement. The student will use appropriate units of measure to solve problems.~~

- ~~(1) Measurement

 - ~~(A) Choose an appropriate measurement instrument and measure the length of objects to the nearest inch or half inch and the weight of objects to the nearest pound or ounce.~~
 - ~~(B) Choose an appropriate measurement instrument and measure the length of objects to the nearest meter or centimeter and the weight of objects to the nearest gram or kilogram.~~
 - ~~(C) Develop and use the concept of perimeter of different shapes to solve problems.~~
 - ~~(D) Develop and use strategies to choose an appropriate unit and measurement instrument to estimate measurements (e.g., use parts of the body as benchmarks for measuring length).~~~~
- ~~(2) Time and Temperature

 - ~~(A) Solve simple addition problems with time (e.g., 15 minutes added to 1:10 p.m.).~~
 - ~~(B) Tell time on digital and analog clocks to the nearest 5 minutes.~~
 - ~~(C) Read a thermometer and solve for temperature change.~~~~

~~(e) Standard—data analysis. The student will demonstrate an understanding of collection, display and interpretation of data and probability.~~

- ~~(1) Data Analysis

 - ~~(A) Pose questions, collect, record, and interpret data to help answer questions (e.g., which was the most popular booth at our carnival?).~~
 - ~~(B) Read graphs and charts, identify the main idea, draw conclusions, and make predictions based on the data (e.g., predict how many children will bring their lunch based on a menu).~~
 - ~~(C) Construct bar graphs, frequency tables, line graphs (plots), and pictographs with labels and a title from a set of data.~~~~
- ~~(2) Probability: Describe the probability (more, less, or equally likely) of chance events.~~

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210:15-3-44. Mathematics content standards grade 4 [REVOKED]

(a) ~~Standard—algebraic reasoning: patterns and relationships.~~ The student will use a variety of problem solving approaches to analyze, extend and create patterns.

(1) Discover, describe, extend, and create a wide variety of patterns using tables, graphs, rules, and verbal models (e.g., determine the from a table or "function machine," extend visual and number patterns).

(2) Find variables in simple arithmetic problems by solving open sentences (equations) and other problems involving addition, subtraction, multiplication, and division with whole numbers.

(3) Recognize and apply the commutative, associative, and distributive properties to solve problems (e.g., $3 \times (2 + 4) = (3 \times 2) + (3 \times 4)$).

(b) ~~Standard—number sense and operation.~~ The student will use numbers and number relationships to acquire basic number facts. The student will estimate and compute with whole numbers and fractions.

(1) Number Sense

(A) Place Value

(i) Apply the concept of place value of whole numbers through 6 digits (e.g., write numbers in expanded form).

(ii) Model, read, write, and rename decimal numbers to the hundredths (e.g., money, numerals to words).

(B) Whole Number, Fraction, and Decimal

(i) Compare and order whole numbers and decimals to the hundredths place (e.g., pictures of shaded regions of two dimensional figures, use $>$, $<$, $=$ symbols).

(ii) Use 0, $1/2$, and 1 or 0, 0.5, and 1, as benchmarks and place additional fractions, decimals, and percents on a number line (e.g., $1/3$, $3/4$, 0.7, 0.4, 62%, 12%).

(iii) Create physical and pictorial models of equivalent and non equivalent fractional parts to be compared, added or subtracted (e.g., egg cartons, fraction strips, circles, and squares).

(iv) Explore and connect negative numbers using real work situations (e.g., owing money, temperature, measuring elevations above and below sea level).

(2) Number Operations

(A) Estimate and find the product of up to three digit by three digit using a variety of strategies to solve application problems.

(B) Division Concepts and Fact Families

(i) Demonstrate fluency (memorize and apply) with basic division facts up to $144 \div 12$ and the associated multiplication facts (e.g., $44 \div 12 = 12$ and $12 \times 12 = 144$).

(ii) Estimate the quotient with 1 and 2 digit divisors and a 2 or 3 digit dividend to solve application problems.

(iii) Find the quotient (with and without remainders) with 1 digit divisors and a 2 or 3 digit dividend to solve application problems.

(c) ~~Standard—geometry.~~ The student will use geometric properties and relationships to analyze shapes.

(1) Identify, draw, and construct models of intersecting, parallel, and perpendicular lines.

(2) Identify and compare angles equal to, less than, or greater than 90 degrees (e.g., use right angles to determine the approximate size of other angles).

(3) Identify, draw, and construct models of regular and irregular polygons including triangles, quadrilaterals, pentagons, hexagons, heptagons, and octagons to solve problems.

(4) Describe the effects on two dimensional objects when they slide (translate), flip (reflect), and turn (rotate) (e.g., tessellations).

(d) ~~Standard—measurement.~~ The student will use appropriate units of measure in a variety of situations to solve problems.

(1) Measurement

(A) Estimate the measures of a variety of objects using customary units.

(B) Establish benchmarks for metric units and estimate the measures of a variety of objects (e.g., mass: the mass of a raisin is about 1 gram, length: the width of a finger is about 1 centimeter).

(C) Select appropriate customary and metric units of measure and measurement instruments to solve application problems involving length, weight, mass, and volume.

(D) Develop and use the concept of area of different shapes using grids.

(2) Time and Temperature

(A) Solve elapsed time problems.

(B) Read thermometers using different intervals (intervals of 1, 2, or 5) and solve for temperature change.

(3) Money: Determine the correct amount of change when a purchase is made with a twenty dollar bill.

(e) ~~Standard—data analysis.~~ The student will demonstrate an understanding of collection, display, and interpretation of data and probability.

(1) Data Analysis

(A) Read and interpret data displays such as tallies, tables, charts and graphs and use the observations to pose and answer questions (e.g., choose a table in social studies of population data and write problems).

(B) Collect, organize and record data in tables and graphs (e.g., bar, pictograph, line plots).

(2) Probability: Predict the probability of outcomes of simple experiments using words such as certain, equally likely, impossible (e.g., coins, number cubes, spinners).

(3) Central Tendency: Determine the median (middle), and the mode (most often) of a set of data.

210:15-3-45. Mathematics content standards grade 5 [REVOKED]

(a) **Standard—algebraic reasoning: patterns and relationships.** The student will use algebraic methods to describe patterns and solve problems in a variety of contexts.

- (1) Describe rules that produce patterns found in tables, graphs, and models, and use variables (e.g., boxes, letters, pawns, number cubes, or other symbols) to solve problems or to describe general rules in algebraic expression or equation form.
- (2) Use algebraic problem solving techniques (e.g., use a balance to model an equation and show how subtracting a number from one side requires subtracting the same amount from the other side) to solve problems.
- (3) Recognize and apply the commutative, associative, and distributive properties to solve problems (e.g., $3 \times (2 = 4) = 3 \times 2 = (3 \times 4)$).

(b) **Standard—number sense and operation.** The student will use numbers and number relationships to acquire basic facts. The student will estimate and compute with whole numbers, fractions, and decimals.

- (1) **Number Sense**
 - (A) Apply the concept of place value of whole numbers through hundred millions (9 digits) and model, read, and write decimal numbers through the thousandths.
 - (B) Represent with models the connection between fractions and decimals, compare and order fractions and decimals, and be able to convert from one representation to another (e.g., use 10 x 10 grids, base 10 blocks).
 - (C) Identify and compare integers (and their absolute values) using real world situations. (e.g., owing money, temperature, measuring elevations above and below sea level).
 - (D) Identify and apply factors, multiples, prime, and composite numbers in a variety of problem solving situations (e.g., build rectangular arrays for numbers 1-100 and classify as prime or composite, use common factors to add fractions).

- (2) **Number Operations**
 - (A) Estimate, add, or subtract decimal numbers with same and different place values to solve problems (e.g., $3.72 + 1.4$, $\$4.56 - \2.12).
 - (B) Estimate add, or subtract fractions (including mixed numbers) using a variety of methods to solve problems (e.g., use fraction strips, use area models, find a common denominator).
 - (C) Estimate and find the quotient (with and without remainders) with 2 digit divisors and a 2 or 3 digit dividend to solve application problems.

(c) **Standard—geometry.** The student will apply geometric properties and relationships.

- (1) Compare and contrast the basic characteristics of circle and polygons (triangles, quadrilaterals, pentagons, hexagons, heptagons, octagons) to solve problems.
- (2) Classify angles (e.g., acute, right, obtuse, straight).

(d) **Standard—measurement.** The student will use appropriate units of measure to solve problems in a variety of contexts.

- (1) **Measurement**
 - (A) Compare, estimate, and determine the measurement of angles.
 - (B) Develop and use the formula for perimeter and area of a square and rectangle to solve problems.
 - (C) Convert basic measurements of volume, mass and distance within the same system for metric and customary units (e.g., inches to feet, hours to minutes, centimeters to meters).

(2) **Money:** Solve a variety of problems involving money.

(e) **Standard—data analysis.** The student will use data analysis, statistics and probability to interpret data in a variety of contexts.

- (1) **Data Analysis**
 - (A) Compare and translate displays of data and justify the selection of the type of table or graph (e.g., charts, tables, bar graphs, pictographs, line graphs, circle graphs, Venn diagrams).
 - (B) Formulate questions, design investigations, consider samples, and collect, organize, and analyze data using observation, measurement, surveys, or experiments (e.g., how far can 5th graders throw a softball based on where it first hits the ground?).
- (2) **Probability**
 - (A) Determine the probability of events occurring in familiar contexts or experiments and express probabilities as fractions from zero to one (e.g., find the fractional probability of an event given a biased spinner).
 - (B) Use the fundamental counting principle on sets with up to four items to determine the number of possible combinations (e.g. create a tree diagrams to see possible combinations).
- (3) **Central Tendency:** Determine the range (spread), mode (most often), and median (middle) of a set of data.

210:15-3-46. Overview grades 6 - 8 [REVOKED]

(a) Students in the middle grades will expand and deepen their knowledge of numbers, computation, estimation, measurement, geometry, statistics, probability, patterns and functions, and the fundamental concepts of algebra by focusing on meaningful mathematics in each of these areas.

(b) Instruction in the middle grades should include activities in which the students actively work to pose and solve problems both individually and together. Learning tools such as concrete models, fraction manipulatives, algebra tiles, geoboards, calculators and computers are beneficial and should be available to all students.

210:15-3-46.1. Mathematics process standards grades 6 - 8 [REVOKED]

(a) **Process standard—problem solving.**

- (1) Develop and test strategies to solve practical, everyday problems which may have single or multiple answers.
 - (2) Use technology to generate and analyze data to solve problems.
 - (3) Formulate problems from situations within and outside of mathematics and generalize solutions and strategies to new problem situations.
 - (4) Evaluate results to determine their reasonableness.
 - (5) Apply a variety of strategies (e.g., restate the problem, look for a pattern, diagrams, solve a simpler problem, work backwards, trial and error) to solve problems, with emphasis on multistep and nonroutine problems.
 - (6) Use oral, written, concrete, pictorial, graphical, and/or algebraic methods to model mathematical situations.
- (b) **Process standard—communication.**
- (1) Discuss, interpret, translate (from one to another) and evaluate mathematical ideas (e.g., oral, written, pictorial, concrete, graphical, algebraic).
 - (2) Reflect on and justify reasoning in mathematical problem solving (e.g., convince, demonstrate, formulate).
 - (3) Select and use appropriate terminology when discussing mathematical concepts and ideas.
- (c) **Process standard—reasoning.**
- (1) Identify and extend patterns and use experiences and observations to make suppositions.
 - (2) Use counter examples to disprove suppositions (e.g., all squares are rectangles, but are all rectangles squares?).
 - (3) Develop and evaluate mathematical arguments (e.g., agree or disagree with the reasoning of other classmates and explain why).
 - (4) Select and use various types of reasoning (e.g., recursive [loops], inductive [specific to general], deductive [general to specific], spatial, and proportional).
- (d) **Process standard—connections.**
- (1) Apply mathematical strategies to solve problems that arise from other disciplines and the real world.
 - (2) Connect one area or idea of mathematics to another (e.g., relate equivalent number representations to each other, relate experiences with geometric shapes to understanding ratio and proportion).
- (e) **Process standard—representations.**
- (1) Use a variety of representations to organize and record data (e.g., use concrete, pictorial, and symbolic representations).
 - (2) Use representations to promote the communication of mathematical ideas (e.g., number lines, rectangular coordinate systems, scales to illustrate the balance of equations).
 - (3) Develop a variety of mathematical representations that can be used flexibly and appropriately (e.g., base 10 blocks to represent fractions and decimals, appropriate graphs to represent data).
 - (4) Use a variety of representations to model and solve physical, social, and mathematical problems (e.g., geometric objects, pictures, charts, tables, graphs).

210:15-3-47. Mathematics content standards grade 6 [REVOKED]

- (a) **Standard—algebraic reasoning: patterns and relationships.** The student will use algebraic methods to describe patterns, simplify and write algebraic expressions and solve simple equations in a variety of contexts.
- (1) Generalize and extend patterns and functions using tables, graphs, and number properties (e.g., number sequences, prime and composite numbers, recursive patterns like the Fibonacci numbers).
 - (2) Write algebraic expressions and simple equations that correspond to a given situation.
 - (3) Use substitution to simplify and evaluate algebraic expressions (e.g., if $x = 5$ evaluate $3 - 2x$).
 - (4) Write and solve one step equations with one variable using number sense, the properties of operations, and the properties of equality (e.g., $1/3x = 9$).
- (b) **Standard—number sense and operation.** The student will use numbers and number relationships to solve a variety of problems. The student will estimate and compute with integers, fractions, and decimals.
- (1) **Number Sense:** Convert, compare, and order decimals, fractions, and percents using a variety of methods.
 - (2) **Number Operations**
 - (A) Multiply and divide fractions and mixed numbers to solve problems using a variety of methods.
 - (B) Multiply and divide decimals with 1 or 2 digit multipliers or divisors to solve problems.
 - (C) Estimate and find solutions to single and multi-step problems using whole numbers, decimals, fractions, and percents to solve problems (e.g., $7/8\text{th} + 8/9\text{th}$ is about 2, $3.9 + 5.3$ is about 9).
 - (D) Use the basic operations on integers to solve problems.
 - (3) Build and recognize multiples to develop the concept of exponents and simplify numerical expressions with exponents and parentheses using order of operations.
- (c) **Standard—geometry.** The student will use geometric properties and relationships to recognize, describe and analyze shapes and representations in a variety of contexts.
- (1) Compare and contrast the basic characteristics of 3 dimensional figures (pyramids, prisms, cones, and cylinders to solve problems).
 - (2) Compare and contrast congruent and similar figures.
 - (3) Identify the characteristics of the rectangular coordinate system and use them to locate points and describe shapes drawn in all four quadrants.
- (d) **Standard—measurement.** The student will use measurements within the metric and customary systems to solve problems in a variety of contexts.
- (1) Use formulas to find the circumference and area of circles in terms of pi.
 - (2) Convert, add, or subtract measurements within the same measurement system (e.g., $9'8" + 3'6"$, 150 minutes = __ hours and __ minutes).

(e) **Standard—data analysis.** The student will use data analysis, probability, and statistics to interpret data in a variety of contexts:

- (1) **Data Analysis:** Organize, construct displays, and interpret data to solve problems (e.g., data from student experiments, tables, diagrams, charts and graphs).
- (2) **Probability:** Use the fundamental counting principle on sets with up to five items to determine the number of possible combinations.
- (3) **Central Tendency:** Find the measures of central tendency (mean, median, mode, and range) of a set of data (with and without outliers) and understand why a specific measure provides the most useful information in a given context.

210:15-3-48. Mathematics content standards grade 7 [REVOKED]

(a) **Standard—algebraic reasoning: patterns and relationships.** The student will use number properties to simplify and solve simple linear equations.

- (1) Identify, describe, and analyze functional relationships (linear and nonlinear) between two variables to solve problems (e.g., as the value of x increases on a table, do the values of y increase or decrease, identify a positive rate of change on a graph and compare it to a negative rate of change, describe relationships between two variables on a scatter plot).
- (2) Write and solve two step equations with one variable using number sense, the properties of operations, and the properties of equality (e.g., $2x + 4 = -2$).
- (3) **Inequalities:** Model, write, solve and graph one step linear inequalities with one variable.

(b) **Standard—number sense and operation.** The student will use numbers and number relationships to acquire basic facts and determine the reasonableness of results.

- (1) **Number Sense**
 - (A) Compare and order positive and negative rational numbers.
 - (B) Build and recognize models of perfect squares to find their square roots and estimate the square root of other numbers (e.g., the square root of 12 is between 3 and 4).
 - (C) Demonstrate the concept of ratio and proportion with models (e.g., similar geometric shapes, scale models).
- (2) **Number Operations**
 - (A) Solve application problems using ratio and proportion.
 - (B) Solve percent application problems (e.g., discounts, tax, finding the missing value of percent/part/whole).
 - (C) Simplify numerical expressions with integers, exponents, and parentheses using order of operations.

(c) **Standard—geometry.** The student will apply the properties and relationships of plane geometry in a variety of contexts.

(1) Classify regular and irregular geometric figures including triangles and quadrilaterals according to their sides and angles

(2) Identify and analyze the characteristics of the angle relationships formed by parallel lines cut by a transversal (e.g., alternate interior angles, alternate exterior angles, adjacent, and vertical angles).

(3) Construct geometric figures and identify geometric transformation on the rectangular coordinate plane (e.g., rotations, translations, reflections, magnifications).

(d) **Standard—measurement.** The student will use measurement to solve problems in a variety of contexts.

(1) Develop and apply the formulas for perimeter and area of triangles and quadrilaterals to solve problems.

(2) Apply the formula for circumference and area of a circle to solve problems.

(3) Find the area and perimeter of composite figures to solve application problems.

(e) **Standard—data analysis.**

(1) **Data Analysis:** Compare, translate, and interpret between displays of data (e.g., multiple sets of data on the same graph, data from subsets of the same population, combinations of diagrams, tables, charts, and graphs).

(2) **Probability:** Determine the probability of an event involving "or," "and," or "not" (e.g., on a spinner with 1 blue, 2 red and 2 yellow sections, what is the probability of getting a red or a yellow?).

(3) **Central Tendency:** Compute the mean, median, mode, and range for data sets and understand how additional data or outliers in a set may affect the measures of central tendency.

210:15-3-49. Mathematics content standards grade 8 [REVOKED]

(a) **Standard—algebraic reasoning: patterns and relationships.** The student will graph and solve linear equations and inequalities in problem solving situations.

- (1) **Equations**
 - (A) Model, write, and solve multi step linear equations with one variable using a variety of methods to solve application problems.
 - (B) Graph and interpret the solution to one and two step linear equations on a number line with one variable and on a coordinate plane with two variables.
 - (C) Predict the effect on the graph of a linear equation when the slope or intercepts change (e.g., make predictions from graphs, identify the slope and y intercept in the equation $y = mx + b$ and relate to a graph).

(2) **Inequalities:** Model, write, solve, and graph one and two step linear inequalities with one variable to solve problems.

(b) **Standard—number sense and operation.** The student will use numbers and number relationships to solve a variety of problems.

(1) **Number Sense:** Represent and interpret large numbers and numbers less than one in exponential and scientific notation.

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- (2) Number Operations
 - (A) Use the rules of exponents, including integer exponents, to solve problems (e.g., $7^2 \cdot 7^3 = 7^5$, $3^{-10} \cdot 3^8 = 3^{-2}$).
 - (B) Solve problems using scientific notation.
 - (C) Simplify numerical expressions with rational numbers, exponents, and parentheses using order of operations.
- (c) Standard—geometry. The student will use geometric properties to solve problems in a variety of contexts:
 - (1) Construct models, sketch (from different perspectives), and classify solid figures such as rectangular solids, prisms, cones, cylinders, pyramids, and combined forms.
 - (2) Develop the Pythagorean Theorem and apply the formula to find the length of line segments, the shortest distance between two points on a graph, and the length of an unknown side of a right triangle to solve problems.
- (d) ~~Standard—measurement.~~ The student will use measurement to solve problems in a variety of contexts:
 - (1) Develop and apply formulas to find the surface area and volume of rectangular prisms, triangular prisms, and cylinders (in terms of pi).
 - (2) Apply knowledge of ratio and proportion to solve relationships between similar geometric figures
 - (3) Find the area of a "region of a region" for simple composite figures and the area of cross sections of regular geometric solids (e.g., area of a rectangular picture frame).
- (e) ~~Standard—data analysis.~~ The student will use data analysis, probability and statistics to interpret data in a variety of contexts:
 - (1) Data Analysis: Select, analyze, and apply data displays in appropriate formats to draw conclusions and solve problems.
 - (2) Probability: Determine how samples are chosen (random, limited, biased) to draw and support conclusions about generalizing a sample to a population (e.g., is the average height of a men's college basketball team a good representative sample for height predictions?).
 - (3) Central Tendency: Find the measures of central tendency (mean, median, and mode, and range) of a set of data (with and without outliers) and understand why a specific measure provides the most useful information in a given context.

210:15-3-50. Overview high school [REVOKED]

- (a) ~~The PRIORITY ACADEMIC STUDENT SKILLS (PASS) in mathematics for high school establishes a framework for a curriculum that reflects the needs of all students. Such a curriculum recognizes that they will spend their adult lives in a society increasingly dominated by technology and quantitative methods.~~
- (b) A broadened view of mathematics will include the traditional topics of algebra and geometry but must also include the mathematical processes of problem solving, communication, reasoning, connections, and representation. Although they are stated separately for emphasis, these process standards should be integrated throughout the high school core curriculum.

- (e) A school's curriculum in mathematics should be organized to permit all students to progress as far into the mathematics proposed here as their achievement with the objectives allows. Schools should use this material to create a curriculum most beneficial to their students. Those students planning to continue their mathematics education should study additional advanced mathematics topics such as trigonometry and calculus.
- (d) The curriculum is intended to provide a common body of mathematical ideas accessible to all students. It is recognized that students entering high school differ in many ways, including mathematical achievement, but it is believed these differences are best addressed by extensions of the proposed content rather than by deletions.
- (e) The increasing role of technology in instruction will alter the teaching and learning of mathematics. Calculators and computers should be integrated throughout the curriculum so that students will concentrate on the problem solving process as well as the calculations associated with problems.

210:15-3-50.1. Process standards high school [REVOKED]

- (a) ~~Process standard—problem solving.~~
 - (1) Apply a wide variety of problem solving strategies (identify a pattern, use equivalent representations) to solve problems from within and outside mathematics.
 - (2) Identify the problem from a described situation, determine the necessary data and apply appropriate problem solving strategies.
- (b) ~~Process standard—communication.~~
 - (1) Use mathematical language and symbols to read and write mathematics and to converse with others.
 - (2) Demonstrate mathematical ideas orally and in writing.
 - (3) Analyze mathematical definitions and discover generalizations through investigations.
- (c) ~~Process standard—reasoning.~~
 - (1) Use various types of logical reasoning in mathematical contexts and real world situations.
 - (2) Prepare and evaluate suppositions and arguments.
 - (3) Verify conclusions, identify counterexamples, test conjectures, and justify solutions to mathematical problems.
 - (4) Justify mathematical statements through proofs.
- (d) ~~Process standard—connections.~~
 - (1) Link mathematical ideas to the real world (e.g., statistics helps qualify the confidence we can have when drawing conclusions based on a sample).
 - (2) Apply mathematical problem solving skills to other disciplines.
 - (3) Use mathematics to solve problems encountered in daily life.
 - (4) Relate one area of mathematics to another and to the integrated whole (e.g., connect equivalent representations to corresponding problem situations or mathematical concepts).
- (e) ~~Process standard—representation.~~

- (1) Use algebraic, graphic, and numeric representations to model and interpret mathematical and real world situations.
- (2) Use a variety of mathematical representations as tools for organizing, recording, and communicating mathematical ideas (e.g., mathematical models, tables, graphs, spreadsheets).
- (3) Develop a variety of mathematical representations that can be used flexibly and appropriately.

210:15-3-51. Mathematics content skills algebra I [REVOKED]

(a) **Standard 1—number sense and algebraic operations.** The student will use expressions and equations to model number relationships.

- (1) Equations and formulas
 - (A) Translate word phrases and sentences into expressions and equations and vice versa.
 - (B) Solve literal equations involving several variables for one variable in terms of the others.
 - (C) Use the formulas from measurable attributes of geometric models (perimeter, circumference, area and volume), science, and statistics to solve problems within an algebraic context.
 - (D) Solve two step and three step problems using concepts such as rules of exponents, rate, distance, ratio and proportion, and percent.
- (2) Expressions
 - (A) Simplify and evaluate linear, absolute value, rational and radical expressions.
 - (B) Simplify polynomials by adding, subtracting or multiplying.
 - (C) Factor polynomial expressions.

(b) **Standard 2—relations and functions.** The student will use relations and functions to model number relationships.

- (1) Relations and functions
 - (A) Distinguish between linear and nonlinear data.
 - (B) Distinguish between relations and functions.
 - (C) Identify dependent and independent variables, domain and range.
 - (D) Evaluate a function using tables, equations or graphs.
- (2) Linear equations and graphs
 - (A) Solve linear equations by graphing or using properties of equality.
 - (B) Recognize the parent graph of the functions $y = k$, $y = x$, $y = |x|$, and predict the effects of transformations on the parent graph.
 - (C) Slope
 - (i) Calculate the slope of a line using a graph, an equation, two points or a set of data points.
 - (ii) Use the slope to differentiate between lines that are parallel, perpendicular, horizontal, or vertical.
 - (iii) Interpret the slope and intercepts within the context of everyday life (e.g., telephone charges based on base rate [y intercept] plus rate per minute [slope]).

- (D) Develop the equation of a line and graph linear relationships given the following: slope and y intercept, slope and one point on the line, two points on the line, x intercept and y intercept, and a set of data points.
- (E) Match equations to a graph, table, or situation and vice versa.

- (3) Linear inequalities and graphs
 - (A) Solve linear inequalities by graphing or using properties of inequalities.
 - (B) Match inequalities (with 1 or 2 variables) to a graph, table, or situation and vice versa.
- (4) Solve a system of linear equations by graphing, substitution or elimination.
- (5) Nonlinear functions
 - (A) Match exponential and quadratic functions to a table, graph or situation and vice versa.
 - (B) Solve quadratic equations by graphing, factoring, or using the quadratic formula.

(c) **Standard 3—data analysis, probability, and statistics.** The student will use data analysis, probability, and statistics to formulate and justify predictions from a set of data.

- (1) Data analysis
 - (A) Translate from one representation of data to another and understand that the data can be represented using a variety of tables, graph, or symbols and that different modes of representation often convey different messages.
 - (B) Make valid inferences, predictions, and/or arguments based on data shown on graphs, tables, and charts.
 - (C) Solve two step and three step problems using concept such as probability and measures of central tendency.
- (2) Collect data involving two variables and display on a scatter plot; interpret results using a linear model/equation and identify whether the model/equation is a line best fit for the data.

210:15-3-52. Mathematics content standards geometry [REVOKED]

(a) **Standard 1: Logical Reasoning—** The student will use deductive and inductive reasoning to solve problems.

- (1) Identify and use logical reasoning skills (inductive and deductive) to make and test conjectures, formulate counter examples, and follow logical arguments.
- (2) State, use, and examine the validity of the converse, inverse, and contrapositive of "if then statements."
- (3) Compare the properties of Euclidean geometry to non-Euclidean geometries (for example, elliptical geometry, as shown on the surface of a globe, does not uphold the parallel postulate).

(b) **Standard 2: Properties of 2-Dimensional Figures—** The student will use the properties and formulas of geometric figures to solve problems.

- (1) Use geometric tools (for example, protractor, compass, straight edge) to construct a variety of figures.
- (2) Line and Angle Relationships

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- (A) Use the angle relationships formed by parallel lines cut by a transversal to solve problems.
- (B) Use the angle relationships formed by two lines cut by a transversal to determine if the two lines are parallel and verify, using algebraic and deductive proofs.
- (C) Use relationships between pairs of angles (for example, adjacent, complementary, vertical) to solve problems.
- (3) **Polygons and Other Plane Figures**
- (A) Identify, describe, and analyze polygons (e.g., convex, concave, regular, pentagonal, hexagonal, n-gonal).
- (B) Apply the interior and exterior angle sum of convex polygons to solve problems, and verify using algebraic and deductive proofs.
- (C) Develop and apply the properties of quadrilaterals to solve problems (e.g., rectangles, parallelograms, rhombi, trapezoids, kites).
- (D) Use properties of 2-dimensional figures and side length, perimeter or circumference, and area to determine unknown values and correctly identify the appropriate unit of measure of each.
- (4) **Similarity**
- (A) Determine and verify the relationships of similarity of triangles, using algebraic and deductive proofs.
- (B) Use ratios of similar 2-dimensional figures to determine unknown values, such as angles, side lengths, perimeter or circumference, and area.
- (5) **Congruence**
- (A) Determine and verify the relationships of congruency of triangles, using algebraic and deductive proofs.
- (B) Use the relationships of congruency of 2-dimensional figures to determine unknown values, such as angles, side lengths, perimeter or circumference, and area.
- (6) **Circles**
- (A) Find angle measures and arc measures related to circles.
- (B) Find angle measures and segment lengths using the relationships among radii, chords, secants, and tangents of a circle.
- (e) **Standard 3: Triangles and Trigonometric Ratios** - The student will use the properties of right triangles and trigonometric ratios to solve problems.
- (1) Use the Pythagorean Theorem and its converse to find missing side lengths and to determine acute, right, and obtuse triangles, and verify using algebraic and deductive proofs.
- (2) Apply the 45-45-90 and 30-60-90 right triangle relationships to solve problems, and verify using algebraic and deductive proofs.
- (3) Express the trigonometric functions as ratios and use sine, cosine, and tangent ratios to solve real-world problems.
- (4) Use the trigonometric ratios to find the area of a triangle.
- (d) **Standard 4: Properties of 3-Dimensional Figures**—The student will use the properties and formulas of geometric figures to solve problems.
- (1) **Polyhedra and Other Solids**
- (A) Identify, describe, and analyze polyhedra (for example, regular, decahedral).
- (B) Use properties of 3-dimensional figures; side lengths, perimeter or circumference, and area of a face; and volume, lateral area, and surface area to determine unknown values and correctly identify the appropriate unit of measure of each.
- (2) **Similarity**: Use ratios of similar 3-dimensional figures to determine unknown values, such as angles, side lengths, perimeter or circumference of a face, area of a face, and volume.
- (3) Create a model of a 3-dimensional figure from a 2-dimensional drawing and make a 2-dimensional representation of a 3-dimensional object (for example, nets, blueprints, perspective drawings).
- (e) **Standard 5: Coordinate Geometry**—The student will solve problems with geometric figures in the coordinate plane.
- (1) Find the distance between two points; the midpoint of a segment; and calculate the slopes of parallel, perpendicular, horizontal, and vertical lines.
- (2) **Properties of Figures**
- (A) Given a set of points determine the type of figure formed based on its properties.
- (B) Use transformations (reflection, rotation, translation) within coordinate geometry.

210:15-3-53. Mathematics content standards algebra II [REVOKED]

- (a) **Standard 1: Number Systems and Algebraic Operations**—The student will perform operations with rational, radical, and polynomial expressions, as well as expressions involving complex numbers.
- (1) **Rational Exponents**
- (A) Convert expressions from radical notations to rational exponents and vice versa.
- (B) Add, subtract, multiply, divide, and simplify radical expressions and expressions containing rational exponents.
- (2) **Polynomial and Rational Expressions**
- (A) Divide polynomial expressions by lower-degree polynomials.
- (B) Add, subtract, multiply, divide, and simplify rational expressions, including complex fractions.
- (3) **Complex Numbers**
- (A) Recognize that to solve certain problems and equations, number systems need to be extended from real numbers to complex numbers.
- (B) Add, subtract, multiply, divide, and simplify expressions involving complex numbers.
- (b) **Standard 2: Relations and Functions**—The student will use the relationships among the solution of an equation, zero of a function, x-intercepts of a graph, and factors of a

polynomial expression to solve problems involving relations and functions.

- (1) **Functions and Function Notation**
 - (A) Recognize the parent graphs of polynomial, exponential, radical, quadratic, and logarithmic functions and predict the effects of transformations on the parent graphs, using various methods and tools which may include graphing calculators.
 - (B) Add, subtract, multiply, and divide functions using function notation.
 - (C) Combine functions by composition.
 - (D) Use algebraic, interval, and set notations to specify the domain and range of functions of various types.
 - (E) Find and graph the inverse of a function, if it exists.
- (2) **Systems of Equations**
 - (A) Model a situation that can be described by a system of equations or inequalities and use the model to answer questions about the situation.
 - (B) Solve systems of linear equations and inequalities using various methods and tools which may include substitution, elimination, matrices, graphing, and graphing calculators.
 - (C) Use either one quadratic equation and one linear equation or two quadratic equations to solve problems.
- (3) **Quadratic Equations and Functions**
 - (A) Solve quadratic equations by graphing, factoring, completing the square and quadratic formula.
 - (B) Graph a quadratic function and identify the x - and y -intercepts and maximum or minimum value, using various methods and tools which may include a graphing calculator.
 - (C) Model a situation that can be described by a quadratic function and use the model to answer questions about the situation.
- (4) Identify, graph, and write the equations of the conic sections (circle, ellipse, parabola, and hyperbola).
- (5) **Exponential and Logarithmic Functions**
 - (A) Graph exponential and logarithmic functions.
 - (B) Apply the inverse relationship between exponential and logarithmic functions to convert from one form to another.
 - (C) Model a situation that can be described by an exponential or logarithmic function and use the model to answer questions about the situation.
- (6) **Polynomial Equations and Functions**
 - (A) Solve polynomial equations using various methods and tools which may include factoring and synthetic division.
 - (B) Sketch the graph of a polynomial function.
 - (C) Given the graph of a polynomial function, identify the x - and y -intercepts, relative maximums and relative minimums, using various methods and tools which may include a graphing calculator.

- (D) Model a situation that can be described by a polynomial function and use the model to answer questions about the situation.
- (7) **Rational Equations and Functions**
 - (A) Solve rational equations.
 - (B) Sketch the graph of a rational function.
 - (C) Given the graph of a rational function, identify the x - and y -intercepts, asymptotes, using various methods and tools which may include a graphing calculator.
 - (D) Model a situation that can be described by a rational function and use the model to answer questions about the situation.

(e) **Standard 3: Data Analysis and Statistics**—The student will use data analysis and statistics to formulate and justify predictions from a set of data.

- (1) **Analysis of Collected Data Involving Two Variables**
 - (A) Interpret data on a scatter plot using a linear, exponential or quadratic model/equation.
 - (B) Identify whether the model/equation is a curve of best fit for the data, using various methods and tools which may include a graphing calculator.
- (2) **Measures of Central Tendency and Variability**
 - (A) Analyze and synthesize data from a sample using appropriate measures of central tendency (mean, median, mode, weighted average).
 - (B) Analyze and synthesize data from a sample using appropriate measures of variability (range, variance, standard deviation).
 - (C) Use the characteristics of the Gaussian normal distribution (bell shaped curve) to solve problems.
 - (D) Identify how given outliers affect representations of data.
- (3) Identify and use arithmetic and geometric sequences and series to solve problems.

210:15-3-54. Mathematics education

(a) **Goal of Mathematics education.** The overarching goal of the Oklahoma Academic Standards for Mathematics is for all Oklahoma students to become mathematically proficient and literate through a strong mathematics program that emphasizes and engages problem solving, communicating, reasoning, connections, and representations. The students are supported to learn the skills to be proficient and literate students and to confidently and effectively use mathematics concepts, computation skills, and numbers to problem-solve, reason, and analyze information. The clear, concise, and rigorous mathematics standards are to have Oklahoma students be college and career ready. Students will develop a deep and flexible conceptual understanding, fluency, problem solving strategies, mathematical reasoning and disposition which will have students be ready for the mathematics expectations of college and the skills desired by many employers.

(b) **Format of the standards.** The Oklahoma Academic Standards for Mathematics are developed around four main content strands. All four standards engage and develop skills and abilities to problem solve, communicate, and reason. The

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standards specify what students should know and be able to do at the end of each grade level or course. The standards are flexible in organization with high expectations and support for all students. The standards stimulate curiosity, create enjoyment of mathematics, and develop depth of understanding. The standards focus on problem solving and allows for reflective thinking for a deeper knowledge of mathematics. The standards enhance technology that is essential in teaching and learning mathematics.

210:15-3-55. Definitions

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

"AA similarity" or **"Angle-Angle similarity"** means if two triangles have two pairs of corresponding angles that are congruent, then the triangles are similar.

"ASA congruence" or **"Angle-Side-Angle congruence"** means if two triangles have two corresponding angles and the side adjacent to both angles congruent, then the triangles themselves are congruent.

"Absolute value" means the absolute value of a real number is its (non-negative) distance from 0 on a number line.

"Addend" means in the addition problem $3+2+6=11$, the addends are 3, 2, and 6.

"Addition and subtraction within 5, 10, 20, 100, or 1,000" means addition or subtraction of two whole numbers with whole number answers, and with sum or minuend in the range 0-5, 0-10, 0-20, or 0-100, respectively. Example: $8 + 2 = 10$ is an addition within 10, $14 - 5 = 9$ is a subtraction within 20, and $55 - 18 = 37$ is a subtraction within 100.

"Additive inverses" means two numbers whose sum is 0 are additive inverses of one another. Example: $3/4$ and $-3/4$ are additive inverses of one another because $3/4 + (-3/4) = (-3/4) + 3/4 = 0$.

"Algorithm" means a finite set of steps for completing a procedure (e.g. long division).

"Analog" means having to do with data represented by continuous variables (e.g. a clock with hour, minute, and second hands).

"Arc" means a portion of the circumference of a circle with ending points A and B. Unless stated otherwise, arc AB always refers to the shorter segment of the two (the minor arc). Together with the major arc the two portions beginning and ending at points A and B form the entire circumference of a circle.

"Arc length" means the distance along the curved line forming the arc.

"Arc measure" means the angle formed by the arc at the center of the circle.

"Area" means a measurement of the amount of space within a closed two-dimensional shape. Area is usually measured in terms of "square units," in which 1 square unit is the amount of space within a square that measures 1 unit by 1 unit (for a given unit of length). Example: area may be measured in "square centimeters," 1 square centimeter being the amount of space within a 1cm by 1cm square.

"Arithmetic sequence" means a sequence in which successive terms exhibit a common difference. Also known as "arithmetic progression".

"Array" means an orderly arrangement of objects into a rectangular configuration (e.g. take six tiles and arrange two long and three wide to form a rectangle).

"Associative property of addition" See Appendix A.

"Associative property of multiplication" See Appendix A.

"Assumption" means a fact or statement (as a proposition, axiom, postulate) taken for granted.

"Attribute" means characteristic (e.g. size, shape, color, weight).

"Benchmark fraction" means a common fraction against which other fractions can be measured, such as $\frac{1}{2}$.

"Bar graph" means a display of categorical data in which vertical or horizontal bars represent the count of a category. The relative lengths of the various bars in the graph are commensurate with the relative sizes of the counts of the data.

"Bivariate data" means pairs of linked numerical observations. Example: a list of heights and weights for each player on a football team.

"Box plot" means a graphic method that shows the distribution of data values by using the median, quartiles, and extremes of the data set. A box shows the middle 50% of the data.

"Capacity" means the maximum amount or number that can be contained or accommodated (e.g. a jug with a one-gallon capacity; the auditorium was filled to capacity).

"Cardinal number" means a number (such as 1, 5, 15) that is used in simple counting and that indicates how many elements there are in a set.

"Cardinality" means the cardinality of a finite collection of objects is the number of objects in the set. Example: in PK-Grade 1 students are still learning that "5" represents the number of objects in any group of "five" objects.

"Categorical data" means data that measures the number of occurrences of a discrete set of outcomes (e.g. noticing the different colors of shoes in the class and then recording the number of each color).

"Chord" means a chord is a line that connects two points on a circle.

"Circle" means the set of all points that are equidistant from a given point, called the center of the circle. The set of all points that lie inside the circle is called the interior of the circle.

(A) **Radius of a circle** means both a segment with one endpoint on the center of the circle and the other endpoint on the circle, and the length of this segment (which is necessarily the same for any point on the circle).

(B) **Diameter of a circle** means both a segment with endpoints on the circle that contains the center, and the length of this segment.

(C) **Circumference of a circle** means the lengths of the circle if cut and opened up to make a straight line segment, which can be found with $C = 2\pi r$ where

r is the radius and π is the irrational number "pi" (can be thought of as the perimeter of the circle).

(D) **Area of a circle** means the area of the interior of the circle, which can be found with $A = \pi r^2$ where r is the radius and π the irrational number "pi."

"**Combinations**" means a selection of objects without regard to order.

"**Coefficient**" means any of the factors of a product considered in relation to a specific factor. Often, this will be a numerical factor in a product of numbers and variables (e.g. $3x^2$ has coefficient 3).

"**Commutative property**" See Appendix A.

"**Complement**" means, in the context of a set, that a set A is typically considered to be a subset of an understood "universal set." The complement of A, denoted by A/C is the set of all elements of the universal set that are not members of A.

"**Complementary angles**" means two angles whose measures have a sum of 90 degrees.

"**Complex fraction**" means a fraction A/B where A and/or B are fractions (B is not equal to 0).

"**Complex number**" means numbers of the form $a + bi$, where a, a real number, is the "real part," and b, also a real number, is the "imaginary part," and i is the imaginary number. See also imaginary number.

"**Complex plane**" means a Cartesian plane in which the point (a,b) is used to represent $a + bi$.

"**Compose numbers**" means to compose numbers is to create new numbers using any of the four operations with other numbers. Example: students compose 10 in many ways ($9=1, 8=2, \dots, 5+5, \dots$). Also, each place in the base ten place value is composed of ten units of the place to the left (i.e. one hundred is composed of ten bundles of ten, one ten is composed of ten ones).

"**Compose shapes**" means joining geometric shapes without overlaps to form new shapes.

"**Composite number**" means any positive integer divisible by one or more positive integers other than itself and 1.

"**Computation algorithm**" means a set of predefined steps applicable to a class of problems that give the correct result in every case when the steps are carried out correctly. See also algorithm; computation strategy.

"**Computation strategy**" means purposeful manipulations that may be chosen for specific problems, may not have a fixed order, and may be aimed at converting one problem into another. See also computation algorithm.

"**Conditional statement**" means a statement of the form, "If P, then Q," where each of P and Q and themselves statements. Example: "If it rains, then the streets get wet," is a conditional statement. If the conditional statement "If P, then Q," is true, then this means that it is never the case that the statement P is true while the statement Q is false. Example: it will never be the case that "it rained" but "the streets are not wet." Related statements are:

(A) **Converse**: "If Q, then P." This may or may not be true if the original statement is true.

(B) **Inverse**: "If NOT P, then NOT Q." This may or may not be true if the original statement is true.

(C) **Contrapositive**: "If NOT Q, then NOT P." This is always true if the original statement is true, and vice versa. Example: notice that, "If the streets are NOT wet, then it did NOT rain," is logically equivalent to the example statement above.

"**Congruent**" means two geometric objects are congruent if one can be mapped onto the other using a sequence of rigid motions (rigid motions are geometric transformations that preserve lengths and angles).

"**Conjugate**" means the result of writing a sum of two terms as a difference, or vice versa. Example: the conjugate of $x - 2$ is $x + 2$.

"**Conjecture**" means a statement believed to be true but not yet proved.

"**Constant**" means a number or sometimes a letter such as a, b or c to stand for a fixed number. Example: in " $x + 5 = 9$," 5 and 9 are constants. If it is not a constant it is called a variable.

"**Constant of proportionality**" means given a proportional relationship expressed as $y=kx$, the number k is often called the constant of proportionality.

"**Coordinate plane**" means a plane in which a point is represented using two coordinates that determine the precise location of the point. In the Cartesian plane, two perpendicular number lines are used to determine the locations of points. In the polar coordinate plane, points are determined by their distance along a ray through that point and the origin, and the angle that ray makes with a predetermined horizontal axis.

"**Cosine**" means, in a right triangle, the cosine of an acute angle is the ratio of the length of the leg adjacent to the angle to the length of the hypotenuse.

"**Counterexample**" means an example to show that a given statement is false. Example: to disprove the statement "All right triangles are isosceles," all one needs to do is produce a right triangle that is scalene.

"**Counting number**" means a number used in counting objects (i.e. a number from the set $\{1, 2, 3, 4, 5, \dots\}$). See also Natural number.

"**Counting on**" means a strategy for finding the number of objects in a group without having to count every member of the group. Example: if a stack of books is known to have 8 books and 3 more books are added to the top, it is not necessary to count the stack all over again; one can find the total by counting on - pointing to the top book and saying "eight," following this with, "nine, ten, eleven. There are eleven books now."

"**Continuous graph**" means a graph is continuous if it contains intervals of data points.

"**Decimal expansion**" means the resulting decimal number found when dividing a rational number in fraction form. May include terminating and repeating decimals.

"**Decimal fraction**" means a fraction (as $0.25 = 25/100$ or 0.025) or mixed number (as $3.025 = 3\ 25/1000$) in which the denominator is a power of ten, usually expressed by the use of the decimal point.

"**Decimal number**" means any real number expressed in base 10 notations, such as 2.673.

"**Decompose numbers**" means, given a number, identify pairs, triples, etc. of numbers that combine to form the given number.

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"Decompose shapes" means, given a geometric shape, identify geometric shapes that meet without overlap to form the given shape.

"Deductive reasoning" means, informally, the process of using known facts and relationships to derive new facts and relationships.

"Dependent events" means events that influence each other. If one of the events occurs, it changes the probability of the other event.

"Dependent variable" means the output of a function. The quantity that is affected when the input is changed.

"Digit" means any of the Arabic numerals 1 to 9 and usually the symbol 0; one of the elements that combine to form numbers in a system other than the decimal system.

"Digital" means having to do with data that is represented in the form of numerical digits; providing a readout in numerical digits (e.g. a digital watch).

"Dilation" means a transformation that moves each point along the ray through the point emanating from a fixed center, and multiplies distances from the center by a common scale factor.

"Discrete graph" means a graph is discrete if it consists of separated data points and contains no intervals of data.

"Divisible" means a non-zero integer p is said to be divisible by a non-zero integer q if there exists an integer r such that $qx = p$.

"Domain of a relation" means the set of all the first elements or x -coordinates of a relation.

"Dot plot" means "line plot"; as defined in this section.

"Equivalent expressions" means two expressions (numerical or otherwise) are said to be equivalent if one can be obtained from the other using the properties of operations, such as the commutative, associative and distributive properties, as well as by representing numbers in the expressions in different but equivalent forms.

"Equivalent fractions" means two fractions a/b and c/d are said to be equivalent if there exists a non-zero number n such that $na/nb=c/d$. Equivalent fractions represent the same amount by changing both the size and the number of parts of a given fraction.

"Equivalent ratios" means two ratios $a:b$ and $c:d$ are equivalent if there is a non-zero number k such that $ka=c$ and $kb=d$. Equivalent ratios can be shown to have the same unit rate.

"Expanded form" means a multi-digit number is expressed in expanded form when it is written as a sum of single-digit multiples of powers of ten. Example: $643 = 600 + 40 + 3$.

"Expected value" means, for a random variable, the weighted average of its possible values, with weights given by their respective probabilities.

"Experimental probability" means when trials of a probability experiment are run and data is collected, the experimental probability of a desired outcome is the relative frequency of that outcome as a ratio of the number of such outcomes to the total number of outcomes. Example: if a coin is flipped 100 times, and heads comes up 45 times, then the experimental probability of heads is $45/100$ or 0.45 (the theoretical probability is 0.50 , and

if the number of trials is increased the experimental probability will get closer and closer to 0.50).

"Exponent (Integer)" means a negative integer exponent denotes the reciprocal of the base raised to the corresponding opposite integer. Thus x raised to the power of negative $2 = 1/x$ squared.

"Exponent (Whole Number)" means the number that indicates how many times the base is used as a factor (e.g. in 4 cubed $= 4 \times 4 \times 4 = 64$, the exponent is 3 , indicating that 4 is repeated as a factor three times).

"Exponential function" means an exponential function with base b is defined by $7 = b^{xt}$ where $b > 0$ and b is not equal to 1 .

"Expression" means a mathematical phrase that combines operations, numbers, and/or variables (e.g. $3z \div a$).

"Exterior angles" means the supplement of an interior angle of a polygon that is formed by extending one of the line segments determining the interior angle at a given vertex.

"Extraneous solution" means a solution, such as that to an equation, that emerges from the process of solving the problem but is not a valid solution to the original problem.

"Fluency" means easily and accurately responding to calculations. See Appendix D.

"First quartile" means, for a data set with median M , the first quartile is the median of the data values less than M . Example: For the data set $\{1, 3, 6, 7, 10, 12, 14, 15, 22, 120\}$, the first quartile is 6 . See also "median", "third quartile", and "interquartile range" as defined in this section.

"Fraction" means a number expressible in the form a/b where a is a whole number and b is a positive whole number (the word fraction in these standards always refers to a non-negative number). See also rational number and complex fraction.

"Frequency table" means a representation of data in which categories are listed in one column (row) of a table and the number of occurrences (frequency) of each category is indicated in another column (row).

"Function" means a rule that assigns to every element of one set (the domain) exactly one element of another set (the range). A function is often thought of as an "input/output" rule, as in every input determines an output (usually according to mathematical operations performed on the input).

"Function machine" means an input/output model (often made with milk cartons, boxes, or drawn on the board) to show one number entering and a different number exiting. Students guess the rule that produced the second number (e.g. enter 3 , exit 5 , rule: add 2).

"Function notation" means a notation that describes a function. For a function f , when x is a member of the domain, the symbol $f(x)$ denotes the corresponding member of the range (e.g. $f(x) = x + 3$).

"Geometric sequence" means an ordered list of numbers that has a common ratio between consecutive terms (e.g. $2, 6, 18, 54$). Also known as "geometric progression".

"Histogram" means a type of bar graph used to display the distribution of measurement data across a continuous range.

"Hypotenuse" means the longest side of a right triangle, necessarily opposite to the right angle. The other sides are called the legs of the right triangle (longer and shorter if applicable).

"HL (Hypotenuse-Leg) congruence" means, if two right triangles have hypotenuse and one corresponding leg congruent, then the triangles are congruent.

"Identity property of 0" See Appendix A.

"Imaginary number" means a number i is considered imaginary if $i^2 = -1$. See also complex number.

"Independent events" means events that do not influence one another. Each event occurs without changing the probability of the other event. Specifically, two events are independent if $P(A \text{ AND } B) = P(A) \times P(B)$.

"Independent variable" means the input of a function. The quantity whose value is changed to affect the output.

"Independently combined probability models" means two probability models are said to be combined independently if the probability of each ordered pair in the combined model equals the product of the original probabilities of the two individual outcomes in the ordered pair.

"Inductive reasoning" means, informally, the process of examining patterns and making conclusions based on observed patterns.

"Input/Output table" means usually a two-column table (or two-row table) with one column (row) listing the inputs of a rule and the other column (row) listing the corresponding outputs for each input.

"Integer" means the set of numbers that contains the whole numbers and their additive inverses (opposites) (i.e. $\{\dots, -2, -1, 0, 1, 2, 3, \dots\}$).

"Intercepts" means, geometrically, where a graph intersects an axis in a Cartesian plane.

"Interquartile range" means a measure of variation in a set of numerical data, the interquartile range is the distance between the first and third quartiles of the data set. Example: For the data set $\{1, 3, 6, 7, 10, 12, 14, 15, 22, 120\}$, the interquartile range is $15 - 6 = 9$. See also first quartile, third quartile.

"Intersection (of sets)" means for two sets A and B , the intersection is the set of all elements that are members of both sets simultaneously.

"Inverse function" means a function $(f(x)) = x$ and $f(g(x)) = x$ is said to be an inverse function for f . The inverse of f is often denoted by f^{-1} .

"Inverse operations" means operations that undo each other (e.g. addition and subtraction are inverse operations; multiplication and division are inverse operations).

"Irrational number" means numbers that are not rational. Irrational numbers have nonterminating, nonrepeating decimal expansions (e.g. square root of 2, π).

"Length" means, in the context of a straight line segment, a measurement of the distance from one endpoint of the object to the other. Once a unit of length is specified, the length of a segment is found by placing such units end-to-end without gaps or overlaps and counting how many such units are used.

"Line Plot" means a representation of data in which categories are listed underneath points on a number line, and in which the number of occurrences (frequency) of each category is represented by a corresponding number of marks (X's, dots) above each category's point.

"Linear association" means a set of bivariate data exhibits a linear association if a scatter plot of the data can be well-approximated by a line.

"Linear equation" means any equation that can be written in the form $Ax + By + C = 0$ where A and B cannot both be 0. The graph of such an equation is a line.

"Linear function" means a function f is linear if it can be written in the form $(x) = mx + b$.

"Literal equation" means an equation involving multiple variables and numbers, often that cannot be solved for an explicit numerical value of any of the individual variables. In such a case one may solve for one variable as an expression of the others.

"Logarithm" means the exponent that indicates the power to which a base number is raised to produce a given number. Example: the logarithm of 100 to the base 10 is 2.

"Logarithmic function" means any function in which an independent variable appears in the form of a logarithm; they are the inverse functions of exponential functions.

"Manipulatives" means concrete materials (e.g. buttons, beans, egg and milk cartons, counters, attribute and pattern blocks, interlocking cubes, base-10 blocks, geometric models, geo-boards, fractions pieces, rulers, balances, spinners, dot paper) used to represent mathematical concepts, operations, and relationships.

"Matrix" means a rectangular array of numbers or variables. The plural is "matrices".

"Mean" or "Arithmetic mean" means a measure of center in a set of numerical data, computed by adding the values in a list and then dividing by the number of values in the list. Example: For the data set $\{1, 3, 6, 7, 10, 12, 14, 15, 22, 120\}$, the mean is 21.

"Mean absolute deviation" means a measure of variation in a set of numerical data, computed by adding the distances between each data value and the mean, then dividing by the number of data values. Example: For the data set $\{1, 3, 6, 7, 10, 12, 14, 15, 22, 120\}$, the mean absolute deviation is 20.

"Measure of central tendency" means a determination of the center of a data set meant to describe a set of data. See also mean, median, mode, and percentile.

"Measure of spread" means a determination of how much the data in a set deviates from a measure of center. The most frequently used measure is standard deviation. See also standard deviation, range.

"Median" means a measure of center in a set of numerical data. The median of a list of values is the value appearing at the center of a sorted version of the list; or the mean of the two central values, if the list contains an even number of values. Example: For the data set $\{2, 3, 6, 7, 10, 12, 14, 15, 22, 90\}$, the median is 11.

"Midline" means, in the graph of a sine or cosine function, the horizontal line halfway between its maximum and minimum values.

"Mixed number" means a number written in the form $A \frac{b}{c}$, which is a shorthand way to represent the quantity $A + \frac{b}{c}$. A mixed number may be written as a fraction greater than 1 by writing $A \frac{b}{c} = A + \frac{b}{c} = \frac{Ac}{c} + \frac{b}{c} = \frac{Ac+b}{c}$.

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"Model" means a mathematical representation (e.g. number, graph, matrix, equation(s), geometric figure) for real-world or mathematical objects, properties, actions, or relationships.

"Modulus of a complex number" means the distance between a complex number and the origin on the complex plane.

"Multiplication and division within 100" means multiplication or division of two whole numbers with whole number answers, and with product or dividend in the range 0-100. Example: $72 \div 8 = 9$.

"Multiplication counting principle" means if k actions can be taken in N_1, N_2, \dots, N_k different ways, then there are a total of $N_1 \cdot N_2 \cdot \dots \cdot N_k$ different ways to perform those actions in sequence.

"Multiplicative inverses" means two numbers whose product is 1 are multiplicative inverses of one another. Example $3/4$ and $4/3$ are multiplicative inverses of one another.

"Natural number" means a number used in counting objects (i.e. a number from the set $\{1, 2, 3, 4, 5, \dots\}$). See also Counting number.

"Net" means a two-dimensional representation of a three-dimensional figure constructed of polygons, such that if folds were made on certain edges of the net and appropriate sides were "glued" together, the resulting figure would be the original three-dimensional figure.

"Network" means a figure consisting of vertices and edges that shows how objects are connected; a collection of points (vertices), with certain connections (edges) between them.

"Non-linear association" means the relationship between two variables is nonlinear if the change in the second is not simply proportional to the change in the first, independent of the value of the first variable.

"Nonstandard measurement" means a measurement determined by the use of nonstandard units such as hands, paper clips, beans, cotton balls, etc.

"Number line diagram" means a diagram of the number line used to represent numbers and support reasoning about them. In a number line diagram for measurement quantities, the interval from 0 to 1 on the diagram represents the unit of measure for the quantity.

"Number sense" means the understanding of number size (relative magnitude), number representations, number operations, referents for quantities and measurement used in everyday situations, etc.

"Numeral" means a symbol or mark used to represent a number.

"One-to-one correspondence" means a matching of the elements of two sets such that each element from the first set is matched with one and only one element of the second set, and such that each element of the second set is matched with some element of the first. Early grades students use this to establish the concept of cardinal use of numbers (as in "5" can represent any collection of five objects; if I can match the fingers on one hand to all the elements of a given set then that set has "5" objects.)

"Operation" means a general term for any one of addition, subtraction, multiplication, and division.

"Order of operations" means convention adopted to perform mathematical operations in a consistent order.

(A) **Step 1.** Perform all operations inside grouping symbols, and/or above and below a fraction bar in the order specified in Steps 2, 3, and 4.

(B) **Step 2.** Find the value of any powers or roots;

(C) **Step 3.** Multiply, including division, from left to right;

(D) **Step 4.** Add, including subtraction, from left to right.

"Ordinal number" means a number designating the place (as first, second, or third) occupied by an item in an ordered sequence.

"Outlier" means a data point that is far outside a representative range of the data set. Example: once the inter-quartile range (IQR) is computed, one might calculate the interval of $1.5x$ IQR above the median and $1.5x$ IQR below the median and decide that any data point that lies outside this range is considered an outlier.

"Parallel lines" means lines that do not intersect. Distinct lines can be shown to be parallel if and only if they have equal slopes.

"Partition" means a process of dividing an object into parts or a set into (smaller) subsets.

"Pascal's triangle" means a triangular arrangement of numbers in which each row starts and ends with 1, and each other number is the sum of the two numbers above it.

"Piecewise function" means a function that is defined differently on different intervals.

"Percent rate of change" means a rate of change expressed as a percent. Example: if a population grows from 50 to 55 in a year, it grows by $5/50 = 10\%$ per year.

"Perfect square" means a number that is a whole number squared, that is, a number that can be expressed as n^2 for n a whole number.

"Perimeter" means the total length of all the edges of a polygon. Often, perimeter is thought of as the distance around an object, traversed once along the edges starting from one vertex and ending at the same vertex.

"Periodic phenomena" means events that recur over regular intervals, for example, ocean tides, machine cycles.

"Perpendicular lines" means lines that intersect such that all four angles that are created are congruent. Two lines can be shown to be perpendicular if and only if the product of their slopes is -1 .

"Pi (π)" means the irrational number that is derived by finding the ratio of the circumference to the diameter of circles. That this ratio is constant and an irrational number are important concepts and challenging to prove, so they are often arrived at empirically by students.

"Picture graph" means a graph that uses pictures to show and compare information.

"Place value" means the concept that the order in which digits are written in the base-10 number system determines the value of that digit. Thus, in the number 245, the digit 2 is in the "hundreds place," indicating that the value of that particular 2 is actually 2 hundreds or 200.

"Polygon" means a closed, two-dimensional figure comprised of line segments connected end-to-end, and such that no two segments cross each other. The segments are typically

called sides or edges, and the common endpoints of adjacent segments are called vertices (sing. vertex). The space within the polygon is called its interior. The angles formed by adjacent sides that lie in the interior of a polygon are called its interior angles.

"Polynomial" means the sum or difference of terms which have variables raised to positive integer powers and which have coefficients that may be real or complex. The following are all polynomials: $5x^3 - 2x^2 + x - 13$, $x^2y^3 + xy$, and $(1 + i)a^2 + ib^2$.

"Polynomial function" means any function whose output is given by a polynomial expression of the input.

"Postulate" means a statement accepted as true without proof.

"Prime factorization" means a number written as the product of all its prime factors.

"Prime number" means a whole number greater than 1 whose only factors are 1 and itself.

"Probability distribution" means the set of possible values of a random variable with a probability assigned to each.

"Properties of equality" See Appendix B.

"Properties of inequality" See Appendix B.

"Properties of operations" See Appendix A.

"Probability" means the study and measure of the likelihood of an event happening.

"Probability model" means a probability model is used to assign probabilities to outcomes of a chance process by examining the nature of the process. The set of all outcomes is called the sample space, and their probabilities sum to 1. See also uniform probability model.

"Proof" means a method of constructing a valid argument using deductive reasoning.

"Proportion" means an equation that states that two ratios are equivalent (e.g. $4/8 = \frac{1}{2}$ or $4 : 8 = 1 : 2$).

"Pyramid" means a three-dimensional shape constructed from a polygon (called the base) and triangles that have one edge matching the edges of the base and such that the triangles share a common vertex.

"Pythagorean theorem" means for any right triangle, the sum of the squares of the lengths of the legs equals the square of the lengths of the hypotenuse.

"Quadratic equation" means an equation that is equivalent to $ax^2 + bx + c = 0$, where a is not equal to 0.

"Quadratic expression" means an expression that contains variables raised to whole number exponents no higher than 2.

"Quadratic function" means a function that can be represented by an equation of the form $y = ax^2 + bx + c$, where a , b , and c are arbitrary, but fixed, numbers and a is not equal to 0. The graph of this function is a parabola.

"Quadratic polynomial" means a polynomial where the highest degree of any of its terms is 2.

"Quadrilateral" means a polygon with 4 sides. Important classes of quadrilaterals:

(A) **Trapezoid** A quadrilateral in which at least two sides are parallel.

(B) **Parallelogram** A quadrilateral in which opposite sides are parallel.

(C) **Rhombus** A parallelogram in which opposite sides are congruent (have the same length).

(D) **Rectangle** A parallelogram that has at least one right interior angle.

(E) **Square** A rectangle that has all sides congruent.

(F) **Kite** A quadrilateral that has two pairs of congruent adjacent sides.

"Quotient" means the result of a division problem. Also, given whole numbers n and m with $n > m$, if we write $n = mq + r$ with $0 \leq r < m$, then say q is the quotient and r is the remainder.

"Radical" means the $\sqrt{\quad}$ symbol, which is used to indicate square roots or n^{th} roots.

"Random sampling" means a small group of people or objects chosen from a larger group or population by a process giving equal chance of selection to all possible people or objects.

"Random variable" means an assignment of a numerical value to each outcome in a sample space.

"Range (of a relation)" means the set of all the second elements or y -coordinates of a relation is called the range.

"Range (of a data set)" means the difference between the maximum and minimum values of a data set, a measure of the spread of the data.

"Ratio" means a relationship between quantities such that for every a units of one quantity there are b units of the other. A ratio is often denoted by $a:b$, and read " a to b ."

"Rational expression" means a quotient of two polynomials with a non-zero denominator.

"Rational number" means a number expressible in the form a/b or $-a/b$ for some fraction a/b . The rational numbers include the integers.

"Real number" means an element of the set of numbers consisting of all rational and all irrational numbers.

"Rectangular array" means an arrangement of mathematical elements into rows and columns.

"Rectangular prism" means a three-dimensional object constructed from three pairs of parallel rectangles (called faces in this context) that share common edges so as to form an enclosed space and such that opposite rectangles are congruent. The vertices of the rectangles are the vertices of the prism, and the sides of the rectangles are called edges. A cube is a rectangular prism in which each face is a square of the same size as the other faces.

"Rectilinear figure" means a polygon, all angles of which are right angles.

"Recursive pattern" or **"Recursive sequence"** means patterns in which each number is found from the previous number by repeating a process (e.g. Fibonacci numbers).

"Reflection" means a type of transformation that flips points about a line, called the line of reflection. Taken together, the image and the pre-image have the line of reflection as a line of symmetry.

"Real numbers" means the set of all rational and irrational numbers.

"Relation" means a collection of ordered pairs of real numbers.

"Relative frequency" means the empirical counterpart of probability. If an event occurs N^1 times in N trials, its relative frequency is N^1/N .

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"Remainder Theorem" means if $f(x)$ is a polynomial in x then the remainder on dividing $f(x)$ by $x - a$ is $f(a)$.

"Repeating decimal" means a decimal in which, after a certain point, a particular digit or sequence of digits repeats itself indefinitely. See also terminating decimal.

"Right angle" means, informally, an angle whose measure is 90 degrees. Formally, if two congruent copies of a given angle are supplementary (that is, they form a straight line when one matches an edge of one copy with one edge of the other), then the given angle is said to be a right angle. (We can then define the measure of this angle to be 90 degrees and measure other angles in terms of a right angle.)

"Rigid motion" means a transformation of points in space consisting of a sequence of one or more translations, reflections, and/or rotations. Rigid motions are here assumed to preserve distances and angle measures.

"Rotation" means a type of transformation that turns a figure about a fixed point, called the center of rotation.

"SAS congruence" or **"Side-Angle-Side congruence"** means if in two triangles two corresponding sides and the angles formed by those sides are congruent, then the triangles are congruent.

"SSS congruence" or **"Side-Side-Side congruence"** means if two triangles have corresponding sides that are congruent, then the triangles are congruent.

"Sample space" means in a probability model for a random process, a list of the individual outcomes that are to be considered.

"Scale factor" means for similar shapes, the common ratio of corresponding side lengths is called the scale factor. Informally, it is the multiplicative amount by which the lengths of one shape are "blown up" or "shrunk down" to obtain the other shape to which it is similar.

"Scatter plot" means a graph in the coordinate plane representing a set of bivariate data. Example: the heights and weights of a group of people could be displayed on a scatter plot.

"Scientific notation" means a widely used floating-point system in which numbers are expressed as products consisting of a number between 1 and 10 multiplied by an appropriate power of 10 (e.g. $562 - 5.62 \times 10^2$).

"Secant" means a line that intersects a circle at two points.

"Sequence" means a set of elements ordered so that they can be labeled with consecutive positive integers starting with 1 (e.g. 1, 3, 9, 27, 81). In this sequence, 1 is the first term, 3 is the second term, 9 is the third term, etc.

"Set model" means, in the context of fractions, the use of a discrete set of objects to represent the whole and a subset of those objects to represent a fraction. Example: since 3 of the 15 students in class are wearing blue shirts, $3/15$ of the students are wearing blue shirts.

"Significant figures" means digits included in a measurement that purposely indicate the precision of the measurement. Example: writing a measurement at 3.50 seconds instead of 3.5 seconds indicates that the measurement is accurate to the hundredths place.

"Similar" means two geometric shapes are said to be similar (to each other) if one can be mapped onto the other by a sequence of similarity transformations.

"Similarity transformation" means a rigid motion followed by a dilation.

"Simultaneous equations" means two or more equations containing common variables.

"Sine" means the trigonometric function that for an acute angle is the ratio between the leg opposite the angle when the angle is considered part of a right triangle and the hypotenuse.

"Slope" means a measure of the steepness of a line in a Cartesian plane, found by determining the constant change in the y -coordinate per 1-unit change in the x -coordinate.

"Spatial sense" means the ability to build and manipulate mental representations of 2- and 3-dimensional objects and ideas.

"Standard deviation" means a measurement of how much each value in the data differs from the mean of the data.

"Statistics" means the study of data.

"Stem-and-leaf plot" means a frequency distribution made by arranging data in the following way (e.g. student scores on a test were 96, 87, 77, 93, 85, 85, and 75 would be displayed as: 9|6.3; 8|7.5.5; 7|7.5).

"Subitize" means instantly knowing "how many." Recognizing a number without using other mathematical processes.

"Substitution" means the substitution of one expression for an equivalent expression, used when rewriting expressions as equivalent ones or solving equations. It is based on the transitive property of equality, which states, "If $A=B$, and $B=C$, then $A=C$."

"Summary statistics" means a collection of statistics () that describe the data set. Example: the range, mean, and standard deviation of a given data set indicate certain features of the data set and hence are summary statistics.

"Supplementary angles" means two angles whose measures have a sum of 180 degrees.

"Supposition" means making a statement or assumption without proof.

"Surface area" means, in the context of rectangular prisms, the total measure of the area of the faces of a rectangular prism. Equivalently, the total area of a net for the prism.

"Tangent" means meeting a curve or surface in a single point if a sufficiently small interval is considered; (of an acute angle) the trigonometric function that, for an acute angle, is the ratio between the leg opposite the angle and the leg adjacent to the angle when the angle is considered part of a right triangle.

"Tape diagram" means a drawing that looks like a segment of tape, used to illustrate number relationships. Also known as a strip diagram, bar model, fraction strip, or length model.

"Terminating decimal" means a decimal is called terminating if its repeating digit is 0. Every terminating decimal is the decimal form of some rational number. See also repeating decimal.

"Third quartile" means, for a data set with median M , the third quartile is the median of the data values greater than M . Examples: for the data set {2, 3, 6, 7, 10, 12, 14, 15, 22, 120}, the third quartile is 15. See also median, first quartile, interquartile range.

"Transformation" means a prescription, or rule, that sets up a one-to-one correspondence between the points in a geometric object (the pre-image) and the points in another geometric object (the image). Reflections, rotations, translations, and dilations are particular examples of transformations.

"Transitivity principle for indirect measurement" means, if the length of object A is greater than the length of object B, and the length of object B is greater than the length of object C, then the length of object A is greater than the length of object C. This principle applies to measurement of other quantities as well.

"Translation" means a type of transformation that moves every point in a graph or geometric figure by the same distance in the same direction without a change in orientation or size.

"Transversal line" means a line that crosses two or more other lines is called a transversal.

"Triangle" means a polygon with three sides. Important classes of triangles:

- (A) **Equilateral triangle** a triangle with all sides congruent.
- (B) **Right triangle** contains an interior angle that is a right angle.
- (C) **Scalene triangle** a triangle with no side congruent to another.
- (D) **Isosceles triangle** a triangle with two congruent sides.

"Trigonometric function" means trigonometric functions (sine, cosine, tangent, and their reciprocals) are commonly defined as ratios of two sides of a right triangle.

"Trigonometry" means the study of trigonometric functions.

"Uniform probability model" means a probability model which assigns equal probability to all outcomes. See also probability model.

"Unit fraction" means a fraction with a numerator of 1, such as $\frac{1}{3}$ or $\frac{1}{5}$.

"Unit of measurement" means, when measuring a given attribute of an object, a "unit" is defined in terms of which all other measurements are determined. That a given unit is fixed is a concept to be learned by young students (e.g. we wouldn't measure the length of a room in hands because your hand is different from mine, and we wouldn't measure the length of a room using cm and inches at the same time).

"Union of sets" means, for two sets A and B, "A union B" is the set of all elements that are members of one or both of the sets.

"Variable" means a quantity that can change or that may take on different values; a symbol (often a letter of the alphabet, sometimes including the Greek alphabet) that represents a number in a mathematical expression.

"Venn diagram" means a data display in which (typically) circles are used to represent categories and in which the overlapping of two (or more) circles indicates data that lies in each category in the overlap.

"Visual fraction model" means a diagram or representation to show the relative size of a fraction, for example, a tape diagram, number line diagram, or area model.

"Volume" means a measurement of the amount of space within a closed three-dimensional shape. Volume is often measured in terms of "cubic units," in which 1 cubic unit is the amount of space within a cube that measures 1 unit by 1 unit by 1 unit (for a given unit of length). Example: volume may be measured in "cubic centimeters," 1 cubic centimeter being the amount of space within a 1cm by 1cm by 1cm cube. Note that since one can measure the volume of a liquid by placing said liquid into a 3D shape, volume has historically been measure in various units such as cups, fluid ounces, and liters. Not that 1 cubic centimeter is equal to 1 milliliter, one way to connect such fluid units to cubic units.

"Whole numbers" means the numbers 0, 1, 2, 3, etc.

210:15-3-56. Standard One: Number and Operations

(a) **Statement of the standard.** A focus on number and operations to develop fluency with an importance of understanding numbers, ways of representing numbers, relationships among numbers, relationships among number systems, and meanings of operations and how they relate to one another. Students will place an emphasis on the development of estimation to determine the reasonableness of solutions and answers and to compute efficiently and proficiently.

(b) **Standard One objectives for Pre-Kindergarten.** The following objectives apply for students in Pre-Kindergarten:

- (1) Know number names and count in sequence.
 - (A) **Objective 1.** Count aloud forward in sequence by 1s to 20.
 - (B) **Objective 2.** Recognize and name written numerals 0-10.
 - (C) **Objective 3.** Recognize that zero represents the count of no objects.
- (2) Count to tell the number of objects.
 - (A) **Objective 1.** Identify the number of objects, up to 10, in a row or column.
 - (B) **Objective 2.** Use one-to-one correspondence in counting objects and matching groups of objects.
 - (C) **Objective 3.** Understand the last numeral spoken, when counting aloud, tells how many total objects are in a set.
 - (D) **Objective 4.** Count up to 5 items in a scattered configuration; not in a row or column.
- (3) Compare sets using numbers.
 - (A) **Objective 1.** Compare two sets of 1-5 objects using comparative language such as same, more, or fewer.

(c) **Standard One objectives for Kindergarten.** The following objectives apply for students in Kindergarten:

- (1) Understand the relationship between quantities and whole numbers.
 - (A) **Objective 1.** Count aloud forward in sequence to 100 by 1s and 10s.
 - (B) **Objective 2.** Recognize that a number can be used to represent how many objects are in a set up to 10.
 - (C) **Objective 3.** Use ordinal numbers to represent the position of an object in a sequence up to 10.

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- (D) **Objective 4.** Recognize without counting (subitize) the quantity of a small group of objects in organized and random arrangements up to 10. Subitizing is defined as instantly recognizing the quantity of a set without having to count. "Subitizing" is not a vocabulary word and is not meant for student discussion at this age.
- (E) **Objective 5.** Count forward, with and without objects, from any given number up to 10.
- (F) **Objective 6.** Read, write, discuss, and represent whole numbers from 0 to at least 10. Representations may include numerals, pictures, real objects and picture graphs, spoken words, and manipulatives.
- (G) **Objective 7.** Find a number that is 1 more or 1 less than a given number up to 10.
- (H) **Objective 8.** Use the words more than, less than or equal to compare and order whole numbers, with and without objects, from 0 to 10.
- (2) Develop conceptual fluency with addition and subtraction (up to 10) using objects and pictures.
- (A) **Objective 1.** Compose and decompose numbers up to 10 with objects and pictures.
- (3) Understand the relationship between whole numbers and fractions through fair share.
- (A) **Objective 1.** Distribute equally a set of objects into at least two smaller equal sets.
- (4) Identify coins by name.
- (A) **Objective 1.** Identify pennies, nickels, dimes, and quarters by name.
- (d) **Standard One objectives for Grade 1.** The following objectives apply for students in Grade 1:
- (1) Count, compare, and represent whole numbers up to 100, with an emphasis on groups of tens and ones.
- (A) **Objective 1.** Recognize numbers to 20 without counting (subitize) the quantity of structured arrangements. Subitizing is defined as instantly recognizing the quantity of a set without having to count. "Subitizing" is not a vocabulary word and is not meant for student discussion at this age.
- (B) **Objective 2.** Use concrete representations to describe whole numbers between 10 and 100 in terms of tens and ones.
- (C) **Objective 3.** Read, write, discuss, and represent whole numbers up to 100. Representations may include numbers, addition and subtraction, pictures, tally marks, number lines and manipulatives, such as bundles of sticks and base 10 blocks.
- (D) **Objective 4.** Count forward, with and without objects, from any given number up to 100 by 1s, 2s, 5s, and 10s.
- (E) **Objective 5.** Find a number that is 10 more or 10 less than a given number up to 100.
- (F) **Objective 6.** Compare and order whole numbers from 0 to 100.
- (G) **Objective 7.** Use knowledge of number relationships to locate the position of a given whole number on an open number line up to 20.
- (H) **Objective 8.** Use objects to represent and use words to describe the relative size of numbers, such as more than, less than, and equal to.
- (2) Solve addition and subtraction problems up to 10 in real-world and mathematical contexts.
- (A) **Objective 1.** Represent and solve real-world and mathematical problems using addition and subtraction up to 10.
- (B) **Objective 2.** Determine if equations involving addition and subtraction are true.
- (C) **Objective 3.** Demonstrate fluency with basic addition facts and related subtraction facts up to 10.
- (3) Develop foundational ideas for fractions.
- (A) **Objective 1.** Partition a regular polygon using physical models and recognize when those parts are equal.
- (B) **Objective 2.** Partition (fair share) sets of objects into equal groupings.
- (4) Identify coins and their values.
- (A) **Objective 1.** Identify pennies, nickels, dimes, and quarters by name and value.
- (B) **Objective 2.** Write a number with the cent symbol to describe the value of a coin.
- (C) **Objective 3.** Determine the value of a collection of pennies, nickels, or dimes up to one dollar counting by ones, fives, or tens.
- (e) **Standard One objectives for Grade 2.** The following objectives apply for students in Grade 2:
- (1) Compare and represent whole numbers up to 1,000 with an emphasis on place value and equality.
- (A) **Objective 1.** Read, write, discuss, and represent whole numbers up to 1,000. Representations may include numerals, words, pictures, tally marks, number lines, and manipulatives.
- (B) **Objective 2.** Use knowledge of number relationships to locate the position of a given whole number on an open number line up to 100.
- (C) **Objective 3.** Use place value to describe whole numbers between 10 and 1,000 in terms of hundreds, tens, and ones. Know that 100 is 10 tens, and 1,000 is 10 hundreds.
- (D) **Objective 4.** Find 10 more or 10 less than a given three-digit number. Find 100 more or 100 less than a given three-digit number.
- (E) **Objective 5.** Recognize when to round numbers to the nearest 10 and 100.
- (F) **Objective 6.** Use place value to compare and order whole numbers up to 1,000 using comparative language, numbers, and symbols (e.g. $425 > 276$, $73 < 107$, page 351 comes after page 350, 753 is between 700 and 800).
- (2) Add and subtract one- and two- digit numbers in real-world and mathematical problems.
- (A) **Objective 1.** Use the relationship between addition and subtraction to generate basic facts up to 20.
- (B) **Objective 2.** Demonstrate fluency with basic addition facts and related subtraction facts up to 20.

- (C) **Objective 3.** Estimate sums and differences up to 100.
- (D) **Objective 4.** Use strategies and algorithms based on knowledge of place value and equality to add and subtract two-digit numbers.
- (E) **Objective 5.** Solve real-world and mathematical addition and subtraction problems involving whole numbers up to 2 digits.
- (F) **Objective 6.** Use concrete models and structured arrangements, such as repeated addition, arrays and ten frames to develop understanding of multiplication.
- (3) Explore the foundational ideas of fractions.
- (A) **Objective 1.** Identify the parts of a set and area that represent fractions for halves, thirds, and fourths.
- (B) **Objective 2.** Construct equal-sized portions through fair sharing including length, set, and area models for halves, thirds, and fourths.
- (4) Determine the value of a set of coins.
- (A) **Objective 1.** Determine the value of a collection(s) of coins up to one dollar using the cent symbol.
- (B) **Objective 2.** Use a combination of coins to represent a given amount of money up to one dollar.
- (f) **Standard One objectives for Grade 3.** The following objectives apply for students in Grade 3:
- (1) Compare and represent whole numbers up to 10,000 with an emphasis on place value and equality.
- (A) **Objective 1.** Read, write, discuss, and represent whole numbers up to 10,000. Representations may include numerals, expressions with operations, words, pictures, number lines, and manipulatives.
- (B) **Objective 2.** Use place value to describe whole numbers between 1,000 and 10,000 in terms of ten thousands, thousands, hundreds, tens, and ones, including expanded form.
- (C) **Objective 3.** Find 1,000 more or 1,000 less than a given four- or five-digit number. Find 100 more or 100 less than a given four- or five-digit number.
- (D) **Objective 4.** Use place value to compare and order whole numbers up to 10,000, using comparative language, numbers, and symbols.
- (2) Add and subtract multi-digit whole numbers; multiply with factors up to 10; represent multiplication and division in various ways; solve real-world and mathematical problems through the representation of related operations.
- (A) **Objective 1.** Represent multiplication facts by using a variety of approaches, such as repeated addition, equal-sized groups, arrays, area models, equal jumps on a number line and skip counting.
- (B) **Objective 2.** Demonstrate fluency of multiplication facts with factors up to 10.
- (C) **Objective 3.** Use strategies and algorithms based on knowledge of place value and equality to fluently add and subtract multi-digit numbers.
- (D) **Objective 4.** Recognize when to round numbers and apply understanding to round numbers to the nearest ten thousand, thousand, hundred, and ten and use compatible numbers to estimate sums and differences.
- (E) **Objective 5.** Use addition and subtraction to solve real-world and mathematical problems involving whole numbers. Use various strategies, including the relationship between addition and subtraction, the use of technology, and the context of the problem to assess the reasonableness of results.
- (F) **Objective 6.** Represent division facts by using a variety of approaches, such as repeated subtraction, equal sharing and forming equal groups.
- (G) **Objective 7.** Recognize the relationship between multiplication and division to represent and solve real-world problems.
- (H) **Objective 8.** Use strategies and algorithms based on knowledge of place value, equality and properties of addition and multiplication to multiply a two-digit number by a one-digit number.
- (3) Understand meanings and uses of fractions in real-world and mathematical situations.
- (A) **Objective 1.** Read and write fractions with words and symbols.
- (B) **Objective 2.** Construct fractions using length, set, and area models.
- (C) **Objective 3.** Recognize unit fractions and use them to compose and decompose fractions related to the same whole. Use the numerator to describe the number of parts and the denominator to describe the number of partitions.
- (D) **Objective 4.** Use models and number lines to order and compare fractions that are related to the same whole.
- (4) Determine the value of a set of coins or bills.
- (A) **Objective 1.** Use addition to determine the value of a collection of coins up to one dollar using the cent symbol and a collection of bills up to twenty dollars.
- (B) **Objective 2.** Select the fewest number of coins for a given amount of money up to one dollar.
- (g) **Standard One objectives for Grade 4.** The following objectives apply for students in Grade 4:
- (1) Solve real-world and mathematical problems using multiplication and division.
- (A) **Objective 1.** Demonstrate fluency with multiplication and division facts with factors up to 12.
- (B) **Objective 2.** Use an understanding of place value to multiply or divide a number by 10, 100, and 1,000.
- (C) **Objective 3.** Multiply 3-digit by 1-digit or a 2-digit by 2-digit whole numbers, using efficient and generalizable procedures and strategies, based on knowledge of place value, including but not limited to standard algorithms.
- (D) **Objective 4.** Estimate products of 3-digit by 1-digit or 2-digit whole numbers using rounding, benchmarks and place value to assess the reasonableness of results. Explore larger numbers using technology to investigate patterns.

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- (E) **Objective 5.** Solve multi-step real-world and mathematical problems requiring the use of addition, subtraction, and multiplication of multi-digit whole numbers. Use various strategies, including the relationship between operations, the use of appropriate technology, and the context of the problem to assess the reasonableness of results.
- (F) **Objective 6.** Use strategies and algorithms based on knowledge of place value, equality and properties of operations to divide 3-digit dividend by 1-digit whole number divisors (e.g. mental strategies, standard algorithms, partial quotients, repeated subtraction, the commutative, associative, and distributive properties).
- (G) **Objective 7.** Determine the unknown addend or factor in equivalent and non-equivalent expressions (e.g. $5 + 6 = 4 + \quad$, $3 \times 8 < 3 \times \quad$).
- (2) Represent and compare fractions and decimals in real-world and mathematical situations; use place value to understand how decimals represent quantities.
- (A) **Objective 1.** Represent and rename equivalent fractions using fraction models (e.g. parts of a set, area models, fraction strips, number lines).
- (B) **Objective 2.** Use benchmark fractions (0, $\frac{1}{4}$, $\frac{1}{3}$, $\frac{1}{2}$, $\frac{2}{3}$, $\frac{3}{4}$, 1) to locate additional fractions on a number line. Use models to order and compare whole numbers and fractions less than and greater than one using comparative language and symbols.
- (C) **Objective 3.** Decompose a fraction in more than one way into a sum of fractions with the same denominator using concrete and pictorial models and recording results with symbolic representations (e.g. $\frac{3}{4} = \frac{1}{4} + \frac{1}{4} + \frac{1}{4}$).
- (D) **Objective 4.** Use fraction models to add and subtract fractions with like denominators in real-world and mathematical situations.
- (E) **Objective 5.** Represent tenths and hundredths with concrete models, making connections between fractions and decimals.
- (F) **Objective 6.** Represent, read and write decimals up to at least the hundredths place in a variety of contexts including money.
- (G) **Objective 7.** Compare and order decimals and whole numbers using place value, a number line and models such as grids and base 10 blocks.
- (H) **Objective 8.** Compare benchmark fractions ($\frac{1}{4}$, $\frac{1}{3}$, $\frac{1}{2}$, $\frac{2}{3}$, $\frac{3}{4}$) and decimals (0.25, 0.50, 0.75) in real-world and mathematical situations.
- (3) Determine the value of coins in order to solve monetary transactions.
- (A) **Objective 1.** Given a total cost (whole dollars up to \$20 or coins) and amount paid (whole dollars up to \$20 or coins), find the change required in a variety of ways. Limited to whole dollars up to \$20 or sets of coins.
- (h) **Standard One objectives for Grade 5.** The following objectives apply for students in Grade 5:
- (1) Divide multi-digit numbers and solve real-world and mathematical problems using arithmetic.
- (A) **Objective 1.** Estimate solutions to division problems in order to assess the reasonableness of results.
- (B) **Objective 2.** Divide multi-digit numbers, by one-and two-digit divisors, using efficient and generalizable procedures, based on knowledge of place value, including standard algorithms.
- (C) **Objective 3.** Recognize that quotients can be represented in a variety of ways, including a whole number with a remainder, a fraction or mixed number, or a decimal and consider the context in which a problem is situated to select and interpret the most useful form of the quotient for the solution.
- (D) **Objective 4.** Solve real-world and mathematical problems requiring addition, subtraction, multiplication, and division of multi-digit whole numbers. Use various strategies, including the inverse relationships between operations, the use of technology, and the context of the problem to assess the reasonableness of results.
- (2) Read, write, represent, and compare fractions and decimals; recognize and write equivalent fractions; convert between fractions and decimals; use fractions and decimals in real-world and mathematical situations.
- (A) **Objective 1.** Represent decimal fractions (e.g. $\frac{1}{10}$, $\frac{1}{100}$) using a variety of models (e.g. 10 by 10 grids, rational number wheel, base-ten blocks, meter stick) and make connections between fractions and decimals.
- (B) **Objective 2.** Represent, read and write decimals using place value to describe decimal numbers including fractional numbers as small as thousandths and whole numbers as large as millions.
- (C) **Objective 3.** Compare and order fractions and decimals, including mixed numbers and fractions less than one, and locate on a number line.
- (D) **Objective 4.** Recognize and generate equivalent decimals, fractions, mixed numbers, and fractions less than one in various contexts.
- (3) Add and subtract fractions with like and unlike denominators, mixed numbers and decimals to solve real-world and mathematical problems.
- (A) **Objective 1.** Estimate sums and differences of fractions with like and unlike denominators, mixed numbers, and decimals to assess the reasonableness of the results.
- (B) **Objective 2.** Illustrate addition and subtraction of fractions with like and unlike denominators, mixed numbers, and decimals using a variety of representations (e.g. fraction strips, area models, number lines, fraction rods).
- (C) **Objective 3.** Add and subtract fractions with like and unlike denominators, mixed numbers, and decimals, using efficient and generalizable procedures, including but not limited to standard

algorithms in order to solve real-world and mathematical problems including those involving money, measurement, geometry, and data.

(D) **Objective 4.** Find 0.1 more than a number and 0.1 less than a number. Find 0.01 more than a number and 0.01 less than a number. Find 0.001 more than a number and 0.001 less than a number.

(i) **Standard One objectives for Grade 6.** The following objectives apply for students in Grade 6:

(1) **Read, write, and represent integers and rational numbers expressed as fractions, decimals, percents, and ratios; write positive integers as products of factors; use these representations in real-world and mathematical situations.**

(A) **Objective 1.** Represent integers with counters and on a number line and rational numbers on a number line, recognizing the concepts of opposites, direction, and magnitude; use integers and rational numbers in real-world and mathematical situations, explaining the meaning of 0 in each situation.

(B) **Objective 2.** Compare and order positive rational numbers, represented in various forms, or integers using the symbols $<$, $>$, and $=$.

(C) **Objective 3.** Explain that a percent represents parts "out of 100" and ratios "to 100."

(D) **Objective 4.** Determine equivalencies among fractions, decimals, and percents. Select among these representations to solve problems.

(E) **Objective 5.** Factor whole numbers and express prime and composite numbers as a product of prime factors with exponents.

(F) **Objective 6.** Determine the greatest common factors and least common multiples. Use common factors and multiples to calculate with fractions, find equivalent fractions, and express the sum of two-digit numbers with a common factor using the distributive property.

(2) **Add and subtract integers in order to solve real-world and mathematical problems.**

(A) **Objective 1.** Estimate solutions to addition and subtraction of integers problems in order to assess the reasonableness of results.

(B) **Objective 2.** Illustrate addition and subtraction of integers using a variety of representations.

(C) **Objective 3.** Add and subtract integers; use efficient and generalizable procedures including but not limited to standard algorithms.

(3) **Understand the concept of ratio and its relationship to fractions and percents and to the multiplication and division of whole numbers. Use ratios to solve real-world and mathematical problems.**

(A) **Objective 1.** Identify and use ratios to compare quantities. Recognize that multiplicative comparison and additive comparison are different.

(B) **Objective 2.** Determine the unit rate for ratios.

(C) **Objective 3.** Apply the relationship between ratios, equivalent fractions and percents to solve problems in various contexts, including those involving mixture and concentrations.

(D) **Objective 4.** Use multiplicative reasoning and representations to solve ratio and unit rate problems.

(4) **Multiply and divide decimals, fractions, and mixed numbers; solve real-world and mathematical problems with rational numbers.**

(A) **Objective 1.** Estimate solutions to problems with whole numbers, decimals, fractions, and mixed numbers and use the estimates to assess the reasonableness of results in the context of the problem.

(B) **Objective 2.** Illustrate multiplication and division of fractions and decimals to show connections to fractions, whole number multiplication, and inverse relationships.

(C) **Objective 3.** Multiply and divide fractions and decimals using efficient and generalizable procedures.

(D) **Objective 4.** Solve and interpret real-world and mathematical problems including those involving money, measurement, geometry, and data requiring arithmetic with decimals, fractions and mixed numbers.

(i) **Standard One objectives for Grade 7.** The following objectives apply for students in Grade 7:

(1) **Read, write, represent, and compare rational numbers, expressed as integers, fractions, and decimals.**

(A) **Objective 1.** Know that every rational number can be written as the ratio of two integers or as a terminating or repeating decimal.

(B) **Objective 2.** Compare and order rational numbers expressed in various forms using the symbols $<$, $>$, and $=$.

(C) **Objective 3.** Recognize and generate equivalent representations of rational numbers, including equivalent fractions.

(2) **Calculate with integers and rational numbers, with and without positive integer exponents, to solve real-world and mathematical problems; explain the relationship between absolute value of a rational number and the distance of that number from zero.**

(A) **Objective 1.** Estimate solutions to multiplication and division of integers in order to assess the reasonableness of results.

(B) **Objective 2.** Illustrate multiplication and division of integers using a variety of representations.

(C) **Objective 3.** Solve real-world and mathematical problems involving addition, subtraction, multiplication and division of rational numbers; use efficient and generalizable procedures including but not limited to standard algorithms.

(D) **Objective 4.** Raise integers to positive integer exponents.

(E) **Objective 5.** Solve real-world and mathematical problems involving calculations with rational numbers and positive integer exponents.

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- (F) **Objective 6.** Explain the relationship between the absolute value of a rational number and the distance of that number from zero on a number line. Use the symbol for absolute value.
- (k) **Standard One objectives for Pre-Algebra.** The following objectives apply for students in Pre-Algebra:
- (1) Read, write, compare, classify, and represent real numbers and use them to solve problems in various contexts.
- (A) **Objective 1.** Develop and apply the properties of integer exponents, including a raised to the 0 power $= 1$ (with a not equal to 0), to generate equivalent numerical and algebraic expressions.
- (B) **Objective 2.** Express and compare approximations of very large and very small numbers using scientific notation.
- (C) **Objective 3.** Multiply and divide numbers expressed in scientific notation, express the answer in scientific notation.
- (D) **Objective 4.** Classify real numbers as rational or irrational. Explain why the rational number system is closed under addition and multiplication and why the irrational system is not. Explain why the sum of a rational number and an irrational number is irrational; and the product of a non-zero rational number and an irrational number is irrational.
- (E) **Objective 5.** Compare real numbers; locate real numbers on a number line. Identify the square root of a perfect square to 400 or, if it is not a perfect square root, locate it as an irrational number between two consecutive positive integers.
- (l) **Standard One objectives for Algebra 1.** The following objectives apply for students in Algebra 1:
- (1) Extend the understanding of number and operations to include square roots and cube roots.
- (A) **Objective 1.** Write square roots and cube roots of monomial algebraic expressions in simplest radical form.
- (B) **Objective 2.** Add, subtract, multiply, and simplify roots of monomial algebraic expressions and divide square roots of whole numbers, rationalizing the denominator when necessary.
- (m) **Standard One objectives for Algebra 2.** The following objectives apply for students in Algebra 2:
- (1) Extend the understanding of number and operations to include square roots and cube roots.
- (A) **Objective 1.** Find the value of i raised to the n th power for any whole number n .
- (B) **Objective 2.** Simplify, add, subtract, multiply, and divide complex numbers.
- (C) **Objective 3.** Use matrices to organize and represent data. Identify the order (dimension) of a matrix, add and subtract matrices of appropriate dimensions, and multiply a matrix by a scalar to create a new matrix to solve problems.
- (D) **Objective 4.** Understand and apply the relationship of rational exponents to integer exponents and radicals to solve problems.
- 210:15-3-57. Standard Two: Algebraic Reasoning and Algebra**
- (a) **Statement of the standard.** Students will focus on number and operations to develop fluency with an importance of understanding numbers, ways of representing numbers, relationships among numbers, relationships among number systems, and meanings of operations and how they relate to one another. Students will place an emphasis on the development of estimation to determine the reasonableness of solutions and answers and to compute efficiently and proficiently.
- (b) **Standard Two objectives for Pre-Kindergarten.** The following objectives apply for students in Pre-Kindergarten:
- (1) Recognize, duplicate, and extend patterns.
- (A) **Objective 1.** Sort and group up to 5 objects into a set based upon characteristics such as color, size, and shape and explain verbally what the objects have in common.
- (B) **Objective 2.** Recognize, duplicate, and extend repeating patterns involving manipulatives, sound, movement, and other contexts.
- (c) **Standard Two objectives for Kindergarten.** The following objectives apply for students in Kindergarten:
- (1) Duplicate patterns in a variety of contexts.
- (A) **Objective 1.** Sort and group up to 10 objects into a set based upon characteristics such as color, size, and shape. Explain verbally what the objects have in common.
- (B) **Objective 2.** Recognize, duplicate, complete, and extend repeating, shrinking and growing patterns involving shape, color, size, objects, sounds, movement, and other contexts.
- (d) **Standard Two objectives for Grade 1.** The following objectives apply for students in Grade 1:
- (1) Identify patterns found in real-world and mathematical situations.
- (A) **Objective 1.** Identify, create, complete, and extend repeating, growing, and shrinking patterns with quantity, numbers, or shapes in a variety of real-world and mathematical contexts.
- (e) **Standard Two objectives for Grade 2.** The following objectives apply for students in Grade 2:
- (1) Describe the relationship found in patterns to solve real-world and mathematical problems.
- (A) **Objective 1.** Represent, create, describe, complete, and extend growing and shrinking patterns with quantity and numbers in a variety of real-world and mathematical contexts.
- (B) **Objective 2.** Represent and describe repeating patterns involving shapes in a variety of contexts.
- (2) Use number sentences involving unknowns to represent and solve real-world and mathematical problems.
- (A) **Objective 1.** Use objects and number lines to represent number sentences.
- (B) **Objective 2.** Generate real-world situations to represent number sentences and vice versa.

- (C) **Objective 3.** Apply commutative and identity properties and number sense to find values for unknowns that make number sentences involving addition and subtraction true or false.
- (f) **Standard Two objectives for Grade 3.** The following objectives apply for students in Grade 3:
- (1) Describe and create representations of numerical and geometric patterns.
- (A) **Objective 1.** Create, describe, and extend patterns involving addition, subtraction, or multiplication to solve problems in a variety of contexts.
- (B) **Objective 2.** Describe the rule (single operation) for a pattern from an input/output table or function machine involving addition, subtraction, or multiplication.
- (C) **Objective 3.** Explore and develop visual representations of growing geometric patterns and construct the next steps.
- (2) Use number sentences involving multiplication and unknowns to represent and solve real-world and mathematical problems.
- (A) **Objective 1.** Find unknowns represented by symbols in arithmetic problems by solving one-step open sentences (equations) and other problems involving addition, subtraction, and multiplication. Generate real-world situations to represent number sentences.
- (B) **Objective 2.** Recognize, represent, and apply the number properties (commutative, identity, and associative properties of addition and multiplication) using models and manipulatives to solve problems.
- (g) **Standard Two objectives for Grade 4.** The following objectives apply for students in Grade 4:
- (1) Use multiple representations of patterns to solve real-world and mathematical problems.
- (A) **Objective 1.** Create an input/output chart or table to represent or extend a numerical pattern.
- (B) **Objective 2.** Describe the single operation rule for a pattern from an input/output table or function machine involving any operation of a whole number.
- (C) **Objective 3.** Create growth patterns involving geometric shapes and define the single operation rule of the pattern.
- (2) Use multiplication and division with unknowns to create number sentences representing a given problem situation.
- (A) **Objective 1.** Use number sense, properties, of multiplication and the relationship between multiplication and division to solve problems and find values for the unknowns represented by letters and symbols that make number sentences true.
- (B) **Objective 2.** Solve for unknowns in problems by solving open sentences (equations) and other problems involving addition, subtraction, multiplication, or division with whole numbers. Use real-world situations to represent number sentences and vice versa.
- (h) **Standard Two objectives for Grade 5.** The following objectives apply for students in Grade 5:
- (1) Describe and graph patterns of change created through numerical patterns.
- (A) **Objective 1.** Use tables and rules of up to two operations to describe patterns of change and make predictions and generalizations about real-world and mathematical problems.
- (B) **Objective 2.** Use a rule or table to represent ordered pairs of whole numbers and graph these ordered pairs on a coordinate plane, identifying the origin and axes in relation to the coordinates.
- (2) Understand and interpret expressions, equations, and inequalities involving variables and whole numbers, and use them to represent and evaluate real-world and mathematical problems.
- (A) **Objective 1.** Generate equivalent numerical expressions and solve problems involving whole numbers by applying the commutative, associative, and distributive properties and order of operations (no exponents).
- (B) **Objective 2.** Determine whether an equation or inequality involving a variable is true or false for a given value of the variable.
- (C) **Objective 3.** Evaluate expressions involving variables when values for the variables are given.
- (i) **Standard Two objectives for Grade 6.** The following objectives apply for students in Grade 6:
- (1) Recognize and represent relationships between varying quantities; translate from one representation to another; use patterns, tables, graphs, and rules to solve real-world and mathematical problems.
- (A) **Objective 1.** Plot integer- and rational-valued (limited to halves and fourths) ordered pairs as coordinates in all four quadrants and recognize the reflective relationships among coordinates that differ only by their signs.
- (B) **Objective 2.** Represent relationships between two varying quantities involving no more than two operations with rules, graphs, and tables; translate between any two of these representations.
- (C) **Objective 3.** Use and evaluate variables in expressions, equations, and inequalities that arise from various contexts, including determining when or if, for a given value of the variable, an equation or inequality involving a variable is true or false.
- (2) Use properties of arithmetic to generate equivalent numerical expressions and evaluate expressions involving positive rational numbers.
- (A) **Objective 1.** Generate equivalent numerical expressions and evaluate expressions involving positive rational numbers by applying the commutative, associative, and distributive properties and order of operations to solve real-world and mathematical problems.
- (3) Use equations and inequalities to represent real-world and mathematical problems and use the idea of maintaining equality to solve equations. Interpret solutions in the original context.

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- (A) **Objective 1.** Represent real-world or mathematical situations using expressions, equations, and inequalities involving variables and rational numbers.
- (B) **Objective 2.** Use number sense and properties of operations and equality to solve real-world and mathematical problems involving equations in the form $x + p = q$ and $px = q$ where p, q are nonnegative rational numbers. Graph the solution on a number line, interpret the solution in the original context, and assess the reasonableness of the solution.
- (j) **Standard Two objectives for Grade 7.** The following objectives apply for students in Grade 7:
- (1) Understand the concept of proportionality in real-world and mathematical situations, and distinguish between proportional and other relationships.
- (A) **Objective 1.** Describe that the relationship between two variables, x and y , is proportional if it can be expressed in the form $y/x = k$ or $y = kx$; distinguish proportional relationships from other relationships, including inversely proportional relationship ($xy = k$ or $y = k/x$).
- (B) **Objective 2.** Recognize that the graph of a proportional relationship is a line through the origin and the coordinate $(1, r)$, where both r and the slope are the unit rate (constant of proportionality, k).
- (2) recognize proportional relationships in real-world and mathematical situations; represent these and other relationships with tables, verbal descriptions, symbols, and graphs; solve problems involving proportional relationships and interpret results in the original context.
- (A) **Objective 1.** Represent proportional relationships with tables, verbal descriptions, symbols, and graphs; translate from one representation to another. Determine and compare the unit rate (constant of proportionality, slope, or rate of change) given any of these representations.
- (B) **Objective 2.** Solve multi-stop problems involving proportional relationships involving distance-time, percent increase or decrease, discounts, tips, unit pricing, similar figures, and other real-world and mathematical situations.
- (C) **Objective 3.** Use proportional reasoning to solve real-world and mathematical problems involving ratios.
- (D) **Objective 4.** Use proportional reasoning to assess the reasonableness of solutions.
- (3) Represent and solve linear equations and inequalities.
- (A) **Objective 1.** Write and solve problems leading to linear equations with one variable in the form $px + q = r$ and $(x + q) = r$, where $p, q,$ and r are rational numbers.
- (B) **Objective 2.** Represent, write, solve, and graph problems leading to linear inequalities with one variable in the form $x + p > q$ and $x + p < q$, where p and q are nonnegative numbers.
- (C) **Objective 3.** Represent real-world or mathematical situations using equations and inequalities involving variables and rational numbers.
- (4) Use order of operations and properties of operations to generate equivalent numerical and algebraic expressions containing rational numbers and grouping symbols; evaluate such expressions.
- (A) **Objective 1.** Use properties of operations (limited to associative, commutative, and distributive) to generate equivalent numerical and algebraic expressions containing rational numbers, grouping symbols, and whole number exponents.
- (B) **Objective 2.** Apply understanding of order of operations and grouping symbols when using calculators and other technologies.
- (k) **Standard Two objectives for Pre-Algebra.** The following objectives apply for students in Pre-Algebra:
- (1) Understand the concept of function in real-world and mathematical situations, and distinguish between linear and nonlinear functions.
- (A) **Objective 1.** Recognize that a function is a relationship between an independent variable and a dependent variable in which the value of the independent variable determines the value of the dependent variable.
- (B) **Objective 2.** Use linear functions to represent and explain real-world and mathematical situations.
- (C) **Objective 3.** Identify a function as linear if it can be expressed in the form $y = mx + b$ or if its graph is a straight line.
- (2) Recognize linear functions in real-world and mathematical situations; represent linear functions and other functions with tables, verbal descriptions, symbols, and graphs; solve problems involving linear functions and interpret results in the original context.
- (A) **Objective 1.** Represent linear functions with tables, verbal descriptions, symbols, and graphs; translate from one representation to another.
- (B) **Objective 2.** Identify, describe, and analyze linear relationships between two variables.
- (C) **Objective 3.** Identify graphical properties of linear functions including slope and intercepts. Know that the slope equals the rate of change, and that the y -intercept is zero when the function represents a proportional relationship.
- (D) **Objective 4.** Predict the effect on the graph of a linear function when the slope or y -intercept changes. Use appropriate tools to examine these effects.
- (E) **Objective 5.** Solve problems involving linear functions and interpret results in the original context.
- (3) Generate equivalent numerical and algebraic expressions and use algebraic expressions and use algebraic properties to evaluate expressions.
- (A) **Objective 1.** Use substitution to simplify and evaluate algebraic expressions.
- (B) **Objective 2.** Justify steps in generating equivalent expressions by identifying the properties used.

including the properties of operations (associative, commutative, and distributive laws) and the order of operations, including grouping symbols.

(4) Represent real-world and mathematical problems using equations and inequalities involving linear expressions. Solve and graph equations and inequalities symbolically and graphically. Interpret solutions in the original context.

(A) **Objective 1.** Illustrate, write, and solve mathematical and real-world problems using linear equations with one variable with one solution, infinitely many solutions, or no solutions. Interpret solutions in the original context.

(B) **Objective 2.** Represent, write, solve, and graph problems leading to linear inequalities with one variable in the form $px + q > r$ and $px + q < r$, where p , q , and r are rational numbers.

(C) **Objective 3.** Represent real-world situations using equations and inequalities involving one variable.

(l) **Standard Two objectives for Algebra 1.** The following objectives apply for students in Algebra 1:

(1) Represent and solve mathematical and real-world problems using linear equations, absolute value equations, and systems of equations; interpret solutions in the original context.

(A) **Objective 1.** Use knowledge of solving equations with rational values to represent and solve mathematical and real-world problems (e.g. angle measures, geometric formulas, science, or statistics) and interpret the solutions in the original context.

(B) **Objective 2.** Solve absolute value equations and interpret the solutions in the original context.

(C) **Objective 3.** Analyze and solve real-world and mathematical problems involving systems of linear equations with a maximum of two variables by graphing (may include graphing calculator or other appropriate technology), substitution, and elimination. Interpret the solutions in the original context.

(2) Represent and solve real-world and mathematical problems using linear inequalities, compound inequalities and systems of linear inequalities; interpret solutions in the original context.

(A) **Objective 1.** Represent relationships in various contexts with linear inequalities; solve the resulting inequalities, graph on a coordinate plane, and interpret the solutions.

(B) **Objective 2.** Represent relationships in various contexts with compound and absolute value inequalities, graph on a coordinate plane, and interpret the solutions.

(C) **Objective 3.** Solve systems of linear inequalities with a maximum of two variables; graph and interpret the solutions on a coordinate plane.

(3) Generate equivalent algebraic expressions and use algebraic properties to evaluate expressions and arithmetic and geometric sequences.

(A) **Objective 1.** Solve equations involving several variables for one variable in terms of the others.

(B) **Objective 2.** Simplify polynomial expressions by adding, subtracting, or multiplying.

(C) **Objective 3.** Factor common monomial factors from polynomial expressions and factor quadratic expressions with a leading coefficient of 1.

(D) **Objective 4.** Evaluate linear, absolute value, rational, and radical expressions. Include applying a nonstandard operation such as $a \cdot b = 2a + b$.

(E) **Objective 5.** Recognize that arithmetic sequences are linear using equations, tables, graphs, and verbal descriptions. Use the pattern, find the next term.

(F) **Objective 6.** Recognize that geometric sequences are exponential using equations, tables, graphs, and verbal descriptions. Given the formula $(x) = (r)^x$, find the next term and define the meaning of within the context of the problem.

(4) Analyze mathematical change involving linear equations in real-world and mathematical problems.

(A) **Objective 1.** Calculate and interpret slope and the x - and y -intercepts of a line using a graph, an equation, two points, or a set of data points to solve real-world and mathematical problems.

(B) **Objective 2.** Solve mathematical and real-world problems involving lines that are parallel, perpendicular, horizontal, or vertical.

(C) **Objective 3.** Express linear equations in slope-intercept, point-slope, and standard forms and convert between these forms. Given sufficient information (slope and y -intercept, slope and one-point on the line, two points on the line, x - and y -intercept, or a set of data points), write the equation of a line.

(D) **Objective 4.** Translate between a graph and a situation described qualitatively.

(m) **Standard Two objectives for Algebra 2.** The following objectives apply for students in Algebra 2:

(1) Represent and solve mathematical and real-world problems using nonlinear equations and systems of linear equations; interpret the solutions in the original context.

(A) **Objective 1.** Represent real-world or mathematical problems using quadratic equations and solve using various methods (including graphing calculator or other appropriate technology), factoring, completing the square, and the quadratic formula. Find non-real roots when they exist.

(B) **Objective 2.** Represent real-world or mathematical problems using exponential equations, such as compound interest, depreciation, and population growth, and solve these equations graphically (including graphing calculator or other appropriate technology) or algebraically.

(C) **Objective 3.** Solve one-variable rational equations and check for extraneous solutions.

(D) **Objective 4.** Solve polynomial equations with real roots using various methods and tools that may

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include factoring, polynomial division, synthetic division, graphing calculators or other appropriate technology.

(E) **Objective 5.** Solve square root equations with one variable and check for extraneous solutions.

(F) **Objective 6.** Solve common and natural logarithmic equations using the properties of logarithms.

(G) **Objective 7.** Solve real-world and mathematical problems that can be modeled using arithmetic or finite geometric sequences or series given the n^{th} terms and sum formulas. Graphing calculators or other appropriate technology may be used.

(H) **Objective 8.** Represent real-world or mathematical problems using systems of linear equations with a maximum of three variables and solve using various methods that may include substitution, elimination, and graphing (may include graphing calculators or other appropriate technology).

(I) **Objective 9.** Solve systems of equations containing one linear equation and one quadratic equation using tools that may include graphing calculators or other appropriate technology.

(2) Represent and analyze mathematical situations and structures using algebraic symbols using various strategies to write equivalent forms of expressions.

(A) **Objective 1.** Factor polynomial expressions including but not limited to trinomials, differences of squares, sum and difference of cubes, and factoring by grouping using a variety of tools and strategies.

(B) **Objective 2.** Add, subtract, multiply, divide, and simplify polynomial and rational expressions.

(C) **Objective 3.** Recognize that a quadratic function has different equivalent representations [$(x) = ax^2 + bx + c$, $(x) = a(x - h)^2 + k$, and $f(x) = (x - h)(x - k)$]. Identify and use the representation that is most appropriate to solve real-world and mathematical problems.

(D) **Objective 4.** Rewrite expressions involving radicals and rational exponents using the properties of exponents.

210:15-3-58. **Standard Three: Geometry and Measurement**

(a) **Statement of the standard.** Students will focus on number and operations to develop fluency with an importance of understanding numbers, ways of representing numbers, relationships among numbers, relationships among number systems, and meanings of operations and how they relate to one another. Students will place an emphasis on the development of estimation to determine the reasonableness of solutions and answers and to compute efficiently and proficiently.

(b) **Standard Three objectives for Pre-Kindergarten.** The following objectives apply for students in Pre-Kindergarten:

(1) Identify common shapes.

(A) **Objective 1.** Identify circles, squares, rectangles, and triangles by pointing to the shape when given the name.

(2) Describe and compare measurable attributes.

(A) **Objective 1.** Identify measurable attributes of objects. Describe them as little, big, long, short, tall, heavy, light, or other age appropriate vocabulary.

(B) **Objective 2.** Directly compare two objects with a common measurable attribute using words such as longer/shorter; heavier/lighter; or taller/shorter.

(C) **Objective 3.** Sort objects into sets by one or more attributes.

(c) **Standard Three objectives for Kindergarten.** The following objectives apply for students in Kindergarten:

(1) Recognize and sort basic two-dimensional shapes and use them to represent real-world objects.

(A) **Objective 1.** Recognize squares, circles, triangles, and rectangles.

(B) **Objective 2.** Sort two-dimensional objects using characteristics such as shape, size, color, and thickness.

(C) **Objective 3.** Identify attributes of two-dimensional shapes using informal and formal geometric language interchangeably.

(D) **Objective 4.** Use smaller shapes to form a larger shape when there is an outline to follow.

(E) **Objective 5.** Compose free-form shapes with blocks.

(F) **Objective 6.** Use basic shapes and spatial reasoning to represent objects in the real world.

(2) Compare and order objects according to location and measurable attributes.

(A) **Objective 1.** Use words to compare objects according to length, size, weight, position, and location.

(B) **Objective 2.** Order up to 6 objects using measurable attributes, such as length and weight.

(C) **Objective 3.** Sort objects into sets by more than one attribute.

(D) **Objective 4.** Compare the number of objects needed to fill two different containers.

(3) Tell time as it relates to daily life.

(A) **Objective 1.** Develop an awareness of simple time concepts using words such as yesterday, today, tomorrow, morning, afternoon, and night within his/her daily life.

(d) **Standard Three objectives for Grade 1.** The following objectives apply for students in Grade 1:

(1) Recognize, compose, and decompose two- and three-dimensional shapes.

(A) **Objective 1.** Identify trapezoids and hexagons by pointing to the shape when given the name.

(B) **Objective 2.** Compose and decompose larger shapes using smaller two-dimensional shapes.

(C) **Objective 3.** Compose structures with three-dimensional shapes.

(D) **Objective 4.** Recognize three-dimensional shapes such as cubes, cones, cylinders, and spheres.

(2) Select and use nonstandard and standard units to describe length and volume/capacity.

- (A) **Objective 1.** Use nonstandard and standard measuring tools to measure the length of objects to reinforce the continuous nature of linear measurement.
- (B) **Objective 2.** Illustrate that the length of an object is the number of same-size units of length that, when laid end-to-end with no gaps or overlaps, reach from one end of the object to the other.
- (C) **Objective 3.** Measure the same object/distance with units of two different lengths and describe how and why the measurements differ.
- (D) **Objective 4.** Describe a length to the nearest whole number and a unit.
- (E) **Objective 5.** Use standard and nonstandard tools to identify volume/capacity. Compare and sort containers that hold more, less, or the same amount.
- (3) Tell time to the half and full hour.
- (A) **Objective 1.** Tell time to the hour and half-hour (analog and digital).
- (e) **Standard Three objectives for Grade 2.** The following objectives apply for students in Grade 2:
- (1) Analyze attributes of two-dimensional figures and develop generalizations about their properties.
- (A) **Objective 1.** Recognize trapezoids and hexagons.
- (B) **Objective 2.** Describe, compare, and classify two-dimensional figures according to their geometric attributes.
- (C) **Objective 3.** Compose two-dimensional shapes using triangles, squares, hexagons, trapezoids, and rhombi.
- (D) **Objective 4.** Recognize right angles and classify angles as smaller or larger than a right angle.
- (2) Understand length as a measurable attribute and explore capacity.
- (A) **Objective 1.** Explain the relationship between the size of the unit of measurement and the number of units needed to measure the length of an object.
- (B) **Objective 2.** Explain the relationship between length and the numbers on a ruler by using a ruler to measure lengths to the nearest whole unit.
- (C) **Objective 3.** Explore how varying shapes and styles of containers can have the same capacity.
- (3) Tell time to the quarter hour.
- (A) **Objective 1.** Read and write time to the quarter-hour on an analog and digital clock. Distinguish between a.m. and p.m.
- (f) **Standard Three objectives for Grade 3.** The following objectives apply for students in Grade 3:
- (1) Use geometric attributes to describe and create shapes in various contexts.
- (A) **Objective 1.** Sort three-dimensional shapes based on attributes.
- (B) **Objective 2.** Build a three-dimensional figure using unit cubes when picture/shape is shown.
- (C) **Objective 3.** Classify angles as acute, right, obtuse, and straight.
- (2) Understand measurable attributes of real-world and mathematical objects using various tools.
- (A) **Objective 1.** Find perimeter of polygon, given whole number lengths of the sides, in real-world and mathematical situations.
- (B) **Objective 2.** Develop and use formulas to determine the area of rectangles. Justify why length and width are multiplied to find the area of a rectangle by breaking the rectangle into one unit by one unit squares and viewing these as grouped into rows and columns.
- (C) **Objective 3.** Choose an appropriate measurement instrument and measure the length of objects to the nearest whole centimeter or meter.
- (D) **Objective 4.** Choose an appropriate measurement instrument and measure the length of objects to the nearest whole yard, whole foot, or half inch.
- (E) **Objective 5.** Using common benchmarks, estimate the lengths (customary and metric) of a variety of objects.
- (F) **Objective 6.** Use an analog thermometer to determine temperature to the nearest degree in Fahrenheit and Celsius.
- (G) **Objective 7.** Count cubes systematically to identify number of cubes needed to pack the whole or half of a three-dimensional structure.
- (H) **Objective 8.** Find the area of two-dimensional figures by counting total number of same size unit squares that fill the shape without gaps or overlaps.
- (3) Solve problems by telling time to the nearest 5 minutes.
- (A) **Objective 1.** Read and write time to the nearest 5-minute (analog and digital).
- (B) **Objective 2.** Determine the solutions to problems involving addition and subtraction of time in intervals of 5 minutes, up to one hour, using pictorial models, number line diagrams, or other tools.
- (g) **Standard Three objectives for Grade 4.** The following objectives apply for students in Grade 4:
- (1) Name, describe, classify, and construct polygons and three-dimensional figures.
- (A) **Objective 1.** Identify points, lines, line segments, rays, angles, endpoints, and parallel and perpendicular lines in various contexts.
- (B) **Objective 2.** Describe, classify, and sketch quadrilaterals, including squares, rectangles, trapezoids, rhombuses, parallelograms, and kites. Recognize quadrilaterals in various contexts.
- (C) **Objective 3.** Given two three-dimensional shapes, identify similarities, and differences.
- (2) Understand angle, length, and area as measurable attributes of real-world and mathematical objects. Use various tools to measure angles, length, area, and volume.
- (A) **Objective 1.** Measure angles in geometric figures and real-world objects with a protractor or angle ruler.
- (B) **Objective 2.** Find the area of polygons that can be decomposed into rectangles.

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- (C) **Objective 3.** Using a variety of tools and strategies, develop the concept that the volume of rectangular prisms with whole-number edge lengths can be found by counting the total number of same-sized unit cubes that fill a shape without gaps or overlaps. Use appropriate measurements such as cm^3 .
- (D) **Objective 4.** Choose an appropriate measurement instrument and measure the length of an object to the nearest whole centimeter or quarter-inch.
- (E) **Objective 5.** Solve problems that deal with measurements of length, when to use liquid volumes, when to use mass, temperatures above zero and money using addition, subtraction, multiplication, or division as appropriate (customary and metric).
- (3) Determine elapsed time and convert between units of time.
- (A) **Objective 1.** Determine elapsed time.
- (B) **Objective 2.** Solve problems involving the conversion of one measure of time to another.
- (h) **Standard Three objectives for Grade 5.** The following objectives apply for students in Grade 5:
- (1) Describe, classify, and draw representations of two- and three-dimensional figures.
- (A) **Objective 1.** Describe, classify and construct triangles, including equilateral, right, scalene, and isosceles triangles. Recognize triangles in various contexts.
- (B) **Objective 2.** Describe and classify three-dimensional figures including cubes, rectangular prisms, pyramids by the number of edges, faces or vertices, as well as the shapes of faces.
- (C) **Objective 3.** Recognize and draw a net for a three-dimensional figure (e.g. cubes, rectangular prisms, pyramids).
- (2) Understand how the volume of rectangular prisms and surface area of shapes with polygonal faces are determined by the dimensions of the object and that shapes with varying dimensions can have equivalent values of surface area or volume.
- (A) **Objective 1.** Recognize that the volume of rectangular prisms can be determined by the number of cubes (n) and by the product of the dimensions of the prism ($a \times b \times c = n$). Know that rectangular prisms of different dimensions (p , q , and r) can have the same volume if $a \times b \times c = p \times q \times r = n$.
- (B) **Objective 2.** Recognize that the surface area of a three-dimensional figure with rectangular faces with whole numbered edges can be found by finding the area of each component of the net of that figure. Know that three-dimensional shapes of different dimensions can have the same surface area.
- (C) **Objective 3.** Find the perimeter of polygons and create arguments for reasonable values for the perimeter of shapes that include curves.
- (3) Understand angle and length as measureable attributes of real-world and mathematical objects. Use various tools to measure angles and lengths.
- (A) **Objective 1.** Measure and compare angles according to size.
- (B) **Objective 2.** Choose an appropriate instrument and measure the length of an object to the nearest whole centimeter or 1/16-inch.
- (C) **Objective 3.** Recognize and use the relationship between inches, feet, and yards to measure and compare objects.
- (D) **Objective 4.** Recognize and use the relationship between millimeters, centimeters, and meters to measure and compare objects.
- (i) **Standard Three objectives for Grade 6.** The following objectives apply for students in Grade 6:
- (1) Calculate area of squares, parallelograms, and triangles to solve real-world and mathematical problems.
- (A) **Objective 1.** Develop and use formulas for the area of squares and parallelograms using a variety of methods including but not limited to the standard algorithm.
- (B) **Objective 2.** Develop and use formulas to determine the area of triangles.
- (C) **Objective 3.** Find the area of right triangles, special quadrilaterals, and polygons that can be decomposed into triangles and other shapes to solve real-world and mathematical problems.
- (2) Understand and use relationships between angles in geometric figures.
- (A) **Objective 1.** Solve problems using the relationships between the angles (vertical, complementary, and supplementary) formed by intersecting lines.
- (B) **Objective 2.** Develop and use the fact that the sum of the interior angles of a triangle is 180° to determine missing angle measures in a triangle.
- (3) Choose appropriate units of measurement and use ratios to convert within measurement systems to solve real-world and mathematical problems.
- (A) **Objective 1.** Estimate weights, capacities and geometric measurements using benchmarks in customary and metric measurement systems with appropriate units.
- (B) **Objective 2.** Solve problems in various real-world and mathematical contexts that require the conversion of weights, capacities, geometric measurements, and time within the same measurement systems using appropriate units.
- (4) Use translations, reflections, and rotations to establish congruency and understand symmetries.
- (A) **Objective 1.** Predict, describe, and apply translations (slides), reflections (flips), and rotations (turns) to a two-dimensional figure.
- (B) **Objective 2.** Recognize that translations, reflections, and rotations preserve congruency and use them to show that two figures are congruent.
- (C) **Objective 3.** Use distances between two points that are either vertical or horizontal to each other (not requiring the distance formula) to solve real-world and mathematical problems about congruent two-dimensional figures.

(D) **Objective 4.** Identify and describe the line(s) of symmetry in two-dimensional shapes.

(j) **Standard Three objectives for Grade 7.** The following objectives apply for students in Grade 7:

(1) Develop and understand the concept of surface area and volume of rectangular prisms.

(A) **Objective 1.** Using a variety of tools and strategies, develop the concept that surface area of a rectangular prism with rational-valued edge lengths can be found by wrapping the figure with same-sized square units without gaps or overlap. Use appropriate measurements such as cm^2 .

(B) **Objective 2.** Using a variety of tools and strategies, develop the concept that the volume of rectangular prisms with rational-valued edge lengths can be found by counting the total number of same-sized unit cubes that fill a shape without gaps or overlaps. Use appropriate measurements such as cm^3 .

(2) Determine the area of trapezoids and area and perimeter of composite figures.

(A) **Objective 1.** Develop and use the formula to determine the area of a trapezoid to solve problems.

(B) **Objective 2.** Find the area and perimeter of composite figures to solve real-world and mathematical problems.

(3) Use reasoning with proportions and ratios to determine measurements, justify formulas, and solve real-world and mathematical problems involving circles and related geometric figures.

(A) **Objective 1.** Demonstrate an understanding of the proportional relationship between the diameter and circumference of a circle and that the unit rate (constant of proportionality) is π and can be approximated by rational numbers such as $\frac{22}{7}$ and 3.14.

(B) **Objective 2.** Calculate the circumference and area of circles to solve problems in various contexts, in terms of π and using approximations for π .

(4) Analyze the effect of dilations, translations, and reflections on the attributes of two-dimensional figures on and off the coordinate plane.

(A) **Objective 1.** Describe the properties of similarity, compare geometric figures for similarity, and determine scale factors resulting from dilations.

(B) **Objective 2.** Apply proportions, ratios, and scale factors to solve problems involving scale drawings and determine side lengths and areas of similar triangles and rectangles.

(C) **Objective 3.** Graph and describe translations and reflections of figures on a coordinate plane and determine the coordinates of the vertices of the figure after the transformation.

(k) **Standard Three objectives for Pre-Algebra.** The following objectives apply for students in Pre-Algebra:

(1) Solve problems involving right triangles using the Pythagorean Theorem.

(A) **Objective 1.** Informally justify the Pythagorean Theorem using measurements, diagrams, or dynamic software and use the Pythagorean Theorem to solve problems in two and three dimensions involving right triangles.

(B) **Objective 2.** Use the Pythagorean Theorem to find the distance between any two points in a coordinate plane.

(2) Calculate surface area and volume of three-dimensional figures.

(A) **Objective 1.** Calculate the surface area of a rectangular prism using decomposition or nets. Use appropriate measurements such as cm^2 .

(B) **Objective 2.** Calculate the surface area of a cylinder, in terms of π and using approximations for π , using decomposition or nets. Use appropriate measurements such as cm^2 .

(C) **Objective 3.** Develop and use the formulas $V = lwh$ and $V = Bh$ to determine the volume of rectangular prisms. Justify why base area (B) and height (h) are multiplied to find the volume of a rectangular prism. Use appropriate measurements such as cm^3 .

(D) **Objective 4.** Develop and use the formulas $V = \pi r^2 h$ and $V = Bh$ to determine the volume of right cylinders, in terms of π and using approximations for π . Justify why base area (B) and height (h) are multiplied to find the volume of a right cylinder. Use appropriate measurements such as cm^3 .

(1) **Standard Three objectives for Algebra 1.** The following objectives apply for students in Algebra 1:

(1) Understand functions as descriptions of covariation (how related quantities vary together) in real-world and mathematical problems.

(A) **Objective 1.** Distinguish between relations and functions.

(B) **Objective 2.** Identify the dependent and independent variables as well as the domain and range given a function, equation, or graph. Identify restrictions on the domain and range in real-world contexts.

(C) **Objective 3.** Write linear functions, using function notation, to model real-world and mathematical situations.

(D) **Objective 4.** Given a graph modeling a real-world situation, read and interpret the linear piecewise function (excluding step functions).

(2) Recognize functions and understand that families of functions are characterized by their rate of change.

(A) **Objective 1.** Distinguish between linear and nonlinear (including exponential) functions arising from real-world and mathematical situations that are represented in tables, graphs, and equations. Understand that linear functions grow by equal intervals and that exponential functions grow by equal factors over equal intervals.

(B) **Objective 2.** Recognize the graph of the functions $(x) = x$ and $(x) = |x|$ and predict the effects of

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transformations [$f(x + c)$ and $f(x) + c$, where c is a positive or negative constant] algebraically and graphically using various methods and tools that may include graphing calculators.

(3) Represent functions in multiple ways and use the representation to interpret real-world and mathematical problems.

(A) **Objective 1.** Identify and generate equivalent representations of linear equations, graphs, tables, and real-world situations.

(B) **Objective 2.** Use function notation; evaluate a function, including nonlinear, at a given point in its domain algebraically and graphically. Interpret the results in terms of real-world and mathematical problems.

(C) **Objective 3.** Add, subtract, and multiply functions using function notation.

(m) **Standard Three objectives for Geometry.** The following objectives apply for students in Geometry:

(1) **Reasoning & Logic.** Use appropriate tools and logic to evaluate mathematical arguments.

(A) **Objective 1.** Understand the use of undefined terms, definitions, postulates, and theorems in logical arguments/proofs.

(B) **Objective 2.** Analyze and draw conclusions based on a set of conditions using inductive and deductive reasoning. Recognize the logical relationships between a conditional statement and its inverse, converse, and contrapositive.

(C) **Objective 3.** Assess the validity of a logical argument and give counterexamples to disprove a statement.

(2) **Two-Dimensional Shapes.** Discover, evaluate and analyze the relationships between lines, angles, and polygons to solve real-world and mathematical problems; express proofs in a form that clearly justifies the reasoning, such as two-column proofs, paragraph proofs, flow charts, or illustrations.

(A) **Objective 1.** Apply the properties of parallel and perpendicular lines, including properties of angles formed by a transversal, to solve real-world and mathematical problems and determine if two lines are parallel, using algebraic reasoning and proofs.

(B) **Objective 2.** Apply the properties of angles, including corresponding, exterior, interior, vertical, complementary, and supplementary angles to solve real-world and mathematical problems using algebraic reasoning and proofs.

(C) **Objective 3.** Apply theorems involving the interior and exterior angle sums of polygons and use them to solve real-world and mathematical problems using algebraic reasoning and proofs.

(D) **Objective 4.** Apply the properties of special quadrilaterals (square, rectangle, trapezoid, isosceles trapezoid, rhombus, kite, parallelogram) and use them to solve real-world and mathematical problems involving angle measures and segment lengths using algebraic reasoning and proofs.

(E) **Objective 5.** Use coordinate geometry to represent and analyze line segments and polygons, including determining lengths, midpoints, and slopes of line segments.

(F) **Objective 6.** Apply the properties of polygons to solve real-world and mathematical problems involving perimeter and area (e.g. triangles, special quadrilaterals, regular polygons up to 12 sides, composite figures).

(G) **Objective 7.** Apply the properties of congruent or similar polygons to solve real-world and mathematical problems using algebraic and logic reasoning.

(H) **Objective 8.** Construct logical arguments to prove triangle congruence (SSS, SAS, ASA, AAS and HL) and triangle similarity (AA, SSS, SAS).

(I) **Objective 9.** Use numeric, graphic and algebraic representations of transformations in two dimensions, such as reflections, translations, dilations, and rotations about the origin by multiples of 90 degrees, to solve problems involving figures on a coordinate plane and identify types of symmetry.

(3) **Three-Dimensional Shapes.** Solve real-world and mathematical problems involving three-dimensional figures.

(A) **Objective 1.** Solve real-world and mathematical problems using the surface area and volume of prisms, cylinders, pyramids, cones, spheres, and composites of these figures. Use nets, measuring devices, or formulas as appropriate.

(B) **Objective 2.** Use ratios derived from similar three-dimensional figures to make conjectures, generalize, and to solve for unknown values such as angles, side lengths, perimeter or circumference of a face, area of a face, and volume.

(4) **Circles.** Solve real-world and mathematical problems using the properties of circles.

(A) **Objective 1.** Apply the properties of circles to solve problems involving circumference and area, approximate values and in terms of pi, using algebraic and logical reasoning.

(B) **Objective 2.** Apply the properties of circles and relationships among angles; arcs; and distances in a circle among radii, chords, secants and tangents to solve problems using algebraic reasoning.

(C) **Objective 3.** Recognize and write the radius r , center (h, k) , and standard form of the equation of a circle $(x - h)^2 + (y - k)^2 = r^2$, with and without graphs.

(D) **Objective 4.** Apply the distance and midpoint formula, where appropriate, to develop the equation of a circle in standard form.

(5) **Right Triangle Trigonometry.** Develop and verify mathematical relationships of right triangles and trigonometric ratios to solve real-world and mathematical problems

(A) **Objective 1.** Apply the distance formula and the Pythagorean Theorem and its converse to solve

real-world and mathematical problems, as approximate and exact values, using algebraic and logical reasoning (include Pythagorean Triples).

(B) **Objective 2.** Verify and apply properties of right triangles, including properties of 45-45-90 and 30-60-90 triangles, to solve problems using algebraic and logical reasoning.

(C) **Objective 3.** Use the definition of the trigonometric functions to determine the sine, cosine, and tangent ratio of an acute angle in a right triangle. Apply the inverse trigonometric functions as ratios to find the measure of an acute angle in right triangles.

(D) **Objective 4.** Apply the trigonometric functions as ratios (sine, cosine, and tangent) to find side lengths in right triangles in real-world and mathematical problems.

(n) **Standard Three objectives for Algebra 2.** The following objectives apply for students in Algebra 2:

(1) **Functions.** Understand functions as descriptions of covariation (how related quantities vary together).

(A) **Objective 1.** Use algebraic, interval, and set notations to specify the domain and range of functions of various types and evaluate a function at a given point in its domain.

(B) **Objective 2.** Recognize the graphs of exponential, radical (square root and cube root only), quadratic, and logarithmic functions. Predict the effects of transformations $[f(x + c), f(x) + c, f(cx), \text{ and } cf(x)]$, where c is a positive or negative real-valued constant algebraically and graphically, using various methods and tools that may include graphing calculators or other appropriate technology.

(C) **Objective 3.** Graph a quadratic function. Identify the x - and y -intercepts, maximum or minimum value, axis of symmetry, and vertex using various methods and tools that may include a graphing calculator or appropriate technology.

(D) **Objective 4.** Graph exponential and logarithmic functions. Identify asymptotes and x - and y -intercepts using various methods and tools that may include graphing calculators or other appropriate technology. Recognize exponential decay and growth graphically and algebraically.

(E) **Objective 5.** Analyze the graph of a polynomial function by identifying the domain, range, intercepts, zeros, relative maxima, relative minima, and intervals of increase and decrease.

(F) **Objective 6.** Graph a rational function and identify the x - and y -intercepts, vertical and horizontal asymptotes, using various methods and tools that may include a graphing calculator or other appropriate technology (excluding slant or oblique asymptotes and holes).

(G) **Objective 7.** Graph a radical function (square root and cube root only) and identify the x - and y -intercepts using various methods and tools that may include a graphing calculator or other appropriate technology.

(H) **Objective 8.** Graph piecewise functions with no more than three branches (including linear, quadratic, or exponential branches) and analyze the function by identifying the domain, range, intercepts, and intervals for which it is increasing, decreasing, and constant.

(2) **Functions.** Analyze functions through algebraic combinations, compositions, and inverses, if they exist.

(A) **Objective 1.** Add, subtract, multiply, and divide functions using function notation and recognize domain restrictions.

(B) **Objective 2.** Combine functions by composition and recognize that $(f^{-1})^{-1}(x) = f(x)$, the inverse function of $f(x)$, if and only if $f(g(x)) = g(f(x)) = x$.

(C) **Objective 3.** Find and graph the inverse of a function, if it exists, in real-world and mathematical situations. Know that the domain of a function f is the range of the inverse function f^{-1} , and the range of the function f is the domain of the inverse function f^{-1} .

(D) **Objective 4.** Apply the inverse relationship between exponential and logarithmic functions to convert from one form to another.

210:15-3-59. Standard Four: Data and Probability

(a) **Statement of the standard.** Students will have an increased emphasis on understanding data and probability to enable all students to formulate questions that can be addressed by appropriate statistical methods. Students will analyze data, develop and evaluate inferences and predictions that are based on data, and understand and apply basic concepts of probability. Students will have an opportunity to apply the basic skills of computing with number and being an educated consumer of information providing application and use of fractions in daily life.

(b) **Standard Four objectives for Pre-Kindergarten.** The following objectives apply for students in Pre-Kindergarten:

(1) Collect and organize categorical data.

(A) **Objective 1.** Collect and organize information about objects and events in the environment.

(B) **Objective 2.** Use categorical data to create real-object graphs.

(c) **Standard Four objectives for Kindergarten.** The following objectives apply for students in Kindergarten:

(1) Collect, organize, and interpret categorical data.

(A) **Objective 1.** Collect and sort information about objects and events in the environment.

(B) **Objective 2.** Use categorical data to create real-object and picture graphs.

(C) **Objective 3.** Draw conclusions from real-object and picture graphs.

(d) **Standard Four objectives for Grade 1.** The following objectives apply for students in Grade 1:

(1) Collect, organize, and interpret categorical and numerical data.

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- (A) **Objective 1.** Collect, sort, and organize data in up to three categories using representations (e.g. tally marks, tables, Venn diagrams).
- (B) **Objective 2.** Use data to create picture and bar-type graphs to demonstrate one-to-one correspondence.
- (C) **Objective 3.** Draw conclusions from picture and bar-type graphs.
- (e) **Standard Four objectives for Grade 2.** The following objectives apply for students in Grade 2:
- (1) Collect, organize, and interpret data.
- (A) **Objective 1.** Explain that the length of a bar in a bar graph or the number of objects in a picture graph represents the number of data points for a given category.
- (B) **Objective 2.** Organize a collection of data with up to four categories using pictographs and bar graphs with intervals of 1s, 2s, 5s, or 10s.
- (C) **Objective 3.** Write and solve one-step word problems involving addition or subtraction using data represented within pictographs and bar graphs with intervals of one.
- (D) **Objective 4.** Draw conclusions and make predictions from information in a graph.
- (f) **Standard Four objectives for Grade 3.** The following objectives apply for students in Grade 3:
- (1) Summarize, construct, and analyze data.
- (A) **Objective 1.** Summarize and construct a data set with multiple categories using a frequency table, line plot, pictograph, and/or bar graph with scaled intervals.
- (B) **Objective 2.** Solve one- and two-step word problems using categorical data represented with a frequency table, pictograph, or bar graph with scaled intervals.
- (g) **Standard Four objectives for Grade 4.** The following objectives apply for students in Grade 4:
- (1) Collect, organize, and analyze data.
- (A) **Objective 1.** Represent data on a frequency table or line plot marked with whole numbers and fractions using appropriate titles, labels, and units.
- (B) **Objective 2.** Use tables, bar graphs, timelines, and Venn diagrams to display data sets. The data may include benchmark fractions or decimals ($\frac{1}{4}$, $\frac{1}{3}$, $\frac{1}{2}$, $\frac{2}{3}$, $\frac{3}{4}$, 0.25, 0.50, 0.75).
- (C) **Objective 3.** Solve one- and two-step problems using data in whole number, decimal, or fraction form in a frequency table and line plot.
- (h) **Standard Four objectives for Grade 5.** The following objectives apply for students in Grade 5:
- (1) Display and analyze data to find the range and measures of central tendency (mean, median, and mode).
- (A) **Objective 1.** Find the measures of central tendency (mean, median, or mode) and range of a set of data. Understand that the mean is a "leveling out" or central balance point of the data.
- (B) **Objective 2.** Create and analyze line and double-bar graphs with whole numbers, fractions, and decimals increments.
- (i) **Standard Four objectives for Grade 6.** The following objectives apply for students in Grade 6:
- (1) Display and analyze data.
- (A) **Objective 1.** Calculate the mean, median, or mode for a set of real-world data.
- (B) **Objective 2.** Explain and justify which measure of central tendency (mean, median, or mode) would provide the most descriptive information for a given set of data.
- (C) **Objective 3.** Create and analyze box and whisker plots observing how each segment contains one quarter of the data.
- (2) Use probability to solve real-world and mathematical problems; represent probabilities using fractions and decimals.
- (A) **Objective 1.** Represent possible outcomes using a probability continuum from impossible to certain.
- (B) **Objective 2.** Determine the sample space for a given experiment and determine which members of the sample space are related to certain events. Sample space may be determined by the use of tree diagrams, tables, or pictorial representations.
- (C) **Objective 3.** Demonstrate simple experiments in which the probabilities are known and compare the resulting relative frequencies with the known probabilities, recognizing that there may be differences between the two results.
- (j) **Standard Four objectives for Grade 7.** The following objectives apply for students in Grade 7:
- (1) Display and analyze data in a variety of ways.
- (A) **Objective 1.** Design simple experiments, collect data and calculate measures of central tendency (mean, median, or mode) and spread (range). Use these quantities to draw conclusions about the data collected and make predictions.
- (B) **Objective 2.** Use reasoning with proportions to display and interpret data in circle graphs (pie charts) and histograms. Choose the appropriate data display and know how to create the display using a spreadsheet or other graphing technology.
- (2) Calculate probabilities and reason about probabilities using proportions to solve real-world and mathematical problems.
- (A) **Objective 1.** Determine the theoretical probability of an event using the ratio between the size of the event and the size of the sample space; represent probabilities as percents, fractions, and decimals between 0 and 1.
- (B) **Objective 2.** Calculate probability as fraction of same space or as a fraction of area. Express probabilities as percents, decimals, and fractions.
- (C) **Objective 3.** Use proportional reasoning to draw conclusions about and predict relative frequencies of outcomes based on probabilities.

(k) **Standard Four objectives for Pre-Algebra.** The following objectives apply for students in Pre-Algebra:

(1) Display and interpret data in a variety of ways, including using scatterplots and approximate lines of best fit. Use line of best fit and average rate of change to make predictions and draw conclusions about data.

(A) **Objective 1.** Describe the impact that inserting or deleting a data point has on the mean and the median of a data set. Know how to create data displays using a spreadsheet and use a calculator to examine this impact.

(B) **Objective 2.** Explain how outliers affect measures of central tendency.

(C) **Objective 3.** Collect, display, and interpret data using scatterplots. Use the shape of the scatterplot to informally estimate a line of best fit, make statements about average rate of change, and make predictions about values not in the original data set. Use appropriate titles, labels, and units.

(2) Calculate experimental probabilities and reason about probabilities to solve real-world and mathematical problems.

(A) **Objective 1.** Calculate experimental probabilities and represent them as percents, fractions, and decimals between 0 and 1 inclusive. Use experimental probabilities to make predictions when actual probabilities are unknown.

(B) **Objective 2.** Determine how samples are chosen (random, limited, biased) to draw and support conclusions about generalizing a sample to a population.

(C) **Objective 3.** Compare and contrast dependent and independent events.

(l) **Standard Four objectives for Algebra 1.** The following objectives apply for students in Algebra 1:

(1) Display, describe, and compare data. For linear relationships, make predictions and assess the reliability of those predictions.

(A) **Objective 1.** Describe a data set using data displays, describe and compare data sets using summary statistics, including measures of central tendency, location, and spread. Know how to use calculators, spreadsheets, or other appropriate technology to display data and calculate summary statistics.

(B) **Objective 2.** Collect data and use scatterplots to analyze patterns and describe linear relationships between two variables. Using graphing technology, determine regression lines and correlation coefficients; use regression lines to make predictions and correlation coefficients to assess the reliability of those predictions.

(C) **Objective 3.** Interpret graphs as being discrete or continuous.

(2) Calculate probabilities and apply probability concepts.

(A) **Objective 1.** Select and apply counting procedures, such as the multiplication and addition principles and tree diagrams, to determine the size of a sample space (the number of possible outcomes) and to calculate probabilities.

(B) **Objective 2.** Describe the concepts of intersections, unions, and complements using Venn diagrams to evaluate probabilities. Understand the relationships between these concepts and the words AND, OR, and NOT.

(C) **Objective 3.** Calculate experimental probabilities by performing simulations or experiments involving a probability model and using relative frequencies of outcomes.

(D) **Objective 4.** Apply probability concepts to real-world situations to make informed decisions.

(m) **Standard Four objectives for Algebra 2.** The following objectives apply for students in Algebra 2:

(1) Display, describe, and compare data. For linear and nonlinear relationships, make predictions and assess the reliability of those predictions.

(A) **Objective 1.** Use the mean and standard deviation of a data set to fit it to a normal distribution (bell-shaped curve).

(B) **Objective 2.** Collect data and use scatterplots to analyze patterns and describe linear, exponential, or quadratic relationships between two variables. Using graphing calculators or other appropriate technology, determine regression equation and correlation coefficients; use regression equations to make predictions and correlation coefficients to assess the reliability of those predictions.

(C) **Objective 3.** Based upon a real-world context, recognize whether a discrete or continuous graphical representation is appropriate and then create the graph.

(2) Analyze statistical thinking to draw inferences, make predictions, and justify conclusions.

(A) **Objective 1.** Evaluate reports based on data published in the media by identifying the source of the data, the design of the study, and the way the data are analyzed and displayed. Given spreadsheets, tables, or graphs, recognize and analyze distortions in data displays. Show how graphs and data can be distorted to support different points of view.

(B) **Objective 2.** Identify and explain misleading uses of data. Recognize when arguments based on data confuse correlation and causation.

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APPENDIX A. MATHEMATICS STANDARDS - THE PROPERTIES OF OPERATIONS [NEW]

Several definitions in section 210:15-3-55 refer to this table. In this table, a , b , and c stand for arbitrary numbers in a given number system. The properties of operations apply to the rational number system, the real number system, and the complex number system.

Associative property of addition	$(a + b) + c = a + (b + c)$
Commutative property of addition	$a + b = b + a$
Additive identity property of 0	$a + 0 = 0 + a = a$
Existence of additive inverses	For every a there exists $-a$ so that $a + (-a) + a = 0$
Associative property of multiplication	$(a \times b) \times c = a \times (b \times c)$
Commutative property of multiplication	$a \times b = b \times a$
Multiplicative identity property of 1	$a \times 1 = 1 \times a = a$
Existence of multiplicative inverses	For every a (where a is not equal to 0) there exists $1/a$ so that $a \times 1/a = 1/a \times a = 1$.
Distributive property of multiplication over addition	$a \times (b + c) = a \times b + a \times c$

APPENDIX B. MATHEMATICS STANDARDS - THE PROPERTIES OF EQUALITY [NEW]

Several definitions in section 210:15-3-55 refer to this table. In this table, a, b, and c stand for arbitrary numbers in the rational, real, or complex number systems.

Reflexive property of equality	$a = a.$
Symmetric property of equality	If $a = b$, then $b = a.$
Transitive property of equality	If $a = b$ and $b = c$, then $a = c.$
Addition property of equality	If $a = b$, then $a + c = b + c.$
Addition property of equality	If $a = b$, then $a - c = b - c.$
Multiplication property of equality	If $a = b$, then $a \times c = b \times c.$
Division property of equality	If $a = b$ and c is not equal to 0, then $a \div c = b \div c.$
Division property of equality	If $a = b$, then b may be substituted for a in any expression containing $a.$

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APPENDIX C. MATHEMATICS STANDARDS - THE PROPERTIES OF INEQUALITY [NEW]

In this table, a , b , and c stand for arbitrary numbers in the rational or real number systems.

Law of Trichotomy	Exactly one of the following is true: $a < b$, $a = b$, or $a > b$.
Reversal Property	If $a > b$, then $b < a$.
Additive Inverse	If $a > b$, then $-a < -b$.
Addition and Subtraction Property of Inequality	If $a > b$, then a plus or minus $c > b$ plus or minus c .
Positive Multiplication Property of Inequality	If $a > b$ and $c > 0$, then $a \times c > b \times c$.
Negative Multiplication Property of Inequality	If $a > b$ and $c < 0$, then $a \times c < b \times c$.
Positive Division Property of Inequality	If $a > b$ and $c > 0$, then $a \div c > b \div c$.
Negative Division Property of Inequality	If $a > b$ and $c < 0$, then $a \div c < b \div c$.

APPENDIX D. MATHEMATICS STANDARDS - FLUENCY EXPECTATIONS [NEW]

See definition for "Fluency" in section 210:15-3-55. Grade level fluency expectations apply to operations of whole numbers.

	Addition	Subtraction	Multiplication	Division
Grade 1	Through 10	Through 10		
Grade 2	Through 20	Through 20		
Grade 3			Through factors of 10	
Grade 4			Through factors of 12	Through factors of 12

[OAR Docket #16-726; filed 8-5-16]

Permanent Final Adoptions

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

[OAR Docket #16-727]

RULEMAKING ACTION:

PERMANENT final adoption of subject matter standards pursuant to 70 O.S. § 11-103.6a-1

RULES:

~~Subchapter 3. Priority Academic Student Skills~~Oklahoma Academic Standards

Part 17. Health/Safety Education

210:15-3-143. Health and safety education [NEW]

210:15-3-143.1. Standard One: Comprehending Concepts in Health Promotion and Disease Prevention [NEW]

210:15-3-143.2. Standard Two: Analyzing Influences on Health Behaviors [NEW]

210:15-3-143.3. Standard Three: Accessing Valid Information to Enhance Health [NEW]

210:15-3-143.4. Standard Four: Using Communication Skills to Enhance Health and Reduce Risks [NEW]

210:15-3-143.5. Standard Five: Using Decision-Making Skills to Enhance Health [NEW]

210:15-3-143.6. Standard Six: Using Goal-Setting Skills to Enhance Health and Reduce Risks [NEW]

210:15-3-143.7. Standard Seven: Practicing Health-Enhancing Behaviors and Reducing Risks [NEW]

210:15-3-143.8. Standard Eight: Advocating for Personal, Family, and Community Health [NEW]

210:15-3-147. Health and safety education [REVOKED]

210:15-3-147.1. Definitions for health and safety [REVOKED]

210:15-3-148. Health and safety education for grades 1 through 4 [REVOKED]

210:15-3-149. Health and safety education for grades 5 through 8 [REVOKED]

210:15-3-150. Health and safety education for grades 9 through 12 [REVOKED]

AUTHORITY:

70 O.S. § 3-104; 70 O.S. § 11-103.6a; 70 O.S. § 11-103.6a-1; State Board of Education

ADOPTION:

January 28, 2016

SUBMISSION OF ADOPTED STANDARDS TO LEGISLATURE:

March 31, 2016

LEGISLATIVE APPROVAL:

Because the Legislature did not adopt a joint resolution approving or disapproving the standards within thirty (30) legislative days after submission for review, the standards were deemed approved pursuant to 70 O.S. § 11-103.6a-1(C) on May 24, 2016.

EFFECTIVE:

September 11, 2016

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

ANALYSIS:

The rules set forth Oklahoma's new subject matter standards for Health education. 70 O.S. § 11-103.6a(A) directs the State Board of Education to review standards in each subject matter area every six (6) years and implement any revisions to the standards necessary to achieve further improvements in the quality of education for Oklahoma students. 70 O.S. § 11-103.6a-1(A) provides that all subject matter standards adopted by the State Board of Education are subject to legislative review, and the Health standards were submitted for review on March 31, 2016. The Legislature did not adopt a joint resolution approving or disapproving the standards within thirty (30) legislative days after submission for review, and the standards were deemed approved pursuant to 70 O.S. § 11-103.6a-1(C) on May 24, 2016. 70 O.S. § 11-103.6a-1(E) directs the State Board of Education to submit final approved standards for publication in the Oklahoma Administrative Code in the same manner as agency rules.

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**PURSUANT TO THE ACTIONS DESCRIBED HEREIN,
THE FOLLOWING RULES ARE EFFECTIVE AS OF
SEPTEMBER 11, 2016:**

SUBCHAPTER 3. PRIORITY ACADEMIC STUDENT SKILLS OKLAHOMA ACADEMIC STANDARDS

PART 17. HEALTH/SAFETY EDUCATION

210:15-3-143. Health and safety education

(a) **Goal of health and safety education.** The overarching goal of school health education in Oklahoma is to ensure that school aged youth become health-literate individuals who possess the skills, knowledge, and dispositions to lead healthy, active lives. An effective health education program offers all students the opportunity to gain the needed skillfulness, knowledge, and dispositions toward healthy lifestyles. It is the responsibility of schools to provide opportunities for all students to become competent, literate, and enthusiastic learners, in ways that make health class a highly desired, enjoyable, and worthwhile experience. Students who participate in effective health education programs receive a variety of benefits in the areas of decision making, goal setting, and knowledge so they can develop essential health skills necessary to adopt, practice, and maintain health-enhancing behaviors.

(b) **Format of the standards.** The health education content standards and respective grade level-specific performance outcomes presented in the standards provide the expectations that school programs and services will set for all Oklahoma students. The eight health education standards provide a framework for physical educators across Oklahoma to ensure school aged students become physically literate. Each standard includes two (2) or more specific objectives for each of the following grade ranges: Grades PreK-2, Grades 3-5, Grades 6-8, and Grades 9-12. The standards are designed to articulate specifically what students should know or be able to do in support of each standard by the conclusion of each grade span.

210:15-3-143.1. Standard One: Comprehending Concepts in Health Promotion and Disease Prevention

(a) **Statement of the standard.** Students will comprehend concepts related to health promotion and disease prevention to enhance health.

(b) **Standard One objectives for Grades PreK-2.** The following objectives apply for students in Pre-Kindergarten through Grade 2:

(1) **Objective 1.** Identify that healthy behaviors affect personal health (e.g., healthy eating, adequate sleep, physical activity, positive peer interactions).

- (2) **Objective 2.** Recognize that there are multiple dimensions of health (e.g., physical, emotional, social, environmental).
- (3) **Objective 3.** Describe ways to prevent communicable diseases.
- (4) **Objective 4.** List ways to prevent common childhood injuries.
- (5) **Objective 5.** Describe why it is important to seek health care.
- (c) **Standard One objectives for Grades 3-5.** The following objectives apply for students in Grade 3 through Grade 5:
- (1) **Objective 1.** Describe the relationship between healthy behaviors and personal health.
- (2) **Objective 2.** Identify examples of emotional, intellectual, physical, and social health (e.g., relationship between feelings and behaviors, appropriate ways to express and deal with emotions, identifying characteristics of healthy relationships and self-control, developing healthy study skills).
- (3) **Objective 3.** Describe ways in which a safe and healthy school and community environment can promote personal health (e.g., safe playgrounds, tobacco free schools and communities, and bully free zones).
- (4) **Objective 4.** Describe when it is important to seek health care (e.g., for routine visits, when injured or sick, or for emotional health reasons).
- (d) **Standard One objectives for Grades 6-8.** The following objectives apply for students in Grade 6 through Grade 8:
- (1) **Objective 1.** Analyze the relationship between healthy behaviors and personal health.
- (2) **Objective 2.** Describe the interrelationships of emotional, intellectual, physical, and social health in adolescence.
- (3) **Objective 3.** Analyze how the environment affects personal health.
- (4) **Objective 4.** Describe how family history can affect personal health (e.g., genetics and/or family behavior patterns).
- (5) **Objective 5.** Describe ways to reduce or prevent injuries and other adolescent health problems.
- (6) **Objective 6.** Explain how appropriate health care can promote personal health.
- (7) **Objective 7.** Describe the benefits of and barriers to practicing healthy behaviors.
- (8) **Objective 8.** Examine the likelihood of injury or illness if engaging in unhealthy behaviors.
- (9) **Objective 9.** Examine the potential seriousness of injury or illness if engaging in unhealthy behaviors.
- (e) **Standard One objectives for Grades 9-12.** The following objectives apply for students in Grade 9 through Grade 12:
- (1) **Objective 1.** Predict how healthy behaviors can affect health status.
- (2) **Objective 2.** Describe the interrelationships of emotional, intellectual, physical, and social health.
- (3) **Objective 3.** Analyze how environment and personal health are interrelated.
- (4) **Objective 4.** Analyze how genetics and family history can impact personal health.
- (5) **Objective 5.** Propose ways to reduce or prevent injuries and health problems.
- (6) **Objective 6.** Analyze the relationship between access to health care and health status.
- (7) **Objective 7.** Compare and contrast the benefits of and barriers to practicing a variety of healthy behaviors.
- (8) **Objective 8.** Analyze personal susceptibility to injury, illness or death if engaging in unhealthy behaviors.
- (9) **Objective 9.** Analyze the potential severity of injury or illness if engaging in unhealthy behaviors.
- 210:15-3-143.2. Standard Two: Analyzing Influences on Health Behaviors**
- (a) **Statement of the standard.** Students will analyze the influence of family, peers, culture, media, technology, and other factors on health behaviors.
- (b) **Standard Two objectives for Grades PreK-2.** The following objectives apply for students in Pre-Kindergarten through Grade 2:
- (1) **Objective 1.** Identify how the family influences personal health practices and behaviors.
- (2) **Objective 2.** Identify what the school can do to support personal health practices and behaviors.
- (3) **Objective 3.** Describe how the media can influence health behaviors.
- (c) **Standard Two objectives for Grades 3-5.** The following objectives apply for students in Grade 3 through Grade 5:
- (1) **Objective 1.** Describe how the family influences personal health practices and behaviors.
- (2) **Objective 2.** Identify the influence of culture on health practices and behaviors (e.g., culture may include geography, race, ethnicity, gender, age, society).
- (3) **Objective 3.** Identify how peers can influence healthy and unhealthy behaviors.
- (4) **Objective 4.** Describe how the school and community can support personal health practices and behaviors.
- (5) **Objective 5.** Explain how media influences thoughts, feelings, and health behaviors.
- (6) **Objective 6.** Describe ways that technology can influence personal health.
- (d) **Standard Two objectives for Grades 6-8.** The following objectives apply for students in Grade 6 through Grade 8:
- (1) **Objective 1.** Examine how the family influences the health of adolescents.
- (2) **Objective 2.** Describe the influence of culture on health beliefs, practices and behaviors.
- (3) **Objective 3.** Describe how peers influence healthy and unhealthy behaviors.
- (4) **Objective 4.** Analyze how the school and community can affect personal health practices and behaviors (e.g., tobacco free, healthy food access, safe bike routes, walking, school buses, etc.).
- (5) **Objective 5.** Analyze how messages from media influence health behaviors.
- (6) **Objective 6.** Analyze the influence of technology on personal and family health.
- (7) **Objective 7.** Explain how the perceptions of norms influence healthy and unhealthy behaviors.

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(8) **Objective 8.** Explain the influence of personal values and beliefs on individual health practices and behaviors.

(9) **Objective 9.** Describe how some health risk behaviors can influence the likelihood of engaging in unhealthy behaviors.

(10) **Objective 10.** Explain how school and public health policies can influence health promotion and disease prevention.

(e) **Standard Two objectives for Grades 9-12.** The following objectives apply for students in Grade 9 through Grade 12:

(1) **Objective 1.** Analyze how family influences the health of individuals.

(2) **Objective 2.** Analyze how culture supports and challenges health beliefs, practices, and behaviors.

(3) **Objective 3.** Analyze how peers influence healthy and unhealthy behaviors.

(4) **Objective 4.** Evaluate how the school and community can impact personal health practice and behaviors.

(5) **Objective 5.** Evaluate the effect of media on personal and family health.

(6) **Objective 6.** Evaluate the impact of technology on personal, family, and community health.

(7) **Objective 7.** Analyze how the perceptions of norms influence healthy and unhealthy behaviors.

(8) **Objective 8.** Analyze the influence of personal values and beliefs on individual health practices and behaviors.

(9) **Objective 9.** Analyze how some health risk behaviors can influence the likelihood of engaging in unhealthy behaviors.

(10) **Objective 10.** Analyze how public health policies and government regulations can influence health promotion and disease prevention.

210:15-3-143.3. Standard Three: Accessing Valid Information to Enhance Health

(a) **Statement of the standard.** Students will demonstrate the ability to access valid information, products, and services to enhance health.

(b) **Standard Three objectives for Grades PreK-2.** The following objectives apply for students in Pre-Kindergarten through Grade 2:

(1) **Objective 1.** Identify trusted adults and professionals who can help promote health.

(2) **Objective 2.** Identify ways to locate school and community health helpers.

(c) **Standard Three objectives for Grades 3-5.** The following objectives apply for students in Grade 3 through Grade 5:

(1) **Objective 1.** Identify characteristics of valid health information, products, and services (e.g., reliable, dependable, appropriate, accurate, or trustworthy).

(2) **Objective 2.** Locate resources from home, school, and community that provide valid health information.

(d) **Standard Three objectives for Grades 6-8.** The following objectives apply for students in Grade 6 through Grade 8:

(1) **Objective 1.** Analyze the validity of health information, products, and services.

(2) **Objective 2.** Access valid health information from home, school, and community.

(3) **Objective 3.** Determine the accessibility of products that enhance health.

(4) **Objective 4.** Describe situations that may require professional health services.

(5) **Objective 5.** Locate valid and reliable health products and services.

(e) **Standard Three objectives for Grades 9-12.** The following objectives apply for students in Grade 9 through Grade 12:

(1) **Objective 1.** Evaluate the validity of health information, products, and services.

(2) **Objective 2.** Use resources from home, school, and community that provide valid health information.

(3) **Objective 3.** Determine the accessibility of products and services that enhance health.

(4) **Objective 4.** Determine when professional health services may be required.

(5) **Objective 5.** Access valid and reliable health products and services.

210:15-3-143.4. Standard Four: Using Communication Skills to Enhance Health and Reduce Risks

(a) **Statement of the standard.** Students will demonstrate the ability to use interpersonal communication skills enhance health and avoid or reduce health risks.

(b) **Standard Four objectives for Grades PreK-2.** The following objectives apply for students in Pre-Kindergarten through Grade 2:

(1) **Objective 1.** Demonstrate healthy ways to express needs, wants, and feelings.

(2) **Objective 2.** Demonstrate listening skills to enhance health.

(3) **Objective 3.** Demonstrate ways to respond when in an unwanted, threatening, or dangerous situation.

(4) **Objective 4.** Demonstrate ways to tell a trusted adult when in an unwanted, threatening, or dangerous situation.

(c) **Standard Four objectives for Grades 3-5.** The following objectives apply for students in Grade 3 through Grade 5:

(1) **Objective 1.** Demonstrate effective verbal and non-verbal communication skills to enhance health.

(2) **Objective 2.** Demonstrate refusal skills to avoid or reduce health risks.

(3) **Objective 3.** Demonstrate non-violent strategies to manage or resolve conflict.

(4) **Objective 4.** Demonstrate how to ask for assistance to enhance personal health.

(d) **Standard Four objectives for Grades 6-8.** The following objectives apply for students in Grade 6 through Grade 8:

(1) **Objective 1.** Apply effective verbal and non-verbal communication skills to enhance health.

(2) **Objective 2.** Demonstrate refusal and negotiation skills to avoid or reduce health risks.

(3) **Objective 3.** Demonstrate effective conflict management or resolution strategies.

(4) **Objective 4.** Demonstrate how to ask for assistance to enhance the health of self and others.

(e) **Standard Four objectives for Grades 9-12.** The following objectives apply for students in Grade 9 through Grade 12:

(1) **Objective 1.** Utilize skills for communicating effectively with family, peers, and others to enhance health.

(2) **Objective 2.** Demonstrate refusal, negotiation, and collaboration skills to enhance health and avoid or reduce health risks.

(3) **Objective 3.** Demonstrate strategies to prevent, manage, or resolve interpersonal conflicts without harming self or others.

(4) **Objective 4.** Demonstrate how to ask for and offer assistance to enhance the health of self and others.

210:15-3-143.5. Standard Five: Using Decision-Making Skills to Enhance Health

(a) **Statement of the standard.** Students will demonstrate the ability to use decision-making skills to enhance health.

(b) **Standard Five objectives for Grades PreK-2.** The following objectives apply for students in Pre-Kindergarten through Grade 2:

(1) **Objective 1.** Identify situations when a health-related decision is needed (e.g., dealing with interpersonal conflict, managing anger, nutrition, safety, hygiene).

(2) **Objective 2.** Differentiate between situations when a health-related decision can be made individually or when assistance is needed.

(c) **Standard Five objectives for Grades 3-5.** The following objectives apply for students in Grade 3 through Grade 5:

(1) **Objective 1.** Identify health-related situations that might require a decision.

(2) **Objective 2.** Analyze when assistance is needed when making a health-related decision.

(3) **Objective 3.** List healthy options to health-related issues or problems.

(4) **Objective 4.** Predict the potential outcomes of each option when making a health-related decision.

(5) **Objective 5.** Choose a healthy option when making a decision.

(6) **Objective 6.** Describe the outcomes of a health-related decision.

(d) **Standard Five objectives for Grades 6-8.** The following objectives apply for students in Grade 6 through Grade 8:

(1) **Objective 1.** Identify circumstances that can help or hinder healthy decision-making.

(2) **Objective 2.** Determine when health-related situations require the application of decision-making skills.

(3) **Objective 3.** Distinguish when individual or collaborative decision-making is appropriate.

(4) **Objective 4.** Distinguish between healthy and unhealthy alternatives of health-related decisions.

(5) **Objective 5.** Predict the potential short-term impact of healthy and unhealthy alternatives to a health-related decision.

(6) **Objective 6.** Choose healthy alternatives over unhealthy alternatives when making a decision.

(7) **Objective 7.** Analyze the outcomes of health-related decisions.

(e) **Standard Five objectives for Grades 9-12.** The following objectives apply for students in Grade 9 through Grade 12:

(1) **Objective 1.** Examine barriers that can hinder healthy decision-making.

(2) **Objective 2.** Determine the value of applying decision-making skills in health-related situations.

(3) **Objective 3.** Justify when individual or collaborative decision-making is appropriate.

(4) **Objective 4.** Generate alternatives to health-related issues or problems.

(5) **Objective 5.** Predict the potential short and long-term impact of healthy and unhealthy alternatives to self and others.

(6) **Objective 6.** Defend the healthy choice when making decisions.

(7) **Objective 7.** Evaluate the effectiveness of health-related decisions.

210:15-3-143.6. Standard Six: Using Goal-Setting Skills to Enhance Health and Reduce Risks

(a) **Statement of the standard.** Students will demonstrate the ability to use goal-setting skills to enhance health.

(b) **Standard Six objectives for Grades PreK-2.** The following objectives apply for students in Pre-Kindergarten through Grade 2:

(1) **Objective 1.** Identify a short-term personal health goal and take action toward achieving the goal.

(2) **Objective 2.** Identify who can help when assistance is needed to achieve a personal health goal.

(c) **Standard Six objectives for Grades 3-5.** The following objectives apply for students in Grade 3 through Grade 5:

(1) **Objective 1.** Identify a personal health goal and track progress toward its achievement.

(2) **Objective 2.** Identify resources to assist in achieving a personal health goal.

(d) **Standard Six objectives for Grades 6-8.** The following objectives apply for students in Grade 6 through Grade 8:

(1) **Objective 1.** Assess personal health practices.

(2) **Objective 2.** Develop a goal to adopt, maintain, or improve a personal health practice.

(3) **Objective 3.** Apply strategies and skills needed to attain a personal health goal.

(4) **Objective 4.** Describe how personal health goals can vary with changing abilities, priorities, and responsibilities.

(e) **Standard Six objectives for Grades 9-12.** The following objectives apply for students in Grade 9 through Grade 12:

(1) **Objective 1.** Assess personal health practices and overall health status.

(2) **Objective 2.** Develop a plan to attain a personal health goal that addresses strengths, needs, and risks.

(3) **Objective 3.** Implement strategies and monitor progress in achieving a personal health goal.

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(4) **Objective 4.** Formulate an effective long-term personal health plan.

210:15-3-143.7. Standard Seven: Practicing Health-Enhancing Behaviors and Reducing Risks

(a) **Statement of the standard.** Students will demonstrate the ability to practice health-enhancing behaviors and avoid or reduce health risks.

(b) **Standard Seven objectives for Grades PreK-2.** The following objectives apply for students in Pre-Kindergarten through Grade 2:

(1) **Objective 1.** Demonstrate healthy practices and behaviors to maintain or improve personal health.

(2) **Objective 2.** Demonstrate behaviors that avoid or reduce health risks.

(c) **Standard Seven objectives for Grades 3-5.** The following objectives apply for students in Grade 3 through Grade 5:

(1) **Objective 1.** Identify responsible personal health behaviors.

(2) **Objective 2.** Demonstrate a variety of healthy practices and behaviors to maintain or improve personal health.

(3) **Objective 3.** Demonstrate a variety of behaviors that avoid or reduce health risks.

(d) **Standard Seven objectives for Grades 6-8.** The following objectives apply for students in Grade 6 through Grade 8:

(1) **Objective 1.** Explain the importance of assuming responsibility for personal health behaviors.

(2) **Objective 2.** Demonstrate healthy practices and behaviors that will maintain or improve the health of self and others.

(3) **Objective 3.** Demonstrate behaviors that avoid or reduce health risks to self and others.

(e) **Standard Seven objectives for Grades 9-12.** The following objectives apply for students in Grade 9 through Grade 12:

(1) **Objective 1.** Analyze the role of individual responsibility in enhancing health.

(2) **Objective 2.** Demonstrate a variety of healthy practices and behaviors that will maintain or improve the health of self and others.

(3) **Objective 3.** Demonstrate a variety of behaviors that avoid or reduce health risks to self and others.

210:15-3-143.8. Standard Eight: Advocating for Personal, Family, and Community Health

(a) **Statement of the standard.** Students will demonstrate the ability to advocate for personal, family, and community health.

(b) **Standard Eight objectives for Grades PreK-2.** The following objectives apply for students in Pre-Kindergarten through Grade 2:

(1) **Objective 1.** Make requests to promote personal health (e.g., requesting healthy foods and drinks, avoiding second hand smoke, use of personal safety equipment, proper hygiene).

(2) **Objective 2.** Encourage peers to make positive health choices.

(c) **Standard Eight objectives for Grades 3-5.** The following objectives apply for students in Grade 3 through Grade 5:

(1) **Objective 1.** Express opinions and give accurate information about health issues.

(2) **Objective 2.** Encourage others to make positive health choices.

(d) **Standard Eight objectives for Grades 6-8.** The following objectives apply for students in Grade 6 through Grade 8:

(1) **Objective 1.** State a health enhancing position on a topic and support it with accurate information.

(2) **Objective 2.** Demonstrate how to influence and support others to make positive health choices.

(3) **Objective 3.** Work cooperatively to advocate for healthy individuals, families, and schools.

(4) **Objective 4.** Identify ways that health messages and communication techniques can be altered for different audiences.

(e) **Standard Eight objectives for Grades 9-12.** The following objectives apply for students in Grade 9 through Grade 12:

(1) **Objective 1.** Utilize current peer and societal norms to formulate an accurate health-enhancing message.

(2) **Objective 2.** Demonstrate how to influence and support others to make positive health choices.

(3) **Objective 3.** Work cooperatively as an advocate for improving personal, family, and community health.

(4) **Objective 4.** Adapt health messages and communication techniques to a specific target audience.

210:15-3-147. Health and safety education [REVOKED]

(a) ~~The PRIORITY ACADEMIC STUDENT SKILLS (PASS) for Health and Safety represent standards that describe what students should know concerning health and safety. The standards are categorized under the following: Health and Safety Literacy, Responsible Health and Safety Behavior, and Health and Safety Advocacy. A well informed, self directed student has the foundation for leading a healthy, productive life. By recognizing that many health problems and causes of premature death can be prevented, children can reduce many of the risks generally encountered during adolescence and adulthood.~~

(b) ~~Children and adolescents must be healthy in order to learn, and must learn in order to be healthy. The knowledge, attitudes, and skills developed as a result of effective Comprehensive School Health and Safety Education programs will enable individuals to make informed choices that affect personal, family, and community health for a lifetime.~~

210:15-3-147.1. Definitions for health and safety

[REVOKED]

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

"**Abstinence**" means refraining from an addictive behavior.

"**Addiction**" means the unhealthy, continued involvement with a mood-altering object or activity in spite of harmful consequences.

"**Conflict**" means simultaneous existence of incompatible demands, opportunities, needs, or goals; an emotional state that arises when the behavior of one person interferes with the behavior of another.

"**Conflict resolution**" means a concerted effort by all parties to resolve points of contention in a constructive manner.

"**Drug abuse**" means the excessive use of a drug.

"**Health promotion**" means combining educational, organizational, policy, financial, and environmental supports to help people change negative health behaviors.

"**HIV (human immunodeficiency virus)**" means the slow-acting virus that causes AIDS.

"**Nonverbal communication**" means all unwritten and unspoken messages, both intentional and unintentional.

"**Pathogen**" means a disease-causing agent.

"**Refusal skills**" means skills used to say "NO" to an unhealthy behavior, action or to leave a situation of danger.

"**Stress**" means mental and physical responses to change.

"**Stress management skills**" means techniques that can be used to cope with the harmful effects produced by stress.

210:15-3-148. Health and safety education for grades 1 through 4 [REVOKED]

(a) **Health and safety literacy.**

(1) **Standard.** The student will comprehend concepts related to health promotion, disease prevention, and safety practices.

(A) Describe the various responsibilities of family members for health promotion and disease prevention.

(B) Determine the first aid methods for bee stings, burns, bleeding, and choking.

(C) Explain the need for obeying safety rules at home, school and play (i.e., bicycle, water, fire, vehicle, firearm, bus, playground, pedestrian).

(D) Name signs and symptoms for eye, ear, and dental problems and demonstrate good practices of self care.

(E) Identify the major parts of the body (e.g., head, trunk, and limbs) and describe their functions.

(F) Define the term "illegal drug" and understand the use of prescribed medicine versus using drugs abusively.

(G) Identify ways that injuries may be prevented.

(H) Examine the relationship between physical and emotional health.

(I) Analyze how the family influences personal health and safety.

(J) Identify common health problems of children and adolescence.

(K) Identify the basic structure and functions of the human body systems.

(2) **Standard.** The student will demonstrate the ability to access accurate health and safety information.

(A) Identify the need for medical checkups and other health care procedures and the role of health care workers.

(B) Demonstrate and describe fire escape routines, seat belt and bicycle helmet use, burn prevention and traffic signs and signals.

(C) Identify potential safety hazards at home, school, and play; and name places and people who can provide help.

(D) Investigate sources of health information (e.g., people, place, and products).

(E) Interpret the meaning of warning labels and signs on hazardous substances.

(F) Determine the characteristics of valid health information and health promoting products and services.

(G) Compare the costs and validity of health products.

(H) Identify situations requiring professional health services.

(I) Define "addiction" and examine the addictive effects of alcohol, tobacco and other drugs.

(J) Investigate the harmful effects of nicotine on the human body.

(b) **Responsible health and safety behavior.**

(1) **Standard.** The student will know health enhancing behaviors and how to reduce health risks.

(A) Identify and practice good personal health habits.

(B) Examine safe and unsafe behaviors.

(C) Handle anger in a positive way.

(D) Differentiate between threatening and non-threatening environments.

(E) Demonstrate methods and procedures of avoiding threatening situations and how to seek help.

(F) Investigate the role of breakfast in providing energy for school and play; describe reasons for eating a variety of healthy foods and list their sources.

(G) Practice refusal skills (saying "no") pertaining to the use of alcohol, nicotine, inhalants, and other harmful substances.

(H) Identify appropriate behavior for interacting with others at school and identifying positive ways to resolve problems.

(I) Practice refusal skills (saying "no") pertaining to contact with strangers.

(J) Describe and compare behaviors that are safe to those that are risky or harmful.

(K) Apply skills to manage stress.

(2) **Standard.** The student will analyze the influence of media, technology, culture, and other factors on health and safety.

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- (A) Identify ways in which media, technology, and other sources provide information about health and safety.
 - (B) Examine cultural differences that impact health and safety practices.
 - (C) Describe how media influences thoughts, feelings, and health/safety behaviors.
 - (D) Analyze how information from school and family influences health and safety.
 - (E) Identify and define bullying behaviors.
 - (F) Practice skills to diffuse and avoid a "bully."
 - (G) Understand how to report bullying behaviors.
- (3) **Standard.** The student will demonstrate the ability to use interpersonal communication skills to enhance health and well-being.
- (A) Interpret various kinds of verbal and nonverbal communication.
 - (B) Demonstrate care and consideration of others.
 - (C) Utilize positive communications skills when expressing needs, wants, and feelings.
 - (D) Practice conflict resolution skills.
 - (E) Identify the skills needed to be a responsible friend and family member. (e.g., helping others, sharing, doing chores).
 - (F) Formulate refusal skills to use in potentially harmful or dangerous situations.
 - (G) Describe healthy ways to handle feelings and emotions.
 - (H) Practice anger management skills.
 - (I) Identify forms of harassing behaviors.
 - (J) Recognize the difference between teasing and bullying behaviors.
- (4) **Standard.** The student will demonstrate the ability to use goal setting and decision making skills to enhance health and safety.
- (A) Describe health problems or situations that require the help of a trusted adult. (e.g., child abuse).
 - (B) Examine decision making skills related to personal behavior which may be healthy or unhealthy (e.g., obeying pedestrian rules).
 - (C) Demonstrate the ability to apply a decision-making process to health and safety issues and problems.
 - (D) Establish a personal health goal and track progress toward its achievement.
- (5) **Standard.** The student will become an advocate for health and safety enhancement of self, family and community.
- (A) Describe various ways to share health information.
 - (B) Examine in a variety of ways the ability to convey accurate health information and ideas to both individuals and groups.
 - (C) Identify community agencies that support healthy families, individuals, and communities.
 - (D) Practice methods for assisting others in making positive healthy and safe choices.

- (E) Demonstrate the ability to work cooperatively when advocating for health and safety for individuals, family, and community.

210:15-3-149. Health and safety education for grades 5 through 8 [REVOKED]

(a) **Health and safety literacy.**

- (1) **Standard.** The student will comprehend concepts related to health promotion, disease prevention, and safety practices:

- (A) Analyze how environment and personal health are interrelated.
 - (B) Describe how lifestyle, pathogens, family history, and other risk factors are related to the cause or prevention of disease and other health problems.
 - (C) Examine potential hazards at home, school and play; describe methods for prevention and procedures to follow in the event of an emergency.
 - (D) Identify foods within each of the basic food groups and select appropriate servings and portions for his/her age and physical activity levels.
 - (E) Identify and demonstrate violence prevention skills such as peer mediation, anger management, conflict resolution and impulse control skills.
 - (F) Demonstrate basic first aid skills.
 - (G) Describe the effects various diseases (e.g., cancer, diabetes) have on the body systems.
 - (H) Determine the structure and purpose of the body systems: circulatory, digestive, endocrine, excretory, immune, muscular, nervous, reproductive, respiratory, and skeletal.
 - (I) Identify ways to protect oneself from abuse.
 - (J) Examine the risks and identify destructive effects of alcohol, tobacco, steroids and other drugs on body systems.
 - (K) Analyze the interrelationship of the body systems: circulatory, digestive, endocrine, excretory, immune, muscular, nervous, reproductive, respiratory, and skeletal.
 - (L) Describe the dangers of prescription medication abuse.
 - (M) Explain the relationship between caloric intake and level of activity in weight management and describe safe methods of weight control.
 - (N) Identify individual and community responsibilities for protecting the environment and promoting community health and safety.
- (2) **Standard.** The student will demonstrate the ability to access valid health information and health promoting products and services.
- (A) Analyze situations requiring professional health services.
 - (B) Analyze the cost and accessibility of health care services.
 - (C) Demonstrate the ability to utilize resources including technology from home, school, and community in locating valid health information.

- (D) Analyze how media influences the selection of health information and products.
- (b) **Responsible health and safety behavior.**
- (1) **Standard.** The student will demonstrate the ability to practice health-enhancing behaviors and reduce health and safety risks.
- (A) Describe and practice refusal skills pertaining to the use of alcohol, nicotine, caffeine, inhalants, and other harmful substances.
 - (B) Practice positive ways to resolve conflicts.
 - (C) Examine how social pressures affect participation in risk-taking activities (e.g., using inhalants, steroids).
 - (D) Identify ways to resolve problems and prevent violence.
 - (E) Describe techniques for coping with personal loss.
 - (F) Interpret physical and mental consequences of a poorly balanced diet and explain how diet choices, based upon fads, may provide inadequate nourishment and cause health problems.
 - (G) Distinguish between safe, risky, and harmful behaviors in relationships.
 - (H) Analyze a personal health assessment to determine strengths and risks.
 - (I) Demonstrate strategies to manage stress.
 - (J) Identify the role exercise, nutrition, hygiene, and relationships play in basic personal health needs.
 - (K) Investigate how to report potential dangerous situations to appropriate authorities (e.g., violence, health, or safety risks).
- (2) **Standard.** The student will analyze the influence of culture, media, technology, and other factors on health and safety.
- (A) Analyze the influence of technology on personal and family health and safety.
 - (B) Examine the influence of cultural beliefs on health behaviors and use of health services.
 - (C) Analyze knowledge of how information from peers influences health and safety.
 - (D) Identify how media messages influence health behavior and choices.
- (3) **Standard.** The student will use interpersonal skills to enhance health and safety.
- (A) Identify verbal and nonverbal communication.
 - (B) Describe and identify a need, want, and feeling.
 - (C) Formulate refusal skills that enhance health and safety.
 - (D) Demonstrate nonviolent strategies to resolve conflict.
 - (E) Distinguish between positive and negative behaviors used in conflict situations.
 - (F) Demonstrate the ability to communicate consideration, caring, and respect for self and others.
 - (G) Identify characteristics of good listening skills that build and maintain healthy relationships.

- (4) **Standard.** The student will demonstrate the ability to use goal-setting and decision-making skills to enhance health.
- (A) Establish personal health goals and record progress towards achievement.
 - (B) Identify healthy leisure time activities (e.g., family outing, sports, board games).
 - (C) Demonstrate the ability to apply a decision-making process to health and safety issues individually and collaboratively.
 - (D) Analyze how personal health goals are influenced by changing information, priorities, and responsibilities.
 - (E) Develop a plan that identifies personal strengths, needs, and health risks.
- (5) **Standard.** The student will become an advocate for health and safety enhancement of self, family, and community.
- (A) Interpret information and analyze personal opinions concerning health and safety issues.
 - (B) Demonstrate the ability to work cooperatively when advocating for healthy and safe communities.
 - (C) Demonstrate the ability to influence and support others in making positive health and safety choices.
 - (D) Examine various methods for communicating health information and ideas.

210:15-3-150. Health and safety education for grades 9 through 12 [REVOKED]

- (a) **Standard.** The student will comprehend concepts related to health promotion, safety, and disease prevention.
- (1) Illustrate how nutritional requirements vary in relationship to age, gender, physical activity and health conditions.
 - (2) Identify and demonstrate ways to protect oneself from abuse.
 - (3) Describe the structure and function of the body systems: circulatory, digestive, endocrine, excretory, immune, muscular, nervous, reproductive, respiratory, and skeletal.
 - (4) Analyze how behavior can impact health maintenance and disease prevention.
 - (5) Describe the impact of personal health behaviors and their influence on the health of individuals.
 - (6) Analyze how the prevention and control of health problems are influenced by research and medical advances.
 - (7) Examine how public health policies and government relations influence health promotion and disease prevention.
- (b) **Standard.** The student knows how to access valid health information, health products and services.
- (1) Identify sources of accurate information regarding health and safety information, products, and services.
 - (2) Examine and evaluate media messages.
 - (3) Demonstrate the ability to access school and community health services for self and others.

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- (4) Evaluate factors that influence personal choices of health products and services.
- (5) Examine how "media" influences the use of tobacco products.
- (6) Describe how our culture, media, videogames, and internet usage influences perceptions of violence.
- (e) **Standard.** The student will analyze the influence of culture, media, technology, and other factors on health.
- (1) Examine and evaluate how culture influences health behaviors.
- (2) Analyze how information from media, technology, and the community effects health and safety behavior.
- (3) Interpret and evaluate media messages and other factors on personal, family, and community health and safety.
- (d) **Standard.** The student will demonstrate the ability to use interpersonal communication skills to enhance health and safety.
- (1) Demonstrate ability to communicate effectively with family, peers, and others.
- (2) Practice skills and techniques for decision making and problem solving.
- (3) Demonstrate ways to communicate care, consideration, and respect of others.
- (4) Demonstrate refusal, negotiation, and collaboration skills to avoid harmful situations.
- (5) Analyze possible causes of conflict in schools, families, and communities.
- (6) Examine how interpersonal communication affects relationships.
- (7) Demonstrate anger management and conflict resolution skills through assertive communication skills.
- (8) Investigate how to report potential dangerous situations to appropriate authorities (e.g., violence, health, or safety risks).
- (e) **Standard.** The student will develop plans for a healthy future through individual goal setting and decision making.
- (1) Analyze and predict immediate and long term impact of health and safety decisions on individual, family, school, and community.
- (2) Establish personal health goals and evaluate progress toward achieving those goals.
- (3) Demonstrate the ability to utilize various strategies when making decisions related to health needs and risks of young adults.
- (4) Demonstrate refusal and resistance skills for unhealthy risk behaviors (e.g., alcohol, tobacco, drugs).
- (f) **Standard.** The student becomes an advocate for health and safety for self, family, and community.
- (1) Investigate and present information about health and safety issues utilizing technology.
- (2) Demonstrate the ability to influence and support others in positive health and safety choices.
- (3) Demonstrate the ability to work cooperatively when advocating for healthy schools and communities.
- (4) Utilize strategies to overcome barriers in communicating information, ideas, feelings, and opinions concerning health and safety issues.

- (5) Examine bullying prevention strategies and the effect of bystander influence on violent behavior situations.

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

[OAR Docket #16-728]

RULEMAKING ACTION:

PERMANENT final adoption of subject matter standards pursuant to 70 O.S. § 11-103.6a-1

RULES:

Subchapter 3. ~~Priority Academic Student Skills~~Oklahoma Academic Standards

Part 19. Physical Education

210:15-3-153. Overview for physical education [REVOKED]

210:15-3-153.1. Definitions [REVOKED]

210:15-3-154. Physical education for pre-kindergarten and kindergarten [REVOKED]

210:15-3-155. Physical education for grade 1 [REVOKED]

210:15-3-156. Physical education for grade 2 [REVOKED]

210:15-3-157. Physical education for grade 3 [REVOKED]

210:15-3-158. Physical education for grade 4 [REVOKED]

210:15-3-159. Physical education for grade 5 [REVOKED]

210:15-3-160. Physical education for grades 6 and 7 [REVOKED]

210:15-3-161. Physical education for grades 8 and 9 [REVOKED]

210:15-3-162. Physical education for grades 10 through 12 [REVOKED]

210:15-3-163. Physical education [NEW]

210:15-3-164. Definitions [NEW]

210:15-3-165. Standard One: Competency in a Variety of Motor Skills and Movement Patterns [NEW]

210:15-3-166. Standard Two: Knowledge of Concepts, Strategies, and Tactics Related to Movement and Performance [NEW]

210:15-3-167. Standard Three: Knowledge and Skills to Achieve and Maintain a Health-Enhancing Level of Physical Activity and Fitness [NEW]

210:15-3-168. Standard Four: Responsible Personal and Social Behavior That Respects Self and Others [NEW]

210:15-3-169. Standard Five: Value of Physical Activity for Health, Enjoyment, Challenge, Self-Expression, and Social Interaction [NEW]

AUTHORITY:

70 O.S. § 3-104; 70 O.S. § 11-103.6a; 70 O.S. § 11-103.6a-1, State Board of Education

ADOPTION:

January 28, 2016

SUBMISSION OF ADOPTED STANDARDS TO LEGISLATURE:

March 31, 2016

LEGISLATIVE APPROVAL:

Because the Legislature did not adopt a joint resolution approving or disapproving the standards within thirty (30) legislative days after submission for review, the standards were deemed approved pursuant to 70 O.S. § 11-103.6a-1(C) on May 24, 2016.

EFFECTIVE:

September 11, 2016

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

ANALYSIS:

The rules set forth Oklahoma's new subject matter standards for Physical Education. 70 O.S. § 11-103.6a(A) directs the State Board of Education to review standards in each subject matter area every six (6) years and implement any revisions to the standards necessary to achieve further improvements in the quality of education for Oklahoma students. 70 O.S. § 11-103.6a-1(A) provides that all subject matter standards adopted by the State Board of Education are subject to legislative review, and the Physical Education

standards were submitted for review on March 31, 2016. The Legislature did not adopt a joint resolution approving or disapproving the standards within thirty (30) legislative days after submission for review, and the standards were deemed approved pursuant to 70 O.S. § 11-103.6a-1(C) on May 24, 2016. 70 O.S. § 11-103.6a-1(E) directs the State Board of Education to submit final approved standards for publication in the Oklahoma Administrative Code in the same manner as agency rules.

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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE EFFECTIVE AS OF SEPTEMBER 11, 2016:

SUBCHAPTER 3. PRIORITY ACADEMIC STUDENT SKILLS OKLAHOMA ACADEMIC STANDARDS

PART 19. PHYSICAL EDUCATION

210:15-3-153. Overview for physical education [REVOKED]

- (a) The overall goal of Oklahoma's PRIORITY ACADEMIC STUDENT SKILLS (PASS) for Physical Education is to promote the health and well-being of each student and guide them toward becoming and physically active for life.
- (b) According to the National Association for Sport and Physical Education (NASPE), a physically educated person has learned skills necessary to perform a variety of physical activities, is physically fit, participates regularly in physical activity, knows the implications of and benefits from involvement in physical activity and its contribution to a healthy lifestyle.
- (c) The Priority Academic Student Skills (PASS) are categorized under three major areas: Motor Skill and Lifetime Activity Development; Health Enhancing Activity Development; and Personal and Social Skill Development. It is important to realize some skills are repeated because of the need for emphasizing those skills. Skills have been selected and placed under major headings to demonstrate the appropriateness of what is expected at the various grade levels.

210:15-3-153.1. Definitions [REVOKED]

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

- "**Absolute location**" means the location of a point on earth's surface which can be expressed by a grid reference (i.e., latitude and longitude).
- "**Aerobic**" means the metabolic function in which oxygen is used to produce energy. Aerobic training conditions the cardiorespiratory and muscular skeletal system.
- "**Authentic assessment**" means assessing the student in the actual or natural setting in which the skill is performed.
- "**Ballistic**" means bouncing type movements, as in bouncing a stretch which is not recommended.

- "**Biomechanical principles**" means the principles of human movement.
- "**Body composition**" means the ratio of lean body mass (bone, muscle, organs) to body fat.
- "**Cardiovascular endurance**" means a measure of the heart's ability to pump oxygen rich blood to the working muscles during exercise, and the muscle's ability to take up and use the delivered oxygen to produce the energy needed to continue exercising.
- "**Combatives**" means activities that allow students the opportunity to match physical strength, skill, and agility against other students.
- "**Cooperation**" means the ability to work with others in pursuit of a mutual goal.
- "**Creative movement**" means allowing students to express feelings, ideas, emotions, and creativity through rhythmical movement.
- "**Flexibility**" means the ability of a joint to move freely through a full range of motion.
- "**Health-related fitness**" means fitness components (i.e., muscular strength, muscular endurance, flexibility, body composition, and cardiorespiratory endurance).
- "**Healthy lifestyle**" means health related behaviors over which the individual has personal decision-making control, including proper diet, adequate exercise, and appropriate rest which promotes both physical and emotional well-being.
- "**Locomotor skills**" means skills used to move from one place to another or to raise the center of gravity (i.e., walking, running, sliding, skipping, galloping, jumping, hopping).
- "**Manipulative skills**" means skills such as catching, throwing, kicking, striking, that involves the handling of an object or objects.
- "**Motor skills**" means movement skills classified as locomotor, nonlocomotor, rhythmical and manipulative.
- "**Muscular endurance**" means the ability of a muscle or muscle group to apply force repeatedly or to sustain a contraction for a period of time.
- "**Muscular strength**" means the ability of a muscle or muscle group to exert force against a resistance.
- "**Nonlocomotor skills**" means movement in place or around the axis of the body such as bending, twisting, swaying, or raising and lowering of body parts.
- "**Physically educated**" means a person who has learned skills necessary to perform a variety of physical activities; is physically fit; participates regularly in physical activity; knows the implications of and the benefits from involvement in physical activities; and values physical activity and its contribution to a healthful lifestyle.
- "**Principle of specificity**" means choosing specific exercises for the development of specific components of physical fitness (e.g., jogging for improving cardiorespiratory fitness, push ups for strengthening the chest and triceps).
- "**Recovery heart rate**" means the heart rate measured at certain intervals after exercise, most often at one, three, and five minutes after completion.
- "**Schottische**" means a folk dance step; three steps and a hop (right, left, right hop; repeat left).

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"**Static**" means stationary; in reference to muscle contractions no movement takes place.

"**Target heart rate**" means the heart rate range which corresponds to an exercise intensity sufficient to improve health-related physical fitness.

210:15-3-154. Physical education for pre-kindergarten and kindergarten [REVOKED]

(a) **Standard.** The student will participate in activities that involve large motor skills.

- (1) Demonstrate basic locomotor movements (e.g., galloping, hopping, jumping, running, skipping, sliding).
- (2) Demonstrate nonlocomotor movements (e.g., bending, pulling, pushing, stretching, swaying, swinging, turning, twisting).
- (3) Combine various movement patterns to music, but not necessarily in time.
- (4) Kick a slowly rolling ball.
- (5) Balance on one foot for approximately five seconds.
- (6) Walk and balance on a four inch line or balance beam.
- (7) Coordinate large arm movements (e.g., easel painting, woodworking, climbing, throwing, playing rhythm band instruments, writing on a chalkboard, playing with blocks, catching, and tossing).

(b) **Standard.** The student will participate in activities that involve small motor skills.

- (1) Demonstrate increased control of hand and eye coordination while using pegs, beads, pattern blocks, crayons, pencils, paint brushes, fingerpaint, scissors, glue, and a variety of puzzles.
- (2) Hold and use pencils, crayons, and markers using thumb and two fingers.

(c) **Standard.** The student will participate in health enhancing activities for the development of lifetime health and fitness.

- (1) Associate physical activity with the benefit of maintaining fitness and personal wellbeing.
- (2) Experience sustained moderate physical activity for short periods of time.

(d) **Standard.** The student will participate in activities to develop the skills necessary for interacting with others and caring for oneself.

210:15-3-155. Physical education for grade 1 [REVOKED]

(a) **Motor skills for lifetime activity development**

(1) **Standard.** The student demonstrates competency in many movement forms and proficiency in a few movement forms.

- (A) Demonstrate the ability to move in various locomotor patterns (e.g., galloping, skipping, hopping, sliding).
- (B) Demonstrate the ability to move in various nonlocomotor patterns (e.g., bending, swaying, twisting).

(C) Combine various movement skills and patterns to music, but not necessarily in time.

(D) Demonstrate understanding by responding appropriately to the conceptual terms of over, under, behind, alongside, through.

(E) Roll smoothly in a forward direction.

(F) Perform a log roll without hesitating or stopping.

(2) **Standard.** The student applies movement concepts and principles to the learning and development of motor skills.

(A) Demonstrate manipulative skills of throwing, catching, kicking, and jumping a swinging rope.

(B) Use different locomotor skills to move at different speeds, levels, and directions.

(C) Demonstrate ability to travel forward, backward, and sideward without falling.

(D) Demonstrate ability to balance on a variety of body parts.

(E) Be introduced to evasive techniques (e.g., escaping, catching, dodging).

(b) **Health enhancing activity development**

(1) **Standard.** The student exhibits a physically active lifestyle.

(A) Participate in a variety of moderate to vigorous physical activity in and out of the school setting.

(B) Identify activities that provide pleasure and enjoyment through participation.

(C) Identify and participate in activities that promote cardiovascular endurance.

(D) Identify changes in the body during physical activity.

(E) Identify physical activities that promote muscular strength.

(2) **Standard.** The student achieves and maintains a health enhancing level of physical fitness.

(A) Be introduced to physical activities and their benefits for maintaining fitness and personal wellbeing.

(B) Recognize changes in heart rate during physical activity.

(C) Explain the function of the heart and lungs.

(D) Experience moderate to vigorous activity for short periods of time.

(E) Be introduced to the following components of health related fitness: muscular strength, muscular endurance, flexibility, body composition, and cardiovascular endurance.

(F) Identify proper and improper stretching techniques.

(c) **Personal and social skill development**

(1) **Standard.** The student demonstrates responsible personal and social behavior in physical activity settings.

(A) Identify the benefits that accompany sportsmanship, cooperation, and following rules.

(B) Demonstrate safety skills while participating in physical activity with or without equipment or apparatus.

(C) Demonstrate self-discipline and responsibility while actively participating in group, individual, and partner activities.

(D) Follow directions while participating in class activity.

(2) **Standard.** The student demonstrates understanding and respect for differences among people in physical activity settings.

(A) Demonstrate respect for others in the learning environment.

(B) Demonstrate cooperation without regard to personal differences.

(C) Resolve conflicts with others in socially acceptable ways.

(3) **Standard.** The student understands that physical activity provides opportunities for enjoyment, challenge, self-expression, and social interaction.

(A) Enjoy participation in physical activity while alone or with others.

(B) Identify physical activities that allow for self-expression and enjoyment.

(C) Be willing to try new challenges and activities.

(D) Participate in a wide variety of physical activities that allows for self-expression.

210:15-3-156. Physical education for grade 2

[REVOKED]

(a) **Motor skill and lifetime activity development.**

(1) **Standard.** The student demonstrates competency in many movement forms and proficiency in a few movement forms.

(A) Demonstrate the movement concepts of body awareness, spatial awareness, and body movement relationships.

(B) Demonstrate mature form in a variety of manipulative, locomotor and nonlocomotor skills performed individually and with a partner.

(C) Demonstrate control in traveling, weight bearing, and balance activities.

(D) Demonstrate motor patterns in simple combinations (e.g., dribble a ball while running).

(2) **Standard.** The student applies movement concepts and principles to the learning and development of motor skills.

(A) Demonstrate manipulative skills of catching, throwing, kicking, striking, and dribbling with hand and foot.

(B) Perform locomotor patterns in time to music.

(C) Jump and land using a combination of one and two foot takeoffs and landings.

(D) Change speed and direction in response to a variety of rhythms.

(E) Roll smoothly in a forward direction without hesitating or stopping.

(F) Transfer body weight to the hands (e.g., handstand, pull up, arm hang).

(G) Jump a turned rope held by others.

(H) Jump a self turned rope.

(I) Kick a slowly rolling ball into the air or on the ground, using the instep of the foot.

(J) Demonstrate the difference between an overhand and underhand throw utilizing the principle of opposition.

(K) Catch an object gently thrown to him/her using proper hand position.

(L) Strike a ball with a bat from a tee or cone, using a correct grip and side orientation.

(M) Demonstrate evasive skills of chasing, fleeing, and dodging to avoid or catch others.

(b) **Health enhancing activity development**

(1) **Standard.** The student exhibits a physically active lifestyle.

(A) Participate in individual and group fitness activities in and out of the school setting.

(B) Identify at least one activity associated with each component of health related fitness.

(C) Identify favorite physical activities and the reasons for enjoyment.

(D) Explain the benefits of increased heart rate following an aerobic activity.

(E) Participate daily in moderate to vigorous physical activity.

(2) **Standard.** The student achieves and maintains a health enhancing level of physical fitness.

(A) Associate physical activities and the benefits for maintaining fitness and personal well-being.

(B) Demonstrate proper and improper stretching technique.

(C) Identify and explain the health related components of fitness: muscular strength, muscular endurance, flexibility, body composition, cardiovascular endurance activities.

(D) Explain the heart is a muscle and becomes stronger as a result of aerobic activity.

(E) Locate various pulse points.

(c) **Personal and social skill development**

(1) **Standard.** The student demonstrates responsible personal and social behavior in physical activity settings.

(A) Demonstrate safety skills while participating in physical activity.

(B) Follow instructions while participating in class activity.

(C) Demonstrate consideration of others while participating in physical activities (e.g., taking turns, sharing equipment, encourages others).

(D) Follow class rules and procedures and apply them to all activities.

(2) **Standard.** The student demonstrates understanding and respect for differences among people in physical activity settings.

(A) Demonstrate cooperation and respect for others in the learning environment.

(B) Resolve conflicts with others in socially acceptable ways.

(C) Demonstrate consideration of others regardless of personal differences.

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(3) **Standard.** The student understands that physical activity provides opportunities for enjoyment, challenge self-expression, and social interaction.

- (A) Identify physical activities that are enjoyable.
- (B) Be willing to try new challenges and activities.
- (C) Participate in a wide variety of physical activities that allow for self-expression.

210:15-3-157. Physical education for grade 3 [REVOKED]

(a) **Motor skills and lifetime activity development.**

(1) **Standard.** The student demonstrates competency in many movement forms and proficiency in a few movement forms.

- (A) Travel in different directions, using a variety of locomotor skills in a combination of simple rhythmic patterns.
- (B) Demonstrate different locomotor skills on a low-elevated surface.
- (C) Combine intermediate movement patterns to music.
- (D) Demonstrate ability to strike a softly thrown lightweight ball back to a partner using a variety of body parts (e.g., bump in volleyball, instep kick in soccer).
- (E) Demonstrate mature form of throwing, catching, and kicking.
- (F) Jump a self-turned rope utilizing basic jump rope skills.
- (G) Kick a rolling ball using the inside or instep of the foot.
- (H) Continuously jump a swinging rope held by others.
- (I) Catch an object gently thrown to him/her from various distances using proper hand position.
- (J) Dribble and/or strike a ball towards a target by using various parts of the body.

(2) **Standard.** The student applies movement concepts and principles to the learning and development of motor skills.

- (A) Demonstrate evasive techniques (e.g., escaping, catching, dodging).
- (B) Consistently strike a ball with a bat from a tee or cone, using correct grip and side orientation.
- (C) Demonstrate the difference between an overhand and underhand throw utilizing the principle of opposition with accuracy and control.
- (D) Enter and/or exit a turned rope turned by others.
- (E) Perform a roll in a forward direction without hesitating or stopping for two consecutive rolls.
- (F) Leap, landing with either foot.
- (G) Balance with control on a variety of moving objects (e.g., balance boards, skates).

(b) **Health-enhancing physical activity development.**

(1) **Standard.** The student exhibits a physically active lifestyle.

(A) Identify at least one activity for participation on a regular basis.

(B) Participate in physical activity for the purpose of developing a healthy lifestyle.

(C) Participate in individual and group fitness activities.

(D) Engage in appropriate activity for the development of muscular strength and endurance.

(2) **Standard.** The student achieves and maintains a health-enhancing level of physical fitness.

(A) Maintain continuous aerobic activity for a specified time.

(B) Explain the health-related components of fitness and identify appropriate exercises for development of each component: muscular strength, muscular endurance, flexibility, body composition, and cardiovascular endurance.

(C) Locate and name some of the various pulse points.

(D) Demonstrate physical activities and the benefits for maintaining fitness and personal well-being.

(E) Identify proper and improper stretching exercises and demonstrate proper technique.

(c) **Personal and social skill development.**

(1) **Standard.** The student demonstrates responsible personal and social behavior in physical activity settings.

(A) Practice and distinguish between appropriate and inappropriate behavior for participating with others in physical activity.

(B) Demonstrate safety in movement while participating in physical activity with or without equipment or apparatus.

(C) Demonstrate cooperation in group activities.

(D) Explain the benefits that accompany sportsmanship, cooperation and following rules.

(2) **Standard.** The student demonstrates understanding and respect for differences among people in physical activity settings.

(A) Recognize differences and similarities in others while participating in physical activity.

(B) Show consideration of others in physical activity settings.

(C) Demonstrate acceptance of skills and abilities of others through verbal and nonverbal behavior.

(3) **Standard.** The student understands that physical activity provides opportunities for enjoyment, challenge, self-expression, and social interaction.

(A) Express personal feelings of accomplishment from participation in physical activity.

(B) Motivate and encourage others to participate in physically challenging activities.

(C) Identify the benefits that accompany cooperation and participation with others in physical activity settings.

210:15-3-158. Physical education for grade 4 [REVOKED]

(a) **Motor skill and lifetime activity development.**

(1) **Standard.** The student demonstrates competency in many movement forms and proficiency in a few movement forms.

- (A) Perform various intermediate locomotor and nonlocomotor skills in a combination of rhythmic activities.
- (B) Balance safely on a variety of objects (e.g., balance beam, bench).
- (C) Transfer weight from feet to hands at fast and slow speeds (e.g., mule stand, handstand, cartwheel).
- (D) Perform basic tumbling skills using proper form.
- (E) Escape, catch, or dodge an individual or object while moving.
- (F) Be introduced to survival skills concerned with being in, on, and around water.
- (G) Be introduced to equipment used in a variety of activities.
- (H) Be introduced to lifetime outdoor activities available in the community.

(2) **Standard.** The student applies movement concepts and principles to the learning and development of motor skills.

- (A) Demonstrate intermediate jump rope skills.
- (B) Jump and land, throw, catch and kick using proper techniques.
- (C) Hand dribble and/or foot dribble a ball while participating in an organized group activity.
- (D) Strike a softly thrown ball with a bat or paddle demonstrating an appropriate grip, side to the target and swing plane.
- (E) Explain the importance of appropriate practice for improving performance.

(b) **Health-enhancing activity development.**

(1) **Standard.** The student exhibits a physically active lifestyle.

- (A) Recognize some of the opportunities for physical activity in the community.
- (B) Describe the health benefits that result from regular participation in physical activity.
- (C) Participate in physical activity for the development of a healthy lifestyle.

(2) **Standard.** The student achieves and maintains a health-enhancing level of physical fitness.

- (A) Describe and participate in physical activity associated with healthy lifetime skills.
- (B) Regularly participate in activities for the purpose of improving fitness and physical skills.
- (C) Participate in aerobic activity for a specified time.
- (D) Support, lift and control body weight in a variety of activities while practicing appropriate body alignment.
- (E) Monitor heart rate before and after activities.
- (F) Describe the components of health related fitness and demonstrate appropriate exercises associated with each component.

(c) **Personal and social skill development.**

(1) **Standard.** The student demonstrates responsible personal and social behavior in physical activity settings.

- (A) Practice and distinguish between appropriate and inappropriate behaviors for participating with others in physical activity.
- (B) Be considerate of others while participating in physical activity.
- (C) Identify equipment used and safety precautions necessary for participation in a variety of activities.

(2) **Standard.** The student demonstrates understanding and respect for differences among people in physical activity settings.

- (A) Show respect for persons from different backgrounds and cultures.
- (B) Recognize differences among individuals associated with physical ability and participation in various games and activities.
- (C) Willingly participate in group games and activities without regard to cultural differences.

(3) **Standard.** The student understands that physical activity provides opportunities for enjoyment, challenge, self-expression, and social interaction.

- (A) Participate in physical activities that are personally interesting and enjoyable.
- (B) Express joy in personal successes and achievements of self and others.
- (C) Participate in activities that are challenging.

**210:15-3-159. Physical education for grade 5
[REVOKED]**

(a) **Motor skills and lifetime activity development.**

(1) **Standard.** The student demonstrates competency in many movement forms and proficiency in a few movement forms.

- (A) Demonstrate various advanced/intermediate locomotor and nonlocomotor skills in a combination of rhythmic activities.
- (B) Participate in advanced/intermediate rhythmic activities involving physical movement with or without music.
- (C) Transfer weight from feet to hands at fast and slow speeds using large extensions (e.g., handstand, cartwheel, round off).
- (D) Demonstrate basic tumbling skills using proper form and technique.
- (E) Consistently strike a ball, so that it travels in an intended direction and height, using various apparatus (e.g., racket, bat, hockey stick, golf club).
- (F) Hand dribble and/or foot dribble while preventing an opponent from stealing the ball.

(2) **Standard.** The student applies movement concepts and principles to the learning and development of motor skills.

- (A) Design and refine a routine combining various jump rope movements to music so that it can be performed without error.
- (B) Design and perform gymnastic sequences that combine rolling, traveling, balancing, and weight

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transfer, in smooth transition, which includes changes in speed, direction and flow.

(C) Perform basic dance patterns in time to music (e.g., schottische, two step, polka).

(D) Create and perform a rhythmic routine utilizing dance skills, in time to music.

(E) Demonstrate ability to detect, analyze and correct errors in motor skill performance.

(b) **Health-enhancing activity development.**

(1) **Standard.** The student exhibits a physically active lifestyle.

(A) Participate daily in physical activity that is health enhancing.

(B) Explain the "principle of specificity" as applied to an exercise program.

(C) Analyze strengths and weaknesses in regard to personal exercise behavior.

(D) Explain the meaning of "recovery heart rate" as applied to exercise.

(2) **Standard.** The student achieves and maintains a health enhancing level of physical fitness.

(A) Participate in moderate to vigorous physical activity in and out of the school setting.

(B) Monitor intensity of exercise.

(C) Explain the "FIT" principle as applied to exercise (frequency, intensity, and time).

(D) Pursue personal fitness goals with minimal supervision.

(c) **Personal and social skill development.**

(1) **Standard.** The student demonstrates responsible personal and social behavior in physical activity settings.

(A) Remain on task without close supervision.

(B) Practice and distinguish between appropriate and inappropriate behaviors for participating with others in physical activity.

(C) Show respect and consideration of others in physical activity.

(D) Identify equipment used and safety precautions necessary for participation in a variety of activities.

(E) Practice sportsmanship, rules, and safe behavior while participating in sports and games.

(2) **Standard.** The student demonstrates understanding and respect for differences among people in physical activity settings.

(A) Show respect for persons of like and different skill levels.

(B) Recognize and explain the role of games, sports and dance in different cultures.

(C) Demonstrate cooperation with others, regardless of gender, race, or ethnicity in physical activity settings.

(3) **Standard.** The student understands that physical activity provides opportunities for enjoyment, challenge, self expression, and social interaction.

(A) Demonstrate enjoyment from participating in physical activity.

(B) Participate in personally challenging physical activities.

(C) Recognize physical activity as a positive opportunity for social and group interaction.

(D) Use physical activity as a tool for self expression and challenge.

210:15-3-160. Physical education for grades 6 and 7 [REVOKED]

(a) **Motor skill and lifetime activity development.**

(1) **Standard.** The student demonstrates competency in many movement forms and proficiency in a few movement forms.

(A) Consistently throw, catch, hand and foot dribble a ball while guarded by opponents.

(B) Design and refine a routine combining various jump rope skills to music.

(C) Perform a variety of multicultural dances and creative movements to music.

(D) Demonstrate accuracy and distance in throwing of a variety of objects (e.g., saucer shaped disks, deck tennis rings, footballs).

(E) Consistently strike a ball so that it travels in an intended direction and height using a long handled implement.

(F) Demonstrate basic skills in modified net games (e.g., tennis, volleyball, badminton) and invasive games (teams moving into the opponents territory, e.g., soccer, basketball).

(G) Volley an object in a small group, without catching it (e.g., balloon, ball, foot bag).

(H) Consistently strike a ball to a wall or a partner with a paddle/racket using both forehand and backhand strokes.

(2) **Standard.** The student applies movement concepts and principles to the learning and development of motor skills.

(A) Identify the critical elements of performing more advanced movement skills.

(B) Apply specific knowledge in skill development.

(C) Identify characteristics of highly skilled performance in a few movement forms.

(b) **Health-enhancing activity development.**

(1) **Standard.** The student exhibits a physically active lifestyle.

(A) Participate in an individualized fitness program.

(B) Monitor heart rate before, during and after activity.

(C) Identify benefits of participation in different forms of physical activities.

(2) **Standard.** The student achieves and maintains a health enhancing level of physical fitness.

(A) Set goals for achieving and maintaining acceptable body composition levels.

(B) Identify benefits of participation in different forms of physical activities.

(C) Explain the importance of the components of health related fitness: cardiovascular endurance,

muscular strength, muscular endurance, and body composition.

(D) Identify proper warm up, conditioning, cool-down techniques, and safe principles of exercise.

(e) **Personal and social skill development.**

(1) **Standard.** The student demonstrates responsible personal and social behavior in physical activity settings.

(A) Design and play small group games that involve cooperating with others.

(B) Apply rules and etiquette in physical activities.

(C) Accept and respect the decisions made by game officials, whether they are fellow students, teachers, or volunteers.

(2) **Standard.** The student demonstrates understanding and respect for differences among people in physical activity settings.

(A) Participate with and show respect for persons of like and different skill levels.

(B) Demonstrate sensitivity to the feelings of others during interaction with others in a physical activity setting.

(3) **Standard.** The student understands that physical activity provides opportunities for enjoyment, challenge, self-expression, and social interaction.

(A) Enjoy the challenges of learning new activities.

(B) Become more skilled in participation of favorite activities.

(C) Identify the creative aspects of performance of physical activity.

210:15-3-161. Physical education for grades 8 and 9
[REVOKED]

(a) **Motor skill and lifetime activity development.**

(1) **Standard.** The student demonstrates competency in many movement forms and proficiency in a few movement forms.

(A) Design and perform rhythmic activities involving physical movement with or without music, encompassing a variety of multicultural forms of movement and/or manipulative objects (e.g., tinkling, jump rope, creative movement).

(B) Design sequences demonstrating rhythmic movement incorporating the manipulation of objects.

(C) Design smooth sequences demonstrating traveling, jumping, rolling, balancing, and weight transfer with intentional changes in direction, speed, and flow.

(2) **Standard.** The student applies movement concepts and principles to the learning and development of motor skills.

(A) Demonstrate competency in a variety of movement forms.

(B) Demonstrate basic skills and safety procedures for participating in selected outdoor pursuits.

(C) Use offensive and defensive strategies in modified activities of team and individual sports.

(D) Evaluate and select strategies for improved performance in selected activities.

(E) Demonstrate basic to intermediate proficiency in at least one activity from the following categories: individual, dual, and team sports.

(F) Demonstrate basic to intermediate proficiency in at least one of the following categories: aquatics, dance, gymnastics, and outdoor pursuits.

(G) Perform a variety of dances with fluency and in time to music (e.g., folk, square, social, creative).

(b) **Health-enhancing activity development.**

(1) **Standard.** The student exhibits a physically active lifestyle.

(A) Establish personal fitness goals.

(B) Participate regularly in and out of the school setting in health enhancing physical activity to accomplish personal goals.

(C) Demonstrate knowledge of long term physiological and psychological benefits that may result from regular participation in physical activity.

(D) Correctly demonstrate various weight training principles.

(E) Describe principles of training and conditioning for specific activities.

(2) **Standard.** The student achieves and maintains a health enhancing level of physical fitness.

(A) Analyze and categorize activities and exercises according to potential fitness benefits.

(B) Evaluate the role of exercise and other factors to be considered in weight control.

(C) Design and participate in an individual fitness program that emphasizes health related fitness components: muscular strength, muscular endurance, flexibility, cardiovascular endurance and body composition.

(D) Use results from fitness assessments to guide changes in personal program.

(E) Design and implement a personal fitness profile that relates to total wellness.

(F) Utilize technology to research fitness, health, and wellness information.

(c) **Personal and social skill development.**

(1) **Standard.** The student demonstrates responsible personal and social behavior in physical activity settings.

(A) Demonstrate appropriate conduct as an individual and as part of a group.

(B) Apply appropriate safety rules and precautions inherent to physical education.

(C) Recognize the influence of peer pressure.

(D) Solve problems by analyzing causes and potential solutions.

(E) Work cooperatively with a group to achieve group goals.

(2) **Standard.** The student demonstrates understanding and respect for differences among people in physical activity settings.

(A) Show respect for persons of like and different skill levels.

(B) Discuss the historical role of various games, sports, and dance in the cultural life of a population.

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(C) Utilize technology in gathering information concerning the history of sports and other cultural games and dances.

(3) **Standard.** The student understands that physical activity provides opportunities for enjoyment, challenge, self-expression, and social interaction.

(A) Try new and challenging activities.

(B) Recognize physical activity as a means for self-expression and enjoyment.

(C) Become more skilled in a selected favorite activity.

210:15-3-162. Physical education for grades 10 through 12 [REVOKED]

(a) **Motor skill and lifetime activity development.**

(1) **Standard.** The student demonstrates competency in many movement forms and proficiency in a few movement forms.

(A) Demonstrate basic to intermediate knowledge and skill proficiency in at least one of the following categories: aquatics, combative, dance, individual and team sports, and outdoor pursuits.

(B) Demonstrate intermediate to advanced knowledge and skill proficiency in at least one of the following categories: aquatics, combative, dance, individual and team sports and outdoor pursuits.

(C) Perform at least one intermediate/advanced level of rhythmic activity, in time to music, from the following categories: folk, square, social, or creative dance.

(D) Explore introductory outdoor activities (e.g., orienteering, hiking, cycling).

(2) **Standard.** The student applies movement concepts and principles to the learning and development of motor skills.

(A) Apply biomechanical principles and concepts to analyze and improve performance of self and others.

(B) Compare and contrast offensive and defensive patterns in sports.

(C) Identify and apply critical elements to enable the development of movement proficiency.

(D) Utilize technology for increased specialized knowledge of the development of movement proficiency.

(b) **Health-enhancing activity development.**

(1) **Standard.** The student exhibits a physically active lifestyle.

(A) How physical activity is likely to change at various stages of life and develop strategies to deal with those changes.

(B) Plan a lifetime physical fitness program profile.

(C) Self test personal fitness status of health related components: cardiovascular endurance, muscular strength, muscular endurance, flexibility, and body composition.

(D) Contrast health related components with skill-related components of physical fitness.

(2) **Standard.** The student achieves and maintains a health enhancing level of physical fitness.

(A) Maintain and improve health related fitness components (i.e., cardiovascular endurance, muscular strength, muscular endurance, flexibility, and body composition).

(B) Evaluate risks and safety factors that may affect physical activity preferences.

(C) Use results of fitness assessments to guide changes in his/her personal program.

(D) Utilize technology to critically evaluate claims and advertisements made about commercial products, programs, and services in the fitness and health fields.

(E) Categorize activities that can be pursued in the local community according to benefits and participation requirements.

(F) Analyze time, cost, and accessibility factors related to regular participation in physical activities.

(c) **Personal and social skill development.**

(1) **Standard.** The student demonstrates responsible personal and social behavior in physical activity settings.

(A) Accept responsibility in a leadership role and willingly follow to accomplish group goals.

(B) Avoid potential conflicts by communicating with other participants.

(C) Encourage others to apply appropriate etiquette in all physical activity settings.

(D) Demonstrate appropriate conduct and etiquette as an individual and as a part of a group.

(E) Accept and respect the decisions made by game officials, whether fellow students, teachers, or volunteers.

(2) **Standard.** The student demonstrates understanding and respect for differences among people in physical activity settings.

(A) Participate with and show respect for persons of like and different skill levels.

(B) Respect physical and mental limitations of self and others.

(C) Participate in a variety of games, sports, and rhythmic activities representing various multicultural backgrounds.

(D) Identify the effects (e.g., physical fitness level, climatic conditions) of age, gender, race, ethnicity, socioeconomic standing, and culture upon physical activity preferences and participation.

(3) **Standard.** The student understands that physical activity provides opportunities for enjoyment, challenge, self-expression, and social interaction.

(A) Identify factors that contribute to the enjoyment of participation in physical activity.

(B) Make meaningful contributions to the achievement of a team.

(C) Recognize that participation in physical activity can provide opportunities for positive social interaction.

(D) Voluntarily participate in physical activity in and out of the school setting.

210:15-3-163. Physical education

(a) **Goal of physical education.** The overarching goal of school physical education in Oklahoma is to ensure that school aged youth become physically literate individuals who possess the skills, knowledge, and dispositions to lead physically active lives. The physical education content standards and respective grade level-specific performance outcomes presented here provide the expectations that school programs and services will set for all Oklahoma students. An effective physical education program offers all students the opportunity to gain the needed skillfulness, knowledge, and dispositions toward physically active lifestyles. It is the responsibility of schools to provide opportunities for all students to become competent, literate, and enthusiastic movers, in ways that make physical activity a highly desired, enjoyable, and worthwhile experience. Students who participate in effective physical education programs receive a variety of benefits in the areas of movement skills, physical conditioning, and knowledge, so they can develop strategies and tactics to lead a physically active lifestyle.

(b) **Format of the standards.** The five physical education standards provide a framework for schools and physical educators across Oklahoma to develop an aligned physical education curriculum to ensure school aged students become physically literate. Grade-level objectives are provided for each standard, organized under the major concepts associated with the standard. For grades nine (9) through twelve (12), the standards are organized under Level 1 and Level 2 objectives rather than by specific grade level.

210:15-3-164. Definitions

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

"Accuracy" means eighty percent (80%) successful performance or above; "reasonable accuracy" means sixty percent (60%) successful performance or above. Scores in the range of sixty percent (60%) to seventy-nine percent (79%) are considered reasonably accurate.

"Affective domain" means the domain in which the focus is on personal-social development, attitudes, values, feelings, motivations, and emotions. In the revised Bloom's taxonomy (Anderson et al., 2005), affective behaviors include receiving (willing to listen and hear), responding (willing to participate actively), valuing (willing to be involved, accept, and commit), organizing (willing to advocate and synthesize), and characterization (willing to change behavior, revise judgments, and cooperate).

"Analytic rubric" means an assessment and instructional tool that divides assignments or tasks into independent component parts with criterion behaviors defined for each part and across levels of the rubric. Each part is evaluated separately across levels, and learners receive feedback for each component part of the assignment or task. The assessment occurs on a continuum defined by criterion behaviors unique to each component.

"Applying" means learners can demonstrate the critical elements of the motor skills or knowledge components of the

grade-level outcomes in a variety of physical activity environments.

"Aquatics" means water-based activities that might include, but not be limited to: swimming, diving, synchronized swimming, and water polo.

"Checklist" means an assessment and instructional tool that evaluates whether individual performance criteria are present or absent. It consists of a list of criterion behaviors, and evaluators simply determine yes, the criterion behavior is present, or no, the criterion behavior is not present. This type of assessment does not attempt to determine the quality of the response.

"Closed skills" means skills performed in a nondynamic environment that is constant, predictable, or stationery. The goal for performance is to produce movements or skills that are consistent and accurate because the environmental context is nondynamic, stable, and unchanging. Examples include performance sports such as gymnastics or diving, and target games such as darts and archery. See "Nondynamic environment".

"Cognitive domain" means the domain in which the focus is on knowledge and information (facts and concepts), with an emphasis on the understanding and application of knowledge and information through higher-order thinking skills. The revised Bloom's taxonomy (Anderson et. Al, 2005) identifies six levels of intellectual behaviors (remembering, understanding, applying, analyzing, evaluating, and creating), with increasing complexity at each level.

"Competency" means sufficient ability, skill, and knowledge to meet the demands of a specific task or activity. In this Part, competency is defined as the ability for individuals to participate at the recreational level with skill and ability in self-selected activities.

"Competitive advantage" means the advantage gained in a game situation when one team, either on offense or defense, has more players than the other team. For example, when two offensive players are against one defender, the team with two players has a competitive (offensive) advantage. If two offensive players face three defenders, the defensive has a competitive advantage.

"Content standard" means a statement that clearly describes the content that should be taught and learned during the PreK-Grade 12 years, grade by grade. Content standards articulate an essential core of knowledge and skills that students should master. Standards clarify what students are expected to know and be able to do at various points in their PreK-Grade 12 academic career.

"Contextual interference effect" means certain conditions (e.g., varying practice tasks) that depress performance during practice but actually produce higher levels of learning and retention.

"Criterion-referenced performance standards" means a type of assessment tool that compares learners' performance with a predetermined standard or set of criteria. Criteria are defined clearly, are delineated, and are task-specific.

"Critical elements" means the key components of a motor skill that can be observed, the sum of which result in movement efficiency.

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"Dance and rhythmic activities" means activities that focus on dance or rhythms. Dance and rhythmic activities might include, but are not limited to, dance forms such as creative movement, ballet, modern, ethnic or folk, cultural, hip hop, Latin, line, ballroom, social, and square. Rhythmic activities for early elementary focus on recognizing and moving to rhythm. Rhythmic manipulative activities for elementary include, but are not limited to, lummi sticks, tinkling, Chinese ribbons, and ball gymnastics.

"Deliberate practice" means a highly structured activity, the explicit goal of which is to improve performance. Specific tasks are invented to overcome weaknesses, and performance is carefully monitored to provide cues for ways to improve further. Deliberate practice is purposeful and requires concentration on the part of the learner.

"Differentiated instruction" means that teachers vary instruction to address the needs of students and their various levels of skill or knowledge. Teachers differentiate instruction by modifying the learning environment (e.g., tiered learning activities), providing choices on equipment (e.g., increasing or decreasing the length of a racket), providing choices on the process (e.g., participate in modified game play or continue to practice), modifying practice (e.g., work alone or in a group), and facilitating self-directed activities (e.g., developing and implementing an individualized physical activity program).

"Dynamic environments" means skills are performed in an environment that is dynamic, unpredictable, and in motion ("open skills"). The goal for performers is to adapt movements in response to the dynamic and ever-changing environment. Examples include invasion games such as ultimate and soccer and net/wall games such as volleyball and tennis.

"Educational gymnastics" means gymnastics that focus on children challenging themselves to maneuver their bodies effectively against the force of gravity. The skills of balancing and transferring weight form the foundation of educational gymnastics. Educational gymnastics centers on challenges appropriate for each child at his or her skill level, as contrasted with Olympic gymnastics, which centers on defined stunts performed the same way by all students.

"Emerging" means learners participate in deliberate practice tasks that will lead to skill and knowledge acquisition. Learners are in the beginning stages of acquiring motor skills and knowledge. Mastery of the skills and knowledge is emerging through deliberate practice tasks and, at this stage, learners are developing competency.

"Etiquette" means expectations regarding behavior and social norms associated with specific games or activities; rules of behavior that define and provide parameters for appropriate participation in the activity or game.

"Fielding/striking games" means games in which teams occupy positions throughout the space (field) and the other team tries to score by batting or striking an object into open space in the field, providing enough time for the hitter to run between bases (or wickets). Examples include baseball, softball, and cricket. Strategies and tactics include effective placement of field players so that they can prevent scoring (defending team) and batting and striking the object with appropriate

power to open spaces in the field (offensive team). Fielding decisions are based on the fielders' position and game situation, such as offensive runners' positions, outs, and score.

"Fitness activities" means activities with a focus on improving or maintaining fitness that might include yoga, Pilates, resistance training, spinning, running, fitness walking, fitness swimming, kickboxing, cardio-kick, Zumba, and exergaming.

"FITT" means frequency, intensity, time, and type, which are variables that are manipulated to create an overload.

"Fundamental motor skills" means the locomotor, non-locomotor or stability, and manipulative skills that provide the foundation for the more complex and sport-specific movement patterns used in games and sports.

"Games and sports" means the following game categories: invasion, net/wall, target, and fielding/striking.

"Grid activities" means activities using grids, squares or rectangles in which learners participate in modified game play using predetermined tactics or skills. For example, learners could practice such skills as give and go with a partner within a grid. The passer passes (gives) to a receiver and moves to another portion of the grid (goes) to receive a return pass. The sequence of passing (give) and moving to a new space on the grid (go) would be repeated for a predetermined amount of time (e.g., 45 seconds) with partners tracking the number of completed passes. Grids can vary in many ways, including size and shape, number of players within the grid, and with or without defensive pressure.

"Holistic rubric" or **"Holistic rating scale"** means an assessment and instructional tool that assigns a level of performance based on multiple criteria and evaluates the performance based on multiple criteria, and evaluates the performance as a whole. Learners must demonstrate all the identified criterion behaviors at a particular level for evaluators to determine whether the level has been achieved. Like all rubrics, holistic rubrics must define at least two levels.

"Individual-performance activities" means activities involving individual rather than team performance, and might include: gymnastics, figure skating, track and field, multisport events, in-line skating, wrestling, self-defense, and skateboarding.

"Invasion games" means games in which teams score by moving a ball (or a projectile) into another team's territory and either shooting into a fixed target (a goal or a basket) or moving the projectile across an open-ended target (line). To prevent scoring, one team must stop the other from bringing the ball into its territory and attempting to score. Strategies and tactics include using teammates to open space on offense (with or without the ball) and reduce space on defense. Decision making for offense includes when to pass, carry the ball, shoot, and move to create open space. Defenders must decide which players to cover and when to move to reduce space. Examples are basketball, ultimate, and soccer.

"Inverted position" means balances and transfers of weight in educational gymnastics in which the head is lower than the hips.

"Jab step" means an offensive skill executed by stepping sharply with one foot toward an opponent to cause the opponent to hesitate or go backward, thereby creating space for the offensive player.

"Knowledge of performance" means feedback based on the process and quality of the movement. The feedback is based on movement efficiency, timing, and rhythm of the movement pattern. Feedback is provided on specific critical elements of the movement.

"Knowledge of results" means feedback based on the outcome (product) of the movement that occurs after the action is completed (e.g., basket made or missed). Results indicate the degree of the success of the movement based on the environmental goal of the movement.

"Level 1 outcomes" means high school level outcomes reflecting the minimum knowledge and skills that students must acquire and attain by graduation to be college- or career-ready.

"Level 2 outcomes" means high school level outcomes that build on Level 1 competencies by augmenting knowledge and skills considered desirable for college or career readiness.

"Lifetime activities" means activities that are suitable for participation across the life span and that one can undertake alone or with a partner as opposed to a team. For the purposes of this Part, lifetime activities include the categories of outdoor pursuits, selected individual-performance activities, aquatics, and net/wall and target games.

"Locomotor skills" means skills that consist of a group of fundamental motor skills that allow individuals to navigate through space or move their body from one point to another. These include running, galloping, hopping, skipping, jumping, leaping, and sliding.

"Manipulative skills" means skills that require controlling or manipulating objects, such as kicking, striking, throwing, catching, and dribbling.

"Mature pattern" means executing with efficiency the critical elements of the motor skills pattern in authentic environments.

"Maturing" means demonstrating the critical elements of the motor skills and knowledge components of the grade-level outcomes, which will continue to be refined with practice. As the environmental context varies, a maturing pattern might fluctuate, reflecting more maturity in familiar contexts and less maturity in unfamiliar (new) contexts.

"Modified games" means small-sided games in which the rules have been modified to emphasize the skills taught in class (e.g., creating a penalty for dribbling to emphasize teaching students to pass rather than dribble).

"Motor patterns" means the fundamental motor skills that provide the foundation for more complex and sport-specific movement patterns used in games and sports. The six fundamental motor skills are running, jumping and landing, kicking, throwing, catching, and striking.

"Movement concepts" means the application of knowledge and concepts related to skillful performance of movement and fitness activities, such as spatial awareness, effort, tactics,

strategies, and principles related to movement efficiency and health-enhancing fitness.

"MVPA" means Moderate to Vigorous Physical Activity.

"Net/wall games" means games in which teams or individual players score by hitting a ball into a court space with sufficient accuracy and power so that opponents cannot hit it back before it bounces once (as in badminton or volleyball) or twice (as in tennis or racquetball). Opponents generally are separated by a net, but in some cases (squash, racquetball), they share a court and the walls are in play. Offensive strategies and tactics are based on hitting to an open space or pulling the opponent out of position. Defensive strategies are reducing open space by good court position and anticipating the opponent's shot.

"Nondynamic environment" means skills performed in a nondynamic environment that is constant, predictable, or stationary. The goal for performance is to produce movements or skills that are consistent and accurate because the environmental context is nondynamic, stable, and unchanging. Examples include performance sports such as gymnastics or diving and target games such as darts and archery. See "closed skills".

"Nonlocomotor skills" means any movement that places a premium on gaining and maintaining one's equilibrium in relation to the force of gravity. Examples include axial movements (another term sometimes used for nonlocomotor movements) as well as inverted and rolling body postures. Also known as "stability skills".

"Norm-referenced" means a type of assessment tool that compares learners' performance with other similar learners' performances. Learners' relative standing (rank) is based on their performance in comparison with other learners in the same age group.

"Outcomes" means statements that specify what learners will know or be able to do as a result of a learning activity.

"Overload principle" means progressively placing greater stress or demands on the body during exercise to cause the body to adapt (become more fit). This is accomplished by manipulating the frequency, intensity, time (duration), and type (FITT) of activity.

"Player up" or **"Player down"** means a game situation in which one team has one more (e.g., 2v1) or one fewer (e.g., 1v2) player than the other team.

"Psychomotor domain" means the domain in which the focus is on motor skills. It includes physical movement, coordination, and the use of the motor-skill areas. Development of the skills requires practice and is measured in terms of speed, precision, distance, procedures, or techniques in execution.

"Rating scale" means an assessment and instructional tool that is similar to a checklist but provides added information on the extent to which criterion behaviors are met. That is accomplished by a gradation of criteria across levels. Gradation of performance can be differentiated by the number of times the behavior occurs (frequency) or by descriptions of performance at each level (quality).

"Receiving" means the skill of collecting a pass from a teammate with the hands, feet, or body.

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"Rubric" means an assessment and instructional tool that identifies criterion behaviors for at least two levels of performance. Each level of the rubric identifies and describes criterion behaviors that contain essential elements of the tasks along a range or continuum of performance expectations.

"Small-sided games" means organized games in which the number of players involved is reduced from the conventional competitive version of the sport (e.g., 2v2 basketball, 3v3 volleyball, 6v6 lacrosse).

"Small-sided practice tasks" means small-sided games or deliberate tasks designed to practice particular skills or tasks.

"Striking" means a ballistic, propulsion skill with several forms, such as sidearm, underarm or overarm, one-handed and two-handed. Common examples include batting, hitting with a racket, and serving a volleyball.

"Target games" means games in which players score by throwing or striking an object to a target. Accuracy is a primary focus of the activity, and competitors share no physical contact. Target games are considered opposed (e.g., croquet, shuffleboard, bocce) because opponents may block or hit another player's ball to a less-desirable position. Other target games are considered unopposed (e.g., golf, bowling) because opponents may not interfere with a shot. Strategies or tactics are based on movement accuracy and consistency.

"Technology" means software, websites, devices, and applications used in a physical education setting to enhance teaching and learning.

"Volley" means to strike or give impetus to an object (e.g., volley-birds, foot bags, bamboo balls, volleyballs) by using a variety of body parts (e.g., hands, arms, head, knees).

210:15-3-165. Standard One: Competency in a Variety of Motor Skills and Movement Patterns

(a) **Statement of the standard.** Students will demonstrate competency in a variety of motor skills and movement patterns.

(b) **Standard One objectives for Grades PreK-K.** The following objectives apply for students in Pre-Kindergarten and Kindergarten:

(1) **Locomotor.**

(A) **Objective 1.** Performs locomotor skills (hopping, galloping, running, sliding, skipping, leaping) while maintaining balance.

(B) **Objective 2.** Developmentally appropriate/emerging outcomes for jogging and running appearing in grade two.

(C) **Objective 3.** Performs horizontal jumping and landing actions with balance.

(D) **Objective 4.** Performs vertical jumping and landing actions with balance.

(E) **Objective 5.** Performs locomotor skills in response to teacher-led creative dance.

(F) **Objective 6.** Developmentally appropriate/emerging outcomes for combinations of locomotor skills first appear in grade three.

(2) **Non-locomotor (Stability).**

(A) **Objective 1.** Maintains momentary stillness on different bases of support. Forms wide, narrow, curled, and twisted body shapes.

(B) **Objective 2.** Developmentally appropriate/emerging outcomes for weight transfer appear in grade one.

(C) **Objective 3.** Rolls sideways in a narrow body shape.

(D) **Objective 4.** Contrasts the actions of curling and stretching.

(E) **Objective 5.** Developmentally appropriate/emerging outcomes for combinations of stability skills first appear in grade two.

(F) **Objective 6.** Developmentally appropriate/emerging outcomes for balance and weight transfers first appear in grade three.

(3) **Manipulatives.**

(A) **Objective 1.** Throws underhand and overhand with opposite foot forward. For Pre-K, throws underhand and overhand without opposition.

(B) **Objective 2.** Developmentally appropriate/emerging outcomes for passing with hands first appear in grade four.

(C) **Objective 3.** Drops a ball or object and catches it before it bounces twice. Catches a large ball or object tossed by a skilled thrower.

(D) **Objective 4.** Dribbles a ball with one hand attempting second contact.

(E) **Objective 5.** Taps a ball using the inside of the foot, sending it forward.

(F) **Objective 6.** Developmentally appropriate/emerging outcomes for passing and receiving with feet first appear in grade three.

(G) **Objective 7.** Developmentally appropriate/emerging outcomes for dribbling in combinations first appear in grade four.

(H) **Objective 8.** Kicks a stationary ball from a stationary position demonstrating two of the five critical elements of mature kicking.

(I) **Objective 9.** Volleys a lightweight object (e.g., a balloon), sending it upward.

(J) **Objective 10.** Developmentally appropriate/emerging outcomes for volleying overhead first appear in grade four.

(K) **Objective 11.** Strikes a lightweight object with a paddle or short-handed racket.

(L) **Objective 12.** Developmentally appropriate/emerging outcomes for long implement striking first appear in grade two.

(M) **Objective 13.** Developmentally appropriate/emerging outcomes for combining manipulative skills with locomotor skills first appear in grade four.

(N) **Objective 14.** Executes a single jump with a self-turned rope. Jumps a long rope with teacher-assisted turning. Turns a long rope with a mature form.

(c) **Standard One objectives for Grade 1.** The following objectives apply for students in Grade 1:

- (1) **Locomotor.**
 - (A) **Objective 1.** Hops, gallops, jogs, and slides using a mature pattern.
 - (B) **Objective 2.** Developmentally appropriate/emerging outcomes for jogging and running appearing in grade two.
 - (C) **Objective 3.** Demonstrates two of the five critical elements for jumping and landing in a horizontal plane using two-foot takeoffs and landings.
 - (D) **Objective 4.** Demonstrates two of the five critical elements for jumping and landing in a vertical plane.
 - (E) **Objective 5.** Combines locomotor and non-locomotor skills in a teacher-designed dance.
 - (F) **Objective 6.** Developmentally appropriate/emerging outcomes for combinations of locomotor skills first appear in grade three.
 - (2) **Non-locomotor (Stability).**
 - (A) **Objective 1.** Maintains stillness on different bases of support with different body shapes.
 - (B) **Objective 2.** Transfers weight from one body part to another in self-space in dance and gymnastic environments.
 - (C) **Objective 3.** Rolls with either a narrow or curled body shape.
 - (D) **Objective 4.** Demonstrates twisting, curling, bending, and stretching actions.
 - (E) **Objective 5.** Developmentally appropriate/emerging outcomes for combinations of stability skills first appear in grade two.
 - (F) **Objective 6.** Developmentally appropriate/emerging outcomes for balance and weight transfers first appear in grade three.
 - (3) **Manipulatives.**
 - (A) **Objective 1.** Throws underhand and overhand demonstrating two of the five critical elements of a mature pattern (face target, arm back, opposition, release, follow through).
 - (B) **Objective 2.** Developmentally appropriate/emerging outcomes for passing with hands first appear in grade four.
 - (C) **Objective 3.** Catches a soft object from a self-toss before it bounces. Catches various sizes of balls or objects self-tossed or tossed by a skilled thrower.
 - (D) **Objective 4.** Dribbles continuously in self-space using the preferred hand.
 - (E) **Objective 5.** Taps or dribbles a ball using the inside of the foot while walking in general space.
 - (F) **Objective 6.** Developmentally appropriate/emerging outcomes for passing and receiving with feet first appear in grade three.
 - (G) **Objective 7.** Developmentally appropriate/emerging outcomes for dribbling in combinations first appear in grade four.
 - (H) **Objective 8.** Approaches a stationary ball and kicks it forward demonstrating two of the five critical elements of a mature pattern.
- (I) **Objective 9.** Volleys an object with an open palm, sending it upward.
 - (J) **Objective 10.** Developmentally appropriate/emerging outcomes for volleying overhead first appear in grade four.
 - (K) **Objective 11.** Strikes a ball with a short-handled implement, sending it upwards.
 - (L) **Objective 12.** Developmentally appropriate/emerging outcomes for long implement striking first appear in grade two.
 - (M) **Objective 13.** Developmentally appropriate/emerging outcomes for combining manipulative skills with locomotor skills first appear in grade four.
 - (N) **Objective 14.** Jumps forward or backward consecutively using a self-turned rope. Jumps a long rope up to five times consecutively with teacher-assisted turning. Turns a long rope alone and with a partner in rhythm.
- (d) **Standard One objectives for Grade 2.** The following objectives apply for students in Grade 2:
 - (1) **Locomotor.**
 - (A) **Objective 1.** Skips using a mature pattern.
 - (B) **Objective 2.** Runs with a mature pattern. Travels showing differentiation (pacing) between jogging and sprinting.
 - (C) **Objective 3.** Demonstrates four of the five critical elements for jumping and landing in a horizontal plane using a variety of one- and two-foot takeoffs and landings.
 - (D) **Objective 4.** Demonstrates four of the five critical elements for jumping and landing in a vertical plane.
 - (E) **Objective 5.** Performs a teacher and/or student-designed rhythmic activity with correct response to simple rhythms.
 - (F) **Objective 6.** Developmentally appropriate/emerging outcomes for combinations of locomotor skills first appear in grade three.
 - (2) **Non-locomotor (Stability).**
 - (A) **Objective 1.** Balances on different bases of support combining levels and shapes. Balances in an inverted position with stillness and supportive base.
 - (B) **Objective 2.** Transfers weight from feet to different body parts/bases of support for balance and/or travel.
 - (C) **Objective 3.** Rolls in different directions in either a narrow or curled body shape.
 - (D) **Objective 4.** Differentiates among twisting, curling, bending, and stretching actions.
 - (E) **Objective 5.** Combines balances and transfers into a three-part sequence (e.g., dance, gymnastics).
 - (F) **Objective 6.** Developmentally appropriate/emerging outcomes for balance and weight transfers first appear in grade three.
 - (3) **Manipulatives.**
 - (A) **Objective 1.** Throws underhand and overhand using a mature pattern.

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- (B) **Objective 2.** Developmentally appropriate/emerging outcomes for passing with hands first appear in grade four.
- (C) **Objective 3.** Catches a self-tossed or well-thrown large ball/object with hands not trapping or cradling against the ball.
- (D) **Objective 4.** Dribbles using the preferred hand while walking in general space.
- (E) **Objective 5.** Dribbles with the feet in general space with control of ball and body.
- (F) **Objective 6.** Developmentally appropriate/emerging outcomes for passing and receiving with feet first appear in grade three.
- (G) **Objective 7.** Developmentally appropriate/emerging outcomes for dribbling in combinations first appear in grade four.
- (H) **Objective 8.** Uses a continuous running approach and kicks a moving ball demonstrating three of the five critical elements of a mature pattern.
- (I) **Objective 9.** Volleys an object upward with consecutive hits.
- (J) **Objective 10.** Developmentally appropriate/emerging outcomes for volleying overhead first appear in grade four.
- (K) **Objective 11.** Strikes an object upward with a short-handled implement using consecutive hits.
- (L) **Objective 12.** Strikes a ball off a tee or cone with a bat using correct grip and side orientation/proper body orientation.
- (M) **Objective 13.** Developmentally appropriate/emerging outcomes for combining manipulative skills with locomotor skills first appear in grade four.
- (N) **Objective 14.** Jumps a self-turned rope consecutively forward and backward with a mature pattern. Jumps a long rope five times consecutively with student turners.
- (e) **Standard One objectives for Grade 3.** The following objectives apply for students in Grade 3:
- (1) **Locomotor.**
- (A) **Objective 1.** Leaps using a mature pattern.
- (B) **Objective 2.** Travels showing differentiation (pacing) between jogging and sprinting.
- (C) **Objective 3.** Jumps and lands in the horizontal plane using a mature pattern.
- (D) **Objective 4.** Jumps and lands in the vertical plane using a mature pattern.
- (E) **Objective 5.** Performs teacher-selected and developmentally appropriate dance steps in movement patterns.
- (F) **Objective 6.** Performs a sequence of locomotor skills transitioning from one skill to another smoothly and without hesitation.
- (2) **Non-locomotor (Stability).**
- (A) **Objective 1.** Balances on different bases of support demonstrating muscular tension and extensions of free body parts.
- (B) **Objective 2.** Transfers weight from feet to hands for momentary weight support.
- (C) **Objective 3.** Applies skills of weight transfer and rolling.
- (D) **Objective 4.** Moves into and out of gymnastic balances with twisting, curling, and stretching actions.
- (E) **Objective 5.** Combines locomotor skills and movement concepts (e.g., levels, shapes, extensions, pathways, force, time, flow) to create and perform a dance.
- (F) **Objective 6.** Combines balance and weight transfers with movement concepts to create and perform a dance.
- (3) **Manipulatives.**
- (A) **Objective 1.** Throws underhand and overhand to a partner or target with reasonable accuracy. Demonstrates three of the five critical elements (face target, arm back, opposition, release, follow through) in non-dynamic environments for distance and force.
- (B) **Objective 2.** Developmentally appropriate/emerging outcomes for passing with hands first appear in grade four.
- (C) **Objective 3.** Catches a gently tossed hand-sized ball or object from a partner while demonstrating four of the five critical elements of a mature pattern.
- (D) **Objective 4.** Dribbles and travels in general space at a slow to moderate speed with control of ball and body.
- (E) **Objective 5.** Dribbles with the feet in general space at slow to moderate jogging speed with control of the ball and body.
- (F) **Objective 6.** Passes and receives the ball with the insides of the feet to a stationary partner, "giving" on reception before returning the pass.
- (G) **Objective 7.** Developmentally appropriate/emerging outcomes for dribbling in combinations first appear in grade four.
- (H) **Objective 8.** Uses a continuous running approach and intentionally performs a kick along the ground and a kick in the air demonstrating four of the five critical elements of a mature pattern for each skill. Uses a continuous running approach and kicks a stationary ball for accuracy.
- (I) **Objective 9.** Volleys an object with an underhand or sidearm striking pattern, sending it forward over a net, to the wall or over a line to a partner, while demonstrating four of the five critical elements of a mature pattern (face target, opposite foot forward, flat surface with hand for contact of the ball, contact with the ball, follow through).
- (J) **Objective 10.** Developmentally appropriate/emerging outcomes for volleying overhead first appear in grade four.
- (K) **Objective 11.** Strikes an object with a short-handled implement sending it forward over a low net or to a wall. Strikes an object with a short-handled implement while demonstrating three of the five critical elements of a mature pattern.

- (L) **Objective 12.** Strikes a ball with a long-handled implement (e.g., hockey stick, bat, golf club) by sending it forward while using proper grip for the implement.
- (M) **Objective 13.** Developmentally appropriate/emerging outcomes for combining manipulative skills with locomotor skills first appear in grade four.
- (N) **Objective 14.** Performs intermediate jump rope skills (e.g., a variety of tricks, running in and out of a long rope) for both long and short ropes.
- (f) **Standard One objectives for Grade 4.** The following objectives apply for students in Grade 4:
- (1) **Locomotor.**
- (A) **Objective 1.** Uses various locomotor skills in a variety of small-sided practice tasks, dance, and educational gymnastics experiences.
- (B) **Objective 2.** Runs for distance using a mature pattern.
- (C) **Objective 3.** Uses spring-and-step takeoffs and landings specific to gymnastics (e.g., cartwheel, round-off) in horizontal jumping.
- (D) **Objective 4.** Uses spring-and-step takeoffs and landings specific to gymnastics (e.g., cartwheel, round-off) in vertical jumping.
- (E) **Objective 5.** Combines locomotor movement patterns and dance steps to create and perform an original dance.
- (F) **Objective 6.** Combines traveling with manipulative skills of dribbling, throwing, catching, and striking in teacher- and/or student-designed small-sided practice tasks.
- (2) **Non-locomotor (Stability).**
- (A) **Objective 1.** Balances on different bases of support on apparatus demonstrating levels and shapes.
- (B) **Objective 2.** Transfers weight from feet to hands varying the speed and using large extensions (e.g., mule kick, handstand, cartwheel).
- (C) **Objective 3.** Applies skills of weight transfer and rolling.
- (D) **Objective 4.** Moves into and out of balances on apparatus with curling, twisting, and stretching actions.
- (E) **Objective 5.** Combines locomotor skills and movement concepts (e.g., levels, shapes, extensions, pathways, force, time, flow) to create and perform a dance with a partner.
- (F) **Objective 6.** Combines traveling with balance and weight transfers to create a gymnastics sequence with and without equipment or apparatus.
- (3) **Manipulatives.**
- (A) **Objective 1.** Throws underhand and overhand in a mature pattern in a non-dynamic environment.
- (B) **Objective 2.** Throws to a moving partner with reasonable accuracy in a non-dynamic environment (closed skills).
- (C) **Objective 3.** Catches a thrown ball above the head, at the chest or waist level, and below the waist
- using a mature pattern in a non-dynamic environment (closed skills).
- (D) **Objective 4.** Dribbles in self-space with both the preferred and non-preferred hands using a mature pattern. Dribbles in general space with control of ball and body while increasing and decreasing speed.
- (E) **Objective 5.** Dribbles with the feet in general space with control of the ball and body while increasing and decreasing speed.
- (F) **Objective 6.** Passes and receives the ball using the insides of the feet to a moving partner in a non-dynamic environment (closed skills). Receives and passes a ball with the outsides and insides of the feet to a stationary partner, "giving" on reception before returning the pass.
- (G) **Objective 7.** Dribbles with hands or feet in combination with other skills (e.g., passing, receiving, shooting).
- (H) **Objective 8.** Kicks along the ground and in the air and punts using a mature pattern.
- (I) **Objective 9.** Volleys underhand using a mature pattern in a dynamic environment (e.g., two square, four square, handball).
- (J) **Objective 10.** Volleys the ball with a two-handed overhead pattern sending it upward demonstrating four of the five elements of a mature pattern.
- (K) **Objective 11.** Strikes an object with a short-handled implement while demonstrating a mature pattern. Strikes an object with a short-handled implement, alternating hits with a partner, over a low net or against a wall.
- (L) **Objective 12.** Strikes an object with a long-handled implement (e.g., hockey stick, golf club, bat, tennis or badminton racket) while demonstrating three of the five critical elements of a mature pattern for the implement (grip, stance, body orientation, swing plane, follow through).
- (M) **Objective 13.** Combines travelling with manipulative skills of dribbling, throwing, catching, and striking in teacher- and/or student-designed small-sided practice task environments.
- (N) **Objective 14.** Creates a jump rope routine with either a short or long jump rope.
- (g) **Standard One objectives for Grade 5.** The following objectives apply for students in Grade 5:
- (1) **Locomotor.**
- (A) **Objective 1.** Demonstrates mature patterns of locomotor skills in dynamic and small-sided practice tasks, gymnastics, and dance. Combines locomotor and manipulative skills in a variety of small-sided practice tasks and game environments. Combines traveling with manipulative skills for execution to a target (e.g., scoring in soccer, hockey, and basketball).
- (B) **Objective 2.** Uses appropriate pacing for a variety of running distances.

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- (C) **Objective 3.** Combines horizontal jumping and landing patterns with locomotor and manipulative skills in dance, gymnastics, and small-sided practice tasks in game environments.
- (D) **Objective 4.** Combines vertical jumping and landing patterns with locomotor and manipulative skills in dance, gymnastics, and small-sided practice tasks in game environments.
- (E) **Objective 5.** Combines locomotor skills and cultural as well as creative dances (self and group) with correct rhythm and pattern.
- (F) **Objective 6.** Applies skills in dynamic situations.
- (2) **Non-locomotor.**
- (A) **Objective 1.** Combines balance and transferring weight in a gymnastic sequence or dance with a partner.
- (B) **Objective 2.** Transfers weight in gymnastics and dance environments.
- (C) **Objective 3.** Applies skills of weight transfer and rolling.
- (D) **Objective 4.** Performs curling, twisting, and stretching actions with correct application in dance, gymnastics, and small-sided practice tasks in game environments.
- (E) **Objective 5.** Combines locomotor skills and movement concepts (e.g., levels, shapes, extensions, pathways, force, time, flow) to create and perform a dance with a group.
- (F) **Objective 6.** Combines actions, balances, and weight transfers to create a gymnastics sequence with a partner on equipment or apparatus.
- (3) **Manipulatives.**
- (A) **Objective 1.** Throws underhand and overhand in a mature pattern in a non-dynamic environment with different sizes and types of objects. Throws underhand and overhand to a large target with accuracy.
- (B) **Objective 2.** Throws with accuracy while both partners are moving. Throws with reasonable accuracy in dynamic, small-sided practice tasks.
- (C) **Objective 3.** Catches a batted ball above the head, at the chest or waist level, and along the ground using a mature pattern in a non-dynamic environment (closed skills). Catches with accuracy with both partners moving. Catches with reasonable accuracy in dynamic, small-sided practice tasks.
- (D) **Objective 4.** Combines hand dribbling with other skills during one vs. one practice skills.
- (E) **Objective 5.** Combines foot dribbling with other skills in one vs. one practice tasks.
- (F) **Objective 6.** Passes and receives with the feet using a mature pattern as both partners travel.
- (G) **Objective 7.** Dribbles with the hands or feet with mature patterns in a variety of small-sided game forms.
- (H) **Objective 8.** Demonstrates mature patterns of kicking and punting in small-sided practice environments.
- (I) **Objective 9.** Applies underhand volleying skills.
- (J) **Objective 10.** Volleys the ball using a two-handed pattern sending it upward to a target.
- (K) **Objective 11.** Strikes an object consecutively with a partner using a short-handled implement, over a net or against a wall, in either a competitive or cooperative game environment.
- (L) **Objective 12.** Strikes a pitched ball with a bat using a mature pattern. Combines striking with a long implement (e.g., bat, hockey stick) with receiving and traveling skills in a small-sided game.
- (M) **Objective 13.** Combines manipulative skills and traveling for execution to a target (e.g., scoring in soccer, hockey, and basketball).
- (N) **Objective 14.** Creates a jump rope routine with a partner using either a short or long jump rope.
- (h) **Standard One objectives for Grade 6.** The following objectives apply for students in Grade 6:
- (1) **Dance and Rhythms.** Demonstrates correct rhythm and pattern for one of the following dance forms: folk, social, creative, line, or world dance.
- (2) **Games and Sports: Invasions and Field Games.**
- (A) **Objective 1.** Throws with a mature pattern for distance or power appropriate to the practice task (e.g., distance = outfield to home plate; power = second base to first base).
- (B) **Objective 2.** Catches with a mature pattern from a variety of trajectories using different objects in varying practice tasks.
- (C) **Objective 3.** Passes and receives with hands in combination with locomotor patterns of running, change of direction and speed, with competency in modified invasion games (e.g., basketball, flag football).
- (D) **Objective 4.** Throws, while stationary, a leading pass to a moving receiver.
- (E) **Objective 5.** Performs pivots, fakes, and jab steps designed to create open space during practice tasks.
- (F) **Objective 6.** Performs the following offensive skills without defensive pressure: pivots, give & goes, and fakes.
- (F) **Objective 7.** Dribbles with dominant hand using a change of speed and direction in a variety of practice tasks.
- (G) **Objective 8.** Foot-dribbles or dribbles with an implement with control, change in speed and direction in a variety of practice tasks.
- (H) **Objective 9.** Shoots on goal with power in a dynamic environment as appropriate to the activity.
- (I) **Objective 10.** Maintains defensive ready position with weight on balls of feet, arms extended, and eyes on midsection of the offensive player.
- (3) **Games and Sports: Net/Wall Games.**
- (A) **Objective 1.** Performs a legal underhand serve with control for net/wall games (e.g., badminton, volleyball, or pickle ball).

- (B) **Objective 2.** Strikes with a mature overhand pattern in a non-dynamic environment (closed skills) for net/wall games (e.g., volleyball, badminton, or tennis).
- (C) **Objective 3.** Demonstrates the mature form of the forehand and backhand strokes with a short-handled implement in net games (e.g., paddleball, pickle ball, or tennis).
- (D) **Objective 4.** Transfers weight with the correct timing for the striking pattern.
- (E) **Objective 5.** Forehand volleys with a mature form and control using a short-handled implement.
- (F) **Objective 6.** Two-hand-volleys with control in a variety of practice tasks.
- (G) **Objective 7.** Demonstrates a mature underhand pattern for a modified target game (e.g., bowling, bocce, bean bags, or horseshoes).
- (H) **Objective 8.** Strikes, with an implement, a stationary object for accuracy in activities (e.g., croquet, shuffleboard, or golf).
- (4) **Games and Sports: Fielding/Striking Games.**
- (A) **Objective 1.** Strikes a pitched ball, with an implement, in a variety of practice tasks.
- (B) **Objective 2.** Catches, with a mature pattern, from different trajectories using a variety of objects in varying practice tasks.
- (5) **Outdoor Pursuits.** Demonstrates correct technique for basic skills in one self-selected outdoor pursuit.
- (6) **Individual-Performance Activities.** Demonstrates correct technique for basic skills in one self-selected individual-performance activity.
- (i) **Standard One objectives for Grade 7.** The following objectives apply for students in Grade 7:
- (1) **Dance and Rhythms.** Demonstrates correct rhythm and pattern for a different dance form from among folk, social, creative, line, and world dance.
- (2) **Games and Sports: Invasions and Field Games.**
- (A) **Objective 1.** Throws with a mature pattern for distance or power appropriate to the activity in a dynamic environment.
- (B) **Objective 2.** Catches with a mature pattern from a variety of trajectories using different objects in small-sided game play.
- (C) **Objective 3.** Passes and receives with feet in combination with locomotor patterns of running, change of direction and speed, with competency in modified invasion games (e.g., soccer or speedball).
- (D) **Objective 4.** Throws, while moving, a leading pass to a moving receiver.
- (E) **Objective 5.** Executes at least one of the following designed to create open space during small-sided game play: pivots, fakes, jab steps.
- (F) **Objective 6.** Performs the following offensive skills with defensive pressure: pivots, give & goes, and fakes.
- (F) **Objective 7.** Dribbles with dominant and non-dominant hands using a change of speed and direction in a variety of practice tasks.
- (G) **Objective 8.** Foot-dribbles or dribbles with an implement combined with passing in a variety of practice tasks.
- (H) **Objective 9.** Shoots on goal with power and accuracy in small-sided game play.
- (I) **Objective 10.** Maintains defensive ready position while sliding in all directions without crossing feet.
- (3) **Games and Sports: Net/Wall Games.**
- (A) **Objective 1.** Executes consistently, a legal underhand serve to a predetermined target for net/wall games (e.g., badminton, volleyball, or pickle ball).
- (B) **Objective 2.** Strikes with a mature overhand pattern in a dynamic environment (closed skills) for net/wall games (e.g., volleyball, badminton, or tennis).
- (C) **Objective 3.** Demonstrates the mature form of the forehand and backhand strokes with a long-handled implement in net games (e.g., badminton or tennis).
- (D) **Objective 4.** Transfers weight with correct timing using low-to-high striking pattern with a short-handled implement on the forehand side.
- (E) **Objective 5.** Forehand and backhand volleys with a mature form and control using a short-handled implement.
- (F) **Objective 6.** Two-hand volleys with control in a dynamic environment.
- (G) **Objective 7.** Executes consistently a mature underhand pattern for target games (e.g., bowling, bocce, bean bags, or horseshoes).
- (H) **Objective 8.** Strikes, with an implement, a stationary object for accuracy and distance in activities (e.g., croquet, shuffleboard, or golf).
- (4) **Games and Sports: Fielding/Striking Games.**
- (A) **Objective 1.** Strikes a pitched ball, with an implement, with force in a variety of practice tasks.
- (B) **Objective 2.** Catches, with a mature pattern, from different trajectories using a variety of objects in small-sided game play.
- (5) **Outdoor Pursuits.** Demonstrates correct technique for a variety of skills in one self-selected outdoor pursuit.
- (6) **Individual-Performance Activities.** Demonstrates correct technique for a variety of skills in one self-selected individual-performance activity.
- (j) **Standard One objectives for Grade 8.** The following objectives apply for students in Grade 8:
- (1) **Dance and Rhythms.** Exhibits command of rhythm and timing by creating a movement sequence to music as an individual or in a group.
- (2) **Games and Sports: Invasions and Field Games.**
- (A) **Objective 1.** Throws with a mature pattern for distance or power appropriate to the activity during small-sided game play.
- (B) **Objective 2.** Catches using an implement in a dynamic environment or modified game play.

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- (C) **Objective 3.** Passes and receives with an implement in combination with locomotor patterns of running, change of direction, speed, and/or level with competency in modified invasion games (e.g., lacrosse, field hockey, ice hockey).
- (D) **Objective 4.** Throws a leading pass to a moving partner off a dribble or pass.
- (E) **Objective 5.** Executes at least two of the following to create open space during modified game play: pivots, fakes, jab steps, screens.
- (F) **Objective 6.** Executes the following offensive skills during small-sided game play: pivots, give & goes, and fakes.
- (F) **Objective 7.** Dribbles with dominant and non-dominant hands using a change of speed and direction in small-sided game play.
- (G) **Objective 8.** Foot-dribbles or dribbles with an implement with control, change in speed and direction during small-sided game play.
- (H) **Objective 9.** Shoots on goal with a long-handled implement for power and accuracy in modified invasion games (e.g., lacrosse, field hockey, ice hockey, floor hockey).
- (I) **Objective 10.** Maintains defensive ready position while drop stepping (appropriate to the sport) in the direction of the pass during player-to-player.
- (3) **Games and Sports: Net/Wall Games.**
- (A) **Objective 1.** Executes consistently, a legal underhand serve for distance and accuracy for net/wall games (e.g., badminton, volleyball, or pickle ball).
- (B) **Objective 2.** Strikes with a mature overhand pattern in a modified game for net/wall games (e.g., volleyball, handball, badminton, tennis, pickle ball).
- (C) **Objective 3.** Demonstrates the mature form of the forehand and backhand strokes with a short- or long-handled implement with power and accuracy in net games (e.g., paddleball, pickle ball, badminton, or tennis).
- (D) **Objective 4.** Transfers weight with correct timing using low-to-high striking pattern with a short- or long-handled implement on the forehand and backhand side.
- (E) **Objective 5.** Forehand and backhand volleys with a mature form and control using a short-handled implement during modified game play.
- (F) **Objective 6.** Two-hand volleys with control in a small-sided game.
- (G) **Objective 7.** Performs consistently a mature underhand pattern with accuracy and control for one target game (e.g., bowling, bean bags, or bocce).
- (H) **Objective 8.** Strikes, with an implement, a stationary object for accuracy, power, and distance in activities (e.g., croquet, shuffleboard, or golf).
- (4) **Games and Sports: Fielding/Striking Games.**
- (A) **Objective 1.** Strikes a pitched ball, with an implement, with power and force to open space in a variety of small-sided games.
- (B) **Objective 2.** Catches, with or without an implement, from different trajectories and speeds in a dynamic environment or modified game play.
- (5) **Outdoor Pursuits.** Demonstrates correct technique for basic skills in at least two self-selected outdoor pursuits.
- (6) **Individual-Performance Activities.** Demonstrates correct technique for basic skills in at least two self-selected individual-performance activities.
- (k) **Standard One objectives for Grades 9-12.** The following objectives apply for students in Grade 9 through Grade 12:
- (1) **Lifetime Activities.**
- (A) **Grades 9-12, Level One.** Demonstrates competency and/or refines activity-specific movement skills in two or more lifetime activities (outdoor pursuits, individual-performance activities, aquatics, net/wall games, or target games).
- (B) **Grades 9-12, Level Two.** Refines activity-specific movement skills in one or more lifetime activities (outdoor pursuits, individual-performance activities, aquatics, net/wall games, or target games).
- (2) **Dance and Rhythms.**
- (A) **Grades 9-12, Level One.** Demonstrates competency in dance forms and rhythmic movement used in cultural and social occasions (e.g., weddings, parties) or demonstrates competency in one form of dance (e.g., ballroom, modern, hip hop, tap).
- (B) **Grades 9-12, Level Two.** Demonstrates competency in dance forms and/or rhythmic movements by choreographing a dance, designing a rhythmic workout routine, or giving a performance.
- (3) **Fitness Activities.**
- (A) **Grades 9-12, Level One.** Demonstrates application, evaluation, and competency in one or more specialized skills in health-related fitness activities.
- (B) **Grades 9-12, Level Two.** Demonstrates application, evaluation, and competency in two or more specialized skills in health-related fitness activities.
- 210:15-3-166. Standard Two: Knowledge of Concepts, Strategies, and Tactics Related to Movement and Performance**
- (a) **Statement of the standard.** Students will apply knowledge of concepts, principles, strategies, and tactics related to movement and performance.
- (b) **Standard Two objectives for Grades PreK-K.** The following objectives apply for students in Pre-Kindergarten and Kindergarten:
- (1) **Objective 1.** Differentiates between movements in personal (self-space) and general space. Moves in personal space to a rhythm.
- (2) **Objective 2.** Travels in three different pathways (straight, zig-zag, and weaving).
- (3) **Objective 3.** Travels in general space with different speeds.
- (4) **Objective 4.** Developmentally appropriate/emerging outcomes for alignment and muscular tension first appear in grade three.

- (5) **Objective 5.** Developmentally appropriate/emerging outcomes for strategies and tactics first appear in grade three.
- (c) **Standard Two objectives for Grade 1.** The following objectives apply for students in Grade 1:
- (1) **Objective 1.** Moves in self-space and general space in response to designated beats/rhythms.
 - (2) **Objective 2.** Travels demonstrating low, middle, and high levels. Travels demonstrating a variety of relationships with objects (e.g., over, under, around, through).
 - (3) **Objective 3.** Differentiates between fast and slow speeds. Differentiates between strong and light force.
 - (4) **Objective 4.** Developmentally appropriate/emerging outcomes for alignment and muscular tension first appear in grade three.
 - (5) **Objective 5.** Developmentally appropriate/emerging outcomes for strategies and tactics first appear in grade three.
- (d) **Standard Two objectives for Grade 2.** The following objectives apply for students in Grade 2:
- (1) **Objective 1.** Combines locomotor skills in general space to a rhythm.
 - (2) **Objective 2.** Combines shapes, levels, and pathways into simple travel, dance, and gymnastics sequences.
 - (3) **Objective 3.** Varies time and force with gradual increases and decreases.
 - (4) **Objective 4.** Developmentally appropriate/emerging outcomes for alignment and muscular tension first appear in grade three.
 - (5) **Objective 5.** Developmentally appropriate/emerging outcomes for strategies and tactics first appear in grade three.
- (e) **Standard Two objectives for Grade 3.** The following objectives apply for students in Grade 3:
- (1) **Objective 1.** Recognizes the concept of open spaces and a movement context.
 - (2) **Objective 2.** Recognizes locomotor skills specific to a wide variety of physical activities.
 - (3) **Objective 3.** Combines movement concepts (direction, levels, force, time) with skills directed by the teacher.
 - (4) **Objective 4.** Employs the concept of alignment (e.g., gymnastics, dance, and yoga). Employs the concept of muscular tension with balance (e.g., gymnastics, dance, and yoga).
 - (5) **Objective 5.** Developmentally appropriate/emerging outcomes for strategies and tactics first appear in grade three.
- (f) **Standard Two objectives for Grade 4.** The following objectives apply for students in Grade 4:
- (1) **Objective 1.** Applies the concept of open spaces to combination skills involving traveling (e.g., dribbling and traveling). Applies the concept of closing spaces in small-sided practice tasks. Dribbles in general spaces with changes in direction and speed.
 - (2) **Objective 2.** Combines movement concepts with skills in small-sided practice tasks, gymnastics, and dance environments.
 - (3) **Objective 3.** Applies the movement concepts of speed, endurance, and pacing for running. Applies the concepts of direction and force when striking an object with a short-handled implement, sending it toward a designated target.
- (4) **Objective 4.** Applies skills of alignment and muscular tension.
- (5) **Objective 5.** Applies simple strategies and tactics in both chasing and fleeing activities. Recognizes the types of kicks needed for different games and sports situations.
- (g) **Standard Two objectives for Grade 5.** The following objectives apply for students in Grade 5:
- (1) **Objective 1.** Combines spatial concepts with locomotor and non-locomotor movements for small groups (e.g., gymnastics, dance, and games).
 - (2) **Objective 2.** Combines movement concepts with skills in small-sided practice tasks in game environments, gymnastics, and dance with self-direction.
 - (3) **Objective 3.** Applies movement concepts to strategy in game situations. Applies the concepts of direction and force to strike an object with a long-handled implement. Analyzes movement situations and applies movement concepts (e.g., force, direction, speed, pathways, extensions) in small-sided practice tasks in game environments, dance, and gymnastics.
 - (4) **Objective 4.** Applies skills of alignment and muscular tension.
 - (5) **Objective 5.** Applies basic offensive and defensive strategies and tactics in small-sided invasion practice tasks, and in small-sided net/wall practice tasks. Recognizes the type of throw, volley, or striking action needed for different games and sports situations.
- (h) **Standard Two objectives for Grade 6.** The following objectives apply for students in Grade 6:
- (1) **Games and Sports: Invasion Games.**
 - (A) **Objective 1.** Creates open space by using locomotor movements (e.g., walking, running, jumping and landing) in combination with movement (e.g., varying pathways; changing speed, direction, or pace).
 - (B) **Objective 2.** Executes at least one of the following offensive tactics to create open space: moves to open space without the ball; uses a variety of passes, pivots, and fakes; give and go.
 - (C) **Objective 3.** Creates open space by using the width and length of the field/court on offense.
 - (D) **Objective 4.** Reduces open space on defense by making the body larger and reducing passing angles.
 - (E) **Objective 5.** Reduces open space by not allowing the catch (denial) or by allowing the catch but not the return pass.
 - (F) **Objective 6.** Transitions from offense to defense or defense to offense by recovering quickly.
 - (2) **Games and Sports: Net/Wall Games.**
 - (A) **Objective 1.** Creates open space in net/wall games with a short-handled implement by varying force and direction.

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- (B) **Objective 2.** Reduces offensive options for opponents by returning to midcourt position.
- (3) **Games and Sports: Target Games.** Selects appropriate shot and/or club based on location of the object in relation to the target.
- (4) **Games and Sports: Fielding/Striking Games.**
(A) **Objective 1.** Identifies open spaces and attempts to strike object into that space.
(B) **Objective 2.** Identifies the correct defensive play based on the situation (e.g., number of outs).
- (5) **Individual-Performance Activities, Dance, and Rhythms.** Varies application of force during dance or gymnastic activities.
- (6) **Outdoor Pursuits.** Makes appropriate decisions based on the weather, level of difficulty due to conditions, or ability to ensure safety of self and others.
- (i) **Standard Two objectives for Grade 7.** The following objectives apply for students in Grade 7:
- (1) **Games and Sports: Invasion Games.**
(A) **Objective 1.** Reduces open space by using locomotor movements (e.g., walking, running, jumping and landing, changing the size and shape of the body) in combination with movement concepts (e.g., reducing the angle and the space, reducing distance between player and goal).
(B) **Objective 2.** Executes at least two of the following offensive tactics to create open space: moves to open space on and off the ball; uses a variety of passes, pivots, and fakes; give and go.
(C) **Objective 3.** Creates open space by staying spread on offense, and cutting and passing quickly.
(D) **Objective 4.** Reduces open space on defense by staying close to the opponent as she/he nears the goal.
(E) **Objective 5.** Reduces open space by not allowing the catch (denial) or anticipating the speed of the object or person for the purpose of interception or deflection.
(F) **Objective 6.** Transitions from offense to defense or defense to offense by recovering quickly and communicating with teammates.
- (2) **Games and Sports: Net/Wall Games.**
(A) **Objective 1.** Creates open space in net/wall games with a long-handled implement by varying force and direction, and by moving opponent from side to side.
(B) **Objective 2.** Selects offensive shot based on opponent's location (hit where opponent is not).
- (3) **Games and Sports: Target Games.** Varies the speed and/or trajectory of the shot based on location of the object in relation to the target.
- (4) **Games and Sports: Fielding/Striking Games.**
(A) **Objective 1.** Uses a variety of shots (e.g., slap and run, bunt, line drive, high arc) to hit to open up space.
(B) **Objective 2.** Selects the correct defensive play based on the situation (e.g., number of outs).
- (5) **Individual-Performance Activities, Dance, and Rhythms.** Identifies and applies Newton's Laws of Motion to various dance or movement activities.
- (6) **Outdoor Pursuits.** Analyzes the situation and makes adjustments to ensure the safety of self and others.
- (j) **Standard Two objectives for Grade 8.** The following objectives apply for students in Grade 8:
- (1) **Games and Sports: Invasion Games.**
(A) **Objective 1.** Opens and closes space during small-sided game play by combining locomotor movements (e.g., walking, running, jumping and landing) with movement concepts (e.g., varying pathways; changing speed, direction, or pace).
(B) **Objective 2.** Executes at least three of the following offensive tactics to create open space: moves to create open space on and off the ball; uses a variety of passes, fakes, and pathways; give and go.
(C) **Objective 3.** Creates open space by staying spread on offense, cutting and passing quickly, and using fakes off the ball.
(D) **Objective 4.** Reduces open space on defense by staying on the goal side of the offensive player and reducing the distance to her/him.
(E) **Objective 5.** Reduces open space by not allowing the catch (denial) and anticipating the speed of the object or person for the purpose of interception or deflection.
(F) **Objective 6.** Transitions from offense to defense or defense to offense by recovering quickly, communicating with teammates, and capitalizing on an advantage.
- (2) **Games and Sports: Net/Wall Games.**
(A) **Objective 1.** Creates open space in net/wall games with either a long- or short-handled implement by varying force or direction, or by moving opponent from side to side and/or forward and back.
(B) **Objective 2.** Varies placement, force, and timing of return to prevent anticipation by opponent.
- (3) **Games and Sports: Target Games.** Varies the speed, force, and trajectory of the shot based on location of the object in relation to the target.
- (4) **Games and Sports: Fielding/Striking Games.**
(A) **Objective 1.** Identifies sacrifice situations and attempts to advance a teammate.
(B) **Objective 2.** Reduces open spaces in the field by working with teammates to maximize coverage.
- (5) **Individual-Performance Activities, Dance, and Rhythms.** Describes and applies mechanical advantage for a variety of movement patterns.
- (6) **Outdoor Pursuits.** Implements safe protocols in self-selected outdoor pursuits.
- (k) **Standard Two objectives for Grades 9-12.** The following objectives apply for students in Grade 9 through Grade 12:
- (1) **Level One.**
(A) **Objective 1.** Appropriately applies the terminology associated with exercise and participation in selected individual-performance activities, dance,

net/wall games, target games, aquatics, and/or outdoor pursuits.

(B) **Objective 2.** Uses movement concepts and principles (e.g., force, motion, rotation) to analyze and improve performance of self and/or others in a selected skill.

(C) **Objective 3.** Creates a practice plan to improve performance for a self-selected skill.

(D) **Objective 4.** Identifies examples of social and technical dance forms.

(2) **Level Two.**

(A) **Objective 1.** Identifies and discusses the historical and cultural roles of games, sports, and dance in society.

(B) **Objective 2.** Describes the speed/accuracy trade-off in throwing and striking skills.

(C) **Objective 3.** Identifies the stages of learning a motor skill.

(D) **Objective 4.** Compares similarities and differences in various dance forms.

210:15-3-167. Standard Three: Knowledge and Skills to Achieve and Maintain a Health-Enhancing Level of Physical Activity and Fitness

(a) **Statement of the standard.** Students will demonstrate the knowledge and skills to achieve and maintain a health-enhancing level of physical activity and fitness.

(b) **Standard Three objectives for Grades PreK-K.** The following objectives apply for students in Pre-Kindergarten and Kindergarten:

(1) **Physical Activity Knowledge.** Identifies active-play opportunities outside physical education class (e.g., before and after school, at home, at the park, with friends, with family).

(2) **Engages in Physical Activity.** Actively participates in physical education class. Engaged in MVPA 50% of class time.

(3) **Fitness Knowledge.**

(A) **Objective 1.** Recognizes that when you move fast, your heart beats faster and you breathe faster.

(B) **Objective 2.** Developmentally appropriate/emerging outcomes for warm-up and cool-down first appear in grade three.

(4) **Assessment and Program Planning.**

(A) **Objective 1.** Developmentally appropriate/emerging outcomes for demonstrating fitness components first appear in grade three.

(B) **Objective 2.** Recognizes that food provides energy for physical activity.

(c) **Standard Three objectives for Grade 1.** The following objectives apply for students in Grade 1:

(1) **Physical Activity Knowledge.** Discusses the benefits of being active and exercising and/or playing.

(2) **Engages in Physical Activity.** Actively engages in physical education class. Engaged in MVPA 50% of class time.

(3) **Fitness Knowledge.**

(A) **Objective 1.** Identifies the heart as a muscle that grows stronger with exercise, play, and physical activity.

(B) **Objective 2.** Developmentally appropriate/emerging outcomes for warm-up and cool-down first appear in grade three.

(4) **Assessment and Program Planning.**

(A) **Objective 1.** Developmentally appropriate/emerging outcomes for demonstrating fitness components first appear in grade three.

(B) **Objective 2.** Differentiates between healthy and unhealthy foods and drinks.

(d) **Standard Three objectives for Grade 2.** The following objectives apply for students in Grade 2:

(1) **Physical Activity Knowledge.** Describes large motor and/or manipulative physical activities for participation outside physical education class.

(2) **Engages in Physical Activity.** Actively engages in physical education class in response to instruction and practice. Engaged in MVPA 50% of class time.

(3) **Fitness Knowledge.**

(A) **Objective 1.** Identifies physical activities that contribute to fitness.

(B) **Objective 2.** Developmentally appropriate/emerging outcomes for warm-up and cool-down first appear in grade three.

(4) **Assessment and Program Planning.**

(A) **Objective 1.** Developmentally appropriate/emerging outcomes for demonstrating fitness components first appear in grade three.

(B) **Objective 2.** Recognizes the good health balance of nutrition and physical activity.

(e) **Standard Three objectives for Grade 3.** The following objectives apply for students in Grade 3:

(1) **Physical Activity Knowledge.** Student charts participation in physical activities outside physical education class. Identifies physical activity benefits as a way to become healthier.

(2) **Engages in Physical Activity.** Engages in the activities of the physical education class without teacher prompting. Engaged in MVPA 50% of class time.

(3) **Fitness Knowledge.**

(A) **Objective 1.** Describes the concept of fitness and provides examples of physical activity to enhance fitness.

(B) **Objective 2.** Recognizes the importance of warm-up and cool-down relative to vigorous physical activity.

(4) **Assessment and Program Planning.**

(A) **Objective 1.** Demonstrates, with teacher direction, the health-related fitness components (muscular strength, muscular endurance, flexibility, cardiovascular endurance, body composition).

(B) **Objective 2.** Identifies foods that are beneficial for before and after physical activity.

(f) **Standard Three objectives for Grade 4.** The following objectives apply for students in Grade 4:

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- (1) **Physical Activity Knowledge.** Analyzes opportunities for participating in physical activity outside physical education class.
- (2) **Engages in Physical Activity.** Actively engages in the activities of physical education class, both teacher directed and independent. Engaged in MVPA 50% of class time.
- (3) **Fitness Knowledge.**
- (A) **Objective 1.** Identifies the components of health related fitness (muscular strength, muscular endurance, flexibility, cardiovascular endurance, body composition).
- (B) **Objective 2.** Demonstrates warm-up and cool-down relative to the cardiorespiratory fitness assessment.
- (4) **Assessment and Program Planning.**
- (A) **Objective 1.** Completes fitness assessments (pre and post). Identifies areas of needed remediation from personal test and, with teacher assistance, identifies strategies for progress in those areas.
- (B) **Objective 2.** Discusses the importance of hydration and hydration choices relative to physical activities.
- (g) **Standard Three objectives for Grade 5.** The following objectives apply for students in Grade 5:
- (1) **Physical Activity Knowledge.** Student charts and analyzes physical activity outside physical education class for fitness benefits of activities.
- (2) **Engages in Physical Activity.** Actively engages in all the activities of physical education. Engaged in MVPA 50% of class time.
- (3) **Fitness Knowledge.**
- (A) **Objective 1.** Differentiates between skill related and health related fitness.
- (B) **Objective 2.** Identifies the need for warm-up and cool-down relative to various physical activities. Identifies and applies FITT to a fitness plan.
- (4) **Assessment and Program Planning.**
- (A) **Objective 1.** Analyzes results of fitness assessments (pre and post), comparing results with fitness components for good health. Designs a fitness plan utilizing FITT.
- (B) **Objective 2.** Analyzes the impact of food choices relative to physical activity, youth sports, and personal health.
- (h) **Standard Three objectives for Grade 6.** The following objectives apply for students in Grade 6:
- (1) **Physical Activity Knowledge.** Describes how being physically active leads to a healthy body.
- (2) **Engages in Physical Activity.**
- (A) **Objective 1.** Participates in self-selected physical activity outside of physical education class.
- (B) **Objective 2.** Participates in a variety of aerobic fitness activities (e.g., cardio-kick, step aerobics, and aerobic dance).
- (C) **Objective 3.** Participates in a variety of aerobic fitness activities with or without technology (e.g., Dance Dance Revolution or Wii Fit).
- (D) **Objective 4.** Participates in a variety of lifetime recreational team sports, outdoor pursuits, or dance activities.
- (3) **Fitness Knowledge.**
- (A) **Objective 1.** Participates in moderate to vigorous physical activity that includes intermittent or continuous aerobic physical activity of both moderate and vigorous intensity for at least 60 minutes per day.
- (B) **Objective 2.** Identifies the components of skill-related fitness.
- (C) **Objective 3.** Sets and monitors a self-selected physical activity goal for aerobic and/or muscle- and bone-strengthening activity based on current fitness level.
- (D) **Objective 4.** Employs correct techniques and methods of stretching.
- (E) **Objective 5.** Differentiates between aerobic and anaerobic capacity and between muscular strength and endurance.
- (F) **Objective 6.** Identifies each of the components of the overload principle (FITT formula: frequency, intensity, time, and type) for different types of physical activity (aerobic, muscular fitness, and flexibility).
- (G) **Objective 7.** Describes the role of warm-ups and cool-downs before and after physical activity.
- (H) **Objective 8.** Defines resting heart rate and describes its relationship to aerobic fitness and the Borg Rating of Perceived Exertion (RPE) Scale.
- (I) **Objective 9.** Identifies major muscles used in selected physical activities.
- (4) **Assessment and Program Planning.**
- (A) **Objective 1.** Designs and implements a program of remediation for any areas of weakness based on the results of health-related fitness assessment.
- (B) **Objective 2.** Maintains a physical activity log for at least two weeks and reflects on activity levels as documented in the log.
- (C) **Objective 3.** Identifies foods within each of the basic food groups and selects appropriate servings and portions for student's age and physical activity levels.
- (5) **Stress Management.** Identifies positive and negative results of stress and appropriate ways of dealing with each.
- (i) **Standard Three objectives for Grade 7.** The following objectives apply for students in Grade 7:
- (1) **Physical Activity Knowledge.** Identifies barriers related to maintaining a physically active lifestyle and seeks solutions for eliminating those barriers.
- (2) **Engages in Physical Activity.**
- (A) **Objective 1.** Participates in physical activity twice a week outside of physical education class.
- (B) **Objective 2.** Participates in a variety of strength and endurance fitness activities (e.g., Pilates, resistance training, body weight training, and light free-weight training).
- (C) **Objective 3.** Participates in a variety of strength and endurance fitness activities, with or

without technology (e.g., weight or resistance training).

(D) **Objective 4.** Participates in a variety of lifetime dual or individual sports, martial arts, or aquatic activities.

(3) **Fitness Knowledge.**

(A) **Objective 1.** Participates in moderate to vigorous muscle- and bone-strengthening physical activity at least three times a week.

(B) **Objective 2.** Distinguishes between health-related and skill-related fitness.

(C) **Objective 3.** Adjusts physical activity based on quantity of exercise needed for a minimal health standard and/or optimal functioning based on current fitness level.

(D) **Objective 4.** Describes and demonstrates the difference between dynamic and static stretches.

(E) **Objective 5.** Describes the role of exercise and nutrition in weight management.

(F) **Objective 6.** Describes the overload principle (FITT formula: frequency, intensity, time, and type) for different types of physical activity, the training principles on which the formula is based, and how the formula and principles affect fitness.

(G) **Objective 7.** Designs a warm-up/cool-down regimen for a self-selected physical activity.

(H) **Objective 8.** Describes how the Borg Rating of Perceived Exertion (RPE) Scale can be used to determine the perception of the work effort or intensity of exercise.

(I) **Objective 9.** Describes how muscles pull on bones to create movement in pairs by relaxing and contracting.

(4) **Assessment and Program Planning.**

(A) **Objective 1.** Designs and implements a program of remediation for two areas of weakness based on the results of health-related fitness assessment.

(B) **Objective 2.** Maintains a physical activity and nutrition log for at least two weeks and reflects on activity levels and nutrition as documented in the log.

(C) **Objective 3.** Develops strategies for balancing healthy food, snacks, and water intake along with daily physical activity.

(5) **Stress Management.** Practices strategies for dealing with stress, such as deep breathing, guided visualization, and aerobic exercise.

(j) **Standard Three objectives for Grade 8.** The following objectives apply for students in Grade 8:

(1) **Physical Activity Knowledge.** Identifies the five components of health-related fitness (muscular strength, muscular endurance, flexibility, cardiovascular endurance, body composition) and explains the connections between fitness and overall physical and mental health.

(2) **Engages in Physical Activity.**

(A) **Objective 1.** Participates in physical activity three times a week outside of physical education class.

(B) **Objective 2.** Participates in physical activity of self-selected aerobic/strength and endurance fitness activities outside of school (e.g., body weight, resistance training, walking, jogging, biking, skating, dance, and swim).

(C) **Objective 3.** Plans, implements, and participates in cross-training to include aerobic, strength, endurance, and flexibility training with or without technology.

(D) **Objective 4.** Participates in a self-selected lifetime sport, dance, aquatic, or outdoor activity outside of the school day.

(3) **Fitness Knowledge.**

(A) **Objective 1.** Participates in moderate to vigorous aerobic and/or muscle- and bone-strengthening physical activity for at least 60 minutes per day at least five times a week.

(B) **Objective 2.** Compares and contrasts health-related fitness components.

(C) **Objective 3.** Uses available technology to self-monitor quantity of exercise needed for a minimal health standard and/or optimal functioning based on current fitness level.

(D) **Objective 4.** Describes, demonstrates, and employs a variety of appropriate static-stretching techniques for all major muscle groups.

(E) **Objective 5.** Describes the role of flexibility in injury prevention.

(F) **Objective 6.** Uses the overload principle (FITT formula: frequency, intensity, time, and type) in preparing a personal workout.

(G) **Objective 7.** Designs and implements a warm-up/cool-down regimen for a self-selected physical activity.

(H) **Objective 8.** Describes how the Borg Rating of Perceived Exertion (RPE) Scale can be used to adjust workout intensity during physical activity.

(I) **Objective 9.** Explains how body systems interact with one another (e.g., blood transports nutrients from the digestive system, oxygen from the respiratory system) during physical activity.

(4) **Assessment and Program Planning.**

(A) **Objective 1.** Designs and implements a program of remediation for three areas of weakness based on the results of health-related fitness assessment.

(B) **Objective 2.** Designs and implements a program to improve levels of health-related fitness and nutrition.

(C) **Objective 3.** Describes the relationship between poor nutrition and health risk factors.

(5) **Stress Management.** Demonstrates basic movements used in other stress-reducing activities, such as yoga and tai chi.

(k) **Standard Three objectives for Grades 9-12.** The following objectives apply for students in Grade 9 through Grade 12:

(1) **Level One.**

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(A) **Physical Activity Knowledge.**

- (i) **Objective 1.** Discusses the benefits of a physically active lifestyle as it relates to college, career, and/or community productivity.
- (ii) **Objective 2.** Evaluates the validity of claims made by commercial products and programs pertaining to fitness and healthy, active lifestyle.
- (iii) **Objective 3.** Identifies issues associated with exercising in heat, humidity, and cold.
- (iv) **Objective 4.** Evaluates activities that can be pursued in the local environment according to their benefits, social support network, and participation requirements.
- (v) **Objective 5.** Evaluates risks and safety factors that might affect physical activity preferences throughout the life cycle.

(B) **Engages in Physical Activity.** Participates several times a week in a self-selected lifetime activity, dance, or fitness activity outside of the school day.

(C) **Fitness Knowledge.**

- (i) **Objective 1.** Demonstrates appropriate technique in resistance-training machines and free weights.
- (ii) **Objective 2.** Relates physiological response to individual levels of fitness and nutritional balance.
- (iii) **Objective 3.** Identifies types of strength exercises (isometric, concentric, eccentric) and stretching exercises (static, dynamic, proprioceptive neuromuscular facilitation (PNF)) for personal fitness development (e.g., strength, endurance, range of motion).
- (iv) **Objective 4.** Calculates target heart rate and applies that information to personal fitness plan.

(D) **Assessment and Program Planning.**

- (i) **Objective 1.** Creates and implements a behavior-modification plan that enhances a healthy, active lifestyle in college or career settings.
- (ii) **Objective 2.** Designs a fitness program, including all components of health-related fitness, for a college student and an employee in the student's chosen field of work.

(E) **Nutrition.** Designs and implements a nutrition plan to maintain an appropriate energy balance for a healthy, active lifestyle.

(F) **Stress Management.** Identifies stress-management strategies (e.g., mental imagery, relaxation techniques, deep breathing, aerobic exercises, meditation) to reduce stress.

(2) **Level Two.**

(A) **Physical Activity Knowledge.**

- (i) **Objective 1.** Investigates the relationships among physical activity, nutrition, and body composition.

(ii) **Objective 2.** Analyzes and applies technology and social media as tools for supporting a healthy, active lifestyle.

(iii) **Objective 3.** Applies rates of perceived exertion and pacing.

(iv) **Objective 4.** Evaluates activities that can be pursued in and outside the local environment according to their benefits, social support network, and participation requirements.

(v) **Objective 5.** Analyzes the impact of life choices, economics, motivation, and accessibility on exercise adherence and participation in physical activity in college or career settings.

(B) **Engages in Physical Activity.** Creates a plan, trains for, and participates in a community event with a focus on physical activity (e.g., 5K, triathlon, tournament, dance performance, cycling event).

(C) **Fitness Knowledge.**

(i) **Objective 1.** Designs and implements a strength and conditioning program that develops balance in opposing muscle groups and supports a healthy, active lifestyle.

(ii) **Objective 2.** Identifies the different energy systems used in a selected physical activity (e.g., adenosine triphosphate and phosphocreatine, anaerobic glycolysis, aerobic).

(iii) **Objective 3.** Identifies the structure of skeletal muscle and fiber types as they relate to muscle development.

(iv) **Objective 4.** Adjusts pacing to keep heart rate in target zone, using available technology to self-monitor aerobic intensity.

(D) **Assessment and Program Planning.**

(i) **Objective 1.** Develops and maintains a fitness portfolio (e.g., assessment scores, goals for improvement, plan of activities for improvement, log of activities being done to reach goals, timeline for improvement).

(ii) **Objective 2.** Analyzes the components of skill-related fitness in relation to life and career goals, and designs an appropriate fitness program for those goals.

(E) **Nutrition.** Creates a snack plan for before, during, and after exercise that addresses nutritional needs for each phase.

(F) **Stress Management.** Applies stress-management strategies (e.g., mental imagery, relaxation techniques, deep breathing, aerobic exercise, meditation) to reduce stress.

210:15-3-168. Standard Four: Responsible Personal and Social Behavior That Respects Self and Others

(a) **Statement of the standard.** Students will exhibit responsible personal and social behavior that respects self and others.

(b) **Standard Four objectives for Grades PreK-K.** The following objectives apply for students in Pre-Kindergarten and Kindergarten:

- (1) **Personal Responsibility.**
 - (A) **Objective 1.** Follows directions in group settings (e.g., safe behaviors, following rules).
 - (B) **Objective 2.** Acknowledges responsibility for behavior when prompted.
- (2) **Accepting Feedback.** Follows instruction/directions when prompted.
- (3) **Working with Others.** Shares equipment and space with others.
- (4) **Rules and Etiquette.** Recognizes the established protocols for class activities.
- (5) **Safety.** Follows teacher directions for safe participation and proper use of equipment with minimal reminders.

(c) **Standard Four objectives for Grade 1.** The following objectives apply for students in Grade 1:

- (1) **Personal Responsibility.**
 - (A) **Objective 1.** Accepts personal responsibility by using equipment and space appropriately.
 - (B) **Objective 2.** Follows the rules and parameters of the learning environment.
- (2) **Accepting Feedback.** Responds appropriately to general feedback from the teacher.
- (3) **Working with Others.** Works independently with others in a variety of class environments (e.g., small and large groups).
- (4) **Rules and Etiquette.** Exhibits the established protocols for class activities.
- (5) **Safety.** Follows teacher directions for safe participation and proper use of equipment without teacher reminders.

(d) **Standard Four objectives for Grade 2.** The following objectives apply for students in Grade 2:

- (1) **Personal Responsibility.**
 - (A) **Objective 1.** Practices skills with minimal teacher prompting.
 - (B) **Objective 2.** Accepts responsibility for class protocols with behavior and performance actions.
- (2) **Accepting Feedback.** Accepts specific corrective feedback from the teacher.
- (3) **Working with Others.** Works independently with others in partner environments without regard to differences.
- (4) **Rules and Etiquette.** Recognizes the role of rules and etiquette in teacher designed physical activities.
- (5) **Safety.** Works independently and safely in physical education. Works safely with physical education equipment.

(e) **Standard Four objectives for Grade 3.** The following objectives apply for students in Grade 3:

- (1) **Personal Responsibility.**
 - (A) **Objective 1.** Exhibits personal responsibility in teacher directed activities.
 - (B) **Objective 2.** Works independently for extended periods of time.

(2) **Accepting Feedback.** Accepts and implements specific corrective feedback from the teacher.

(3) **Working with Others.** Works cooperatively with others. Praises others for their success in movement performance.

(4) **Rules and Etiquette.** Recognizes the role of rules and etiquette in physical activity with peers.

(5) **Safety.** Works independently and safely in physical activity settings.

(f) **Standard Four objectives for Grade 4.** The following objectives apply for students in Grade 4:

(1) **Personal Responsibility.**

(A) **Objective 1.** Exhibits responsible behavior in independent group situations.

(B) **Objective 2.** Reflects on personal social behavior in physical activity.

(2) **Accepting Feedback.** Listens respectfully to corrective feedback from others (e.g., peers, adults).

(3) **Working with Others.** Praises the movement performances of others both more and less skilled. Accepts players of all skill levels into the physical activity.

(4) **Rules and Etiquette.** Exhibits etiquette and adherence to rules in a variety of physical activities.

(5) **Safety.** Works safely with peers and equipment in physical activity settings.

(g) **Standard Four objectives for Grade 5.** The following objectives apply for students in Grade 5:

(1) **Personal Responsibility.**

(A) **Objective 1.** Engages in physical activity with responsible interpersonal behavior (e.g., peer to peer, student to teacher, student to referee).

(B) **Objective 2.** Participates with responsible personal behavior in a variety of physical activity contexts, environments, and facilities. Exhibits respect for self with appropriate behavior while engaging in physical activity.

(2) **Accepting Feedback.** Gives and receives peer feedback.

(3) **Working with Others.** Accepts, recognizes, and actively involves others with both higher and lower skill abilities into physical activities and group projects.

(4) **Rules and Etiquette.** Critiques the etiquette involved in rules of various game activities.

(5) **Safety.** Applies safety principles with age-appropriate physical activities.

(h) **Standard Four objectives for Grade 6.** The following objectives apply for students in Grade 6:

(1) **Personal Responsibility.**

(A) **Objective 1.** Exhibits personal responsibility by using appropriate etiquette, demonstrating respect for facilities, and exhibiting safe behaviors.

(B) **Objective 2.** Identifies and uses appropriate strategies to self-reinforce positive fitness behaviors, such as positive self-talk.

(2) **Accepting/Providing Feedback.** Demonstrates self-responsibility by implementing specific corrective feedback to improve performance.

(3) **Working with Others.**

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- (A) **Objective 1.** Accepts differences among classmates in physical development, maturation, and varying skill levels by providing encouragement and positive feedback.
- (B) **Objective 2.** Cooperates with a small group of classmates during adventure activities, game play, or team-building activities.
- (4) **Rules and Etiquette.** Identifies the rules and etiquette for physical activities, games, and dance activities.
- (5) **Safety.** Uses physical activity and fitness equipment appropriately and safely, with the teacher's guidance.
- (i) **Standard Four objectives for Grade 7.** The following objectives apply for students in Grade 7:
- (1) **Personal Responsibility.**
- (A) **Objective 1.** Exhibits responsible social behaviors by cooperating with classmates, demonstrating inclusive behaviors, and supporting classmates.
- (B) **Objective 2.** Demonstrates both intrinsic and extrinsic motivation by selecting opportunities to participate in physical activity outside of class.
- (2) **Accepting/Providing Feedback.** Provides corrective feedback to a peer using teacher-generated guidelines and incorporating appropriate tone and other communication skills.
- (3) **Working with Others.**
- (A) **Objective 1.** Demonstrates cooperation skills by establishing rules and guidelines for resolving conflicts.
- (B) **Objective 2.** Problem solves with a small group of classmates during adventure activities, small-group initiatives, or game play.
- (4) **Rules and Etiquette.** Demonstrates knowledge of rules and etiquette by self-officiating modified physical activities and games or following parameters to create or modify a dance.
- (5) **Safety.** Independently uses physical activity and exercise equipment appropriately and safely.
- (j) **Standard Four objectives for Grade 8.** The following objectives apply for students in Grade 8:
- (1) **Personal Responsibility.**
- (A) **Objective 1.** Accepts responsibility for improving one's own levels of physical activity, fitness, and emotional and social well-being.
- (B) **Objective 2.** Uses effective self-monitoring skills to incorporate opportunities for physical activity in and outside of school.
- (2) **Accepting/Providing Feedback.** Provides encouragement and feedback to peers without prompting from the teacher.
- (3) **Working with Others.**
- (A) **Objective 1.** Responds appropriately to participants' ethical and unethical behavior during physical activity by using rules and guidelines for resolving conflicts.
- (B) **Objective 2.** Cooperates with multiple classmates on problem-solving initiatives, including adventure activities, large-group initiatives, and game play.
- (4) **Rules and Etiquette.** Applies rules and etiquette by acting as an official for modified physical activities or games, and/or by creating dance routines within a given set of parameters.
- (5) **Safety.** Independently uses physical activity and fitness equipment appropriately and identifies specific safety concerns associated with the activity.
- (k) **Standard Four objectives for Grades 9-12.** The following objectives apply for students in Grade 9 through Grade 12:
- (1) **Level One.**
- (A) **Personal Responsibility.** Employs effective self-management skills to analyze barriers and modify physical activity patterns appropriately as needed.
- (B) **Rules and Etiquette.** Exhibits proper etiquette, respect for others, and teamwork while engaging in physical activity and/or social dance.
- (C) **Working with Others.**
- (i) **Objective 1.** Uses communication skills and strategies that promote team or group dynamics.
- (ii) **Objective 2.** Solves problems and thinks critically in physical activity and/or dance settings, both as an individual and in groups.
- (D) **Safety.** Understands best practices for participating safely in physical activity, exercise, and dance (e.g., injury prevention, aquatics, proper alignment, hydration, use of equipment, implementation of rules, sun protection).
- (2) **Level Two.**
- (A) **Personal Responsibility.** Accepts differences between personal characteristics and the idealized body images and elite performance levels portrayed in various media.
- (B) **Rules and Etiquette.** Examines moral and ethical conduct in specific competitive situations (e.g., intentional fouls, performance-enhancing substances, gambling, current events in sport).
- (C) **Working with Others.**
- (i) **Objective 1.** Assumes a leadership role (e.g., task or group leader, referee, coach) in a physical activity setting.
- (ii) **Objective 2.** Accepts others' ideas about cultural diversity and body types by engaging in cooperative and collaborative movement projects.
- (D) **Safety.** Applies best practices for participating safely in physical activity, exercise, and dance (e.g., injury prevention, aquatics, proper alignment, hydration, use of equipment, implementation of rules, sun protection).
- 210:15-3-169. Standard Five: Value of Physical Activity for Health, Enjoyment, Challenge, Self-Expression, and Social Interaction**
- (a) **Statement of the standard.** Students will recognize the value of physical activity for health, enjoyment, challenge, self-expression, and social interaction.

(b) **Standard Five objectives for Grades PreK-K.** The following objectives apply for students in Pre-Kindergarten and Kindergarten:

- (1) **Health.** Recognizes that physical activity is important for good health.
- (2) **Challenge.** Acknowledges that some physical activities are challenging/difficult.
- (3) **Self-Expression and Enjoyment.**
 - (A) **Objective 1.** Identifies physical activities that are enjoyable. Discusses the enjoyment of playing with friends.
 - (B) **Objective 2.** Demonstrates socially acceptable conflict resolution skills.

(c) **Standard Five objectives for Grade 1.** The following objectives apply for students in Grade 1:

- (1) **Health.** Identifies physical activity as a component of good health.
- (2) **Challenge.** Recognizes that challenge in physical activities can lead to success.
- (3) **Self-Expression and Enjoyment.**
 - (A) **Objective 1.** Describes positive feelings that result from participating in physical activities. Discusses personal reasons for enjoying physical activities.
 - (B) **Objective 2.** Demonstrates socially acceptable conflict resolution skills.

(d) **Standard Five objectives for Grade 2.** The following objectives apply for students in Grade 2:

- (1) **Health.** Recognizes the value of "good health balance".
- (2) **Challenge.** Compares physical activities that bring confidence and challenge.
- (3) **Self-Expression and Enjoyment.**
 - (A) **Objective 1.** Identifies and discusses physical activities that provide enjoyment and self-expression (e.g., dance, gymnastics routines, practice tasks in game environments).
 - (B) **Objective 2.** Demonstrates socially acceptable conflict resolution skills.

(e) **Standard Five objectives for Grade 3.** The following objectives apply for students in Grade 3:

- (1) **Health.** Discusses the relationship between physical activity and good health.
- (2) **Challenge.** Discusses the challenge that comes from learning a new physical activity.
- (3) **Self-Expression and Enjoyment.**
 - (A) **Objective 1.** Reflects on the reasons for enjoying selected physical activities.
 - (B) **Objective 2.** Describes the positive social interactions that come when engaging with others in physical activity.

(f) **Standard Five objectives for Grade 4.** The following objectives apply for students in Grade 4:

- (1) **Health.** Examines the health benefits of participating in physical activity.
- (2) **Challenge.** Rates the enjoyment of participating in challenging and mastered physical activities.

(3) **Self-Expression and Enjoyment.**

- (A) **Objective 1.** Ranks the enjoyment of participating in different physical activities.
- (B) **Objective 2.** Describes and compares the positive social interactions that come when engaged in partner, small group, and large group physical activities.

(g) **Standard Five objectives for Grade 5.** The following objectives apply for students in Grade 5:

- (1) **Health.** Compares the health benefits of participating in selected physical activities.
- (2) **Challenge.** Expresses (e.g., written essay, visual art, creative dance) the enjoyment and/or challenge of participating in a favorite physical activity.
- (3) **Self-Expression and Enjoyment.**
 - (A) **Objective 1.** Analyzes different physical activities for enjoyment and challenge, identifying reasons for a positive or negative response.
 - (B) **Objective 2.** Analyzes the positive impact of verbal and non-verbal encouragement in physical activity.

(h) **Standard Five objectives for Grade 6.** The following objectives apply for students in Grade 6:

- (1) **Health.**
 - (A) **Objective 1.** Describes how being physically active leads to a healthy body.
 - (B) **Objective 2.** Identifies components of physical activity that provide opportunities for reducing stress and for social interaction.
- (2) **Challenge.** Recognizes individual challenges and copes in a positive way, such as: extending effort, asking for help and/or feedback, or modifying the tasks.
- (3) **Self-Expression and Enjoyment.**
 - (A) **Objective 1.** Describes how moving competently in a physical activity setting creates enjoyment.
 - (B) **Objective 2.** Identifies how self-expression and physical activity are related.
- (4) **Social Interaction.** Demonstrates respect for self and others in activities and games by following the rules, encouraging others, and playing in the spirit of the game or activity.

(i) **Standard Five objectives for Grade 7.** The following objectives apply for students in Grade 7:

- (1) **Health.**
 - (A) **Objective 1.** Identifies different types of physical activities and describes how each exerts a positive impact on health.
 - (B) **Objective 2.** Identifies positive mental and emotional aspects of participating in a variety of physical activities.
- (2) **Challenge.** Generates positive strategies when faced with a group challenge, such as: offering suggestions or assistance, leading or following others, and providing solutions.
- (3) **Self-Expression and Enjoyment.**
 - (A) **Objective 1.** Identifies why self-selected physical activities create enjoyment.

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- (B) **Objective 2.** Explains the relationship between self-expression and lifelong enjoyment through physical activity.
- (4) **Social Interaction.** Demonstrates the importance of social interaction by helping and encouraging others, avoiding trash talk, and providing support to classmates.
- (j) **Standard Five objectives for Grade 8.** The following objectives apply for students in Grade 8:
- (1) **Health.**
- (A) **Objective 1.** Identifies the five components of health-related fitness (muscular strength, muscular endurance, flexibility, cardiovascular endurance, and body composition) and explains the connections between fitness and overall physical and mental health.
- (B) **Objective 2.** Analyzes the empowering consequences of being physically active.
- (2) **Challenge.** Develops a plan of action and makes appropriate decisions based on that plan when faced with an individual challenge.
- (3) **Self-Expression and Enjoyment.**
- (A) **Objective 1.** Discusses how enjoyment could be increased in self-selected physical activities.
- (B) **Objective 2.** Identifies and participates in an enjoyable activity that prompts individual self-expression.
- (4) **Social Interaction.** Demonstrates respect for self by asking for help and helping others in various physical activities.
- (k) **Standard Five objectives for Grades 9-12.** The following objectives apply for students in Grade 9 through Grade 12:
- (1) **Level One.**
- (A) **Health.** Analyzes the health benefits of a self-selected physical activity.
- (B) **Challenge.** Chooses an appropriate level of challenge in a self-selected activity.
- (C) **Self-Expression and Enjoyment.** Selects and participates in physical activities or dance that meets the need for self-expression and enjoyment.
- (D) **Social Interaction.** Identifies the opportunity for social support in a self-selected physical activity or dance.
- (2) **Level Two.**
- (A) **Health.** Analyzes the health benefits of more than one self-selected physical activity.
- (B) **Challenge.** Chooses an appropriate level of challenge to experience success and desire to participate in a self-selected physical activity.
- (C) **Self-Expression and Enjoyment.** Identifies the uniqueness of creative dance as a means of self-expression.
- (D) **Social Interaction.** Evaluates the opportunity for social interaction and social support in a self-selected physical activity or dance.

[OAR Docket #16-728; filed 8-5-16]

TITLE 230. STATE ELECTION BOARD CHAPTER 10. THE COUNTY ELECTION BOARD

[OAR Docket #16-696]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 3. Election Personnel

Part 1. County Election Board Members and Employees

230:10-3-10. Compensation claims for the Chairman and Vice Chairman [AMENDED]

Subchapter 7. General Administration of the County Election Board

Part 9. Finances

230:10-7-74. Pre-Election Expense Claim [AMENDED]

230:10-7-76. Special Depository Account [AMENDED]

230:10-7-82. Expenses paid through Special Depository Account [AMENDED]

230:10-7-83. Reimbursement to County General Fund [AMENDED]

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Title 26 O.S., Section 2-107; Secretary of the State Election Board.

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n/a

INCORPORATIONS BY REFERENCE:

n/a

ANALYSIS:

The amendments in Subchapter 3 of Chapter 10 are based on advice from the State Auditor and Inspector and from the Internal Revenue Service. FICA must be withheld from all compensation paid to County Election Board members and to part-time, election night help in the County Election Board office. For all elections not held in conjunction with a federal or state election, FICA must be paid through a County Election Board budget account by the County Clerk.

An amendment in Part 9 of Subchapter 7 is the result of a change in the procedure to process some fees, all of which are required by statute, paid by candidates for county offices. Other amendments concern changes in procedures for paying and reimbursing funds for compensation of County Election Board members, Precinct Officials, and Absentee Voting Board members.

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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, 2016:

SUBCHAPTER 3. ELECTION PERSONNEL

PART 1. COUNTY ELECTION BOARD MEMBERS AND EMPLOYEES

230:10-3-10. Compensation claims for the Chairman and Vice Chairman

(a) Claims for compensation owed by the State Election Board must be filed on the County Board Member Claim forms provided by the State Election Board. Such claims shall be prepared by the County Election Board Secretary and filed promptly.

(b) In the event a meeting is held specifically to transact business for another governmental entity, such as a school district or a municipality, the entire cost of the meeting shall be paid by that entity. If more than one entity is involved in a meeting, the cost of the meeting shall be prorated among the entities that benefit from the meeting. For example, if five school districts are involved, the \$35 paid to each Board member is prorated among the districts so that each will pay \$7 plus one-fifth of the mileage reimbursement. The entity's share of the Board meeting will be included in the Record of Expense submitted to the entity following the election.

(c) When a school district election is held on the same day as a county election, the county pays all the cost of the County Election Board meeting to certify the election. However, if another entity such as a municipality also holds an election on the same day as the county and school district elections, the cost of the County Election Board meeting is divided equally between the county and the other entity and the school district pays nothing.

(d) All compensation owed to County Election Board members for meetings held for a county election that does not coincide with a state election, for which compensation is paid by the State Election Board, shall be paid by the County Clerk from a County Election Board budget account and FICA shall be withheld. Mileage reimbursement for County Election Board members may be paid either through a budget account by the County Clerk or through the Special Depository Account by the County Election Board Secretary.

SUBCHAPTER 7. GENERAL ADMINISTRATION OF THE COUNTY ELECTION BOARD

PART 9. FINANCES

230:10-7-74. Pre-Election Expense Claim

Not less than 35 days prior to an election to be conducted by the County Election Board, the Secretary of the County Election Board shall submit to the entity authorizing the election a Pre-Election Expense Claim which shall consist of an estimate of the amount of compensation for Precinct Officials, Absentee Voting Board members, and special-purpose precinct workers for the upcoming election. [26:3-105.1(A)] The estimate of compensation shall be accompanied with an estimate of the amount of the Inspector's mileage, the amount of mileage for Precinct Officials who are assigned to polling places ten miles or more from their homes if their mileage is known at the

time the Pre-Election Expense Claim is prepared, mileage for any Absentee Voting Board member who travels ten miles or more from home to the County Election Board office to report for duty, and the amount of mileage for a round trip from the County Election Board office to the nursing home or homes for one member of each nursing home Absentee Voting Board. The appropriate Pre-Election Expense Claim report in OEMS from MESA shall be used to submit these estimates to the entity authorizing the election. See 230:35-3-29 through 230:35-3-49.

230:10-7-76. Special Depository Account

The County Election Board must use a County Election Board Special Depository Account for receipt and disbursement of monies received by the Board. [26:3-108] The Special Depository Account is operated through the County Treasurer's office. It is used to receive funds such as filing fees, deposits for contests of candidacy, deposits for contests of election, funds for compensation of Precinct Officials, payments for school elections and payments for municipal elections. Deposits shall be made daily as funds are received, and disbursements shall be made as soon as legally possible. Any balance continuing in the Special Depository Account after all appropriate disbursements have been made shall only be from forfeited filing fees or from processing fees received for County Campaign Committee Statements of Organization only. The County Election Board Secretary shall be authorized to make expenditures from the amount of forfeited filing fees and processing fees in the Special Depository Account for any lawful purpose. [26:3-108]

230:10-7-82. Expenses paid through Special Depository Account

For statewide elections, the state's and the county's share of compensation for Precinct Officials, the Absentee Voting Boards, and special-purpose precinct workers are paid through the Special Depository Account. All other expenses are handled by submitting purchase orders to the County Clerk. The purchase orders are expenses then may be paid by the County Clerk with warrants drawn on the County Election Board's budget account or on another county account or they may be paid from the Special Depository Account after appropriate funds have been deposited there in payment of the purchase orders. For special county elections, only compensation for Precinct Officials, Absentee Voting Board members, and special purpose precinct workers are paid through the Special Depository Account. All other expenses for compensation and mileage reimbursements paid in connection with regular or special county elections not held in conjunction with a federal or state election for County Election Board members, for overtime and mileage reimbursement for County Election Board employees, and compensation for part-time help, are paid by submitting purchase orders to the County Clerk. For school district and municipal elections, all warrants received from the entities are deposited in the Special Depository Account and vouchers are written to pay all expenses incurred in the election. However, all compensation and mileage reimbursement

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in connection with a regular or special school, municipal, or other election paid to County Election Board members; overtime compensation and/or mileage reimbursement for County Election Board personnel; and compensation for part-time help shall be paid through a County Election Board budget account by the County Clerk and FICA and any other applicable taxes shall be withheld from such compensation.

230:10-7-83. Reimbursement to County General Fund

At the end of each month, all fees received from school districts and municipalities for postage, telephone or other budget item expenses incurred by the entity in an election shall be reimbursed to the County General Fund. Funds received from school districts, municipalities, and any other entities for County Election Board member compensation, part-time help, and overtime compensation and mileage reimbursement for County Election Board employees shall be reimbursed to the County General Fund as outlined in 230:10-7-132. Such ~~overtime~~ reimbursements shall be made immediately upon receipt of the funds from the entity. All fees collected for copying documents shall be reimbursed to the County General Fund. The Secretary shall issue a voucher from the Special Depository Account to the County Treasurer in the appropriate amount.

[OAR Docket #16-696; filed 7-8-16]

TITLE 230. STATE ELECTION BOARD CHAPTER 15. VOTER REGISTRATION

[OAR Docket #16-697]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

- Subchapter 5. Application for Voter Registration
- Part 23. Voter Registration Application Services in Motor License Agencies
- 230:15-5-100. Voter registration application services required in motor license agency [AMENDED]
- 230:15-5-101. Training for motor license agency personnel [AMENDED]
- 230:15-5-102. Procedure for active voter registration application services in motor license agency [AMENDED]
- 230:15-5-103. Passive voter registration services in motor license agency [AMENDED]
- 230:15-5-104. Motor license agency personnel responding to questions and/or requests for information about voter registration or election conduct [AMENDED]
- 230:15-5-106. Responsibility for Voter Registration Statements received in motor license agency [AMENDED]
- 230:15-5-107. Source coding and dating completed applications received by motor license agency [AMENDED]
- 230:15-5-108. Transmitting completed Oklahoma Voter Registration Application forms from motor license agency to the State Election Board [AMENDED]
- 230:15-5-109. Forms and supplies for voter registration application services in motor license agency [AMENDED]
- 230:15-5-110. Payment of motor license agents [AMENDED]
- Part 25. Voter Registration Application Services in Voter Registration Agencies
- 230:15-5-121. Types of voter registration application services provided in voter registration agencies [AMENDED]
- 230:15-5-122. Mandatory voter registration agencies identified [AMENDED]

- 230:15-5-124. Passive voter registration application services in voter registration agency [AMENDED]
- 230:15-5-125. Active voter registration application services in voter registration agency [AMENDED]
- 230:15-5-126. Voter registration agency personnel responding to questions and/or requests for information about voter registration or election conduct [AMENDED]
- 230:15-5-127. Hours for voter registration application services in voter registration agency [AMENDED]
- 230:15-5-128. Prohibitions [AMENDED]
- 230:15-5-129. Responsibility for Voter Registration Statements received by voter registration agency [AMENDED]
- 230:15-5-130. ~~Source coding and dating~~ Dating completed applications received by voter registration agency [AMENDED]
- 230:15-5-131. Transmitting completed Oklahoma Voter Registration Application forms from voter registration agency to State Election Board [AMENDED]
- 230:15-5-132. Forms and supplies for voter registration services in voter registration agency [AMENDED]
- Subchapter 11. Voter Registration List Maintenance
- Part 1. Cancellation of Voter Registration
- 230:15-11-4. Processing cancellations of registration [AMENDED]
- 230:15-11-5. Potential Deletion Report [AMENDED]
- 230:15-11-6.1. Cancellation of registration of deceased voter upon notice of nursing home administrator, veteran center administrator, or licensed funeral director [AMENDED]
- 230:15-11-10. Statewide cancellation of true duplicate registrations [AMENDED]
- Part 3. Voter Registration Address Confirmation
- 230:15-11-19. Voter registration address confirmation mailing [AMENDED]
- 230:15-11-20. Processing address confirmation ~~notices~~ notice cards returned undelivered by Postal Service [AMENDED]
- 230:15-11-21. Processing address confirmation cards returned by voter with no change of address [AMENDED]
- 230:15-11-22. Processing address confirmation return cards with change of address in the county [AMENDED]
- 230:15-11-23. Processing address confirmation return cards that indicate a name change [AMENDED]
- 230:15-11-26. Designation of inactive voters [AMENDED]

AUTHORITY:

Title 26 O.S., Section 2-107; Secretary of the State Election Board.

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SUPERSEDED EMERGENCY ACTIONS:

Superseded rules:

- Subchapter 5. Application for Voter Registration
- Part 23. Voter Registration Application Services in Motor License Agencies
- 230:15-5-100 [AMENDED]
- 230:15-5-101 [AMENDED]
- 230:15-5-102 [AMENDED]
- 230:15-5-103 [AMENDED]
- 230:15-5-104 [AMENDED]
- 230:15-5-106 [AMENDED]
- 230:15-5-107 [AMENDED]
- 230:15-5-108 [AMENDED]
- 230:15-5-109 [AMENDED]

- 230:15-5-110 [AMENDED]
- Part 25. Voter Registration Application Services in Voter Registration Agencies
- 230:15-5-121 [AMENDED]
- 230:15-5-122 [AMENDED]
- 230:15-5-124 [AMENDED]
- 230:15-5-125 [AMENDED]
- 230:15-5-126 [AMENDED]
- 230:15-5-127 [AMENDED]
- 230:15-5-128 [AMENDED]
- 230:15-5-129 [AMENDED]
- 230:15-5-130 [AMENDED]
- 230:15-5-131 [AMENDED]
- 230:15-5-132 [AMENDED]

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n/a

ANALYSIS:

Two of the most significant provisions of the National Voter Registration Act are the "motor voter" and the "agency-based" voter registration services described in Sections 5 and 7 of the Act. "Motor voter" (Section 5) refers to the simultaneous application for or renewing of a driver license and for voter registration. The law requires that any person applying for or renewing a driver license or appearing in person to change address on a driver license must be offered the opportunity to apply for voter registration. "Agency-based" refers to the requirement that state agencies providing public assistance and agencies providing state-funded programs primarily engaged in services to persons with disabilities offer the opportunity to apply for voter registration when applying for, renewing, or re-certifying an application or when changing address on an existing application for services from such agency.

The amendments in Parts 23 and 25 are the result of a change in the language included on the Voter Registration Statement form. The Voter Registration Statement form is the formal offer of voter registration application services in all agencies required to provide voter registration application services. The change specifies that in the event a person leaves the Voter Registration Statement blank or refuses to sign the Statement, the agency employee must give the person an Oklahoma Voter Registration Application form to take home.

Other amendments are necessary to clarify the procedures for processing voter registration applications received in these agencies - for example, appropriately coding and dating the applications and preparing them to be sent by mail to the State Election Board at the close of business each week - and for the agencies to receive new supplies of the materials necessary to provide voter registration application services as required by law.

The amendments in Part 1 of Subchapter 11 are necessary to implement provisions from SB 114 that allow the State Election Board to utilize the National Change of Address and Social Security Administration death records. Other amendments reflect changes in the name of a form. As a cost-saving measure, three different forms for the cancellation of the registration of deceased voters have been combined.

Other amendments are necessary to update match criteria for true duplicate voter registrations, to authorize State Election Board staff to restore voter records if a match was made in error, and to exclude the voter from future deletion as a true duplicate due to the same erroneous match.

Amendments and/or revocations to Part 3 of Subchapter 11 are necessary to incorporate new sources of data, as authorized by SB 114, that may be used for address confirmation notices, including the National Change of Address data and to authorize the State Election Board to receive data from the United States Postal Service by electronic means for forwarded and for undeliverable confirmation notice cards.

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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, 2016:

SUBCHAPTER 5. APPLICATION FOR VOTER REGISTRATION

PART 23. VOTER REGISTRATION APPLICATION SERVICES IN MOTOR LICENSE AGENCIES

230:15-5-100. Voter registration application services required in motor license agency

(a) **Voter registration application services required.** ~~Motor~~ Both federal and state law require motor license agency personnel ~~shall be required to~~ offer the opportunity to apply for voter registration to each person who applies for or renews an Oklahoma ~~driver's~~ driver license or a state identification card. Motor license agency personnel also shall be required to offer the opportunity to apply for voter registration change of address to each person who appears in person at the agency to change ~~his or her the~~ address on an Oklahoma ~~driver's~~ driver license or state identification card.

(b) **Active voter registration application services required.** Motor license agency personnel shall be required to provide active voter registration application services to the persons identified in (a) of this Section. ~~Active voter registration application services are authorized only as outlined in (a).~~ Active voter registration application services shall be provided according to the procedure established in 230:15-5-102. Active voter registration application services shall not be required in motor license agencies that do not issue or renew driver licenses or state identification cards.

(c) **Passive voter registration application services available.** Passive voter registration application services shall be available to persons who conduct any business transactions other than those listed in (a) of this Section ~~at the in any motor license agency other than those identified in (a) of this Section.~~ Passive voter registration application services also shall be available to persons who transact no motor license agency business but who request voter registration application services. Passive voter registration application services shall be available in motor license agencies that do not issue or renew driver licenses or state identification cards. See 230:15-5-103.

230:15-5-101. Training for motor license agency personnel

All motor license agency personnel shall receive training prior to offering active voter registration application services. The training shall be prescribed by the Secretary of the State Election Board. It shall be the responsibility of each motor license agent to ensure that all employees are trained to provide voter registration application services as required by law.

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230:15-5-102. Procedure for active voter registration application services in motor license agency

(a) **Procedure for active voter registration application services in motor license agency.** Motor license agency personnel shall use the following procedure to offer the opportunity to apply to register to vote or to change voter registration to each person who ~~applies~~ appears in person to apply for or renews to renew an Oklahoma driver's ~~driver~~ license or state identification card ~~or and to each person who changes his or her~~ appears in person to change the address on an Oklahoma driver's driver license or state identification card ~~by appearing in person.~~

(1) Ask the applicant to read the Voter Registration Statement. ~~Tell the applicant that if he or she is already registered, it is not necessary to re-register except to change name, address or political affiliation.~~

(2) Ask the applicant to print ~~his or her~~ the applicant's name on at the top of the Voter Registration Statement and to write today's date. ~~Ask the applicant to check either "yes" or "no" and to sign the statement.~~

(3) ~~If the applicant checks "yes", keep the Voter Registration Statement and proceed to step 4. If the applicant checks "no", keep the Voter Registration Statement and proceed with the agency's business.~~

(4) ~~Give the applicant an Oklahoma Voter Registration Application form.~~

(5) ~~Tell the applicant to read the Oath on the form to determine whether he or she is eligible to register to vote in Oklahoma.~~

(6) ~~Tell the applicant to read the instructions and to fill out the form.~~

(7) ~~Tell the applicant to read "Important Information" on the back of the form.~~

(8) ~~Tell the applicant to return the completed application to you.~~

(9) ~~Look at the application when the applicant returns it to see that it is completely filled out. If there seems to be an omission, show it to the applicant. Only the applicant may decide to change the application.~~

(10) ~~Keep the completed Oklahoma Voter Registration Application and proceed with the agency's business.~~

(3) Ask the applicant to check YES or NO and to sign and date the statement.

(A) If the applicant checks YES, keep the Voter Registration Statement and proceed to step (4) of this subsection.

(B) If the applicant checks NO, keep the Voter Registration Statement and file it as directed. Proceed with the motor license agency's business.

(C) If the applicant either leaves the Voter Registration Statement blank or refuses to fill it out, give the applicant an Oklahoma Voter Registration Application to take home. If the applicant refuses the application form, note the refusal on the Voter Registration Statement. Print the applicant's name and the date on

the Voter Registration Statement form and file it as directed. Proceed with the motor license agency's business.

(4) Give the applicant an Oklahoma Voter Registration Application form and tell the applicant to read the Oath to determine whether the applicant is eligible to register to vote.

(5) Tell the applicant to read the Important Information and the Instructions pages of the form.

(6) If the applicant asks for help to fill out the form, help the applicant in the same way you would help any applicant fill out a motor license agency form.

(7) Take the executed form back from the applicant.

(8) Verify that the applicant signed the form and wrote today's date. Verify that the applicant provided either the applicant's Oklahoma driver license number or the last four digits of the applicant's Social Security number in the appropriate space on the form.

(9) If it appears that any information is omitted, show the omission to the applicant. Tell the applicant that omitting the information may cause the application to be rejected. Only the applicant may add to or change the form.

(10) File the completed and signed Voter Registration Statement as directed.

(11) Secure the completed voter registration application form in the appropriate location and proceed with the motor license agency's business.

(b) ~~**Assistance to Applicants.** If the applicant indicates that he or she desires assistance to complete the Oklahoma Voter Registration Application form, motor license agency personnel shall provide the same degree of assistance provided to complete the agency's own forms. A motor license agency employee who assists an applicant to complete the Oklahoma Voter Registration Application form shall write his or her own name and the address of the motor license agency in the shaded area marked "Office Use Only" on the instructions portion of the application form. In the event that the applicant is unable personally to sign or make a mark on the application form, the procedure outlined in 230:15-5-36(c) shall be observed.~~

(e) **Confidential Information.** Information related to a declination to register to vote or to the identity of the agency at which any person applied to register to vote shall not be used for any purpose other than voter registration. The identity and location of the motor license agency at which a person registered or declined to register to vote shall not be disclosed to the public. Motor license agency personnel shall not write or stamp any information that could identify the agency outside the shaded area labeled "VRA/MLA Office Use Only" at the top of the form. Agency personnel shall record the motor license agent's Oklahoma Tax Commission identification number in the space provided for it on each voter registration application received through active or passive registration services. Completed voter registration applications shall be kept confidential while in the possession of motor license agency personnel.

230:15-5-103. Passive voter registration application services in motor license agency

(a) Motor license agency personnel shall provide an Oklahoma Voter Registration Application form to any person who requests one while conducting any ~~other type of~~ business transaction in the agency ~~other~~ than those described in 230:15-5-100. Motor license agency personnel also shall provide an Oklahoma Voter Registration Application form to any person who requests one even if the person does not conduct ~~any a~~ business transaction with the motor license agency.

(b) Motor license agency personnel shall accept application forms completed in the agency as a result of passive voter registration application services for transmittal to the State Election Board. The Voter Registration Statement form shall not be ~~used~~ required in connection with passive voter registration application services.

(c) Motor license agency personnel shall not be authorized to provide any group or individual with ~~quantities of~~ voter registration application forms for ~~use or distribution outside the agency~~ voter registration drives or other activities. Motor license agency personnel shall refer all persons who request ~~quantities of~~ forms for voter registration drives or other activities to the local County Election Board office or to the State Election Board. Motor license agency personnel shall ~~not be~~ authorized but shall not be required to accept completed voter registration application forms that originated outside the motor license agency for transmittal to the State Election Board. If such forms are accepted, however, agency personnel shall ensure that the forms are stamped with a received date and sent to the State Election Board as outlined in 230:15-5-107 and 230:15-5-108. However, the agency ID number shall not be entered on such forms and the motor license agent shall not be eligible to receive compensation as outlined in 230:15-5-110. Motor license agency personnel shall refer ~~may~~ direct persons with quantities of completed voter registration application forms to the local County Election Board office or to the State Election Board for appropriate instructions.

(d) Motor license agencies have no authority to accept absentee ballots from voters or to transmit absentee ballots to the State Election Board in a pre-addressed, postage-paid business reply envelope provided to the agency for voter registration applications.

230:15-5-104. Motor license agency personnel responding to questions and/or requests for information about voter registration or election conduct

Motor license agency personnel shall not answer questions or provide information concerning voter registration or election conduct unless the answer or information is contained in the written materials supplied by the State Election Board. Applicants who have questions that cannot be answered by motor license agency personnel shall be referred to the office of the local County Election Board, to the State Election Board, or to the State Election ~~Board~~ Board's website: www.elections.ok.gov. Motor license agency personnel shall not attempt to explain or to amplify the information contained in the written materials supplied by the State Election Board.

230:15-5-106. Responsibility for Voter Registration Statements received in motor license agency

(a) **Retention of Voter Registration Statements.** Completed Voter Registration Statements shall be retained by the motor license agency for 24 months from the date of application. [26:4-109.3] Procedures for retention and disposal of Voter Registration Statements shall be established by each motor license agent. However, each motor license agent shall ensure that Voter Registration Statements are filed and retained so that an individual applicant's statement can be located and provided to state or county election officials in a timely manner if the statement is needed to determine an individual's eligibility to vote in an election.

(b) **Custody of Voter Registration Statements when motor license agent changes or agency ceases to exist.** In the event of a change in motor license agent or in the event that a motor license agency ceases to exist, completed Voter Registration Statements shall be transferred to the designated representative of the Oklahoma Department of Public Safety who shall be responsible for retaining the statements in accordance with state and federal law and for making such statements available to state or county election officials in a timely manner if they are needed to determine an individual's eligibility to vote in an election.

230:15-5-107. Source coding and dating completed applications received by motor license agency

The motor license agent shall ensure that ~~both the motor license agency's source code and the date a voter registration application date are stamped or written in the space marked "(For Office Use Only) Agency Stamp" on each completed Oklahoma Voter Registration Application received as a part of~~ is received through either active voter registration application services described in 230:15-5-100-230:15-5-102 or through passive voter registration application services described in 230:15-5-103 is written or stamped in the shaded area labeled "VRA/MLA Office Use Only" at the top of the form. The identification number assigned to the motor license agency source code shall be the motor license agency number assigned by the Oklahoma Tax Commission also shall be written or stamped on each form in the space provided. ~~The application date shall be the date the applicant completed and submitted the application. The source code and application date shall be recorded on each completed voter registration application form by motor license agency personnel prior to transmittal of the application to the State Election Board. The source code shall not be recorded on the registration card portion of the application form. Agency personnel shall ensure that no information that could identify the agency is written or stamped outside the shaded area provided at the top of the form.~~

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230:15-5-108. **Transmitting completed Oklahoma Voter Registration Application forms from motor license agency to the State Election Board**

(a) **Transmittal deadline.** All completed Oklahoma Voter Registration Application forms received at a motor license agency as a result of active or passive voter registration application services shall be transmitted to the State Election Board at the close of business each week.

(b) **Procedure for transmitting completed Oklahoma Voter Registration Applications.** The following procedure shall be observed by motor license agency personnel to transmit all completed Oklahoma Voter Registration Application forms to the State Election Board.

(1) ~~For each completed application received, make certain that the motor license agency source code and the date of application appear in the space provided on each form. [See 230:15-5-107.] Verify that the motor license agency identification number and the received date are stamped or written in the shaded area at the top of each form. If the source code, agency identification number or received date do not appear on these forms, stamp or write the source code number and the current date in the space provided on the form.~~

(2) Place ~~the~~ all completed Oklahoma Voter Registration Application forms ~~into the~~ in a postage-paid, pre-addressed ~~envelopes~~ business reply envelope provided by the State Election Board.

(3) Mail ~~all envelopes~~ the envelope containing completed Oklahoma Voter Registration Application forms to the State Election Board at the close of business each week.

(c) **Transmitting applications received through passive voter registration application services.** Motor license agency personnel shall ~~receive for transmittal to the State Election Board~~ receiving voter registration applications completed in the agency as a result of passive voter registration application services, shall code and date them as outlined in 230:15-5-107, and shall transmit them to the State Election Board as outlined in (a) and (b) of this Section.

230:15-5-109. **Forms and supplies for voter registration application services in motor license agency**

(a) All forms and supplies required to provide active and passive voter registration application services in a motor license agency shall be prescribed by the Secretary of the State Election Board.

(b) The Secretary of the State Election Board shall prepare and distribute to each motor license agent the forms and supplies necessary to provide active and passive voter registration application services in a motor license agency. Motor license agents shall be responsible for ordering additional forms and supplies from the State Election Board as needed. Motor license agency personnel shall not be authorized to obtain voter registration application forms and supplies from the local County Election Board ~~after receiving their initial training~~ except in the case of an emergency.

(c) The following materials shall be required to provide active voter registration application services in a motor license agency.

(1) Oklahoma Voter Registration Application forms, pre-coded to indicate the form originated with a motor license agency.

(2) Voter Registration Statement forms.

(3) Pre-addressed, postage-paid business reply envelopes for transmitting completed voter registration applications to the State Election Board.

(4) Procedure for Voter Registration cards.

(5) Voter Registration Application Checklist cards.

(6) Register While You Are Here Today signs.

(d) ~~Only the Oklahoma Voter Registration Application form shall be required to provide passive voter registration application services. On any occasion that only passive voter registration services are provided to an applicant in a motor license agency, use of the Voter Registration Statement form and the Procedure for Voter Registration card shall not be required.~~

230:15-5-110. **Payment of motor license agents**

(a) **Payment for valid transactions only.** Motor license agents shall be paid fifty cents by the State Election Board for each valid voter registration application completed in the motor license agency. A valid voter registration application shall be one that results either in a new voter registration or in a change to an existing voter registration. However, payment can be made only if the identification code assigned to the motor license agency by the Oklahoma Tax Commission is stamped or written in the shaded area provided for that purpose at the top of the form.

(b) **Schedule for payment.** Motor license agents shall be paid on a schedule to be determined by the Secretary of the State Election Board. However, motor license agents shall be paid at least four times each year. Motor license agent payroll records shall be cleared on March 31, June 30, September 30 and December 31 of each year.

PART 25. VOTER REGISTRATION APPLICATION SERVICES IN VOTER REGISTRATION AGENCIES

230:15-5-121. **Types of voter registration application services provided in voter registration agencies**

(a) **Active voter registration application services.** Active voter registration application services shall be provided by all mandatory and discretionary voter registration agencies. Active voter registration application services shall be provided only in connection with the programs and services identified in 230:15-5-122.

(b) **Passive voter registration application services.** Passive voter registration application services shall be available in all mandatory and in all discretionary voter registration agencies. Passive voter registration application services shall be provided to any person who requests them as outlined in 230:15-5-124.

230:15-5-122. Mandatory voter registration agencies identified

(a) **Public assistance agencies.** Public assistance agencies shall include offices in the state that provide public assistance, and specifically those locations at which the application, renewal, re-certification and change of address processes for the following programs are administered.

- (1) The food stamp program, also known as the Supplemental Nutrition Assistance Program (SNAP).
- (2) The Medicaid program.
- (3) The Special Supplemental ~~Food~~ Nutrition Program for Women, Infants and Children (WIC).
- (4) The Temporary ~~Aid~~ Assistance to Needy Families (TANF) program.
- (5) The State Children's Health Insurance Program (SCHIP).

(b) **Agencies serving the disabled.** Agencies serving the disabled shall include those agencies offering state-funded programs primarily engaged in providing services to the disabled. Locations at which the application, renewal, re-certification and change of address processes for covered services offered by the Oklahoma Department of Rehabilitation Services, by the Oklahoma Department of Mental Health and Substance Abuse, and by disability services offices on the campuses of public colleges and universities shall be mandatory voter registration agencies. Covered services for agencies serving the disabled shall be determined by the administrator of each affected agency in consultation with the Secretary of the State Election Board. Agencies serving the disabled that offer covered services in the ~~applicant's~~ client's home also shall provide voter registration application services in the ~~applicant's~~ client's home. All administrative rules of the State Election Board shall apply and the procedure established in 230:15-5-125 shall be observed when offering voter registration application services in an ~~applicant's~~ client's home.

(c) **Armed Forces Recruitment Offices.** Recruitment offices of the Armed Forces of the United States shall offer voter registration application services to each prospective enlistee.

230:15-5-124. Passive voter registration application services in voter registration agency

(a) Voter registration agency personnel shall provide an Oklahoma Voter Registration Application form to any person who requests one while conducting business with the agency in connection with any program other than those listed in 230:15-5-122. Voter registration agency personnel shall provide an Oklahoma Voter Registration Application form to any person who requests one even if the person does not conduct any business with the agency.

(b) Voter registration agency personnel shall be authorized but shall not be required to accept application forms completed as a result of passive voter registration application services for transmittal to the State Election Board. If accepted, however, voter registration agency personnel shall ensure that such forms are stamped with a received date and sent to the State Election Board as outlined in 230:15-5-130 and 230:15-5-131. Voter registration agency personnel shall be authorized to instruct persons who receive voter registration applications

as a result of passive voter registration application services to mail their own completed application to the State Election Board. The Voter Registration Statement ~~shall not be used~~ is not required in connection with passive voter registration application services.

230:15-5-125. Active voter registration application services in voter registration agency

(a) **Procedure for active voter registration application services in voter registration agencies.** Voter registration agency personnel shall use the following procedure to offer the opportunity to apply for voter registration to each person who applies for or who renews or re-certifies for service or assistance from a covered program and to each person who changes address in connection with service or assistance from a covered program. However, when voter registration application services are offered in the office of a County Election Board, a Voter Registration Statement shall not be ~~used~~ required and the procedure shall begin with (4) of this subsection.

(1) Ask the ~~applicant~~ client to read the Voter Registration Statement. ~~Tell the applicant that if he or she already is registered, it is not necessary to re-register except to change name, address or political affiliation.~~

(2) Ask the ~~applicant~~ client to print his or her name ~~on at the top of the Voter Registration Statement and to write today's date. Ask the applicant to check either "yes" or "no" and to sign the statement.~~

(3) Ask the client to check YES or NO and to sign and date the statement.

(A) If the applicant-client checks "yes," YES, keep the Voter Registration Statement and proceed to step 4.

(B) If the applicant-client checks "no," NO, keep the Voter Registration Statement and proceed with the agency's business.

(C) If the client either leaves the Voter Registration Statement blank or refuses to fill it out, give the client an Oklahoma Voter Registration Application form to take home. If the client refuses the application form, note the refusal on the Voter Registration Statement. Print the client's name and the date on the form and file as directed. Proceed with the agency's business.

(4) Give the ~~applicant~~ client an Oklahoma Voter Registration Application form and tell the client to read the Oath to determine whether the client is eligible to register to vote.

~~(5) Tell the applicant to read the Oath to determine whether he or she is eligible to register to vote in Oklahoma.~~

~~(6) Tell the applicant to read the instructions and to fill out the form.~~

~~(7) Tell the applicant to read "Important Information" on the back of the form.~~

~~(8) Tell the applicant to return the completed application to you.~~

~~(9) Look at the application when the applicant returns it to see that it is completely filled out. If there seems to be~~

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an omission, show it to the applicant. Only the applicant may decide to change the application.

(10) ~~Keep the completed Oklahoma Voter Registration Application and proceed with the agency's business.~~

(5) Tell the client to read the Important Information and the Instructions pages of the form.

(6) If the client asks for help to fill out the form, help the client in the same way you would help any client fill out the agency's forms.

(7) Take the filled out and signed application form back from the client.

(8) Verify that the client signed the form and wrote today's date. Verify that the client provided either an Oklahoma driver license number or the last four digits of his/her Social Security number in the appropriate space on the form.

(9) If it appears that any information is omitted, show the omission to the client. Tell the client that omitting the information may cause the application to be rejected. Only the client may add to or change the form.

(10) File the completed and signed Voter Registration Statement as directed. Put the completed voter registration application in a secure place and proceed with the agency's business.

(b) **Assistance to ~~applicants~~ clients.** If the ~~applicant~~ client indicates that ~~he or she~~ the client desires assistance to complete the Oklahoma Voter Registration Application form, agency personnel shall provide the same degree of assistance provided to complete the agency's own forms. ~~A voter registration agency employee who assists an applicant to complete the Oklahoma Voter Registration Application form shall write his or her own name and the address of the voter registration agency in the shaded area marked "Office Use Only" on the instruction portion of the application form. County Election Board personnel shall offer whatever assistance is requested by the applicant provided that the request is not in conflict with the laws of the United States or the State of Oklahoma or with adopted rules and procedures of the State Election Board. In the event that the applicant is unable to personally sign or make a mark on the application form, the procedure outlined in 230:15-5-36(e) shall be observed. Agencies providing state-funded programs and services to persons with disabilities, and that sometimes provide services at a person's home, also shall provide voter registration services at the person's home.~~

(c) **Confidential information.** Information related to a declination to register to vote shall not be used for any purpose other than voter registration. The identity of the voter registration agency through which any particular voter is registered shall not be disclosed to the public. Completed voter registration applications shall be kept confidential while in possession of voter registration agency personnel. Agency personnel shall not stamp or write any information that could identify the agency outside the shaded "VRA/MLA Office Use Only" box at the top of the form.

230:15-5-126. Voter registration agency personnel responding to questions and/or requests for information about voter registration or election conduct

(a) Mandatory and discretionary voter registration agency personnel, except County Election Board personnel, shall not answer questions or provide information concerning voter registration or election conduct unless the answer or information is contained in the written materials provided by the State Election Board. ~~Applicants~~ Clients who have questions about voter registration or elections that cannot be answered by voter registration agency personnel shall be referred to the office of the local County Election Board, ~~or to the State Election Board,~~ or to the State Election Board's website: www.elections.ok.gov. Voter registration agency personnel shall not attempt to explain or amplify the written materials.

(b) County Election Board personnel shall be authorized to answer questions and provide information beyond the scope of the written materials provided to other voter registration agency personnel, especially concerning the activation of an application for voter registration, ~~an applicant's~~ a client's eligibility to vote in particular elections ~~and/or~~ or the location of an applicant's polling place.

230:15-5-127. Hours for voter registration application services in voter registration agency

Voter registration application services shall be offered during the regular business hours of each mandatory and discretionary voter registration agency unless otherwise provided by law or by the administrative rules of the Secretary of the State Election Board.

230:15-5-128. Prohibitions

Voter registration agency personnel providing voter registration application services shall not:

- (1) Seek to influence ~~an applicant's~~ a client's political affiliation or party registration.
- (2) Display any political preference or party allegiance.
- (3) Make any statement to ~~an applicant~~ a client or take any action the purpose or effect of which is to discourage the applicant client from registering to vote.
- (4) Make any statement to ~~an applicant~~ a client or take any action the purpose or effect of which is to lead the applicant client to believe that a decision to register or not to register has any bearing on the availability of services or benefits.

230:15-5-129. Responsibility for Voter Registration Statements received by voter registration agency

Completed Voter Registration Statements shall be retained by the voter registration agency for 24 months from the date of application. Procedures for retention and disposal of Voter Registration Statements shall be prescribed by the administrator of each affected agency. However, the Voter Registration Statements shall be filed and retained in a way that an individual client's Voter Registration Statement can be

located and provided to election officials, upon request, to aid in determining an individual client's eligibility to vote in an election.

230:15-5-130. ~~Source coding and dating~~ Dating completed applications received by voter registration agency

Mandatory and discretionary voter registration agency personnel shall stamp or write the ~~agency name, which shall be called the source code, and the date the application was made received~~ in the space marked "~~(Office Use Only) Agency Stamp And Date Received~~" "VRA/MLA Office Use Only" on each completed Oklahoma Voter Registration Application form received from ~~an applicant a client~~ as a result of either passive or active voter registration application services described in 230:15-5-125. Agency personnel shall not write or stamp any information that identifies the agency outside the shaded "VRA/MLA Office Use Only" box at the top of the application form.

230:15-5-131. Transmitting completed Oklahoma Voter Registration Application forms from voter registration agency to the State Election Board

(a) **Transmittal deadline.** Completed Oklahoma Voter Registration Application forms received by a voter registration agency as a result of either active or passive voter registration application services shall be transmitted to the State Election Board at the close of business each week.

(b) **Procedure for transmitting completed Oklahoma Voter Registration Applications.** The following procedure shall be observed by agency personnel to transmit to the State Election Board all completed Oklahoma Voter Registration Application forms received as a result of either active or passive voter registration application services described in 230:15-5-125. The State Election Board shall provide pre-addressed, postage-paid business reply envelopes for the purpose of transmitting completed voter registration application forms.

(1) Make certain that the ~~agency source code and the date of that the application was received at the agency appear~~ appears in the space provided on each completed Oklahoma Voter Registration Application form. If the ~~source code and date do~~ received date does not appear on a completed application, stamp or write the ~~source code and current~~ date in the space provided.

(2) Place all the completed Oklahoma Voter Registration Application ~~form into the forms in a~~ postage-paid, pre-addressed business reply envelope provided by the State Election Board.

(3) Mail ~~all envelopes the envelope~~ containing completed Oklahoma Voter Registration Application forms to the State Election Board at the close of business each week.

(c) **Transmitting applications received through passive voter registration application services.** Voter registration agency personnel shall ~~be authorized but shall not be required to also~~ receive for transmittal to the State Election Board

applications completed as a result of passive voter registration application services described in 230:15-5-124. ~~If the All~~ voter registration agency chooses to accept applications ~~completed received by the agency~~ as a result of passive voter registration application services, ~~the applications shall be stamped with the received date as outlined in (b) of this Section and shall be transmitted along with applications received through active voter registration application services as outlined in (a) and (b) of this Section.~~

(d) **Transmitting applications received at the County Election Board.** Voter registration applications may be received at the County Election Board as outlined in 230:15-9-11(b). Applications received at the County Election Board from persons who reside in the county shall not be transmitted to the State Election Board. Applications received at the County Election Board from persons who reside in another county shall be transmitted either to the appropriate County Election Board or to the State Election Board as outlined in (b) of this Section, except that the County Election Board shall provide its own envelope and shall pay the necessary postage.

230:15-5-132. Forms and supplies for voter registration application services in voter registration agency

(a) All forms and supplies required to provide active and passive voter registration application services in a voter registration agency shall be prescribed by the Secretary of the State Election Board.

(b) The Secretary of the State Election Board shall prepare and distribute the forms and supplies necessary to provide active and passive voter registration application services in both mandatory and discretionary voter registration agencies. The Secretary of the State Election Board shall work with designated personnel from each affected agency to ensure orderly and timely distribution of forms and supplies to a central location for each agency. Voter registration supplies shall subsequently be distributed from that central location by each voter registration agency to the appropriate sites and offices within the agency where either active or passive voter registration services are provided. Voter registration agency personnel shall not be authorized to obtain voter registration supplies from the office of a County Election Board—except in the case of an emergency. A voter registration agency may be authorized by the Secretary of the State Election Board to print Oklahoma Voter Registration Application forms and Voter Registration Statements. A voter registration agency authorized to print Oklahoma Voter Registration Application forms and Voter Registration Statement forms shall ensure that these items are printed to the specifications established by the Secretary of the State Election Board.

(c) The following materials shall be required to provide active voter registration application services in both mandatory and discretionary voter registration agencies (except the County Election Board).

(1) Oklahoma Voter Registration Application forms, pre-coded for the agency.

(2) Voter Registration Statement forms.

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- (3) Pre-addressed, postage-paid envelopes for transmitting completed applications to the State Election Board.
- (4) Procedure for Voter Registration cards.
- (5) Voter Registration Application Checklist cards.
- (6) Register While You Are Here Today signs.
- (d) Only the Oklahoma Voter Registration Application form shall be required to provide passive voter registration application services. Only the Oklahoma Voter Registration Application form shall be required to provide active voter registration application services in the County Election Board office.

SUBCHAPTER 11. VOTER REGISTRATION LIST MAINTENANCE

PART 1. CANCELLATION OF VOTER REGISTRATION

230:15-11-4. Processing cancellations of registration

(a) Upon receipt of proper notice, and upon positive identification of the voter, the Secretary of the County Election Board shall cancel a voter's registration. Cancellations shall be processed immediately after the receipt of proper notice. Proper notice shall include the following:

- (1) Potential Deletion Report. See 230:15-11-5.
 - (2) ~~Cancellation of Request to Cancel Registration of Deceased Voter by Next of Kin form submitted by any person authorized by law to make such a request.~~ See ~~230:15-11-6(a)~~ 230:15-11-6 and 230:15-11-6.1.
 - (3) ~~Request to Cancel Registration of Deceased Voter form.~~ See ~~230:15-11-6(b).~~
 - (4) ~~Notification of County Resident's Death form.~~ See ~~230:15-11-6.1.~~
 - (5) Judgment of Incapacitation Report form. See 230:15-11-7.
 - (6) Potential Duplicate Registration Report. See 230:15-11-9.
 - (7) Notice of registration in another state.
 - (8) Notice of state or federal felony conviction. See 230:15-11-8.
 - (9) Written request from voter for cancellation of registration. Such a written request from a voter either shall be notarized or shall be witnessed by two persons who provide their names and addresses on the request. See 230:15-11-3.
 - (10) True Duplicates Deleted Report. See 230:15-11-10.
 - (11) Address confirmation return card returned by the voter indicating that the voter has moved out of the county. See 230:15-11-24.
 - (12) A certified copy of a death certificate.
- (b) Cancellations of registration shall be processed according to the following procedure:

- (1) Delete the voter's registration information from MESA.
- (2) Remove the voter's registration form from the Central File, note the date and reason for cancelling the registration, and place the registration form in the Cancellation File. Also remove any documentation from the Additional Information File and attach it to the original registration form in the Cancellation File. Retain as outlined in 230:10-7-40.
- (3) Retain the notice document used to cancel a registration for 24 months after the cancellation.

230:15-11-5. Potential Deletion Report

The State Election Board shall prepare and transmit to each county on a monthly basis a Potential Deletion Report. This report compiles information received by the State Election Board from the State Health Department, from the federal court system, the Social Security Administration, from other states, and from other counties in Oklahoma. This report lists persons who have died, persons who have been convicted of felonies in other counties or in federal court, and persons who have registered again in another state or in another county in Oklahoma. The voter registrations of persons listed on the Potential Deletion Report shall be cancelled upon positive identification of the voter's registration record.

230:15-11-6.1. Cancellation of registration of deceased voter upon notice of nursing home administrator, veteran center administrator, or licensed funeral director

An administrator of a nursing home, an administrator of a veteran center, or a licensed funeral director may execute a Notification of County Resident's Death Request to Cancel Registration of Deceased Voter form to notify the Secretary of the County Election Board of the death of a resident of the county who may have been a registered voter. [26:4-120.3] A nursing home or veteran center administrator's signature on the form either may be notarized or witnessed by two persons who provide their names and addresses on the form. The administrator's signature also may be witnessed by a member of the nursing home Absentee Voting Board when the Board delivers absentee ballots to residents of the nursing facility or veteran center prior to an election. A licensed funeral director's signature on the form either may be notarized or may be witnessed by two persons whose names and addresses are also provided on the form. Upon receipt of such a notification, and upon identification of the person named on the Notice of County Resident's Death form as a registered voter in the county, the Secretary shall cancel the voter registration of the deceased voter. See 230:15-11-4 (b). The Secretary shall provide copies of the Request to Cancel Registration of Deceased Voter form to nursing facility and veteran center administrators and to licensed funeral directors in the county along with instructions for use of the form. [26:4-120.3]

230:15-11-10. Statewide cancellation of true duplicate registrations

(a) No later than June 1 of each odd-numbered year, the Secretary of the State Election Board shall initiate a process to identify voters with duplicate voter registrations in one or more counties in Oklahoma. [26:4-120.2(c)] The process in MESA shall examine and compare all voter registration records in the state to identify the true duplicate registrations. The true duplicates shall be identified by one of the following criteria.

- (1) There is a match of ~~last name~~, first name, middle name or initial, last name, and date of birth.
- (2) There is a match of driver license number, first name, and date of birth.
- (3) There is a match of last name, date of birth, and the last four digits of the Social Security number.
- ~~(4) There is a match of last name, date of birth, and driver license number.~~

(b) Following identification of true duplicates, the individual records in each set of duplicate records shall be examined to determine which of the duplicate registrations is the most recent. The date of original registration, voter history, and voter activity all shall be examined and considered. The most recent registration record in each set of duplicate registrations shall be retained and all other registration records shall be cancelled. [26:4-120.2(c)]

(c) MESA shall format for each county a report listing the names of voters in the county whose registration records have been cancelled. The Secretary of the County Election Board shall be required to print the True Duplicates Deleted Report immediately when it is formatted. County Election Board personnel shall use the True Duplicates Deleted Report to remove the registration forms for the cancelled true duplicate voters from the Central File. The date and reason for cancellation shall be noted on the voter registration form, and any documentation in the Additional Information file also shall be removed. The registration forms and any additional information shall be filed in the Cancellation File and shall be retained there for 24 months. The True Duplicates Deleted Report shall be retained for 24 months. [26:4-120.2(c)]

(d) Questions concerning the cancellation of a true duplicate registration must be resolved by the State Election Board staff because, in most cases, the matching duplicate voter registration records are located in different counties. County Election Board personnel shall relay concerns that a registration may have been cancelled incorrectly by the true duplicates identification process to the State Election Board staff for investigation and resolution.

(e) The State Election Board staff shall have the authority to restore the voter registration record of an individual voter cancelled as a true duplicate if, in fact, the match is in error. The restored voter also may be excluded from cancellation in future true duplicate processing if the erroneous match cannot be prevented from recurring.

PART 3. VOTER REGISTRATION ADDRESS CONFIRMATION

230:15-11-19. Voter registration address confirmation mailing

(a) No later than June 1, 1997, and every two years thereafter, the Secretary of the State Election Board shall cause an address confirmation notice to be prepared and mailed to active registered voters who meet one or more of the following requirements:

- (1) Voters listed on the Statewide Potential Duplicates Report.
- (2) Voters for whom a first-class mailing from a County Election Board or from the State Election Board was returned undelivered by the post office during the previous 24 months. For the purpose of the address confirmation notice process, a first-class mailing shall include only voter identification cards generated by MESA and rejection notices for applications for change of voter registration.
- (3) Voters who have neither voted in any election conducted by a County Election Board nor initiated any voter registration change since the second previous General Election.
- (4) Voters who have surrendered their Oklahoma driver licenses to the Department of Public Safety after receiving a driver license in another state during the preceding 24 months.
- (5) Voters identified by interstate voter registration data comparison as possibly being registered to vote both in Oklahoma and in one or more other states.
- (6) Voters identified by National Change of Address (NCOA) data, as authorized by 26 O.S., Section 4-118.1, who may have changed residence address but not updated voter registration.
- (7) Voters identified through official death records from the Social Security Administration whose registrations have not been cancelled.

~~(b) The address confirmation notice shall include a return card for the voter to provide his or her current address. The return cards shall be addressed to the State Election Board. The State Election Board shall receive the return cards and then shall forward them to the County Election Board to be processed.~~

~~(c)~~ Address confirmation notices shall be sent by first-class, forwardable mail and shall include a pre-addressed, postage-paid return card. The address confirmation notice materials shall be prepared and mailed under the supervision of the Secretary of the State Election Board. All costs associated with preparing and mailing confirmation notices and with receiving return cards and distributing them to the various County Election Boards shall be paid by the State Election Board.

~~(d-c)~~ Address confirmation return cards ~~and undelivered address confirmation notices~~ shall be received by the State Election Board. Accumulated return cards ~~and undelivered confirmation notices~~ shall be sorted and distributed to the County Election Boards on a regular basis.

~~(e) County Election Board personnel shall stamp the received date on each address confirmation return card when it is received from the State Election Board.~~

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(d) The Secretary of the State Election Board may authorize the mail service vendor selected to print, prepare, and mail the address confirmation notices to utilize National Change of Address (NCOA) data for mailing address correction and forwarding purposes. As a result of the address correction and forwarding services, the address to which an individual voter's confirmation notice is forwarded will be provided to the State Election Board by the mail service vendor or by the USPS by digital means. The forwarding address will be imported into MESA by the State Election Board. The County Election Board Secretary shall cause the Confirmation Notice Automated Forwards List report (vr2595) to be requested and retained for 24 months.

(e) The State Election Board may receive data from the USPS by electronic means for all address confirmation notice cards that are undeliverable as addressed. The cards themselves may be destroyed through postal service procedures. The returned data will be imported into MESA and into individual voter records by the State Election Board. The County Election Board Secretary shall cause the Confirmation Notice Automated Returns List report (vr2590) to be requested and retained for 24 months.

230:15-11-20. Processing address confirmation notices notice cards returned undelivered by Postal Service

(a) Address confirmation notices that cannot be delivered as addressed ~~shall~~ may be returned to the State Election Board by the postal service. ~~The All~~ returned, undelivered address confirmation notices received by the State Election Board shall be sorted by county and sent to the County Election Boards.

(b) When the County Election Boards shall receive from the State Election Board ~~all~~ address confirmation notices that were returned undelivered by the postal service. ~~Upon receiving the undelivered address confirmation notices,~~ County Election Board personnel shall process them according to the following procedure.

(1) ~~Process~~ Enter the receipt of the ~~each~~ undelivered address confirmation notice in MESA.

(2) Follow the procedure outlined in 230:15-11-25 if the postal service has provided another address for the voter.

(3) File the undelivered notice in the Returned Confirmation Notice file and retain for 24 months.

(c) ~~As an alternative to the process outlined in (a) and (b) of this Sections, the Secretary of the State Election Board may elect to receive information on undelivered address confirmation notices in an electronic format from the United States Postal Service and may process such electronic information directly into the voter registration database so that the notices need not be physically returned and processed. The State Election Board will provide each County Election Board with a report listing the voters whose address confirmation notices were reported undelivered by the United States Postal Service.~~

230:15-11-21. Processing address confirmation cards returned by voter with no change of address

Address confirmation return cards that are returned by the voter and indicate no change of address shall be processed according to the following procedure.

(1) Process receipt of the return card in MESA.

(2) Compare the information provided by the voter on the return card with the voter's registration information in MESA to confirm that the residence address is the same. If there is a change of residence address, process according to the instructions in 230:15-11-22.

(3) File the return card in the Returned Confirmation Notice File.

230:15-11-22. Processing address confirmation return cards with change of address in the county

Address confirmation return cards that are returned by the voter and indicate a change of address in the county shall be processed according to the following procedure.

(1) Process receipt of the return card in MESA.

(2) Select In County (updated) to access the voter's registration information. Enter all residence or mailing address changes indicated by the voter on the return card.

(3) Prepare and mail a request for additional information if necessary. See 230:15-9-32 and 230:15-9-33. Wait for the voter's response before proceeding to step 4.

(4) Locate the voter's voter registration form in the Central File. Write the voter's new address on the form from the Central File and make a note to refer to the Additional Information Correspondence File.

(5) File the address confirmation return card in the Additional Information Correspondence File.

230:15-11-23. Processing address confirmation return cards that indicate a name change

A voter may use the address confirmation return card to indicate that his or her name has changed. Information on the return card must clearly indicate that the voter has a new name. The return card may indicate either no change of address or indicate a new address in the county. County Election Board personnel shall process the name change and any change of address as outlined in 230:15-11-22.

230:15-11-26. Designation of inactive voters

(a) Sixty days after address confirmation notices are mailed by the State Election Board, the registrations of voters who do not respond to the address confirmation notice, of voters whose address confirmation notices were returned undelivered by the postal service, and voters whose return cards were returned by someone else all shall be designated inactive by a process in MESA. Inactive voters shall remain registered and entitled to vote through the second federal General Election following their designation as inactive voters. Following that second federal General Election, the registrations of all remaining inactive voters shall be cancelled.

(b) Sixty days after address confirmation notices are mailed by the State Election Board, County Election Board personnel shall ~~print request~~ the Confirmation Notice Tracking report, the Confirmation Automated Returns List, and the Confirmation Automated Forwards List reports from MESA. ~~The Confirmation Notice Tracking report lists all voters in the county to whom address confirmation notices were mailed. The Confirmation Notice Tracking report~~ These reports shall be retained for 24 months. ~~The reports may be retained electronically and shall not necessarily be printed.~~

[OAR Docket #16-697; filed 7-8-16]

**TITLE 230. STATE ELECTION BOARD
CHAPTER 20. CANDIDATE FILING**

[OAR Docket #16-698]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

- Subchapter 3. Filing for State and County Office
- Part 7. Procedure for Filing
- 230:20-3-37. Checking Declarations [AMENDED]
- 230:20-3-38. Candidate's name [AMENDED]

AUTHORITY:

Title 26 O.S., Section 2-107; Secretary of the State Election Board.

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n/a

INCORPORATIONS BY REFERENCE:

n/a

ANALYSIS:

The amendments in Subchapter 3 of Chapter 20 in order to incorporate statutory changes to the content of the Declaration of Candidacy form. These statutory changes enacted in 2013. (The form itself was revised according to the requirements of the statute and has been in use since late 2013.) Amendments concern the candidate's name as it appears on the Declaration of Candidacy form, clarify requirements regarding the candidate's name as it appears on the ballot, and the addition of a criminal history disclosure form to the Declaration of Candidacy form.

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, 2016:

SUBCHAPTER 3. FILING FOR STATE AND COUNTY OFFICE

PART 7. PROCEDURE FOR FILING

230:20-3-37. Checking Declarations

(a) The Secretary shall scrutinize all information on the Declaration of Candidacy form. The Secretary is advised to read each line of the Declaration aloud to the candidate and to spell out the candidate's name. Specifically, the Secretary shall confirm the following facts regarding the Declaration:

(1) The candidate's signature is notarized or witnessed by an appropriate authority. Check to see that both the Notary Public's signature and an impression of the Notary's seal are present on the Declaration of Candidacy form.

(2) The supporting petition bears the required number of signatures or more, or the accompanying cashier's check or certified check is in the proper amount and form. See 230:20-3-33.

~~(3) The name of the candidate as it appears on the first line of the Declaration of Candidacy conforms identically to the signature of the candidate at the bottom of the form.~~
The candidate has provided his or her name on the first line of the Declaration of Candidacy as it is to appear on the ballot.

~~(4) The candidate has provided his or her full legal name on the second line of the Declaration of Candidacy form.~~

~~(4-5) The office sought is complete, including district number if required.~~

~~(5-6) The address of residence listed is within the county (or district) of the office sought.~~

~~(6-7) The mailing address is complete, including zip code.~~

~~(7-8) The telephone number, if provided, is accurate.~~

~~(8-9) The e-mail address, if provided, is accurate.~~

~~(9-10) The website address, if provided, is accurate.~~

~~(10-11) The box for party candidate, Independent, or Judicial is checked. If the party candidate box is checked, then the name of the political party is written in immediately thereafter. Only the names of political parties recognized as provided by state law may be written on a Declaration of Candidacy. (Judicial candidates file their Declarations of Candidacy only with the Secretary of the State Election Board.)~~

~~(11-12) The precinct and county blanks are completed.~~

~~(12-13) The date of birth blank is completed.~~

(14) The candidate checked either "Yes" or "No" in the Criminal History Disclosure box. If the candidate checks "Yes," a completed Criminal History Disclosure Supplement to the Declaration of Candidacy must be provided with the Declaration of Candidacy form.

(b) The Secretary has no authority to reject the filing of any candidate unless the Declaration shows on its face that the candidate does not meet the qualifications to become a candidate for the office as contained in the Oklahoma Constitution, statutes, or the resolution calling the election, or in the case of

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a home rule charter city, in the charter. [26:5-117] If there are errors on the Declaration, the Secretary shall point out such errors to the candidate. For example, one common error is to indicate the current year in the date of birth instead of the actual year of birth. The candidate then shall correct the errors and sign his initials beside the correction. Only the candidate may make corrections on a Declaration of Candidacy.

(c) If the Declaration of Candidacy was received by mail or was delivered by someone other than the candidate, the Secretary shall indicate on the form that it was not received in person from the candidate by noting the letters "NIP" for "not in person" on the upper right corner.

(d) In the event that information provided on a candidate's Criminal History Disclosure Supplement form indicates that he or she is not eligible to become a candidate, the Declaration may be deemed invalid on its face and therefore may be rejected. However, the Secretary shall consult the District Attorney and the State Election Board before rejecting any Declaration of Candidacy for this reason.

230:20-3-38. Candidate's name

(a) ~~The candidate's name shall appear at the top of the Declaration of Candidacy form exactly the same as the candidate's signature appears at the bottom on the ballot exactly as it appears on the appropriate line of the Declaration of Candidacy form. A candidate who is generally known by or who does business using a nickname, maiden name, or birth name may choose to provide that name on the appropriate line of the Declaration of Candidacy.~~

(b) Quotation marks and parentheses are not permitted to appear in, before, or after a candidate's name. Prefixes, suffixes, and titles are not permitted. To determine the foregoing, the following examples are offered:

- (1) Mr., Mrs., Miss, Ms., Dr., M.D., Rev., Prof., Father, Judge, Sen., Gen., Col., Major, Capt., Sgt., etc., are not permitted.
- (2) Jr., Sr., II, III, etc., may be permitted if they are part of the candidate's name.

(b-c) A candidate is ~~not~~ required to list his or her full legal name on the appropriate line of the Declaration of Candidacy form. The candidate's full legal name on the appropriate line of the Declaration of Candidacy form is not required to match exactly the name on his or her voter registration or to match exactly the candidate's signature on the Declaration of Candidacy form. A candidate who is generally known by or who does business using a nickname may choose to use that name on the Declaration of Candidacy. A married woman may use her maiden name on the Declaration of Candidacy form.

[OAR Docket #16-698; filed 7-8-16]

TITLE 230. STATE ELECTION BOARD CHAPTER 25. BALLOT PRINTING

[OAR Docket #16-699]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 13. Placing Parties, Candidates, Propositions on Ballot
230:25-13-13. Ballot titles for county, municipal, and school district propositions [NEW]

AUTHORITY:

Title 26 O.S., Section 2-107; Secretary of the State Election Board.

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ANALYSIS:

A new Section in Chapter 25 sets a maximum length of 200 words for all propositions submitted by counties, school districts, technology center districts, and all municipalities, including charter cities. The word limit is based on statutory requirements for ballot titles for both state questions and county questions, as outlined in 34 O.S. § 9 and in 19 O.S. § 388. The new rule also includes requirements for verification by entity officials or representatives of the pre-press proofs of ballots containing propositions and provides that only typographic or scrivener's errors may be corrected as a result of such verification of proofs. Substantive additions or deletions of text may not be made during the proofreading process unless it can be shown that the text on the proof differs from the text provided in the resolution document submitted to the County Election Board. The new rule allows the entity to provide a separate document at each polling place that provides additional information about the proposition or that includes, in the case of an ordinance or of a charter amendment, the full text of said ordinance or amendment.

It must be noted that a survey of recent ballot titles for propositions considered in special elections shows that most propositions fall with the 200-word limit. The text commonly used for school or municipal bond issues is usually fewer than 200 words.

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, 2016:

SUBCHAPTER 13. PLACING PARTIES, CANDIDATES, PROPOSITIONS ON BALLOT

230:25-13-13. Ballot titles for county, municipal, and school district propositions

(a) The following requirements shall be observed by all entities when preparing the ballot title - the ballot text - for any question or proposition to be placed on the ballot at a regular or special election called by the entity and conducted by the County Election Board.

(1) Question or proposition text shall be submitted to the County Election Board in regular upper/lower case. Proposition text presented to the County Election Board in ALL CAPS will be returned to the entity for conversion to upper/lower case.

(2) Quotation marks and other typographic symbols, also known as "special characters," shall not be used in proposition text.

(3) Proposition text on the ballot shall not exceed 200 words in length.

(b) The County Election Board Secretary will provide entity officials with a proof copy of any ballot that includes a question or proposition. Entity officials are responsible for proofreading the ballot title for each question or proposition on the ballot against the ballot title as it appears in the resolution submitted to the County Election Board. Only typographical or scrivener's errors may be corrected in the ballot title at this point. No substantive additions or deletions to the ballot title may be made unless it can be shown that the ballot title on the ballot proof copy does not match the ballot title in the resolution adopted by the governing body of the entity and submitted to the County Election Board. Entity officials should complete the proofreading and notify the County Election Board Secretary in writing of the approval of the ballot proof or of any errors discovered within 48 hours of receiving the proof. The County Election Board Secretary will provide a form for approval and notation of errors with the ballot proof.

(c) The word limit for ballot titles established in (a) of this Section also shall apply to ballot titles concerning municipal charter amendments. However, the County Election Board may distribute copies of a document that includes either a detailed explanation of the content and effect of the charter amendment or amendments or copies of the actual amendments with absentee ballots and at all polling places within the entity's boundaries. Such document shall be prepared by entity officials or by the entity's legal counsel. The County Election Board shall be neither responsible nor liable for the content or accuracy of such document. The explanatory document shall be delivered to the County Election Board not more than 10 days following submission of the election resolution to the County Election Board Secretary. The entity shall choose one of the following options for duplication of the explanatory document.

(1) An appropriate appropriate number of copies of the explanatory document may be made at the entity's expense and delivered to the County Election Board Secretary for distribution with absentee ballots and at the polling places on election day.

(2) The entity shall supply the document to the County Election Board and the County Election Board produce an appropriate number of copies for which the cost shall be

included in the Record of Expense submitted to the entity for the election.

[OAR Docket #16-699; filed 7-8-16]

**TITLE 230. STATE ELECTION BOARD
CHAPTER 35. ELECTION CONDUCT**

[OAR Docket #16-700]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 3. County Election Board Responsibilities

Part 1. Before the Filing Period

230:35-3-3. Assembling precinct supplies [AMENDED]

Part 5. Precinct Official Payroll

230:35-3-30. Pre-Election Expense Claim [AMENDED]

230:35-3-35. Prepare and register vouchers for Precinct Officials and Absentee Voting Board members [AMENDED]

230:35-3-36.1. Absentee Voting Board members receive vouchers [AMENDED]

230:35-3-40. ~~Substitute vouchers. Vouchers for substitutes~~ [AMENDED]

230:35-3-41. Itemized claim for election expenses [AMENDED]

Part 15. Certification of results

230:35-3-91. Certifying county election results [AMENDED]

Subchapter 5. Instructions for Precinct Election Officials

Part 3. Preparations for Election Day

230:35-5-17. Receiving supplies and ballots [AMENDED]

Part 5. Preparations on Election Day

230:35-5-29. Location and materials for Judge [AMENDED]

230:35-5-31.1. Location and materials for provisional voting [AMENDED]

Part 11. Processing the Voter

230:35-5-55. Routine for Judge [AMENDED]

230:35-5-57. Routine for Inspector [AMENDED]

230:35-5-59. Voter assistance [AMENDED]

Part 15. After the Polls Close

230:35-5-75.3. Completing election night tasks [AMENDED]

230:35-5-76. Repacking supplies [AMENDED]

Part 19. Precinct Problem Solver

230:35-5-105. Publication of Precinct Problem Solver [AMENDED]

Part 21. Voters Listed in Precinct Registry Who Have Problems with Eligibility

230:35-5-113. Voter who has applied for absentee ballots [AMENDED]

Part 25. Special Services

230:35-5-127. Spoiled ballots [AMENDED]

230:35-5-129. Cancellation of registration of deceased voter [AMENDED]

Part 29. Violations of the Law

230:35-5-146. Action when laws are violated [AMENDED]

Part 34. Provisional Voting Procedures

230:35-5-175. ~~Uniformed Services or Overseas Voter services or overseas voter~~ [AMENDED]

230:35-5-176. Filling out a Provisional Ballot Voucher [AMENDED]

230:35-5-177. Provisional voting procedure [AMENDED]

230:35-5-177.1. Provisional voting procedure for voter using the ATI [AMENDED]

AUTHORITY:

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ANALYSIS:

The new and amended rules in Chapter 35, Subchapters 3 and 5, reflect a change in the composition and title of publications used by all Precinct Officials at polling places on election day. For more than thirty years, the State Election Board has produced The Manual for Precinct Election Officials and the Precinct Problem Solver. These two publications used in concert by precinct workers contained all the necessary rules and procedures for conducting elections at the precinct level. A set of pre-printed forms also were used to implement various procedures and services for voters during voting hours.

In an effort to streamline these reference, instructional, and procedural materials, the State Election Board staff has combined the contents of the Manual and the Problem Solver, along with specific instructions for preparing and using the voting device, into a new publication entitled the Election Day Reference and Problem Solver. Numerous references to the precursor publications have been changed to reflect this new title.

The State Election Board Secretary is implementing certain changes in rules used to determine which Absentee Voting Board members are eligible to receive mileage reimbursement for the performance of their duties. Several sections concerning the compensation of Precinct Officials and Absentee Voting Board members are amended to clarify the requirements and procedures for paying compensation and mileage to these officials from the County Election Board Special Depository Account.

Since 1992, the Secretary of the State Election Board has had the authority under state law - 26 O.S. § 7-136 - to receive the certified final election results for federal and state elections from the County Election Boards either by electronic means or in writing. The State Election Board produces certification reports from final election results received electronically through the MESA system, as we did with its predecessor OEMS system from 1992 through 2011. We have, however, continued to require the County Election Board Secretary to mail a printed, signed, and sealed Official Certification Report to the State Election Board for all federal, state, legislative, and district elections. Such paper certification reports are collected, filed, and rarely, if ever, consulted.

By eliminating the requirement for County Election Boards to send to the State Election Board a paper certification report following every federal, state, or legislative election, the State Election Board will see reductions in the costs of paper supplied to the County Election Board Secretary and used for the production of these reports, for the time spent collecting and filing the reports, and the storage space required to retain these reports. We receive official returns from the County Election Boards electronically as allowed by law and can produce copies of the final results as certified by the County Election Boards. If a copy of a particular signed and sealed report ever is required, it can be obtained from the County Election Board. The County Election Board is required to retain permanently at least one paper copy of each election certification with the minutes of the meeting at which the election was certified. This procedural change also will reduce postage costs incurred by the County Election Boards sending the paper reports to the State Election Board.

Other proposed amendments concern the provisional voting procedure and the materials used to administer provisional voting both during early voting and at the precinct polling place on election day. The Oklahoma Provisional Ballot Affidavit form has been redesigned in an effort to make it easier both for Precinct Officials and voters to understand and use it appropriately. Instructions for Precinct Officials have been simplified to the extent possible. Certain clarifications concerning various proof of identity documents also have been added and new information about acceptable proof of identity documents has been added as a result of statutory changes.

Finally, the State Election Board has created a new form to be used to request the cancellation of the voter registration of a deceased voter. Over the years, three separate forms have been developed for this purpose to be used by

different persons or in different locations. One was intended only for use at a polling place or in the County Election Board office by the next of kin of a deceased voter and was intended to be witnessed by an election official. One was intended to be used by nursing home administrators or licensed funeral directors to notify the County Election Board of the death of a county resident who may have been registered to vote. One was developed for distribution from the State Election Board's website for use by the next of kin of a deceased voter which could either be notarized or witnessed by two people. The new form can be completed by the next of kin, a nursing home administrator, or a funeral director, and may be witnessed by election officials, by a Notary Public, or by two persons who list their names and addresses on the form.

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, 2016:

SUBCHAPTER 3. COUNTY ELECTION BOARD RESPONSIBILITIES

PART 1. BEFORE THE FILING PERIOD

230:35-3-3. Assembling precinct supplies

(a) Well in advance of any election, the Secretary shall assemble supplies for every precinct and shall pack them in an envelope, a box, a bag, a binder, or another container. The Secretary may use the Supply Envelope and the Supply Box provided by the State Election Board or any other adequate container. Each election supply container shall be labeled for the appropriate precinct. (Some materials cannot be included in the supplies until after ballots are printed.) The Secretary shall prepare and use a Precinct Check List for each precinct to verify that all necessary supplies are included.

(b) The following items shall be included in the election supplies for each precinct. The quantities listed are recommended minimum quantities.

(1) **Precinct Official Notebook.** One Precinct Official Notebook containing ~~The~~ the Election Day Manual for Precinct Election Officials, the Precinct Problem Solver, the eScan Election Day Desk Reference, and forms needed by Precinct Officials on election day.

(2) **Forms, Checklists, and handouts.** In addition to the forms contained inside the Precinct Official Notebook, the following forms and handouts shall be included in the election supplies for each precinct. These items may be included inside the Precinct Official Notebook or in another notebook or container according to the preferences of the Secretary of the County Election Board.

(A) Address Information Requested handouts

(B) ~~ATI Session Log form~~ Independent Voter Information Card (in partisan primary elections only)

(C) Attention All Voters - Proof of Identity Required to Vote sign

(D) Attention Judge notice for proof of identity

(E) Ballot Accounting Form

- (F) Closing the Polls checklist
- (G) Oklahoma Voter Registration Application forms
- (H) Procedure for Watchers
- (I) Secrecy folders
- (J) List of ballot codes
- (K) Opening the Polls checklist
- (L) Packing Supplies checklist
- ~~(M) Provisional Ballot Refusal form~~
- ~~(N-M) Voter Registration Application checklist~~
- ~~(O) Voting Device Report form~~
- (3) **Envelopes.** One of each of the following envelopes shall be included in the election supplies for each precinct.
 - (A) Envelope for Totals Tally Report
 - (B) ~~Green envelope for mailing Tally Report to State Election Board (statewide elections only)~~
 - ~~(C) Precinct Expense Claim Envelope~~
 - ~~(D-C) Voting Device Key Envelope (and key chain with keys)~~
- (4) **Signs and Maps.** The following signs and maps shall be included in the election supplies for each precinct.
 - (A) One Attention Voter poster for each voting booth in the precinct
 - (B) One Oklahoma Election Procedures - Important Voter Information sign ~~(English)~~
 - (C) One Election Law Violations sign
 - (D) One Vote Here sign
 - (E) One Voter Eligibility - Municipal Elections
 - (F) One Voter Eligibility - School Elections
 - (G) Precinct Map - municipality
 - (H) Precinct Map - school districts
 - (I) Precinct Map - other entity
- (5) **Other Supplies.** The following additional supplies shall be included in the election supplies for each precinct.
 - (A) American flag
 - (B) Thirty black ballpoint pens
 - (C) One long white State Election Board seal for each ballot transfer box required for the precinct
 - (D) Official Exit Poll stickers, as needed
 - (E) Paper clips
 - (F) Magnifier
 - (G) ~~Memory pack bag~~ Flashlight
 - (H) Rubber bands
 - (I) Scissors
 - (J) Tape
 - (K) Thumbtacks
- (6) **Provisional voting supplies.** The following provisional voting supplies shall be included in the election supplies for each precinct.
 - (A) Checklist for Provisional Voting Officer
 - (B) Provisional Voting Information handouts
 - (C) Provisional Ballot Voucher forms
 - (D) Oklahoma Provisional Ballot ~~Affidavit~~ envelopes Affidavits
 - (E) Provisional Ballot Rosters
 - (F) Provisional Ballot Materials envelopes
 - ~~(G) Orange Provisional Ballot Bag~~
 - ~~(G-H) Blue plastic seal for provisional ballot bag~~

- (7) **Precinct Registry, Voting Device, and ballots.** The Precinct Registry, voting device, and ballots are issued to the Inspector along with the election supplies for each precinct. See ~~230:35-3-6, 230:35-3-7, 230:35-3-57, and 230:35-3-68.1.~~

PART 5. PRECINCT OFFICIAL PAYROLL

230:35-3-30. Pre-Election Expense Claim

(a) When the state, the county, a school district, a municipality, or any other governmental entity calls an election to be conducted by the County Election Board, the Secretary of the County Election Board shall prepare an estimate of the number of Precinct Officials, Absentee Voting Board members, and any authorized special-purpose precinct workers required for the election, and the amount of compensation for all Precinct Officials, Absentee Voting Board members, and any special-purpose precinct workers. [26:3-105.1(A)] The estimate also shall include mileage reimbursement for Inspectors to pick up and return election supplies and materials; for Precinct Officials, and special-purpose precinct workers assigned to polling places located ten miles or more from their homes; for any Absentee Voting Board member who travels 10 miles or more from home to the County Election Board office or in-person absentee polling place to report for duty; and for one member of each nursing home Absentee Voting Board. The Secretary shall prepare the estimate, which shall be known as a Pre-Election Expense Claim, ~~in OEMS-MESA using the appropriate Pre-Election Expense Claim report.~~ The Pre-Election Expense Claim shall be submitted to the entity not less than 35 days prior to the election. [26:3-105.1(A)]

(b) The compensation for Precinct Officials, Absentee Voting Board members, and any authorized special-purpose precinct workers shall be billed as follows.

(1) **Inspector.** The Inspector shall receive a total of \$97 for an election. The Inspector also shall be reimbursed for mileage for two round trips from his home to the County Election Board office at the rate currently allowed by the Internal Revenue Service for a business expense deduction. An Inspector assigned to a polling place located ten miles or more from his or her home also may be reimbursed for one-way mileage from home to the assigned polling place. See 230:35-3-31.1.

(A) **Statewide elections.** For a statewide election, the State Election Board shall be billed \$95 per Inspector. The State Election Board also shall be billed for the total amount of mileage reimbursement for the Inspectors. The county shall be billed \$2 per Inspector for a statewide election.

(B) **Other elections.** For a county election, a school district election, a municipal election or any other election, the entity authorizing the election shall be billed \$97 per Inspector, plus the total amount of mileage reimbursement for the Inspectors.

(2) **Judge and Clerk.** The Judge and Clerk each shall receive a total of \$87 for an election. In addition, a Judge or Clerk assigned to a polling place located ten

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miles or more from his or her home may be reimbursed for round-trip mileage from home to the assigned polling place. See 230:35-3-31.1.

(A) **Statewide elections.** For a statewide election, the State Election Board shall be billed \$85 per Judge and \$85 per Clerk. The county shall be billed \$2 per Judge and \$2 per Clerk. The State Election Board also shall be billed for any mileage paid to Judges and Clerks.

(B) **Other elections.** For a county election, a school district election, a municipal election or any other election, the entity authorizing the election shall be billed \$87 per Judge and \$87 per Clerk. The entity also shall be billed for any mileage paid to Judges and Clerks.

(3) **Absentee Voting Board members.** Absentee Voting Board members each shall receive \$87 for each day they serve for an election. An Absentee Voting Board member who travels ten miles or more from home to the County Election Board office or to a remote in-person absentee polling place to report for duty may receive round trip mileage reimbursement. In addition, one member of each nursing home Absentee Voting Board shall receive mileage reimbursement for the round trip from the County Election Board office to the nursing home or homes.

(A) **Statewide elections.** For a statewide election, the State Election Board shall be billed for the total amount of \$87 per Absentee Voting Board member plus appropriate mileage for one member of each nursing home Absentee Voting Board reimbursement.

(B) **Other elections.** For a county election, a school election, a municipal election, or any other election, the entity authorizing the election shall be billed \$87 for each Absentee Voting Board member for each day served plus appropriate mileage for one member of each nursing home Absentee Voting Board reimbursement.

(4) **Special-purpose precinct workers.** Special-purpose precinct workers, such as Provisional Voting Officers or Registration Officials, shall receive \$87 for an election. In addition, a special-purpose precinct worker assigned to a polling place ten miles or more from his or her home may be reimbursed for round-trip mileage from home to the assigned polling place.

(A) **Statewide elections.** For a statewide election, the State Election Board shall be billed \$85 per special-purpose precinct worker. The county shall be billed \$2 per special-purpose precinct worker. The State Election Board also shall be billed for any mileage paid to special-purpose precinct workers.

(B) **Other elections.** For a county election, a school district election, a municipal election or any other election, the entity authorizing the election shall be billed \$87 per special-purpose precinct worker. The entity also shall be billed for any mileage paid to special-purpose precinct workers.

(5) **Mileage.** Mileage is reimbursed at the rate currently allowed by the Internal Revenue Service for a business expense deduction.

(c) When two or more entities hold elections on the same date and two or more of the entities are involved in the same precinct, the cost of Precinct Official, Absentee Voting Board member, and special-purpose precinct worker compensation and mileage reimbursement shall be divided equally among the entities involved in each precinct ~~and the cost of Absentee Voting Board compensation and mileage reimbursement shall be divided equally among all the entities involved in the election.~~ However, if a school district election is held on the same date as a county election, the county shall assume the school district's share of Precinct Official, special-purpose precinct worker, and Absentee Voting Board compensation and mileage.

230:35-3-35. Prepare and register vouchers for Precinct Officials and Absentee Voting Board members

(a) **Vouchers for Precinct Officials.** The Secretary shall prepare and register one voucher from the Special Depository Account for compensation and mileage for each Inspector and one voucher for compensation for each Judge, Clerk, and special-purpose precinct worker who will work in the election. ~~The vouchers shall be dated with the date of the election.~~ The vouchers shall be registered with the County Treasurer with sufficient time allowed for the completion of this process before the Inspector picks up the election supplies.

(b) **Vouchers for Absentee Voting Board members.** The Secretary shall prepare and register one voucher from the Special Depository Account for compensation for each Absentee Voting Board member who will work in the election. ~~The vouchers shall be dated with the date of the election.~~ The vouchers shall be registered with the County Treasurer.

230:35-3-36.1. Absentee Voting Board members receive vouchers

~~On election day, the~~ The Secretary shall mail ~~may distribute vouchers to each member of the Absentee Voting Board members who served for the election. The vouchers may be given to the Absentee Voting Board members in person at the conclusion of their duties for the election or the vouchers may be mailed within seven days after the election who have other business at the County Election Board office on election day may receive their vouchers in person.~~ Under no circumstances shall vouchers be distributed to Absentee Voting Board members before their services are concluded for the election. The Secretary shall require Absentee Voting Board members to sign the Absentee Voting Board Member claim form when their service is concluded for the election. ~~Vouchers must be distributed to Absentee Voting Board members no later than seven days after the election.~~

230:35-3-40. Substitute vouchers Vouchers for substitutes

Within seven days following the election, the Secretary shall prepare vouchers for compensation of substitute Precinct

Officials, or substitute special-purpose precinct workers, or Absentee Voting Board members who were not paid on election night, or for substitute Absentee Voting Board members who were not paid at the conclusion of their service. The Secretary shall cancel the unclaimed vouchers, and register the new vouchers with the County Treasurer. The Secretary immediately shall distribute-mail the vouchers to the substitute Precinct Officials, special-purpose precinct workers, or Absentee Voting Board members. No substitute voucher shall be distributed to a Precinct Official, Absentee Voting Board member, or a special purpose precinct worker until the person's signature has been obtained on a Precinct Expense Claim or an Absentee Voting Board Member Claim form.

230:35-3-41. Itemized claim for election expenses

As soon as possible following the election, the Secretary shall submit an itemized claim, known as a Record of Expense, for all election expenses to the entity for which the election was conducted. The itemized claim shall be prepared in MESA and shall show the amount prepaid by the entity for Precinct Official, special-purpose precinct worker, and Absentee Voting Board member compensation and mileage deducted from the total amount of election expenses. [26:3-105.1(D)] The appropriate Record of Expense report shall be generated in MESA shall be used for all authorizing entities only after all election expenses have been entered.

PART 15. CERTIFICATION OF RESULTS

230:35-3-91. Certifying county election results

(a) **Election night activities.** On election night, the County Election Board shall canvass the precinct and absentee results for all elections including elections for which the county is an affected county. The County Election Board shall not, under any circumstances, certify election results on election night.

(b) **Friday following election.** The County Election Board shall meet on Friday following each election at the time set by the Secretary to count verified provisional ballots and to certify the final election results. If the Board meets prior to 5 p.m. to count provisional ballots and finishes the count before 5 p.m., the meeting may be recessed and reconvened after 5 p.m. After the provisional ballots have been counted and after all affected counties of entities involved in the election have counted provisional ballots, the Secretary shall request and print an appropriate number of copies of the Official Certification Report for each entity. After the close of the contest period at 5 p.m., the Board shall certify the final election results for all candidate races and all propositions, providing no contests have been filed. ~~The Secretary shall prepare the following materials to certify the election:~~

~~(1) The required number of copies of the Official Certification Report for each entity involved in the election.~~

~~(2) The County Election Board members shall sign each copy of the Official Certification Report in the area provided for signatures.~~

~~(3) The Secretary shall apply the official County Election Board seal to each signed copy of the Official Certification Report.~~

(c) **Disposition of signed and sealed Official Certification Reports.** ~~One At least one~~ copy of each signed and sealed Official Certification Report shall be maintained permanently by the County Election Board. ~~Other copies shall be distributed as follows:~~

~~(1) In statewide elections, one copy of the signed and sealed Official Certification Report for all races and state questions that must be certified by the State Election Board shall be mailed to the State Election Board after 5 p.m. on Friday following the election.~~

~~(2) In multi county elections for which the county is an affected county, one signed and sealed copy of the Official Certification Report shall be mailed to the control (parent) county after 5 p.m. Friday following the election.~~

~~(3) In all county, school district, or municipal elections, the required an appropriate number of copies of the signed and sealed Official Certification Report shall be provided to the entity for which the election was conducted. In some instances, an entity may request more than one copy multiple signed and sealed copies of the Official Certification Report. The Secretary shall provide the number of copies, within reason, requested by the entity.~~

~~(d) 5 p.m. Tuesday next following federal or state election. The State Election Board meets at 5 p.m. on Tuesday next following an election involving federal or state candidates and/or state questions to certify the final election results.~~

~~(e) List of nominees.~~ Following Primary and Runoff Primary Elections, the County Election Board shall authorize the Secretary to certify-prepare an official list of the nominees of each party for each county office on the ballot-by preparing an official list of nominees. The original copy of the list of nominees shall be signed by the Secretary and shall be maintained in-with the minutes of the County Election Board meeting at which the election results were certified. A copy of the list of nominees shall be posted on the door of the County Election Board office.

(1) Following the Primary Election, the list of nominees shall include any candidate for county office who is unopposed by another member of his or her own political party, and any candidate for county office who receives a majority of the votes cast in the Primary Election. The list shall not include any county office which will appear on the Runoff Primary Election ballot.

(2) Following the Runoff Primary Election, the list shall include all candidates included on the list prepared following the Primary Election and also any candidate who receives a majority of the votes cast in the Runoff Primary Election.

~~(f) List of successful candidates and Certificates of Election.~~ Following General Elections, the Secretary of the County Election Board shall compile a list of successful candidates for each county office on the ballot and shall issue a Certificate of Election to each successful candidate. The list shall include all candidates who were unopposed and who therefore did not

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appear on the General Election ballot as well as all successful candidates in the General Election.

SUBCHAPTER 5. INSTRUCTIONS FOR PRECINCT ELECTION OFFICIALS

PART 3. PREPARATIONS FOR ELECTION DAY

230:35-5-17. Receiving supplies and ballots

(a) **Notification.** The Inspector picks up election supplies and ballots at the County Election Board office before election day. About ten days before the election, the County Election Board Secretary notifies the Inspector of the date, time, and place to receive supplies and ballots for the precinct.

(b) **Precinct Check List.** When picking up election supplies, the Inspector uses a Precinct Check List form to verify that all the supplies are included in the correct quantity. The Inspector places a check mark beside each item in the shaded column labeled "Insp."

(c) **Items received.** The Inspector receives these items.

(1) **Election supplies.** The Inspector receives the election supplies. The election supplies may be packed in a box, an envelope, a bag, a binder or other container. The election supplies include the Precinct Official Notebook, signs, envelopes, keys, ballpoint pens, and other items Precinct Officials need on election day.

(2) **Precinct Registry.** The Inspector receives the Precinct Registry or Registries for the precinct. The Precinct Registry is a ~~computer printout containing~~ printed list of the names and addresses of all the registered voters in the precinct. The Precinct Registry is arranged in alphabetical order and separated by political affiliation for Primary and Runoff Primary Elections. For General Elections, the Precinct Registry is arranged in alphabetical order but it is not separated by political affiliation.

(3) **Keys.** The Inspector receives two keys - the round ballot box key and the square voting device key. The round ballot box key unlocks both locks on the main compartment of the ballot box, the door of the emergency compartment of the ballot box and the rear door of the ballot box. The square voting device key unlocks ~~the~~ both locks on the voting device case. The keys are together on a key ring and enclosed in the unsealed voting device key envelope.

(4) **Ballots.** The Inspector receives the ballots for the precinct. The precinct's ballots are listed on the Precinct Check List form. There may be only one ballot or several ballots depending on the type of election or elections being conducted on a particular date. Ballots are bound in books of 100 ballots. The Inspector must be sure that the ballot quantities listed on the Precinct Check List are included in the supplies.

(5) **Voting Device.** The Inspector receives the voting device that has been prepared for the precinct.

(d) **Inspector signs form.** After verifying that all items listed on the Precinct Check List are present in the correct

quantities, the Inspector signs the form in the space provided at the bottom and returns the signed form to the Secretary. [26:7-103]

(e) **Inspector takes custody of supplies.** The Inspector takes the supplies, ballots, and voting device with him or her from the County Election Board office and keeps them in a safe place until election day.

PART 5. PREPARATIONS ON ELECTION DAY

230:35-5-29. Location and materials for Judge

The Judge is the first Precinct Official the voter sees. Position the Judge closest to the entrance. Put these items at the Judge's position:-

- (1) Precinct Registry or Registries-
- (2) Ballpoint pens-
- (3) Oklahoma Voter Registration Application forms-
- (4) Address Information Requested handouts-
- (5) Provisional Ballot Voucher forms
- (6) Other items as required by the Secretary of the State Election Board or the County Election Board.

230:35-5-31.1. Location and materials for provisional voting

Place the provisional voting supplies and materials on a table separate from the table for the Judge, Clerk, and Inspector. Put these items on the provisional voting table:-

- (1) Checklist for Provisional Voting Officer
- (2) Provisional Voting Information handouts
- (3) Oklahoma Provisional Ballot ~~Affidavit envelopes~~ and secrecy envelopes-Affidavits
- (4) Ballot secrecy envelopes
- (5) Provisional Ballot Materials envelopes
- (4-6) Provisional Ballot Rosters
- (5-7) Oklahoma Voter Registration Application forms
- (6-8) ~~Orange~~ Provisional Ballot Bag

PART 11. PROCESSING THE VOTER

230:35-5-55. Routine for Judge

(a) The Judge follows these routine steps to process voters. Refer to the ~~Precinct Problem Solver section of Judge's section of the Election Day Reference and Problem Solver in the~~ Precinct Official Notebook for instructions in non-routine situations.

- (1) Greet the voter and ask the voter's name. If this is a Primary or Runoff Primary, also ask the voter's political party.
- (2) ~~Find the voter's name in the Precinct Registry.~~
- (3) Ask to see the voter's proof of identity.
 - (A) The voter may present any of the following documents as proof of identity:-
 - (iA) ~~an~~ An Oklahoma driver license
 - (iiB) ~~a~~ A voter identification card issued by the County Election Board

- ~~(iiiC)~~ a A temporary voter identification document issued by the County Election Board
- ~~(ivD)~~ a A state identification card
- ~~(vE)~~ a A United States passport
- ~~(viF)~~ a A United States military identification, including retired military identifications
- ~~(viiG)~~ any Any other such document issued by the state of Oklahoma, the United States government, or a federally recognized tribal government which includes the person's name, a photograph of the person, and, if the document has an expiration date, that expiration date is later than election day or an indication that the document does not expire. A document that does not bear an expiration date, and is therefore valid indefinitely, shall be valid proof of identity.

(B) Use the voter's proof of identity document to find the voter's name in the Precinct Registry. The person's name on the proof of identity must substantially conform to the name listed in the Precinct Registry.

(C) If the voter does not provide proof of identity, the voter must be offered the opportunity to vote by provisional ballot. The provisional ballot affidavit, once verified by the County Election Board after election day, shall be valid proof of identity.

~~(4) If the voter does not have or refuses to provide proof of identity, the voter may vote only by provisional ballot. See 230:35-5-177.~~

~~(5-3) If there is a message printed in the "Signature of Voter" column, follow the instructions in 230:35-5-113 or 230:35-5-113.1.~~

~~(6-4) Tell the voter to sign the Precinct Registry. [26:7-114; 26:7-117]~~

~~(7) If this is a school district election, look in the "School" column in the Precinct Registry for the voter's school district code. An asterisk beside the school district code indicates that the voter also is entitled to a ballot for a vocational technical school district. Refer to the legend on the precinct school district map to determine the correct vocational technical school district for this voter. If the is a technology center district election, look in the "TC" column for the voter's technology center district code. If either the "School" or "TC" column is blank, see 230:35-5-113.2(a). If the voter believes that the wrong school district or technology center district is listed, see 230:35-5-113.2(b).~~

~~(8) If this is a municipal election, look in the "Muni" column in the Precinct Registry for the voter's municipal assignment code. If the "Muni" column contains the word "None," this voter's residence address is not located within the boundaries of a municipality in this precinct and the voter is not eligible to vote in a municipal election. If the "Muni" column is blank or if the voter disagrees with the municipal assignment, see 230:35-5-113.2.~~

(5) Carefully check the following information in the Precinct Registry to determine the ballots the voter is eligible to receive.

(A) For a Primary Election, check the political affiliation listed in the Precinct Registry.

(i) Persons registered with a specific political party affiliation are allowed to receive only the Primary or Runoff Primary ballot for that party.

(ii) Persons registered as Independent (or "no party") voters may be eligible to choose a party ballot if the party has allowed Independent voters to vote in its primary elections. Tell Independent voters to read the Information for Independent Voters card, if applicable.

(B) If this is a school district, technology center district, or municipal election, look in the "School," "TC," and "Muni" columns. A voter is eligible to receive ballots for the entities listed in these columns.

~~(9-6)~~ Refer to the Ballot Codes List provided by the County Election Board and write the code for each ballot the voter will receive in the "Ballots Issued" column of the Precinct Registry.

~~(40-7)~~ Tell the Clerk the voter's political affiliation, as it appears in the Precinct Registry, and the elections in which the voter is voting tell the Clerk which ballots the voter is eligible to receive.

(b) If the voter's name is not in the Precinct Registry, or if the voter does not have or refuses to provide proof of identity, or if the voter disputes the political affiliation or district information listed in the Precinct Registry, the voter is entitled by both state and federal law to cast a provisional ballot. Refer the voter to the Inspector or to the Provisional Voting Officer. See 230:35-5-171. If a voter who is eligible to cast a provisional ballot refuses the offer of the provisional ballot and leaves the polling place without voting, record the incident on the Provisional Ballot Refusal form.

230:35-5-57. Routine for Inspector

The Inspector follows these routine steps to process voters. Refer to the ~~Precinct Problem Solver~~ section of Election Day Reference and Problem Solver in the Precinct Official Notebook for instructions in non-routine situations.

- (1) Give the voter a ballpoint pen.
- (2) Direct the voter to a vacant voting booth and ask the voter to read the Attention Voter poster in the voting booth.
- (3) Tell the voter that after marking the ballots in the privacy of the voting booth, he should place the voted ballot inside a secrecy folder, if used, and return to the voting device. [26:7-120]
- (4) When the voter returns to the voting device, tell the voter to feed the ballot into the voting device. Either end of the ballot may be fed first and the ballot may face up or down.
- (5) Retrieve the ballpoint pen and secrecy folder, if used, from the voter.
- (6) If the voting device returns a ballot, the voter may be able to resolve the problem himself by following the instructions on the voting device console screen and pressing the appropriate buttons. However, the Inspector should always be prepared to answer questions and to assist the voter if necessary.

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(7) If the voting device console screen displays an error code and a message indicating that the ballot has already been counted, follow the instructions in the ~~voting device instructions section of~~ Election Day Reference and Problem Solver in the Precinct Official Notebook to resolve the problem.

230:35-5-59. Voter assistance

Some voters are entitled to special assistance while voting. Procedures for assisting these voters are located in "Assistance outside polling place for disabled voter" and the "Blind, physically disabled, or illiterate voter" in the ~~Precinct Problem Solver section of~~ Election Day Reference and Problem Solver in the Precinct Official Notebook (230:35-5-119 and 230:35-5-120.1). A physically or visually disabled voter may vote privately and independently by using the audio tactile interface (ATI) for the voting device. Any voter may ask to use the ATI. The ATI provides an audio version of the ballot and a mechanical method to navigate the ballot, make selections, and cast the ballot. See the Election Day Reference and Problem Solver for instructions to activate the ATI for a voter to use it.

PART 15. AFTER THE POLLS CLOSE

230:35-5-75.3. Completing election night tasks

(a) **Distribution of Detail and Tally Report.** Distribute the Detail and Tally Reports as follows.

- (1) Put the original Detail and Tally Report, which includes the Zero Report and the signatures of the Inspector, Judge, and Clerk, inside the Envelope for Tally Report.
- (2) Post one copy of the Detail and Tally Report on the polling place door.
- (3) Put one copy of the Detail and Tally Report inside the ballot transfer case.
- (4) ~~If this is a statewide election, put one copy in the green envelope to mail to the State Election Board.~~

(b) **Voting Device Report.** ~~The Inspector fills out the Voting Device Report and signs it. The Judge and Clerk also sign it. Put the signed Voting Device Report in the Envelope for Tally Report.~~

(e) **Ballot Accounting Form.** The Clerk fills out and signs the Ballot Accounting Form or Forms. The Inspector and Judge ~~also verify the numbers recorded on the Ballot Accounting Form or Forms and then sign the Ballot Accounting Form or Forms form or forms.~~ Put the finished Ballot Accounting Form or Forms in the Envelope for Tally Report.

(d-c) **Packing ballots and sealing ballot transfer cases.** Pack all used and unused ballots in ballot transfer cases. If possible, pack unused ballots in a ballot transfer case separate from the voted ballots. Seal each ballot transfer case with clear packing tape and attach a long white State Election Board seal. Indicate on the seal whether the case contains voted ballots, unused ballots, or a combination of voted and unused ballots. The Inspector, Judge, and Clerk all sign the long white State Election Board seal on each ballot transfer case.

(e-d) **Sealing the Envelope for Tally Report.** The Inspector verifies that the following items are inside the Envelope for Tally Report and then seals the envelope. The Inspector, Judge, and Clerk all sign the envelope flap.

- (1) Original Detail and Tally Report, which includes the Zero Report, and the signatures of the Inspector, Judge, and Clerk.
- (2) Voting device key envelope.
- (3) Ballot Accounting Form or Forms.
- (4) ~~Voting Device Report.~~
- (5) Uncounted ballots ~~that were~~ found in the emergency compartment of the ballot box after the polls were closed on the voting device and the Detail and Tally Reports were printed.
- (6-5) Any other forms or materials as instructed by the Secretary of the County Election Board.

(f-e) **Precinct Expense Claim Envelope.** The Judge and Clerk sign the Precinct Expense Claim Envelope and receive their vouchers from the Inspector. Vouchers may not be distributed under any circumstance until after the polls close. [26:3-105.1(c)]

(g-f) **Provisional Ballot Bag.** The Inspector or the Provisional Voting Officer shall complete the following steps.

- (1) Put the Provisional Ballot Roster in the large, clear plastic pocket on the orange Provisional Ballot Bag.
- (2) Make certain that all completed Provisional Ballot ~~Affidavit Envelopes~~ Materials envelopes are inside the Provisional Ballot Bag.
- (3) Zip the bag and seal it with the blue plastic seal.
- (4) Pack any unused provisional ballot materials and supplies as instructed by the County Election Board Secretary.
- (5) Place the sealed Provisional Ballot Bag, the packed supplies, and any Oklahoma Voter Registration Application forms completed by provisional voters with the other materials that the Inspector returns to the County Election Board office.

230:35-5-76. Repacking supplies

The Inspector, Judge, and Clerk repack all election supplies into the same container in which they were received. Use the following list while repacking to verify that all supplies and materials are accounted for.

- (1) Used signs (Vote Here, Oklahoma Election Procedures - Important Voter Information, Election Law Violations, and Attention Voter, if applicable) and sample ballots.
- (2) Precinct Official Notebook.
- (3) Used and unused Oklahoma Voter Registration Application forms.
- (4) Secrecy folders.
- (5) Ballpoint pens.
- (6) Remaining paper clips, rubber bands, thumbtacks, and tape.
- (7) Scissors.
- (8) Unused ~~Oklahoma Provisional Ballot Affidavit envelopes, secrecy envelopes, handouts~~ provisional voting materials, and all other unused materials and supplies.

- (9) Flashlight.
- (10) ~~All other remaining reusable supplies.~~

PART 19. PRECINCT PROBLEM SOLVER

230:35-5-105. Publication of Precinct Problem Solver

Prepared by the staff of the State Election Board for use by County Election Board Secretaries, Precinct Officials and other election personnel, the procedures contained in the Precinct Problem Solver section of the have been incorporated into a new publication entitled Election Day Reference and Problem Solver. This new publication is contained in the Precinct Official Notebook and it is intended to complement other publications of the State Election Board. The ~~Precinct Problem Solver~~ Election Day Reference and Problem Solver includes the rules and procedures contained in Parts 19 through 29 of this Subchapter.

PART 21. VOTERS LISTED IN PRECINCT REGISTRY WHO HAVE PROBLEMS WITH ELIGIBILITY

230:35-5-113. Voter who has applied for absentee ballots

(a) The words "Absentee Ballot Requested" or "Absent Ballot" appear in the Precinct Registry on the signature line beside the name of a voter who requested absentee ballots for the election. A voter who has applied for absentee ballots may vote at the polling place only after signing the pink Absentee Voter Affidavit. [26:7-115] If the voter refuses to sign the pink Absentee Voter Affidavit, the voter cannot vote offer the voter a provisional ballot.

- (b) The Judge follows this procedure.
 - (1) Tell the voter to read the oath printed on the pink Absentee Voter Affidavit form and then to sign the form.
 - (2) After the voter signs the Absentee Voter Affidavit, tell the voter to sign the Precinct Registry across the words "Absentee Ballot Requested" or "Absent Ballot."
 - (3) Return to the routine procedure.

PART 25. SPECIAL SERVICES

230:35-5-127. Spoiled ballots

(a) A spoiled ballot is a ballot that the voter marks incorrectly, or a ballot that is defaced or damaged by the voter. Before spoiling a ballot, the Inspector must follow the steps in the voting device appropriate instructions section of in the Election Day Reference and Problem Solver in the Precinct Official Notebook to determine whether the ballot already has been counted.

(b) When a ballot is spoiled because the voter either has made an error marking it or has damaged or defaced it in some way, such as making a mark in a security bar code, the Clerk uses this procedure.

- (1) Ask the voter to fold the spoiled ballot. If more than one ballot was issued to the voter, tell the voter to put all correctly marked ballots in the voting device.
- (2) Take the folded ballot from the voter, tear it into small pieces, and discard it. [26:7-132]
- (3) Tell the voter to read the oath printed on the gold Spoiled Ballot Affidavit and to sign the form. [26:7-122]
- (4) Write the ballot code in the "Ballot Spoiled" column beside the voter's signature.
- (5) Issue a new ballot to replace the spoiled ballot. [26:7-122]
- (6) Tell the voter to go back to the voting booth, mark the new ballot and put the new ballot in the voting device.

230:35-5-129. Cancellation of registration of deceased voter

The next of kin of a deceased voter may cancel the deceased voter's registration at the polling place on election day. [26:4-120.3] The decision to cancel such a registration belongs to the next of kin. The Inspector follows this procedure if the next of kin chooses to cancel the registration.

- (1) Print the following information on the green Cancellation of Request to Cancel Registration of Deceased Voter form.
 - (A) Precinct number.
 - (B) Today's date.
 - (C) The deceased voter's name, residence address, and birth date.
- (2) Ask the next of kin to read the Cancellation of Request to Cancel Registration of Deceased Voter form and to sign it if all the information is correct.
- (3) Sign the form and indicate your title.

PART 29. VIOLATIONS OF THE LAW

230:35-5-146. Action when laws are violated

If a Precinct Official sees or suspects an election law violation, the Inspector takes only the following steps. The Inspector never attempts to enforce the law under any circumstances.

- (1) ~~If~~ if the suspected violation is described in The Manual for Precinct the Election Officials section of Day Reference and Problem Solver in the Precinct Official Notebook, take only these steps.
 - (A) Tell the person involved that the action is against the law.
 - (B) Read what The Manual for Precinct Election Officials section of Election Day Reference and Problem Solver in the Precinct Official Notebook says about the violation, if necessary. Tell the person that this is the law.
 - (C) Call the Secretary of the County Election Board immediately if the person continues the action that violates the law.
- (2) ~~If The Manual for Precinct Election Officials section of the Precinct Official Notebook the Election Day Reference and Problem Solver does not describe the~~

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possible violation, the Inspector calls the Secretary of the County Election Board immediately.

PART 34. PROVISIONAL VOTING PROCEDURES

230:35-5-175. ~~Uniformed Services or Overseas~~ ~~Voters~~ services or overseas voter

(a) Some persons may be entitled to vote a provisional ballot and to have that ballot counted without being registered if they are eligible to become registered voters, if they are residents of the precinct, if they provide proof of identity as outlined in 230:35-5-55, and if they also meet one of the following requirements.

(1) The person was honorably discharged from the ~~Uniformed Services~~ uniformed services of the United States and has returned home 90 days or less before the election.

(2) The person is on officially authorized leave from the ~~Uniformed Services~~ uniformed services of the United States and has returned home 90 days or less before the election.

(3) The person was terminated or is on leave from his or her service or employment overseas and returned home 90 days or less before the election.

(4) The person is the spouse or dependent of a person described in (1), (2) or (3) of this subsection.

(b) Follow the provisional voting procedure in 230:35-5-177.

(c) Uniformed services and overseas voters who cast a provisional ballot as outlined in (b) of this Section are required to swear by signing ~~in the appropriate place on the Oklahoma Provisional Ballot Affidavit envelope~~ that they are eligible to cast the provisional ballot for one of the reasons outlined in (a) of this Section.

230:35-5-176. Filling out a Provisional Ballot Voucher

The Judge shall fill out a Provisional Ballot Voucher for every voter who will cast a provisional ballot. Do not send a voter to the Inspector or Provisional Voting Officer without a voucher. Write all the information requested on the voucher in the spaces provided for it.

(1) Circle the reason the voter will cast a provisional ballot.

(2) Write the voter's name exactly as it appears in the Precinct Registry.

(3) Write the voter's residence address exactly as it appears in the Precinct Registry.

(4) Write the voter's political party, school district, and/or municipality as it appears in the Precinct Registry. If the voter is not listed in the Precinct Registry, write the information the voter gives you.

(5) Write the ballot codes for the provisional ballots to be issued to the voter in the space provided. (For example, if the Precinct Registry indicates that the voter is not assigned to Municipality A, but the voter insists that his/her address is located inside the municipal boundaries, write the ballot code for Municipality A.)

230:35-5-177. Provisional voting procedure

The Inspector or the Provisional Voting Officer greets the voter and follows these steps to help the voter cast a provisional ballot.

(1) Take the Provisional Ballot Voucher from the voter. If the voter did not receive a Provisional Ballot Voucher from the Judge, send the voter to the Judge for a Provisional Ballot Voucher.

(2) Give the voter a copy of the Provisional Voting Information handout.

(3) Tell the voter that if County Election Board personnel cannot verify the voter's registration in this precinct, the provisional ballot will not be counted.

(4) Give the voter an Oklahoma Voter Registration Application form and ask the voter to fill it out and sign it. A voter is not required to complete the registration application to receive a provisional ballot but should be encouraged to do so. Tell the voter that filling out and turning in a new voter registration application may prevent the need to vote by provisional ballot in future elections. If the voter completes the application, set it aside in a secure place.

(5) ~~Fill~~ Use a Checklist for Provisional Voting Officer and fill out an Oklahoma Provisional Ballot Affidavit ~~envelope form~~ for the voter.

(A) Write the county name, election date, and precinct number in the spaces provided at the top of the affidavit.

(B) Write the voter's name and residence address on the affidavit exactly as they appear on the Provisional Ballot Voucher.

(C) Copy the Ballot Codes indicated on the Provisional Ballot Voucher to the spaces provided at the bottom of the Affidavit in the shaded area labeled "PVO Use Only."

(D) Ask the voter for the following information and write it on the affidavit in the appropriate spaces:

(i) ~~date~~ Date of birth

(ii) Oklahoma driver license number, if available

(iii) ~~last~~ Last four digits of Social Security number

(iv) ~~political affiliation~~ Check the box only if the voter does not have an Oklahoma driver license and claims not to have been issued a Social Security number.

(E) Place a checkmark beside the appropriate statement of the reason the voter is casting a provisional ballot. Note the following special instructions for some of the listed reasons.

(i) ~~Voter with proof of identity problems~~ Proof of identity. If the voter does not have or refuses to provide proof of identity, or refuses to provide proof of identity, or if the voter's current name on an otherwise valid proof of identity document does not substantially conform to the name in the Precinct Registry, ask the voter to read ~~the~~

appropriate statement on the affidavit and the oath on the affidavit before signing.

(I) ~~If the voter's current name on his or her otherwise valid proof of identity document does not substantially conform to the voter's name in the Precinct Registry, ask the voter to complete and submit an Oklahoma Voter Registration Application form to change his or her name for voter registration purposes.~~

(II) ~~If the voter indicates that his or her current residence address is different from the residence address shown in the Precinct Registry, ask the voter to complete and submit an Oklahoma Voter Registration Application form to change his or her residence address for voting purposes and respond to each statement and to provide the correct information in the shaded area on the affidavit labeled "Completed By Voter." If the voter provides a name or residence address that is different from the name or address in the Precinct Registry, the voter must complete an Oklahoma Voter Registration Application form and turn it in with the completed affidavit.~~

(ii) **Voter Not in Precinct Registry.** If the voter offers any information about where and when he or she may have registered, last voted, or another name under which he or she may be registered, record the information in the spaces provided. If the voter has a voter identification card, take it and attach it with a paperclip to the voter registration application form. Ask the voter to complete and turn in a new Oklahoma Voter Registration Application form.

(iii) **Voter disputes political affiliation indicated in Precinct Registry.** Write the political affiliation claimed by the voter in the space provided.

(iv) **Voter disputes school district or municipal assignment in Precinct Registry.** Write the name of the school district or municipality in which the voter claims to reside.

(v) **Uniformed services or overseas voter.** Check the appropriate box to indicate the voter is a recently returned uniformed services or overseas voter.

(vi) **Voter who disputes credit for absentee voting.** Check this reason only during in-person absentee voting if a voter who has already received credit for voting by absentee ballot in this election denies having voted in this election.

(vii) **Other.** ~~Record any explanation the voter offers concerning the reason he or she may be eligible to vote.~~

(D-F) Record the ballot codes indicated on the voter's Provisional Ballot Voucher in the spaces provided on the Affidavit.

(6) Ask the voter to review the information on the affidavit. Tell the voter to read the oath and to sign it. Also ask the voter to write his or her daytime telephone number in the space provided.

(7) Sign the affidavit in the space provided for the Provisional Voting Officer.

(8) Print the voter's name on the Provisional Ballot Roster and ~~record copy the ballot codes for the ballots issued to the voter in the space provided to the Ballots Issued column on the Roster.~~

(9) Tell the voter to sign the roster.

~~(9-10) Issue the appropriate Ask the Clerk for the ballots indicated on the voucher. Fold each ballot in half before giving it to the voter. Put the voucher inside the affidavit envelope. Give the voter the affidavit envelope, a secrecy envelope, and the ballot or ballots and a Ballots envelope.~~

~~(10-11) Tell the voter to go to the provisional ballot voting booth to mark the ballot. Tell the voter to follow these steps to secure the ballot.~~

(A) Fold the ballot in half.

(B) Put the folded ballot inside the secrecy envelope and seal the envelope.

(C) Put the sealed secrecy envelope inside the affidavit envelope and seal the affidavit envelope.

(D) Return to the table with the sealed affidavit envelope.

~~(12) While the voter is marking the ballots, write the precinct number, election date, and the voter's name on a Provisional Ballot Materials envelope. Put the following items inside the Provisional Ballot Materials envelope:~~

~~(A) Affidavit~~

~~(B) Voucher~~

~~(C) Filled out and signed Oklahoma Voter Registration Application, if applicable~~

~~(13) If necessary, follow the procedures for spoiled ballots (230:35-5-127) or voter assistance (230:35-5-120.1), using the Precinct Problem Solver section of instructions in the Election Day Reference and Problem Solver in the Precinct Official Notebook.~~

~~(14) When the voter returns the sealed affidavit Ballots envelope, put it in the orange Provisional Ballot Bag immediately inside the Provisional Ballot Materials envelope with the voter's name on it and seal the Materials envelope. Put the sealed Provisional Ballot Materials envelope inside the orange Provisional Ballots Bag.~~

~~(15) Tell the voter that information concerning disposition of the provisional ballot may be obtained from the County Election Board after 5 p.m. on Friday. Make sure the voter takes a copy of the Provisional Voting Information handout.~~

230:35-5-177.1. Provisional voting procedure for voter using the ATI

If a voter who is using the ATI device attached to the voting device to cast an audio ballot needs to vote provisionally for one of the reasons listed in ~~230:35-9-7~~ 230:35-5-177, follow the provisional voting procedure as outlined in 230:35-5-177 (1) through (8). Read both the information you have recorded

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on the Affidavit and the oath to a visually disabled voter. Follow the steps in the ~~voting device instructions~~ section of Election Day Reference and Problem Solver in the Precinct Official Notebook to prepare the ATI device and activate the appropriate audio ballot for the voter. Once the audio ballot is activated, other voters can continue ~~scanning~~ inserting paper ballots into the voting device while the voter uses the ATI device is in use.

[OAR Docket #16-700; filed 7-8-16]

TITLE 230. STATE ELECTION BOARD CHAPTER 40. TYPES OF ELECTIONS

[OAR Docket #16-701]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 5. Municipal Elections

Part 9. Procedures

230:40-5-48. Two-election cycles for municipal officers in charter cities

[NEW]

AUTHORITY:

Title 26 O.S., Section 2-107; Secretary of the State Election Board.

SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:

January 25, 2016

COMMENT PERIOD:

February 16, 2016 through March 18, 2016

PUBLIC HEARING:

March 18, 2016

ADOPTION:

April 1, 2016

SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:

April 1, 2016

APPROVED BY GOVERNOR'S DECLARATION:

Approved by Governor's Declaration on June 9, 2016

FINAL ADOPTION:

June 9, 2016

EFFECTIVE:

September 11, 2016

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

ANALYSIS:

The new rule in Subchapter 5 defines the elections in any two-election cycle required by a charter city for the election of municipal officers. The first such election shall be termed a "primary election" under this rule if all candidates for an office appear on the ballot and either a candidate who receives a majority of the total votes cast in the first election is deemed elected or, if no candidate receives a majority, the two candidates who receive the highest number of votes in the first election advance to a second election. The candidate who then receives the majority of votes cast at the second election is elected to the office. The second election in such a cycle shall be a "general election." This rule shall apply to all such two-election cycles regardless of the name given the election in a city's charter. These terms shall apply equally to partisan and to nonpartisan races in cities governed by charter when two elections are required to elect municipal officials.

CONTACT PERSON:

Suzanne Cox, Director of Support Services Division, State Election Board.
Telephone: (405) 521-2391. E-mail: 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, 2016:

SUBCHAPTER 5. MUNICIPAL ELECTIONS

PART 9. PROCEDURES

230:40-5-48. Two-election cycles for municipal officers in charter cities

If any home rule charter city has established a two-election cycle for the election and qualification of municipal officers, the requirements of 26 O.S., Section 13-101.1 shall apply to such elections conducted on the city's behalf by the County Election Board whether the elections are partisan or nonpartisan and regardless of any other designation, title, or definition given to such elections in the charter.

(1) The first election in a two-election cycle shall be defined as a "primary" election. In a primary election, all candidates who file for a specific office appear together on the ballot and either the candidate who receives a majority of the total votes cast for the office is deemed elected or, if no candidate receives a majority, the two candidates receiving the most votes advance to a required second election.

(2) The second, required election in a two-election cycle shall be defined as a "general" election. In a general election, the candidate who receives the most votes is elected to the office.

[OAR Docket #16-701; filed 7-8-16]

TITLE 240. OKLAHOMA EMPLOYMENT SECURITY COMMISSION CHAPTER 10. UNEMPLOYMENT INSURANCE PROGRAM

[OAR Docket #16-589]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 1. General Provisions

240:10-1-6. Date of Receipt of Payments [NEW]

Subchapter 3. Benefits

Part 5. Eligibility

240:10-3-22. Filing Claims for Benefits [AMENDED]

Part 11. Filing Claims Notice

240:10-3-54. ~~E-mail~~ Electronic Notification for Employer in Unemployment Benefit Claims [AMENDED]

AUTHORITY:

40 O.S. §§2-203, 2-503, 4-302 and the Oklahoma Employment Security Commission.

SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:

September 15, 2015

COMMENT PERIOD:

October 15, 2015 through November 16, 2015

PUBLIC HEARING:

November 16, 2015

ADOPTION:
December 1, 2015
SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:
December 8, 2015
APPROVED BY GOVERNOR'S DECLARATION:
Approved by Governor's declaration on June 9, 2016
FINAL ADOPTION:
June 9, 2016
EFFECTIVE:
September 11, 2016
ANALYSIS:

The amendments to these rules will limit a "temporary layoff" to no more than eight (8) weeks; set out more clearly the date that a payment of money is deemed to be received by the Commission; clarify that unemployment benefit claims must be filed by the claimant and not a third party; and provide for electronic notification for employers of unemployment benefit claim information through the employer portal system.

CONTACT PERSON:
Gina Antipov, Secretary V, Legal Department, OESC, 2401 N. Lincoln Blvd., Oklahoma City, OK 73152, 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, 2016:

SUBCHAPTER 1. GENERAL PROVISIONS

240:10-1-6. Date of receipt of payments

The date of the receipt of a payment of money received by the Oklahoma Employment Security Commission shall be determined as follows:

- (1) Payments of money received through the mail shall be deemed to have been received as of the date shown by the postmark on the envelope properly addressed to the Commission's office and containing the payment.
- (2) Payment of money received through an electronic fund transfer system shall be deemed to have been received by the Commission on the date on which the electronic payment was authorized for immediate payment to the Oklahoma Employment Security Commission.
- (3) All other payments of money shall be deemed to have been received on the date on which payments are received by a representative of the Commission.

SUBCHAPTER 3. BENEFITS

PART 5. ELIGIBILITY

240:10-3-22. Filing claims for benefits

Claims for unemployment insurance benefits are to be filed ~~via~~ by claimants through the Internet or by telecommunication.

PART 11. FILING CLAIMS NOTICE

240:10-3-54. ~~E-mail~~ Electronic notification for employer in unemployment benefit claims

- ~~(a) Any claimant or~~ An employer may request that all notices concerning an unemployment benefit claim, in which the ~~party~~ employer is involved, be delivered ~~to that party by e-mail~~ through electronic means. Once the request is processed, ~~all notices that are allowed to be sent by e-mail may be sent by e-mail.~~ For employers that make the request, all notices in all unemployment insurance cases currently pending and that arise in the future may be delivered by e-mail through electronic means by utilizing the employer portal.
- ~~(b) The responsibility for providing the correct e-mail address will be that of the claimant or employer.~~ It will be the responsibility of the employer to access its account through the employer portal on a regular basis to check for notices concerning unemployment benefit claims that are posted there.
- ~~(c) All time deadlines shall be computed from the date of the e-mail~~ electronic notification sent by the Commission.

[OAR Docket #16-589; filed 6-20-16]

**TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 4. RULES OF PRACTICE AND PROCEDURE**

[OAR Docket #16-625]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

- Subchapter 1. General Provisions
- 252:4-1-2. Definitions [AMENDED]
- 252:4-1-3. Organization [AMENDED]

AUTHORITY:

Environmental Quality Board; 27A O.S. §§ 2-2-101 and 2-3-201

SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:

April 7, 2015

COMMENT PERIOD:

May 15, 2015 through June 15, 2015

PUBLIC HEARING:

Before the Environmental Quality Board at 9:30 a.m. on June 16, 2015, in the Multi-Purpose Room, first floor of the Department of Environmental Quality, 707 N. Robinson, Oklahoma, OK 73102.

ADOPTION:

June 16, 2015

SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:

June 22, 2015

APPROVED BY GOVERNOR'S DECLARATION:

Approved by Governor's declaration on June 9, 2016

FINAL ADOPTION:

June 9, 2016

EFFECTIVE:

September 15, 2016

SUPERSEDED EMERGENCY ACTIONS:

None

INCORPORATIONS BY REFERENCE:

None

ANALYSIS:

The proposed revisions are needed to bring Chapter 4. General Provisions up to date as a result of statutory changes in recent years eliminating two DEQ advisory councils and rearranging the membership of two other councils.

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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, 2016:

SUBCHAPTER 4. RULES OF PRACTICE AND PROCEDURE

252:4-1-2. Definitions

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

"Administratively complete" means an application that contains the information specified in the application form and rules in sufficient detail to allow the DEQ to begin technical review.

"Administrative hearing" is defined at 27A O.S. §2-1-102 and is synonymous with "individual proceeding" as that term is defined in the Administrative Procedures Act, 75 O.S. §250.1 *et seq.*

"Administrative Law Judge" is synonymous with "hearing examiner" as that term is defined in the Administrative Procedures Act.

"Advisory Councils or Council" means any of the following Councils: the Air Quality Advisory Council, the Hazardous Waste Management Advisory Council, ~~the Laboratory Services Advisory Council~~, the Radiation Management Advisory Council, the Solid Waste Management Advisory Council, and the Water Quality Management Advisory Council, ~~and the Waterworks and Wastewater Works Operator Certification Advisory Council.~~

"APA" means the Oklahoma Administrative Procedures Act, 75 O.S. § 250.1 *et seq.*

"Application" means *"a document or set of documents, filed with the [DEQ], for the purpose of receiving a permit or the modification, amendment or renewal thereof from the [DEQ]... any subsequent additions, revisions or modifications submitted to the [DEQ] which supplement, correct or amend a pending application."* [27A O.S. § 2-14-103(1)]

"Board" means the Environmental Quality Board.

"Code" means the Oklahoma Environmental Quality Code, 27A O.S. § 2-1-101 *et seq.*

"Complaint" means any written or oral information submitted to DEQ alleging site-specific environmental pollution except information gained from facility inspections, or self-reported incidents.

"Department or DEQ" means the Department of Environmental Quality.

"Enforcement action" means:

(A) a written communication from the DEQ to an alleged violator that identifies the alleged violations

and directs or orders that the violations be corrected and/or their effect remedied;

(B) an administrative action to revoke or suspend a permit or license;

(C) a consent order or proposed consent order;

(D) a civil petition, a complaint in municipal court, or a complaint in federal district court;

(E) a referral by the DEQ to the Oklahoma Attorney General's office, a state District Attorney's office, a U.S. Attorney's office, or a state or federal law enforcement agency for investigation.

"Executive Director" means the Executive Director of the Department of Environmental Quality.

"False complaint" means any written or oral information submitted to DEQ alleging site-specific environmental pollution by a person who knowingly and willfully gives false information or misrepresents material information.

"Individual proceeding" is defined in the APA [75 O.S. § 250.3(7)]. It includes an administrative evidentiary hearing to resolve issues of law or fact between parties, resulting in an order.

"Mediation" means a voluntary negotiating process in which parties to a dispute agree to use a mediator to assist them in jointly exploring and settling their differences, with a goal of resolving their differences by a formal agreement created by the parties.

"Notice of deficiencies" means a written notice to an applicant, describing with reasonable specificity the deficiencies in a permit application and requesting supplemental information.

"Off-site", as used in hazardous waste, solid waste and Underground Injection Control (UIC) tier classifications, means a facility which receives waste from various sources for treatment, storage, processing, or disposal.

"On-site", as used in hazardous waste, solid waste and UIC tier classifications, means a facility owned and operated by an industry for the treatment, storage, processing, or disposal of its own waste exclusively.

"Program" means a regulatory section or division of the DEQ.

"Respondent" means a person or legal entity against whom relief is sought.

"Submittal" means a document or group of documents provided as part of an application.

"Supplement" means a response to a request for additional information following completeness and technical reviews, and information submitted voluntarily by the applicant.

"Technical review" means the evaluation of an application for compliance with applicable program rules.

252:4-1-3. Organization

(a) **Environmental Quality Board.** The Environmental Quality Board consists of thirteen (13) members, appointed by the Governor with the advice and consent of the Senate, selected from the environmental profession, general industry, hazardous waste industry, solid waste industry, water usage,

petroleum industries, agriculture industries, conservation districts, local city or town governments, rural water districts, and statewide nonprofit environmental organizations. (See further 27A O.S. § 2-2-101.)

(b) **Advisory Councils.** There are ~~seven~~^{five} advisory councils. ~~All councils, except one with ten (10) members, consist of nine (9).~~ Each council consists of nine to twelve members appointed by the Speaker of the House of Representatives, the President Pro Tempore of the Senate or the Governor. (See further 27A O.S. § 2-2-201 ~~and 59 O.S. § 1101 et seq.~~)

(c) **DEQ.** The DEQ consists of the following divisions: Administrative Services, Air Quality, Land Protection, Water Quality, Environmental Complaints and Local Services, External Affairs, and State Environmental Laboratory Services.

[OAR Docket #16-625; filed 6-24-16]

**TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 4. RULES OF PRACTICE AND PROCEDURE**

[OAR Docket #16-626]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

- Subchapter 17. Electronic Reporting
- 252:4-17-2. Definitions [AMENDED]
- 252:4-17-4. Electronic signature agreement [AMENDED]
- Appendix E. Electronic Signature Agreement [REVOKED]

AUTHORITY:

Environmental Quality Board; 27A O.S. §§ 2-2-101 and 2-3-201

SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:

September 3, 2015

COMMENT PERIOD:

October 1, 2015 to November 2, 2015

PUBLIC HEARING:

Environmental Quality Board meeting on November 10, 2015

ADOPTION:

November 10, 2015

SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:

November 18, 2015

APPROVED BY GOVERNOR'S DECLARATION:

Approved by Governor's declaration on June 9, 2016

FINAL ADOPTION:

June 9, 2016

EFFECTIVE:

September 15, 2016

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

ANALYSIS:

The proposed revisions are needed so Subchapter 17 Electronic Reporting will allow for the electronic verification of identity rather than requiring a notarized paper submittal for the identification process.

CONTACT PERSON:

Sarah Penn, DEQ Deputy General Counsel, Sarah.Penn@deq.ok.gov or (405) 702-7184.

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, 2016:

SUBCHAPTER 17. ELECTRONIC REPORTING

252:4-17-2. Definitions

In addition to the Definitions in Subchapter 1 of this Chapter, the following words and terms, when used in this Subchapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Authorized program" means a federal program that the United States Environmental Protection Agency (EPA) has delegated to, authorized, or approved the DEQ, on behalf of the State of Oklahoma, to administer, or a program that the EPA has delegated to, authorized, or approved the DEQ to administer in lieu of a federal program, under provisions of 40 CFR and for which the delegation, authorization or approval has not been withdrawn or expired.

"Copy of record" means a true and correct copy of an electronic document received by an electronic document receiving system, which can be viewed in a human-readable format that clearly and accurately associates all the information provided in the electronic document with descriptions or labeling of the information. A copy of record includes:

- (A) any electronic signature contained in or logically associated with the document;
- (B) the date and time of receipt; and
- (C) any other information used to record the meaning of the document or the circumstances of its receipt.

"Electronic document" means any information that is submitted to the DEQ's electronic document receiving system in digital form to satisfy requirements of an authorized program and may include data, text, sounds, codes, computer programs, software, or databases.

"Electronic document receiving system" means the apparatus, procedures, software, or records established and used by the DEQ to receive electronic documents in lieu of paper.

"Electronic signature" means any information in digital form attached to or logically associated with a record submitted to the DEQ's electronic document receiving system and executed or adopted by a person with the intent of expressing the same meaning as would a handwritten signature if affixed to an equivalent paper document with the same content.

"Electronic signature agreement" means a ~~written~~^{web based} agreement prepared by the Executive Director and ~~attested to~~^{signed} by an individual with respect to ~~an~~^{an} electronic signature device that the individual will use to create his or her electronic signature.

"Electronic signature device" means a code or other mechanism, assigned to an individual who is uniquely entitled to use it and that is then used to create the individual's electronic signature.

"Federal program" means any program administered by EPA under any provision of 40 CFR.

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"Handwritten signature" means the scripted name or legal mark of an individual made by that individual with the present intention to authenticate a writing in a permanent form.

"Signatory" means an individual authorized to and who signs a document submitted to the DEQ's electronic document receiving system pursuant to an electronic signature agreement in a format acceptable to the DEQ.

"State program" means any program other than an authorized program that is implemented by DEQ under the Oklahoma Environmental Quality Code or other laws of the State of Oklahoma.

"Valid electronic signature" means an electronic signature on an electronic document created by using an electronic signature device that the identified signatory is uniquely entitled to use for signing the electronic document, provided the device has not been compromised and provided the signatory is an individual authorized to sign the document by virtue of legal status or relationship to the entity on whose behalf the signature is created.

252:4-17-4. Electronic signature agreement

(a) **Agreement to be executed.** In the case of an electronic document that must bear the electronic signature of a signatory

under an authorized program, each signatory must execute an electronic signature agreement.

(b) **Form and content of agreement.** ~~All agreements shall be in writing and filed with the electronic document receiving system administrator via the U.S. postal service or by hand delivery. The electronic signature agreement shall include the information and follow the format in Appendix E, provided on the DEQ website through the electronic document receiving system registration process. The agreement form may be downloaded and printed for execution from the DEQ's public website. The agreement shall serve as attestation that the individual has the authority to serve as a signatory under an authorized program.~~

(c) **Verification.** The identity ~~and authority~~ of each individual submitting an electronic signature agreement shall be verified by the ~~DEQ electronic document receiving system registration process.~~ After the DEQ has satisfactorily completed the verification, the DEQ shall notify the individual electronically, issue a unique electronic signature device to the individual, and request that the individual establish a password to be used in connection with the device.

APPENDIX E. ELECTRONIC SIGNATURE AGREEMENT [REVOKED]

OKLAHOMA DEPARTMENT OF ENVIRONMENTAL QUALITY

Company Name: _____

Street/Physical Address: _____

City, State, Zip: _____

Telephone Number: _____

Fax Number: _____

Site/Facility Name and Address (if different from company name/address above): _____

I, _____,
(Name of authorized individual)

- Understand that this Electronic Signature Agreement allows me to submit electronic documents to the Oklahoma Department of Environmental Quality's ("DEQ") approved electronic document receiving system ("EDRS") under authorized programs in lieu of paper submissions.
- Understand that the DEQ has adopted applicable rules at Oklahoma Administrative Code 252:4-17, entitled "Electronic Reporting".
- Agree to protect my unique electronic signature device from compromise and from use by anyone except me. Specifically, I agree to maintain the secrecy of the password; I will not divulge or delegate my user name and password to any other individual; I will not store my password in an unprotected location; and I will not allow my password to be written into computer scripts to achieve automated log-in.
- Agree to contact the DEQ EDRS administrator at degreporting@deq.state.ok.us as soon as possible, but no later than 24 hours, after suspecting or determining that my account

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identification and/or password have become lost, stolen or otherwise compromised.

- Agree that I will review the contents of all electronic submissions prior to submission and/or make all reasonable inquiry as to the accuracy and completeness of the information.
- Understand and agree that I will be legally bound, obligated, or responsible by my use of my electronic signature as I would be using my hand-written signature.
- Understand that I will automatically receive an e-mail receipt from the DEQ's EDRS for any submission that contains a valid electronic signature, identifying the document received, the signatory, and the date and time of receipt.
- Agree that I will contact the DEQ EDRS Administrator if I do not receive an e-mail receipt as specified above within five (5) business days for any submission to the DEQ's EDRS.
- Understand that I will have the opportunity to review the document submitted in a human-readable format and an opportunity to repudiate the electronic document based on this review.
- Understand that the DEQ's EDRS will automatically reject any electronic document submitted without a valid electronic signature if such signature is required.
- Understand that the DEQ may contact the Immediate Supervisor or Company Official who signs below to authorize me as signatory for the company in order to verify my identity.
- Agree to notify the DEQ EDRS Administrator if I cease to represent the regulated entity specified above as signatory as soon as this change in relationship occurs.
- Agree to retain a copy of this signed agreement as long as I continue to represent the regulated entity specified above as signatory of the company's electronic submissions.

Printed Name of Authorized Signatory:

Signatory's E-mail Address for EDRS correspondence:

Signature of Authorized Signatory

Official Title

Date: _____

Subscribed and sworn to before me this _____ day of
_____, 20__.

NOTARY PUBLIC

My commission expires:

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AUTHORIZATION BY IMMEDIATE SUPERVISOR OR COMPANY OFFICIAL

I, _____, acknowledge that the individual named above works at/for _____ and is authorized to submit electronic documents and act as signatory for purposes of the DEQ's electronic document receiving system.

Signature of Immediate Supervisor or Company Official

Official Title: _____

Date: _____

Subscribed and sworn to before me this _____ day of _____, 20____.

NOTARY PUBLIC

My commission expires:

PLEASE MAIL THIS DOCUMENT AS SOON AS POSSIBLE TO:

Oklahoma Department of Environmental Quality
Attn.: EDRS Coordinator
Customer Services Division
P.O. Box 1677
Oklahoma City, OK 73101-1677

[OAR Docket #16-626; filed 6-24-16]

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

[OAR Docket #16-627]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

- Subchapter 2. Incorporation by Reference
- 252:100-2-3. [AMENDED]
- Appendix Q. Incorporation by Reference [REVOKED]
- Appendix Q. Incorporation by Reference [NEW]

AUTHORITY:

Environmental Quality Board; 27A O.S. Sections 2-2-101 and 2-2-201; Oklahoma Clean Air Act, 27A O.S. Sections 2-5-101, et seq.

SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:

August 7, 2015

COMMENT PERIOD:

September 1, 2015 through October 14, 2015

PUBLIC HEARING:

- October 14, 2015
- November 10, 2015

ADOPTION:

November 10, 2015

SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:

November 18, 2015

APPROVED BY GOVERNOR'S DECLARATION:

Approved by Governor's declaration on June 9, 2016

FINAL ADOPTION:

June 9, 2016

EFFECTIVE:

September 15, 2016

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

Incorporated standards as they existed on July 1, 2015:

Table 1 to Appendix A of Subpart A of 40 CFR Part 51

Incorporating rules:

- 252:100-2-3
- Appendix Q. Incorporation By Reference

Availability:

The standards are on file at the Department of Environmental Quality, 707 North Robinson, Oklahoma City, Oklahoma, 73102, and are available to the public for examination Monday through Friday between the hours of 8:00 a.m. and 4:30 p.m., excluding state holidays.

ANALYSIS:

The Department is proposing to update OAC 252:100, Appendix Q, Incorporation by Reference, to incorporate the latest changes to U.S. Environmental Protection Agency (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.

CONTACT PERSON:

Cheryl Bradley, Department of Environmental Quality, Air Quality Division, 707 North Robinson, P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677, (405) 702-4100.

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 15, 2016:

SUBCHAPTER 2. INCORPORATION BY REFERENCE

252:100-2-3. Incorporation by reference

Except as provided under this section, the provisions of 40 CFR listed in Appendix Q are hereby incorporated by reference as they existed on ~~September 1, 2014~~ July 1, 2015.

(1) **Inclusion of 40 CFR citations and definitions.**

When a provision of 40 CFR is incorporated by reference, all citations contained therein are also incorporated by reference.

(2) **Inconsistencies or duplications of requirements or incorporation dates.**

(A) In the event that there are inconsistencies or duplications between the requirements of this Chapter and the requirements of those provisions incorporated by reference in Appendix Q or elsewhere in this Chapter, the more stringent requirements shall apply.

(B) In the event that a specific date of incorporation is indicated in Appendix Q or a subchapter of this Chapter, the specified date of incorporation shall apply.

(3) **Terminology related to 40 CFR.** For purposes of interfacing with 40 CFR and unless the context clearly indicates otherwise, the following terms apply.

(A) "Administrator" is synonymous with "Executive Director."

(B) "U. S. Environmental Protection Agency" or "EPA" is synonymous with "Department of Environmental Quality or "DEQ".

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APPENDIX Q. INCORPORATION BY REFERENCE [REVOKED]

APPENDIX Q. INCORPORATION BY REFERENCE [NEW]

Except as provided under OAC 252:100-2-3, the following provisions of Title 40 of the Code of Federal Regulations are hereby incorporated by reference as they existed on July 1, 2015, unless otherwise noted.

PART	SUBPART	DESCRIPTION
50	n/a	Appendix B to Part 50 - Reference Method for the Determination of Suspended Particulate Matter in the Atmosphere (High-Volume Method)
50	n/a	Appendix J to Part 50 - Reference Method for the Determination of Particulate Matter as PM ₁₀ in the Atmosphere
51	A	Table 1 to Appendix A only of Subpart A—Emission Thresholds by Pollutant for Treatment as Point Source Under 40 CFR 51.30
51	F	Paragraph 51.100(s)(1) only of Subpart F, Procedural Requirements
51	n/a	Appendix P to Part 51 - Minimum Emission Monitoring Requirements
58	n/a	Appendix A to Part 58 - Quality Assurance Requirements for SLAMS, SPMs and PSD Air Monitoring
60	A	General Provisions [Except 60.4, 60.9, 60.10 and 60.16]
60	D	Standards of Performance for Fossil-Fuel-Fired Steam Generators
60	Da	Standards of Performance for Electric Utility Steam Generating Units
60	Db	Standards of Performance for Industrial-Commercial-Institutional Steam Generating Units
60	Dc	Standards of Performance for Small Industrial-Commercial-Institutional Steam Generating Units
60	E	Standards of Performance for Incinerators
60	Ea	Standards of Performance for Municipal Waste Combustors for Which Construction is Commenced After December 20, 1989 and on or Before September 20, 1994
60	Eb	Standards of Performance for Large Municipal Waste Combustors for Which Construction is Commenced After September 20, 1994 or for Which Modification or Reconstruction is Commenced After June 19, 1996

PART	SUBPART	DESCRIPTION
60	Ec	Standards of Performance for Hospital/Medical/Infectious Waste Incinerators for Which Construction is Commenced After June 20, 1996
60	F	Standards of Performance for Portland Cement Plants
60	G	Standards of Performance for Nitric Acid Plants
60	Ga	Standards of Performance for Nitric Acid Plants for Which Construction, Reconstruction, or Modification Commenced After October 14, 2011
60	H	Standards of Performance for Sulfuric Acid Plants
60	I	Standards of Performance for Hot Mix Asphalt Facilities
60	J	Standards of Performance for Petroleum Refineries
60	Ja	Standards of Performance for Petroleum Refineries for Which Construction, Reconstruction, or Modification Commenced After May 14, 2007
60	K	Standards of Performance for Storage Vessels for Petroleum Liquids for Which Construction, Reconstruction, or Modification Commenced After June 11, 1973, and Prior to May 19, 1978
60	Ka	Standards of Performance for Storage Vessels for Petroleum Liquids for Which Construction, Reconstruction, or Modification Commenced After May 18, 1978, and Prior to July 23, 1984
60	Kb	Standards of Performance for Volatile Organic Liquid Storage Vessels (Including Petroleum Liquid Storage Vessels) for Which Construction, Reconstruction, or Modification Commenced After July 23, 1984
60	L	Standards of Performance for Secondary Lead Smelters
60	M	Standards of Performance for Secondary Brass and Bronze Production Plants
60	N	Standards of Performance for Primary Emissions from Basic Oxygen Process Furnaces for Which Construction is Commenced After June 11, 1973
60	Na	Standards of Performance for Secondary Emissions from Basic Oxygen Process Steelmaking Facilities for Which Construction is Commenced After January 20, 1983
60	O	Standards of Performance for Sewage Treatment Plants
60	P	Standards of Performance for Primary Copper Smelters

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PART	SUBPART	DESCRIPTION
60	Q	Standards of Performance for Primary Zinc Smelters
60	R	Standards of Performance for Primary Lead Smelters
60	S	Standards of Performance for Primary Aluminum Reduction Plants
60	T	Standards of Performance for the Phosphate Fertilizer Industry: Wet-Process Phosphoric Acid Plants
60	U	Standards of Performance for the Phosphate Fertilizer Industry: Superphosphoric Acid Plants
60	V	Standards of Performance for the Phosphate Fertilizer Industry: Diammonium Phosphate Plants
60	W	Standards of Performance for the Phosphate Fertilizer Industry: Triple Superphosphate Plants
60	X	Standards of Performance for the Phosphate Fertilizer Industry: Granular Triple Superphosphate Storage Facilities
60	Y	Standards of Performance for Coal Preparation and Processing Plants
60	Z	Standards of Performance for Ferroalloy Production Facilities
60	AA	Standards of Performance for Steel Plants: Electric Arc Furnaces Constructed After October 21, 1974, and On or Before August 17, 1983
60	AAa	Standards of Performance for Steel Plants: Electric Arc Furnaces and Argon-Oxygen Decarburization Vessels Constructed After August 17, 1983
60	BB	Standards of Performance for Kraft Pulp Mills
60	BBa	Standards of Performance for Kraft Pulp Mill Affected Sources for Which Construction, Reconstruction, or Modification Commenced After May 23, 2013
60	CC	Standards of Performance for Glass Manufacturing Plants
60	DD	Standards of Performance for Grain Elevators
60	EE	Standards of Performance for Surface Coating of Metal Furniture
60	GG	Standards of Performance for Stationary Gas Turbines
60	HH	Standards of Performance for Lime Manufacturing Plants
60	KK	Standards of Performance for Lead-Acid Battery Manufacturing

PART	SUBPART	DESCRIPTION
		Plants
60	LL	Standards of Performance for Metallic Mineral Processing Plants
60	MM	Standards of Performance for Automobile and Light Duty Truck Surface Coating Operations
60	NN	Standards of Performance for Phosphate Rock Plants
60	PP	Standards of Performance for Ammonium Sulfate Manufacture
60	QQ	Standards of Performance for the Graphic Arts Industry: Publication Rotogravure Printing
60	RR	Standards of Performance for Pressure Sensitive Tape and Label Surface Coating Operations
60	SS	Standards of Performance for Industrial Surface Coating: Large Appliances
60	TT	Standards of Performance for Metal Coil Surface Coating
60	UU	Standards of Performance for Asphalt Processing and Asphalt Roofing Manufacture
60	VV	Standards of Performance for Equipment Leaks of VOC in the Synthetic Organic Chemicals Manufacturing Industry for which Construction, Reconstruction, or Modification Commenced After January 5, 1981, and on or Before November 7, 2006
60	VVa	Standards of Performance for Equipment Leaks of VOC in the Synthetic Organic Chemicals Manufacturing Industry for Which Construction, Reconstruction, or Modification Commenced After November 7, 2006
60	WW	Standards of Performance for the Beverage Can Surface Coating Industry
60	XX	Standards of Performance for Bulk Gasoline Terminals
60	BBB	Standards of Performance for the Rubber Tire Manufacturing Industry
60	DDD	Standards of Performance for Volatile Organic Compound (VOC) Emissions from the Polymer Manufacturing Industry
60	FFF	Standards of Performance for Flexible Vinyl and Urethane Coating and Printing
60	GGG	Standards of Performance for Equipment Leaks of VOC in Petroleum Refineries for which Construction, Reconstruction, or Modification Commenced After January 4, 1983, and on or

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PART	SUBPART	DESCRIPTION
		Before November 7, 2006
60	GGGa	Standards of Performance for Equipment Leaks of VOC in Petroleum Refineries for Which Construction, Reconstruction, or Modification Commenced After November 7, 2006
60	HHH	Standards of Performance for Synthetic Fiber Production Facilities
60	III	Standards of Performance for Volatile Organic Compound (VOC) Emissions From the Synthetic Organic Chemical Manufacturing Industry (SOCMI) Air Oxidation Unit Processes
60	JJJ	Standards of Performance for Petroleum Dry Cleaners
60	KKK	Standards of Performance for Equipment Leaks of VOC From Onshore Natural Gas Processing Plants
60	LLL	Standards of Performance for SO ₂ Emissions From Onshore Natural Gas Processing: SO ₂ Emissions
60	NNN	Standards of Performance for Volatile Organic Compound (VOC) Emissions From Synthetic Organic Chemical Manufacturing Industry (SOCMI) Distillation Operations
60	OOO	Standards of Performance for Nonmetallic Mineral Processing Plants
60	PPP	Standard of Performance for Wool Fiberglass Insulation Manufacturing Plants
60	QQQ	Standards of Performance for VOC Emissions From Petroleum Refinery Wastewater Systems
60	RRR	Standards of Performance for Volatile Organic Compound Emissions From Synthetic Organic Chemical Manufacturing Industry (SOCMI) Reactor Processes
60	SSS	Standards of Performance for Magnetic Tape Coating Facilities
60	TTT	Standards of Performance for Industrial Surface Coating: Surface Coating of Plastic Parts for Business Machines
60	UUU	Standards of Performance for Calciners and Dryers in Mineral Industries
60	VVV	Standards of Performance for Polymeric Coating of Supporting Substrates Facilities
60	WWW	Standards of Performance for Municipal Solid Waste Landfills
60	AAAA	Standards of Performance for Small Municipal Waste

PART	SUBPART	DESCRIPTION
		Combustion Units for Which Construction is Commenced After August 30, 1999 or for Which Modification or Reconstruction is Commenced After June 6, 2001
60	CCCC	New Source Performance Standards for Commercial/Industrial Solid Waste Incinerators constructed after November 30, 1999
60	DDDD	Emissions Guidelines and Compliance Times for Commercial and Industrial Solid Waste Incineration Units, Model Rule only, Sections 60.2575 through 60.2875, including Tables 1 through 9
60	EEEE	Standards of Performance for Other Solid Waste Incineration Units for Which Construction Is Commenced After December 9, 2004, or for Which Modification or Reconstruction Is Commenced on or After June 16, 2006
60	III	Standards of Performance for Stationary Compression Ignition Internal Combustion Engines
60	JJJ	Standards of Performance for Stationary Spark Ignition Internal Combustion Engines
60	KKKK	Standards of Performance for Stationary Combustion Turbines
60	LLL	Standards of Performance for New Sewage Sludge Incineration Units
60	OOOO	Standards of Performance for Crude Oil and Natural Gas Production, Transmission and Distribution
60	n/a	Appendix A to Part 60 - Test Methods
60	n/a	Appendix B to Part 60 - Performance Specifications
61	A	General Provisions
61	C	National Emission Standard for Beryllium
61	D	National Emission Standard for Beryllium Rocket Motor Firing
61	E	National Emission Standard for Mercury
61	F	National Emission Standard for Vinyl Chloride
61	J	National Emission Standard for Equipment Leaks (Fugitive Emission Sources) of Benzene
61	L	National Emission Standard for Benzene Emissions from Coke By-Product Recovery Plants
61	M	National Emission Standard for Asbestos

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PART	SUBPART	DESCRIPTION
61	N	National Emission Standard for Inorganic Arsenic Emissions From Glass Manufacturing Plants
61	O	National Emission Standard for Inorganic Arsenic Emissions From Primary Copper Smelters
61	P	National Emission Standard for Inorganic Arsenic Emissions From Arsenic Trioxide and Metallic Arsenic Production Facilities
61	V	National Emission Standard for Equipment Leaks (Fugitive Emission Sources)
61	Y	National Emission Standard for Benzene Emissions From Benzene Storage Vessels
61	BB	National Emission Standard for Benzene Emissions From Benzene Transfer Operations
61	FF	National Emission Standard for Benzene Waste Operations
63	A	General Provisions
63	B	Sections 63.41, 63.43 and 63.44 only of Subpart B, Requirements for Control Technology Determinations for Major Sources in Accordance With Clean Air Act Sections, Sections 112(g) and 112(j)
63	F	National Emission Standards for Organic Hazardous Air Pollutants From the Synthetic Organic Chemical Manufacturing Industry
63	G	National Emission Standards for Organic Hazardous Air Pollutants From the Synthetic Organic Chemical Manufacturing Industry for Process Vents, Storage Vessels, Transfer Operations, and Wastewater
63	H	National Emission Standards for Organic Hazardous Air Pollutants for Equipment Leaks
63	I	National Emission Standards for Organic Hazardous Air Pollutants for Certain Processes Subject to the Negotiated Regulation for Equipment Leaks
63	J	National Emission Standards for Hazardous Air Pollutants for Polyvinyl Chloride and Copolymers Production
63	L	National Emission Standards for Coke Oven Batteries
63	M	National Perchloroethylene Air Emission Standards for Dry Cleaning Facilities

PART	SUBPART	DESCRIPTION
63	N	National Emission Standards for Chromium Emissions From Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks
63	O	Ethylene Oxide Emissions Standards for Sterilization Facilities
63	Q	National Emission Standards for Hazardous Air Pollutants for Industrial Process Cooling Towers
63	R	National Emission Standards for Gasoline Distribution Facilities (Bulk Gasoline Terminals and Pipeline Breakout Stations)
63	S	National Emission Standards for Hazardous Air Pollutants from the Pulp and Paper Industry
63	T	National Emission Standards for Halogenated Solvent Cleaning
63	U	National Emission Standards for Hazardous Air Pollutant Emissions: Group I Polymers and Resins
63	W	National Emission Standards for Hazardous Air Pollutants for Epoxy Resins Production and Non-Nylon Polyamides Production
63	X	National Emission Standards for Hazardous Air Pollutants from Secondary Lead Smelting
63	Y	National Emission Standards for Marine Tank Vessel Loading Operations
63	AA	National Emission Standards for Hazardous Air Pollutants From Phosphoric Acid Manufacturing Plants
63	BB	National Emission Standards for Hazardous Air Pollutants From Phosphate Fertilizers Production Plants
63	CC	National Emission Standards for Hazardous Air Pollutants From Petroleum Refineries
63	DD	National Emission Standards for Hazardous Air Pollutants from Off-Site Waste and Recovery Operations
63	EE	National Emission Standards for Magnetic Tape Manufacturing Operations
63	GG	National Emission Standards for Aerospace Manufacturing and Rework Facilities
63	HH	National Emission Standards for Hazardous Air Pollutants From Oil and Natural Gas Production Facilities
63	II	National Emission Standards for Shipbuilding and Ship Repair

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PART	SUBPART	DESCRIPTION
		(Surface Coating)
63	JJ	National Emission Standards for Wood Furniture Manufacturing Operations
63	KK	National Emission Standards for the Printing and Publishing Industry
63	LL	National Emission Standards for Hazardous Air Pollutants for Primary Aluminum Reduction Plants
63	MM	National Emission Standards for Hazardous Air Pollutants for Chemical Recovery Combustion Sources at Kraft, Soda, Sulfite, and Stand-Alone Semicheical Pulp Mills
63	OO	National Emission Standards for Tanks - Level 1
63	PP	National Emission Standards for Containers
63	QQ	National Emission Standards for Surface Impoundments
63	RR	National Emission Standards for Individual Drain Systems
63	SS	National Emission Standards for Closed Vent Systems, Control Devices, Recovery Devices and Routing to a Fuel Gas System or a Process
63	TT	National Emission Standards for Equipment Leaks – Control Level 1
63	UU	National Emission Standards for Equipment Leaks - Control Level 2 Standards
63	VV	National Emission Standards for Oil-Water Separators and Organic-Water Separators
63	WW	National Emission Standards for Storage Vessels (Tanks) - Control Level 2
63	XX	National Emission Standards for Ethylene Manufacturing Process Units: Heat Exchange Systems and Waste Operations
63	YY	National Emission Standards for Hazardous Air Pollutants for Source Categories: Generic Maximum Achievable Control Technology Standards
63	CCC	National Emission Standards for Hazardous Air Pollutants for Steel Pickling - HCl Process Facilities and Hydrochloric Acid Regeneration Plants
63	DDD	National Emission Standards for Hazardous Air Pollutants for Mineral Wool Production

PART	SUBPART	DESCRIPTION
63	EEE	National Emission Standards for Hazardous Air Pollutants from Hazardous Waste Combustors
63	GGG	National Emission Standards for Pharmaceuticals Production
63	HHH	National Emission Standards for Hazardous Air Pollutants From Natural Gas Transmission and Storage Facilities
63	III	National Emission Standards for Hazardous Air Pollutants for Flexible Polyurethane Foam Production
63	JJJ	National Emission Standards for Hazardous Air Pollutant Emissions: Group IV Polymers and Resins
63	LLL	National Emission Standards for Hazardous Air Pollutants From the Portland Cement Manufacturing Industry
63	MMM	National Emission Standards for Hazardous Air Pollutants for Pesticide Active Ingredient Production
63	NNN	National Emission Standards for Hazardous Air Pollutants for Wool Fiberglass Manufacturing
63	OOO	National Emission Standards for Hazardous Air Pollutant Emissions: Manufacture of Amino/Phenolic Resins
63	PPP	National Emission Standards for Hazardous Air Pollutant Emissions for Polyether Polyols Production
63	QQQ	National Emission Standards for Hazardous Air Pollutants for Primary Copper Smelting
63	RRR	National Emission Standards for Hazardous Air Pollutants for Secondary Aluminum Production
63	TTT	National Emission Standards for Hazardous Air Pollutants for Primary Lead Smelting
63	UUU	National Emission Standards for Hazardous Air Pollutants for Petroleum Refineries: Catalytic Cracking Units, Catalytic Reforming Units, and Sulfur Recovery Units
63	VVV	National Emission Standards for Hazardous Air Pollutants: Publicly Owned Treatment Works
63	XXX	National Emission Standards for Hazardous Air Pollutants for Ferroalloys Production: Ferromanganese and Silicomanganese
63	AAAA	National Emission Standards for Hazardous Air Pollutants: Municipal Solid Waste Landfills

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PART	SUBPART	DESCRIPTION
63	CCCC	National Emission Standards for Hazardous Air Pollutants: Manufacturing of Nutritional Yeast
63	DDDD	National Emission Standards for Hazardous Air Pollutants: Plywood and Composite Wood Products
63	EEEE	National Emission Standards for Hazardous Air Pollutants: Organic Liquids Distribution (Non-Gasoline)
63	FFFF	National Emission Standards for Hazardous Air Pollutants: Miscellaneous Organic Chemical Manufacturing
63	GGGG	National Emission Standards for Hazardous Air Pollutants: Solvent Extraction for Vegetable Oil Production
63	HHHH	National Emission Standards for Hazardous Air Pollutants for Wet-Formed Fiberglass Mat Production
63	IIII	National Emission Standards for Hazardous Air Pollutants: Surface Coating of Automobiles and Light-Duty Trucks
63	JJJJ	National Emission Standards for Hazardous Air Pollutants: Paper and Other Web Coating
63	KKKK	National Emission Standards for Hazardous Air Pollutants: Surface Coating of Metal Cans
63	MMMM	National Emission Standards for Hazardous Air Pollutants for Surface Coating of Miscellaneous Metal Parts and Products
63	NNNN	National Emission Standards for Hazardous Air Pollutants: Surface Coating of Large Appliances
63	OOOO	National Emission Standards for Hazardous Air Pollutants: Printing, Coating, and Dyeing of Fabrics and Other Textiles
63	PPPP	National Emission Standards for Hazardous Air Pollutants for Surface Coating of Plastic Parts and Products
63	QQQQ	National Emission Standards for Hazardous Air Pollutants: Surface Coating of Wood Building Products
63	RRRR	National Emission Standards for Hazardous Air Pollutants: Surface Coating of Metal Furniture
63	SSSS	National Emission Standards for Hazardous Air Pollutants: Surface Coating of Metal Coil
63	TTTT	National Emission Standards for Hazardous Air Pollutants for Leather Finishing Operations

PART	SUBPART	DESCRIPTION
63	UUUU	National Emission Standards for Hazardous Air Pollutants for Cellulose Products Manufacturing
63	VVVV	National Emission Standards for Hazardous Air Pollutants for Boat Manufacturing
63	WWWW	National Emissions Standards for Hazardous Air Pollutants: Reinforced Plastic Composites Production
63	XXXX	National Emissions Standards for Hazardous Air Pollutants: Rubber Tire Manufacturing
63	YYYY	National Emission Standards for Hazardous Air Pollutants for Stationary Combustion Turbines
63	ZZZZ	National Emission Standards for Hazardous Air Pollutants for Stationary Reciprocating Internal Combustion Engines
63	AAAAA	National Emission Standards for Hazardous Air Pollutants for Lime Manufacturing Plants
63	BBBBB	National Emission Standards for Hazardous Air Pollutants for Semiconductor Manufacturing
63	CCCCC	National Emission Standards for Hazardous Air Pollutants for Coke Ovens: Pushing, Quenching, and Battery Stacks
63	DDDDD	National Emission Standards for Hazardous Air Pollutants for Major Sources: Industrial, Commercial, and Institutional Boilers and Process Heaters
63	EEEEE	National Emission Standards for Hazardous Air Pollutants for Iron and Steel Foundries
63	FFFFF	National Emission Standards for Hazardous Air Pollutants for Integrated Iron and Steel Manufacturing Facilities
63	GGGGG	National Emission Standards for Hazardous Air Pollutants: Site Remediation
63	HHHHH	National Emission Standards for Hazardous Air Pollutants: Miscellaneous Coating Manufacturing
63	IIIII	National Emission Standards for Hazardous Air Pollutants: Mercury Emissions From Mercury Cell Chlor-Alkali Plants
63	JJJJJ	National Emission Standards for Hazardous Air Pollutants for Brick and Structural Clay Products Manufacturing
63	KKKKK	National Emission Standards for Hazardous Air Pollutants for Clay Ceramics Manufacturing

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PART	SUBPART	DESCRIPTION
63	LLLLL	National Emission Standards for Hazardous Air Pollutants: Asphalt Processing and Asphalt Roofing Manufacturing
63	MMMMM	National Emission Standards for Hazardous Air Pollutants: Flexible Polyurethane Foam Fabrication Operations
63	NNNNN	National Emission Standards for Hazardous Air Pollutants: Hydrochloric Acid Production
63	PPPPP	National Emission Standards for Hazardous Air Pollutants for Engine Test Cells/Standards
63	QQQQQ	National Emission Standards for Hazardous Air Pollutants for Friction Materials Manufacturing Facilities
63	RRRRR	National Emission Standards for Hazardous Air Pollutants: Taconite Iron Ore Processing
63	SSSSS	National Emission Standards for Hazardous Air Pollutants for Refractory Products Manufacturing
63	TTTTT	National Emission Standards for Hazardous Air Pollutants for Primary Magnesium Refining
63	UUUUU	National Emission Standards for Hazardous Air Pollutants: Coal and Oil-fired Electric Utility Steam Generating Units
63	WWWWW	National Emission Standards for Hospital Ethylene Oxide Sterilizers
63	YYYYY	National Emission Standards for Hazardous Air Pollutants for Area Sources: Electric Arc Furnace Steelmaking Facilities
63	ZZZZZ	National Emission Standards for Hazardous Air Pollutants for Iron and Steel Foundries Area Sources
63	BBBBBB	National Emission Standards for Hazardous Air Pollutants for Source Category: Gasoline Distribution Bulk Terminals, Bulk Plants, and Pipeline Facilities
63	CCCCCC	National Emission Standards for Hazardous Air Pollutants for Source Category: Gasoline Dispensing Facilities
63	DDDDDD	National Emission Standards for Hazardous Air Pollutants for Polyvinyl Chloride and Copolymers Production Area Sources
63	EEEEEE	National Emission Standards for Hazardous Air Pollutants for Primary Copper Smelting Area Sources
63	FFFFFF	National Emission Standards for Hazardous Air Pollutants for Secondary Copper Smelting Area Sources

PART	SUBPART	DESCRIPTION
63	GGGGGG	National Emission Standards for Hazardous Air Pollutants for Primary Nonferrous Metals Area Sources - Zinc, Cadmium, and Beryllium
63	HHHHHH	National Emission Standards for Hazardous Air Pollutants: Paint Stripping and Miscellaneous Surface Coating Operations at Area Sources
63	JJJJJJ	National Emission Standards for Hazardous Air Pollutants for Industrial, Commercial, and Institutional Boilers Area Sources
63	LLLLLL	National Emission Standards for Hazardous Air Pollutants for Acrylic and Modacrylic Fibers Production Area Sources
63	MMMMMM	National Emission Standards for Hazardous Air Pollutants for Carbon Black Production Area Sources
63	NNNNNN	National Emission Standards for Hazardous Air Pollutants for Chemical Manufacturing Area Sources: Chromium Compounds
63	OOOOOO	National Emission Standards for Hazardous Air Pollutants for Flexible Polyurethane Foam Production and Fabrication Area Sources
63	PPPPPP	National Emission Standards for Hazardous Air Pollutants for Lead Acid Battery Manufacturing Area Sources
63	QQQQQQ	National Emission Standards for Hazardous Air Pollutants for Wood Preserving Area Sources
63	RRRRRR	National Emission Standards for Hazardous Air Pollutants for Clay Ceramics Manufacturing Area Sources
63	SSSSSS	National Emission Standards for Hazardous Air Pollutants for Glass Manufacturing Area Sources
63	TTTTTT	National Emission Standards for Hazardous Air Pollutants for Secondary Nonferrous Metals Processing Area Sources
63	VVVVVV	National Emission Standards for Hazardous Air Pollutants for Chemical Manufacturing Area Sources
63	WWWWWW	National Emission Standards for Hazardous Air Pollutants: Area Source Standards for Plating and Polishing Operations
63	XXXXXX	National Emission Standards for Hazardous Air Pollutants: Area Source Standards for Nine Metal Fabrication and Finishing Source Categories
63	YYYYYY	National Emission Standards for Hazardous Air Pollutants for

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PART	SUBPART	DESCRIPTION
		Area Sources: Ferroalloys Production Facilities
63	ZZZZZZ	National Emission Standards for Hazardous Air Pollutants: Area Source Standards for Aluminum, Copper, and Other Nonferrous Foundries
63	AAAAAAA	National Emission Standards for Hazardous Air Pollutants for Area Sources: Asphalt Processing and Asphalt Roofing Manufacturing
63	BBBBBBB	National Emission Standards for Hazardous Air Pollutants for Area Sources: Chemical Preparations Industry
63	CCCCCCC	National Emission Standards for Hazardous Air Pollutants for Area Sources: Paints and Allied Products Manufacturing
63	DDDDDDD	National Emission Standards for Hazardous Air Pollutants for Area Sources: Prepared Feeds Manufacturing
63	EEEEEEE	National Emission Standards for Hazardous Air Pollutants: Gold Mine Ore Processing and Production Area Source Category
63	HHHHHHH	National Emission Standards for Hazardous Air Pollutants for Polyvinyl Chloride and Copolymers Production
64	n/a (All Sections)	Compliance Assurance Monitoring (CAM)
72	All Subparts	Permits Regulation
98	A	Table A-1 only to Subpart A of Part 98 – Global Warming Potentials
241	n/a	Solid Wastes Used as Fuels or Ingredients in Combustion Units

[OAR Docket #16-627; filed 6-24-16]

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

[OAR Docket #16-628]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 5. Registration, Emission Inventory and Annual Operating Fees

252:100-5-2.1. [AMENDED]

AUTHORITY:

Environmental Quality Board; 27A O.S. Sections 2-2-101 and 2-2-201; Oklahoma Clean Air Act, 27A O.S. Sections 2-5-101, et seq.

SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:

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n/a

ANALYSIS:

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 (AERR) 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. At this time, lead is the only pollutant listed on Table 1 to Appendix A that has an emission reporting threshold that is below the emission limits for permit exempt facilities and de minimis facilities. Although the language in 252:100-5-2.1 currently exempts de minimis facilities and permit exempt facilities from the requirement to submit an annual emission inventory, the Department believes that all facilities that are required by AERR to submit emission inventories are currently doing so, including those that emit 0.5 ton or more of lead per year.

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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, 2016:

SUBCHAPTER 5. REGISTRATION, EMISSION INVENTORY AND ANNUAL OPERATING FEES

252:100-5-2.1. Emission inventory

(a) **Requirement to file an emission inventory.** The owner or operator of any facility that is a source of regulated air pollutants shall submit a complete annual emission inventory through DEQ's electronic reporting system or in another manner acceptable by the Division.

(1) **General requirements.** The inventory shall cover operations during a calendar year and shall be submitted on or before April 1 of the following year. Upon receiving a written demonstration of good cause the Director may grant an extension for submittal beyond the April 1 deadline.

(2) **Permit by rule.** The owner or operator of a facility registered under a permit by rule in Subchapter 7, Part 9, shall submit, at a minimum, an annual emission inventory for the 2014 reporting year or the calendar year in which the facility is registered, if the facility is registered after December 31, 2014, and thereafter according to the following schedule:

(A) For a registered facility with actual emissions greater than 5 tons per year of any regulated air pollutant, an annual emission inventory for that facility shall be submitted for every National Emissions Inventory (NEI) Three-Year Cycle Inventory year, as defined in 40 CFR Section 51.30(b).

(B) For a registered facility with actual emissions of 5 tons per year or less of any regulated air pollutant, an annual emission inventory for that facility shall be submitted every second National Emissions Inventory (NEI) Three-Year Cycle Inventory year, as defined in 40 CFR Section 51.30(b), beginning with the 2020 NEI reporting year.

(3) **Permit exempt facilities and de minimis facilities.** The owners or operators of permit exempt facilities or de minimis facilities, as these terms are defined in OAC 252:100-7-1.1, are not required to submit an annual emission inventory unless annual emissions from the facility exceed any of the emission thresholds listed in Table 1 in Appendix A to Subpart A of 40 CFR Part 51. In that event, the emission inventory shall be submitted according to the schedule contained in that table, which is incorporated by reference in Appendix Q to OAC 252:100.

(4) **Special inventories.** Upon request by the Director, the owner or operator of a facility that emits or has the potential to emit any regulated air pollutant shall file an emission inventory with the Division. The Director is authorized to request this inventory when emission related data is necessary for program planning or compliance with State or Federal rules, regulations, standards, or requirements.

(b) **Content.** All inventories submitted to the Division shall include, but shall not be limited to, the following:

(1) For those emissions subject to a permit, the permitted allowable emissions as set forth therein.

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- (2) The amount of the actual emissions, including quantifiable excess emissions, and the basis for such determination. If the total actual emissions of any regulated air pollutant from a facility vary from the allowable or from the previous year's actual by more than 30%, the Department may require the owner or operator to provide an explanation for the difference in order to determine compliance with the Oklahoma Clean Air Act or any rule promulgated thereunder, or any permit condition prescribed or order issued pursuant thereto.
- (3) For those emissions not the subject of a permit and when requested by the AQD, a list of all OAC 252:100 rules setting forth emission limitations applicable to the facility in question and the maximum yearly allowable for the facility.
- (c) **Documentation.** All calculations and assumptions must be verified by proper documentation. All supporting data, including actual production, throughput and measurement records along with engineering calculations and other data utilized in accordance with OAC 252:100-5-2.1(d) must be maintained for at least 5 years by the current owner or operator at the facility in conjunction with facility records of the emission inventory. This information must either be submitted to the Division or made available for inspection upon request.
- (d) **Method of calculation.** The best available data at the time the emission inventory is or should have been prepared shall be used to determine emissions. It shall be the burden of the owner or operator to select the best available data, based on an acceptable method of calculation. The method of calculation used to determine emissions shall be binding upon the owner or operator and the Division for the purpose of calculating fees under OAC 252:100-5-2.2 unless challenged by the owner or operator prior to September 1 of the year the inventory is due or by the Division within six (6) months after the date the inventory is received. Acceptable methods of calculation for determining actual emissions are:
- (1) Emission factors utilized in the issuance of a currently applicable Oklahoma Air Quality permit(s) for the facility.
 - (2) Stack tests using appropriate EPA test methods, with advance notification and opportunity for observation by the Division.
 - (3) Stack tests using appropriate EPA test methods may be used for determining the emissions of identical equipment (i.e., same model, same location, and same operating conditions and parameters) when:
 - (A) Tests are performed by persons qualified by training and experience to perform said tests.
 - (B) Copies of the test results and methods are available for review by the Division.
 - (4) Continuous emissions monitoring data, when supported by required certification and calibration data.
 - (5) Current AP-42 factors or other factors acceptable to the Division.
 - (6) Manufacturer's test data, when approved by the Division as reliable.
 - (7) EPA and EPA-contracted industry-specific emission study data when it can be shown to be applicable to

the facility in question and approved for use in the emission inventory by the Division.

(8) Fuel usage and other mass-balance methods when supported by specific records applicable to the materials on which the calculations are based and approved for use in the emission inventory by the Division.

(9) Any other method that can be shown to be reasonably accurate when supported by engineering data and calculations, and approved for use in the emission inventory by the Division.

(e) **Methods of verification.** Emission inventories determined by the Division to be substantially incomplete or substantially incorrect shall, upon the request of the Division, be subject to verification if not satisfactorily completed or corrected within a reasonable time. Verification shall be accomplished by an appropriate stack test using EPA approved methods, installation of continuous monitoring equipment, or other methods acceptable to the Division.

(f) **Certification.** The emission inventory shall contain certification by a responsible official of the truth, accuracy, and completeness of the document. This certification shall be signed by a responsible official and shall contain the following language: "I certify, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete."

[OAR Docket #16-628; filed 6-24-16]

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

[OAR Docket #16-629]

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PERMANENT final adoption

RULES:

Subchapter 7. Permits for Minor Facilities

Part 1. General Provisions

252:100-7-1.1. Definitions [AMENDED]

252:100-7-2. Requirement for permits for minor facilities [AMENDED]

Part 9. Permits by Rule

252:100-7-60.6. Emergency engine facilities [NEW]

AUTHORITY:

Environmental Quality Board; 27A O.S. Sections 2-2-101 and 2-2-201; Oklahoma Clean Air Act, 27A O.S. Sections 2-5-101, et seq.

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ANALYSIS:

The Department is proposing to modify OAC 252:100-7, Permits for Minor Facilities, to add a new Permit By Rule (PBR) for emergency generator facilities. The PBR would simplify the permitting process for facilities whose only obligation to obtain a permit is due to the presence of an emergency generator engine that is subject to a federal standard. The PBR would also reduce the reporting requirements of the qualifying facilities from an annual emission inventory to once every three or six years (depending on emission amounts).

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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 15, 2016:

SUBCHAPTER 7. PERMITS FOR MINOR FACILITIES

PART 1. GENERAL PROVISIONS

252:100-7-1.1. Definitions

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

"Actual emissions" means the total amount of any regulated air pollutant actually emitted from a given facility during a particular calendar year, determined using methods contained in OAC 252:100-5-2.1(d).

"Best Available Control Technology" or **"BACT"** means the best control technology that is currently available as determined by the Director on a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs.

"Commence" means, as applied to the construction or modification of a minor facility to which neither a NSPS or NESHAP applies, that the owner or operator has begun the construction or installation of the emitting equipment on a pad or in the final location at the facility.

"De minimis facility" means a facility that meets the requirements contained in paragraphs (A) and (B) of this definition.

(A) All the air pollutant emitting activities at the facility are on the de minimis list contained in Appendix H or the facility meets all of the following de minimis criteria:

(i) The facility has actual emissions of 5 tpy or less of each regulated air pollutant, except that

fraction of particulate matter that exhibits an aerodynamic particulate diameter of more than 10 micrometers (µm).

(ii) The facility is not a "major source" as defined in OAC 252:100-8-2.

(iii) The facility is not a "major stationary source" as defined in OAC 252:100-8-31 for facilities in attainment areas.

(iv) The facility is not a "major stationary source" as defined in OAC 252:100-8-51 for facilities in nonattainment areas.

(v) The facility is not operated in conjunction with another facility or source that is subject to air quality permitting.

(vi) The facility has not opted to obtain or retain an Air Quality Division permit.

(B) The facility is not subject to the Federal NSPS (40 CFR Part 60) or the Federal NESHAP (40 CFR Parts 61 and 63).

"Emergency engine" means a stationary engine used to resume essential operations or ensure safety during sudden and unexpected occurrences including but not limited to loss of electrical power, fire, and/or flood.

"Facility" means all of the pollutant-emitting activities that meet all the following conditions:

(A) Are under common control.

(B) Are located on one or more contiguous or adjacent properties.

(C) Have the same two-digit primary SIC Code (as described in the Standard Industrial Classification Manual, 1987).

"Hazardous Air Pollutant" or **"HAP"** means any hazardous air pollutant regulated under Section 112 of the Federal Clean Air Act, 42 U.S.C. Section 7412, and subject to NESHAP.

"Minor facility" means a facility which is not a Part 70 source.

"National Emission Standards for Hazardous Air Pollutants" or **"NESHAP"** means those standards as published by the Administrator of the U.S. Environmental Protection Agency (EPA) pursuant to Section 112 of the Federal Clean Air Act, 42 U.S.C. Section 7412.

"New portable source" means a portable source that has never operated within the State of Oklahoma. This includes sources that are initially constructed and existing facilities that are relocating into Oklahoma from another state.

"New Source Performance Standards" or **"NSPS"** means those standards found in 40 CFR Part 60.

"Permit exempt facility" means a facility that:

(A) has actual emissions in every calendar year that are 40 tpy or less of each regulated air pollutant;

(B) is not a de minimis facility as defined in OAC 252:100-7-1.1;

(C) is not a "major source" as defined in OAC 252:100-8-2 for Part 70 sources;

(D) is not a "major stationary source" as defined in OAC 252:100-8-31 for PSD facilities in attainment areas;

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(E) is not a "major stationary source" as defined in OAC 252:100-8-51 for facilities in nonattainment areas;

(F) is not operated in conjunction with another facility or source that is subject to air quality permitting;

(G) is not subject to an emission standard, equipment standard, or work practice standard in the Federal NSPS (40 CFR Part 60) or the Federal NESHAP (40 CFR Parts 61 and 63); and

(H) is not subject to the requirements of OAC 252:100-39-47.

"Portable source" means a source with design and intended use to allow disassembly or relocation.

"Relocate" means to move a source from one geographical location to another. The term does not include minimal moves within the facility boundaries.

"Regulated air pollutant" means any substance or group of substances listed in Appendix P of this Chapter, or any substance regulated as an air pollutant under any federal regulation for which the Department has been given authority, or any other substance for which an air emission limitation or equipment standard is set by an enforceable permit.

252:100-7-2. Requirement for permits for minor facilities

(a) **Permit required.** Except as provided in OAC 252:100-7-2 and 252:100-7-18(b), no person may commence construction or modification of any minor facility, may operate any new minor facility, or may relocate any minor portable source without obtaining a permit from the DEQ. For additional application and permitting procedures, see OAC 252:4, Subchapter 7. Environmental Permit Process.

(b) Exceptions.

(1) **De minimis facilities.** De minimis facilities are exempted from the permitting requirements of OAC 252:100-7. De minimis facilities remain subject only to the following air quality control

(A) De minimis facilities must comply with OAC 252:100-13, Open Burning.

(B) With the exception of those de minimis cotton gin facilities or grain, feed or seed facilities that comply with the requirements of 252:100-23, Control of Emissions from Cotton Gins or 252:100-24, Particulate Matter Emissions from Grain, Feed or Seed Operations, de minimis facilities remain subject to OAC 252:100-25, Visible Emissions and Particulates.

(C) With the exception of those de minimis cotton gin facilities or grain, feed or seed facilities that comply with the requirements of 252:100-23, Control of Emissions from Cotton Gins or ~~Subchapter 24—252:100-24,~~ Particulate Matter Emissions from Grain, Feed or Seed Operations, de minimis facilities remain subject to OAC 252:100-29, Control of Fugitive Dust.

(D) De minimis facilities must comply with OAC 252:100-42 Control of Toxic Air Contaminants.

~~(E) De minimis facilities must comply with 252:100-5, Registration, Emission Inventory and Annual Operating Fees.~~

(2) **Permit exempt facilities.** Permit exempt facilities are exempted from the permitting requirements of OAC 252:100-7, ~~the requirement to submit an annual emission inventory as required by OAC 252:100-5-2.1, and the requirement to pay annual operating fees as required by OAC 252:100-5-2.2(b).~~ Permit exempt facilities remain subject to all other applicable State and Federal air quality control rules and standards.

(3) **Emergency engines at residential and school facilities.** Primary and secondary schools and single family residences with an emergency engine are exempted from the permitting requirements of OAC 252:100-7.

(c) Permit application.

(1) All applications shall be signed by the applicant.

(2) The signature on an application for a permit shall constitute an implied agreement that the applicant shall be responsible for assuring construction or operation, as applicable, in accordance with the application and OAC 252:100.

(3) Any applicant who fails to submit any relevant facts or who has submitted incorrect information in a permit application shall, upon becoming aware of such failure or incorrect submittal, submit such supplementary facts or corrected information within 30 days unless the applicant's request for more time has been approved by the DEQ. In addition, an applicant shall provide additional information as necessary to address any requirements that become applicable to the source after the date it filed a complete application but prior to release of the draft permit.

(d) **Applicability determination.** Upon written request along with the required fee and any relevant information needed, the DEQ will make a determination of whether a permit is required.

(e) **Change in permit status.** The owner or operator of a permitted facility may at any time notify the DEQ that the facility:

(1) Is de minimis, requesting termination of the permit, or

(2) Qualifies for either a permit by rule or a general permit, submitting the appropriate application for such permit, or

(3) Is permit exempt, requesting termination of the permit.

(f) **Transfer of permit.** The transfer of ownership of a stationary source or a facility is an administrative amendment that shall subject the new owner or operator to existing permit conditions and/or compliance schedules. A new permit is not required. The transferor shall notify the DEQ using a prescribed form no later than 30 days following the change in ownership.

(g) **Emission calculation methods.** The methods in OAC 252:100-5-2.1(d) shall be used when calculating regulated air pollutant emission rates for purposes of determining if a DEQ-issued air quality permit is required or what type of permit is required.

PART 9. PERMITS BY RULE

252:100-7-60.6. Emergency engine facilities

(a) **Applicability.** This PBR is issued for minor facilities and area sources whose only obligation to obtain a permit is due to the construction (installation) and/or operation of an emergency engine that is subject to an emission standard, equipment standard, or work practice standard in the federal NSPS (40 CFR Part 60) or the federal NESHAP (40 CFR Parts 61 and 63). This includes but is not limited to facilities subject to 40 CFR Part 60, primarily Subparts IIII and JJJJ, and/or 40 CFR Part 63, primarily Subpart ZZZZ, as cited in this PBR and incorporated by reference in OAC 252:100-2 and Appendix Q to Chapter 100. Specifically, this PBR applies to the following:

(1) **Eligible minor facilities and area sources.** New and existing minor facilities and area sources are eligible for this PBR, provided they comply with the conditions in (A) through (F) of this paragraph.

(A) The obligation to obtain a permit from the DEQ is solely because of the presence of one or more emergency engines.

(B) The facility has actual emissions of 40 TPY or less of each regulated air pollutant, except HAPs.

(C) The facility has potential emissions of each regulated air pollutant, except HAPs, that are less than the emission levels that require prevention of significant deterioration (PSD), nonattainment new source review (NNSR), and Part 70 permits.

(D) The facility does not emit or have potential emissions of 10 TPY or more of any single HAP and 25 TPY or more of any combination of HAPs.

(E) The facility must meet the criteria in 252:100-7-15(b)(1)(D) and (E).

(F) The facility is not otherwise a Part 70 source.

(2) **Equipment and processes.** This PBR covers equipment and processes located at minor facilities and area sources which meet the criteria contained in 252:100-7-60.6(a)(1). Covered equipment and processes under this PBR include, but are not limited to:

(A) Stationary compression ignition internal combustion engines, as specified in 40 CFR Section 60.4200 of NSPS Subpart IIII.

(B) Stationary spark ignition internal combustion engines, as specified in 40 CFR Section 60.4230 of NSPS Subpart JJJJ.

(C) Stationary reciprocating internal combustion engines (RICE), as specified in 40 CFR Section 63.6585 of NESHAP Subpart ZZZZ.

(b) **Standards and requirements.**

(1) **NSPS and NESHAP requirements.** The owner or operator shall meet the applicable requirements of the following NSPS and NESHAP subparts for equipment and processes of emergency engine facilities.

(A) **NSPS general provisions.** The owner or operator of a minor affected facility covered by the emergency engine PBR shall comply with applicable requirements of 40 CFR Part 60, Subpart A.

(B) **Stationary compression ignition internal combustion engines.** The owner or operator of a stationary compression ignition internal combustion engine shall comply with the applicable emission, equipment, and work practice standards, and testing, reporting, monitoring, and recordkeeping requirements of 40 CFR Part 60, Subpart IIII.

(C) **Stationary spark ignition internal combustion engines.** The owner or operator of a stationary spark ignition internal combustion engine shall comply with the applicable emission, equipment, and work practice standards, and testing, reporting, monitoring, and recordkeeping requirements of 40 CFR Part 60, Subpart JJJJ.

(D) **NESHAP general provisions.** The owner or operator of an area source covered by the emergency engine PBR shall comply with the applicable requirements of 40 CFR Part 63, Subpart A.

(E) **Stationary reciprocating internal combustion engines.** The owner or operator of a stationary RICE located at an area source shall comply with the applicable emission, equipment, and work practice standards, and testing, monitoring, and recordkeeping requirements of 40 CFR Part 63, Subpart ZZZZ.

(F) **Emergency engine subject to any other NSPS or NESHAP.** The owner or operator of the facility shall comply with the applicable general provisions, emission, equipment, and work practice standards, and testing, reporting, monitoring, and recordkeeping requirements of any other applicable NSPS or NESHAP, including any modification to applicable requirements of an existing NSPS or NESHAP.

(2) **DEQ Air Pollution Control Rules, standards, and requirements.** The owner or operator of an emergency engine facility covered by this PBR shall comply with applicable portions of the:

(A) emission inventory requirements and annual fee requirements contained in 252:100-5;

(B) excess emission reporting requirements contained in 252:100-9;

(C) particulate matter emission rates contained in 252:100-19 for fuel-burning equipment;

(D) visible emissions (opacity) limits contained in 252:100-25 for subject emission units;

(E) fugitive dust standards contained in 252:100-29;

(F) standards and requirements for the control of the emission of sulfur compounds contained in 252:100-31 for subject emission units;

(G) standards and requirements for the control of the emission of nitrogen oxides contained in 252:100-33 for subject fuel-burning equipment;

(H) standards and requirements for the control of the emission of VOCs contained in 252:100-37 and 252:100-39 for subject emission units; and

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(I) testing, monitoring, and recordkeeping requirements contained in 252:100-43.

[OAR Docket #16-629; filed 6-24-16]

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

[OAR Docket #16-630]

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RULES:

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]

AUTHORITY:

Environmental Quality Board; 27A O.S. Sections 2-2-101 and 2-2-201; and Oklahoma Clean Air Act, 27A O.S. Sections 2-5-101 *et seq.*

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n/a

ANALYSIS:

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 U.S. Environmental Protection Agency (EPA) on June 12, 2015 (80 FR 33840). The SIP Call requires each affected state to submit its corrective SIP revision by November 22, 2016. The proposed changes are intended to conform to EPA's restated and updated SSM policy applicable to SIPs, as expressed in the referenced Federal Register notice.

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, 2016:

SUBCHAPTER 9. EXCESS EMISSION REPORTING REQUIREMENTS

252:100-9-1. Purpose

This subchapter sets forth requirements for the reporting of excess emissions and establishes ~~affirmative defense provisions~~ mitigating factors for facility owners and operators requesting relief in an administrative penalty action brought by the Department for periods of excess emissions.

252:100-9-1.1. Applicability

This subchapter applies to the owners and operators of air contaminant sources that are subject to emission limitations in OAC 252:100, an enforceable permit, an administrative order or a judicial order. Fugitive VOC emissions covered by an existing leak detection and repair (LDAR) program that is required by a federal or state regulation should be reported in accordance with the applicable LDAR program.

252:100-9-2. Definitions

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

"Bypass" means intentionally avoiding the use of air pollution control equipment.

"Excess emissions" means the emission of regulated air pollutants or opacity in excess of an applicable limitation or requirement as specified in the applicable rule(s), enforceable permit, administrative order or judicial order. ~~This term does not include fugitive VOC emissions covered by an existing leak detection and repair program that is required by a federal or state regulation.~~

"Excess emission episode" means a continuous period of excess emissions occurring from one emission unit.

"Excess emission event" means the period of time during which excess emissions occurred, either continuously or intermittently, as a result of the same primary cause. An excess emission event may include one or more excess emission episodes.

"Primary cause" means the fundamental aspect of the cause that can logically be identified. In the event of a series of causes, one leading to another, the fundamental cause is the primary cause.

"Working day" means 8:00 a.m. to 4:30 p.m. each day except Saturday, Sunday, or a legal holiday for state employees as proclaimed by the Governor.

252:100-9-8. ~~Affirmative defenses~~ Mitigation

(a) **General.** All periods of excess emissions regardless of cause are violations of the Act and rules promulgated thereunder, the Oklahoma Clean Air Act and rules promulgated thereunder, and applicable permit or other authorization of the DEQ. ~~An affirmative defense is provided to owners and operators for civil or administrative penalty actions for excess emissions during periods of startup, shutdown and malfunction.~~

(b) ~~Mitigating factors~~ **Affirmative defenses for excess emissions during malfunctions.** To establish that an incident of excess emissions resulted from malfunction ~~the affirmative defense and request to be relieved of a civil or an~~ administrative penalty in any action initiated by the Department to enforce an applicable requirement, the owner or operator of the facility must meet the requirements of OAC 252:100-9-7 and establish by a preponderance of the evidence:

- (1) The excess emissions were caused by a sudden and not reasonably preventable breakdown of air pollution control equipment or process equipment, or the failure of a process to operate in the normal or usual manner.
- (2) The excess emissions did not stem from any activity or event that could have been planned for or reasonably foreseen and avoided.
- (3) Repairs were made as expeditiously as possible.
- (4) The amount and duration of the excess emissions, including any bypass, were minimized to the extent practicable during periods of such emissions.
- (5) Reasonable steps were taken to minimize the impact of the excess emissions on ambient air quality.
- (6) The reason(s) any monitoring systems were not kept in operation, if applicable.
- (7) The owner or operator's actions during the period of excess emissions were documented by contemporaneous operating logs or other relevant evidence.
- (8) The excess emissions were not part of a recurring pattern indicative of inadequate design, operation or maintenance.
- (9) To the maximum extent practicable, the air pollution control equipment or process equipment was maintained and operated in a manner consistent with good practice for minimizing emissions; provided, however, that this provision shall not be construed to automatically require the shutdown of process equipment to minimize emissions.

(c) ~~Affirmative defenses~~ **Alternative emission limits, and mitigating factors for excess emissions during startup and shutdown.** Emissions in compliance with a federally enforceable alternative emission limit or means of compliance developed for inclusion in the facility's permit for periods of startup and shutdown shall not be considered excess emissions. Under applicable permitting provisions of this chapter, any such alternative provision may not establish an emission limitation less stringent than an applicable emission limitation in the EPA-approved state implementation plan. To establish the affirmative defense and to be relieved of a civil or request relief from an administrative penalty in any action initiated by the Department to enforce an applicable requirement during periods of startup and shutdown, the owner or operator of the facility must meet the requirements of OAC 252:100-9-7 and establish by a preponderance of the evidence:

- (1) The periods of excess emissions that occurred during startup and shutdown were short and infrequent and could not have been prevented through reasonable planning and design.
- (2) The excess emissions were not part of a recurring pattern indicative of inadequate operation or maintenance.

(3) If the excess emissions were caused by a bypass, the bypass was unavoidable to prevent loss of life, personal injury or severe property damage.

(4) The frequency and duration of operation in startup and shutdown periods were minimized to the extent practicable.

(5) Reasonable steps were taken to minimize the impact of excess emissions on ambient air quality.

(6) The reason(s) any monitoring systems were not kept in operation, if applicable.

(7) The owner or operator's actions during the period of excess emissions were documented by contemporaneous operating logs or other relevant evidence.

(8) The facility was operated in a manner consistent with good practice for minimizing emissions; provided, however, that this provision shall not be construed to require the use or installation of additional or redundant pollution control equipment not otherwise required and that this provision shall not be construed to automatically require the shutdown of process equipment to minimize emissions.

(d) ~~Affirmative defenses prohibited~~ **Prohibited relief.** ~~The affirmative defense~~ Any relief allowed under the provisions of this section shall not be available for:

- (1) Claims for injunctive relief.
- (2) SIP limits or permit limits that have been set taking into account potential emissions during startup and shutdown, including, but not limited to, limits that indicate they apply during startup and shutdown, and limits that explicitly indicate they apply at all times or without exception.

(3) Excess emissions that cause an exceedance of the NAAQS or PSD increments.

(4) Failure to meet federally promulgated emission limits, including, but not limited to, 40 CFR Parts 60, 61 and 63.

(5) Violations of requirements that derive from 40 CFR Parts 60, 61 and 63.

(e) ~~Affirmative defense~~ **Mitigation determination.** In making any determination whether to grant administrative penalty relief to a source established an affirmative defense under this section, the Director shall consider the information within the notification required in OAC 252:100-9-7 and any other information the Director deems necessary and relevant, which may include, but is not limited to, physical inspection of the facility and review of documentation pertaining to the maintenance and operation of emission units and air pollution control equipment. This section ~~should~~ shall not be construed as limiting to preclude EPA or citizens' authority under the Act federal court jurisdiction under Section 113 of the Act to assess civil penalties or other forms of relief for periods of excess emissions, to prevent EPA or the courts from considering the statutory factors for the assessment of civil penalties under Section 113, or to interfere with the rights of litigants to pursue enforcement consistent with their rights under the citizen suit provision of Section 304 of the Act.

[OAR Docket #16-630; filed 6-24-16]

Permanent Final Adoptions

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

[OAR Docket #16-631]

RULEMAKING ACTION:
PERMANENT final adoption

RULES:
Appendix E. Primary Ambient Air Quality Standards [REVOKED]
Appendix E. Primary Ambient Air Quality Standards [NEW]
Appendix F. Secondary Ambient Air Quality Standards [REVOKED]
Appendix F. Secondary Ambient Air Quality Standards [NEW]

AUTHORITY:
Environmental Quality Board; 27A O.S. Sections 2-2-101 and 2-2-201;
Oklahoma Clean Air Act, 27A O.S. Sections 2-5-101, et seq.

SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
November 25, 2015

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APPROVED BY GOVERNOR'S DECLARATION:
Approved by Governor's declaration on June 9, 2016

FINAL ADOPTION:
June 9, 2016

EFFECTIVE:
September 15, 2016

SUPERSEDED EMERGENCY ACTIONS:
n/a

INCORPORATIONS BY REFERENCE:
n/a

ANALYSIS:
The Department proposes to update OAC 252:100, Appendix E, Primary Ambient Air Quality Standards, and Appendix F, Secondary Ambient Air Quality Standards, to maintain consistency with recent changes to the primary and secondary National Ambient Air Quality Standards (NAAQS) for ozone, as published in the Federal Register on October 26, 2015 (80 FR 65292).

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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, 2016:

APPENDIX E. PRIMARY AMBIENT AIR QUALITY STANDARDS [REVOKED]

APPENDIX E. PRIMARY AMBIENT AIR QUALITY STANDARDS [NEW]

	Sulfur Dioxide	PM ₁₀	PM _{2.5}	Carbon Monoxide	Ozone	Nitrogen Dioxide	Lead
1-hr. max	75 ppb ⁽¹⁾			40 mg/m ³ 35 ppm ⁽²⁾		100 ppb ⁽³⁾	
8-hr. max				10 mg/m ³ 9 ppm ⁽²⁾	0.070 ppm ⁽⁴⁾		
24-hr. max		150 ug/m ³ ⁽⁵⁾	35 ug/m ³ ⁽⁶⁾				
3-month average							0.15 ug/m ³ ⁽⁷⁾
Annual			12.0 ug/m ³ ⁽⁸⁾				53 ppb ⁽⁹⁾

⁽¹⁾ The standard is attained when the 3-year average of the 99th percentile of the daily maximum 1-hour average at each monitor within an area does not exceed 75 ppb, as determined in accordance with 40 CFR Part 50, Appendix T.

⁽²⁾ The standard is attained when the 1-hour average concentration does not exceed 35 ppm and the 8-hour average concentration does not exceed 9 ppm as provided in 40 CFR 50.8.

⁽³⁾ The standard is attained when the 3-year average of the 98th percentile of the daily maximum 1-hour average concentration at each monitor within an area does not exceed 100 ppb as determined in accordance with 40 CFR Part 50, Appendix S.

⁽⁴⁾ The standard is attained when the computed 3-year average of the annual 4th-highest daily maximum 8-hour average does not exceed 0.070 ppm, as provided in 40 CFR 50.19.

⁽⁵⁾ The standard is attained when the expected number of days per calendar year with a 24-hour average concentration above 150 ug/m³, as determined in accordance with 40 CFR Part 50, Appendix K is equal to or less than one.

⁽⁶⁾ The standard is attained when the 98th percentile concentration is equal to or less than the numerical standard as determined by 40 CFR Part 50, Appendix N.

⁽⁷⁾ The standard is attained when the rolling 3-month maximum average does not exceed 0.15 ug/m³ more than once during a 3-year period as provided in 40 CFR 50.16.

⁽⁸⁾ The standard is attained when the annual arithmetic mean is equal to or less than the numerical standard as determined by 40 CFR Part 50, Appendix N.

⁽⁹⁾ The standard is attained when the annual arithmetic mean does not exceed 53 ppb as provided in 40 CFR 50.11.

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APPENDIX F. SECONDARY AMBIENT AIR QUALITY STANDARDS [REVOKED]

APPENDIX F. SECONDARY AMBIENT AIR QUALITY STANDARDS [NEW]

	Sulfur Dioxide	PM ₁₀ ⁽¹⁾	PM _{2.5}	Carbon Monoxide ⁽¹⁾	Ozone	Nitrogen Dioxide	Lead
1-hr. max							
3-hr. max	1300 ug/m ³ ⁽²⁾ 0.5 ppm						
8-hr. max					0.070 ppm ⁽³⁾		
24-hr. max							
3-month average							0.15 ug/m ³ ⁽⁴⁾
Annual			15.0 ug/m ³ ⁽⁵⁾			100 ug/m ³ 0.053 ppm ⁽⁶⁾	

⁽¹⁾ PM₁₀ and carbon monoxide have no secondary standard.

⁽²⁾ Not to be exceeded more than once per year

⁽³⁾ The standard is attained when the computed 3-year average of the annual 4th-highest daily maximum 8-hour average does not exceed 0.070 ppm, as provided in 40 CFR 50.19.

⁽⁴⁾ The standard is attained when the rolling 3-month maximum average does not exceed 0.15 ug/m³ more than once during a 3-year period as provided in 40 CFR 50.16.

⁽⁵⁾ The standard is attained when the annual arithmetic mean is equal to or less than the numerical standard as determined by 40 CFR Part 50, Appendix N.

⁽⁶⁾ Annual arithmetic mean

[OAR Docket #16-631; filed 6-24-16]

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

[OAR Docket #16-632]

RULEMAKING ACTION:

PERMANENT final adoption

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]

AUTHORITY:

Environmental Quality Board; 27A O.S. §§ 2-2-101, 2-2-201, 2-2-104, 2-7-105 and 2-7-106

SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:

August 7, 2015

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ADOPTION:

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SUBMISSION OF PROPOSED RULES TO GOVERNOR AND LEGISLATURE:

November 18, 2015

APPROVED BY GOVERNOR'S DECLARATION:

Approved by Governor's declaration on June 9, 2016

FINAL ADOPTION:

June 9, 2016

EFFECTIVE DATE:

September 15, 2016

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATION BY REFERENCE:

Incorporated standards:

Date of 40 CFR provisions incorporated by reference in these rules is changed to "as amended through July 1, 2015", plus those revisions to 40 CFR published at 80 FR 1694 B 1814 (January 13, 2015), "Definition of Solid Waste: Final Rule."

Incorporating rules:

252:205-3-1 and 3-2

Availability:

From the contact person listed below

ANALYSIS:

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 B 1814 (January 13, 2015), "Definition of Solid Waste: Final Rule" and (2) to revise the regulations for Transfer Station Development and Operations Plans.

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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, 2016:

SUBCHAPTER 3. INCORPORATION BY REFERENCE

252:205-3-1. Reference to 40 CFR

(a) ~~Incorporation date.~~ Except as provided in subsection (b), ~~when~~ When reference is made to Title 40 of the Code of Federal Regulations (40 CFR), it shall mean (unless otherwise specified):

- (1) the Hazardous Waste Regulations, Monday, May 19, 1980, as amended through July 1, 2014~~2015~~, and
- (2) the revisions to 40 CFR published at 80 FR 1694 - 1814 (January 13, 2015), "Definition of Solid Waste: Final Rule," except as identified in 252:205-3-2.

(b) ~~Excluded provisions.~~ None of the revisions to 40 CFR published at 73 FR 64668—64788 (October 30, 2008), "Revisions to the Definition of Solid Waste: Final Rule" are incorporated herein.

252:205-3-2. Incorporation by reference

(a) **Part 124.** Procedures For Decision Making, those sections required by 40 CFR 271.14, with the following additions:

- (1) § 124.19(a) through (c) and (e);
- (2) §§ 124.31, 124.32, & 124.33, substituting DEQ for EPA, and deleting the following sentence from paragraph (a) of each section: "For the purposes of this section only, 'hazardous waste management units over which EPA has permit issuance authority' refers to hazardous waste management units for which the State where the units are located has not been authorized to issue RCRA permits pursuant to 40 CFR Part 271"; and
- (3) Subpart G.

(b) **Part 260.** Hazardous Waste Management System: General, except 260.21.

- (1) In 260.20, "Federal Register" is synonymous with "The Oklahoma Register."
- (2) In 260.20(e), strike the words "or a denial."
- (3) In 260.22, references to the lists in Subpart D of Part 261 and the reference to § 261.3(a)(2)(ii) or (c) shall mean the lists in Subpart D of Part 261 and §261.3(a)(2)(ii) or (c) as adopted by reference and applicable in Oklahoma.
- (4) In the 260.10 definitions of "new tank system" and "existing tank system", the reference to "July 14, 1986" for commencement of tank installation applies only to tank regulations promulgated pursuant to the federal Hazardous and Solid Waste Amendment ("HSWA") requirements. The following categories outline HSWA requirements:

- (A) interim status and permitting requirements applicable to tank systems owned and operated by small quantity generators [3001(d)];
- (B) leak detection requirements for all new underground tank systems [3004(o)(4)]; and
- (C) permitting standards for underground tanks that cannot be entered for inspection [3004(w)]. For tank regulations promulgated pursuant to statutory authority other than HSWA, the date relative to the commencement of installation is November 2, 1987.

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(c) **Part 261.** Identification and Listing of Hazardous Waste except 261.4(b)(18) ~~which pertains to Utah only, thus should be excluded and 261.150.~~

(1) In 261.4(e)(3)(iii) delete "in the Region where the sample is collected".

(2) In 261.5(f)(3)(iv), and (v), and in 261.5(g)(3)(iv), and (v) add "other than Oklahoma" after the word "State".

(3) In 261.31(a), the listing for F019, add at the end: "Zinc phosphate sludges meeting exemption conditions remain subject to regulation as hazardous waste if the waste exhibits a hazardous waste characteristic".

(d) **Part 262.** Standards Applicable to Generators of Hazardous Waste except Subpart E and Subpart H. In 262.42(a)(2) and 262.42(b) delete "for the Region in which the generator is located".

(e) **Part 263.** Standards Applicable to Transporters of Hazardous Waste.

(f) **Part 264.** Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities. The following sections and subsections are not adopted by reference: 264.1(f), 264.1(g)(12), 264.149, 264.150, 264.301(l), 264.1030(d), 264.1050(g), 264.1080(e), 264.1080(f), and 264.1080(g).

(1) In 264.191(a), the compliance date of January 12, 1988 applies only for HSWA tanks. For non-HSWA tanks the compliance date is November 2, 1988.

(2) In 264.191(c), the reference to July 14, 1986 applies only to HSWA tanks. For non-HSWA tanks the applicable date is November 2, 1987.

(3) In 264.193, the Federal effective dates apply to HSWA tanks only. For non-HSWA tanks January 12, 1987 is replaced with November 2, 1987.

(4) In 264.570(a) the dates December 6, 1990 and December 24, 1992 apply only to drip pads where F032 waste is handled. The dates June 22, 1992 and August 15, 1994 respectively, replace the dates December 6, 1990 and December 24, 1992 for drip pads where F034 or F035 wastes are handled.

(g) **Part 265.** Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities except 265.1(c)(4), 265.1(g)(12), 265.149, 265.150, 265.1030(c), 265.1050(f), 265.1080(e), 265.1080(f), and 265.1080(g).

(1) In 265.191(a), the compliance date of January 12, 1988 applies only for HSWA tanks. For non-HSWA tanks the compliance date is November 2, 1988.

(2) In 265.191(c), the reference to July 14, 1986 applies only to HSWA tanks. For non-HSWA tanks the applicable date is November 2, 1987.

(3) In 265.193, the Federal effective dates apply to HSWA tanks only. For non-HSWA tanks January 12, 1987 is replaced with November 2, 1987.

(4) In 265.440(a) the dates December 6, 1990 and December 24, 1992 apply only to drip pads where F032 waste is handled. The dates June 22, 1992 and August 15, 1994 respectively, replace the dates December 6, 1990 and December 24, 1992 for drip pads where F034 or F035 wastes are handled.

(h) **Part 266.** Standards for the Management of Specific Hazardous Wastes and Specific Types of Hazardous Waste Management Facilities. Due to an early incorporation by reference, for purposes of Part 266 only, HSWA and non-HSWA dates are the same. In 266.325, the reference to 10 CFR 1.5 is changed to 10 CFR 71.5.

(i) **Part 267.** Standards for Owners and Operators of Hazardous Waste Facilities Operating Under a Standardized Permit. This permit option shall only be available to:

(1) those persons who generate hazardous waste on-site through, or as a result of, industrial production processes;

(2) wholly owned subsidiaries, owners, or sister companies of those persons specified in paragraph (1); and

(3) agencies, departments, or units of the federal government or the State of Oklahoma.

(j) **Part 268.** Land Disposal Restrictions, except 268.5, 268.6, 268.13, 268.42(b) and 268.44(a) through (g). In 268.7(a)(9)(iii) exclude D009 from the list of alternative treatment standards for lab packs.

(k) **Part 270.** The Hazardous Waste Permit Program, except 270.1(c)(2)(ix), and 270.14(b)(18).

(l) **Part 273.** Standards for Universal Waste Management.

(m) **Part 279.** Standards for the Management of Used Oil, except that 279.82 is revised to read in its entirety, "The use of used oil as a dust suppressant is prohibited."

(n) **Excepted CFR Regulations.** Authority for carrying out excepted CFR regulations remains with EPA.

SUBCHAPTER 15. TRANSFER STATIONS

252:205-15-1. Applicability and consideration of other laws

(a) **Definitions.** For the purposes of Subchapter 15, "Plan" means the Development and Operations Plan described in 252:205-15-2, unless the context clearly indicates otherwise.

(ab) **Types of waste handled.** The owner/operator of a ~~transfer station~~ Transfer Station, as defined by 252:205-1-2, which handles hazardous waste or both hazardous and solid wastes must comply with this Subchapter.

(bc) **Solid waste permits.** The owner/operator of a hazardous waste ~~transfer station~~ Transfer Station operating or proposing to operate under an approved Plan which includes compliance with 252:205-15-2(c) is not subject to solid waste permitting rules.

(ed) **RCRA permits.** The rules in this Subchapter do not supersede any obligations to obtain a hazardous waste permit.

(de) **Exempt activities.** The following are exempt from this Subchapter:

(1) Activities of hazardous waste generators to consolidate self-generated waste on-site prior to shipment;

(2) Activities regulated by hazardous waste permits which specifically address compliance with the plan requirements identified in 252:205-15-2(b); and

(3) Activities immediately responding to a discharge of hazardous waste or material which becomes a hazardous

waste when discharged or an imminent and substantial threat of a discharge of hazardous waste.

252:205-15-2. Development and Operations Plan

(a) **Plan required.** No person may construct or operate a hazardous waste ~~transfer station~~ Transfer Station without a Plan approved by DEQ approval of a Transfer Station Development and Operations Plan (Plan).

(1) **Duration of approvals.** Plan approvals shall expire ten (10) years from the date of approval, except that approved Plans existing on the effective date of these rules shall expire 18 months after the effective date of these rules. Approved Plans existing on the effective date of these rules may be renewed in accordance with 252:205-15-2(a)(2).

(2) **Plan renewals.** A renewal application must be submitted to DEQ no less than 180 days prior to the expiration date of an existing Plan.

(A) The renewal application must contain all information identified in 252:205-15-2(b) through 15-2(d).

(B) The conditions of an expired Plan shall continue in force until the effective date of a new Plan if the owner/operator has submitted a timely and complete renewal application and DEQ, through no fault of the owner/operator, has not approved a new Plan with an effective date on or before the expiration of the previous Plan.

(b) **Content.** The owner/operator of a ~~transfer station~~ Transfer Station shall identify and discuss all of the hazardous wastes which may be managed at the Transfer Station and the handling of any solid wastes ~~to be managed as non-hazardous or other wastes claimed by the owner/operator to be unregulated or exempt.~~ The following shall be submitted:

(1) Engineering plans for the construction design and a detailed description of all buildings, ramps, on-site roads, waste transfer and holding areas, and equipment used on-site;

(2) A description of all proposed Transfer Station ~~solid and hazardous waste handling activities for any hazardous waste, solid waste, or other wastes claimed to be unregulated or exempt,~~ including:

- (A) estimations of waste holding capacities;
- (B) description of wastes, tanks and containers;
- (C) hours of operation;
- (D) waste transfer and bulking procedures including associated compatibility analyses;
- (E) provisions to assure that solid wastes destined for disposal in non-hazardous waste facilities are not co-mingled with hazardous waste; ~~and~~
- (F) provisions to assure that hazardous wastes subject to the ten (10) day storage restriction of 40 CFR 263.12 will not be stored or otherwise managed with hazardous wastes that are not subject to the 10-day restriction, solid wastes, or other wastes claimed to be unregulated or exempt;
- (~~F~~G) truck and equipment cleaning and decontamination procedures; and

(H) procedures to ensure that no waste remains on site for longer than one year from the date it is received.

(3) A description of all safety, training and security provisions ~~including site access and security provisions, site inspections, and personnel training in accordance with identified in 40 CFR 264.14 through 264.17;~~ The Plan shall also include a

(4) A preparedness and prevention plan and a contingency and site safety plan that meets the requirements of 40 CFR 264, Subparts C and D;

(45) A description of spill control, containment, and remediation measures;

(56) A design and operations plan for description of waste transfer and unloading activities demonstrating which demonstrates that those activities are limited to areas with adequate secondary containment structures ~~to~~ that prevent releases to soil, surface water or groundwater; and

(67) Information on closure and mechanisms to meet the financial assurance and liability requirements of 40 CFR 264, Subparts G and H.

(c) **Applicable solid waste regulations.** The owner/operator of a hazardous waste ~~transfer station~~ Transfer Station which handles solid waste destined for management at a solid waste facility must also demonstrate compliance with applicable rules in ~~OAC-252:515,~~ including location standards, if the ~~hazardous waste Transfer Station Development and Operations Plan is to be used in lieu of a solid waste permit.~~

(d) **Waste consolidation.** If the owner/operator consolidates hazardous wastes such that the quantity of consolidated waste exceeds the quantity provisions of 40 CFR 262.34(a) or (b), the owner/operator of the Transfer Station shall be considered the generator of the newly-regulated waste and must comply with the applicable provisions of 40 CFR 262.34.

252:205-15-3. ~~Design and operation~~Other environmental requirements

~~All transfer stations shall be designed and operated to minimize releases to the air from waste transfer and unloading activities. Activities shall be conducted only in areas protected by secondary containment structures approved in the Plan.~~

(a) The owner/operator of a Transfer Station remains subject to all relevant statutes and rules regarding releases to air, water, and land.

(b) Any radioactive materials received at the Transfer Station shall be managed according to all appropriate requirements of the federal Nuclear Regulatory Agency and DEQ's Radiation Management rules.

252:205-15-4. Modifications

(a) A proposed modification to an approved Plan which would alter the design, infrastructure, or operation of a ~~transfer station~~ Transfer Station shall be requested in writing and shall not be implemented without the DEQ's prior approval.

(b) The DEQ may modify an approved Plan to require compliance with current rules.

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(c) Modification to approved Plans shall be according to 40 CFR 270.42.

252:205-15-5. Exclusionary siting criteria

(a) The siting criteria for locating hazardous waste Transfer Stations are the same as those for any hazardous waste treatment, disposal, recycling, or storage facility in OAC 252:205-11-2 and 27A O.S. § 2-7-111.

(b) The siting criteria for locating hazardous waste Transfer Stations which also handle solid wastes destined for management at a solid waste facility include those listed in Subchapter 11 of this Chapter and, ~~in addition,~~ those in OAC 252:515.

[OAR Docket #16-632; filed 6-24-16]

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 410. RADIATION MANAGEMENT

[OAR Docket #16-633]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 1. General Provisions
252:410-1-7. Incorporation of federal regulations by reference [AMENDED]
Subchapter 10. Radioactive Materials Program
Part 1. General Provisions
252:410-10-1. Radioactive Materials Program [AMENDED]
Part 37. Physical Protection of Category 1 and Category 2 Quantities of Radioactive Material [NEW]
252:410-10-37. 10 CFR 37 incorporations by reference [NEW]
Part 40. Domestic Licensing of Source Material
252:410-10-40. 10 CFR 40 incorporations by reference [AMENDED]

AUTHORITY:

Environmental Quality Board and Radiation Management Advisory Council powers and duties; 27A O.S. §§2-2-101, 2-2-104, 2-2-201, 2-9-104, and 2-9-105.

SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:

May 21, 2015

COMMENT PERIOD:

June 15, 2015 through July 29, 2015 and September 15, 2015.

PUBLIC HEARING(S):

Radiation Management Advisory Council, July 30, 2015.
Environmental Quality Board, September 15, 2015.

ADOPTION:

September 15, 2015

SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:

September 18, 2015

APPROVED BY GOVERNOR'S DECLARATION:

Approved by Governor's declaration on June 9, 2016

FINAL ADOPTION:

June 9, 2016

EFFECTIVE:

September 15, 2016

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

Incorporated standards:

Date of 10 CFR provisions incorporated by reference in these rules is changed to "mean the January 1, 2015 publication of 10 CFR".

Incorporating rules:

252:410-1-7, 252:410-10-1, 252:410-10-37, 252:410-10-40, and 252:410-10-121.

Availability:

The standards are on file at the Department of Environmental Quality, 707 North Robinson, Oklahoma City, Oklahoma, 73102, and are available to the public for examination Monday through Friday between the hours of 8:00 a.m. and 4:30 p.m., excluding state holidays.

ANALYSIS:

The proposed rulemaking consists of three main elements. (1) The first element is to amend Chapter 410, Subchapter 1 (General Provisions) [See OAC 252:410-1-7(a)] to change the date for incorporation of federal regulations by reference to January 1, 2015. (2) The second element of this rulemaking is to make a correction in Subchapter 10 (Radioactive Materials Program) [See OAC 252:410-10-1(b)] from the 2013 rulemaking to exclude the definitions of "Construction" and "Commencement of Construction" which are reserved to the NRC. Also, in OAC 252:410-10-1(b) a new exclusion has been inserted pursuant to 10 CFR Part 37. (3) The third element of this rulemaking is to amend Subchapter 10, Part 1 (General Provisions) to conform the Oklahoma rules to the updated federal regulations which includes revisions to 10 CFR Part 40 and the addition of a new Part 37 that was established to provide physical protection for certain quantities of radioactive materials.

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, 2016:

SUBCHAPTER 1. GENERAL PROVISIONS

252:410-1-7. Incorporation of federal regulations by reference

(a) **10 CFR.** References in this Chapter to Title 10 of the Code of Federal Regulations (10 CFR) mean the ~~January 1, 2013~~ January 1, 2015 publication of 10 CFR.

(b) **40 CFR.** References in this Chapter to Title 40 of the Code of Federal Regulations (40 CFR) mean the July 1, 1998 publication of 40 CFR and 64 Fed. Reg. 5574 (February 3, 1999).

(c) **Citations incorporated.** When a provision of the Code of Federal Regulations is incorporated by reference, all citations contained therein are also incorporated by reference.

SUBCHAPTER 10. RADIOACTIVE MATERIALS PROGRAM

PART 1. GENERAL PROVISIONS

252:410-10-1. Radioactive Materials Program

(a) Scope.

(1) The rules in this Subchapter establish license requirements for the following categories of radioactive materials: byproduct material, source material and special nuclear material.

(2) License requirements incorporated by reference from 10 CFR are applicable requirements for all categories of radioactive materials within the scope of this Subchapter.

(b) **Exclusions.** Responsibility for the following regulatory requirements remains with the NRC:

(1) **In 10 CFR 20.** Exemptions to labeling requirements, § 20.1905(g); Reports of exposures, radiation levels, and concentrations of radioactive material exceeding the constraints or limits at nuclear power plants, §20.2203(c); Reports of individual monitoring, § 20.2206(a)(1), (a)(3), (a)(4) and (a)(5);

(2) **In 10 CFR 30.** Activities requiring license, § 30.3(b); Definitions, 30.4 "Commencement of construction" paragraph (2) and "Construction" paragraph (9)(ii); Terms and conditions of licenses, § 30.34 (d), (e)(1) and (e)(3); Transfer of byproduct material, § 30.41 (b)(6); Tritium reports, § 30.55;

(3) **In 10 CFR 32.** Purpose and scope, § 32.1(c)(1); Subpart A, Exempt concentrations and items, §§ 32.11, 32.12, 32.14, 32.15, 32.16, 32.18 through 32.23, and 32.25 through 32.29; Subpart D, Specifically licensed items, § 32.210;

(4) **In 10 CFR 35.** License required, § 35.11(c)(1); License amendments, § 35.13(a)(1);

(5) **In 10 CFR 36.** Definitions, 36.2 "Commencement of construction" paragraph 2 and "Construction" paragraph 9(ii);

(6) **In 10 CFR 37.** General security program requirements, 37.43(d)(9); Advance notification of shipment of category 1 quantities of radioactive material, 37.77(f);

(7) **In 10 CFR 40.** General Provisions, §§ 40.2a and 40.3; Definitions, 40.4 "Commencement of construction" paragraph (2) and "Construction" paragraph (9)(ii); Exemptions, §§ 40.11, 40.12 and 40.13 (a), (b), (c)(1) through (5), (c)(7) through (9), 40.14; General Licenses, §§ 40.20 through 40.24; 40.26 through 40.28; License Applications, §§ 40.31 (f) through (l), §§ 40.32 (d) through (g), §§ 40.33 through 40.35, § 40.37, and § 40.38; Licenses, §§ 40.41 (d), (e)(1) and (3), (f) and (g), § 40.42 and § 40.46; Transfer of Source Material, § 40.51 (b)(6); Records, Reports, and Inspections, § 40.60 (c)(3), §§ 40.64 through 40.67; Appendix A;

(8) **In 10 CFR 61.** Other information, § 61.16; Standards for issuance of a license, § 61.23 (i) and (j) regarding physical security information and criticality safety procedures for special nuclear material possessed prior to disposal;

(9) **In 10 CFR 70.** Regulation of special nuclear material for spent fuel, high level radioactive waste and uranium enrichment facilities, §§ 70.1(c),(d) and (e); Definitions, 70.4 "Commencement of construction" paragraph (2) and "Construction" paragraph (9)(ii); Department of Defense, § 70.13; Foreign military aircraft, § 70.14; General license to possess special nuclear material for transport, § 70.20a; General license for carriers of transient shipments of formula quantities of strategic special nuclear material of moderate strategic significance,

special nuclear material of low strategic significance, and irradiated reactor fuel regulated under 10 CFR 73, § 70.20b; Subpart D - License Applications, § 70.21(a)(1), (c), (f), (g) and (h); § 70.22 (b), (c) and (f) through (n), § 70.23 (a)(6) through (12) and (b), § 70.23a, and § 70.24; Subpart E - Licenses, § 70.31 (c), (d), and (e), § 70.32 (a)(1), (a)(4) through (7), (b)(1), (b)(3), (b)(4), (c) through (k), and § 70.37; § 70.40; Subpart F - Acquisition, Use and Transfer of Special Nuclear Material, Creditor's Rights, §70.42(b)(6), and § 70.44; Subpart G - Special Nuclear Material Control, Records, Reports and Inspections, § 70.51(c),(d) and (e), § 70.52 through § 70.54, § 70.55(c), § 70.56, and §70.59; Subpart H - Additional Requirements for Certain Licensees Authorized to Possess a Critical Mass of Special Nuclear Material, § 70.60 through 70.76; Subpart I - Modification and Revocation of Licenses, § 70.81 and § 70.82; Subpart J - Enforcement, §§ 70.91 and 70.92;

(10) **In 10 CFR 71.** Subpart A - General Provisions, § 71.10; Subpart B - Exemptions, § 71.14(b); Subpart D - Application for Package Approval, §§ 71.31 through 71.39; Subpart E - Package Approval Standards, §§ 71.41 through 71.45 and §§ 71.51 through 71.65; Subpart F - Package, Special Form, and LSA-III Tests, §§ 71.71 through 71.77; Subpart H - Quality Assurance, § 71.101(c)(2), (d), and (e) and §§ 71.107 through 71.125;

(11) **In 10 CFR 150.** Persons in offshore waters not exempt, § 150.7; Persons in agreement states exempt, § 150.10; Commission regulatory authority for physical protection in agreement states, § 150.14; Persons in agreement states not exempt, Continued Commission authority pertaining to byproduct material in agreement states, § 150.17; Compliance with requirements of US/IAEA safeguards agreement for source material under state agreement license; Submission to Commission of reports for tritium in agreement states, § 150.19; Transportation by aircraft of special nuclear material by agreement state licensee, § 150.21; Violations, § 150.30; Requirements for Agreement State regulation of byproduct material, § 150.31; Funds for reclamation or maintenance of byproduct material, §150.32; and Criminal penalties, § 150.33.

(c) **Effective date.** The requirements of this Subchapter became effective September 29, 2000, the date upon which jurisdiction over all unrevoked and unexpired NRC licenses and plan approvals was transferred to DEQ.

PART 37. PHYSICAL PROTECTION OF CATEGORY 1 AND CATEGORY 2 QUANTITIES OF RADIOACTIVE MATERIAL

252:410-10-37. 10 CFR 37 Incorporations by reference
Incorporations by reference. The following provisions are hereby incorporated by reference from 10 CFR 37, Physical Protection of Category 1 and Category 2 Quantities of Radioactive Material:

(1) **Subpart A; General Provisions.**

(A) **37.1 - Purpose**

Permanent Final Adoptions

- (B) 37.3 - Scope
- (C) 37.5 - Definitions
- (D) 37.7 - Communications
- (E) 37.9 - Interpretations
- (F) 37.11 - Specific exemptions
- (G) 37.13 - Information collection requirements: OMB approval
- (2) **Subpart B; Background Investigations and Access Control Program.**
 - (A) 37.21 - Personnel access authorization requirements for category 1 or category 2 quantities of radioactive material
 - (B) 37.23 - Access authorization program requirements
 - (C) 37.25 - Background investigations
 - (D) 37.27 - Requirements for criminal history records checks of individuals granted unescorted access to category 1 or category 2 quantities of radioactive material
 - (E) 37.29 - Relief from fingerprinting identification, and criminal history records checks and other elements of background investigations for designated categories of individuals permitted unescorted access to certain radioactive materials
 - (F) 37.31 - Protection of information
 - (G) 37.33 - Access authorization program review
- (3) **Subpart C; Physical Protection Requirements During Use.**
 - (A) 37.41 - Security program
 - (B) 37.43 - General security program requirements, except (d)(9)
 - (C) 37.45 - LLEA coordination
 - (D) 37.47 - Security zones
 - (E) 37.49 - Monitoring, detection, and assessment
 - (F) 37.51 - Maintenance and testing
 - (G) 37.53 - Requirements for mobile devices
 - (H) 37.55 - Security program review
 - (I) 37.57 - Reporting of events
- (4) **Subpart D; Physical Protection in Transit.**
 - (A) 37.71 - Additional requirements for transfer of category 1 and category 2 quantities of radioactive material
 - (B) 37.73 - Applicability of physical protection of category 1 and category 2 quantities of radioactive material during transit
 - (C) 37.75 - Preplanning and coordination of shipment of category 1 or category 2 quantities of radioactive material
 - (D) 37.77 - Advance notification of shipment of category 1 quantities of radioactive material, except (f)
 - (E) 37.79 - Requirements for physical protection of category 1 and category 2 quantities of radioactive material during shipment
 - (F) 37.81 - Reporting of events
- (5) **Subpart E; Reserved.**

- (6) **Subpart F; Records.**
 - (A) 37.101 - Form of records
 - (B) 37.103 - Record retention
- (7) **Appendix A to Part 37. Category 1 and Category 2 Radioactive Materials**

PART 40. DOMESTIC LICENSING OF SOURCE MATERIAL

252:410-10-40. 10 CFR 40 incorporations by reference

The following provisions are hereby incorporated by reference from 10 CFR 40, Domestic Licensing of Source Material.

- (1) **General Provisions.**
 - (A) 40.1 - Purpose
 - (B) 40.2 - Scope
 - (C) 40.4 - Definitions
 - (D) 40.7 - Employee Protection
 - (E) 40.9 - Completeness and accuracy of information
 - (F) 40.10 - Deliberate misconduct
- (2) **Exemptions.** 40.13(c)(6) and (10) - Unimportant quantities of source material.
- (3) **General Licenses.** 40.25 - General license for use of certain industrial products or devices.
- (4) **License Applications.**
 - (A) 40.31 (a) through (e) - Application for specific licenses
 - (B) 40.32 (a) through (c) - General requirements for issuance of licenses.
 - (C) 40.36 - Financial assurance and recordkeeping for decommissioning
- (5) **Licenses.**
 - (A) 40.41 (a) through (c) and (e) - Terms and conditions of licenses
 - (B) 40.43 - Renewal of licenses
 - (C) 40.44 - Amendment of licenses at request of licensee
 - (D) 40.45 - Commission action on applications to renew or amend
- (6) **Transfer of Source Material.**
 - (A) 40.51 (a), (b)(1) through (5), (b)(7), (c) and (d) - Transfer of source or byproduct material
 - (B) 40.54 - Requirements for license to initially transfer source material for use under the 'small quantities of source material' general license
 - (C) 40.55 - Conditions of licenses to initially transfer source material for use under the 'small quantities of source material' general license. Quality control, labeling, safety instructions, and records and reports
- (7) **Records, Reports and Inspections.**
 - (A) 40.60 (a), (b), (c)(1) and (2) - Reporting requirements
 - (B) 40.61 (a) through (f) - Records
 - (C) 40.62 - Inspections
 - (D) 40.63 - Tests

(8) **Modification and Revocation of Licenses.** 40.71 - Modification and revocation of licenses

[OAR Docket #16-633; filed 6-24-16]

**TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 515. MANAGEMENT OF SOLID WASTE**

[OAR Docket #16-634]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 1. General Provisions
252:515-1-1. Authority and applicability [AMENDED]

AUTHORITY:

Environmental Quality Board; 27A O.S. §§ 2-2-101, 2-10-201, and 2-10-301(D)

SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:

November 6, 2015

COMMENT PERIOD:

December 1, 2015 through January 13, 2016, and February 19, 2016.

PUBLIC HEARING:

January 14, 2016 and February 19, 2016

ADOPTION:

February 19, 2016

SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:

February 24, 2016

APPROVED BY GOVERNOR'S DECLARATION:

Approved by Governor's declaration on June 9, 2016

FINAL ADOPTION:

June 9, 2016

EFFECTIVE:

September 15, 2016

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

ANALYSIS:

The Department is proposing to amend OAC 252:515-1-1 by excluding solid waste disposal facilities used exclusively for disposal of coal combustion residuals, or coal ash, generated from the combustion of coal at electric utilities and independent power producers, from the applicability of OAC 252:515. In response to new federal rules on standards for the disposal of coal combustion residuals in landfills and surface impoundments, the Department is proposing to create a new Chapter, OAC 252:517, to regulate solid waste disposal facilities used exclusively for the disposal of coal combustion residuals generated from the combustion of coal at electric utilities and independent power producers. Therefore, it is proposed the provisions within OAC 252:515 currently applicable to the facilities in question will no longer apply, and those facilities will be regulated under OAC 252:517.

CONTACT PERSON:

Mike Stickney, Land Protection Division, Solid Waste Compliance Section, P.O. Box 1677, Oklahoma City, OK 73101-1677, e-mail at Mike.Stickney@deq.ok.gov, phone 405-702-5100, or fax 405-702-5101.

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, 2016:

SUBCHAPTER 1. GENERAL PROVISIONS

252:515-1-1. Authority and applicability

(a) **Authority.** This Chapter implements the Oklahoma Solid Waste Management Act, 27A O.S. § 2-10-101 *et seq.*, and the Oklahoma Waste Tire Recycling Act, 27A O.S. § 2-11-401 *et seq.*, and was adopted under their authority and the authority of the Oklahoma Environmental Quality Code, 27A O.S. § 2-1-101 *et seq.*

(b) **Applicability.** This Chapter applies to:

- (1) any person who owns, operates, or proposes to own and/or operate any type of solid waste disposal facility identified in OAC 252:515-3-1(a) and (b), excluding solid waste disposal facilities used exclusively for disposal of coal combustion residuals, or coal ash, generated from the combustion of coal at electric utilities and independent power producers;
- (2) any person who generates, collects, transports, processes, and/or disposes of solid waste and/or waste tires, unless otherwise exempt;
- (3) incorporated cities and towns in Oklahoma providing solid waste collection and transportation services within the corporate city or town limits;
- (4) governmental entities located in the state of Oklahoma desiring to seek reimbursement under the Oklahoma Recycling Initiative; and
- (5) any person, firm or corporation located in Oklahoma desiring to apply for incentive payments for projects that generate energy by utilizing solid waste landfill methane gas.

[OAR Docket #16-634; filed 6-24-16]

**TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 517. DISPOSAL OF COAL COMBUSTION RESIDUALS FROM ELECTRIC UTILITIES**

[OAR Docket #16-640]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

- Subchapter 1. General Provisions [NEW]
- 252:517-1-1. Scope and purpose [NEW]
- 252:517-1-2. Applicability of other regulations [NEW]
- 252:517-1-3. Definitions [NEW]
- 252:517-1-4. Terms not defined by Act or rule [NEW]
- 252:517-1-5. Test methods and map scales [NEW]
- 252:517-1-6. Severability [NEW]
- 252:517-1-7. Permits [NEW]
- Subchapter 3. Permit Provisions and Applications [NEW]
- Part 1. General Provisions [NEW]
- 252:517-3-1. Duration of permit [NEW]
- 252:517-3-2. Permit transfer [NEW]
- 252:517-3-3. General requirements [NEW]
- 252:517-3-4. Oath required [NEW]
- 252:517-3-5. Legal right to property [NEW]
- 252:517-3-6. Permit applications [NEW]
- 252:517-3-7. Aesthetic enhancement [NEW]

Permanent Final Adoptions

- Part 3. Required Maps and Drawings [NEW]
- 252:517-3-31. General requirements [NEW]
- 252:517-3-32. General location map [NEW]
- 252:517-3-33. Flood plain map [NEW]
- 252:517-3-34. Quadrangle topographic map [NEW]
- 252:517-3-35. Existing contour map [NEW]
- 252:517-3-36. Site map [NEW]
- 252:517-3-37. Design drawings [NEW]
- 252:517-3-38. Groundwater resource and usage map [NEW]
- 252:517-3-39. Surface geologic map [NEW]
- 252:517-3-40. Highest groundwater contour map [NEW]
- 252:517-3-41. Potentiometric surface map [NEW]
- 252:517-3-42. Site-specific cross sections [NEW]
- 252:517-3-43. Fill cross section map [NEW]
- 252:517-3-44. Excavation contour map [NEW]
- 252:517-3-45. Top of liner contour map [NEW]
- 252:517-3-46. Completion map [NEW]
- Subchapter 5. Location Restrictions [NEW]
- 252:517-5-1. Placement above the uppermost aquifer [NEW]
- 252:517-5-2. Wetlands [NEW]
- 252:517-5-3. Fault areas [NEW]
- 252:517-5-4. Seismic impact zones [NEW]
- 252:517-5-5. Unstable areas [NEW]
- 252:517-5-6. Scenic rivers [NEW]
- 252:517-5-7. Recreation/preservation areas [NEW]
- 252:517-5-8. Endangered or threatened species [NEW]
- 252:517-5-9. 100-year floodplain [NEW]
- 252:517-5-10. Public water supply [NEW]
- 252:517-5-11. Wellhead protection area [NEW]
- Subchapter 7. Subsurface Investigation [NEW]
- Part 1. General Provisions [NEW]
- 252:517-7-1. Applicability [NEW]
- 252:517-7-2. General [NEW]
- 252:517-7-3. Compliance with OWRB rules [NEW]
- 252:517-7-4. Drilling plan [NEW]
- 252:517-7-5. Drilling [NEW]
- Part 3. Data Collection [NEW]
- 252:517-7-31. Data collection [NEW]
- 252:517-7-32. Borehole logs [NEW]
- 252:517-7-33. Lithologic sample logs [NEW]
- 252:517-7-34. Geophysical logs [NEW]
- 252:517-7-35. Soil and rock sampling [NEW]
- 252:517-7-36. Soil tests [NEW]
- 252:517-7-37. Soil report [NEW]
- 252:517-7-38. Regional hydrogeologic study [NEW]
- Part 5. Groundwater Study [NEW]
- 252:517-7-51. General [NEW]
- 252:517-7-52. Piezometers required [NEW]
- 252:517-7-53. Piezometer details [NEW]
- 252:517-7-54. Groundwater elevation measurements [NEW]
- 252:517-7-55. Area rainfall [NEW]
- 252:517-7-56. Shallow saturated zone investigation [NEW]
- Part 7. Surface Penetration Plugging [NEW]
- 252:517-7-71. Plugging requirements [NEW]
- Subchapter 9. Groundwater Monitoring/Corrective Action [NEW]
- 252:517-9-1. General Provisions [NEW]
- 252:517-9-2. Groundwater monitoring systems [NEW]
- 252:517-9-3. Reserved [NEW]
- 252:517-9-4. Groundwater sampling and analysis requirements [NEW]
- 252:517-9-5. Detection monitoring program [NEW]
- 252:517-9-6. Assessment monitoring program [NEW]
- 252:517-9-7. Assessment of corrective measures [NEW]
- 252:517-9-8. Selection of remedy [NEW]
- 252:517-9-9. Implementation of the corrective action program [NEW]
- Subchapter 11. Design Criteria [NEW]
- 252:517-11-1. Design criteria for new CCR landfills and any lateral expansion of a CCR landfill [NEW]
- 252:517-11-2. Liner design criteria for existing CCR surface impoundments [NEW]
- 252:517-11-3. Liner design criteria for new CCR surface impoundments and any lateral expansion of a CCR surface impoundment [NEW]
- 252:517-11-4. Structural integrity criteria for existing CCR surface impoundments [NEW]
- 252:517-11-5. Structural integrity criteria for new CCR surface impoundments and any lateral expansion of a CCR surface impoundment [NEW]
- Subchapter 13. Operational Requirements [NEW]
- 252:517-13-1. Air criteria [NEW]
- 252:517-13-2. Run-on and run-off controls for CCR landfills [NEW]
- 252:517-13-3. Hydrologic and hydraulic capacity requirements for CCR surface impoundments [NEW]
- 252:517-13-4. Inspection requirements for CCR surface impoundments [NEW]
- 252:517-13-5. Inspection requirements for CCR landfills [NEW]
- 252:517-13-6. Discharges [NEW]
- 252:517-13-7. Leachate collection and management for CCR landfills [NEW]
- Subchapter 15. Closure and Post-closure Care [NEW]
- 252:517-15-1. Performance standard [NEW]
- 252:517-15-2. Timelines [NEW]
- 252:517-15-3. Certification of final closure [NEW]
- 252:517-15-4. Final closure [NEW]
- 252:517-15-5. Inactive CCR surface impoundments [NEW]
- 252:517-15-6. Closure or retrofit of CCR units [NEW]
- 252:517-15-7. Criteria for conducting the closure or retrofit of CCR units [NEW]
- 252:517-15-8. Alternative closure requirements [NEW]
- 252:517-15-9. Post-closure care requirements [NEW]
- 252:517-15-10. Post-closure use of property [NEW]
- 252:517-15-11. Certification of post-closure performance [NEW]
- 252:517-15-12. Land use restrictions [NEW]
- Subchapter 17. Cost Estimates and Financial Assurance [NEW]
- Part 1. General Provisions [NEW]
- 252:517-17-1. Applicability [NEW]
- 252:517-17-2. Effective date [NEW]
- 252:517-17-3. Duty to maintain financial assurance [NEW]
- 252:517-17-4. Updating [NEW]
- 252:517-17-5. Permit transfers [NEW]
- 252:517-17-6. Effect of non-renewal of, or failure to maintain or provide financial assurance [NEW]
- 252:517-17-7. Substitute financial assurance [NEW]
- 252:517-17-8. Economic life of CCR unit [NEW]
- Part 3. Cost Estimates [NEW]
- 252:517-17-31. Cost estimates for closure [NEW]
- 252:517-17-32. Cost estimates for post-closure care [NEW]
- 252:517-17-33. Cost estimates for corrective action [NEW]
- 252:517-17-34. Annual adjustments to cost estimates [NEW]
- Part 5. Determination of Cost Estimates [NEW]
- 252:517-17-51. Cost estimates for closure and post-closure [NEW]
- 252:517-17-52. Cost estimates for corrective action [NEW]
- Part 7. Financial Assurance Mechanisms [NEW]
- 252:517-17-71. General requirements for financial assurance mechanisms [NEW]
- 252:517-17-72. Use of multiple mechanisms [NEW]
- 252:517-17-73. Allowable financial assurance mechanisms [NEW]
- 252:517-17-74. Cash [NEW]
- 252:517-17-75. Certificate of deposit [NEW]
- 252:517-17-76. Trust fund [NEW]
- 252:517-17-77. Escrow account [NEW]
- 252:517-17-78. Surety bond [NEW]
- 252:517-17-79. Letter of credit [NEW]
- 252:517-17-80. Insurance [NEW]
- 252:517-17-81. Corporate financial test [NEW]
- 252:517-17-82. Corporate guarantee [NEW]
- 252:517-17-83. State approved mechanism [NEW]
- Subchapter 19. Record Keeping, Notification, and Posting of Information to the Internet [NEW]
- 252:517-19-1. Recordkeeping requirements [NEW]
- 252:517-19-2. Notification requirements [NEW]
- 252:517-19-3. Publicly accessible internet site requirements [NEW]
- Appendix A. Constituents for Detection Monitoring [NEW]
- Appendix B. Constituents for Assessment Monitoring [NEW]
- Appendix C. Borings in Drilling Plan [NEW]
- Appendix D. Borehole Depth Calculation Table [NEW]
- Appendix E. Procedure for Calculating Closure Cost Estimates for Financial Assurance [NEW]

Appendix F Procedure for Calculating Post-closure Cost Estimates for Financial Assurance [NEW]

AUTHORITY:

Environmental Quality Board; 27A O.S. §§ 2-2-101, 2-10-201, and 2-10-301(D)

SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:

November 6, 2015

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December 1, 2015 through January 13, 2016, and February 19, 2016.

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ADOPTION:

February 19, 2016

SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:

February 24, 2016

APPROVED BY GOVERNOR'S DECLARATION:

Approved by Governor's declaration on June 9, 2016

FINAL ADOPTION:

June 9, 2016

EFFECTIVE:

September 15, 2016

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

ANALYSIS:

The Department is proposing to create a new Chapter, OAC 252:517 (Disposal of Coal Combustion Residuals from Electric Utilities). The Department is proposing OAC 252:517 in response to the United States Environmental Protection Agency (EPA) promulgating 40 CFR Part 257, Subpart D which prescribes new requirements pertaining to the disposal of coal combustion residuals (CCR) generated from the combustion of coal at electric utilities and independent power producers. DEQ has incorporated the requirements of 40 CFR Part 257, Subpart D in its entirety and inserted, where appropriate, pertinent language to enable DEQ to permit CCR facilities and enforce the new Chapter.

CONTACT PERSON:

Mike Stickney, Land Protection Division, Solid Waste Compliance Section, P.O. Box 1677, Oklahoma City, OK 73101-1677, e-mail at Mike.Stickney@deq.ok.gov, phone 405-702-5100, or fax 405-702-5101.

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 ENVIRONMENTAL QUALITY, 707 NORTH ROBINSON, OKLAHOMA CITY, OKLAHOMA 73102 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:

The Department is proposing to create a new Chapter, Oklahoma Administrative Code (OAC) 252:517 titled *Disposal of Coal Combustion Residuals from Electric Utilities*. The Department is proposing OAC 252:517 in response to the United States Environmental Protection Agency (EPA) promulgating 40 CFR Part 257, Subpart D which prescribes new requirements pertaining to the disposal of coal combustion residuals (CCR) generated from the combustion of coal at electric utilities and independent power producers. The EPA-promulgated regulations are self-implementing and apply to CCR disposal, without any further action by EPA or the Department, but are only enforceable through citizen suits. EPA and the regulated industry are both strongly in favor of DEQ oversight and enforcement, thus necessitating and precipitating this proposed rulemaking. The Department currently regulates the above-referenced CCR disposal, as set out in the Oklahoma Solid Waste Management Act at 27A O.S. § 2-10-101 *et seq.* and the rules promulgated thereunder at OAC 252:515 *Management of Solid Waste*, and also at OAC 252:616 *Industrial Wastewater Systems*. This rulemaking action is necessary to ensure there is only one set of regulatory standards for the disposal of the above-referenced CCR.

DEQ has incorporated the requirements of 40 CFR Part 257, Subpart D in their entirety and inserted, where appropriate, pertinent language to enable

DEQ to permit CCR facilities and enforce the new Chapter. The included permitting and enforcement provisions were primarily taken from OAC 252:515. As a result, the proposed rulemaking is a compilation of state and federal requirements currently applicable to CCR disposal. The proposed rulemaking ensures the regulated industry is subject to one set of standards for CCR disposal and allows DEQ to oversee and enforce the standards.

In a separate, related rulemaking, DEQ is proposing to amend the applicability provisions of OAC 252:515, currently applicable to the disposal of CCR generated from the combustion of coal at electric utilities and independent power producers, as a result of this proposed rulemaking.

Related to this proposed rulemaking is a current concern in the state about seismic activity. This rulemaking includes requirements pertaining to seismic impact zones. However, these requirements will not prohibit new or existing CCR landfills from constructing or expanding in a seismic impact zone as long as all structural components of the landfill are designed to resist seismic risks as specified in the rule. Therefore, it is expected that there will continually be sufficient capacity in Oklahoma CCR landfills so that electric utilities do not have to go out of state to dispose of CCR

[OAR Docket #16-640; filed 6-24-16]

**TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 606. OKLAHOMA POLLUTANT DISCHARGE ELIMINATION SYSTEM (OPDES) STANDARDS**

[OAR Docket #16-637]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 1. Introduction
252:606-1-4. Date of federal regulations incorporated [AMENDED]

AUTHORITY:

Environmental Quality Board; 27A O.S. §2-2-101; §2-2-201; §2-6-101, et seq.

SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:

November 6, 2015

COMMENT PERIOD:

December 1, 2015 to December 31, 2015

PUBLIC HEARING:

Before the Council on January 12, 2016, and before the Environmental Quality Board on February 19, 2016

ADOPTION:

February 19, 2016

SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:

February 24, 2016

APPROVED BY GOVERNOR'S DECLARATION:

Approved by Governor's declaration on June 9, 2016

FINAL ADOPTION:

June 9, 2016

EFFECTIVE:

September 15, 2016

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

Incorporated standards:

Date of CFR provisions incorporated by reference in these rules is changed to "as published on July 1, 2015."

Incorporating rules:

OAC 252:606-1-3

Availability:

The standards are on file at the Department of Environmental Quality, 707 North Robinson, Oklahoma City, Oklahoma, 73102, and are available to the public for examination Monday through Friday between the hours of 8:00 a.m. and 4:30 p.m.

Permanent Final Adoptions

ANALYSIS:

The DEQ is proposing to update the date of the incorporation by reference of federal rules in OAC 252:606 from July 1, 2014 to July 1, 2015. The most significant federal rules to be incorporated are the cooling water intake rule, and the sufficiently sensitive method rule (SSMR). The cooling water intake rule is intended to protect aquatic life (for example, fish and shellfish) from becoming entrapped in the filtration screen of an intake structure or from being taken up into the cooling water system. The SSMR is intended to allow for detection of pollutants at levels that will be a more accurate indication of compliance with water quality standards.

CONTACT PERSON:

Mark Hildebrand, (405) 702-8100 or Mark.Hildebrand@deq.ok.gov (Procedural, legal and technical questions). The DEQ is located at 707 N. Robinson, Oklahoma City, Oklahoma 73102. The DEQ's mailing address is P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677.

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, 2016:

SUBCHAPTER 1. INTRODUCTION

252:606-1-4. 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, ~~2014~~2015.

[OAR Docket #16-637; filed 6-24-16]

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 626. PUBLIC WATER SUPPLY CONSTRUCTION STANDARDS

[OAR Docket #16-638]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

- Subchapter 1. Introduction
- 252:626-1-2. [AMENDED]
- Subchapter 3. Permit Procedures
- 252:626-3-6. [AMENDED]
- Subchapter 5. General design
- 252:626-5-5. [AMENDED]
- Subchapter 7. Source Development
- 252:626-7-4. [AMENDED]
- Subchapter 9. Treatment
- 252:626-9-9. [AMENDED]
- 252:626-9-14. [AMENDED]
- Subchapter 13. Residuals and Decant Water Management
- 252:626-13-2. [AMENDED]
- 252:626-13-4. [AMENDED]
- Subchapter 19. Distribution System
- 252:626-19-2. [AMENDED]
- Appendix E. Gravel Support for Rapid Rate Slow Sand Filters [REVOKED]
- Appendix E. Gravel Support for Rapid Rate Slow Sand Filters [NEW]

AUTHORITY:

Environmental Quality Board; 27A O.S. § 2-2-101; §2-2-201; §2-6-101, et seq.

SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:

November 6, 2015

COMMENT PERIOD:

December 1, 2015 to December 31, 2015

PUBLIC HEARING:

Before the Environmental Quality Board on February 19, 2016

ADOPTION:

February 19, 2016

SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:

February 24, 2016

APPROVED BY GOVERNOR'S DECLARATION:

Approved by Governor's declaration on June 9, 2016

FINAL ADOPTION:

June 9, 2016

EFFECTIVE:

September 15, 2016

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

ANALYSIS:

The Department is proposing to: (1) add definitions for "25-year flood" and "100-year flood"; (2) clarify the definitions for "CT," "Community water system," "Minor water system" and "Public Water Supply system," to be consistent with other DEQ and federal regulations; (3) add language requiring maps, site plans, and schematic layout of treatment facilities with engineering reports; (4) clarify the requirement for standby power and elevated storage to be based off peak hourly demand; (5) add a requirement for a concrete splash pad outside the wellhouse where blow-off valve discharges; (6) add a requirement that filters be equipped to indicate or otherwise measure head loss; (7) add a requirement that each filter unit indicate the instantaneous rate of flow; (8) clarify the requirement that mechanical dewatering of residuals be constructed in accordance with OAC 252:656-19-5(3)(4) and (5); (9) clarify the requirements for residual lagoons; (10) add a requirement that plant outfalls be designed and constructed in accordance with OAC 252:656-9-3 when wastewater is discharged; and (11) other minor clarifications.

CONTACT PERSON:

Mark Hildebrand, (405) 702-8100 or Mark.Hildebrand@deq.ok.gov (Procedural, legal and technical questions). The DEQ is located at 707 N. Robinson, Oklahoma City, Oklahoma 73102. The DEQ's mailing address is P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677.

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, 2016:

SUBCHAPTER 1. INTRODUCTION

252:626-1-2. Definitions

Terms have the meaning assigned in the Environmental Quality Code. The following words or terms, when used in this Chapter, have the following meaning unless the context clearly indicates otherwise:

"25-year flood" means a flood event that has a 4 percent chance of being equaled or exceeded in magnitude in any given year.

"100-year flood" means a flood event that has a 1 percent chance of being equaled or exceeded in magnitude in any given year.

"ANSI" means the American National Standards institute.

"APHA" means the American Public Health Association.

"**API**" means the American Petroleum Institute.

"**Approvable**", "**Approve**", "**Approved**" mean a submission to the DEQ that shall be considered a final submission, all preliminary discussions between the DEQ and the permittee regarding the requirements of a submission shall be concluded prior to the submission, so that the submission shall be deemed complete as submitted.

"**ASTM**" means the American Society for Testing Materials.

"**AWWA**" means the American Water Works Association.

"**Board**" means the Environmental Quality Board.

"**Calculated dose**" means the RED calculated using the dose-monitoring equation that was developed through validation testing.

"**Cartridge filter**" means a filter that is manufactured by placing a flat sheet membrane media between a feed and filtrate support layer and plating the assembly to increase the membrane surface area within the cartridge. The pleat pack assembly is then placed around a center core with a corresponding outer case and subsequently sealed, via adhesive or thermal means, into its cartridge configuration.

"**Certified waterworks operator**" means an operator licensed by the State of Oklahoma, pursuant to OAC 252:710.

"**CFR**" means Code of Federal Regulation.

"**Challenge test**" means a study conducted to determine the removal efficiency (i.e. log removal value [LRV]) of a membrane material for a particular organism, particulate or surrogate.

"**Clean-in place (CIP)**" means the periodic application of a chemical solution or series of solutions to a membrane unit for the intended purpose of removing accumulated foulants and restoring permeability and resistance to baseline levels, commonly used for in-situ chemical cleaning.

"**Combined distribution system**" means the interconnected distribution system consisting of the distribution systems of wholesale systems and of the consecutive systems that receive finished water.

"**Consecutive system**" means a public water supply system that receives some or all of its finished water from one or more wholesale systems. Delivery may be through a direct connection or through the distribution system of one or more consecutive systems.

"**Council**" means the Water Quality Management Advisory Council.

"**CT**" means ~~contact time~~ the product of "residual disinfectant concentration" (C) in mg/l, and the corresponding "disinfectant contact time" (T) in minutes, i.e., "C" x "T". CT requirements for a variety of disinfectants and conditions appear in the EPA Guidance Manual to the Surface Water Treatment Rule.

"**CT Value**" means the product of disinfectant residual and disinfectant CT. The required amount of CT needed is contained in the EPA Guidance Manual to the Surface Water Treatment Rule.

"**DEQ**" means the Oklahoma Department of Environmental Quality.

"**Differential pressure**" means a pressure drop across a membrane module or unit from the feed inlet to concentrate

outlet, as distinguished from transmembrane pressure (TMP), which represents the pressure from across the membrane barrier.

"**Direct integrity testing**" means a physical test applied to a membrane unit in order to identify and/or isolate an integrity breach.

"**Director**" or "**Executive Director**" means the Executive Director of the Oklahoma Department of Environmental Quality.

"**Effective size**" means from a particle-size distribution curve, it is the diameter where 10% of the material is finer.

"**Element**" means a term used to describe an encased spiral-wound membrane module and is synonymous with the terms module and cartridge.

"**Engineer**" means a professional engineer licensed to practice engineering in Oklahoma.

"**ETV**" means the EPA's Environmental Technical Verification Program.

"**EPA**" means the United States Environmental Protection Agency.

"**FDA**" means the United States Food and Drug Administration.

"**Flood Plain**" means the flood way and a zone of flood-water storage where water moves slowly or is ponded, thus attenuating the flood peak as the flood waters move downstream.

"**Flood way**" means the part of the flood plain considered to be the zone of highest hazard and the zone to be reserved for the passage of larger floods.

"**Flux**" means the throughput of a pressure-driven membrane filtration system expressed in terms of flow per unit of membrane area.

"**GWUDI**" means groundwater under the direct influence of surface water.

"**Hydraulic analysis**" means the study of the water system network, evaluating water flows within the distribution system under prescribed conditions, such as peak hourly flow plus fire flow when required. Hydraulic analysis includes consideration of all factors affecting system energy losses.

"**Indirect integrity monitoring**" means the monitoring of an aspect of filtered water quality, such as turbidity, that is indicative of the removal of particulate matter at a frequency of no less than once every fifteen (15) minutes.

"**Individual water system**" means a water system serving only one single-family residence.

"**Iron and manganese control**" means the treatment process designed specifically for the treatment or removal of iron and manganese.

"**Membrane unit**" means a group of membrane modules that share common valving which allows the unit to be isolated from the rest of the system for the purpose of integrity testing or other maintenance, synonymous with the terms rack, skid and train.

"**Minor public water supply system**" means a water system not included in the public water supply system definition. Minor public water supply systems are regulated by OAC 252:624.

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"Multi-family dwelling" means a single structure designed and suitable for use of several or many families.

"Municipal system" means public water supply distribution systems constructed, operated, and maintained by a municipality or trust for the benefit of such municipality.

"mm" means millimeter.

"nm" means nanometer.

"NSF" means the National Sanitation Foundation.

"OAC" means the Oklahoma Administrative Code.

"O.S." means the Oklahoma Statutes.

"OWRB" means the Oklahoma Water Resources Board.

"Package treatment plant" means plants that are pre-manufactured used to treat water that do not meet conventional standards for flocculation and sedimentation.

"Plan documents" means reports, proposals, preliminary plans, survey and basis of design data, general and detail construction plans, profiles, specifications, and all other information pertaining to water supply planning.

"Pitless unit" means an assembly which extends the upper end of the well casing to above grade to prevent the entrance of contaminants into the well or potable water supply, to conduct water from the well, to protect the water from freezing or extremes of temperature and to provide fill access to the well and to parts within the well.

"psi" means pounds per square inch.

"Public water supply (PWS) system" means ~~any system whether publicly or privately owned which supplies water under pressure~~ providing water for human consumption through pipes or other constructed conveyances, to the public through pipes or other constructed conveyances, if such system has at least 15 service connections or regularly serves an average of at least 25 individuals at least 60 days per year, whether receiving payment or not. Multi-family dwellings, which are constructed, inspected, and maintained under a State or locally approved plumbing code and purchase water from a permitted water system, are not classified as a Public Water Supply system. The following are the categories of Public Water Supply systems:

(A) **"Community water system"** means any PWS system, which serves at least 15 service connections, used by year-round residents or regularly serves at least 25 year-round residents.

(B) **"Non-community water system"** means any PWS system, which serves an average of at least 25 individuals at least 60 days per year but is neither a community water system nor a non-transient non-community water system.

(C) **"Non-transient non-community (NTNC) water system"** means any PWS system that is not a community water system and that regularly serves at least 25 of the same persons over 6 months per year.

~~(D) **"Minor water system"** means any other PWS system not included in (A), (B), or (C) of this definition. These water systems may be state licensed facilities or non licensed facilities and are regulated in OAC 252:624.~~

"Purchase water system" means any system, which purchases all of its water through a master meter and provides that water to the public.

"Reduced pressure zone, backflow preventer" means a device designed to prevent backflow consisting of two spring loaded check valves with an intermediate reduced pressure zone that drains to the atmosphere by a relief valve, with a reduced pressure maintained in the intermediate zone by means of a pressure differential valve.

"Reduction Equivalent Dose (RED)" means the UV dose derived by entering the log inactivation measured during full-scale reactor testing into the UV dose-response curve that was derived through collimated beam testing. RED values are always specific to the challenge microorganism used during experimental testing and the validation test conditions for full-scale reactor testing.

"Required Dose" means the UV dose in units of mJ/cm² needed to achieve the target log inactivation for the target pathogen.

"Residuals" means the sludge generated by a drinking water treatment facility.

"Rip rap" means a permanent, erosion resistant ground cover that consists of hard, sound durable stones, which average in weight between thirty pounds (30 lbs.) to fifty pounds (50 lbs.), with no more than twenty percent (20%) weighing less than twenty pounds (20 lbs.).

"Rural water system" means a water system designed to provide domestic water service to an area having its major part outside of an incorporated community. This system may be organized as a trust authority, a rural water district, or non-profit water corporation.

"Silt density index (SDI)" means the ASTM, standard D 4189-95, *Standard Test Method for Silt Density Index of Water*. Measurements are taken by filtering a water sample through a 0.45mm flat sheet filter with a 47mm diameter at a pressure of 30 psi. The time required to collect two samples at 500 ml each is measured and the resulting data is imputed into a formula.

"Solids contact unit" means a combination rapid mix, floc-aggregation, and upflow sedimentation basin constructed in either a round or square configuration.

"Standard methods for the examination of water and wastewater" means the approval methods developed by the APHA, the AWWA and the Water Environmental Federation. The current standard methods are contained in the 20th Edition, published by the AWWA.

"Sufficiency certification" means to provide assurance that the integrity and capacity of an existing system will not or have not been compromised.

"Transmembrane pressure (TMP)" means the pressure drop across the membrane barrier.

"UL" means the Underwriters Laboratory.

"Uniformity coefficient" means from a particle-size distribution curve it is, the ratio of the 60 percent grain size to the 10 percent grain size.

"U.S.C." means United States Code.

"UV" means ultra violet.

"UV absorbance" means a measure of the amount of UV light that is absorbed by a substance at a specific wavelength,

across a specified pathlength of substance. This measurement accounts for absorption and scattering in the medium. Standard Method 5910B details this measurement method, however, for drinking water applications, samples need not be filtered or adjusted for pH or longer pathlength cuvettes, 4 cm to 5 cm should be used instead of 1 cm cuvette.

"**UV dose**" means the UV energy per unit area incident on a surface, typically reported in units of mJ/cm² or J/m². The UV dose received by a waterborne microorganism in a reactor vessel accounts for the effects on UV intensity of the absorbance of the water, absorbance of the quartz sleeves, reflection and refraction of light from the water surface and reactor walls, and the germicidal effectiveness of the UV wavelengths transmitted.

"**UV dose distribution**" means the probability distribution of UV doses that microorganisms receive in a flow-through UV reactor, typically shown in a histogram.

"**UV inactivation**" means a process by which a microorganism is rendered unable to reproduce, thereby unable to infect a host.

"**UV intensity**" means the power passing through a unit area perpendicular to the direction of propagation. UV intensity is used in the UV Disinfection Guidance Manual (UVDGM) to describe the magnitude of UV light measured by UV sensors in a reactor and with a radiometer in bench-scale UV experiments.

"**UV lamp sleeve**" means the quartz tube that houses the UV lamp. The exterior of the lamp sleeve is in direct contact with the water being treated. There is typically an air gap (approx. 1 cm) between the lamp envelope and quartz sleeve.

"**UV low-pressure lamp**" means a mercury-vapor lamp that operated at an internal pressure of 0.13 to 1.3 Pa (2X10 to 2X10⁻⁴ psi) and electrical input 0.5 watts per centimeter (W/cm). This results in essentially monochromatic light output at 254 nm.

"**UV low-pressure high-output lamp**" means a low-pressure mercury-vapor lamp that operates under increased electrical input (1.5 to 10 W/cm), resulting in a higher UV intensity than low-pressure lamps. This results in essentially monochromatic light output at 254 nm.

"**UV medium-pressure lamp**" means a mercury-vapor lamp that operates at an internal pressure of 1.3 to 13,000 Pa (2 to 200 psi) and electrical input of 50 to 150 W/cm. This results in a polychromatic (or broad spectrum) output of UV and visible light at multiple wavelengths, including wavelengths in the germicidal range.

"**UV off-line chemical clean**" means a process to clean lamp sleeves where the UV reactor is taken off-line and a cleaning solution (typically weak acid) is sprayed into the reactor through a service port.

"**UV off specification**" means a UV facility that is operating outside of the validated operating conditions (e.g. at a flow rate higher than the validated range or UVT below the validated range).

"**UV on-line mechanical clean**" means a process to clean lamp sleeves where an automatic mechanical wiper (e.g. o-ring) wipes the surface of the lamp sleeve at a prescribed frequency.

"**UV on-line mechanical-chemical clean**" means a process to clean lamp sleeves where an automatic mechanical wiper (e.g. o-ring) with a chemical solution located within the cleaning mechanism wipes the surface of the lamp sleeve at a prescribed frequency.

"**UV sensor**" means a photosensitive detector used to measure the UV intensity at a point within the UV reactor that converts the signal to units of milliamps (mA).

"**UV transmittance (UVT)**" means a measure of the fraction of incident light transmitted through a material. The UV transmittance is usually reported for a wavelength of 254 nm and a pathlength of 1 cm. If an alternate pathlength is used, it shall be specified or converted to units of cm⁻¹. UV transmittance is often represented as a percentage and is related to the UV absorbance (A₂₅₄) by the following equation (for a 1 cm path length): % UV transmittance=100X10^{-A} where A is UV absorbance.

"**Validated dose**" means means the UV dose in units of mJ/cm² delivered by the UV reactor is determined through validation testing. The validated dose is compared to the required dose to determine log inactivation credit.

"**Water line extension**" means an extension of an existing permitted water distribution line.

"**WEF**" means the Water Environmental Federation, formerly known as the WPCF.

"**Wholesale system**" means a public water supply system that treats source water as necessary to produce finished water and then delivers finished water to another public water supply system. Delivery may be through a direct connection or through the distribution system of one or more consecutive systems.

"**WQA**" means the Water Quality Association.

"**WTP**" means Water Treatment Plant.

SUBCHAPTER 3. PERMIT PROCEDURES

252:626-3-6. Engineering report

(a) **Copies and timing.** Submit 3 copies of an approvable engineering report as required in OAC 252:626-3-2 for proposed new construction or modifications to PWS systems, at least 30 days prior to the submission of the application for a permit to construct.

(b) **Purpose.** The purpose of the report is to present the Engineer's findings with enough attention given to detail(s) to allow adequate review of the project by the owner and applicable regulatory agencies.

(c) **Requirements.** The report must include all information necessary for a comprehensive evaluation of the proposed construction. The report must present, at a minimum, the following:

- (1) **General information.** Include the following:
 - (A) a description of existing water works and wastewater facilities,
 - (B) identification of the municipality or area served,
 - (C) name and mailing addresses of the owner and official custodian,

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- (D) a statement as to whether the project will be constructed in phases. If the project is to be constructed in phases, the statement will include the number of phases necessary to complete the project and which portions of the project will be completed in each phase,
- (E) a demonstration that adequate capacity, treatment and compliance with the primary drinking water standards are maintained during construction, ~~and~~
- (F) a letter from the permittee approving the contents contained in the engineering report as submitted, ~~and~~
- (G) a map showing legal and natural boundaries of entire service area, and
- (H) a map showing new service areas or annexed areas.
- (2) **Extent of water works system.** Include the following:
- (A) a description of the area to be served,
- (B) provisions for extending the waterworks system,
- (C) establish the anticipated design average and peak flows for existing and potential industrial, commercial, institutional and other water supply needs for both the current service area and potential future service areas, ~~and~~
- (D) a hydraulic analysis that demonstrates that a minimum of 25 psi shall be met at all times throughout the distribution system, ~~and~~
- (E) a site plan and schematic layout of treatment facilities.
- (3) **Alternate plan.** Where feasible and practical, provide a minimum of 3 alternative solutions and discuss the alternatives, including cost estimates and reasons for selecting the one recommended.
- (4) **Soil, ground water conditions, and foundation problems.** The report must include a description of the following:
- (A) the character of the soil where water mains are to be laid,
- (B) soil conditions, which might affect foundations of proposed structures, and
- (C) the approximate elevation of ground water in relation to subsurface structures.
- (5) **Water use data.** Provide the following water use data:
- (A) a description of the population trends as indicated by available records, and the estimated population which will be served by the proposed water supply system or expanded system,
- (B) present water consumption of existing systems and the projected average and maximum daily demands that were used as the basis of the design, and
- (C) present or estimated yield of supply source(s) along with a copy of the water rights verification form and/or the purchase water contract.
- (6) **Fire flow requirements.** Demonstrate that the plans meet the requirements regarding fire flows pursuant

to the *International Fire Code*, published by the International Code Council, Inc., 2003 Edition, *Distribution System Requirements for Fire Protection, M 31*, published by the AWWA, 3rd Edition or other recommendations of similar organizations for the fire service area

(7) **Sewer system available.** Describe the methods of disposal for sanitary and all other wastewater from the treatment plant.

(8) **Sources of water supply.** For the alternative chosen, the report must describe the proposed source or sources of water supply to be developed, the reasons for their selection, and provide information required by OAC 252:626-7 and the following:

- (A) surface water sources, including:
- (i) hydrological data, stream flow and weather records,
- (ii) safe yield, including all factors that may affect it,
- (iii) maximum flood or pool elevation,
- (iv) description of watershed, noting any existing or potential sources of contamination which may affect water quality, and
- (v) quality of the raw water with special reference to fluctuations.
- (B) ground water sources, including:
- (i) sites considered,
- (ii) advantages of the site selected,
- (iii) elevations with respect to surroundings,
- (iv) character of formations through which the source is to be developed,
- (v) geologic conditions affecting the site,
- (vi) summary of exploration; test well depth and method of construction; placement of liners or screen; test pumping rates and duration; water levels and specific capacity; chemical and radiological quality of the water,
- (vii) sources of possible contamination including but not limited to wastewater collection and treatment facilities, landfills, outcroppings of consolidated water-bearing formations, waste disposal wells, slush pits, irrigation wells and abandoned wells, and
- (viii) industrial and other private water supply. Where pertinent, use significant ground water developments within a 1 mile radius of the proposed ground water source, giving depths, size, protective casing depth, capacity, location, type and any available information pertaining thereto.
- (9) **Proposed treatment processes.** Summarize and determine the adequacy of proposed processes and unit parameters for the treatment of the water under consideration. Pilot studies may be required for innovative design. Post treatment for membrane systems shall be in accordance with OAC 252:626-9-9 (f)(6).
- (10) **Residuals management.** Submit a Residuals Management Plan that discusses the wastes and volume generated by existing and proposed water treatment processes, their volume, proposed treatment of waste

products, points of discharge or method of disposal or land application.

- (11) **Project sites.** Address the following in the report:
 - (A) discussion of various sites considered and advantages of those recommended,
 - (B) the proximity of residences, industries, and other establishments, and
 - (C) any potential sources of pollution that may influence the quality of the supply or interfere with effective operation of the water works system, including but not limited to, absorption systems, septic tanks, privies, sink holes, sanitary landfills, refuse and garbage dumps.
- (12) **Cost estimates.** Address the following in the report:
 - (A) estimated cost of integral parts of the system,
 - (B) detailed estimated annual cost of operation, and
 - (C) proposed methods to finance both capital charges and operating expenses.
- (13) **Future extensions.** Summarize future needs and services.

SUBCHAPTER 5. GENERAL DESIGN

252:626-5-5. Standby power and elevated storage

If 24 hours of elevated distribution storage based on average daily demand is not available, provide all plants with portable or in-place internal combustion engine equipment which will generate electric power to allow continued operations, at peak hourly demand, during a power failure.

SUBCHAPTER 7. SOURCE DEVELOPMENT

252:626-7-4. Ground water

(a) A ground water source includes all water obtained from drilled, bored or driven wells. A test well is required where sufficient information is not available to assure adequate quality and quantity of water.

- (1) **Quantity.**
 - (A) Provide a minimum of 2 wells for community water systems unless a standby source with adequate capacity is available.
 - (B) Where ground water is the sole supply source for a community water system, the total developed ground water capacity must equal or exceed:
 - (i) the design maximum day demand, and
 - (ii) the design average day demand, with the largest producing well out of service.
- (2) **Quality.**
 - (A) **Bacteriological quality.**
 - (i) Underground waters subject to a low degree of contamination shall require chlorination if:
 - (I) the coliform count averages not more than 50 per 100 ml in any 1 month, and
 - (II) the turbidity does not exceed 5 NTU.

- (ii) Disinfect every new, modified or reconditioned ground water source according to AWWA standard specifications after the completion of work and placement of permanent pumping equipment.
- (iii) Upon completion of the well, collect at least 2 bacteriologically safe samples on consecutive days. Collect samples after chlorine used in disinfecting the well has been completely dissipated. Submit the records to the DEQ.
- (iv) If any samples show the presence of coliform bacteria, take additional samples to determine the degree of contamination and treatment required.

(B) **Physical, chemical, and radiological quality.**

- (i) Test every new, modified, or reconditioned ground water source for applicable physical, chemical, and radiological characteristics contained at OAC 252:631-3-1 by submitting a representative sample to a certified laboratory or the State Environmental Laboratory and report results to the DEQ.

- (ii) Collect samples at the conclusion of test pumping.

- (iii) Additional field determinations or special sampling procedures may be required by the DEQ.

(C) **Test results.** The results of the required testing shall be used to determine the extent of water treatment required. If all parameters are in compliance with the standards set forth in the Safe Drinking Water Act and OAC 252:631, no treatment will be required.

(3) **Location.** In the selection of a site:

- (A) evaluate the following:
 - (i) type of well construction to be utilized,
 - (ii) depth to water bearing zones,
 - (iii) type of formations to be penetrated, and
 - (iv) proximity of existing or possible future sources of pollution such as sewers, seepage pits, soil absorption fields, privies, sink holes, dumping areas, caves, test holes, abandoned wells, borings, industrial lagoons, private water supply developments, fuel storage tanks, and other underground construction,
- (B) locate wells at the highest point of the premises consistent with other facilities and surroundings but always protected against surface drainage,
- (C) do not locate wells:
 - (i) in a ravine where the well site may be flooded or within 300 feet horizontally from any existing or potential source of pollution including water bodies. If a wellhead delineation model has been performed for the site, the separation distance must conform to the model prediction for potential contamination,
 - (ii) within three hundred feet (300') of a proposed or existing sewer line,
 - (iii) within one hundred feet (100') of a private property line, or

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- (iv) within fifty feet of a publicly owned property line, and
- (D) locate pump room floor at least 2 feet above the 100-year flood plain
- (b) **Testing and records.** The permittee shall:
 - (1) provide yield and drawdown testing procedures for the well(s) in the plans and specifications, approved by the DEQ, and make the results for completed wells available for final inspection. Yield and drawdown tests must:
 - (A) be performed on every production well after construction or improvements, which affect the well capacity, and prior to placement of the permanent pump,
 - (B) have test methods clearly indicated in specifications,
 - (C) determine well capacity with the pumping rate at maximum anticipated drawdown, pumping rate must be at least 1.5 times the quantity anticipated,
 - (D) test pump the well at 1.5 times the design pumping rate for at least 24 hours or until the drawdown has stabilized for a minimum of 6 hours, and
 - (E) provide the following test data to the DEQ prior to completion of the well:
 - (i) test pump capacity-head characteristics, and overall efficiency,
 - (ii) static water level and water level at design pumping rate,
 - (iii) depth of test pump setting,
 - (iv) time of starting and ending each test cycle, and
 - (v) zone of influence for the well(s).
 - (2) test the well for plumb and alignment in accordance with AWWA standard specifications. The specifications must cite the AWWA standard and describe the method to be used.
 - (3) submit well logs that shall contain:
 - (A) samples collected at maximum 20-foot intervals and at each pronounced change in formation,
 - (B) a record of drill hole diameters and depths, assembled order of size and length of casings and liners, length of the perforated section and type of perforations, or type and length of screen used, grouting depths, formations penetrated, water levels, and location of any blast charges. Where multiple water bearing formations are developed, give the elevation and length of each perforated or screened section.
- (c) **General well construction.**
 - (1) **Minimum depths of wells.** Construct wells to a depth sufficient to ensure that safe water can be obtained. Water taken from depths of 20 feet or less shall require additional testing to determine the necessary level of treatment.
 - (2) **Minimum protected depths.** Protect wells by watertight construction to a depth necessary to:
 - (A) exclude surface contamination, and
 - (B) seal off formations that are contaminated or yield undesirable water.
 - (3) **Well surface casing.** Every well shall have a watertight surface casing extending at least 20 feet below the surface. A greater depth will be required in unconsolidated soils, karst formations or when necessary to eliminate contamination from the surface or upper formations.
 - (A) **Surface casing material.** Surface casing shall only be made from ferrous material and must:
 - (i) be new pipe meeting ASTM, AWWA, NSF or API specifications for water well construction,
 - (ii) have minimum weights and thickness indicated in Appendix C,
 - (iii) be capable of withstanding forces to which it is subjected,
 - (iv) be equipped with a drive shoe when driven, and
 - (v) have full circumferential welds or threaded coupling joints.
 - (B) **Internal casing materials.** Internal casing material shall:
 - (i) meet AWWA standards,
 - (ii) meet NSF standards for contact with potable water,
 - (iii) be resistant to the corrosiveness of the water,
 - (iv) be able to withstand the stresses to which the well will be subjected during installation, grouting and operation, and
 - (v) be equipped with a drive shoe when driven.
 - (4) **Packers.** Packers must be made from an NSF approved material
 - (5) **Screens.** Screens must:
 - (A) be constructed of materials resistant to damage by chemical action of ground water or cleaning operations,
 - (B) have sizes of openings based on sieve analysis of formation and gravel pack materials to permit maximum transmitting ability without clogging or jamming,
 - (C) have sufficient diameter to provide adequate specific capacity and low aperture entrance velocity. The entrance velocity must not exceed 0.1 ft/s,
 - (D) be installed so that the pumping water level remains above the screen under all operating conditions, unless measures are provided to protect the screen from being corroded, and
 - (E) be provided with a bottom plate or washdown bottom fitting of the same material as the screen, where applicable.
 - (6) **Grouting requirements.** Surround surface casing with a minimum of 1- $\frac{1}{2}$ inches of grout to the depth of the surface casing.
 - (A) **Cement grout.**
 - (i) Cement conforming to ASTM Standard C150, with not more than 6 gallons of water per 94 pound sack of cement, must be used for 1- $\frac{1}{2}$ inch annular openings.

- (ii) Additives used to increase fluidity are subject to approval by the DEQ.
- (B) **Concrete grout.**
 - (i) Equal parts of cement conforming to ASTM Standard C150, and sand, with not more than 6 gallons of water per 90-lb. sack of cement may be used for annular openings larger than 1- $\frac{1}{2}$ inches.
 - (ii) Where an annular opening larger than 4 inches is available, gravel not larger than $\frac{1}{2}$ inch in size may be added.
- (C) **Application.**
 - (i) Provide sufficient annular opening to permit a minimum of 1- $\frac{1}{2}$ inches of grout around permanent casings, including couplings.
 - (ii) When completing a gun perforated well with an annular opening less than 4 inches, install grout under pressure by means of a grout pump from the bottom of the annular opening upward in one continuous operation until the annular opening is filled.
 - (iii) Concrete grout used in an annular opening of 4 or more inches and less than 100 feet in depth, may be placed by gravity through a pipe installed to the bottom of the opening in one continuous operation until filled.
 - (iv) Clay seals with at least ten percent (10%) swelling bentonite may be placed by gravity when the annular opening exceeds 6 inches and the depth is less than 100 feet.
 - (v) Provide the casing with sufficient guides welded to the casing to permit unobstructed flow and uniform thickness of grout.
- (7) **Well floor.**
 - (A) Construct the well floor with reinforced, water-tight concrete not less than 6 inches thick with a footing of at least 12 inches.
 - (B) Provide a watertight joint between the concrete motor base and floor.
 - (C) Extend the floor or concrete apron at least 2 feet from the well excavation line in all directions. Where necessary, extend it an additional distance to support the pump or casing.
 - (D) Construct the top of the floor slab or apron at least 6 inches above the surrounding ground.
 - (E) Thoroughly compact the area below the floor or apron prior to pouring the concrete.
 - (F) Slope the floor or apron at least 1/8 inch per foot away from the well casing and allow for drainage.
- (8) **Upper terminal well construction.**
 - (A) Extend the casing at least 12 inches above a well house floor or concrete apron.
 - (B) Terminate the top of the well casing at least 5 feet above the 100-year flood plain, or the highest known flood elevation, whichever is greater.
 - (C) Seal the top of the casings with a sanitary well seal to properly protect against entrance of contamination into the well.
- (D) The discharge piping must:
 - (i) have control valves and appurtenances located above the well floor,
 - (ii) be equipped with a check valve, a shutoff valve, a pressure gauge, a flow meter, and a smooth nosed sampling tap located upstream of the shut-off valve and at a point where positive pressure is maintained,
 - (iii) be equipped with an air relief valve located upstream from the check valve. The exhaust/relief piping must terminate in a down-turned position at least 18 inches above the floor and covered with a 24 mesh corrosion resistant screen,
 - (iv) be valved to permit test pumping, pumping to waste and control of each well,
 - (v) enclose all exposed piping, valves and appurtenances in the well house to protect against physical damage, tampering and freezing. The well house design shall be sufficient to accommodate the disinfection equipment,
 - (vi) be properly anchored to prevent movement,
 - (vii) be protected against surge or water hammer, ~~and~~
 - (viii) must not be directly connected to a sewer, and
 - (ix) provide a concrete splash pad outside the wellhouse where the blow-off valve discharges to protect the well house foundation from erosion.
- (E) Access to disinfect the well is required.
- (F) Design the well vent to:
 - (i) vent the casing to atmosphere, unless the design is for vacuum operation,
 - (ii) construct the vent of 1 $\frac{1}{2}$ inch minimum diameter metal pipe and be fitted into the well cap or pump base so as to form a water-tight connection,
 - (iii) terminate the vent in a full 180-degree bend not less than 24 inches above the well floor slab or apron, and
 - (iv) screen the opening in the vent with a corrosion resistant screen. The openings in the screen must not be larger than 24-mesh.
- (G) Provisions for measurement of water levels in the completed well are required to:
 - (i) Provide an accurate draw-down gauge, air pipe, direct measurement tube, or other access for measuring the water level in the well.
 - (ii) Make the connection between the air tube and the pump base watertight when an air pipe passes through the pump base.
 - (iii) Extend tubes for direct measurement of water levels 24 inches above the well floor slab, and tightly cap with a bolted flange or a screwed cap.
 - (iv) Provide corrosion resistant water level measurement equipment.
- (9) **Pumps.**

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- (A) **Line shaft pumps.** Wells equipped with line shaft pumps must:
- (i) have the casing firmly connected to the pump structure or have the casing inserted into a recess extending at least 1 inch into the pump base,
 - (ii) have the pump foundation and base designed to prevent water from coming into contact with the joint, and
 - (iii) have a heavy gasket installed between the pump base and the pump pedestal.
- (B) **Submersible pumps.** Where a submersible pump is used:
- (i) effectively seal the top of the casing against the entrance of water under all conditions of vibration or movement of conductors or cables,
 - (ii) firmly attach the electrical cable to the riser pipe at 20 foot intervals or less, and
 - (iii) pumps with mercury seal are not permitted.
- (10) **Aquifer types and construction methods - special conditions.**
- (A) **Gravel pack wells.**
- (i) Use gravel pack that is well rounded, 95% siliceous material, smooth and uniform, free of foreign material, properly sized, washed and disinfected immediately prior to or during placement.
 - (ii) Install gravel pack in one uniform continuous operation throughout each screened interval.
 - (iii) Use Schedule 40 pipe, steel pipe or equivalent incorporated within the pump foundation and terminated with screwed caps at least 12 inches above the pump house floor or concrete apron when using gravel refill pipes.
 - (iv) Surround gravel refill pipes located in the grouted annular opening by a minimum of 1- $\frac{1}{2}$ inches of grout.
 - (v) Provide protection from leakage of grout into the gravel pack or screen.
- (B) **Radial water collector as a raw water source.**
- (i) Indicate the locations of all caisson construction joints and porthole assemblies,
 - (ii) Reinforced the caisson wall to withstand the forces to which it will be subjected,
 - (iii) Locate radial collectors in areas and at depths approved by the DEQ,
 - (iv) Assure that radial collectors are essentially horizontal,
 - (v) Cover the top of the caisson with a water-tight floor,
 - (vi) Protect all openings in the floor from the entrance of foreign material, and
 - (vii) Do not place the pump discharge piping through the caisson walls.
- (C) **Limestone wells.** Where wells are in limestone areas, the DEQ will determine surface casing and grouting requirements. The surface casing must extend at least 20 feet into the formation.
- (D) **Naturally flowing wells.**
- (i) Provide provisions to control flow.
 - (ii) DEQ may require special protective construction, if erosion of the confining bed appears likely.
- (11) **Pitless well units.**
- (A) Pitless well adapters are not allowed.
- (B) Pitless units shall meet the standards of PAS-97-CC (04) as developed by the Water Systems Council, as listed in the PAS-97, Appendix C, and shall:
- (i) be shop-fabricated from the point of connection with the well casing to the unit cap or cover,
 - (ii) be threaded or welded to the well casing,
 - (iii) be of watertight construction throughout,
 - (iv) be of materials and weight equivalent and compatible to the casing,
 - (v) have field connection to the lateral discharge from the pitless unit of threaded, flanged or mechanical joint connection,
 - (vi) terminate at least 12 inches (30 centimeters) above the well slab, and
 - (vii) terminate 5 feet (1.5 meters) above the 100-year flood plain or the highest known flood elevation whichever is higher.
- (C) Design the pitless unit to provide:
- (i) access to disinfect the well,
 - (ii) a properly constructed casing vent meeting the requirements of OAC 252:626-7-4(c)(8)(F),
 - (iii) a cover at the upper terminal of the well that will prevent the entrance of contamination,
 - (iv) a contamination-proof entrance connection for electrical cable,
 - (v) an inside diameter as great as that of the well casing, up to and including casing diameters of 12 inches, to facilitate work and repair on the well, pump, or well screen, and
 - (vi) a well floor constructed in accordance with OAC 252:626-7-4(c)(7).
- (D) If the connection to the casing is by field weld, the shop-assembled unit must be designed specifically for field welding to the casing. The only field welding permitted will be to connect a pitless unit to the casing.
- (d) **Disinfection of wells.** Disinfect all wells and gravel for gravel-pack wells according to current AWWA standard specifications.
- (e) **Disinfection of ground water.** Provide chlorination facilities for all ground water systems. If bacteriological tests indicate the water is safe, the facilities may be maintained as standby; otherwise, full time chlorination will be required.
- (1) Provide a welded metal plate or a threaded cap for capping a well.
 - (2) The contractor must provide protection to prevent tampering with the well or entrance of foreign materials while work is in progress.
- (f) **Well abandonment.** Seal test wells, abandoned wells and other existing wells not protected and maintained for future

use, by methods necessary to restore the controlling geological conditions which existed prior to construction as directed by the OWRB.

(g) **Test and observation wells.**

- (1) Test and observation wells must be:
 - (A) constructed in accordance with the requirements for permanent wells, including surface casing, if they are to remain in service after completion as a water supply well, and
 - (B) sealed, if not in use, according to OAC 252:626-7-4(f).
- (2) A construction permit is required before a test or observation well is converted into a permanent well.

(h) **Capping requirements.**

- (1) Provide a welded metal plate or a threaded cap for the capping of a well.
- (2) The contractor shall provide protection to prevent the tampering with the well or entrance of foreign materials while work is in progress.

SUBCHAPTER 9. TREATMENT

252:626-9-9. Filtration

(a) **Filtration processes.** When filtration is required, utilize one of the following:

- (1) Gravity sand filtration
 - (A) Slow sand filtration
 - (B) Rapid sand filtration
- (2) Pressure sand filtration
- (3) Membrane processes

(b) **Appurtenances.**

- (1) Design filters with filter rate controllers that ensure the rated capacity of the filter will not be exceeded.
- (2) Head loss through the filter media is monitored by differential pressure-cell devices that measure the water pressure above and below the filter media. The head loss sensor connection to the filter box should be located approximately four inches (4") above the top of the wash-water collection trough to prevent the wash water from entering the sensor. A sediment trap with a drain shall be installed on the sensor line to capture any sediment that may enter the line. The end of the sensor shall be turned up, keeping a full column of water in the line at all times to minimize air entrainment. A fine mesh stainless steel screen shall be installed on the end of the sensor to prevent clogging of the filter media.
- (3) Include provisions for draining the filters to waste with appropriate measures for backflow prevention.
- (4) Provide a means to sample from the combined filter effluent line.
- (5) Provide continuous online turbidimeters with a recording device on the effluent line of each filter.

(c) **Slow sand filter design.**

- (1) Slow sand filters are allowed for water supplies where raw water turbidity is less than 10 NTU or where this turbidity value can be obtained by pretreatment. Slow

sand filters consist of 24 to 48 inches of sand, which has an effective size of 0.15 to 0.30 mm and a uniformity coefficient equal to or less than 2.5 supported by torpedo sand and graded gravel.

- (2) A minimum of two filters shall be provided. Design capacity shall be achievable with the largest filter out of service.
- (3) Provide for piping for ripening of the filter media.
- (4) Water depth above the filter sand surface must be 3 to 5 feet with 6 inches of freeboard.
- (5) Provide an underdrain system consisting of a manifold and collector laterals. Construct laterals of open joint, porous or perforated pipe or conduits with even spacing between laterals.
- (6) Support media must conform to OAC 252:626-9-9(d)(6).
- (7) Provide an orifice on the outlet line from each filter, limiting the flow of water through the system to 50 gal/day/ft² of surface area. Size orifices in accordance with Appendix E, Table II. Locate the orifice at least 1 inch above the initial height of the filter sand surface. Alternatively, the outlet line equipped with an orifice may terminate in a weir box with the weir elevation at least 1 inch above the initial height of the filter sand surface.
- (8) Equip each filter effluent line with a rate of flow indicator.

(9) Each filter shall be equipped with an indicating loss of head gauge or other means to measure head loss.

(d) **Rapid rate gravity filters.**

(1) **Pretreatment.** Pretreat water to be processed in rapid rate gravity filters prior to filtration by flocculation, coagulation and sedimentation.

(2) **Rate of filtration.**

- (A) The maximum filtration rates:
 - (i) single media filter is 2 gal/min/ft² surface area,
 - (ii) dual media filter is 3 gal/min/ft² surface area, and
 - (iii) multi-media filter is 4 gal/min/ft² surface area.

(B) Higher filtration rates will be considered only after pilot studies show that a higher rate is suitable for the raw water source. Approval of higher rates will require continuous monitoring of raw, settled and finished water for turbidity.

(3) **Structural details and hydraulics.**

(A) Define the hydraulic gradient across the rate-of-flow controller on the plans and specifications. Provide for a positive head at the throat of the controller when operating at the design flow rate. Show the entire hydraulic gradient from top of filter to clear well on the plans.

(B) Provide for the following:

- (i) vertical walls within the filter,
- (ii) no protrusion of filter walls into filter media,
- (iii) head room to permit normal inspection and operation,

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- (iv) minimum depth of filter box of 8.5 feet,
 - (v) minimum water depth of 3 feet above the surface of filter media,
 - (vi) trapped effluent to prevent backflow of air to the bottom of the filters,
 - (vii) a minimum curb height of 4 inches must surround the filters to prevent the entrance of floor drainage,
 - (viii) overflow with discharge to backwash wastewater facilities,
 - (ix) maximum water velocity of 2 ft/s in pipes and conduits to filters,
 - (x) cleanouts and straight alignment for influent pipes or conduits where solids loading is heavy, or following lime-soda softening,
 - (xi) washwater drain capacity sufficient to carry maximum flow and equipped with an air gap a minimum of 2 times the diameter of the drain line,
 - (xii) walkways around filters to be a minimum of 24 inches wide, ~~and~~
 - (xiii) safety handrails or walls around filter areas adjacent to walkways,
 - (xiv) for each filter unit, a meter indicating the instantaneous rate of flow.
- (4) **Washwater troughs.** Design washwater troughs as follows:
- (A) bottom elevation above the maximum level of expanded media during washing,
 - (B) a 2-inch freeboard at the maximum rate of wash,
 - (C) the top edges to be level,
 - (D) spacing so that each trough serves an equal number of square feet of filter area, and
 - (E) do not exceed a 3 foot maximum horizontal travel of suspended particles to trough.
- (5) **Filter material.** The media must be clean silica sand or other natural or synthetic material meeting AWWA standard specifications.
- (A) Silica sand (single media) must be a total depth of not less than 24 inches and generally not more than 30 inches, an effective size of 0.45 - 0.55 mm and a uniformity coefficient not greater than 1.65.
 - (B) Anthracite coal (single media) must be a total depth of 30 to 36 inches of clean crushed anthracite coal, an effective size of 0.45 - 1.2 mm and a uniformity coefficient not greater than 1.65.
 - (C) Silica sand and anthracite coal (dual media) must be a total depth of 24 to 30 inches with at least 12 inches of sand.
 - (i) Sand must have an effective size of 0.45 - 0.55 mm and a uniformity coefficient not greater than 1.65.
 - (ii) Anthracite must have an effective size of 0.45 - 1.2 mm and a uniformity coefficient not greater than 1.85.
 - (D) Garnet, silica sand, and anthracite (multi-media) must have a total depth of media of at least 30 inches with a minimum of 4.5 inches of garnet, 9 inches of silica sand, and 16.5 inches of anthracite.
 - (i) Garnet must have an effective size of 0.15 - 0.35 mm.
 - (ii) Silica sand must have an effective size of 0.45 - 0.55 mm and a uniformity coefficient not greater than 1.65.
 - (iii) Anthracite must have an effective size of 0.45 - 1.2 mm and a uniformity coefficient not greater than 1.85.
- (6) **Supporting media.**
- (A) **Torpedo sand.** Provide a 3-inch layer of torpedo sand, with an effective size of 0.8 - 2.0 mm, and a uniformity coefficient not greater than 1.7, as a supporting media for filter sand.
 - (B) **Gravel.** Gravel, when used as supporting media, must consist of hard, rounded particles and not include flat or elongated particles. The coarsest gravel must be $2\frac{1}{2}$ inches in size when the gravel rests directly on the strainer system, and extends above the top of the perforated laterals.
 - (i) Provide at least 4 layers of gravel in accordance with Appendix E.
 - (ii) Reduction of gravel depths may be considered upon justification to the DEQ when proprietary filter bottoms are specified.
- (7) **Underdrainage system.**
- (A) Design all filter piping based on a minimum flow rate of 5 gal/min/ft² of surface area.
 - (B) Design underdrainage system to collect water with minimum uniform loss-of-head over the filter bed during filtration and for uniform upward velocities throughout the entire filter bed during the backwash process.
 - (C) Do not use porous types of underdrainage systems where the water has appreciable iron or manganese content, or where softening by lime is considered.
 - (D) For underdrainage systems using strainers, the maximum ratio of area of strainer openings to area of filter is 0.003.
 - (E) Direct laterals perforations without strainers downward.
 - (F) Total cross-sectional area of laterals on underdrain systems must be twice the cross-sectional area of the final openings.
 - (G) Design the cross-sectional area of the manifold to be twice the cross-sectional area of the laterals in order to minimize friction loss.
 - (H) Design the manifold so that air cannot accumulate as the result of slope or connection to effluent piping.

(8) **Rate of flow controllers.** Equip each filter with a rate of flow controller to ensure that the rated capacity of each filter is not exceeded during operation of other filters.

(9) **Surface wash or subsurface wash.** Surface or subsurface wash facilities are required except for filters used exclusively for iron or manganese removal, and may be accomplished by a system of fixed nozzles or a revolving-type apparatus.

(A) Install a reduced pressure zone (RPZ) back-flow preventer on surface wash units and the potable water supply.

(B) Minimum water pressure is 45 psi on the high side of the pressure-reducing valve.

(C) Install a pressure regulator on the surface wash supply line.

(D) The minimum design flow rate is 2.0 gal/min/ft² of filter area for fixed nozzle designs and 0.5 gal/min/ft² for revolving arm designs.

(E) Air-operated surface wash systems are allowed.

(10) **Air scouring.**

(A) Design underdrain to accommodate air scour piping, when piping is installed in the underdrain.

(B) Air flow for scouring the filter must be 3-5 standard ft³/min/ft² of filter area when introduced in the underdrain.

(C) Make provisions to avoid excessive loss of filter media during backwashing.

(D) Air must be free from contamination.

(E) Place the air scour distribution systems below the filter media and supporting bed interface.

(F) Do not use flexible hose piping that is capable of collapsing when not under pressure, or of materials easily eroded at the orifice by high velocity air.

(G) To prevent short-circuiting, do not place air delivery piping in the filter media.

(H) Design for ease of maintenance and replacement of air delivery piping.

(I) Design the backwash water delivery system for 15 gal/min/ft² of filter surface area. Where design includes air scour, backwash water rate must be variable with a normal operating range up to 8 gal/min/ft² unless experience shows that a higher rate is necessary to remove scoured particles from filter media surfaces.

(11) **Backwash.** Make provisions for backwashing filters as follows:

(A) a minimum backwash rate of 15 gal/min/ft², or at a rate necessary for 50 percent expansion of the filter bed. A reduced rate of 10 gal/min/ft² may be acceptable for full depth anthracite or granular activated carbon filter,

(B) filtered water must come from washwater tanks, washwater pump(s), high service main, or a combination of these,

(C) duplicate washwater pumps unless an alternate means of obtaining washwater is available,

(D) sufficient water to backwash 1 filter for at least 15 minutes at design backwash rate,

(E) regulator or control valve for each filter to obtain desired rate of filter wash,

(F) rate-of-flow indicator on main washwater line, located so that it can be easily read by the operator during the back-washing process, and

(G) design to prevent rapid changes in backwash water flow.

(e) **Rapid rate pressure filters.**

(1) **General.** Rapid rate pressure filters are only allowed for iron and manganese removal for ground water systems.

(2) **Details of design.** Provide the following:

(A) pressure gauges on inlet and outlet pipes of each filter,

(B) filtration and backwashing of each filter individually,

(C) minimum side wall shell height of 5 feet. A corresponding reduction in side wall height is acceptable where proprietary bottoms permit reduction of the gravel depth,

(D) top of washwater collectors to be at least 18 inches above surface of media,

(E) underdrain system to efficiently collect the filtered water and to uniformly distribute the backwash water at a rate no less than 15 gal/min/ft² of filter area,

(F) an air release valve on the highest point of each filter,

(G) an accessible manhole to facilitate inspections and repairs,

(H) means to observe wastewater during backwashing,

(I) construction to prevent cross-connection,

(J) rate of filtration must not exceed 3gal/ft² of filter area, and

(K) sufficient information on the filter media to allow review and approval on a case-by-case basis.

(f) **Membrane filtration.** There are four categories of membrane filtration: microfiltration (MF), ultrafiltration (UF), nanofiltration (NF) and reverse osmosis (RO). For the purposes of this design standard, membranes shall be defined strictly by pore size as follows: MF, 0.1 - 0.2 µm; UF, 0.01 - 0.1 µm; NF, 0.001 - 0.01 µm; and RO 0.0001 - 0.001 µm. Using these membrane sizes, MF and UF are used for particle and microbial removal, while NF and RO reject most dissolved contaminants.

(1) **Source water testing.** Source water shall be tested for all parameters that may affect membrane filtration and finished water quality. Historic information shall be reviewed to determine water quality extremes that may be expected. Tabulated results of tests done, summaries and conclusions shall be submitted as part of the engineering report proposing membrane filtration.

(2) **Pilot plant verification study.** Prior to initiating the design of a membrane treatment facility, the DEQ must be contacted to determine if a pilot plant study is required to determine the best membrane to use, type of pretreatment, type of post treatment, the blending ratio (blending is not allowed if the source water is surface water or GWUDI), the amount of reject water produced,

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process efficiency, process control monitoring, cold and warm water flux, fouling potential, operating and TMP, differential pressure and other design criteria. The DEQ must be contacted prior to initiating any pilot study to establish a protocol. The use of membrane processes for treatment of surface water shall require a pilot study for a minimum duration of three (3) months during the time period identified as having the historically poorest water quality for contaminants tested.

(3) **Log inactivation.** Challenge testing removal efficiency for *Giardia* and *Cryptosporidium* shall be accepted by the DEQ if the system or modules meet the following:

(A) Challenge testing shall be conducted according to the criteria established by 40 CFR § 141.179 (b)(2) and show at a minimum 2.5 log removal of *Giardia* and 2.0 log removal for *Cryptosporidium*.

(B) At least 0.5 log removal credit shall be from approved disinfection process using chlorine, chlorine dioxide, ozone or UV.

(4) **Membrane materials.** Provide for compatibility of membrane material and the use of oxidants in the engineering report.

(5) **Pretreatment.** Membrane processes treating surface water shall require pretreatment in accordance with OAC 252:626-9-2. NF or RO processes treating surface water shall require pre-sedimentation in accordance with OAC 252:626-9-2 (d).

(6) **Post treatment.** Post treatment shall be addressed in the engineering report, which shall demonstrate the degasification of carbon dioxide, hydrogen sulfide removal, organic removal, pH, hardness adjustment for corrosion control, and disinfection as a secondary pathogen control for the distribution system.

(7) **Cross-connections.** Membrane systems piping for feed water, filtrate, backwash water, waste and chemical cleaning shall be designed to prevent any cross connection with any potable water supply, in accordance with OAC 252:626-5-15.

(8) **Flow meters.** Flow meters shall be provided on the source water influent piping, the plant finish water piping and on membrane backwash piping.

(9) **Pressure gauges.** Pressure gauges shall be provided on the influent and effluent piping to each membrane unit.

(10) **Turbidity monitoring.** Turbidity monitoring equipment shall be required on all membrane processes treating surface water and GWUDI. Turbidity monitoring equipment shall be installed on all influent and effluent piping of membrane units. Continuous turbidity recording equipment shall be provided on the effluent piping and connected to an alarm system to warn operators of an excessive turbidity breakthrough.

(11) **Membrane cleaning.** A schedule and procedure for proper membrane cleaning shall be developed based on manufacturer's recommendations to prevent contamination of both raw and finished water. The Clean-In-Place procedures shall be approved by the DEQ. Chemicals shall meet AWWA, ANSI and/or NSF requirements, where

applicable. Only treatment devices approved by ANSI or NSF shall be used.

(12) **Direct testing equipment.** Equipment for direct testing shall be provided to monitor membrane integrity and to detect and locate defects or breaches that could allow raw water to be diverted around the membrane process.

(13) **Indirect testing.** The membrane system shall be designed to conduct and record indirect integrity continuously on each membrane unit.

(14) **Redundancy.** Redundancy of control components, including, but not limited to, valves, air supply and computers shall be required. Provide membrane units to meet the design capacity with the largest unit out of service.

(15) **Flux rates.** The design engineer shall address the following factors in the engineering report and/or pilot study:

(A) Flux rate shall be based upon the coldest average monthly temperature anticipated and the reference temperature (20° Celsius for MF/UF and 25° Celsius for RO/NF).

(B) Chemical cleaning strategy shall be determined to restore membrane permeability and acceptable flux without damaging the membrane integrity.

(C) Backwash strategies shall be implemented for MF/UF membranes to enhance membrane flux and to extend intervals between chemical cleanings.

(D) Flux rate shall be guaranteed by the manufacturer for a minimum of one (1) year.

(16) **Backwashing.** Provisions for backwashing shall be included in the design according to the manufacturer's recommendations.

(17) **Disinfection.** The system shall be properly disinfected and water shall be run to waste each time the membrane units are opened for maintenance. Certain disinfectants shall not be used through the membranes, if prohibited by the manufacturer.

(18) **Reject water and solids.** Waste from membrane filtration shall be handled in accordance with the requirements in OAC 252:626-13.

(19) **Operation and maintenance requirements.** Operation and maintenance manuals for membrane filtration systems shall be in accordance with OAC 252:626-3-7 (c)(6).

252:626-9-14. ~~Anion exchange for nitrate removal~~

(a) **Pilot study.** A pilot study protocol shall be approved prior to conducting the pilot study. A pilot study is required prior to submission of an engineering report and must be conducted for a minimum duration of time sufficient to process water through at least one full bed volume and resin regeneration cycle, or 3 days, whichever is longer. The results of the pilot study shall be included in the engineering report.

(b) **Pretreatment.** Pretreatment shall be required if the total concentration of iron, manganese, and heavy metals exceeds 0.1 mg/L.

(c) **Process Design.**

- (1) **Redundancy.** Redundancy of control components, including, but not limited to, valves, air supply and computers, shall be provided. Anion exchange units shall be provided that meet the design capacity at a level below the nitrate/nitrite MCL with the largest unit out of service.
 - (2) **Automatic controls.** Automatic regeneration based on volume of water treated shall be provided unless manual regeneration can be justified and is approved by DEQ. A manual override shall be provided for all automatic controls.
 - (3) **Exchange capacity.** The design capacity of the anion exchange system shall not exceed the manufacturer's recommended design capacity of the resin for ~~nitrate removal~~ and regeneration.
 - (4) **Flow rates.** The design shall not exceed 7 gallons/min/ft² of bed area for the treatment flow rate. The backwash flow rate should be 2-3 gallons/min/ft² of bed area with a fast rinse approximately equal to the service flow rate.
 - (5) **Flow meters.** Flow meters shall be provided on the source water influent piping and the plant finished water piping.
 - (6) **Blending.** If a portion of the water is bypassed around the treatment unit and blended with the treated water, the maximum blend ratio allowable must be determined based on the highest anticipated raw water nitrate level. If a bypass line is provided, a totalizing meter and a proportioning or regulating device or flow regulating valves must be provided on the bypass line.
 - (7) **Stabilization.** Stabilization for corrosion control shall be provided.
 - (8) **Appurtenances.** An adequate underdrain and supporting gravel system, brine distribution equipment, and cross connection control shall be provided.
 - (9) **Construction material.** Pipes and contact materials must be resistant to the aggressiveness of salt.
 - (10) **Cross connections.** Anion exchange system piping shall be designed to prevent any cross connection with any potable water supply, in accordance with OAC 252:626-5-15.
- (d) **Sampling and monitoring.**
- (1) **Sampling taps.** Smooth-nose sampling taps for the collection of representative samples shall be provided. The taps shall be located to provide sampling of the anion exchange unit influent, effluent, and blended water. Sampling taps for the blended water shall be located at least 20 feet downstream from the point of blending.
 - (2) **Water quality test equipment.** Test equipment for pH, alkalinity, stability, total hardness, and nitrate shall be provided to determine treatment effectiveness.
 - (3) **Monitoring.** The treated water nitrate/nitrite level shall be monitored using continuous monitoring and recording equipment with a high nitrate level alarm. In addition to continuous monitoring and recording equipment, the finished water nitrate/nitrite levels shall be determined (using a test kit) no less than once per day, preferably just prior to regeneration of the unit.
- (e) **Brine System.**

- (1) **Brine and salt storage tanks.** Cover brine measuring or salt dissolving tanks and wet salt storage facilities and construct them of corrosion-resistant material. The make-up water inlet shall have a free fall discharge of two pipe diameters above the maximum liquid level of the unit or obtain DEQ approval of other methods of protection from back-siphonage. Support the salt on graduated layers of gravel with a suitable means of collecting the brine. Equip wet salt storage basins with manhole or hatchway openings having raised curbs and watertight covers with overhanging edges similar to those required for finished water storage. Overflow, where provided, must have a free fall discharge and terminate at an approved brine waste disposal facility.
 - (2) **Salt storage capacity.** Design salt storage large enough to accommodate a 30-day supply.
 - (3) **Housing.** Enclose and separate salt storage from other operating areas.
- (f) **Waste disposal.** A DEQ approved disposal plan is required for brine waste. If brine waste is disposed of in a lagoon, then the lagoon must be permitted and constructed in accordance with OAC 252:656 and lined with a synthetic liner in accordance with the requirement contained in OAC:626-13-4.

SUBCHAPTER 13. RESIDUALS AND DECANT WATER MANAGEMENT

252:626-13-2. Residuals management plan

- (a) An approved Residuals Management Plan is required for storage, disposal or reuse of WTP residuals, including residuals from iron and manganese removal plants. When a permit is required, a residuals management plan shall be filed with the DEQ and shall include the following:
- (1) estimate the volume of residuals produced using Appendix F,
 - (2) method of residuals management and storage,
 - (3) method for drying residuals,
 - (4) characterization of residuals, and
 - (5) method of ultimate disposal or reuse.
- (b) WTP residuals may be discharged to a sanitary sewer, provided the discharge will not cause pass-through or interference to the publicly-owned treatment works and the owner of the treatment works agrees to accept the discharge. A pre-treatment permit may be required if the discharge to the publicly-owned treatment works meets the requirements of 40 CFR, Part 403. When discharging to a sanitary sewer, a flow-equalization system may be required to prevent the overloading of the sewer and interference with the waste treatment processes.
- (c) Mechanical dewatering of residuals is acceptable and shall be constructed in accordance with OAC 252:656-19-5(3),(4) and (5). Mechanical dewatering equipment will be approved on a case-by-case basis.
- (d) Storage facilities shall be provided for concentrated residuals.
- (e) An approved sludge management plan is required for the land application of WTP residuals. If the residuals are being

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applied as a fertilizer or soil-amendment, the Oklahoma Department of Agriculture, Food and Forestry regulations apply.

(f) The requirements of OAC 252:515 apply to WTP residuals disposal in landfills.

252:626-13-4. Lagoons

(a) **General.** Lagoons used for the treatment of WTP waste shall be designed, permitted and constructed in accordance with OAC 252:656-11. In addition, lagoon designs shall include the following:

- (1) two or more lagoon cells that provide for a minimum residual storage time of six (6) months per lagoon cell,
- (2) design lagoons for the periodic removal of residuals as required in OAC 252:631-3-19,
- (3) a minimum of 3 feet of freeboard,
- (~~3~~4) adjustable decanting device,
- (~~4~~5) effluent sampling point (if lagoon is permitted to discharge),
- (~~5~~6) a pond gauge, to measure the level of residuals in the lagoon.

(b) **Surface evaporation lagoons (total retention).**

- (1) Size lagoons to store both the expected wastewater and residuals produced.
- (2) Provide sufficient surface area to evaporate the wastewater generated.
- (3) Base evaporation rates on the annual average pan evaporation minus the 90th percentile annual rainfall.

(~~b~~c) **Surface water treatment wastewater handling.** Design for:

- (1) at least 4-hours settling time prior to recycling,
- (2) wastewater to be returned to a point prior to the point of primary coagulant addition, ~~and~~
- (3) wastewater to be returned at an instantaneous rate of 10 percent or less of the raw water entering the plant. Total flow shall not exceed the WTP maximum design flow rate-, and
- (4) when wastewater is to be discharged, a plant outfall must be provided that is designed and constructed in accordance with OAC 252:656-9-3.

(~~c~~d) **Sealing of lagoons.** Water treatment plants utilizing conventional, microfiltration or softening treatment may seal the lagoons with any approvable material listed in OAC 252:656. For all other types of treatment, the lagoons shall have a synthetic liner that meets the requirements of OAC 252:656.

(~~d~~e) **Evaporation ponds.** The waste from ion exchange plants, demineralization plants, etc., that cannot flow to a sanitary sewer or meet discharge permit requirements without cost prohibitive treatment may flow to evaporation ponds meeting the requirements of OAC 252:619, 252:621 and 252:656.

SUBCHAPTER 19. DISTRIBUTION SYSTEM

252:626-19-2. Installation of piping

(a) **Standards.** The standards in this Section apply to the installation of piping in public water supply distribution systems. Specifications must incorporate the provisions of the AWWA standards.

(b) **Bedding.** Provide continuous and uniform bedding in the trench for all buried pipe. Tamp backfill material in layers around the pipe and to a sufficient height above the pipe to adequately support and protect the pipe. Remove all stones found in the trench to a depth of at least 6 inches below the bottom of the pipe.

(c) **Cover.** Provide all water mains with at least 30 inches of cover or with sufficient insulation to prevent freezing.

(d) **Blocking.** Provide reaction blocking, tie rods, or joints designed to prevent movement at all tees, bends, plugs and hydrants to prevent movement of the pipe.

(e) **Pressure and leakage testing.** Test the installed pipe for leakage in accordance with AWWA standard specifications. Leakage must not exceed 10 gal/inch diameter per mile of pipe per 24 hours at 150 psi testing pressure.

(f) **Disinfection and testing.** Disinfect all waterlines according to AWWA standard specifications. Obtain safe bacteriological samples on two consecutive days before placing the waterline into service.

(g) **Permeation of system by organic compounds.** Where distribution lines are installed in areas of soil or groundwater contamination by organic compounds use:

- (1) pipe and joint materials that are not subject to permeation by organic compounds.
- (2) non-permeable materials for all portions of the system including water mains, service connections, and hydrant leads.

(h) **Separation of water mains and sewers from contamination sources.**

(1) **Horizontal separation.**

- (A) Measure the separation distance edge to edge.
- (B) Locate water mains at least 10 feet horizontally from any existing or proposed sewer lines.
- (C) Locate water mains at least 5 feet horizontally from any existing or proposed storm sewers, raw water lines, petroleum product lines, natural gas lines, and other buried utility lines.
- (D) Locate cast iron waterlines at least 10 feet from any gasoline storage tank and lines and PVC water lines at least 50 feet horizontally from any gasoline storage tank and lines.
- (E) Locate waterlines at least 15 feet from all parts of septic tanks and absorption fields, or other sewage treatment and disposal systems.

(2) **Vertical Separation.**

- (A) Measure the separation distance from edge to edge.
- (B) Lay waterlines crossing sewer lines to provide a minimum vertical distance of 24 inches between the water main and the sewer line. Arrange the piping so that joints in a 20-foot length of PVC or 18-foot length of cast iron sewer pipe will be equidistant from the water main. Where a water main crosses under

a sewer, provide adequate structural support for the sewer to prevent damage to the water main.

(C) Maintain a 2-foot vertical separation between waterlines and any existing or proposed storm sewers, raw water lines, petroleum product lines, natural gas lines, and other buried utility lines.

(3) **Special conditions.** When it is impossible to obtain proper horizontal and vertical separation as stipulated ~~above~~ in (1) and (2) of this subsection, design and construct the other line equal to water pipe, and pressure test it to assure water tightness of joints adjacent to the water line prior to backfilling.

(4) **Surface water crossings.**

(1) **Above-water crossings.** Adequately support and anchor the pipe. Provide protection from damage and freezing. Make waterline accessible for repair or replacement.

(2) **Underwater crossings.** Provide a minimum cover of 2 feet over the pipe. For waterlines crossing a well defined channel bottom greater than 15 feet in width, construct the waterline as follows:

(A) design the pipe for river crossings and have flexible, restrained or welded watertight joints,

(B) provide valves at both ends of water crossings so that the section can be isolated for testing or repair. The valves must be easily accessible and not subject to flooding. The valve closest to the supply source must be in a manhole, and

(C) make permanent taps on each side of the valve within the manhole to allow insertion of a small meter for testing to determine leakage and for sampling purposes.

(j) **Tracer wire.** Install metal tracer wire on all non-ferrous piping used for public water supply mains.

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APPENDIX E. GRAVEL SUPPORT FOR RAPID RATE SLOW SAND FILTERS [REVOKED]

APPENDIX E. GRAVEL SUPPORT FOR RAPID RATE SLOW SAND FILTERS [NEW]

Size	Depth
2½ to 1½ inches	5 to 8 inches
1½ to ¾ inches	3 to 5 inches
¾ to ½ inches	3 to 5 inches
½ to 3/16 inches	2 to 3 inches
3/16 to 3/32 inches	2 to 3 inches

Appendix E, Table I. Daily design flow

Motels or Hotel (1 bedroom per unit)	200 GPD
Motels (Kitchen facilities) per unit	250 GPD
Institution per Person:	
Resident workers	100 GPD
Non-resident Workers	20 GPD
Factories per person (excl. Industrial waste) each shift	20 GPD
Day school per pupil	8 GPD
Boarding School per pupil	75 GPD
Restaurants per patron	15 GPD
Trailer Parks per Unit	250 GPD
Drive-In Theater per car space	10 GPD
Self-service laundry (per customer)	50 GPD
Country Club per member	50 GPD
Service station per vehicle served	15 GPD
Retail store per toilet	500 GPD
Urban residence per person	100 GPD
Farm Residence per person	100 GPD
Livestock	
Beef Cow	12 GPD
Dairy Cow	50 GPD
Hog or sheep	4 GPD
Chicken	4 GPD
Turkey	7 GPD

Appendix E, Table II. Orifice sizing

Orifice Size (inches)	Head in Feet			
	2	4	6	8
	Gallons of Water Delivered per Day			
1/16	95	135	165	191
1/8	381	539	660	762
3/16	858	1,213	1,485	1,715
1/4	1,525	2,156	2,641	3,049
5/16	2,382	3,369	4,126	4,764
3/8	3,430	4,851	5,941	6,860
7/16	4,669	6,603	8,087	9,338
1/2	6,098	8,624	10,562	12,196
3/4	13,271	19,404	23,765	27,442
1	24,393	34,497	42,249	48,785
1-1/4	38,113	53,901	66,015	76,227
1-1/2	54,884	77,617	95,061	109,767
1-3/4	74,702	105,646	129,389	149,405
2	97,571	137,986	168,998	195,142

$$Q = C_d A (2gh)^{1/2}$$

$$C_d = 0.60$$

$$g = 32.2 \text{ ft/s}^2$$

$$A \text{ is ft}^2, 1 \text{ ft}^2 = 144 \text{ in}^2$$

Appendix E, Figure 1. General Well Design
 Appendix E. Figure 2. General Well Design

These two figures are drawings that are currently incompatible with the Word format of the other Chapter 626 appendices. See customer assistance for hard copies of these drawings.

[OAR Docket #16-638; filed 6-24-16]

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 631. PUBLIC WATER SUPPLY OPERATION

[OAR Docket #16-635]

RULEMAKING ACTION:
PERMANENT final adoption

RULES:
Subchapter 1. Introduction
252:631-1-1 [AMENDED]
252:631-1-2 [AMENDED]
252:631-1-3 [AMENDED]
Subchapter 3. Operations
252:631-3-1 [AMENDED]
252:631-3-2 [AMENDED]
252:631-3-4 [AMENDED]
252:631-3-10 [AMENDED]

AUTHORITY:
Environmental Quality Board; 27A O.S. § 2-2-101; 2-2-201, 2-6-101, et seq.

SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
November 6, 2015

COMMENT PERIOD:
December 1, 2015 to December 31, 2015

PUBLIC HEARING:
Before the Council on January 12, 2016, and before the Environmental Quality Board on February 19, 2016

ADOPTION:
February 19, 2016

SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:
February 25, 2016

APPROVED BY GOVERNOR'S DECLARATION:
Approved by Governor's declaration on June 9, 2016

FINAL ADOPTION:
June 9, 2016

EFFECTIVE:
September 15, 2016

SUPERSEDED EMERGENCY ACTIONS:
n/a

INCORPORATIONS BY REFERENCE:
Incorporated standards:

Date of CFR provisions incorporated by reference in these rules is changed to "as published on July 1, 2015."

Incorporating rules:
OAC 252:631-1-3

Availability:
The standards are on file at the Department of Environmental Quality, 707 North Robinson, Oklahoma City, Oklahoma, 73102, and are available to the public for examination Monday through Friday between the hours of 8:00 a.m. and 4:30 p.m.

ANALYSIS:
The Department is proposing to: (1) replace "Laboratory Certification" with "Laboratory Accreditation," rules; (2) clarify the definitions for "Maximum contaminant level," "Maximum residual disinfectant level," "Primary Drinking Water Standards," "Public Water Supply system," "Community water system," "Non-community water system," "Non-transient non-community system," and "Minor water system"; (3) update the rules concerning the date of the incorporation by reference of certain federal regulations from July 1, 2014, to July 1, 2015; (4) add language incorporating Subparts S and Y of the Microbiological standards in accordance with 40 CFR Section 141.63; (5) replace "Turbidity" with "Filtration, disinfection, and enhanced treatment" standards in accordance with 40 CFR Sections 141.73 and 141.173; (6) add "Lead, copper, and corrosivity standards" in accordance with 40 CFR Part 141, Subpart I; (7) replace "Coliform" with "Microbiological" requirements in accordance with 40 CFR Section 141, Subparts S and Y; add enhanced treatment requirements in accordance with 40 CFR Sections 141.74 and 141.174, Subparts T and W; add Subparts U and V in accordance with 40 CFR, Part 141; (8) clarify the requirements for laboratory accreditation

and validation of data to be consistent with federal requirements and (9) other minor clarifications.

CONTACT PERSON:
Mark Hildebrand, (405) 702-8100 or Mark.Hildebrand@deq.ok.gov (Procedural, legal and technical questions). The DEQ is located at 707 N. Robinson, Oklahoma City, Oklahoma 73102. The DEQ's mailing address is P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677.

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, 2016:

SUBCHAPTER 1. INTRODUCTION

252:631-1-1. Purpose

(a) This chapter sets the operation standards for Public Water Supply systems so they may provide safe drinking water. This Chapter is analogous to the federal PWS program. Other rules may govern Public Water Supply system operations, such as the Discharge Regulations (OAC 252:606), ~~Laboratory Certification OAC (252:300)~~, Laboratory Accreditation (OAC 252:301), TNI Laboratory Accreditation (OAC 252:307), Minor Public Water Supply Systems (OAC 252:624), Public Water Supply Construction Standards (OAC 252:626) and Operator Certification (OAC 252:710). This Chapter implements the "Oklahoma Water Supply Systems Act" at Title 27A, § 2-6-301 and following.

(b) This chapter applies to any person or entity, including any federal facility, that operates a Public Water Supply system in Oklahoma, except for minor public water supply systems, which are regulated in OAC 252:624.

252:631-1-2. Definitions

In addition to terms defined in Title 27A of the Oklahoma Statutes, the following words or terms, when used in this Chapter, shall have the following meaning unless the context clearly indicates otherwise:

"Accredited laboratory" means a laboratory accredited through the DEQ laboratory accreditation program.

"AWWA" means the American Water Works Association.

"Direct Integrity Test" means a physical test applied to a membrane unit in order to identify and isolate integrity breaches.

"DEQ" means the Oklahoma Department of Environmental Quality.

"Disinfection" means a process that inactivates pathogenic organisms in water by chemical oxidants or equivalent agents.

"EPA" means the Environmental Protection Agency.

"Groundwater under the direct influence of surface water" means any water beneath the surface of the ground with significant occurrence of insects or other macroorganisms, algae, or large-diameter pathogens such as *Giardia Lamblia* or *Cryptosporidium*, or significant and relatively rapid shifts in water characteristics such as turbidity, temperature,

conductivity, or pH that closely correlate to climatological or surface water conditions.

"Indirect Integrity Monitoring" means monitoring some aspect of membrane filtrate water quality that is indicative of the removal of particulate matter.

"Laboratory checks" means chemical, radiochemical, physical, bacteriological, and microbiological tests made in a laboratory approved by the DEQ, on water samples submitted to confirm the quality of the water.

"Maximum contaminant level (MCL)" means the maximum permissible level of a contaminant in a Public Water Supply system that has been determined to be necessary to safeguard the public health as specified in these regulations. ~~MCL are the same as primary drinking water standards.~~

"Maximum residual disinfectant level (MRDL)" means the level of a disinfectant added for water treatment that may not be exceeded at the consumer's tap without an unacceptable possibility of adverse health effects. ~~Compliance with the MRDL will be determined using the disinfectant concentration measured at the time Total Coliform Rule (TCR) samples are collected.~~

"Minor public water supply system" means a water system not included in the public water supply system definition. Minor public water supply systems are regulated by OAC 252:624.

"OAC" means Oklahoma Administrative Code.

"Operating records and reports" means the daily record of data connected with the operation of the system compiled in a monthly report.

"OWRB" means the Oklahoma Water Resources Board.

"Point of connection (POC)" means the point at which a consecutive system receives water from the wholesale system. This is not the same as a "point of entry."

"Point of entry (POE)" means the point at which a source or combination of sources enters the distribution system.

"Primary Drinking Water Standards" means the ~~same as the MCL~~ maximum levels of contaminants as listed in 40 CFR Part 141 which are limited in drinking water in order to protect public health.

"Protected groundwater free of sanitary defects" means a ground water source that is properly designed and permitted, practices full-time chlorination, and is properly operated and maintained as evidenced by no critical deficiencies on inspections.

"Public water supply (PWS) system" means ~~any system whether publicly or privately owned which supplies water under pressure providing water for human consumption through pipes or other constructed conveyances, to the public through pipes or other constructed conveyances, if such system has at least 15 service connections or regularly serves an average of at least 25 individuals at least 60 days per year, whether receiving payment or not.~~ Multi-family dwellings, which are constructed, inspected, and maintained under a State or locally approved plumbing code and purchase water from a permitted water system, are not classified as a Public Water Supply system. The following are the categories of Public Water Supply systems:

(A) **"Community water system"** means any PWS system, which serves at least 15 service connections, used by year-round residents or regularly serves at least 25 year-round residents.

(B) **"Non-community water system"** means any PWS system, which serves an average of at least 25 individuals at least 60 days per year but is neither a community water system nor a non-transient non-community water system.

(C) **"Non-transient non-community (NTNC) water system"** means any PWS system that is not a community water system and that regularly serves at least 25 of the same persons over 6 months per year.

~~(D) "Minor water system" means any other PWS system not included in (A), (B), or (C) of this definition. These water systems may be state licensed facilities or non-licensed facilities and are regulated in OAC 252:624.~~

"Residual disinfectant concentration" means the concentration of disinfectant measured in milligrams per liter (mg/l) in a representative sample of water.

"Secondary standard" means a non-mandatory guideline that has been determined to be desirable to provide acceptable drinking water.

"Slow sand filtration" means a process involving passage of raw water through a bed of sand at low velocity (generally less than 50 gallons/sq.ft./day) resulting in substantial particulate removal by physical and biological mechanisms.

"Source" means any lake, stream, spring or groundwater supply that is used as treated or untreated water for a PWS system.

"Total coliform positive sample" means a sample in which one or more coliform organisms are found.

"Treatment technique" means the practice of a PWS system to properly remove pathogens and total organic carbon.

"Turbidity" means the amount of suspended material in water as measured by Nephelometric Turbidity Units (NTU).

"Water Treatment" means the act of removing contaminants from source water or adjusting water quality by the addition of chemicals, filtration, and other processes, thereby making the water safe for human consumption.

252:631-1-3. Adoption of U.S. EPA regulations by reference

The provisions of Parts 141, "National Primary Drinking Water Regulations," and 143, "National Secondary Drinking Water Regulations," of Title 40 of the Code of Federal Regulations (CFR) as published on July 1, ~~2014~~2015, and the requirements contained therein are, unless otherwise specified, adopted and incorporated by reference.

SUBCHAPTER 3. OPERATIONS

252:631-3-1. PWS criteria

(a) All systems must properly operate, in accordance with a Operations and Maintenance manual as required by OAC

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252:626-3-7. All systems must maintain each unit to provide treatment of the water in accordance with the DEQ approved plans and specifications, in accordance with the purpose for which the units were designed and according to the terms of their permits. Permits may contain more stringent provisions than contained in the rules to meet the requirements of the provisions of 40 CFR adopted by reference in this chapter. Employees must be trained in the proper operation and maintenance of the system.

(b) Public water supply systems must comply with all applicable Primary Drinking Water Standards in 40 CFR Part 141, which includes, but is not limited to, the following:

- (1) Microbiological standards in 40 CFR Section 141.63 and Subparts S and Y;
- (2) Inorganic chemicals standards in 40 CFR Section 141.62;
- (3) Organic chemical standards in 40 CFR Section 141.61;
- (4) Disinfectant byproduct standards in 40 CFR Section 141.64;
- (5) Radiochemical standards in 40 CFR Section 141.66;
- (6) Turbidity, Filtration, disinfection and enhanced treatment standards in 40 CFR Sections 141.73, 141.173, and 141.550-553 and Subparts T and W; and
- (7) Residual disinfectant level standards in 40 CFR Section 141.65; and
- (8) Lead, copper, and corrosivity standards in 40 CFR Part 141, Subpart I.

(c) Public water supply systems must comply with all applicable monitoring and analytical requirements in 40 CFR Part 141, which includes, but is not limited to, the following:

- (1) ~~Coliform~~ Microbiological requirements in 40 CFR Section ~~141.21~~ 141, Subparts S and Y;
- (2) Turbidity requirements in 40 CFR Section 141.22;
- (3) Inorganic chemicals requirements in 40 CFR Section 141.23;
- (4) Organic chemical requirements in 40 CFR Section 141.24;
- (5) Radiochemical requirements in 40 CFR Section 141.25 and Section 141.26;
- (6) Lead and copper requirements in 40 CFR Section 141, Subpart I;
- (7) Sodium requirements in 40 CFR Section 141.41;
- (8) Corrosivity requirements in 40 CFR Section 141.42;
- (9) Filtration and disinfectant disinfection, and enhanced treatment requirements in 40 CFR Sections 141.74, 141.174, and ~~141.560~~ 141.562 Subparts T and W; and
- (10) Disinfectant residuals and disinfectant by-product requirements in 40 CFR, Part 141, Subparts C, H, ~~L,~~ U and V.

(d) Systems, which operate on an intermittent or seasonal basis, shall submit bacteriological samples on two consecutive days prior to placing the system into operation. The system can be placed into operation only after the samples are shown to be safe.

252:631-3-2. Laboratory accreditation

~~Compliance analyses for coliform, inorganics, organics, radioactivity and corrosivity contaminants must be performed in a laboratory accredited by the DEQ. An accredited lab must transmit the analyses to the DEQ in an electronic form acceptable to the DEQ, no later than the first ten (10) days following the month in which the result is received or the first ten (10) days following the end of the required monitoring period. Testing required for compliance with turbidity treatment technique, disinfectant residual, temperature and pH requirements may be performed by a laboratory operator certified by the DEQ. Process control tests may be performed by a laboratory operator certified by the DEQ.~~

(a) Analytical testing. Compliance samples for microbiological, inorganic, organic and radioactive contaminants as well as corrosivity must be analyzed by a laboratory accredited by the DEQ. Testing required for compliance with alkalinity, calcium, conductivity, disinfectant residual, orthophosphate, pH, silica, temperature and turbidity may be performed by a laboratory operator certified by the DEQ.

(b) Laboratory reporting requirements. In addition to distributing final reports to the PWS as required in OAC 252:301 and 307, the laboratory must transmit data to the DEQ as follows:

- (1) Electronic reporting. Analytical results must be transmitted to DEQ in an electronic format acceptable to DEQ no later than 10 days after the month or required monitoring period in which the sample was collected.
- (2) Emergency notification. All *E. coli* positive sample results, and all follow up samples for *E. coli* positive sample results, must be reported to designated Water Quality Division personnel immediately by phone and email.

252:631-3-4. Validation of data

~~Notwithstanding other provisions of this Chapter, samples that are not properly collected or submitted, not collected by trained and authorized personnel, not analyzed in an accredited laboratory, or samples that do not represent the distribution system must not be used to determine compliance with these regulations. Total coliform positive samples, which are due to improper analysis, domestic or other non distribution plumbing problems, or due to circumstances or conditions that do not reflect water quality in the distribution system must not be counted toward meeting minimum monitoring requirements. The DEQ must document the determination that there are circumstances or conditions that do not reflect water quality in the distribution system. A sample that produces a turbid culture in the absence of gas production, produces a turbid culture in the absence of an acid reaction, exhibits confluent growth, or produces colonies too numerous to count must be invalidated and replaced with another sample within twenty four (24) hours of notification by the state. DEQ must document the determination of circumstances or conditions that require samples to be invalidated.~~

252:631-3-10. Process control tests

Control tests must be performed in accordance with procedures approved by the DEQ.

(1) Surface water, groundwater under the direct influence of surface water, and springs.

(A) Systems that use coagulation, settling, softening or filtration must do the following chemical control tests on the filtered water twice a day, record the results on a report form provided or approved by the DEQ, and submit the form to the DEQ Water Quality Division each month, with a copy to the local DEQ representative:

- (i) Alkalinity - Phenolphthalein (P);
- (ii) Alkalinity - Total;
- (iii) Hardness (where softening is used);
- (iv) pH value; and
- (v) Stability to calcium carbonate (once per day);

(B) Perform jar tests as needed to determine the optimum coagulant dosages for plant control and operation to meet turbidity requirements.

(C) Turbidity and residual disinfection samples must be collected and analyzed in accordance with 40 CFR Part 141, Subparts H, ~~and P, T and W.~~

(D) Systems that use membrane filtration shall perform direct integrity testing and indirect integrity monitoring in accordance with 40 CFR Part 141.719(b)(3) and (4).

(2) Groundwater supplies. The following tests are required for public water supply systems utilizing groundwater as a source. Test results must be listed as indicated on the appropriate forms and submitted to DEQ:

(A) For all public water supply systems that practice chlorination, the chlorine residual shall be tested and recorded once daily at the POE;

(B) For community and NTNC public water supply systems:

- (i) Static level and pumping level of each well must be determined quarterly;
- (ii) Alkalinity, pH, and stability must be determined at least monthly for community systems and at least quarterly for non-transient non-community water systems;
- (iii) Where ion-exchange softening is provided, determine the hardness of the finished water once a day; and
- (iv) Where nanofiltration, reverse osmosis or electro dialysis is provided, perform the following chemical control tests on the treated water once a day:

- (I) Alkalinity - Phenolphthalein (P),
- (II) Alkalinity - Total,
- (III) Hardness,
- (IV) pH value, and

(3) Purchase water systems. Purchase water systems that are required to maintain a disinfection residual shall

monitor the disinfectant residual in the distribution system as follows:

(A) Those serving a population of 1,500 or less shall monitor the disinfectant residual at representative locations in the distribution system at least once every seven days;

(B) Those serving a population of 1,501 to 20,000 shall monitor the disinfectant residual at representative locations in the distribution system at least three times a week on non-consecutive days; or

(C) Those serving a population of greater than 20,000 shall monitor the disinfectant residual at representative locations in the distribution system at least five times a week.

(4) Special tests.

(A) Systems that remove iron or manganese must test the raw and finished water weekly for those metals.

(B) Systems that treat or blend for the reduction in concentration of regulated contaminants must monitor the raw and finished water for those contaminants daily in addition to collecting compliance samples.

(C) Threshold odor and other tests may be required by the DEQ based on local conditions.

(D) Systems that treat or blend for the reduction in concentration of nitrates must test the raw and finished water at least once a day for nitrates.

(E) Systems that apply phosphate chemicals in the treatment process must test the finished water at least once a day for phosphates.

(5) Fluoridation. Where fluoridation is practiced, the system must:

(A) analyze the water twice a day for fluoride content, both before and after fluoridation;

(B) forward a copy of the analytical report (ODH form No. 561/DEQ form No. 631-001) to the DEQ monthly and keep a copy at the plant (ODH also requires a copy); and

(C) submit a sample of treated water to the DEQ State Environmental Laboratory, or to a DEQ-accredited laboratory, for analysis of fluoride content every month.

(6) Sampling disinfectants in distribution system.

The following control tests shall be performed in the distribution system for all systems that disinfect. Sampling points shall be changed regularly so the system is sampled completely at least once each week or in accordance with a sampling plan approved by DEQ.

(A) **Chlorine.** Systems that use chlorine shall test for free chlorine and total chlorine residual twice a day in the distribution system.

(B) **Chloramines.** Systems that use chloramines shall test for total chlorine residual twice a day in the distribution system. See 252:631-3-3(d) for the requirements for Heterotrophic Plate Counts.

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(C) **Other disinfectants.** Systems that use ozone or chlorine dioxide shall perform process control tests in accordance with 40 CFR Section 141.132.

[OAR Docket #16-635; filed 6-24-16]

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 652. UNDERGROUND INJECTION CONTROL

[OAR Docket #16-636]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 1. General Provisions

252:652-1-3. Incorporation by reference [AMENDED]

252:652-1-5. Hazardous waste [AMENDED]

252:652-1-6. Fees [AMENDED]

Subchapter 3. Exclusionary Siting Criteria for Class I Wells

252:652-3-1. Siting Criteria [AMENDED]

Subchapter 11. Class V Drinking Water Treatment Residual Wells [NEW]

252:652-11-1. Definitions [NEW]

252:652-11-2. Dual Permit [NEW]

252:652-11-3. Class V DWTR Permit [NEW]

AUTHORITY:

Environmental Quality Board; Oklahoma Environmental Quality Code; 27A O.S. §2-2-101; 2-2-201; 2-6-101, et seq.

SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:

March 3, 2015

COMMENT PERIOD:

April 1, 2015 through May 4, 2015

PUBLIC HEARING:

May 5, 2015

ADOPTION:

June 16, 2015

SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:

June 22, 2015

APPROVED BY GOVERNOR'S DECLARATION:

Approved by Governor's declaration on June 9, 2016

FINAL ADOPTION:

June 9, 2016

EFFECTIVE:

September 15, 2016

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

Incorporated standards:

Title 40 of the CFR Part 124, Subpart A, and Parts 144 through 148 as amended through July 1, 2014, excluding the regulations pertaining to Class VI injection wells.

Incorporating rules:

252:652-1-3

Availability:

From the contact person listed below.

ANALYSIS:

The Department is proposing to amend OAC 252:652-1-3, OAC 252:652-1-5, and OAC 252:652-3-1 to update the rule incorporations and citations for this chapter. The Department is proposing to amend OAC 252:652-1-6 by removing the facility monitoring fees. The monitoring fees are not necessary. The Department is proposing to create a new subchapter (Subchapter 11) which would provide rules to regulate Class V Drinking Water Treatment Residuals wells.

CONTACT PERSON:

The contact person is Hillary Young, Chief Engineer, Land Protection Division. She can be reached at Hillary.Young@deq.ok.gov (e-mail), (405) 702-5100 (phone) or (405) 702-5101 (fax). The DEQ is located at 707 N.

Robinson, Oklahoma City, Oklahoma 73102. The mailing address is P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677.

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, 2016:

SUBCHAPTER 1. GENERAL PROVISIONS

252:652-1-3. Incorporation by reference

(a) **Code of Federal Regulations.** When reference is made to Title 40 of the Code of Federal Regulations, it shall mean Procedures for Decision-Making and (unless otherwise specified) the Underground Injection Control Regulations, April 1, 1983, as amended through July 1, 2000, ~~including amendments to 40 CFR published in 64 Federal Register 68546 through 68573, inclusive, which became effective April 5, 2000, dealing with underground injection control for Class V injection wells.~~ 2014.

(b) **40 CFR incorporation.** Title 40 CFR Parts 124 (Subpart A), 144, 145, 146, 147, 148 are incorporated in their entirety as they apply to the Underground Injection Control Program, excluding any regulations pertaining to Class VI wells.

(c) **Synonymous terms.** For purposes of interfacing with 40 CFR Parts 124 (Subpart A) or 144-148, the following terms apply:

- (1) Administrator, Regional Administrator, and Director are synonymous with Executive Director.
- (2) State is synonymous with the Department of Environmental Quality (DEQ).
- (3) Public hearing is synonymous with public meeting.

(d) **Citations incorporated by reference.** When a provision of the Code of Federal Regulations is incorporated by reference, all citations contained therein are also incorporated by reference.

(e) **Inconsistencies or duplications.** If there are inconsistencies or duplications in the requirements of those provisions incorporated by reference and the rules in this Chapter, the federal provisions shall prevail, except where the rules in this Chapter are more stringent. However, the rules in this Chapter shall not relieve any person from complying with the minimum requirements found in this Chapter and Title 40 of the Code of Federal Regulations.

252:652-1-5. Hazardous waste

The surface facilities of any Class I hazardous waste injection well shall be subject to the permitting, operating and fee regulations of OAC 252:2005205, Hazardous Waste Management.

252:652-1-6. Fees

- (a) Class I injection well facilities.
 - (1) Permit application - \$2,000.

- (2) Permit renewal - \$500.
- ~~(3) Facility monitoring - \$250 per year.~~
- (b) **Class III injection well facilities.**
 - (1) Permit application - \$2000
 - (2) Permit renewal - \$500
 - ~~(3) Facility monitoring - \$250 per year~~
- (c) **Class V injection well facilities.** [See 40 CFR 146.5(e)]
 - (1) Permit application
 - (A) Wells used for the injection of wastes into a subsurface formation - \$2,000
 - (B) Others listed herein - \$600
 - (i) Cooling water return flow wells used to inject water previously used for cooling, excluding air conditioning return flow wells used to return to the supply aquifer the water used for heating or cooling in a heat pump;
 - (ii) Sand backfill and other backfill wells used to inject a mixture of water and sand, mill tailings or other solids into mined out portions of subsurface mines;
 - (iii) Wells used for solution mining of conventional mines such as stopes leaching;
 - (iv) Injection wells used in experimental technologies; and
 - (v) Injection wells used for in situ recovery of lignite, coal, tar sands and oil shale.
 - (2) Permit renewal for facilities listed in (1)(A) and (1)(B) of this subsection - \$100
 - ~~(3) Facility monitoring - \$250 per year (waste disposal wells only)~~

SUBCHAPTER 3. EXCLUSIONARY SITING CRITERIA FOR CLASS I WELLS

252:652-3-1. Siting criteria

The following rules shall apply to owners and operators of all Class I wells:

- (1) **Groundwater resources and recharge areas.** Except as otherwise provided by Title 27A O.S. § 2-7-111, no permit for a proposed new site shall be granted for a Class I injection well facility to be located over or through an unconsolidated alluvial aquifer or terrace deposit aquifer, or over or through a bedrock aquifer. Site-specific hydrological and geological information which demonstrates that the proposed location does not lie in a prohibited area may be provided by an applicant. The DEQ may require site-specific hydrological and geological information for a facility proposed to be located outside a designated principal groundwater aquifer or recharge area where there is reason to believe the proposed location may be unsuitable due to localized groundwater conditions. Sources used to determine if a site is unpermittable are the "Map of Aquifers and Recharge Areas in Oklahoma", compiled by Kenneth S. Johnson, Oklahoma Geological Survey (1991), and the Oklahoma Water Resources Board rules codified at OAC 785:45 Appendices A through D, inclusively, or any successor map(s) to these sources.

- (2) **Water wells.** No permit shall be granted for a new Class I injection well facility proposed to be located within 1320 feet (one-quarter statute mile) of any public or private water supply well. Provided, however, that existing or proposed private water supply wells located on the applicant's property may be exempt from this paragraph at the applicant's discretion. Where proximity of a Class I facility to water supply well(s) is in doubt, a survey shall be conducted by an Oklahoma licensed land surveyor to determine actual distances.
- (3) **Flood plain.** No new Class I injection well facility shall be permitted in the 100 year flood plain unless the 100 year flood plain is subsequently redefined to not include the land area proposed for the new disposal area.
- (4) **Surface water.** ~~Except as provided by OAC 252:605, no~~ No permit shall be granted for a new Class I injection well facility proposed to be located within the established conservation pool elevation of any reservoir which supplies water for a public water supply.

SUBCHAPTER 11. CLASS V DRINKING WATER TREATMENT RESIDUAL WELLS

252:652-11-1. Definitions

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

"Drinking Water Treatment Residual" (DWTR) shall mean wastewater (e.g. membrane filter reject water) from drinking water treatment processes.

"Dual Permit" shall mean a Class V permit for the injection of DWTR into a Commercial Class II-D well permitted by the Oklahoma Corporation Commission (OCC).

252:652-11-2. Dual Permit

(a) **Applicability.** An existing Commercial Class II-D injection well, authorized under the rules of OCC can be additionally permitted as a Class V injection well through DEQ for the injection of DWTR.

(b) **Application.** An application for a dual permit under this Section shall be submitted to DEQ for approval.

(c) **Permit term.** The permit term for an injection well permitted under this Section shall not exceed a period of ten (10) years.

252:652-11-3. Class V DWTR Permit

(a) **Applicability.** Class V permits for the injection of DWTR, which are not regulated under Section 2 of this Subchapter, shall be regulated in accordance with this Section.

(b) **Application.** An application for a permit, under this Section, shall be submitted to DEQ for approval.

(c) **Construction and Operation.** The construction and operation requirements of a Class V DWTR injection well shall be in accordance with the Commercial Class II-D injection well requirements in OAC Title 165.

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(d) **Permit term.** The permit term for a well permitted under this Section shall not exceed a period of ten (10) years.

(e) **Financial assurance.** Financial assurance is required for all Class V DWTR injection wells, permitted under this Section, in accordance with 40 CFR 144 Subpart F.

[OAR Docket #16-636; filed 6-24-16]

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 690. WATER QUALITY STANDARDS IMPLEMENTATION

[OAR Docket #16-639]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 1. Introduction

252:690-1-3. [AMENDED]

252:690-1-4. [AMENDED]

Subchapter 3. Point Source Discharges

252:690-3-78. [AMENDED]

252:690-3-86. [AMENDED]

Subchapter 5. Groundwater Protection

252:690-5-2. [AMENDED]

Appendix B. Priority and Nonpriority Pollutants with Numerical Criteria Requiring Reasonable Potential Screening [REVOKED]

Appendix B. Priority and Nonpriority Pollutants with Numerical Criteria Requiring Reasonable Potential Screening [NEW]

AUTHORITY:

Environmental Quality Board; 27A O.S. § 2-2-101; § 2-2-201, §§ 2-6-101, et seq.

SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:

November 6, 2015

COMMENT PERIOD:

December 1, 2015, through December 31, 2015

PUBLIC HEARING:

Before the Council on January 12, 2016, and before the Environmental Quality Board on February 19, 2016.

ADOPTION:

February 19, 2016

SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:

February 25, 2016

APPROVED BY GOVERNOR'S DECLARATION:

Approved by Governor's declaration on June 9, 2016

FINAL ADOPTION:

June 9, 2016

EFFECTIVE:

September 15, 2016

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

Incorporated standards:

Date of CFR provisions incorporated by reference in these rules is changed to "as published on July 1, 2015".

Incorporating rules:

OAC 252:690-1-4

Availability:

The standards are on file at the Department of Environmental Quality, 707 North Robinson, Oklahoma City, Oklahoma, 73102, and are available to the public for examination Monday through Friday between the hours of 8:00 a.m. and 4:30 p.m.

ANALYSIS:

The proposed regulations will: (1) delete the term "CFU [colony forming units]" from this rule, which will allow the permit holder to choose from additional methods for bacteria testing and is in accordance with changes to

Oklahoma's Water Quality Standards made by the Oklahoma Water Resources Board; (2) update the date of incorporation by reference of federal rules from July 1, 2014 to July 1, 2015, which will include the cooling water intake rule and the sufficiently sensitive method rule (SSMR) update for tests performed on wastewater effluent (For more discussion on the federal rule updates, see the Rule Impact Statement for OAC 252:606, before the Water Quality Management Advisory Council on January 12, 2016); (3) revoke "Appendix B. Priority and Nonpriority Pollutants with Numerical Criteria Requiring Reasonable Potential Screening" and replace with an amended version of Appendix B that includes updated minimum quantification levels (MQLs) for measuring the presence and level of various pollutants in wastewater discharges. DEQ has determined that updating the MQLs is the least burdensome way of implementing the SSMR for both DEQ and the regulated community. The SSMR is included in this proposed incorporation by reference as well as the incorporation by reference proposed in the rulemaking for OAC 252:606 and is intended to allow detection of pollutants at levels that will give a more accurate indication of compliance with water quality standards.

CONTACT PERSON:

The contact person is Mark Hildebrand. Mark may be contacted at: Mark.Hildebrand@deq.ok.gov (e-mail), (405) 702-8100 (phone) or (405) 702-8101 (fax). The DEQ is located at 707 N. Robinson, Oklahoma City, Oklahoma 73102. The DEQ's mailing address is P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677.

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, 2016:

SUBCHAPTER 1. INTRODUCTION

252:690-1-3. Technical Acronyms

The following technical acronyms, when used in this Chapter, shall have the following meaning:

" ΔT_{max} " means the maximum temperature increase in °C at the edge of the temperature mixing zone.

"7Q2" means the 7 day low flow of a stream likely to occur with a 50% probability each year. The procedure for determining a site-specific 7Q2 is described at OAC 785:46.

"7T2" means the 7 day maximum temperature likely to occur with a 50% probability each year. The procedure for determining a site-specific 7T2 is described at OAC 785:46.

"ACD" means acute critical dilution.

"BOD₅" means 5-day biochemical oxygen demand.

"BT/C ratio" means the ratio of trigger background concentration to associated water quality criterion.

"(BT/C)_{max}" means the maximum BT/C ratio for a given criterion for which background monitoring is required as a permit condition.

"C₉₅" means the 95th percentile maximum likelihood effluent concentration of a substance. It is the product of C_{E(mean)} and RPF₉₅.

"C_{95(M)}" means the 95th percentile maximum likelihood effluent concentration of a substance, accounting for the size of the effluent data set. It is the product of C_{E(max)} and RPF_{95(M)}.

"C_A" means the acute numerical criterion for toxic substances.

"C_B" means background concentration.

"C_C" means the chronic numerical criterion for toxic substances.

"**C_d**" means the instream concentration of a substance resulting from a wastewater discharge.

"**C_{d(A)}**" means the instream concentration of a substance as determined by the acute mixing equation.

"**C_{d(c)}**" means the maximum instream concentration of a substance at the edge of the chronic mixing zone.

"**C_{d(FF)}**" means the instream concentration of a substance after complete mixing, as applied to determination of reasonable potential to exceed a human health criterion for the consumption of fish flesh.

"**C_{d(FFW)}**" means the instream concentration of a substance after complete mixing, as applied to determination of reasonable potential to exceed a human health criterion for the consumption of fish flesh and water.

"**C_{d(NRWQC)}**" means the instream concentration of a substance after complete mixing, as applied to determination of reasonable potential to exceed an EPA human health criterion for the consumption of fish flesh.

"**C_{d(RAW)}**" means the instream concentration of a substance after complete mixing, as applied to determination of reasonable potential to exceed a raw water column criterion.

"**C_{d(SS)}**" means the instream concentration of a substance after complete mixing, as applied to determination of reasonable potential to exceed an agriculture sample standard (SS).

"**C_{d(YMS)}**" means the instream concentration of a substance after complete mixing, as applied to determination of reasonable potential to exceed an agriculture yearly mean standard (YMS).

"**C_{E(max)}**" means the maximum concentration of a substance in an effluent data set.

"**C_{E(mean)}**" means mean effluent concentration.

"**C_{FF}**" means the numerical criterion for the protection of human health for the consumption of fish flesh.

"**C_{FFW)}**" means the numerical criterion for the protection of human health for the consumption of fish flesh and water.

"**C_{NRWQC)}**" means the EPA recommended national water quality criterion for the protection of human health for the consumption of fish flesh.

"**C_{RAW)}**" means the numerical criterion for protection of the raw water column.

"**C_{SS)}**" means agriculture sample standard numerical criterion, i.e., the historic segment averaged SS value from Appendix F of OAC 785:45, unless data more representative of the receiving stream are available.

"**C_{YMS)}**" means agriculture yearly mean standard numerical criterion, i.e., the historic segment averaged YMS value from Appendix F of OAC 785:45, unless data more representative of the receiving stream are available.

"**CBOD₅**" means 5-day carbonaceous biochemical oxygen demand.

"**CCD)**" means chronic critical dilution.

"**CFU)** means colony forming units.

"**CPP)**" means the Continuing Planning Process document required under Section 303(e) of the Clean Water Act.

"**CWAC)**" means cool water aquatic community.

"**D)**" means, in the context of a discharge to a lake through a pipe, the pipe diameter in feet.

"**DML)**" means daily maximum permit limitation.

"**DML_{A)}**" means the toxic substance acute criterion DML.

"**DML_{C)}**" means the toxic substance chronic criterion DML.

"**DML_{CL)}**" means agriculture criterion-based DML for chlorides.

"**DML_{FF)}**" means the human health/fish flesh DML.

"**DML_{FFW)}**" means the human health/fish flesh and water DML.

"**DML_{HH)}**" means human health-based DML.

"**DML_{RAW)}**" means the raw water column DML.

"**DML_{SO4)}**" means agriculture criterion-based DML for sulfates.

"**DML_{T)}**" means the temperature based DML.

"**DML_{TDS)}**" means agriculture criterion-based DML for total dissolved solids (dried at 180°C).

"**DML_{TOX)}**" means toxic substance-based DML.

"**DMR)**" means Discharge Monitoring Report.

"**DO)**" means dissolved oxygen.

"**gpd)**" means gallons per day.

"**HLAC)**" means habitat-limited aquatic community.

"**ICIS)**" means integrated compliance information system.

"**LTA)**" means long term average.

"**LTA_{A)}**" means the toxic substance acute numerical criterion LTA.

"**LTA_{C)}**" means the toxic substance chronic numerical criterion LTA.

"**LTA_{FF)}**" means the fish flesh human health criterion LTA.

"**LTA_{FFW)}**" means the fish flesh and water human health criterion LTA.

"**LTA_{RAW)}**" means the raw water column criterion LTA.

"**LTA_{SS)}**" means the agriculture sample standard LTA.

"**LTA_{T)}**" means the temperature criterion LTA.

"**LTA_{TOX)}**" means the limiting toxic substance-based LTA, i.e., the smallest of LTA_A or LTA_C, as applicable.

"**LTA_{YMS)}**" means the agriculture yearly mean standard LTA.

"**MAL)**" means monthly average permit limitation.

"**MAL_{A)}**" means the toxic substance acute criterion MAL.

"**MAL_{C)}**" means the toxic substance chronic criterion MAL.

"**MAL_{CL)}**" means agriculture criterion-based MAL for chlorides.

"**MAL_{FF)}**" means the human health/fish flesh MAL.

"**MAL_{FFW)}**" means the human health/fish flesh and water MAL.

"**MAL_{RAW)}**" means the raw water column MAL.

"**MCL)**" means maximum contaminant level (when used in the context of primary drinking water standards).

"**MAL_{HH)}**" means human health-based MAL.

"**MAL_{SO4)}**" means agriculture criterion-based MAL for sulfates.

"**MAL_{T)}**" means temperature MAL.

"**MAL_{TDS)}**" means agriculture criterion-based MAL for total dissolved solids (dried at 180°C).

"**MAL_{TOX)}**" means toxic substance-based MAL.

"**mgd)**" means million gallons per day.

"**mg/l)**" means milligrams per liter.

"**MQL)**" means minimum quantifiable level.

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"N" means the number of individual data points, collected over time, in an effluent or background data set.

"N_m" means the per month monitoring frequency where a permit limitation is established. When used in the context of temperature limitations, N_m is equal to four times N_w (i.e., N_m = 4 × N_w).

"N_w" means the per week monitoring frequency where a temperature permit limitation is established.

"NRWQC" means the National Recommended Water Quality Criteria, publication no. EPA 822-Z-99-001, April 1999.

"PBCR" means Primary Body Contact Recreation.

"PCS" means Permit Compliance System, an EPA database that tracks NPDES permit compliance.

"Q*" means the ratio of the regulatory effluent flow to the regulatory receiving water flow.

"Q_e" means regulatory effluent flow.

"Q_{e(30)}" means the Q_e that is the highest monthly average flow over the two year period of record for an industrial facility.

"Q_{e(D)}" means the Q_e that is the lesser of the design flow for a municipal POTW or the design flow listed in the Section 208 Areawide Basin Plan.

"Q_{e(LTA)}" means the Q_e that is the arithmetic (long term) average flow over the two year period of record for an industrial facility.

"Q_u" means regulatory receiving water flow upstream of a point of wastewater discharge.

"Q_{u(7Q2)}" means the same as 7Q2.

"Q_{u(LTA)}" means the Q_u that is the mean annual (long term) receiving water flow.

"Q_{u(STA)}" means the Q_u that is the short term average receiving water flow and is equal to Q_{u(LTA)} × 0.68.

"SBCR" means Secondary Body Contact Recreation

"SNC" means significant noncompliance.

"SS" means sample standard.

"s.u." means standard units for the measurement of pH.

"T₉₅" means 95th percentile effluent temperature in °C.

"T_a" means regulatory ambient temperature in °C.

"TBLL" means technically based local limits

"TDS" means total dissolved solids.

"TIE" means toxicity identification evaluation.

"TMDL" means total maximum daily load.

"TRC" means total residual chlorine.

"TRE" means toxicity reduction evaluation.

"TRO" means total residual (halogenated) oxidants.

"µg/l" means micrograms per liter.

"W" means, in the context of a discharge to a lake through an open channel (i.e., canal), the channel width in feet.

"WAL" means weekly average permit limitation.

"WAL_T" means temperature WAL.

"WET" means whole effluent toxicity.

"WLA" means waste load allocation.

"WLA_A" means a toxic substance acute criterion WLA.

"WLA_C" means a toxic substance chronic criterion WLA.

"WLA_{FF}" means a human health/fish flesh criterion WLA.

"WLA_{FFW}" means a human health/fish flesh and water criterion WLA.

"WLA_{RAW}" means a raw water column criterion WLA.

"WLA_{SS}" means an agriculture sample standard WLA.

"WLA_T" means a temperature criterion WLA.

"WLA_{YMS}" means an agriculture yearly mean standard WLA.

"WQMP" means the statewide Section 208 Water Quality Management Plan.

"WWAC" means warm water aquatic community.

"YMS" means yearly mean standard.

252:690-1-4. Incorporation of EPA regulations by reference

The following federal regulations at 40 CFR, as published on July 1, ~~2013~~2015 are incorporated by reference and applicable to this Chapter:

(1) **OAC 252:205 (Hazardous Waste Management)**, 124.31, 124.32, & 124.33, substituting DEQ for EPA, and deleting the following sentence from each section: "For the purposes of this section only, "Hazardous waste management units over which EPA has permit issuance authority" refers to hazardous waste management units for which the State where the units are located has not been authorized to issue RCRA permits pursuant to 40 CFR part 271.

(A) **Part 260.** Hazardous Waste Management System: General, except 260.21.

(i) In 260.20, "Federal Register" is synonymous with "The Oklahoma Register."

(ii) In 260.20(e), strike the words "or a denial."

(iii) In 260.22, references to the lists in Subpart D of Part 261 and the reference to §261.3(a)(2)(ii) or C shall mean the lists in Subpart D of Part 261 and §261.3(a)(2)(ii) or C as adopted by reference and applicable in Oklahoma.

(iv) In the 260.10 definitions of "new tank system" and "existing tank system", the reference to "July 14, 1986" for commencement of tank installation applies only to tank regulations promulgated pursuant to the federal Hazardous and Solid Waste Amendment ("HSWA") requirements. The following categories outline HSWA requirements:

(I) interim status and permitting requirements applicable to tank systems owned and operated by small quantity generators [3001(d)];

(II) leak detection requirements for all new underground tank systems [3004(o)(4)]; and

(III) permitting standards for underground tanks that cannot be entered for inspection [3004(w)]. For tank regulations promulgated pursuant to statutory authority other than HSWA, the date relative to the commencement of installation is November 2, 1987.

(B) **Part 261.** Identification and Listing of Hazardous Waste except 261.4(b)(18) that pertains to Utah only, thus should be excluded.

(i) In 261.4(e)(3)(iii) delete "in the Region where the sample is collected".

- (ii) In 261.5(f)(3)(iv), and (v), and in 261.5(g)(3)(iv), and (v) add "other than Oklahoma" after the word "State".
- (iii) In 261.31(a), the listing for F019, add at the end: "Zinc phosphate sludges meeting exemption conditions remain subject to regulation as hazardous waste if the waste exhibits a hazardous waste characteristic."
- (C) **Part 262.** Standards Applicable to Generators of Hazardous Waste except Subpart E and Subpart H. In 262.42(a)(2) and 262.42(b) delete "for the Region in which the generator is located".
- (D) **Part 263.** Standards Applicable to Transporters of Hazardous Waste.
- (E) **Part 264.** Standards for Owners and Operators of Hazardous Waste Treatment Storage, and Disposal Facilities. The following sections and subsections are not adopted by reference: 264.1(f), 264.1(g)(12), 264.149, 264.150, 264.301(l), 264.1030(d), 264.1050(g), 264.1080(e), 264.1080(f), and 264.1080(g).
 - (i) In 264.191(a), the compliance date of January 12, 1988 applies only for HSWA tanks. For non-HSWA tanks the compliance date is November 2, 1988.
 - (ii) In 264.191(c), the reference to July 14, 1986 applies only to HSWA tanks. For non-HSWA tanks the applicable date is November 2, 1987.
 - (iii) In 264.193, the Federal effective dates apply to HSWA tanks only. For non-HSWA tanks January 12, 1987 is replaced with November 2, 1987.
 - (iv) In 264.570(a) the dates December 6, 1990 and December 24, 1992 apply only to drip pads where F032 waste is handled. The dates June 22, 1992 and August 15, 1994 respectively, replace the dates December 6, 1990 and December 24, 1992 for drip pads where F034 or F035 wastes are handled.
- (F) **Part 265.** Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities except 265.1(c)(4), 265.1(g)(12), 265.149, 265.150, 265.1030(c), 265.1050(f), 265.1080(e), 265.1080(f), and 265.1080(g).
 - (i) In 265.191(a), the compliance date of January 12, 1988 applies only for HSWA tanks. For non-HSWA tanks the compliance date is November 2, 1988.
 - (ii) In 265.191(c), the reference to July 14, 1986 applies only to HSWA tanks. For non-HSWA tanks the applicable date is November 2, 1987.
 - (iii) In 265.193, the Federal effective dates apply to HSWA tanks only. For non-HSWA tanks January 12, 1987 is replaced with November 2, 1987.
 - (iv) In 265.440(a) the dates December 6, 1990 and December 24, 1992 apply only to drip pads

where F032 waste is handled. The dates June 22, 1992 and August 15, 1994 respectively, replace the dates December 6, 1990 and December 24, 1992 for drip pads where F034 or F035 wastes are handled.

- (G) **Part 266.** Standards for the Management of Specific Hazardous Wastes and Specific Types of Hazardous Waste Management Facilities. Due to an early incorporation by reference, for purposes of Part 266 only, HSWA and non-HSWA dates are the same. In 266.325, the reference to 10 CFR 1.5 is changed to 10 CFR 71.5.
- (H) **Part 267.** Standards for Owners and Operators of Hazardous Waste Facilities Operating Under a Standardized Permit. This permit option shall only be available to:
 - (i) those persons who generate hazardous waste on-site through, or as a result of, industrial production processes;
 - (ii) wholly owned subsidiaries, owners, or sister companies of those persons specified in paragraph (1); and
 - (iii) agencies, departments, or units of the federal government or the State of Oklahoma.
- (I) **Part 268.** Land Disposal Restrictions, except 268.5, 268.6, 268.13, 268.42(b) and 268.44(a) through (g). In 268.7 (a)(9)(iii) exclude D009 from the list of alternative treatment standards for lab packs.
- (J) **Part 270.** The Hazardous Waste Permit Program, except 270.1(c)(2)(ix), and 270.14(b)(18).
- (K) **Part 273.** Standards for Universal Waste Management.
- (L) **Part 279.** Standards for the Management of Used Oil, except that 279.82 is revised to read in its entirety, "The use of used oil as a dust suppressant is prohibited."
- (2) **OAC 252:606 (Discharge Standards).**
 - (A) Part 116 (Hazardous Substances List)
 - (B) Part 117 (Reportable Quantities for Hazardous Substances)
 - (C) The following from PART 122 (NPDES PERMIT REGULATIONS):
 - (i) 122.2 - (definitions)
 - (ii) 122.24 - (concentrated aquatic animal production facilities)
 - (iii) 122.25 - (aquaculture projects)
 - (iv) 122.26 - (stormwater discharges)
 - (v) 122.27 - (silviculture)
 - (vi) 122.28(a) and (b) - (general permits)
 - (vii) 122.29 - (new sources and new dischargers)
 - (viii) 122.32 - As an operator of a small MS4, am I regulated under the NPDES storm water program?
 - (ix) 122.34 - As an operator of a regulated small MS4, what will my NPDES MS4 storm water permit require?

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- (x) 122.35 - As an operator of a regulated small MS4, may I share the responsibility to implement the minimum control measures with other entities?
 - (xi) 122.41 - (permit conditions)
 - (xii) 122.42 - (conditions for specified categories of permits)
 - (xiii) 122.43 - (establishing permit conditions)
 - (xiv) 122.44 - (establishing permit limitations, standards and other conditions)
 - (xv) 122.45 - (calculating permit conditions)
 - (xvi) 122.46 - (permit duration)
 - (xvii) 122.47(a) - (schedules of compliance)
 - (xviii) 122.48 - (monitoring requirements)
 - (xix) 122.50 - (disposal into wells)
 - (xx) 122.61 - (permit transfer)
 - (xxi) 122.62 - (permit modification)
 - (xxii) 122.63 - (minor modifications of permits)
 - (xxiii) 122.64 - (permit termination)
 - (xxiv) Appendices A through J
- (D) The following from PART 125 (criteria and standards for NPDES):
- (i) Subpart A (technology-based treatment),
 - (ii) Subpart B (criteria for aquaculture projects),
 - (iii) Subpart D (fundamentally different factors),
 - (iv) Subpart H (alternative effluent limitations),
 - (v) Subpart I (new cooling water intakes),
 - (vi) Subpart J (existing cooling water intakes), and
 - (vii) Subpart L (disposal of sewage sludge under CWA 405)
- (E) Part 129 (Toxic Pollutant Effluent Standards)
- (F) Part 136 (testing and laboratory)
- (G) Sections 401-471 (Effluent Guidelines 7 and Standards)
- (H) Section 110.6 (notice of oil discharge)
- (I) Part 302 (CERCLA exemption from NPDES permits)
- (J) The following Sections from Part 503, Subpart A (General Provisions):
- (i) 503.1 (Purpose and applicability)
 - (ii) 503.2 (Compliance period)
 - (iii) 503.3 (Permits and direct enforceability)
 - (iv) 503.4 (Relationship to other regulations)
 - (v) 503.5 (Additional or more stringent requirements)
 - (vi) 503.6(a)-(e),(g)-(j) (Exclusions)
 - (vii) 503.7 (Requirement for a person who prepares biosolids)
 - (viii) 503.8 (Sampling and analysis)
 - (ix) 503.9 (General definitions)
- (K) The following Sections from Part 503, Subpart B (Land Application):
- (i) 503.10(a),(b)(1)&(2),(e),(f),(g) (Applicability)
 - (ii) 503.11 (Special definitions)
 - (iii) 503.12 (General requirements)
 - (iv) 503.13 (Pollutant limits)
 - (v) 503.14 (Management practices)
 - (vi) 503.15 (Operational standards - pathogens and vector attraction reduction)
 - (vii) 503.16(a) (Frequency of monitoring)
 - (viii) 503.17(a) (Recordkeeping)
 - (ix) 503.18 (Reporting)
- (L) The following Sections from Part 503, Subpart D (Pathogens and Vector Attraction Reduction):
- (i) 503.30 (Scope)
 - (ii) 503.31 (Special definitions)
 - (iii) 503.32(a), (b) (Pathogens)
 - (iv) 503.33(a), (b)(1)-(11) (Vector attraction reduction)
- (M) The following Sections from Part 503 Subpart E (Incineration)
- (i) 503.40 (Applicability)
 - (ii) 503.41 (Special definitions)
 - (iii) 503.42 (General requirements)
 - (iv) 503.43 (Pollutant (Metal) limits)
 - (v) 503.44 (Operational standard - total hydrocarbons)
 - (vi) 503.45 (Management practices)
 - (vii) 503.46 (Frequency of monitoring)
 - (viii) 503.47 (Recordkeeping)
 - (ix) 503.48 (Reporting)
- (N) The following Appendices from Part 503:
- (i) Appendix A (Procedure to determine the annual whole sludge application rate for a sludge)
 - (ii) Appendix B (Pathogen treatment processes)
- (O) Provisions of 40 CFR relating to CAFOs are excluded because they are beyond the jurisdiction of this Chapter.
- (3) **OAC 252:611 (General Water Quality).** Part 130 (Water Quality Planning and Management)
- (4) **OAC 252:652 (Underground Injection Control).** The following apply in their entirety as they apply to the underground injection control program:
- (A) Part 144 (Underground Injection Control Program)
 - (B) Part 145 (State UIC Program Requirements)
 - (C) Part 146 (Underground Injection Control Program: Criteria and Standards)
 - (D) Part 147 (State Underground Injection Control Programs)
 - (E) Part 148 (Hazardous Waste Injection Restrictions)
- (5) In all cases where these rules conflict with or are less stringent than federal regulations, the federal regulations apply.

SUBCHAPTER 3. POINT SOURCE DISCHARGES

252:690-3-78. Implementation of bacteriological criteria to protect the Public and Private Water Supply beneficial use

Public and Private Water Supply bacteriological limitations apply at all times at a point of intake. However, for waters with the PBCR beneficial use, the PBCR bacteriological requirements are more stringent during the recreation season and limitations developed under 252:690-3-86 apply. Permits for point source discharges of bacteria that are located less than 5 stream miles upstream of a water supply intake or discharges to a lake located within 5 miles of a water supply intake will include a total coliform MAL of 5000-CFU/100 ml expressed as a geometric mean and a DML of 20,000-CFU/100ml. The limit does not apply to discharging lagoons in compliance with OAC 252:656-11-2(b) unless Water Quality Standards are violated.

252:690-3-86. Implementation of bacteriological criteria to protect the Primary Body Contact Recreation (PBCR) and the Secondary Body Contact Recreation (SBCR) beneficial use

(a) **PBCR waterbodies - May 1 through September 30.** When the use of a bacteriological indicator is determined to be necessary, the following bacteriological limitations shall apply from May 1 through September 30 to protect the PBCR beneficial use:

- (1) **Escherichia coli (E. coli).** When E. coli is the bacteriological indicator:
 - (A) The monthly geometric mean shall not exceed 126-CFU/100 ml.
 - (B) The daily maximum for lakes shall not exceed 235-CFU/100 ml.
 - (C) The daily maximum for all waterbodies other than lakes shall not exceed 406-CFU/100 ml.
- (2) **Enterococci.** When enterococci is the bacteriological indicator:
 - (A) The monthly geometric mean shall not exceed 33-CFU/100 ml.
 - (B) The daily maximum for lakes shall not exceed 61-CFU/100 ml.
 - (C) The daily maximum for all waterbodies other than lakes shall not exceed 108-CFU/100 ml.

(b) **PBCR waterbodies - October 1 through April 30.** When the use of a bacteriological indicator is determined to be

necessary, the SBCR bacteriological limitations listed in (c) of this Section, shall apply from October 1 through April 30 to protect the PBCR beneficial use when the receiving stream is on the 303(d) list for bacteria.

(c) **SBCR waterbodies.** One of the following bacteriological limitations and monitoring requirements shall be used year round for permittees that discharge fecal coliform to waterbodies on the 303(d) list for bacteria:

- (1) **Escherichia coli (E. coli).** When E. coli is the bacteriological indicator:
 - (A) The monthly geometric mean shall not exceed 630-CFU/100 ml.
 - (B) The daily maximum for lakes shall not exceed 1175-CFU/100 ml.
 - (C) The daily maximum for all waterbodies other than lakes shall not exceed 2030-CFU/100 ml.
- (2) **Enterococci.** When enterococci is the bacteriological indicator:
 - (A) The monthly geometric mean shall not exceed 165-CFU/100 ml.
 - (B) The daily maximum for lakes shall not exceed 305-CFU/100 ml.
 - (C) The daily maximum for all waterbodies other than lakes shall not exceed 540-CFU/100 ml.

(d) **Indicators used in WLA.** Regardless of which bacteriological indicator was used in a permittee's WLA, the permit may contain either of the bacteriological indicators listed in (c) of this Section.

(e) **Exception.** This Section does not apply to discharging lagoons that were permitted and are being operated in compliance with OAC 252:656-11-2(b), unless Water Quality Standards are violated

SUBCHAPTER 5. GROUNDWATER PROTECTION

252:690-5-2. Discharge Standards

Discharge permit criteria allow the DEQ to include measures for the protection of groundwater quality, and require the responsible party to report all spills of reportable quantities and respond accordingly to protect waters of the state, which includes groundwater. Additionally, DEQ may add requirements for the protection of groundwater to general discharge permits. See OAC 252:605606 for these requirements.

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APPENDIX B. PRIORITY AND NONPRIORITY POLLUTANTS WITH NUMERICAL CRITERIA REQUIRING REASONABLE POTENTIAL SCREENING [REVOKED]

APPENDIX B. PRIORITY AND NONPRIORITY POLLUTANTS WITH NUMERICAL CRITERIA REQUIRING REASONABLE POTENTIAL SCREENING [NEW]

The priority pollutants are listed in Table B-1. Those having state numerical criteria or federal numerical guidelines for the consumption of fish flesh (re: NRWQC), and which require reasonable potential screening if present in an effluent are marked with a diamond (♦). Pollutants with state numerical criteria are indicated according to type of criteria. Pollutants which have NRWQC human health/fish flesh guidelines are screened only if the Fish Consumption beneficial use applies to the discharge and there is no state criterion for the pollutant. Predicted exceedances of NRWQC guidelines will result in effluent and/or background monitoring. OWRB will be notified of pollutants predicted to exceed NRWQC guidelines in order to evaluate the need for a state water quality criterion. Nonpriority pollutants with state and federal criteria are listed in Table B-2. WET testing parameters and their STORET numbers are listed in Table B-3.

Table B-1. Priority Pollutants with State Water Quality Criteria or National Recommended Water Quality Criteria Requiring Reasonable Potential Screening

Pollutant	CAS No.	STORET No.	MQL (µg/l)	NRWQC Human Health ¹	State Criteria ²				
					Aquatic Toxicity	Human Health	Raw Water	Agriculture	
Metals, Cyanide and Total Phenols	Antimony, total	7440360	01097	60	♦	---	---	---	---
	Arsenic, total	7440382	01002	0.5	♦	♦	♦	♦	---
	Beryllium, total	7440417	01012	5	---	---	---	---	---
	Cadmium, total	7440439	01027	1	---	♦	♦	♦	---
	Chromium, total	7440473	01034	10	---	♦	♦	♦	---
	Chromium (3+)	16065831	01033	10					
	Chromium (6+)	18540299	01032	10					
	Copper, total	7440508	01042	1	♦	♦	---	♦	---
	Lead, total	7439921	01051	0.5	---	♦	♦	♦	---
	Mercury, total	7439976	71900	0.05	♦	♦	♦	♦	---
	Nickel, total	7440020	01067	10	♦	♦	♦	---	---
	Selenium, total	7782492	01147	5	♦	♦	---	♦	---
	Silver, total	7440224	01077	0.5	---	♦	♦	♦	---
	Thallium, total	7440280	01059	0.5	♦	♦	---	---	---
	Zinc, total	7440666	01092	20	♦	♦	---	♦	---
	Cyanide, total	57125	00720	10	♦	♦	---	♦	---
	Phenols, total	108952	46000	10	---	---	♦	---	---
	2,3,7,8-Tetrachlorodibenzo-p Dioxin	1746016	34675	0.00001	♦	---	♦	---	---

¹ From National Recommended Water Quality Criteria, Pub. No. EPA 822-Z-99-001, April 1999

² OWRB-adopted numerical water quality criteria, OAC 785:45, Subchapter 5

Table B-1 (continued). Priority Pollutants with State Water Quality Criteria or National Recommended Water Quality Criteria Requiring Reasonable Potential Screening

Pollutant	CAS No.	STORET No.	MQL (µg/l)	NRWQC Human Health ¹	State Criteria ²				
					Aquatic Toxicity	Human Health	Raw Water	Agriculture	
Volatile Organics	Acrolein	107028	34210	50	◆	---	◆	---	---
	Acrylonitrile	107131	34215	50	◆	◆	◆	---	---
	Benzene	71432	34030	10	◆	◆	◆	---	---
	Bromoform	75252	32104	10	◆	---	---	---	---
	Carbon Tetrachloride	56235	32102	10	◆	---	◆	---	---
	Chlorobenzene	108907	34301	10	◆	---	---	---	---
	Chlorodibromomethane	124481	32105	10	◆	---	---	---	---
	Chloroethane	75003	34311	50	---	---	---	---	---
	2-Chloroethylvinyl ether	110758	34576	10	---	---	---	---	---
	Chloroform	67663	32106	10	◆	---	◆	---	---
	Dichlorobromomethane	75274	32101	10	◆	---	◆	---	---
	1,1-Dichloroethane	75343	34496	10	---	---	---	---	---
	1,2-Dichloroethane	107062	34536	10	◆	---	---	---	---
	1,1-Dichloroethylene	75354	34501	10	◆	---	---	---	---
	1,2-Dichloropropane	78875	34541	10	◆	---	---	---	---
	1,3-Dichloropropylene	542756	34561	10	◆	---	---	---	---
	Ethylbenzene	100414	34371	10	◆	---	◆	---	---
	Methyl bromide [Bromomethane]	74839	34413	50	◆	---	---	---	---
	Methyl chloride [Chloromethane]	74873	34418	50	---	---	---	---	---
	Methylene chloride	75092	34423	20	◆	---	---	---	---
	1,1,2,2-Tetrachloroethane	79345	34516	10	◆	---	---	---	---
	Tetrachloroethylene	127184	34475	10	◆	◆	◆	---	---
	Toluene	108883	34010	10	◆	◆	◆	---	---
	1,2-Trans-dichloroethylene	156605	34546	10	◆	---	---	---	---
	1,1,1-Trichloroethane [1-1-1 TCE]	71556	34506	10	---	---	◆	---	---
	1,1,2-Trichloroethane	79005	34511	10	◆	---	---	---	---
	Trichloroethylene	79016	39180	10	◆	---	---	---	---
	Vinyl chloride	75014	39175	10	◆	---	---	---	---

¹ From National Recommended Water Quality Criteria, Publication No. EPA 822-Z-99-001, April 1999

² OWRB-adopted numerical water quality criteria, OAC 785:45, Subchapter 5

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Table B-1 (continued). Priority Pollutants with State Water Quality Criteria or National Recommended Water Quality Criteria Requiring Reasonable Potential Screening

Pollutant	CAS No.	STORET No.	MQL (mg/l)	NRWQC Human Health ¹	State Criteria ²			
					Aquatic Toxicity	Human Health	Raw Water	Agriculture
Acid Organics	2-Chlorophenol	95578	34586	20	◆	---	---	---
	2,4-Dichlorophenol	120832	34601	20	◆	---	---	---
	2,4-Dimethylphenol	105679	34606	20	◆	---	---	---
	4,6-Dinitro-o-cresol [2-Methyl-4,6-dinitrophenol]	534521	34657	50	◆	---	---	---
	2,4-Dinitrophenol	51285	34616	50	◆	---	---	---
	2-Nitrophenol	88755	34591	20	---	---	---	---
	4-Nitrophenol	100027	34646	50	---	---	---	---
	p-Chloro-m-cresol	59507	34452	20	---	---	---	---
	Pentachlorophenol	87865	39032	50	◆	◆	◆	---
	Phenol	108952	34694	20	◆	---	---	---
2,4,6-Trichlorophenol	88062	34621	20	◆	---	---	---	
Base / Neutral Organics	Acenaphthene	83329	34205	20	---	---	---	---
	Acenaphthylene	208968	34200	20	---	---	---	---
	Anthracene	120127	34220	20	◆	---	---	---
	Benzidine	92875	39120	50	◆	---	---	◆
	Benzo(a)anthracene	56553	34526	20	◆	---	---	---
	Benzo(a)pyrene	50328	34247	20	◆	---	---	---
	Benzo(b)fluoranthene [3,4-Benzofluoranthene]	205992	34230	20	◆	---	---	---
	Benzo(ghi)perylene	191242	34521	20	---	---	---	---
	Benzo(k)fluoranthene	207089	34242	20	◆	---	---	---
	Bis (2-chloroethoxy) methane	111911	34278	20	---	---	---	---
	Bis (2-chloroethyl) ether	111444	34273	20	◆	---	---	---
	Bis (2-chloroisopropyl) ether	39638329	34283	20	◆	---	---	---
	Bis (2-ethylhexyl) phthalate	117817	39100	20	◆	---	◆	---
	4-Bromophenyl phenyl ether	101553	34636	20	---	---	---	---
	Butylbenzyl phthalate	85687	34292	20	◆	---	◆	---
	2-Chloronaphthalene	91587	34581	20	◆	---	---	---
	4-Chlorophenyl phenyl ether	7005723	34631	20	---	---	---	---
	Chrysene	218019	34320	20	◆	---	---	---
	Dibenzo(a,h)anthracene	53703	34556	20	◆	---	---	---
	1,2-Dichlorobenzene	95501	34536	20	◆	---	---	---
1,3-Dichlorobenzene	541731	34566	20	◆	---	---	---	

¹ From National Recommended Water Quality Criteria, Publication No. EPA 822-Z-99-001, April 1999

² OWRB-adopted numerical water quality criteria, OAC 785:45, Subchapter 5

Table B-1 (continued). Priority Pollutants with State Water Quality Criteria or National Recommended Water Quality Criteria Requiring Reasonable Potential Screening

	Pollutant	CAS No.	STORET No.	MQL (µg/l)	NRWQC Human Health ¹	State Criteria ²			
						Aquatic Toxicity	Human Health	Raw Water	Agriculture
Base / Neutral Organics	1,4-Dichlorobenzene	106467	34571	20	◆	---	---	---	---
	3,3'-Dichlorobenzidine	91941	34631	20	◆	---	---	---	---
	Diethyl phthalate	84662	34336	20	◆	---	◆	---	---
	Dimethyl phthalate	131113	34341	20	◆	---	◆	---	---
	Di-n-butyl phthalate	84742	39110	20	◆	---	◆	---	---
	2,4-Dinitrotoluene	121142	34611	20	◆	---	---	---	---
	2,6-Dinitrotoluene	606202	34626	20	---	---	---	---	---
	Di-n-octyl phthalate	117840	34596	20	---	---	---	---	---
	1,2-Diphenylhydrazine (as Azobenzene)	122667	34346	20	◆	---	---	---	---
	Fluoranthene	206440	34376	20	◆	---	---	---	---
	Fluorene	86737	34381	20	◆	---	---	---	---
	Hexachlorobenzene	118741	39700	10	◆	---	◆	---	---
	Hexachlorobutadiene	87683	34391	20	◆	---	---	---	---
	Hexachlorocyclopentadiene	77474	34386	20	◆	---	---	---	---
	Hexachloroethane	67721	34396	20	◆	---	---	---	---
	Ideno (1,2,3-cd) pyrene	193395	34403	20	◆	---	---	---	---
	Isophorone	78591	34408	20	◆	---	---	---	---
	Naphthalene	91203	34696	10	---	---	---	---	---
	Nitrobenzene	98953	34447	20	◆	---	---	---	---
	n-Nitrosodimethylamine	62759	34438	50	◆	---	---	---	---
n-Nitrosodi-n-propylamine	621647	34428	20	◆	---	---	---	---	
n-Nitrosodiphenylamine	86306	34433	20	◆	---	---	---	---	
Phenanthrene	85018	34461	20	---	---	---	---	---	
Pyrene	129000	34469	20	◆	---	---	---	---	
1,2,4-Trichlorobenzene	120821	34551	20	◆	---	---	---	---	
Pesticides	Aldrin	309002	39330	0.05	◆	◆	◆	---	---
	alpha-BHC	319846	39337	0.05	◆	---	---	---	---
	beta-BHC	319857	39338	0.05	◆	---	---	---	---
	gamma-BHC [Lindane]	58899	34266	0.05	◆	◆	◆	◆	---
	delta-BHC	319868	34259	0.05	---	---	---	---	---
	Chlordane	57749	39350	0.2	◆	◆	◆	---	---
	4,4'-DDT	50293	39300	0.05	◆	◆	◆	---	---
	4,4'-DDE	72559	39320	0.05	◆	---	---	---	---

Permanent Final Adoptions

¹ From National Recommended Water Quality Criteria, Publication No. EPA 822-Z-99-001, April 1999

² OWRB-adopted numerical water quality criteria, OAC 785:45, Subchapter 5

Table B-1 (continued). Priority Pollutants with State Water Quality Criteria or National Recommended Water Quality Criteria Requiring Reasonable Potential Screening

	Pollutant	CAS No.	STORET No.	MQL (µg/l)	NRWQC Human Health ¹	State Criteria ²			
						Aquatic Toxicity	Human Health	Raw Water	Agriculture
Pesticides	4,4'-DDD	72548	39310	0.05	◆	---	◆	---	---
	Demeton			1					
	Diazinon			1					
	Dieldrin	60571	39380	0.05	◆	◆	◆	---	---
	alpha-Endosulfan	959988	34361	0.05	◆	◆	---	---	---
	beta-Endosulfan	33213659	34356	0.05	◆	◆	---	---	---
	Endosulfan sulfate	1031078	34351	0.05	◆	---	---	---	---
	Endrin	72208	39390	0.05	◆	◆	◆	◆	---
	Endrin aldehyde	7421934	34366	0.05	◆	---	---	---	---
	Heptachlor	76448	39410	0.05	◆	◆	◆	---	---
	Heptachlor epoxide	1024573	39420	0.05	◆	---	---	---	---
	Toxaphene	8001352	39400	0.3	◆	◆	---	◆	---
PCBs	PCB-1242		39496	0.25	---	---	---	---	---
	PCB-1254		39504	0.25	---	---	---	---	---
	PCB-1221		39488	0.25	---	---	---	---	---
	PCB-1232		39492	0.25	---	---	---	---	---
	PCB-1248		39500	0.25	---	---	---	---	---
	PCB-1260		39508	0.25	---	---	---	---	---
	PCB-1016		34671	0.25	---	---	---	---	---
	PCBs, total		04166	0.25	◆	◆	◆	---	---
	2,4,5 – TP (Silvex)			0.25					

¹ From National Recommended Water Quality Criteria, Publication No. EPA 822-Z-99-001, April 1999

² OWRB-adopted numerical water quality criteria, OAC 785:45, Subchapter 5

Table B-2. Nonpriority Pollutants with State Water Quality Criteria or National Recommended Water Quality Criteria Requiring Reasonable Potential Screening

Pollutant	CAS No.	STORET No.	MQL (µg/l)	NRWQC Human Health ¹	State Criteria ²			
					Aquatic Toxicity	Human Health	Raw Water	Agriculture
Ammonia	7664417	00610	100	---	³	---	---	---
Asbestos	1332214	948	---	◆	---	---	---	---
Barium	7440393	01007	10	◆	---	---	◆	---
Bis-chloromethyl ether	542881	34268	20	◆	---	---	---	---
Chloride	16887006	941	10000	---	---	---	---	◆
Chlorine	7782505	50060	100	---	³	---	---	---
2-(2,4,5-Trichlorophenoxy) propionic acid [2,4,5-TP Silvex]	93721	39760	0.5	---	◆	---	◆	---
2,4-Dichlorophenoxyacetic acid [2,4-D]	94757	39730	1	---	---	---	◆	---
Chloropyrifos [Dursban]	2921882	81403	0.05	---	◆	---	---	---
Demeton	8065483	39560	1	---	◆	---	---	---
Detergents, total		51582	100	---	---	---	◆	---
Diazinon	333415	10408	1	---	◆	---	---	---
Fluoride @ 90° F	16984488	951	1000	---	---	---	◆	---
Guthion [Methyl azinphos]	86500	39580	1	---	◆	---	---	---
Hexachlorocyclohexane-Technical	319868	77835	5	◆	---	---	---	---
Hexahydro-1,3,5-trinitro-1,3,5-triazine [RDX]	121824	81364	140	---	◆	---	---	---
Iron	7439896	00980	200	◆	---	---	---	---
Malathion	121755	39530	1	---	◆	---	---	---
Manganese	7439965	01055	50	◆	---	---	---	---
Methoxychlor	72435	39480	0.05	◆	◆	---	◆	---
Methylene blue active substances	61734	47021	100	---	---	---	◆	---
Mirex	2385855	39755	0.05	---	◆	---	---	---
Nitrate	14797558	00620	50	◆	---	---	◆	---
Nitrosamines		---	50	◆	---	---	---	---
n-Nitrosodibutylamine	924163	78207	50	◆	---	---	---	---

¹From National Recommended Water Quality Criteria, Publication No. EPA 822-Z-99-001, April 1999.

²OWRB-adopted numerical water quality criteria, OAC 785:45, Subchapter 5.

³Ammonia and chlorine criteria apply to implementation of narrative toxicity criterion under OAC 785:45 and 40 CFR Part 122.44(d)(1)(vi).

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Table B-2 (continued). Nonpriority Pollutants with State Water Quality Criteria or National Recommended Water Quality Criteria Requiring Reasonable Potential Screening

Pollutant	CAS No.	STORET No.	MQL (µg/l)	NRWQC Human Health ¹	State Criteria ²				
					Aquatic Toxicity	Human Health	Raw Water	Agriculture	
Nonpriority Pollutants	n-Nitrosodiethylamine	55185	78200	50	◆	---	---	---	---
	n-Nitrosopyrrolidine	930552	78206	50	◆	---	---	---	---
	Nonylphenol	25154523	10395	100	---	◆	---	---	---
	Parathion	56382	39540	1	---	◆	---	---	---
	Pentachlorobenzene	608935	77793	50	◆	---	---	---	---
	Perchlorate	7601903	3215	5	---	◆	◆	---	---
	Phthalate esters (except butylbenzyl)		39117	---	---	---	---	◆	---
	Sulfate		00946	10000	---	---	---	---	◆
	Total Dissolved Solids [TDS]		70300	10000	---	---	---	---	◆
	1,2,4,5-Tetrachlorobenzene	95943	78028	50	◆	---	---	---	---
	2,4,5-Trichlorophenol	95954	81848	50	◆	---	---	---	---
	2,4,6-Trinitrotoluene		81360	---	---	◆	---	---	---

¹From National Recommended Water Quality Criteria, Publication No. EPA 822-Z-99-001, April 1999.

²OWRB-adopted numerical water quality criteria, OAC 785:45, Subchapter 5.

Table B-3. WET Testing and WET Limit Parameters

Pollutant			STORET No.	NRWQC Human Health ¹	State Criteria ²			
					Aquatic Toxicity	Human Health	Raw Water	Agriculture
48-hour Acute LC50, Static Renewal, Freshwater	Daphnia magna	P/F survival	TIM3C	---	◆	---	---	---
		LC50 effluent concentration	TAM3C	---	◆	---	---	---
		% mortality in 100% effluent	TJM3C	---	◆	---	---	---
	Daphnia pulex	P/F survival	TIM3D	---	◆	---	---	---
		LC50 effluent concentration	TAM3D	---	◆	---	---	---
		% mortality in 100% effluent	TJM3D	---	◆	---	---	---
	Pimephales promelas	P/F survival	TIM6C	---	◆	---	---	---
		LC50 effluent concentration	TAM6C	---	◆	---	---	---
		% mortality in 100% effluent	TJM6C	---	◆	---	---	---
	WET Limit	LC50 > 100%	22414	---	◆	---	---	---
7-day Chronic NOEC, Static Renewal, Freshwater	Ceriodaphnia dubia	P/F survival	TLP3B	---	◆	---	---	---
		NOECL (lethality)	TOP3B	---	◆	---	---	---
		% mortality in critical dilution	TJP3B	---	◆	---	---	---
		P/F reproduction	TGP3B	---	◆	---	---	---
		NOECS (reproduction)	TPP3B	---	◆	---	---	---
		% CV	TQP3B	---	◆	---	---	---
	Pimephales promelas	P/F survival	TLP6C	---	◆	---	---	---
		NOECL (lethality)	TOP6C	---	◆	---	---	---
		% mortality in critical dilution	TJP6C	---	◆	---	---	---
		P/F growth	TGP6C	---	◆	---	---	---
		NOECS (growth)	TPP6C	---	◆	---	---	---
		% CV	TQP6C	---	◆	---	---	---
	WET Limit	NOECL ≥ critical dilution	22414	---	◆	---	---	---

¹ From National Recommended Water Quality Criteria, Publication No. EPA 822-Z-99-001, April 1999.

² OWRB-adopted numerical water quality criteria, OAC 785:45, Subchapter 5.

[OAR Docket #16-639; filed 6-24-16]

Permanent Final Adoptions

TITLE 270. OKLAHOMA FIREFIGHTERS PENSION AND RETIREMENT SYSTEM CHAPTER 1. ADMINISTRATIVE OPERATIONS

[OAR Docket #16-671]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

270:1-1-2 [AMENDED]

270:1-1-3 [AMENDED]

270:1-1-5 [AMENDED]

AUTHORITY:

Oklahoma Firefighters Pension and Retirement Board; 11 O.S., § 49-100.7

SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:

January 25, 2016

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June 9, 2016

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n/a

INCORPORATIONS BY REFERENCE:

n/a

ANALYSIS:

The amendments to 270:1-1-2 of the Oklahoma Firefighters Pension and Retirement System (the "System") change the description of a title of a member of the State Board because the same change was made in 11 O.S. Section 49-100.3(A)(8). In addition, an obsolete reference was deleted.

The amendments to 270:1-1-3 and 270:1-1-5 of the System change the address and the office hours for the System due to an office move and hours change.

CONTACT PERSON:

Chase Rankin, Controller, Oklahoma Firefighters Pension and Retirement System (405) 522-4600 or Chase.Rankin@firepension.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, 2016:

270:1-1-2. Description of organization

(a) The System is a body corporate and an instrumentality of the State of Oklahoma, vested with the powers and duties specified in 11 O.S. Sections 49-100.1 through 49-143.36, and other such powers and duties necessary to carry out the purposes and intent of these provisions.

(b) The State Board shall be responsible for the operation, administration and management of the System, and has such

powers and authority expressly conferred upon it by, or reasonably implied from the provisions of 11 O.S. Sections 49-100.1 through 49-143.36. The State Board is composed of thirteen (13) members appointed as follows:

(1) Five (5) members shall be the Board of Trustees of the Oklahoma Firefighters Association;

(2) One member shall be the President of the Professional Firefighters of Oklahoma or his designee. The designee shall be a member of the Professional Firefighters of Oklahoma;

(3) One member shall be the President of the Oklahoma State Retired Firefighters Association or his designee. The designee shall be a member of the Oklahoma State Retired Firefighters Association;

(4) One member shall be appointed by the Speaker of the House of Representatives;

(5) One member shall be appointed by the President Pro Tempore of the Senate;

(6) Two (2) members shall be appointed by the President of the Oklahoma Municipal League;

(7) One member shall be the State Insurance Commissioner or his designee;

(8) One member shall be the Director of ~~State Finance~~ the Office of Management and Enterprise Services or his designee. (~~Refer to 75:251(B)(2)(b) in APA and 40:10-5-12 in ARR.~~)

(c) The State Board shall appoint an Executive Director, who shall be the managing and administrative officer of the System:

(1) The Executive Director shall perform the duties and services as may, from time to time, be requested or directed by the State Board, and who shall attend all regular meetings of the State Board.

(2) The Executive Director shall be responsible to the State Board for the day-to-day operation of the System, and shall on behalf of the State Board:

(A) Be responsible for the transmittal of communications from the State Board to the existing local boards of participating municipalities;

(B) Receive payroll and employment reports from participating municipalities and maintain current employment earnings and contribution data on each covered member of each participating municipality;

(C) Coordinate the activities of all other advisors, consultants, agents or employees appointed by the State Board;

(D) Maintain all necessary records reflecting the operation and administration of the System and submit detailed reports thereof to the State Board at each regular meeting of the State Board and such other time or times as requested by the State Board;

(E) Process all claims for payment of benefits or expenses for approval by the State Board; and

(F) File on behalf of the State Board such reports or other information as shall be required by any state or federal law or regulations.

270:1-1-3. Methods whereby the public may obtain information or make submissions or requests

- (a) Information regarding pension matters within the purview of 11 O.S., Sections 49-100.1 through 49-143.6, which statues define the State Board's jurisdiction, may be secured by oral or written communication addressed to the State Board at its offices located at: Oklahoma Firefighters Pension and Retirement System, 4545 N. Lincoln Blvd., 6601 Broadway Extension, Suite 265100, Oklahoma City, Oklahoma 73105-341473116 (405) 522-4600.
- (b) The Executive Secretary of the State Board maintains in permanent form as public record and open to public inspection, records of the official proceedings of the State Board, as well as all rules, final orders or decisions of the State Board, such records being located in the State Board offices and shall be available upon request. All information, documents and copies contained in a member's file shall be given confidential treatment and shall not be made public without prior written consent of the member, or by ~~supena~~ subpoena or court order. Offices of the State Board are open daily Monday through Friday from ~~7:30~~ 8:00 a.m. until 4:30 p.m.

270:1-1-5. Hearing procedures

- (a) The State Board may conduct examinations and investigations of pension matters within the scope of its jurisdiction and authority as it deems appropriate to secure information useful in the lawful administration of these provisions. The State Board may compel witnesses to appear and testify upon all matters connected with these provisions in the same manner as provided by law for the taking of testimony.
- (b) Any person, existing local board or participating municipality aggrieved by a decision of the Executive Director or the State Board on any matter concerning rights or benefits available under these provisions, may request a hearing before the State Board to review or reconsider those decisions.
 - (1) The request for hearing shall be mailed or delivered to the office of the System, located at Oklahoma Firefighters Pension and Retirement System, 4545 N. Lincoln Blvd., 6601 Broadway Extension, Suite 265100, Oklahoma City, Oklahoma 73105-341473116.
 - (2) Upon receipt of the request for hearing, the State Board shall assign a hearing number thereto and shall notify the requesting party of the date of the hearing by mail. The appropriate existing local pension board of the participating municipality shall also be given notice of the hearing date by mail.
 - (3) Formal Hearing Procedures.
 - (A) All hearings shall be public except that all information, documents and copies contained in a member's file shall be given confidential treatment and shall not be made public without prior written consent of the member. The State Board may hold any part of the hearing in Executive Session as allowed by 25 O.S. Section 307, if the State Board determines that disclosure of confidential communication or information would seriously impair the

ability of the public body to conduct the hearing or would violate confidentiality requirements of state or federal law. Upon a motion of any party, witnesses may be excluded from the hearing room when such witness is not testifying.

(B) The hearing shall be presided by the Chairman of the State Board, or the Chairman's designee, with the assistance of the legal counsel for the State Board.

(C) The order of procedure for the hearing shall be as follows:

- (i) The presiding officer, or the legal counsel for the State Board, shall present a recitation of the matters before the State Board;
- (ii) Opening statement by the requesting party;
- (iii) Presentation of evidence by the requesting party followed by questioning by the presiding officer, legal counsel for the State Board, or any member of the State Board;
- (iv) Presentation of evidence by the legal counsel for the State Board, if necessary, followed by questioning by the requesting party or any member of the State Board;
- (v) Opportunity for rebuttal testimony or additional evidence and questioning by interested parties may be allowed at the discretion of the presiding officer;
- (vi) Closing arguments by the requesting party.

(4) If the requesting party desires a certified court reporter at the hearing, the State Board will arrange for a certified court reporter upon request of the party. The cost of a certified court reporter shall be paid by the requesting party. Such a request should be in writing but will not be considered if received less than ten (10) days before the hearing date.

(5) Requests for continuances received prior to the hearing date may be granted by the Chairman of the State Board for good cause shown.

(6) The State Board may in its discretion assign any matter to a hearing examiner to conduct a hearing and receive all evidence. The hearing examiner shall prepare a proposed order to be submitted to the State Board within ten (10) days after the hearing at a place convenient for the parties and/or witnesses. The State Board shall consider the proposed order of the hearing examiner at the next scheduled public meeting of the State Board.

(7) All decisions of the State Board shall be in writing and shall be mailed to all parties or their attorney of record.

(8) Any person who deems himself or herself aggrieved by a decision of the State Board on a claim for pension benefits shall appeal the decision of the State Board to the Oklahoma County District Court, as provided in 11 O.S. Section 49-128.

[OAR Docket #16-671; filed 7-7-16]

Permanent Final Adoptions

TITLE 270. OKLAHOMA FIREFIGHTERS PENSION AND RETIREMENT SYSTEM CHAPTER 10. FIREFIGHTERS PENSION AND RETIREMENT PLAN

[OAR Docket #16-672]

RULEMAKING ACTION:
PERMANENT final adoption

RULES:
270:10-1-8 [AMENDED]
270:10-1-9 [AMENDED]
270:10-1-10 [REVOKED]

AUTHORITY:
Oklahoma Firefighters Pension and Retirement Board; 11 O.S., § 49-100.7

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SUPERSEDED EMERGENCY ACTIONS:
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INCORPORATIONS BY REFERENCE:
n/a

ANALYSIS:
The amendments to 270:10-1-8 set forth the requirement in 11 O.S. Section 49-101(B) for a member of the Oklahoma Firefighters Pension and Retirement System ("System") whose first date of employment with a participating employer of the System occurs on or after November 1, 2013 to be eligible for a paid vested benefit. The amendments to 270:10-1-8 also identify the amount of service time that may be corrected. The rule is amended to be consistent with changes to the System's statutes. The amendments also eliminate the rule regarding service credit for volunteer time for a volunteer firefighter who is appointed as a paid firefighter because the corresponding statute, 11 O.S. Section 49-108(B), was changed and this rule is no longer necessary. The amendments also modify the requirements for a disability pension for a volunteer firefighter who has completed ten (10) or more years of credited service to clarify that such a volunteer firefighter is entitled to the presumptions of 11 O.S. Section 49-110.

The amendments to 270:10-1-8 also modify the rules concerning payment options under the Deferred Option Plan and the Deferred Option Plan under the Back DROP Provision for members whose first period of employment with a participating employer of the System occurred before November 1, 2013. The rule is amended to reflect current practice.

The amendments to 270:10-1-8 clarify the definition of surviving spouse to be consistent with 11 O.S. Section 49-100.1(16). The amendments also clarify the payment options under 11 O.S. Section 49-106.1(G) if a trust is a beneficiary.

The amendments to 270:10-1-8 and 270:10-1-9 clarify that only non-Roth funds may be used to pay for reinstatement of prior service and the purchase of transferred credit service. The rule is amended to reflect current practice.

The amendments to 270:10-1-10 delete the rule for direct rollovers because 11 O.S. Section 49-106.3 has been updated with the requirements for a direct rollover making this rule unnecessary.

CONTACT PERSON:
Chase Rankin, Controller, Oklahoma Firefighters Pension and Retirement System (405) 522-4600 or Chase.Rankin@firepension.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, 2016:

270:10-1-8. Standard operating procedures

(a) Benefits.

- (1) All pension benefits are paid in arrears the last working day of the month.
- (2) In determining a paid member's normal retirement date, fractional round-up of months and days shall not be used even if the member has volunteer credited service.
- (3) If a member serves the majority of the final month of service, the final month will count as a full month of credited service.
- (4) Where longevity pay or other salary which requires contributions is paid in a lump sum to a member, only the amount that would have been paid for a member's last thirty (30) months of credited service will be used for determining final average salary.
- (5) Retirement pursuant to 11 O.S. § 49-106 has at times included reemployment of a member by a participating municipality in a position which is not covered by the System. Thus, in-service distributions from the System to such a member are permitted. If a retired member is reemployed by a participating municipality in a paid position which is covered by the System, such member's monthly retirement payments shall cease during such period.

(b) Clerks and fire chiefs.

- (1) The clerk and/or the fire chief of a participating municipality, fire protection district, county fire department or development authority are responsible for the administration of local retirement issues affecting all members of the System, including but not limited to enrollment of eligible members, assisting members in making application for benefits, and collection and payment of employer and member contributions.
- (2) The clerk and/or the fire chief shall notify the System of any changes regarding active members such as termination, mailing addresses, and deaths. The fire chief will assist the clerk in obtaining necessary information concerning active members. Notices of termination must be provided on the System's Form 8 and shall be signed by the Fire Chief.

(c) Volunteer firefighters.

- (1) A member of the System changing status from a paid member to a volunteer member is not entitled to combine the paid credited service and the subsequent volunteer credited service towards a paid or a volunteer pension. If a paid member whose first service with a participating employer of the System occurs prior to November 2, 2013, has completed ten (10) years but less than twenty (20) years of credited service, ~~theor~~ a paid member whose first service with a participating employer of the System occurs on or after November 1, 2013, has completed eleven (11) years but less than twenty-two (22)

years of credited service, such member would be eligible for a paid vested benefit, upon meeting the requirements set forth in 11 O.S. Section 49-117.1. The member whose first service with a participating employer of the System occurs prior to November 1, 2013, would need to complete ten (10) or more years as a volunteer member to be eligible to receive a vested volunteer benefit, and a member whose first service with a participating employer of the System occurs on or after November 1, 2013 would need to complete eleven (11) or more years as a volunteer member to be eligible to receive a vested volunteer benefit as set forth in 11 O.S. Section 49-101.

(2) Volunteer members are deemed to be employees of a fire department of a participating municipality for the purposes of the administration of the System.

(d) State Board.

(1) Applications for pension benefits will not be considered by the State Board until the applicant terminates employment with the fire department of a participating municipality on or before the date of the meeting of the State Board in which the application is considered.

(2) Applications for pension benefits, entrance into the system, refunds of contributions, etc. will be placed on the State Board agenda when all paperwork has been properly completed and received by the system. All necessary paperwork should be filed with the system no later than the Friday preceding the State Board's regular meeting so as to allow for sufficient time to process the application.

(e) Member deaths and beneficiaries.

(1) Guardian checks will be addressed with the Guardian's name and the statement: "Guardian of " on the face of the check.

(2) The Estate of the retiree or beneficiary shall be entitled to the benefit check written for the month a retiree or beneficiary dies.

(3) To continue monthly benefits on a child who has reached eighteen (18) years of age, verification that the child is enrolled full-time in an accredited school of learning must be received by the System. Documentation is required each semester until the child reaches twenty-two (22) years of age or marries at which time the benefits will cease.

(4) Step-children and grandchildren of members are not beneficiaries unless they are adopted by the member.

(5) Children adopted prior to January 1, 1981, are considered beneficiaries even though the child(ren) may have been adopted after the member's retirement date.

(6) A valid marriage certificate or other necessary proof of marriage is required before an Application of Surviving Spouse for Pension can be considered by the State Board.

(f) Membership.

(1) A part-time firefighter shall not belong to the System.

(2) All firefighters must be members of the System if their employer is a participating municipality in the System.

(3) A candidate for a paid firefighter position must first complete a required State Board approved pre-employment physical performance/agility test and physical examination in order to participate and receive any benefits from the System. The physical examination will be reviewed by a physician, selected by the State Board, to determine if the applicant meets the required medical standards. When the System receives all the information necessary for entrance into the System, including the written notice from the physician, selected by the State Board, that the candidate has met the minimum medical requirements for entrance, the Executive Director shall have the authority to approve an entrance date for the candidate no earlier than the date all the necessary information for entrance is received or the actual hire date whichever is later, provided that the date between the time of the administration of the physical examination and the approval for membership in the System by the Executive Director and the candidate's actual hire date by the participating municipality is less than six (6) months. The State Board shall have the authority to deny or revoke the membership of a candidate submitting false information in such candidate's membership application and shall have the final authority in determining eligibility for membership in the System.

(4) An applicant for a paid firefighter position, who is an active volunteer firefighter with the same fire department, and who has passed the physical performance/agility test approved by the State Board as a condition for entrance as a volunteer firefighter shall only be required to pass the physical examination upon being employed as a paid firefighter if employed by the same fire department.

(5) A terminated paid firefighter who returns to work as a paid firefighter within six (6) months of his or her termination date will not be required to complete another physical examination.

(6) The classification of a paid firefighter shall be a firefighter who is carried on the city payroll as a paid firefighter and who receives a salary which is more than twice the amount of the minimum pension of a volunteer firefighter. Any firefighter making more than this amount will need to complete the required physical performance/agility test and physical exam and his or her employer must remit both the employee and employer contributions to the System.

(g) Credited Service.

(1) If a firefighter is off the participating municipality's payroll for a period of time and employer and employee contributions are not received by the System, that period of time will not count as credited service until said contributions are received by the System.

(2) New volunteer cities joining the System may purchase up to five (5) years of credited service for each member of the department at the annual rate in effect as of the date of purchase, provided verifiable evidence of active firefighter service for the purchased years for each individual is provided to the System. Even though a city is

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exempt from contributions, contributions must be paid for a volunteer firefighter to receive purchased credit.

(3) If a question arises concerning a member's correct amount of service time, the member must submit to the State Board three (3) affidavits, based upon the actual knowledge of the member's correct service time, and all other necessary documentation, as may be required by the State Board. The Chairman of the State Board may direct a member of the State Board or an employee of the System to visit the member and the city in question for further verification. Service time may be corrected to allow not more than twenty (20) years of service for a member of the Oklahoma Firefighters Pension and Retirement System whose first employment with a participating employer of the System occurs prior to November 1, 2013, or not more than twenty-two (22) years of service for a member of the Oklahoma Firefighters Pension and Retirement System whose first employment with a participating employer of the System occurs on or after November 1, 2013.

~~(4) Volunteer firefighters changing to paid firefighters.~~

~~(A) Pursuant to Subsection B of Section 49-108 of Title 11, any volunteer firefighter who is appointed as a paid firefighter on or after May 15, 1992, and serves ten (10) or more years as a paid firefighter, shall be entitled to credit not more than five (5) years of volunteer time toward twenty (20) years of credited service to qualify to receive a paid service pension. The volunteer firefighter shall be entitled to credit to the amount of credited service any remaining volunteer time, over and above the five (5) years of volunteer time, computed at one twentieth (1/20) of a volunteer pension of each additional volunteer year, but not to exceed thirty (30) years of credited service~~

~~(B) Pursuant to Subsection B of Section 49-108 of Title 11, any volunteer firefighter who is appointed as a paid firefighter before May 15, 1992, and serves ten (10) or more years as a paid firefighter, shall be entitled to credit all of the firefighter volunteer time as paid credited service to receive a paid service pension.~~

(h) **Disability.**

(1) Applications for disability pensions shall provide medical evidence certifying the disability, proof of injury unless otherwise provided, and that the applicant can no longer perform the duties of a firefighter. The proof of injury must be proof of the specific injury that prevented the disability pension applicant from continuing the duties of a firefighter from the time of injury until present. In a case where a disability applicant returned to performing the duties of a firefighter at any time following the injury, the proof of injury must be accompanied by proof that certifies cumulative evidence of a continuing condition relating to that specific injury until the time of filing the disability application. In a case where a firefighter returned to a "light duty" or "restricted duty" only status, proof certifying the disability applicant's work status from the injury time until present shall be submitted along with the disability application. The application shall be filed with the Local Board, if the Local Board exists, or the Executive Director

of the System. The existing Local Board or the Executive Director of the System will determine if additional medical evidence is required. If additional medical evidence is required, the State Board shall be responsible for payment of any physical examinations and certifications.

(2) If any additional medical evidence is produced concerning a disability pension application, said medical evidence must be presented to the Local Board, if the Local Board exists, or the Executive Director before the State Board considers the application. If an applicant requests a hearing before the State Board, all evidence concerning the application may be presented providing all parties affected by the hearing agree.

(3) A stroke condition that has been medically certified to be caused by heart disease shall be categorized as heart disease for the purpose of applying line of duty presumptions pursuant to 11 O.S. §49-110.

(4) Any additional medical testing requested by a physician for the purpose of certification of a disability at the request of an existing Local Board shall be approved by the Executive Director of the System prior to the medical testing.

(5) A volunteer member who has completed more than ten (10) years of credited service shall be eligible for consideration of a disability in line of duty pension and entitled to the presumptions pursuant to the provisions of 11 O.S. § 49-110 provided that competent medical evidence is presented to support the certification of said disability request.

(6) A participating municipality may make an application for a disability pension on behalf of a member provided that medical evidence is presented supporting the existence of a disability. The member may present medical evidence to the contrary.

(7) If there are physician's statements presented which disagree or there is only one physician statement presented, then the Local Board, if one exists, or the Executive Director shall have the medical records examined by a physician of their choosing. If the participating municipality has made the application request and the member presents contrary medical evidence it shall be the responsibility of the existing Local Board or the Executive Director to obtain an authorization of release of medical records from the member prior to the third physician examination.

(i) **Local Boards.**

(1) If an existing Local Board desires to have a member, who is receiving a disability pension, re-examined by a physician for the purposes of certifying if a disability still exists, the request shall be approved by the State Board.

(2) An existing Local Board meets when necessary to review applications for benefits and disability benefits. The Local Board minutes must show action taken by roll call vote. In cities and towns where the city clerk and city treasurer hold both positions the local board becomes a five (5) member board. The board members shall elect a vice-chairman from among all board members who shall assume the duties of the mayor/chairman in that person's absence.

(3) Any action taken by the local board must be documented. The local board must present objective evidence to the State Board regarding its recommendation. The State Board will consider only the evidence actually presented. The State Board will act upon the evidence presented and render a final decision.

(4) If the city charter provides, the city council or similar authority, in the absence of the mayor, city clerk or the treasurer, may designate an authorized official as a replacement member of the local board, such as a vice-mayor if he or she has the responsibilities of the mayor. A firefighter member of the local board cannot send a replacement. Only local board members present at a local board meeting may vote. The chairman shall have a casting vote with the members only when necessary to avoid a tie vote among local board members. All local board meetings are subject to the Open Meeting Act.

(j) **Contributions.**

(1) There shall be a sixty (60) day waiting period of refund of contributions. If the firefighter requesting the refund of contributions was terminated from service, which resulted in litigation or administrative action, the refund of contributions will not be made until there is a final judgment or conclusion to the litigation or administrative action.

(2) Gross salary shall include but not be limited to base salary, longevity pay, fire service training and other education pay, scuba pay, out of class pay, one time bonus pay earned during the current twelve (12) month period of employment, and buy back pay when paid on an annual basis and available to all firefighters. Gross salary shall not include payment for unscheduled overtime, payment for accumulated sick, annual or any other similar leave upon termination from employment, any uniform or clothing allowance, car allowance or any other compensation for reimbursement of out-of-pocket expenses. All other compensation not specifically mentioned must have contributions paid on them. Contributions shall be deducted from gross salary prior to federal and state income tax withholdings deductions.

(3) Volunteer pension contributions are due on July 1 of each year. Cities, towns or fire protection districts subject to the statutory exemption from payment of volunteer contributions shall file for the exemption with the System on an annual basis.

(4) Workers Compensation benefits shall not be considered a part of gross salary for the purpose of determining pension benefits. The System will not accept member contributions related to workers compensation.

(5) If a paid member terminated employment prior to January 1, 1981, and then subsequently returns to work as a paid member after January 1, 1981 and then again terminates, contributions paid in prior to January 1, 1981 would not be refundable.

(6) Salary means a predetermined sum payable at specified and regular times for services rendered, including benefits accumulated and paid as salary; furthermore, any salary received that is to be used in computing a "final

average salary" shall be reduced or pro-rated to a monthly amount. It shall be a violation of this section to establish a special pay plan for the purpose of evading the intent of this section.

(k) **Reinstatement of Prior Service.**

(1) If a paid firefighter terminates employment and receives a refund of contributions and then subsequently returns to work for a participating municipality, all withdrawn contributions must be paid back to the System plus 10 percent (10%) interest per annum (from the date the member received his or her accumulated contributions to the date of repayment) in order for the member to receive credit for the missed credited service time.

(2) The member's payment must be made to the System within ninety (90) days following acceptance of the member's application for reinstatement of prior service.

(3) The member may pay for reinstatement of prior service by a lump-sum payment by check or money order. ~~Effective January 1, 2002, the~~ The member may also pay for reinstatement of prior service by a lump-sum payment (with interest) of non-Roth funds from a Code Section 403(b) annuity, a governmental 457 plan within Oklahoma or a Code Section 401(a) qualified plan.

(l) **Deferred Option Plan (Plan B).**

(1) Upon termination of employment, a member participating in the Deferred Option Plan (Plan B) pursuant to 11 O.S. Section 49-106.1 A, B, C, D, E and F shall have the following options:

(A) Receive a lump sum payment of the member's total account balance, a partial lump sum payment or withdrawal, or installment payments of the member's accumulated Plan B balance ~~as described below. Direct rollovers are permitted pursuant to the provisions of 11, O.S. Section 49-106.3.~~

(B) The State Board retains custody of the member's remaining accumulated Plan B balance until the member receives a complete and final payout. No more than once a ~~quarter of any one year month~~, the member may elect, with ~~fifteen (15)~~ eight (8) working days advance written notice, to change such payout period or payout amount for installment payments.

(C) In addition to the installment payments, a member may elect, with ~~seven (7)~~ eight (8) working days advance written notice, a withdrawal, but no more than one such withdrawal may be made per ~~quarter in any one year month~~ and each withdrawal must be as of the ~~first~~ last working day of a month. If such withdrawal is made after installment payments have commenced ~~under (B) above~~, appropriate adjustments may be made in the installment payout period ~~under (B) above~~ to reflect such withdrawal.

(D) If the member dies with a balance in the account, such balance will be paid in a lump sum or will continue to be paid in the same manner as was applicable to the member, as elected by the surviving spouse who meets the requirements of paragraph 16 of O.S. Section 49-100.1. If there is no surviving spouse, any remaining beneficiaries shall receive a

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lump sum payment(s) from the account equal to the balance in the account of the member or any other approved method of payment. If there are no surviving beneficiaries, a lump sum payment from the account equal to the balance in the account shall be paid to the member's estate. For purposes of this subparagraph, if a trust is the beneficiary (even if the surviving spouse is a beneficiary under such trust), the deceased member's account balance may not remain in the Deferred Option Plan (Plan B) after the member's death.

(E) The interest earned annually on the Plan B account balances shall be calculated based on the return of the investment portfolio of the fund on June 30 of each year. The determined annual interest rate shall be applied on a pro rata account balance in the year the rate is established. If a member withdraws all or a portion of his or her account balance prior to June 30 of a given plan year, the member shall receive at the time of withdrawal interest earnings on the withdrawn amount equal to the actuarial assumed interest rate as certified by the actuary in the yearly valuation report of the actuary on a pro rata basis. If the annual interest earnings calculated on June 30 of a given year exceed the actuarial assumed interest rate as certified by the actuary in the yearly valuation report of the actuary, a member who withdraws all or a portion of his or her account balance prior to June 30 of said plan year shall receive additional interest earnings equal to the difference between the minimum actuarial interest rate and the calculated interest rate on a pro rata basis.

(F) At the conclusion of a member's participation in Plan B, the member must terminate employment and shall start receiving the member's accrued monthly retirement benefit from the System. Such a member may be reemployed by a participating municipality but only in a position not covered by the System, and receive in-service distributions of such member's accrued monthly benefit from the System.

(2) Participation in the Oklahoma Firefighters Deferred Option Plan must begin the first day of a month.

(3) For a lump sum payment, direct rollover or a combination thereof, which is paid when the regular monthly benefits commence (Plan A), an exclusion ratio must be calculated and applied to the distribution amount from Plan B to determine the portion that may be excluded from income. This exclusion ratio will equal the member's after-tax contributions to the System divided by the expected return. The expected return is the sum of: (1) the member's accumulated Plan B balance plus (2) the amount of the value of the monthly pension from Plan A that the member is expected to receive over time based on single life expectancy factors from Table V issued as part of the income tax regulations under Section 72 of the Internal Revenue Code of 1986.

(4) The rules under this subsection shall only apply to a member whose first employment with a participating employer of the System occurred before November 1, 2013.

(m) **Deferred Option Plan under the Back DROP Provision.**

(1) For purposes of this subsection, the definitions as stated in 11 O.S. Section 49-106.1(H)(1) shall apply.

(2) In lieu of participating in the Deferred Option Plan (Plan B) pursuant to subsections A, B, C, D, E, ~~F~~ and ~~FG~~ of 11 O.S. Section 49-106.1 (referred to herein as an election under Plan B), a member may elect to participate in the Deferred Option Plan pursuant to 11 O.S. Section 49-106.1(H) (referred to herein as an election under the Back DROP provision) and this subsection.

(A) The applicant must submit his or her completed application for participation in the Deferred Option Plan under the Back DROP provision on the form provided by the System.

(B) The application must be received by the System no later than ~~seven (7)~~ eight (8) working days from the end of the month in order to receive a payment at the end of that month. All distributions shall be paid on the last working day of a month.

(C) Upon the member's election to participate in the Deferred Option Plan under the Back DROP provision, the member's account balance shall remain in the System under the same conditions as while an active member, ~~unless the member requests a withdrawal until distributed.~~

~~(D) A member may receive a withdrawal as a lump sum payment or monthly installment payments. A member may also elect, with seven (7) working days written notice, a withdrawal, but no more than one such withdrawal may be made per quarter in any one year and each withdrawal must be as of the first day of a month.~~

(D) A member in the Back DROP has the same distribution options as described in (1)(1)(A), (B) and (C) of this Section.

(E) If the member dies with a balance in the account, such balance will be paid in a lump sum or will continue to be paid in the same manner as was applicable, as elected by the surviving spouse who meets the requirements of paragraph 16 of 11 O.S. Section 49-100.1. If there is no surviving spouse, any remaining beneficiaries shall receive a lump sum payment(s) from the account equal to the balance in the account of the member, or any other approved method of payment. ~~If~~ For purposes of this subparagraph, if a trust is the beneficiary (even if the surviving spouse is a beneficiary under such trust), the deceased member's account balance may not remain in the Deferred Option Plan (Plan B) after the member's death.

(3) At the member's termination date, his or her monthly pension benefit shall be determined based on earlier attained credited service and on the final average salary as of the back drop date. The member's individual deferred option account shall be credited with an amount

equal to the deferred benefit balance, and the member shall terminate employment with all participating municipalities as a firefighter and the member shall start receiving the member's accrued monthly retirement benefit from the System. Such member may be reemployed by a participating municipality but only in a position not covered by the System, and receive in-service distributions of such member's accrued monthly retirement benefit from the System. On the member's back drop date, the member's retirement benefit will be frozen, and at no time will the member be able to increase his or her benefit due to additional years of service, salary or other promotional increases.

(4) The member's credit of his or her deferred benefit balance shall be as follows:

(A) An amount equal to the accumulated contributions the member made to the System from his or her back drop date to termination date with interest based upon how the benefit would have accumulated on a compound basis as if the member had participated in the Deferred Option Plan (Plan B) pursuant to 11 O.S. Section 49-106.1 A-E from his or her back drop date to termination date;

(B) An amount equal to all monthly retirement benefits that would have been payable had the member elected to cease employment on the back drop date and receive a service retirement from the back drop date to the termination date with applicable cost of living adjustments and with interest based on how the benefit would have accumulated on a compound basis as if the member had participated in the Deferred Option Plan pursuant to O.S. 11 Section 49-106.1 A-E from his or her back drop date to termination date; and

(C) An amount equal to one-half (1/2) of the employer contributions from the back drop date to the termination date, with interest based on how the benefit would have accumulated on a compound basis as if the member had participated in the Deferred Option Plan pursuant to 11 O.S. Section 49-106.1 A-E from his or her back drop date to termination date.

(5) The provisions of 11 O.S. Section 49-106.1 B, C, E, F and G shall apply to this subsection.

(6) A member shall not participate in the Deferred Option Plan pursuant to the Back DROP provision if the member ~~has elected to participate~~ is participating in Plan B pursuant to subsections A, B, C, D, E, F and ~~FG~~ of 11 O.S. Section 49-106.1.

(7) For a lump sum payment, direct rollover or a combination thereof, which is paid when the regular monthly benefits commence (Plan A), an exclusion ratio must be calculated and applied to the distribution amount from the Back DROP to determine the portion that may be excluded from income. This exclusion ratio will equal the member's after-tax contributions to the System divided by the expected return. The expected return is the sum of: (1) the member's deferred benefit balance plus (2) the amount of the value of the monthly pension from Plan A that the member is expected to receive over time based on single

life expectancy factors from Table V issued as part of the income tax regulations under Section 72 of the Internal Revenue Code of 1986.

(8) The rules under this subsection shall only apply to a member whose first employment with a participating employer of the System occurred before November 1, 2013.

(n) Deferred Option Plan (Plan B) For A Member of the System Whose First Employment With A Participating Employer of the System Occurs On Or After November 1, 2013.

[RESERVED]

(m) Vested Rights.

(1) A paid firefighter who terminated active service with more than ten (10) years of credited service with the System prior to July 8, 1985, must return to active service as a paid firefighter in order to establish vested rights.

(2) A volunteer firefighter who terminated active service with ten (10) years of credited service with the System prior to July 20, 1987, must return to active service as a volunteer firefighter in order to establish vested rights.

270:10-1-9. Purchase of transferred credited service.

A paid member may purchase of to five years of credited service earned while a member of the Oklahoma Police Pension and Retirement System, the Oklahoma Law Enforcement Retirement System, the Teacher's Retirement System of Oklahoma and the Oklahoma Public Employees Retirement System, provided the member is not eligible to receive retirement credits or benefits from said service in any other public retirement system. Transferred credited service from such retirement system(s) shall not alter the member's normal retirement date or vesting requirements. Transferred credited service shall be added after the member reaches his or her normal retirement date. All purchases of transferred credited service pursuant to 11 O.S. Section 49-117.2, shall be based on the actuarial cost of the incremental projected benefits to be purchased.

(1) The actuarial cost and any tables formulated for the purposes of determining such cost during each calendar year, shall be based on the actuarial assumptions utilized in the actuarial valuation report as of the preceding July 1.

(2) The actuarial value shall be based upon the member's age, salary, and service at the time of purchase, together with the earliest age for retirement and actuarially projected salary at the time of retirement. For the purposes of the actuarial cost, it is assumed that all members are married at the time of retirement. If no purchase is made within thirty (30) days the actuarial cost may increase.

(3) For the purpose of this actuarial cost, the member's age shall be rounded up or down to the nearest birthday.

(4) For the purpose of this actuarial cost, the mortality tables shall be formulated as unisex tables as used in the actuarial valuation report of the preceding July 1.

(5) In the event a member who chooses to purchase service has been employed less than twelve (12) months, salary shall be annualized based upon the most current completed calendar months of payroll information.

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(6) The purchase price for transferred credited service may be paid in installments as provided in 11 O.S. Section 49-117.3. In the event that the member is unable to pay the purchase price by the end of the month immediately following the date of acceptance of his or her application to purchase transferred credited service, the State Board shall permit the member to amortize the purchase price over a period not to exceed sixty (60) months. Said payments shall be made by payroll deductions unless the State Board permits an alternate payment source. The amortization will include $7\frac{1}{2}\%$ interest compounded annually.

(7) In lieu of installment payments (for purchase where installment payments are otherwise allowed by Oklahoma state statutes), an active member may elect to make the payment of the actuarial purchase price, repayment of previous withdrawal, purchase of non-participating service, or any other eligible purchase or repayment permitted and authorized by the statutes governing the System, through:

(A) a direct trustee-to-trustee transfer of non-Roth funds from a Code Section 403(b) annuity or custodial account, a governmental Code Section 457 plan, and/or a Code Section 401(a) plan, or

(B) a direct rollover of tax-deferred money from a Code Section 403(b) annuity or custodial account, a governmental Code Section 457 plan, and/or a traditional or conduit Individual Retirement Account or Annuity (IRA). Monies in Roth IRA's accounts and Coverdell Education Savings Accounts cannot be used to purchase transferred credited service. Tax-paid (after-tax) money cannot be used in a direct rollover. Any tax-paid money from a plan or traditional or conduit IRA must be paid to member and then the member may then write a personal check to the System.

(8) After installment payments have begun, an active member may make a lump sum payment of the actuarial purchase price with interest due through the date of payment by:

(A) a direct trustee-to-trustee transfer of non-Roth funds from a Code Section 403(b) annuity or custodial account, a governmental Code Section 457 plan, and/or a Code Section 401(a) qualified plan, or

(B) a direct rollover of tax-deferred money from a Code Section 403(b) annuity or custodial account, a governmental Code Section 457 plan, a qualified Code Section 401(a) qualified plan, and/or a traditional or conduit Individual Retirement Account or annuity (IRA). Monies in Roth IRA's accounts and Coverdell Education Savings Accounts cannot be used to purchase transferred credited service. Tax-paid (after-tax) money cannot be used in a direct rollover. Any tax-paid money from a plan or traditional or conduit IRA must be paid to the member and the member may then write a personal check to the System.

(9) Notwithstanding (7) and (8) of this subsection ~~above~~, purchases may be made by a cash lump sum payment, installment payments (where otherwise allowed

by state statutes, trustee-to-trustee transfer of non-Roth funds, and/or a direct rollover of tax-deferred money as described in (7) and (8) ~~above of this subsection~~.

(10) If the member ceases to make payments, terminates, retires or dies before completing the payments, the member will receive prorated service credit for only those payments the member has made, unless the unpaid balance is paid by the member's estate or successor with interest within six (6) months after the member's death, termination of employment or retirement. The member shall not receive any retirement benefits until the balance is paid, unless his or her beneficiary or the member affirmatively waives the additional six (6) month period in which to pay the unpaid balance.

270:10-1-10. Direct Rollovers [REVOKED]

~~(a) A Distributee may elect, at the time and in the manner prescribed by the Board, to have any portion of an Eligible Rollover Distribution paid directly to an Eligible Retirement Plan specified by the Distributee in a Direct Rollover.~~

~~(b) Definitions:~~

~~(1) "Eligible Rollover Distribution" is generally a lump sum distribution except that an Eligible Rollover Distribution does not include monthly retirement benefits and minimum distribution payments.~~

~~(2) "Eligible Retirement Plan" means an IRA (excluding a Roth IRA), a Section 403(a) annuity plan, and a 401(a) qualified plan that accepts the Distributee's Eligible Rollover Distribution. An Eligible Retirement Plan also means a 403(b) annuity and an eligible 457(b) plan which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such plan from the System. The definition of Eligible Retirement Plan also applies to a distribution to a surviving spouse, or to a spouse or former spouse who is the alternate payee pursuant to qualified domestic order as defined in Subsection B of Section 49-126 of Title 11.~~

~~(3) "Distributee" means an employee or former employee. In addition, effective June 7, 1993, the employee's or former employee's surviving spouse and the employee's or former employee's spouse or former spouse who is the alternate payee under a qualified domestic order, as defined in Subsection B of Section 49-126 of Title 11, are Distributees with regard to the interest of the spouse or former spouse.~~

~~(4) "Direct Rollover" means a payment by the System to the Eligible Retirement Plan specified by the Distributee.~~

~~(e) At least thirty (30) days and not more than ninety (90) days before the date of distribution, the Distributee must be provided with the IRS Notice regarding rollover options and tax effects. The distribution may be paid less than thirty (30) days after the notice is given, provided that:~~

~~(1) The Board clearly informs the Distributee that the Distributee has a right to a period of at least thirty (30)~~

days after receiving the notice to consider the decision of whether or not to elect a distribution; and
(2) ~~The Distributee, after receiving the notice, affirmatively elects a distribution.~~

[OAR Docket #16-672; filed 7-7-16]

**TITLE 310. OKLAHOMA STATE
DEPARTMENT OF HEALTH
CHAPTER 15. CLINICAL TRIALS ON THE
USE OF CANNABIDIOL**

[OAR Docket #16-704]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

- Subchapter 1. Purpose and Definitions [NEW]
- 310:15-1-1. Purpose [NEW]
- 310:15-1-2. Definitions [NEW]
- Subchapter 3. Physician Application and Reporting [NEW]
- 310:15-3-1. Physician application [NEW]
- 310:15-3-2. Physician reporting [NEW]

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Approved by Governor's declaration on June 9, 2016

FINAL ADOPTION:

June 9, 2016

EFFECTIVE:

September 11, 2016

SUPERSEDED EMERGENCY ACTIONS:

Superseded rules:

- Subchapter 1. Purpose and Definitions [NEW]
- 310:15-1-1. Purpose [NEW]
- 310:15-1-2. Definitions [NEW]
- Subchapter 3. Physician Application and Reporting [NEW]
- 310:15-3-1. Physician application [NEW]
- 310:15-3-2. Physician reporting [NEW]

Gubernatorial approval:

January 13, 2016

Register publication:

33 Ok Reg 451

Docket number:

16-229

INCORPORATIONS BY REFERENCE:

"n/a"

ANALYSIS:

These rules implement the agency's requirements from House Bill Number 2154, from the 1st Session of the 55th Oklahoma Legislature (2015) known as "Katie and Cayman's Law" and codified at 63 O.S. §§ 2-801 through 2-805. The proposed regulations set forth the Department's requirements for the necessary approvals of clinical trials on subjects under the age of 18 for the use of Cannabidiol in treating certain types of seizures as required by the House Bill. Cannabidiol" means a non-psychoactive cannabinoid found in the plant Cannabis sativa L. or any other preparation thereof, that has a

tetrahydrocannabinol concentration of not more than three-tenths of one percent (0.3%) and that is delivered to the patient in the form of a liquid [63 O.S. § 2-801]

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, 2016:

SUBCHAPTER 1. PURPOSE AND DEFINITIONS

310:15-1-1. Purpose

The rules in this Chapter implement the Commissioner of Health's authorities established in Enrolled House Bill Number 2154, from the 1st Session of the 55th Oklahoma Legislature (2015) known as "Katie and Cayman's Law" and codified at 63 O.S. §§ 2-801 through 2-805.

310:15-1-2. Definitions

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

"Clinical Trial" means a trial at an academic medical center of the use of cannabidiol at an academic medical center on patients eighteen (18) years of age or younger pursuant to the requirements of Katie and Cayman's Law, codified at 63 O.S. §§ 2-801 through 2-805.

"O.S." means Oklahoma Statute.

"Severe forms of epilepsy" means refractory epilepsy that is not adequately treated by traditional medical therapies, including Lennox-Gastaut Syndrome and Dravet Syndrome, also known as Severe Myoclonic Epilepsy of Infancy.

SUBCHAPTER 3. PHYSICIAN APPLICATION AND REPORTING

310:15-3-1. Physician application

Any physician, who has been designated a principal investigator of a clinical trial concerning *Lennox-Gastaut Syndrome*, also known as *Severe Myoclonic Epilepsy of Infancy*; any other severe form of epilepsy not adequately treated by traditional medical therapies (63 O.S. § 2-101 (23)), or any other form of refractory epilepsy that is not adequately treated by traditional medical therapies (63 O.S. § 2-801 (5)) on individuals eighteen (18) years of age or younger, and who requests approval from the Commissioner of Health, or designee shall:

- (1) Submit an application on a form provided by the Commissioner of Health, which shall include the name, address and other contact information for the principal investigator;

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- (2) Submit a statement from either the Oklahoma State Board of Medical Licensure or the Oklahoma State Board of Osteopathic Examiners that the physician is licensed and in good standing with said licensure board;
- (3) Submit a copy of the documents from the United States Food and Drug Administration naming the physician as the principal investigator;
- (4) Submit a copy of the license obtained by the United States Drug Enforcement Administration;
- (5) Submit and maintain a current Oklahoma State Bureau of Narcotics and Dangerous Drugs Control registration;
- (6) Demonstrate registration with the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control;
- (7) Submit the names, addresses and other contact information of any subinvestigators who will be assisting the principal investigator and include with the submission:
 - (A) A copy of the license obtained by the United States Drug Enforcement Administration; and
 - (B) Information demonstrating registration of the subinvestigator with the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control;
- (8) Submit the following information concerning the clinical trial to be performed:
 - (A) Name, address and contact information of the academic medical center where the clinical trial will occur;
 - (B) Statement from Institutional Review Board (IRB) of the academic medical center where the clinical trial will occur, concurring with the requirements for said clinical trial;
 - (C) Statement from the United States Food and Drug Administration allowing cannabidiol to be used as a investigation new drug on qualified patients with severe forms of epilepsy;
 - (D) Name, address and other contact information of the source of the cannabidiol to be used for the study. The submission of the information of the source of the cannabidiol shall include:
 - (i) Information that the cannabidiol was manufactured at a facility in the United States or in a foreign country that was approved by the United States Food and Drug Administration; and
 - (ii) Information that the cannabidiol has been tested on animals to:
 - (I) demonstrate preliminary effectiveness; and
 - (II) ensure the cannabidiol is safe to administer to humans;
 - (E) Submit a statement that the clinical trial will be performed at the highest standards of clinical research; and
 - (F) Submit a statement that the clinical trial will conclude no later than December 31, 2017;
- (9) Submit a statement that the principal investigator and all subinvestigators shall adhere to the rules and regulations established by the relevant Institutional Review Board for the clinical trial; and

- (10) Submit an attestation by the principal investigator as to the accuracy and completeness of the information provided in the application.

310:15-3-2. Physician reporting

(a) Any physician approved by the Commissioner of Health or designee to perform a clinical trial, pursuant to this Chapter shall submit annual reports, and a final report, to the Commissioner of Health. The report shall include:

- (1) Data from the clinical trial; and
- (2) Summary of findings from the clinical trial.

(b) Any physician, approved by the Commissioner of Health or designee to perform a clinical trial pursuant to this Chapter shall immediately report to the Commissioner of Health and to the Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control any adverse outcomes or injuries to any subjects participating in the clinical trial.

[OAR Docket #16-704; filed 7-11-16]

TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH CHAPTER 257. FOOD SERVICE ESTABLISHMENTS

[OAR Docket #16-705]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 1. Purpose and Definitions [AMENDED]
Subchapter 3. Management and Personnel [AMENDED]
Subchapter 5. Food [AMENDED]
Subchapter 7. Equipment, Utensils and Linens [AMENDED]
Subchapter 9. Water, Plumbing and Waste [AMENDED]
Subchapter 11. Physical Facilities [AMENDED]
Subchapter 13. Poisonous or Toxic Materials [AMENDED]
Subchapter 15. Compliance and Enforcement [AMENDED]
Subchapter 17. Mobile Pushcarts, Mobile Food Service Establishments, and Mobile Retail Food Service Establishments [AMENDED]
Appendix A. Tables [NEW]

AUTHORITY:

Oklahoma State Board of Health; Title 63 O.S. Section 1-104 and Title 63 O.S. §§ 1-106.3 and 1-1118.

SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:

September 9, 2015

COMMENT PERIOD:

October 1, 2015 through November 4, 2015

PUBLIC HEARING:

November 4, 2015

ADOPTION:

January 12, 2016

SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:

January 22, 2016

APPROVED BY GOVERNOR'S DECLARATION:

Approved by Governor's declaration on June 9, 2016

FINAL ADOPTION:

June 9, 2016

EFFECTIVE:

September 11, 2016

SUPERSEDED EMERGENCY ACTIONS:

"n/a"

INCORPORATIONS BY REFERENCE:

Incorporated standards:

The following Code of Federal Regulation (CFR) citations are incorporated by reference as published on July 1, 2015:

- (1) Title 9 CFR, Part 424, Subpart (C);
- (2) Title 21 CFR, Part 129;
- (3) Title 21 CFR, Part 170;
- (4) Title 21 CFR, Part 171;
- (5) Title 21 CFR, Part 172;
- (6) Title 21 CFR, Part 173;
- (7) Title 21 CFR, Part 174;
- (8) Title 21 CFR, Part 175;
- (9) Title 21 CFR, Part 176;
- (10) Title 21 CFR, Part 177;
- (11) Title 21 CFR, Part 178;
- (12) Title 21 CFR, Part 179;
- (13) Title 21 CFR, Part 180;
- (14) Title 21 CFR, Part 181;
- (15) Title 21 CFR, Part 182;
- (16) Title 21 CFR, Part 184;
- (17) Title 21 CFR, Part 186;
- (18) Title 21 CFR, Part 333, Subpart E; and
- (19) Title 21 CFR, Section 1240.60 (d).

The following publications are adopted by reference:

(1) United States Food and Drug Administration: National Shellfish Sanitation Program (NSSP), Guide for the Control of Molluscan Shellfish, 2009 Revision;

(2) United States Food and Drug Administration: Interstate Certified Shellfish Shipper's List, as published on July 1, 2011.

Incorporating rules:

310:257-1-3. Incorporated by reference

Availability:

8:00 a.m. to 5:00 p.m., Monday through Friday at Consumer Health Service, Oklahoma State Department of Health, 1000 N.E. 10th St, Oklahoma City, OK 73117, phone (405) 271-5779.

ANALYSIS:

These amendments make the chapter consistent with the 2013 model food code, published by the U. S. Food and Drug Administration (FDA). The model assists food control jurisdictions at all levels of government by providing them with a scientifically sound technical and legal basis for regulating the retail and food service segment of the industry (restaurants and grocery stores and institutions such as nursing homes). Local, state, tribal, and federal regulators use the FDA Food Code as a model to develop or update their own food safety rules and to be consistent with national food regulatory policy.

The 2013 edition of the model code reflects the input of regulatory officials, industry, academia, and consumers that participated in the 2012 meeting of the Conference for Food Protection (CFP). Collaboration with the CFP and FDS partners at the U.S. Department of Agriculture's Food Safety and Inspection Service and the Centers for Disease Control and Prevention of the U.S. Department of Health and Human Services helps ensure the Food Code establishes sound requirements that prevent foodborne illness and injury and eliminates the most important food safety hazards in retail and foodservice facilities.

The model code was then reviewed by Oklahoma's Food Service Advisory Council and the proposed changes reflect the advice and consent of the Council and include the removal those requirements in the model rule that would be overly burdensome to the industry; removal of unnecessary language; modifications to language to make all language consistent, and removal of the word "service" from the term "food service establishment."

CONTACT PERSON:

Lynnette Jordan, Service Director, Consumer Health Service, Oklahoma State Department of Health, 1000 N.E. 10th St, Oklahoma City, OK 73117, phone (405) 271-5779, email Lynnette@health.ok.gov.

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 OKLAHOMA STATE DEPARTMENT OF HEALTH, 1000 N.E. 10TH STREET, OKLAHOMA CITY, OK 73117-1207 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, Purpose and Definitions, includes revisions to update definitions consistent with the 2013 model food code. The incorporations by reference are updated to reflect the latest applicable standards. The Exemptions section is amended to address produce stands.

Subchapter 3, Management and Personnel, includes general language cleanup and removes "service" from references to food service establishment, clarification on the responsibilities of the "person in charge" to include verifying that foods delivered to the food establishment during non-operating hours are from approved sources and appropriately stored and maintained. Establishes responsibility for written procedures and plans, where specified by this Chapter and as developed by the food establishment, are maintained and implemented as required. Updates reportable pathogens among staff and the time period for reporting to the Department within twenty-four (24) hours or the next business day when a food employee is diagnosed with an illness due to a specified pathogen. The amendments modify the pathogens and symptoms qualifying for exclusion or restriction from duties. Updates practices for cleaning, handwashing and use of antiseptics to reflect best practice.

Subchapter 5, Food, includes general language cleanup and removes "service" from references to food service establishment, amendments to address revised standards incorporated by reference, clarifies use of wild mushrooms, clarifies allowable means to prevent contamination from hands, and adds fruits to the food products addressed in the section on packaged and unpackaged food-separation, packaging, and segregation. Standards for fruits and vegetables that may be washed by using chemicals meeting the requirements specified in 21 CFR Section 173.315 are identified. The rule is updated to reflect best practice and model food code relating to refilling returnable food containers. The standards for cooking times, temperatures and holding times are updated. Time periods for the discarding of food are updated. New, easy to read tables, are referenced in a new Appendix A.

Subchapter 7, Equipment, Utensils and Linens, includes general language cleanup and removes "service" from references to food service establishment. New easy to read tables are referenced in a new Appendix A, for lead limits in ceramic, china, and crystal utensils, and use limitations. Establishes rule that equipment used in a food establishment shall be designated as "commercial" or "commercial grade" by the manufacturer if the equipment is used to meet or maintain temperature for time/temperature control for safety food. Clarifies exceptions related to beverage tubing and separation. Amendments here apply model food code terminology replacing the term "potentially hazardous food" with "Time/Temperature Control for Safety Food." Best practice standards for hot water mechanical warewashing operations that include an irreversible registering temperature indicator are applied. New guidance is provided on use of chemical sanitizer generated by a device located on-site at the food establishment and on the use of preset tableware.

Subchapter 9, Water, Plumbing and Waste, includes general language cleanup and removes "service" from references to food service establishment.

Subchapter 11, Physical Facilities, includes general language cleanup and removes "service" from references to food service establishment. Adds provisions for allowing dogs and cats in outdoor where the dog or cat is controlled by the owner.

Subchapter 13, Poisonous or Toxic Materials, includes general language cleanup and removes "service" from references to food service establishment. Amendments add language to address the use of chemical sanitizing solutions generated on-site and expand and clarify the criteria for drying agents.

Subchapter 15, Compliance and Enforcement, includes general language cleanup and removes "service" from references to food service establishment.

Subchapter 17, Mobile Pushcarts, Mobile Food Establishments, and Mobile Retail Food Establishments, includes general language cleanup and removes "service" from references to food service establishment. Amendments remove the requirement a three (3) compartment sink, provided that an adequate supply of clean utensils are available for mobile pushcarts and clarify station restrictions for mobile food establishments, and incorporate mobile pushcarts in selling packaged foods.

Appendix A, Tables, provides new, easy to read tables for food establishments. These tables are referenced throughout the amended subchapters.

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The full text of the rule may be obtained by contacting the Consumer Health Service, Oklahoma State Department of Health, 1000 N.E. 10th St, Oklahoma City, OK 73117, phone (405) 271-5779, email CHSLicensing@health.ok.gov.

[OAR Docket #16-705; filed 7-11-16]

TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH CHAPTER 265. HEARING AID DEALERS AND FITTERS

[OAR Docket #16-706]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 1. General Provisions

310:265-1-1 [AMENDED]

310:265-1-2 [AMENDED]

Subchapter 3. Examinations

310:265-3-1 [AMENDED]

310:265-3-2 [AMENDED]

310:265-3-3 [AMENDED]

Subchapter 5. License Requirements

310:265-5-1 [AMENDED]

310:265-5-2 [AMENDED]

310:265-5-3 [AMENDED]

310:265-5-4 [AMENDED]

310:265-5-6 [AMENDED]

310:265-5-7 [AMENDED]

310:265-5-8 [AMENDED]

Subchapter 7. Regulatory Enforcement

310:265-7-2 [AMENDED]

310:265-7-3 [AMENDED]

Appendix A. Statements Required by OAC 310:265-5-4(e) [NEW]

AUTHORITY:

Oklahoma State Board of Health; Title 63 O.S. Section 1-104 and Title 63 O.S. Section 1-1750.

SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:

September 9, 2015

COMMENT PERIOD:

October 1, 2015 through November 4, 2015

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November 4, 2015

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December 8, 2015

SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:

December 18, 2015

APPROVED BY GOVERNOR'S DECLARATION:

Approved by Governor's declaration on June 9, 2016

FINAL ADOPTION:

June 9, 2016

EFFECTIVE:

November 1, 2016

SUPERSEDED EMERGENCY ACTIONS:

"n/a"

INCORPORATIONS BY REFERENCE:

"n/a"

ANALYSIS:

This Chapter applies to individuals licensed for the purpose of fitting and dealing hearing aids as set forth in Title 63, Section 1-1750 and the sections that follow. The changes clarify the exam requirements to agree with changes to the law effective November 1, 2015, but also have given consideration to a review of best practices for the entire chapter. A summary of these changes include updates and clarification to temporary permits, reciprocity, business regulatory authority, customer notification, continuing education requirements, clarification of waivers and update of the advisory council. These changes allow the hearing aid fitting and dealing profession

to stay current with national standards and ensure customers are protected and aware of their rights under this Rule. The effect of this Rule change will allow applicants the option to choose the most applicable exam for hearing aid fitters and dealers licensure and update the rule with current practices in the profession.

These changes make the rule consistent with changes in advisory board composition specified in House Bill 1467, effective November 1, 2013, and changes in exam requirements specified in Senate Bill 46, effective November 1, 2015. They further address issues identified by the Advisory Board.

CONTACT PERSON:

Lynnette Jordan, Service Director, Consumer Health Service, Oklahoma State Department of Health, 1000 N.E. 10th St, Oklahoma City, OK 73117, (405) 271-5779, 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 NOVEMBER 1, 2016:

SUBCHAPTER 1. GENERAL PROVISIONS

310:265-1-1. Purpose

The rules in this Chapter implement the Hearing Aid Dealers and Fitters Act, 63 O.S. ~~Supp.—1990~~, Section 1-1750 et seq.

310:265-1-2. Definitions

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

"Act" means those statutes relating to Hearing Aid Dealers and Fitters codified at 63 O.S., Sections 1-1750 to 1-1754, as amended.

"Board" means the State Board of Health.

"Commissioner" means the State Commissioner of Health or his/her authorized representative.

"Department" means the Oklahoma State Department of Health.

"Direct on-site supervision" means a licensed hearing aid dealer and fitter shall accompany a temporary permit holder anytime the permit holder is performing the practice of fitting and dealing in hearing aids.

"Established procedures and instrumentation in fitting of hearing aids" means a minimum requirement all hearing tests shall include both air_conduction and bone conduction threshold measurements except in the case of a re-test when there is less than a fifteen (15) dB loss between the current air_conduction threshold and the previous air_conduction threshold and the previous tests showed the loss to be sensorineural.

"Hearing aid" means any wearable instrument or device designed for or offered for the purpose of aiding or compensating for impaired human hearing and any parts, attachments or accessories, but excluding earmolds, batteries, and cords; provided that this definition shall not include lenses or spectacle frame fronts for eyeglass-type hearing aids; except in the case of spectacle frame fronts which include electrical wiring as part of the hearing aid.

"Hearing Screening" means a binary pure tone screening at a preset intensity level for the purpose of determining if an individual screened needs further testing prior to the selection or sale of a hearing aid.

"License" means a license issued by the Commissioner to hearing aid dealers and fitters.

"Practice of fitting and dealing in hearing aids" means those practices used for the purpose of selection, adaptation and sale of hearing aids including direct observation of the ear together with the counseling and instruction pertaining thereto, the testing of human hearing for these purposes and the making of impressions for earmolds.

"Qualified waiver" means a written acknowledgment endorsed by the person supplied with a hearing aid, or his lawfully appointed guardian, that indicates that the person supplied with a hearing aid was advised that the ambient noise level of the testing environment used to fit a hearing aid exceeded 45 dB on a slow weighted dB (a) scale and that the hearing test conducted could result in an inappropriately fitted hearing aid.

"Sell" or "sale" means any transfer of title or of the right to use by lease, bailment, or any other contract, excluding wholesale transactions with distributors or dealers.

"Seller" means any person who dispenses a hearing aid to any member of the consuming public.

"Temporary permit" means a permit issued while the applicant is training to become a licensed hearing aid dealer or fitter.

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 registration and examination and paid the examination fee of Ninety-five Dollars (\$95.00), or paid the examination fee to a national examination provider whose exam meets the requirements of this Chapter and who has entered into an agreement with the Department to provide the exam.

(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. A passing score for each section below will be approved by the Department based on the submitted and approved examination.

- (1) Written Examination meeting the requirements of this Chapter. Passing score for the written examination is established by the examination provider.
(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 and must wait at least seven days before retaking a portion of any examination. Any person failing any section of 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, one (1) year from their application last testing 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, taking into consideration the guidelines if available for a national examination and guidelines 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 audiometer, audiometer 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 visible physical defects or damage to hearing aids.

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310:265-3-3. Fees for ~~licenses~~ license applications and examinations

(a) Fees for ~~licenses~~ license applications, permits and examinations shall be as follows:

- (1) Initial License Application Fee - \$50.00;
- (2) Examination Fee - ~~\$95.00, or receipt for payment of an examination fee for an examination from a national provider that meets the requirements of this Chapter and who has entered into an agreement with the Department to provide the exam;~~
- (3) Temporary Permit Application Fee - \$15.00;
- (4) ~~Renewal of License Fee (on or before January 30) - \$50.00;~~
- (5) Reexamination Fee - \$95.00;
- (6) ~~Renewal of Temporary Permit Extension Fee - \$15.00;~~
- (7) Renewal of License (within thirty-day grace period) - \$75.00; and
- (8) Renewal of License (after thirty-day grace period) - \$100.00.

(9b) Licensure by equivalency fees, grounds for renewal and procedures for the suspension and revocation shall be the same as for initial licensing, renewal, suspension and revocation of a license.

(c) Application fees are non-refundable.

SUBCHAPTER 5. LICENSE REQUIREMENTS

310:265-5-1. License required

(a) No person shall engage in the sale of or practice of fitting hearing aids or display a sign or in any other way advertise or represent himself as a person who practices the fitting and sale of hearing aids without first obtaining a license or permit in accordance with these rules from the ~~commissioner~~ Commissioner or his designated representative. The license shall be conspicuously posted in his/her office or place of business. Duplicate licenses shall be issued by the Commissioner to valid license holders operating more than one office, without additional payment.

(b) Nothing in these regulations shall prohibit a corporation, partnership, trust, association or other like organization maintaining an established business address from engaging in the business of selling or offering for sale hearing aids at retail without a license, provided ~~that~~ it employs only properly licensed persons in the direct sale and fitting of such products. Such corporations, partnerships, trust, associations or other like organizations shall ~~file annually with the Commissioner~~ make a list of all licensed hearing aid dealers and fitters directly or indirectly employed by them available to the Department upon request.

(c) Nothing in these regulations shall permit a licensed hearing aid dealer or fitter to take facial measurements for eyeglasses or to fit, adjust, duplicate or adapt lenses or spectacle frames, except that a licensed hearing aid dealer or fitter may adapt or replace the temple or temples incorporating hearing aid components in eyeglass-type hearing aids.

310:265-5-2. Applicant requirements for reciprocity

(a) Whenever the Commissioner determines ~~that~~ another state or jurisdiction has requirements equivalent to or higher than those in effect pursuant to these regulations excluding trouble-shooting and Oklahoma regulations, and that such state or jurisdiction has a program equivalent to or stricter than the program for determining whether applicants pursuant to these regulations are qualified to dispense and fit hearing aids, the Commissioner may issue a license to applicants who hold current, unsuspended and unrevoked certificates or licenses to fit and sell hearing aids in such other state or jurisdiction. ~~No such applicants shall be required to submit to or undergo a qualifying examination other than the payment of fees, pursuant to these regulations, and shall be registered in the same manner as licensees. The fee shall be the same as the fee for an initial license.~~

(b) Applicants must submit an application for reciprocity on forms as designated by the Department.

(c) Applicants must submit an Out-of-State Licensure Verification form filled out by the other licensing state.

(d) Applicants must register with the Department and pass the Oklahoma Hearing Aid Rules examination and Hearing Aid Trouble Shooting Practical Examination.

310:265-5-3. Address of place of business

(a) A person who holds a license shall notify the Commissioner in writing of each address of the business(es) where he/she engages or intends to engage in the fitting or the sale of hearing aids. A post office box number by itself does not fulfill this requirement.

(b) The Commissioner shall keep a record of the place of business of licensees.

(c) Any notice required to be given by the Commissioner to a person who holds a license shall be mailed to him/her by certified mail at the address of the last place of business of which he/she has notified the Commissioner.

(d) Where more than one (1) office is operated by the licensee, duplicate licenses shall be issued by the Commissioner for posting in each location, without additional payment. The licensee must send a written request for a duplicate license indicating the address of the place of business where the duplicate license will be posted.

310:265-5-4. Receipts

(a) Any person who practices the fitting and sale of hearing aids shall deliver to each person supplied with a hearing aid a receipt which shall contain the licensee's signature and show his business address, (a post office box number by itself does not meet the requirement of a business address), and number of his State license, together with specifications as to the make and model of the hearing aid furnished, with full terms of the sale clearly stated. If an aid which is not new is sold, the receipt shall be clearly marked as "used" or "reconditioned", whichever is applicable, with terms of guarantee, if any.

(b) Such receipt shall bear in no smaller type than the largest used in the body copy portion the following: "Any examination or representation made by a licensed hearing aid dealer

and fitter in connection with the fitting and selling of this hearing aid is not an examination, diagnosis, or prescription by a person licensed to practice medicine in this state and therefore must not be regarded as medical opinion or advice. Further, it is recommended that medical advice from a licensed physician should be obtained."

(c) No receipt for a hearing aid shall be valid without the original signature of a licensed hearing aid dealer and fitter. Said receipt shall constitute a contract of sale between the hearing aid dealer and fitter and the purchaser. The holder of a temporary license may not issue a receipt unless the original signature of the direct supervisor also appears on the receipt. Said receipt shall have the state license number of both the licensed hearing aid dealer and fitter and the temporary licensed person.

(d) The hearing aid dealer and fitter may retain a cancellation fee of 10% or \$150 per aid, whichever is less, of the purchase price of the hearing aid(s). The guarantee must entitle the purchaser, upon cancellation for any reason within the 30-day period after taking possession of the hearing aid(s), to receive the full refund less the cancellation fee. Said refund shall be provided to the purchaser within 30 days after the return of the hearing aid(s). If the hearing aid must be repaired, remade or adjusted during the 30-day refund period, the running of the 30-day period is tolled for any period during which the hearing aid provider takes possession or control of a hearing aid after its original delivery.

(e) ~~The hearing aid provider shall provide a written receipt or contract to the purchaser that includes, in immediate proximity to the space reserved for the signature of the purchaser, the following specific statement in all bold faced type capital letters no smaller than the largest print used in the written receipt or contract: The hearing aid provider shall provide a written receipt or contract to the purchaser that includes, in immediate proximity to the space reserved for the signature of the purchaser, the two specific statements as set forth in Appendix A, in all bold-faced type capital letters no smaller than the largest print used in the written receipt or contract.~~ **OKLAHOMA STATE LAW GIVES THE PURCHASER THE RIGHT TO CANCEL THIS PURCHASE FOR ANY REASON BY RETURNING THE HEARING AID TO THE HEARING AID PROVIDER AT ANY TIME PRIOR TO MIDNIGHT OF THE THIRTIETH CALENDAR DAY AFTER RECEIPT OF THE HEARING AID. BY LAW, THE HEARING AID PROVIDER MAY BE ENTITLED TO A CANCELLATION FEE NOT TO EXCEED TEN PER CENT (10%) OF THE TOTAL PURCHASE PRICE FOR THE HEARING AID OR ONE HUNDRED FIFTY DOLLARS (\$150.00) PER HEARING AID, WHICHEVER IS LESS, TO COVER THE COSTS INCURRED BY THE HEARING AID PROVIDER. IF THE PURCHASER RETURNS THE HEARING AID WITHIN THE THIRTY DAY PERIOD, THE PURCHASER WILL RECEIVE A REFUND OF \$.00. (HEARING AID PROVIDER MUST INSERT THE DOLLAR AMOUNT OF THE REFUND). IF THE HEARING AID PROVIDER FAILS TO COMPLY WITH THIS PROVISION, COMPLAINTS SHOULD BE FORWARDED TO: OKLAHOMA STATE DEPARTMENT OF HEALTH OCCUPATIONAL LICENSING DIVISION 1000**

~~N.E. 10TH STREET OKLAHOMA CITY, OKLAHOMA 73117
[15:764.1(A)(3)]~~

(f) The following information and measurements shall be included in each customer/patient file or permanent record, and be documented for the client:

- (1) A description, including location of any visible, congenital or deformity of the ear.
- (2) Whether the client has active, or a history of, drainage from the ear within the last 90 days.
- (3) Whether the client has acute or chronic dizziness.
- (4) Whether the client has unilateral hearing loss of a sudden or recent onset within the previous 90 days.
- (5) Whether the client has a history of sudden or rapidly progressive hearing loss within the previous 90 days.
- (6) Whether the client has an Audiometric Air Bone Gap equal to or greater than 15 decibels at 500 Hertz, 1000 Hertz and 2000 Hertz.
- (7) Whether the client has visible evidence of significant cerumen accumulation or a foreign body in the ear canal.
- (8) Whether the client has pain or discomfort in the ear.

310:265-5-6. Continuing education requirements

(a) Each applicant for renewal of a hearing aid dealer or fitter license must submit written evidence showing he/she has completed ten (10) clock hours of continuing education, completed during the previous year and pertaining to the hearing sciences, ~~as approved by the National Institute of Hearing Instruments Studies or an equivalent; or have had the curriculum approved by the Department.~~

- (1) No more than four (4) online continuing education clock hours may be submitted for the required ten (10) annual hours.
- (2) The continuing education hours must be approved by the International Institute of Hearing Instruments or have had the curriculum approved by the Department.

(b) **Continuing education course approval by the Department.** An entity which desires to sponsor education to licensees in compliance with the continuing education requirements of subsection (a) of this Section shall file an application for approval on the form prescribed by the Department. An 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 clock hours of classroom and supervised instruction. After completion of the course, the entity shall submit sign-in sheets for all sessions which require a signature and social security number or state license number of each person in attendance. The program 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 prior to presentation. Changes which occur during the presentation shall be submitted to the Department within ten (10) days of the training session for review by the Department. Failure to obtain approval of changes may result in loss of certification.

(c) **Approval requirements for continuing education.**

Permanent Final Adoptions

- (1) All material and information presented shall pertain to the hearing aid dealers and fitters profession.
- (2) ~~The training location must be outside the regular work place or after regular work hours.~~
- (3) All training should utilize materials that are to be generic and non-proprietary in nature.

310:265-5-7. Temporary permits

- (a) An applicant who fulfills the requirements regarding age, character and education as set forth in these regulations shall be entitled to a temporary hearing aid dealer or fitter permit upon application to the Commissioner. Previous experience or a waiting period shall not be required to obtain a temporary permit.
- (b) Upon receiving an application as provided under this section and accompanied by a temporary permit application fee of Fifteen Dollars (\$15.00), the Commissioner shall issue a temporary permit which shall entitle the applicant to engage in the fitting and sale of hearing aids for a period not to exceed six (6) months or until the holder has successfully passed the examination required for a license, whichever period is less. A person holding a valid Oklahoma Hearing Aid Dealers' and Fitters' License shall be responsible for the direct on-site supervision and training of such applicant ~~and maintain adequate personal contact.~~
- (c) A temporary permit may be extended for an additional period by the Commissioner upon payment of a fee of Fifteen Dollars (\$15.00). The Commissioner shall not extend a temporary permit more than one (1) time.
- (d) A maximum of two (2) people with temporary permits may work under the direct on-site supervision of a person holding a valid Oklahoma Hearing Aid Dealers' and Fitters' License.

310:265-5-8. Procedures and instrumentation in fitting of hearing aids.

- (a) **Testing.**
 - (1) All instruments used to measure thresholds shall be annually certified to meet American National Standard Specifications for Audiometer, S3.6-1969 or a standard which supersedes it. In addition, some form of live voice or recorded voice testing must be made to obtain at least a subjective evaluation of the individual's ability to discriminate. In the case of live voice testing, the tests should be run without visual cue. A hearing aid of similar characteristics can be refitted to an individual without a hearing test if this is done within six (6) months of the original fitting and original hearing test.
 - (2) Hearing testing for the purpose of fitting hearing aids shall not be conducted where ambient noise levels exceed 45 dB measured on a slow weighted dB (a) scale. If the testing environment exceeds 45 dB, the testing shall be considered a "Hearing Screening" and shall not be utilized to determine the auditory thresholds in the selection of a hearing aid unless a qualified waiver is executed by the person supplied with a hearing aid and is accompanied

by written documentation from a competent medical authority as outlined in 310:265-5-8(c).

- (b) **Screening.** A licensee may conduct a hearing screening at a health fair, state fair, public location or similar facility, but due to excessive background noise commonly found in these environments, measurement of auditory thresholds are not acceptable. A licensee should present to the person receiving the "Hearing Screening" a written statement at the time of the screening containing the following provisions: Results of a "Hearing Screening" are not a medical or audiological evaluation of your ear nor a diagnosis of a hearing disorder. You passed/failed (circle one) the hearing screening. Failing a screening is an indication you need further testing prior to the selection of a hearing aid.
- (c) **Qualified waiver.** The waiver must be accompanied by written documentation from a competent medical authority that the person supplied with a hearing aid is not ambulatory and any transport of that person would create a serious risk of harm or cause an imminent threat to their health and ~~well being.~~ A qualified waiver may not be utilized at a hearing screening conducted at a health fair, state fair, public location or similar facility that exceeds 45 dB on a slow weighted dB (a) scale.

SUBCHAPTER 7. REGULATORY ENFORCEMENT

310:265-7-2. Prohibited acts

- (a) No person shall:
 - (1) Sell, barter, or offer to sell or barter a license;
 - (2) Purchase or procure by barter a license with intent to use it as evidence of the holder's qualification to practice the fitting and sale of hearing aids;
 - (3) Alter a license with fraudulent intent;
 - (4) Use or attempt to use as a valid license which has been purchased, fraudulently obtained, counterfeited or materially altered;
 - (5) Willfully make a false statement in an application for a license or application for renewal of a license;
 - (6) Engage in the practice of fitting and dealing in hearing aids with a temporary permit unless under the direct on-site supervision of an Oklahoma Licensed Hearing Aid Dealer and Fitter; ~~or~~
 - (7) Allow a temporary permit holder to engage in the practice of fitting and dealing in hearing aids unless under the direct supervision of an Oklahoma Licensed Hearing Aid Dealer and Fitter;
 - (8) Sell a hearing instrument to a person under eighteen (18) years of age unless the prospective user, parent or guardian has presented to the licensee a medical evaluation signed by a ~~board eligible or board certified otolaryngologist-physician who specializes in diseases of the ear,~~ otolaryngologist-physician who specializes in diseases of the ear that states the client may be considered a candidate for a hearing instrument. This requirement may be waived if a otolaryngologist-physician who specializes in diseases of the ear is not available within 100 miles of the person's residence and a licensed physician provides the medical

evaluation. This evaluation must have taken place within the preceding six (6) months of the testing and fitting. A licensed audiologist should perform the evaluation and rehabilitation; or-

(9) ~~An Oklahoma licensed hearing aid dealer and fitter shall not infer~~ **Infer** directly or indirectly in advertisement or written material that the hearing aid dealer and fitter is licensed as a physician or audiologist or performs diagnostic procedures to determine the cause of a hearing impairment.

(b) Violations of this Section may be brought pursuant to Title 63 O.S. Section 1-1701.1A (Administrative penalty), as amended.

310:265-7-3. Complaint procedure

(a) **Purpose.** The purpose of this section is to specify the administration and investigation of complaints and the filing of disciplinary actions against hearing aid dealers and fitters who hold a license or temporary permit in Oklahoma, or against persons who sell hearing aids in Oklahoma without a license or temporary permit and who are not otherwise exempt from the license requirements.

(b) **Complaints.**

(1) Any person may file a complaint against a licensed hearing aid dealer and fitter or temporary licensed dealer and fitter or a person selling or fitting hearing aids. A person desiring to report a complaint or violation by a licensee or seller shall notify the Department in writing. 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 ~~Hearing Aid Advisory Council~~ **Consumer Protection Licensing Advisory Council** for consultation.

(2) The Department may request a written response to the complaint from the licensee to determine if the complainant has exhausted their remedy under the sales agreement.

(3) Except as provided in Paragraph (2) of this subsection, the complaint and the identity of the complainant may be confidential and unavailable for public inspection or disclosure unless otherwise required by law. The Department shall confirm whether or not a complaint has been received.

(c) **Investigation.** If the Department determines ~~that~~ a possible violation of the Act or this Chapter has occurred, the Department may commence an investigation of the complaint.

(d) **Filing of an action.** The Department may begin a disciplinary action against a person who holds a license or temporary permit as a hearing aid dealer and fitter or a person selling hearing aids who is not exempt from licensure. The Department shall specifically state the violation(s) and shall request the appropriate remedy. Remedies include revocation of a license, suspension of a license, probation of a licensee, an administrative penalty, injunctive relief, or a combination of the foregoing remedies.

(e) **Referral of investigation.** Notwithstanding subsection (d) of this section, the Commissioner of Health may refer the results of an investigation, or complaint, received by the Department to the appropriate official(s) in consideration for criminal prosecution.

Permanent Final Adoptions

APPENDIX A. STATEMENTS REQUIRED BY OAC 310:265-5-4(E) [NEW]

As specified in 310:265-5-4(e), the statements below must be included in any written receipt or contract provided to the purchaser. The statements shall be placed in immediate proximity to the space reserved for the signature of the purchaser in all bold-faced type capital letters no smaller than the largest print used in the written receipt or contract.

(1) Statement One:

OKLAHOMA STATE LAW GIVES THE PURCHASER THE RIGHT TO CANCEL THIS PURCHASE FOR ANY REASON BY RETURNING THE HEARING AID TO THE HEARING AID PROVIDER AT ANY TIME PRIOR TO MIDNIGHT OF THE THIRTIETH CALENDAR DAY AFTER RECEIPT OF THE HEARING AID.

BY LAW, THE HEARING AID PROVIDER MAY BE ENTITLED TO A CANCELLATION FEE NOT TO EXCEED TEN PER CENT (10%) OF THE TOTAL PURCHASE PRICE FOR THE HEARING AID OR ONE HUNDRED FIFTY DOLLARS (\$150.00) PER HEARING AID, WHICHEVER IS LESS, TO COVER THE COSTS INCURRED BY THE HEARING AID PROVIDER.

IF THE PURCHASER RETURNS THE HEARING AID WITHIN THE THIRTY-DAY PERIOD, THE PURCHASER WILL RECEIVE A REFUND OF \$ _____ .00. (HEARING AID PROVIDER MUST INSERT THE DOLLAR AMOUNT OF THE REFUND).

IF THE HEARING AID PROVIDER FAILS TO COMPLY WITH THIS PROVISION, COMPLAINTS SHOULD BE FORWARDED TO:

*OKLAHOMA STATE DEPARTMENT OF HEALTH
OCCUPATIONAL LICENSING DIVISION
1000 N.E. 10TH STREET
OKLAHOMA CITY, OKLAHOMA 73117
[15:764.1(A)(3)]*

(2) Statement two:

DURING THE THIRTY-DAY PERIOD, IF THE HEARING AID IS RETURNED FOR REPAIRS OR ADJUSTMENTS THE THIRTY-DAY PERIOD SHALL BE TOLLED UNTIL RETURN OF THE AID(S) TO THE PURCHASER.

[OAR Docket #16-706; filed 7-11-16]

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

[OAR Docket #16-707]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

- Subchapter 1. General EMS programs [AMENDED]
- Subchapter 3. ~~Ground ambulance services~~ service [AMENDED]
- Subchapter 5. Personnel licenses and certification [AMENDED]
- Subchapter 7. Training Programs [AMENDED]
- Subchapter 11. Specialty care ambulance service [NEW]
- Subchapter 13. Air ambulance service [NEW]
- Subchapter 15. Emergency medical response agency [NEW]
- Subchapter 17. Stretcher aid van services [NEW]

AUTHORITY:

Oklahoma State Board of Health; Title 63 O.S. Section 1-104; House Bill 1083 (2013) and Title 63 O.S. Section 1-2501 et seq.

SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:

September 9, 2015

COMMENT PERIOD:

October 1, 2015 through November 4, 2015

PUBLIC HEARING:

November 4, 2015

ADOPTION:

February 9, 2016

SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:

February 19, 2016

APPROVED BY GOVERNOR'S DECLARATION:

Approved by Governor's declaration on June 9, 2016

FINAL ADOPTION:

June 9, 2016

EFFECTIVE:

September 11, 2016

SUPERSEDED EMERGENCY ACTIONS:

"n/a"

INCORPORATIONS BY REFERENCE:

Incorporated standards:

National Highway Traffic Safety Administration, National Emergency Medical Services Education Standards of 2009

Incorporating rules:

310:641-7-16. Curriculum

Availability:

8:00 a.m. to 5:00 p.m., Monday through Friday at Emergency Medical Services Division, Oklahoma State Department of Health, 1000 N.E. 10th Street, Oklahoma City, OK 73117-1207; phone (405) 271-4027, e-mail ESsystems@health.ok.gov.

ANALYSIS:

The adopted changes re-organize the Chapter, amend existing rules and add some new rules. The re-organization separates the different license and certification types. The revised rule allows applicants, certificate holders, and licensees to find applicable requirements within a defined subchapter of rule. This relocated text is designated with the tagline (Amended or Renumbered To). The re-organization separates the different license and certification types. Currently, an applicant, certificate holder, or licensee must review the entire rule document to determine the compliance requirements. The reorganization allows stakeholders to be able to find all rules that affect their type of license within one subchapter.

The changes update and amend rules pursuant to House Bill 1083 (2013) and House Bill 1467 (2013). House Bill 1083 amended the Oklahoma Emergency Response Systems Development Act (OERSDA), Title 63 of the Oklahoma Statutes, Section 1-2501 and the sections that follow. House Bill 1083 (2013) updated language to make personnel, emergency medical personnel and emergency medical responders licensed personnel; redefined certified emergency medical responder and certified emergency medical response agency; defined critical care paramedic as a license paramedic who successfully completed critical care training and testing requirements

in accordance with the OERSDA; defined use of letters of review as an official designation for paramedic programs becoming accredited; redefined the license levels as an emergency medical technician, an intermediate or advanced emergency medical technician or paramedic licensed by the Department to perform emergency services; allows any hospital or health care facility in Oklahoma to use emergency medical technicians (EMTs), intermediate or advanced EMTs, paramedics or critical care paramedics for the delivery of emergency medical patient care within the hospital or facility and for on-scene patient care; allows advanced EMT students to perform in the hospital, clinic or prehospital setting while under direct supervision. The bills redefine EMT to omit technician or EMT basic; allow an EMT training program to be administered by the Department or its designees; define an advanced EMT to mean a person who has completed advanced EMT training and passed the licensing exam. The bills provided that for any licensed emergency medical personnel or certified emergency medical responder who dies while performing official duties in the line of duty, a beneficiary of the deceased will receive \$5,000. The bills authorized the Department of Health to charge a fee for various stages of application of licensed emergency medical personnel. The bills charged the Department with creation of a registry of critical care paramedics. The bills amended requirements for specialty care ambulance services to be solely used for inter-hospital transport of patients who require specialized enroute medical monitoring and advanced life support which exceeds the capabilities of the equipment and personnel of paramedical life support.

House Bill 1467 (2013) created the Trauma and Emergency Response Advisory Council which replaced two formerly designated advisory bodies. Changes were made to the rule to address this change. These legislative actions required several additions and/or amendments to this Chapter.

Since the original chapter was created in 1991, there have been six (6) regulatory revisions to this chapter. Those revisions have created contradictory or conflicting rules. The revised language eliminates contradictions and the new organization format will minimize the possibility of conflicting language in future revisions. Additionally, a review of the Federal Aviation Administration regulations pertaining to Air Ambulances resulted in the removal of several Air Ambulance rules because of Federal jurisdiction.

Establish new standards for existing agencies and create a new certification type. The new certification type is for Standby Emergency Medical Response Agencies. This certification proposes to establish a minimum standard for individuals and agencies that provide emergency medical care at public events. Another new standard requires all Emergency Medical Response Agencies to submit data to the Department through the Oklahoma Emergency Medical Services Information System. The remaining new standards relate to adding details to existing rules or regulatory concepts.

CONTACT PERSON:

Emergency Medical Services division, Oklahoma State Department of Health, 1000 N.E. 10th Street, Oklahoma City, OK 73117-1207; phone (405) 271-4027, e-mail ESsystems@health.ok.gov.

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 OKLAHOMA STATE DEPARTMENT OF HEALTH, 1000 N.E. 10TH STREET, OKLAHOMA CITY, OK 73117-1207 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 EMS Programs, sets forth the organization, subchapters, statutes, and smoking prohibitions. This change amends the subchapter to include definitions for the Chapter. The change clarifies the reorganization of subchapters by license type and includes the new definitions required by statutory changes in 2013. The effect of the rule change will be a more complete set of definitions and a better organized Chapter of rules.

Subchapter 3, Ground Ambulance Service, sets forth the approval and renewal of emergency medical service agency licensure, certification, standards, and authorization, and focuses on the ground ambulance license type. This change clarifies the requirements for the ground ambulance service license, removes conflicting language, and incorporates changes such as emergency vehicle specifications, equipment requirements, and systems of care.

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Subchapter 5, Personnel Licenses and Certification, provides for individual licensure and certification levels, requirements for training, application requirements, and initial and renewal requirements for each license and certification level. This change amends the current subchapter to align with required statutory changes from House Bill 1083 (2013) and House Bill 1467 (2013). Sections amend the scope of practice to meet industry standards and statutory changes. Additionally, it adds specific circumstances when the Department has authority to take licensure action against an individual for inappropriate actions or activities. The changes are necessary to meet statutory requirements and to improve processes for testing, certification, and licensure.

Subchapter 7, Training Programs, provides for the approval and renewal of training programs. It also contains instructor qualifications and standards. This change amends the current subchapter by including statutory requirements, removing conflicting language, and aligning the requirements to industry standards. The proposal clarifies differences between training program instructors and agency instructors. The effect of the changes will be to improve the Department's and the approved training programs' abilities to train, certify, and license qualified candidates.

Subchapter 11, Specialty Care Ambulance Service, is a new subchapter created to address requirements for the specialty care ambulance license type. The prior specialty care language existed in subchapter 3 in eight sections, with cross references to several others. The change locates all aspects of this license type in one subchapter. The changes were necessary to meet the statutory changes of 2013 and to eliminate regulatory conflicts and language that does not apply to the license type. The effect of the rule change will be to fully implement statutory changes from House Bill 1083 (2013) and House Bill 1467 (2013) and locate all the requirements for this license type in one subchapter.

Subchapter 13, Air Ambulance Service, is a new subchapter created to locate all of the requirements for this license type in one subchapter and to address regulatory changes. The prior air ambulance language existed in subchapter 3 in nine sections and was cross-referenced to several others. The proposal clarifies and removes conflicts between Federal Aviation Administration jurisdiction and the Department's jurisdiction.

Subchapter 15, Emergency Medical Response Agencies, is a new subchapter created to bring all requirements for this certification into one subchapter. The language for this agency type was in subchapter 3 with cross references in several other sections. The revised language removes conflicting language and creates a new type of emergency medical response agency certification. This covers the certification of an agency that provides care at mass gatherings such as athletic events, car races, or rodeos. Exceptions address industrial settings and providers that do not provide emergency medical care to the public. The rule will improve the standards for agencies that provide emergency medical care but do not transport patients to healthcare facilities.

Subchapter 17, Stretcher Aid Van Services, is a new subchapter created to include all requirements for this license type in one subchapter. The rule for this category was in subchapter 3 in six sections and cross-referenced in several other sections. The revised language removes regulatory conflicts and ensures that stretcher aid van services provide care within a scope of practice authorized in law. The proposed language clarifies the activities the license allows and removes several requirements that created burdens and conflicts within the license type. The effects of the rule change will be a more appropriate use of this license type while removing unnecessary rules.

The full text of the rule may be obtained by contacting the Emergency Medical Services division, Oklahoma State Department of Health, 1000 N.E. 10th Street, Oklahoma City, OK 73117-1207; phone (405) 271-4027, e-mail ESystems@health.ok.gov.

[OAR Docket #16-707; filed 7-11-16]

TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH CHAPTER 675. NURSING AND SPECIALIZED FACILITIES

[OAR Docket #16-708]

RULEMAKING ACTION:
PERMANENT final adoption

RULES:

Subchapter 9. Resident Care Services
310:675-9-9.1 [AMENDED]

AUTHORITY:

Oklahoma State Board of Health; Title 63 O.S. Section 1-104 and Title 63 O.S. Section 1-1950.

SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:

September 9, 2015

COMMENT PERIOD:

October 1, 2015 through November 4, 2015

PUBLIC HEARING:

November 4, 2015

ADOPTION:

December 8, 2015

SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:

December 18, 2015

APPROVED BY GOVERNOR'S DECLARATION:

Approved by Governor's declaration on June 9, 2016

FINAL ADOPTION:

June 9, 2016

EFFECTIVE:

September 11, 2016

SUPERSEDED EMERGENCY ACTIONS:

"n/a"

INCORPORATIONS BY REFERENCE:

"n/a"

ANALYSIS:

This rule amends OAC 310:675-9-9.1(i) which deals with bulk non-prescription drugs. This rule change removes a limitation on dispensing over the counter medications from bulk supplies of drugs maintained in nursing facilities. This change inserts verbatim language from the law concerning the ordering or authorizing of medications by a physician. This change deletes language which restricts the use of bulk over the counter medications to only as needed or unscheduled dosage regimens and only upon written order of a physician. This change will allow nursing facilities to dispense scheduled regimens of over the counter medications with an order or other authorization. This change brings the rule into conformity with the authorizing statute at Title 63 O.S. Section 63.1-1950(B), which is permissive, rather than restrictive, regarding the dispensing of bulk over the counter medications based on a nonscheduled regimen.

CONTACT PERSON:

Michael Cook, Service Director, Long Term Care Service, Oklahoma State Department of Health, 1000 N.E. 10th Street, Oklahoma City, OK 73117-1207, or by e-mail to MikeC@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, 2016:

SUBCHAPTER 9. RESIDENT CARE SERVICES

310:675-9-9.1. Medication services

(a) Storage.

- (1) Medications shall be stored in a medication room, a locked cabinet, or a locked medication cart, used exclusively for medication storage.
- (2) The medication storage area temperature shall be maintained between 60° F. (15.5° C.) to 80° F.(26.6° C.)
- (3) The medication room, the medication storage cabinet, and medication cart shall be locked when not in use.

- (4) The key to the medication storage areas shall be in the possession of the person responsible for administering medications.
- (5) Scheduled medications shall be in a locked box within the locked medication area or cart.
- (6) Medications for external use shall be stored separately from medications for internal use.
- (7) Medications requiring refrigeration shall be kept within a temperature range of 36° F. (2.2° C.) to 48° F. (8.8° C.) and separated from food and other items. There shall be a method for locking these medications.
- (8) The medication areas shall be well lighted, clean and organized.
- (9) Running water shall be in close proximity to the medication area.
- (10) Powdered over-the-counter medication for topical use may be kept in the resident's room for administration by a nurse aide if:
 - (A) The facility develops and implements policies and procedures for safe storage and application of the powder; and
 - (B) Each aide who applies the over-the-counter topical medication is trained in accordance with the established policies and procedures of the facility.
- (b) **Emergency medications.** Emergency medication, policies and equipment shall include but not be limited to:
 - (1) An electric suction machine with necessary aseptic aspirator tips.
 - (2) An emergency tray or cart with the following items labeled and accessible to licensed personnel only: resuscitation bag; tongue depressors; and assorted airways; sterile hypodermic syringes in 2 cc, 5 cc, and 20 cc or larger sizes and appropriate needles. The content shall be limited to emergency medications and contain no scheduled medications. Only two single dose vials of the following medications may be on the tray or cart: 50% Dextrose, respiratory stimulant, a cardiac stimulant, injectable lasix, injectable dilantin and injectable benadryl.
 - (3) A certified medication aide shall not administer injectable medications from any emergency tray or cart, but shall have access to resuscitation bags, tongue depressors, and assorted sizes of airways.
- (c) **Medication accountability.**
 - (1) Medications shall be administered only on a physician's order.
 - (2) The person responsible for administering medications shall personally prepare the dose, observe the swallowing of oral medication, and record the medication. Medications shall be prepared within one hour of administration.
 - (3) An accurate written record of medications administered shall be maintained. The medication record shall include:
 - (A) The identity and signature of the person administering the medication.
 - (B) The medication administered within one hour of the scheduled time.
 - (C) Medications administered as the resident's condition may require (p.r.n.) are recorded immediately, including the date, time, dose, medication, and administration method.
 - (D) Adverse reactions or results.
 - (E) Injection sites.
 - (F) An individual inventory record shall be maintained for each Schedule II medication prescribed for a resident.
 - (G) Medication error incident reports.
 - (4) A resident's adverse reactions shall be reported at once to the attending physician.
- (d) **Medication labels and handling.**
 - (1) All prescribed medications shall be clearly labeled indicating the resident's full name, physician's name, prescription number, name and strength of medication, dosage, directions for use, date of issue and expiration, and name, address and telephone number of pharmacy or physician issuing the medication, and the quantity. If a unit dose system is used, medications shall indicate, at least, the resident's full name, physician's name and strength of medication, and directions for use.
 - (2) When over-the-counter medications are prescribed and obtained in the original manufacturers container, the package directions shall be considered part of the label. The resident's name shall be on the package.
 - (3) Each resident's medications shall be kept or stored in the originally received containers. Paper envelopes shall not be considered containers.
 - (4) Medication containers having soiled, damaged, illegible or makeshift labels shall be relabeled by the issuing pharmacy or physician. Labels on containers shall be clearly legible and firmly affixed. No label shall be superimposed on another label on a medication container except for over-the-counter medication containers.
 - (5) No person shall change labels on medication containers. If the attending physician orders a change of directions, there shall be a procedure to mark the container indicating a label change is needed at the next prescription refill.
 - (6) A pharmacist shall dilute, reconstitute and label medications, whenever possible. If not possible, a registered nurse may reconstitute, dilute and label medications. A distinctive, indelible, supplementary label shall be affixed to the medication container when diluted or reconstituted for other than immediate use. A licensed practical nurse may reconstitute oral medications only. The label shall include the following: resident's name, dosage and strength per unit/volume, nurse's initials, expiration date, and date and time of dilution or reconstitution.
 - (7) When a resident is discharged, or is on therapeutic leave, the unused medication shall be sent with the resident, or with the resident's representative, unless there is a written physician's order to the contrary, or the medication has been discontinued, or unless the resident or the resident's representative donates unused prescription medications for dispensation to medically indigent persons in accordance with the Utilization of Unused Prescription

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Medications Act. The clinical record shall document the quantity of medication sent, and returned or donated, and the signature of the person receiving or transferring the medications.

(8) All medication orders shall be automatically stopped after a given time period, unless the order indicates the number of doses to be administered, or the length of time the medication is to be administered. The automatic stop order may vary for different types of medications. The facility shall develop policies and procedures, in consultation with the medical director and pharmacist, to review automatic stop orders on medications. The policy shall be available to personnel administering medications.

(9) No resident shall be allowed to keep any medications unless the attending physician or interdisciplinary team has indicated on the resident's clinical record that the resident is mentally and physically capable of self-administering medications.

(10) A resident who has been determined by the physician or interdisciplinary team as capable of self-administering medication may retain the medications in a safe location in the resident's room. The facility shall develop policies for accountability. Scheduled medications shall not be authorized for self-administration, except when delivered by a patient controlled analgesia pump.

(11) A physician's telephone orders shall be conveyed to, recorded in the clinical record, and initialed by the licensed nurse receiving the orders.

(12) Medications shall be administered only by a physician, registered nurse, a licensed practical nurse, or a certified medication aide. The only injectables which a certified medication aide may administer are insulin and vitamin B-12 and then only when specifically trained to do so.

(13) A pharmacy, operating in connection with a facility, shall comply with the State pharmacy law and the rules of the Oklahoma State Board of Pharmacy.

(14) Powdered over-the-counter medication for topical use may be administered by a trained nurse aide when designated in writing by the attending physician and delegated by a licensed nurse. The licensed nurse shall ensure that the aide demonstrates competency in reporting skin changes, storage, application and documentation policies and procedures. The licensed nurse or the attending physician shall document in the resident's record a skin assessment at least twice each week and more often if required by the facility's approved policy.

(e) **Medication destruction.**

(1) Non-controlled medications prescribed for residents who have died and non-controlled medications which have been discontinued shall be destroyed by both the director of nursing and a licensed pharmacist or another licensed nurse. Controlled medication shall be destroyed by a licensed pharmacist and the Director of Nursing. The facility may transfer unused prescription drugs to city-county health department pharmacies or county pharmacies in compliance with the Utilization

of Unused Prescription Medications Act and all rules promulgated thereunder. Prescription only medications including controlled medications shall not be returned to the family or resident representatives. The destruction and the method used shall be noted on the clinical record.

(2) Medications prescribed for one resident may not be administered to, or allowed in the possession of, another resident.

(3) There shall be policies and procedures for the destruction of discontinued or other unused medications within a reasonable time. The policy shall provide that medications pending destruction shall not be retained with the resident's current medications. The destruction of medication shall be carried out in the facility and a signed record of destruction shall be retained in the facility.

(f) **Medication regimen review.** The facility shall ensure that each resident's medications are reviewed monthly, by a registered nurse or a licensed pharmacist. The reviewer shall notify the physician and director of nursing, in writing, when irregularities are evident.

(g) **Consultant pharmacist.** The facility shall have a consultant licensed pharmacist to assist with the medication regimen review and medication destruction. The consultant pharmacist shall discuss policies and procedures for the administration, storage, and destruction of medications with the administrator, director of nursing and other appropriate staff.

(h) **Emergency pharmacy.** The facility shall have a contract, or letter of agreement, with a licensed pharmacy that agrees to serve as the emergency pharmacy. The emergency pharmacy shall be available twenty-four hours a day.

(i) **Bulk nonprescription drugs.** A facility may maintain nonprescription drugs for dispensing from a common or bulk supply as ordered or otherwise authorized by a physician currently licensed to practice medicine in this state [63:1-1950(B)] if all of the following are accomplished.

(1) **Policy of facility.** The facility must have and follow a written policy and procedure to assure safety in dispensing and documentation of medications given to each resident.

(2) **Acquisition.** The facility shall maintain records which document the name of the medication acquired, the acquisition date, the amount and the strength received for all medications maintained in bulk.

(3) **Dispensing.** Only licensed nurses, physicians, pharmacists or certified medication aides (CMA) may dispense ~~for administration~~ these medications ~~and only upon the written order for as needed (p.r.n.) or nonscheduled dosage regimens dosing from a physician as documented in the clinical record of the resident.~~

(4) **Storage.** Bulk medications shall be stored in the medication area and not in resident rooms.

(5) **Records.** The facility shall maintain records of all bulk medications which are dispensed on an individual signed medication administration record (MAR).

(6) **Labeling.** The original labels shall be maintained on the container as it comes from the manufacturer or on the unit-of-use (blister packs) package.

(7) **Package size.** The maximum size of packaging shall be established by the facility in its policy and procedures and shall insure that each resident receives the correct dosage; provided however, that no liquid medications shall be acquired nor maintained in a package size which exceeds 16 fluid ounces.

(8) **Allowed nonprescription drugs.** Facilities may have only oral analgesics, antacids, and laxatives for bulk dispensing and/or drugs listed in a facility formulary developed or approved by the consultant pharmacist, medical director and director of nurses. Non formulary over the counter medications may be prescribed if the resident has therapeutic failure, drug allergy, drug interaction or contraindications to the formulary over the counter medication.

[OAR Docket #16-708; filed 7-11-16]

**TITLE 310. OKLAHOMA STATE
DEPARTMENT OF HEALTH
CHAPTER 680. RESIDENTIAL CARE
HOMES**

[OAR Docket #16-709]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 13. Medication Storage and Administration
310:680-13-2 [AMENDED]

AUTHORITY:

Oklahoma State Board of Health; Title 63 O.S. Section 1-104 and Title 63 O.S. Section 1-1950.

SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:

September 9, 2015

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Approved by Governor's declaration on June 9, 2016

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June 9, 2016

EFFECTIVE:

September 11, 2016

SUPERSEDED EMERGENCY ACTIONS:

"n/a"

INCORPORATIONS BY REFERENCE:

"n/a"

ANALYSIS:

This rule amends OAC 310:680-13-2 which deals with bulk nonprescription drugs. This rule change removes a limitation on dispensing over the counter medications from bulk supplies of drugs maintained in residential care homes. This change inserts verbatim language from the law at Title 63 O.S. Section 1-1950(B) concerning the ordering or authorizing of medications by a physician. This change deletes language which restricts the use of bulk over the counter medications to only as needed or unscheduled dosage regimens and only upon written order of a physician. This change will allow residential care homes to dispense scheduled regimens of over the counter medications with an order or other authorization. This change brings the rule into conformity with the authorizing statute [Title 63 O.S.

Section 1-1950(B)] which is permissive, rather than restrictive, regarding the dispensing of bulk over the counter medications based on a nonscheduled regimen.

CONTACT PERSON:

Michael Cook, Service Director, Long Term Care Service, Oklahoma State Department of Health, 1000 N.E. 10th Street, Oklahoma City, OK 73117-1207, or by e-mail to MikeC@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, 2016:

SUBCHAPTER 13. MEDICATION STORAGE AND ADMINISTRATION

310:680-13-2. Bulk nonprescription drugs

A facility may maintain nonprescription drugs for dispensing on an as needed basis from a common or bulk supply ~~only as ordered or otherwise authorized by a physician currently licensed to practice medicine in this state [63:1-1950(B)]~~ if all of the following are accomplished.

- (1) **Policy of facility.** The facility must have and follow a written policy and procedure to assure safety in dispensing and documentation of medications given to each resident.
- (2) **Acquisition.** The facility shall maintain records which document the name of the medication acquired, the acquisition date, the amount and the strength received for all medications maintained in bulk.
- (3) **Dispensing.** Only licensed nurses, physicians, pharmacists or medication aide technicians (MAT) may dispense ~~for administration~~ these medications ~~and only upon the written order for nonscheduled dosage regimens, as needed, dosing from a physician as documented in the record of the resident.~~
- (4) **Storage.** Bulk medications shall be stored in the medication area and not in resident rooms.
- (5) **Records.** The facility shall maintain records of all bulk medications which are dispensed on an individual signed medication administration record (MAR).
- (6) **Labeling.** The original labels shall be maintained on the container as it comes from the manufacturer or licensed repackager or on the unit-of-care (blister packs) package.
- (7) **Package size.** The maximum size of packaging shall be established by the facility in its policy and procedures and shall insure that each resident receives the correct dosage; provided however, that no liquid medication shall be acquired nor maintained in a container larger than 16 fluid ounces.
- (8) **Allowed nonprescription drugs.** Facilities may have drugs from each of the following categories for bulk dispensing. No other categories may be maintained as bulk medications.
 - (A) Oral analgesics.
 - (B) Antacids.

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(C) Laxatives.

[OAR Docket #16-709; filed 7-11-16]

TITLE 325. OKLAHOMA HORSE RACING COMMISSION CHAPTER 1. COMMISSION POWERS AND JURISDICTION

[OAR Docket #16-555]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

325:1-1-3. Description and powers [AMENDED]

325:1-1-7. Jurisdiction of Stewards to suspend or fine [AMENDED]

AUTHORITY:

75 Oklahoma Statutes §§ 302, 305, and 307; Title 3A O.S., § 204(A); Oklahoma Horse Racing Commission

SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:

August 21, 2015

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PUBLIC HEARING:

October 19, 2015

ADOPTION:

November 19, 2015

SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:

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APPROVED BY GOVERNOR'S DECLARATION:

Approved by Governor's declaration on June 9, 2016

FINAL ADOPTION:

June 9, 2016

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September 11, 2016

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

ANALYSIS:

The Ad Hoc Committee on Rules is comprised of three Commissioners, the Commission Executive Director, the Commission Counsel, the Commission Staff Attorney and the Executive Directors of the two horsemen's representative organizations [the Oklahoma Quarter Horse Racing Association and the Thoroughbred Racing Association of Oklahoma]. The Committee has been reviewing the *Rules of Racing* document, proposing amendments to update information and/or delete obsolete language.

For 325:1-1-3, the amendment proposed to change the number of Commissioners from seven to nine to be in compliance with the CY 2005 statutory amendment in SB 738 to § 201 of Title 3A, The Oklahoma Horse Racing Act. For 325:1-1-7, the amendments proposed to add a descriptor [United States Drug Enforcement Agency] to a Schedule I or II substance and delete the reference to Buprenorphine.

CONTACT PERSON:

Bonnie Morris, Agency Rulemaking Liaison, Oklahoma Horse Racing Commission, Shepherd Mall, 2401 N.W. 23, Suite 78, Oklahoma City, OK 73107, (405) 943-6472

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, 2016:

325:1-1-3. Description and powers

The Oklahoma Horse Racing Commission is an administrative body created by 3A Oklahoma Statutes, 1984 Supplement, § 200, et seq. The Commission consists of ~~seven~~nine members who are appointed by the Governor, confirmed by the Senate, and whose powers and duties are prescribed by the Legislature. [3A:201(A)]. The Commission appoints an Executive Director who is the administrative head of the agency, and the Commission determines the duties of the Executive Director [3A:203.3(A)]. In general, the Legislature has prescribed that the Commission shall have supervision of all race meetings held in the State of Oklahoma, all occupation and Organization Licensees in the State, and all persons on the property of an Organization Licensee [3A:204(A)(1)].

325:1-1-7. Jurisdiction of Stewards to suspend or fine

(a) The Stewards' jurisdiction in any matter **is** ~~continuous~~**is** ~~continuous~~. The Stewards may deny, refuse to issue, or refer to the Commission for revocation, or suspend for not more than one year per violation the occupation license of any person whom they have the authority to supervise; or they may impose a fine not to exceed Two Thousand Five Hundred Dollars (\$2,500.00) per violation; or they may exclude from all enclosures in this state; or they may suspend and fine and/or exclude; or they may order that a person be ineligible for a license. All such suspensions, fines, denials, refusals to issue, referrals or exclusions shall be reported immediately to the Commission.

(b) Upon a first offense for the following rule violations, the Stewards shall assess no less than the Stewards' maximum fine and suspension authorization to any person found to be in violation of Commission rules concerning:

(1) a positive laboratory report involving a United States Drug Enforcement Agency Schedule I or II controlled substance ~~or Buprenorphine~~, or

(2) possession of a United States Drug Enforcement Agency Schedule I or II controlled substance ~~or Buprenorphine~~ within the enclosure, or

(3) possession or use within the enclosure of a prohibited electrical or mechanical device. Any person whose racing record(s) reflects such prior rule violation(s) shall, upon a subsequent violation, be referred by the Stewards to the Commission with the Stewards' recommendation for specific fine and suspension above the Stewards' authorized fine and suspension maximums.

(c) The Stewards may suspend a horse from participating in races if the horse has been involved in violation(s) of the Rules promulgated by the Commission or the provisions of the Oklahoma Horse Racing Act under the following circumstances:

(1) A horse is a confirmed Bleeder as determined by the Official Veterinarian, and the Official Veterinarian recommends to the Stewards that the horse be suspended from participation.

(2) A horse is involved with:

(A) Any violation of medication laws and rules;

(B) Any suspension or revocation of an occupation license by the Stewards or the Commission or any

racing jurisdiction recognized by the Commission; and/or (C) Any violation of prohibited devices, laws, and rules.

[OAR Docket #16-555; filed 6-16-16]

TITLE 325. OKLAHOMA HORSE RACING COMMISSION CHAPTER 10. RACING ORGANIZATION

[OAR Docket #16-556]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

- 325:10-1-8. Right of Commission to information [AMENDED]
325:10-1-32. Procedure to establish horsemen's purses at Fair Race Meeting [REVOKED]
325:10-1-33. Horsemen's Purses [AMENDED]

AUTHORITY:

75 Oklahoma Statutes §§ 302, 305, and 307; Title 3A O.S., § 204(A); Oklahoma Horse Racing Commission

SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:

August 21, 2015

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n/a

INCORPORATIONS BY REFERENCE:

ANALYSIS:

The Ad Hoc Committee on Rules is comprised of three Commissioners, the Commission Executive Director, the Commission Counsel, the Commission Staff Attorney and the Executive Directors of the two horsemen's representative organizations [the Oklahoma Quarter Horse Racing Association and the Thoroughbred Racing Association of Oklahoma].

For 325:10-1-8, the amendment proposed to delete information on reporting of attendance at racetracks since the racetracks no longer charge an admission fee. For 325:10-1-32, revocation was proposed as the procedure was no longer relevant to the purse calculations at a Fair Race Meeting and had not been used in a number of years.

CONTACT PERSON:

Bonnie Morris, Agency Rulemaking Liaison, Oklahoma Horse Racing Commission, Shepherd Mall, 2401 N.W. 23, Suite 78, Oklahoma City, OK 73107, (405) 943-6472

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, 2016:

325:10-1-8. Right of Commission to information

The organization shall furnish the following information to the Commission and other regulatory agencies requiring same on forms approved by the agencies: a daily itemized report of the receipts of pari-mutuel handle, attendance, parking, concessions, commissions, and any other requested information. The attendance reports shall reflect a turnstile(s) count of all persons admitted to the organization facility where pari-mutuel wagering is conducted; such attendance report shall indicate the daily number of paid admissions, taxed complimentary admissions, and tax exempt admissions.

325:10-1-32. Procedure to establish horsemen's purses at Fair Race Meetings [REVOKED]

(a) Fair Associations that conduct race meetings pursuant to the provisions of the Act and Commission rules of racing shall, as the Organization Licensee, distribute purses for participating horses at the Fair Association's initial race meeting as described in (b) of this Section.

(b) The designated six percent (6%) of daily handle to horsemen's purses from Win, Place and Show and the designated ten percent (10%) of daily handle to horsemen's purses from all other forms of wagering shall be the basis for daily purses at the race meeting. Purses for subsequent race days in a race meeting shall be adjusted to correspond with current daily handle no less frequently than each fifth consecutive race day.

325:10-1-33. Horsemen's Purses

- (a) Purses at Commission-sanctioned race meeting(s) shall consist of statutorily designated revenue to purses from: (1) wagering at the Organization Licensee's facilities, (including the Organization Licensee's offtrack wagering facilities) on live races run at the Organization Licensee's

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track and revenue from simulcasting the Organization Licensee's races to other tracks and/or wagering facilities; and

(2) wagering revenue which accrues to purses from the receipt by the Organization Licensee (including the Organization Licensee's offtrack wagering facilities) of races simulcast to the Organization Licensee, from other racing facilities, plus non-statutory money added to purses, including nomination payments, sponsorship money, and money designated to go to purses from any other source ~~not~~ provided by statute and other sources approved by the Commission. Organization Licensees licensed to conduct only mixed breed race meeting(s) shall establish and distribute purses subject to approval by the Commission and subject to paragraph (c) of this rule. Licensees who conduct race meeting(s) by single breed or by single breed and mixed breed, shall pay as purses during each race meeting statutorily-designated revenue generated from (a)(1) above, during each race meeting, subject to paragraph (c) of this rule. Statutorily-generated revenue from (a)(2) above shall be divided between the race meetings, if more than one, based on an agreement (on a calendar year basis) between the Organization Licensee and the duly elected horsemen's representative organizations recognized by the Commission as representing the breeds authorized to race at the respective race meetings. In the absence of an agreement by October 1 of each calendar year, the parties failing to agree shall immediately apply to the Commission for an Order directing the division of such purse monies between the respective race meeting(s).

(b) An applicant for an organization license pursuant to Rule 325:15-3-4 shall submit with the application a request for approval of a purse overpayment or underpayment amount for each race meeting for which a license is requested. The amount requested shall have a reasonable relationship to the manner in which permitted underpayments and overpayments have historically been calculated. Upon granting the organization license, the Commission shall approve and include in the license the amount of the permitted underpayment or overpayment for each race meeting.

(c) Purses at Commission-sanctioned race meetings shall be adjusted by the Organization Licensee to reflect as nearly as possible the appropriate percentages designated by the Act from subparagraph (a)(1) of this rule, generated during each race meeting as well as the division by race meeting of simulcast proceeds provided for in subparagraph (a)(2) of this rule.

(1) An Organization Licensee shall not underpay or overpay the total amount designated for purses according to subparagraphs (a)(1) and (a)(2) of this rule by more than the amount permitted in the organization license. Any underpayment must be paid during the next race meeting for that breed(s). Any overpayment not in excess of the amount permitted in the organization license, may be recouped by the Organization Licensee from statutorily-designated takeout percentages, which accrue to purses from wagering handle, prior to or at the next subsequent race meeting.

(2) Except as otherwise authorized in this rule, any purse overpayment in excess of the amount permitted in the organization license shall be the responsibility of the Organization Licensee.

(3) The Commission may allow an Organization Licensee to alter the amount of underpayment or overpayment set forth in the organization license between race meetings for good cause shown upon the joint application of the Organization Licensee and the duly elected horsemen's representative organization. Any overpayment in excess of the amount permitted in the organization license which has been approved by the Commission may be recouped by the Organization Licensee from statutorily-designated takeout percentages which accrue to purses from wagering handle prior to or at the next subsequent race meeting unless a longer recoupment time is approved by the Commission.

(d) Subject to subparagraph (c) of this rule, all statutorily-designated revenue which accrues to purses from (a)(2) above after the close of a live race meeting for each breed shall be applied to purses during the next live race meeting for that breed(s).

(e) In the event any statutorily-designated purse money cannot be paid to purses in accordance with provisions of this rule the Commission shall determine the disposition of such accrued, but unpaid, purse money.

(f) Sub-paragraph (a) of this rule shall be applicable to the division of statutorily-designated purses commencing January 1, 1999.

[OAR Docket #16-556; filed 6-16-16]

TITLE 325. OKLAHOMA HORSE RACING COMMISSION CHAPTER 15. LICENSING

[OAR Docket #16-557]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 3. Organization Licensing
325:15-3-4. Application for Organization License [AMENDED]

AUTHORITY:

75 Oklahoma Statutes §§ 302, 305, and 307; Title 3A O.S., § 204(A); Oklahoma Horse Racing Commission

SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:

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SUPERSEDED EMERGENCY ACTIONS:

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INCORPORATIONS BY REFERENCE:

n/a

ANALYSIS:

The Ad Hoc Committee on Rules is comprised of three Commissioners, the Commission Executive Director, the Commission Counsel, the Commission Staff Attorney and the Executive Directors of the two horsemen's representative organizations [the Oklahoma Quarter Horse Racing Association and the Thoroughbred Racing Association of Oklahoma]. The Committee has been reviewing the *Rules of Racing* document, proposing amendments to update information and/or delete obsolete language.

The three racetracks licensed by the Commission no longer charge admission, so the two references to an admission price in this rule needed to be removed.

CONTACT PERSON:

Bonnie Morris, Agency Rulemaking Liaison, Oklahoma Horse Racing Commission, Shepherd Mall, 2401 N.W. 23, Suite 78, Oklahoma City, OK 73107, (405) 943-6472

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, 2016:

325:15-3-4. Application for organization license

Any person desiring to conduct a horse race meeting ~~where the public is charged an admission fee~~ shall apply to the Commission for an organization license [3A:205]. *The application shall be made on a form prescribed and furnished by the Commission and shall include a search waiver* [3A:205.1(A)]. Pursuant to 3A O.S., § 205.1, the application shall contain the information in (1) through (15) of this section:

- (1) The dates on which and location where the applicant intends to conduct the race meeting.
- (2) The hours of each racing day between which the applicant intends to conduct racing and the number of races per day.
- (3) The racing breeds for which the applicant proposes to conduct racing and the proposed ratio of races for each breed.
- (4) The name and mailing address of the person making the application.
 - (A) If the applicant is a corporation, a certified copy of the Articles of Incorporation and Bylaws; the names and mailing addresses of all stockholders who own at least three percent (3%) of the total stock issued by the corporation, officers, and directors; and the number of shares of stock owned by each.
 - (B) If the applicant is a partnership, a copy of the partnership agreement, and the names and mailing addresses of all general and limited partners with a statement of their respective interest in the partnership.
- (5) Drawings and plans of all existing physical facilities within the enclosure to be operated by applicant and preliminary design and outline specifications of all new facilities or additional improvements to such facilities which are proposed to be made, together with tentative

approvals thereof by the State Fire Marshal of the State of Oklahoma or an approved plan of correction under State Fire Regulations; approvals of appropriate Health Department authorities; and provisions for handicapped persons approved by the Oklahoma Department of Human Services.

- (6) Description of types of pari-mutuel wagering to be conducted with schedule on a per race basis.
- (7) Description of pari-mutuel equipment, photographic equipment, video equipment, and copies of any proposed lease or purchase contract or service agreement in connection therewith.
- (8) Copies of real estate deed(s), contract(s) for sale, option agreement(s), lease(s), mortgage(s) or financing agreement(s), and the most current ad valorem tax assessment and zoning restrictions.
- (9) Copies of any agreements with concessionaires or Lessees, together with schedules of rates charged for performance of any service or for sale of any article within the enclosure, whether directly or through the concessionaire.
- ~~(10) Schedule of admission price(s) to be charged.~~
- ~~(10-11)~~ Any contract or agreement for the payment or receipt of money and schedule(s) of all salaries, fees, or compensations to be paid by the Organization Licensee.
- ~~(11-12)~~ Applicants must submit balance sheets and profit and loss statements for each of the three fiscal years immediately preceding the application, or for the period of organization if less than three years. If the applicant has not completed a full fiscal year since its organization, or if it acquires or is to acquire the majority of its assets from a predecessor within the current fiscal year, the financial information shall be given for the current fiscal year. All financial information shall be accompanied by an unqualified opinion of a Certified Public Accountant; or if the opinion is given with qualifications, the reasons for the qualifications must be stated.
- ~~(12-13)~~ Any other information the Commission may require [3A:205.1(A)(7)].
- ~~(13-14)~~ A separate application upon a form prescribed and furnished by the Commission shall be filed for each race meeting which such person proposes to conduct. The application, if made by a person, shall be signed and verified under oath by the person; and if made by more than one person or by a partnership, shall be signed and verified under oath by at least two of the persons or members of the partnership; and if made by an association, a corporation, or any other entity, shall be signed by the President, attested to by the Secretary under the seal of such association or corporation, if it has a seal, and verified under oath by one of the signing officers.
- ~~(14-15)~~ No person shall own any silent or undisclosed interest in any entity requesting an organization license. No organization license shall be issued to any applicant that fails to comply with the provisions of this Section. No incomplete license application shall be considered by the Commission.
- ~~(15-16)~~ License fees to conduct racing with the pari-mutuel system of wagering are required in an amount

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equal to Five Thousand Dollars (\$5,000.00) for each race meeting and Two Hundred Dollars (\$200.00) for each race day requested, except that the fee of Five Thousand Dollars (\$5,000.00) shall be waived for applicants applying for Fair Race Meetings pursuant to the provisions of the Act [3A:205.2(A)].

(1647) Pursuant to the provisions of 3A O.S., §§ 205.2, 205.2a, 205.3, 205.4, and 205.5, in considering the granting or denying of an organization's application for a license to conduct horse racing with the pari-mutuel system of wagering, the following criteria, standards, and guides in (A) through (R) of this paragraph should be considered by the Commission:

- (A) Public interest
 - (i) Safety
 - (ii) Morals
 - (iii) Security
 - (iv) Municipal comments
 - (v) Revenues: State and local
- (B) Track location
 - (i) Traffic flow
 - (ii) Support services (i.e., hotels, restaurants, etc.)
 - (iii) Labor supply
 - (iv) Public services (i.e., police, fire, etc.)
 - (v) Proximity to competition
- (C) Number of tracks running or making application
 - (i) Size
 - (ii) Type of racing
 - (iii) Days
- (D) Adequacy of track facilities
- (E) Experience in racing of Applicant and management
 - (i) Length
 - (ii) Type
 - (iii) Success/failure
- (F) Financial qualifications of Applicant, Applicant's partners, officers, associates, and Shareholders (to include contract services): Financial history including records and net worth
- (G) Moral qualifications of Applicant, Applicant's partners, directors, board members, officers, associates, and shareholders (to include contract services): Moral history including arrest record, conviction record, litigation record (civil/criminal), law enforcement intelligence, personal and family history and reputation
- (H) Official attitude of local government involved
- (I) Anticipated effect upon breeding and horse industry in Oklahoma
- (J) Effect on saturation of pari-mutuel market
- (K) Anticipated effect upon State's economy
 - (i) General economy
 - (I) Tourism
 - (II) Employment
 - (III) Support industries
 - (ii) Government revenue

- (I) Tax (direct/indirect)
- (II) Income (Direct/Indirect)
- (L) Attitude of local community involved
- (M) The written attitude of horse industry associations
- (N) Experience and credibility of Applicant, Applicant's employees, along with consultants, advisors, and professionals
 - (i) Feasibility
 - (ii) Credibility of feasibility study
 - (iii) Integrity
- (O) Financial integrity
 - (i) Economic integrity of financial plan
 - (I) Equity including source, amount, position, type
 - (II) Debt including source, amount, terms, repayment
 - (III) Equity to debt ratio
 - (ii) Moral integrity of financing plan
 - (I) Identity of participants
 - (II) Role of participants
 - (III) History of participants
 - (IV) Law enforcement intelligence
 - (V) Reputation of participants
- (P) Apparent or non-apparent hope of financial success

(1748) Only the organizations set forth in Section 208.2 of Title 3A, i.e., Agricultural Fair Corporations, the Free Oklahoma State Fair, Free District Fairs, and Agricultural and Industrial Expositions Fairs or any existing county, district, or state fair as of January 1, 1983, will be allowed to apply to the Commission for a Fair Race Meeting Organization License; and the licensee shall actually be the operator of the race meeting.

(1849) An allotment of sixteen (16) race days or less to a Fair Meet shall be confined within a maximum of twenty-eight (28) consecutive calendar days or a fair association shall be permitted to conduct a race meeting of twenty (20) to twenty-two (22) days during a thirty-eight-consecutive-day period, except as otherwise provided in 325:10-1-3.

[OAR Docket #16-557; filed 6-16-16]

TITLE 325. OKLAHOMA HORSE RACING COMMISSION CHAPTER 15. LICENSING

[OAR Docket #16-558]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 5. Occupation Licensing

325:15-5-10. Grounds for denial, refusal, suspension or revocation of license [AMENDED]

AUTHORITY:

75 Oklahoma Statutes §§ 302, 305, and 307; Title 3A O.S., § 204(A); Oklahoma Horse Racing Commission

SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:

October 21, 2015

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November 16, 2015 to January 14, 2016

PUBLIC HEARING:

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January 14, 2016

SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:

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Approved by Governor's declaration on June 9, 2016

FINAL ADOPTION:

June 9, 2016

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September 11, 2016

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

ANALYSIS:

The Ad Hoc Committee on Rules is comprised of three Commissioners, the Commission Executive Director, the Commission Counsel, the Commission Staff Attorney and the Executive Directors of the two horsemen's representative organizations [the Oklahoma Quarter Horse Racing Association and the Thoroughbred Racing Association of Oklahoma]. The Committee has been reviewing the *Rules of Racing* document, proposing amendments to update information and/or delete obsolete language.

The proposed amendments included the following actions: add a descriptor [United States Drug Enforcement Agency] to a Schedule I or II substance; delete the reference to Buprenorphine; extend the length of time for denial of a Commission occupation license from 5 years to 10 years for two or more rule violations regarding electrical or mechanical devices; delete language about exemption to license denial for a violation that occurred prior to January 1, 1987; and correct a statutory citation.

CONTACT PERSON:

Bonnie Morris, Agency Rulemaking Liaison, Oklahoma Horse Racing Commission, Shepherd Mall, 2401 N.W. 23, Suite 78, Oklahoma City, OK 73107, (405) 943-6472

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, 2016:

325:15-5-10. Grounds for denial, refusal, suspension or revocation of license

(a) In addition to any other valid ground or reason, the Stewards may deny, refuse to issue, suspend or refer to the Commission for revocation the occupation license for any person; or the Commission may deny, refuse to issue, suspend or revoke an occupation license for any person:

- (1) Who has been convicted of a felony in this State, any other state, or the United States of America; or
- (2) Who has been convicted of violating any law regarding gambling or a controlled dangerous substance of this State, any other state, or of the United States of America; or
- (3) Who is unqualified to perform the duties required of the applicant; or
- (4) Who fails to disclose or states falsely any information required in the application; or

(5) Who has been found guilty of a violation of any provision of the Oklahoma Horse Racing Act or of the Rules and Regulations of the Commission; or

(6) Whose license or spouse's license for any racing occupation or activity requiring a license has been or is currently suspended, revoked, refused or denied for just cause in any recognized racing jurisdiction; or

(7) Who has been or is currently excluded from any racing enclosure by a recognized racing jurisdiction; or

(8) Whose conduct or reputation is such that his/her presence at a race meeting may, in the opinion of the Commission or the Stewards, reflect on the honesty and integrity of horse racing or interfere with the orderly conduct of a race meeting; or

(b) Notwithstanding the provisions in (a) of this Section, any person whose racing record(s) from any racing jurisdiction(s) recognized by the Commission, including Oklahoma, reflects two or more racing medication rule violations for any United States Drug Enforcement Agency Schedule I or II controlled substances or Buprenorphine or violation of rules two or more rule violations regarding electrical or mechanical devices within the preceding five years shall be denied a Commission occupation license; ~~provided, however, that any person who has been continuously licensed by the Commission since 1986 and where said racing medication or electrical or mechanical device rule violation occurred prior to January 1, 1987, shall not be denied a license solely by reason(s) of those violation(s) which occurred prior to January 1, 1987.~~ [3A:204.2(C); see also ~~3A:204(D)~~ 3A:204.2(D) and 3A:204.3]

(c) Notwithstanding the above provisions, any applicant whose racing record(s) from any racing jurisdiction(s) recognized by the Commission, including Oklahoma, reflects any human substance abuse violations may be denied a Commission occupation license until the person pays for and submits to two (2) urine samples thirty (30) days apart with both samples failing to show any trace of a controlled dangerous substance. All such samples shall be obtained and tested by the Commission under conditions properly controlled to guarantee the complete integrity of the process and at the expense of the person. After the person has received two (2) negative tests, s/he may reapply for a license unless his/her continuing participation at a race meeting shall be deemed by the Commission Director of Law Enforcement or his/her designee as to be detrimental to the best interest of horse racing. [3A:204.2(C); see also 3A:204.2(D) and 3A:204.3]

[OAR Docket #16-558; filed 6-16-16]

TITLE 325. OKLAHOMA HORSE RACING COMMISSION CHAPTER 15. LICENSING

[OAR Docket #16-559]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 5. Occupation Licensing
325:15-5-23. Horse ownership by lease [AMENDED]

Permanent Final Adoptions

325:15-5-27. Honoring official credentials [AMENDED]

AUTHORITY:

75 Oklahoma Statutes §§ 302, 305, and 307; Title 3A O.S., § 204(A); Oklahoma Horse Racing Commission

SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:

August 21, 2015

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SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

ANALYSIS:

The Ad Hoc Committee on Rules is comprised of three Commissioners, the Commission Executive Director, the Commission Counsel, the Commission Staff Attorney and the Executive Directors of the two horsemen's representative organizations [the Oklahoma Quarter Horse Racing Association and the Thoroughbred Racing Association of Oklahoma]. The Committee has been reviewing the *Rules of Racing* document, proposing amendments to update information and/or delete obsolete language.

For 325:15-5-23, the amendment proposed to limit the type of lease form used since the Commission form requires more information than other lease forms. For 325:15-5-27, the proposed amendment was the deletion of reference to a national organization no longer in existence.

CONTACT PERSON:

Bonnie Morris, Agency Rulemaking Liaison, Oklahoma Horse Racing Commission, Shepherd Mall, 2401 N.W. 23, Suite 78, Oklahoma City, OK 73107, (405) 943-6472

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULE AMENDMENTS 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, 2016:

325:15-5-23. Horse ownership by lease

Horses may be raced under lease provided a completed Oklahoma Horse Racing Commission lease form, ~~breed registry~~, ~~approved pari-mutuel lease~~, or other lease form acceptable to the Commission, is attached to the Registration Certificate and on file with the Commission. The Lessor(s) and Lessee must be licensed as horse Owners. No Lessor shall execute a lease for the purpose of avoiding insurance requirements.

325:15-5-27. Honoring official credentials

Credentials issued by the Commission shall be honored for admission at all gates and entrances and to all places within the enclosure. Automobiles with vehicle decals issued by the Commission to its members and employees shall be permitted ingress and egress at any point. Credentials issued by the Association of Racing Commissioners International, Inc. ~~and~~

~~the North American Pari-Mutuel Regulators Association~~ to its members, past members, and staff shall be honored by the organization for admission into the public enclosure when presented therefore by such persons.

[OAR Docket #16-559; filed 6-16-16]

TITLE 325. OKLAHOMA HORSE RACING COMMISSION CHAPTER 20. RACING OFFICIALS AND RACING PERSONNEL

[OAR Docket #16-560]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

325:20-1-6. Racing officials appointed by the Commission [AMENDED]

325:20-1-18. Duties of the Clerk of Scales [AMENDED]

AUTHORITY:

75 Oklahoma Statutes §§ 302, 305, and 307; Title 3A O.S., § 204(A); Oklahoma Horse Racing Commission

SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:

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Approved by Governor's declaration on June 9, 2016

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SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

Not Applicable

ANALYSIS:

The Ad Hoc Committee on Rules is comprised of three Commissioners, the Commission Executive Director, the Commission Counsel, the Commission Staff Attorney and the Executive Directors of the two horsemen's representative organizations [the Oklahoma Quarter Horse Racing Association and the Thoroughbred Racing Association of Oklahoma]. The Committee has been reviewing the *Rules of Racing* document, proposing amendments to update information and/or delete obsolete language.

For 325:20-1-6, the amendment proposed to eliminate the position of Certified Veterinary Assistant from the list since the Commission changed the position to a Veterinary Assistant in CY 2002 since the skill set and designation of a Certified Veterinary Assistant are not required under the current operations of the Commission. For 325:20-1-18, the amendment proposed to require the Clerk of Scales to provide the scale sheet data on a per race, rather than a per day, basis.

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, 2016:

325:20-1-6. Racing officials appointed by the Commission

(a) The Commission shall appoint the following Racing Officials for a race meeting [3A:203.4]:

- (1) Board of three (3) Stewards;
(2) Official Veterinarian; and
(3) Certified Veterinarian Technician; and
(4) Horse Identifier.

(b) To qualify for appointment as a Steward, the appointee shall be an accredited Racing Official or Steward by the Stewards/Judges Accreditation Program administered by the University of Arizona and the University of Louisville, meet the experience and continuing education requirements of the program and be in good standing with all racing jurisdictions. Individuals who have participated and been accredited under the former University of Arizona or University of Louisville programs shall be regarded as qualified for appointment as Stewards.

325:20-1-18. Duties of the Clerk of Scales

The Clerk of Scales is responsible for the presence of all Jockeys in the Jockey's room at the appointed time and to verify that all Jockeys have a current Oklahoma Jockey's license. The Clerk of Scales shall verify the correct weight of each Jockey at the time of weighing out and when weighing in, and shall report any discrepancies to the Stewards immediately. In addition, s/he shall be responsible for the security of the Jockey's room and the conduct of the Jockeys and their attendants. He or she shall promptly report to the Stewards any alleged infraction of the Act or rules of this Title with respect to weight, weighing, riding equipment, or conduct. He or she shall be responsible for accounting of all data required on the scale sheet and submit that data to the Horsemen's Bookkeeper at the end of each race day. He or she shall maintain the record of applicable winning races on all Apprentice Certificates at the meeting; and at the close of the meeting, or on the departure of the Apprentice Jockeys, the Apprentice Certificates shall be released to them.

[OAR Docket #16-560; filed 6-16-16]

TITLE 325. OKLAHOMA HORSE RACING COMMISSION
CHAPTER 25. ENTRIES AND DECLARATIONS

[OAR Docket #16-561]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

325:25-1-2. Definitions [AMENDED]

AUTHORITY:

75 Oklahoma Statutes §§ 302, 305, and 307; Title 3A O.S., § 204(A); Oklahoma Horse Racing Commission

SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:

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SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

ANALYSIS:

The Ad Hoc Committee on Rules is comprised of three Commissioners, the Commission Executive Director, the Commission Counsel, the Commission Staff Attorney and the Executive Directors of the two horsemen's representative organizations [the Oklahoma Quarter Horse Racing Association and the Thoroughbred Racing Association of Oklahoma]. The Committee has been reviewing the Rules of Racing document, proposing amendments to update information and/or delete obsolete language.

For 325:25-1-2, the amendment proposed to change the definition of Authorized Agent, extending to Trainers the opportunity to have an Agent to act on the Trainer's behalf.

CONTACT PERSON:

Bonnie Morris, Agency Rulemaking Liaison, Oklahoma Horse Racing Commission, Shepherd Mall, 2401 N.W. 23, Suite 78, Oklahoma City, OK 73107, (405) 943-6472

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, 2016:

325:25-1-2. Definitions

In addition to the definitions provided in Section 200.1 of Title 3A, of the Oklahoma Statutes, 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 Horse Racing Act [3A:200 et seq.].

"Accredited Oklahoma-Bred horse" means a horse that is eligible pursuant to the Act and Commission rules and whose registration in the Oklahoma-Bred Program has been completed by the official Registering Agency.

"Added money" means the amount exclusive of trophy added into a stakes by the Organization Licensee, or by sponsors, state-bred programs, or other funds added to those monies gathered by nomination, entry, sustaining and other fees coming from the horsemen.

"Age" means that the age of a horse is reckoned as beginning on the first day of January in the year in which the horse is foaled.

"Also eligible" means:

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(A) A number of eligible horses, properly entered, which were not drawn for inclusion in a race, but which become eligible according to preference or lot if an entry is scratched from a race prior to scratch time.

(B) In a trial race, the next preferred contestant that is eligible to participate when an entry is scratched, pursuant to the written conditions of the race.

"Assistant Trainer" means a person qualified and licensed by the Commission as an Assistant Trainer.

"Authorized Agent" means a person licensed by the Commission and appointed by a written notarized affidavit by the Owner or Trainer on whose behalf the Agent will act. Said affidavit must be on file with the Commission.

"Closing" means the time published by the Organization Licensee after which nominations or entries will not be accepted for a race.

"Commissioner" means a member of the Oklahoma Horse Racing Commission.

"Conditions of a race" means the qualifications which determine the eligibility of a horse to be entered in a race.

"Coupled entry" means two or more contestants in a race that are treated as a single betting interest for pari-mutuel wagering purposes (also see "Entry").

"Day" means a 24-hour period ending at midnight.

"Declaration" means the act of withdrawing an entered horse from a race before the closing of entries.

"Draw" means the process of publicly assigning post positions and selecting contestants in a manner to ensure compliance with the conditions of the rules of racing.

"Entry" means:

(A) A horse eligible for and entered in a race.

(B) Two (2) or more horses entered in the same race which have common ties of Ownership, lease, or training (also see "Coupled Entry").

"Field" means all horses competing in a race.

"Horse" means:

(A) any equine including and designated as mare, filly, stallion, colt, ridgeling, or gelding registered for racing;

(B) an entire equine male five years of age and older.

"Lessee" means a licensed Owner whose interest in a horse is by virtue of a completed Commission-approved lease form attached to the Registration Certificate and on file with the Commission.

"Lessor" means the Owner of a horse that is leased.

"Maiden" means a horse which has never won an official or recognized race as defined in breed registry rules. A maiden which has been disqualified after finishing first is still a maiden.

"Mutuel field" means two or more contestants treated as a single betting interest for pari-mutuel wagering purposes because the number of betting interests exceeds the number that can be handled individually by the pari-mutuel system.

"Nomination" means the naming of a horse to a certain race or series of races generally accompanied by payment of a prescribed fee.

"Nominator" means the person who nominates a horse as a possible contender in a race.

"Occupation license" means a state requirement for any person acting in any capacity pursuant to provisions of the Act.

"Occupation licensee" means any person who has obtained an occupation license.

"Organization license" means a state requirement for any person desiring to conduct a race meeting in Oklahoma within the minimum standards as required by the Act and the rules of the Commission.

"Owner" means any person who holds in whole or in part, any right, title or interest in a horse or an Organization Licensee or any person who is a Lessee of a horse and has been duly issued a currently-valid Owner license as a person responsible for such horse.

"Post position" means the position in the starting gate assigned to the horse for the start of the race.

"Post time" means the scheduled time set for the arrival of the horses at the starting gate for the race.

"Program" means the published listing of all contests and contestants for a specific performance.

"Race" means a contest between horses.

"Race day" means a day during a race meeting when pari-mutuel wagering occurs on live races conducted at that racetrack.

"Races" mean:

(A) **Allowance.** An overnight race for which eligibility and weight to be carried is determined according to specified conditions which include age, sex, earnings, number of wins, and distance of race.

(B) **Claiming.** A race in which any horse starting may be claimed and purchased for a designated amount in conformance with the rules in this Title.

(C) **Exhibition.** A race on which no wagering is permitted.

(D) **Handicap.** A race in which the weights to be carried by the horses are assigned by the Racing Secretary.

(E) **Invitational.** A race in which the competing horses are selected by inviting their Owners to enter specific horses.

(F) **Maiden.** A race restricted to non-winners.

(G) **Match.** A race contested between two or more horses under conditions agreed to by their Owners.

(H) **Nomination.** A race in which the subscription to a payment schedule nominates and sustains the eligibility of a particular horse. Nominations must close at least seventy-two (72) hours before the first post time of the day the race is originally scheduled to be run.

(I) **Oklahoma-Bred.** A race for which entry may be restricted to accredited Oklahoma-Bred registered horses.

(J) **Overnight (Purse).** A race for which entries close at a time set by the Racing Secretary.

(K) **Progeny.** A race restricted to the offspring of a specific stallion or stallions.

(L) **Schooling.** A preparatory race for entry qualification in official races which conforms to requirements adopted by the Commission.

(M) **Stakes.** A race which is eligible for stakes or "black-type" recognition by the particular breed registry.

(N) **Trial.** A race or a series of races in which horses participate for the purpose of determining eligibility for a subsequent contest.

(O) **Walkover.** A race in which only one horse starts or in which all the starters are owned by the same interest. To claim the purse, a horse must start and go the distance of the race.

"**Restricted area**" means any area within the enclosure where access is limited to licensees whose occupation requires access. Those areas which are restricted shall include but not be limited to the barn area, paddock, test barn, Stewards' tower, racecourse, mutuel line and money rooms, or any other area designated restricted by the Organization Licensee or the Commission, or both. Signs giving notice of restricted access shall be prominently displayed at all entry points.

"**Rules**" means the rules adopted by the Commission to implement the provisions of the Act.

"**Scratch**" means the act of withdrawing an entered horse from a race after the closing of entries.

"**Scratch time**" means the deadline for withdrawal of entries from a scheduled race.

"**Starter**" means a horse whose stall door of the starting gate opens in front of such horse at the time the Starter (the Official) dispatches the horses.

"**Steward**" means a duly appointed Racing Official with powers and duties specified by statutes or rules.

"**Subscription**" means the act of nominating a horse to a nomination race.

"**Trainer**" means a person qualified and licensed by the Commission as a Trainer.

"**Week**" means a calendar week.

"**Weight for age**" means a race in which a fixed scale is used to assign the weight to be carried by individual horses according to age, sex, distance of the race, and season of the year.

"**Year**" means a calendar year.

[OAR Docket #16-561; filed 6-16-16]

**TITLE 325. OKLAHOMA HORSE RACING COMMISSION
CHAPTER 25. ENTRIES AND DECLARATIONS**

[OAR Docket #16-562]

RULEMAKING ACTION:
PERMANENT final adoption

RULES:
325:25-1-10. Horses ineligible to start in a race [AMENDED]

AUTHORITY:
75 Oklahoma Statutes §§ 302, 305, and 307; Title 3A O.S., § 204(A); Oklahoma Horse Racing Commission

SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:

December 23, 2015

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February 18, 2016

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Approved by Governor's declaration on June 9, 2016

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June 9, 2016

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September 11, 2016

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

ANALYSIS:

The Ad Hoc Committee on Rules is comprised of three Commissioners, the Commission Executive Director, the Commission Counsel, the Commission Staff Attorney and the Executive Directors of the two horsemen's representative organizations [the Oklahoma Quarter Horse Racing Association and the Thoroughbred Racing Association of Oklahoma]. The Committee has been reviewing the *Rules of Racing* document, proposing amendments to update information and/or delete obsolete language.

The Ad Hoc Committee on Rules proposed an amendment to add that a horse with an open hole in its trachea, by means of a tracheotomy or otherwise is ineligible to start in a race.

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, 2016:

325:25-1-10. Horses ineligible to start in a race

In addition to any other valid ground or reason, a horse is ineligible to start in any race if:

(1) Such horse is not registered by The Jockey Club if a Thoroughbred; the American Quarter Horse Association if a Quarter Horse; the Appaloosa Horse Club if an Appaloosa; the Arabian Horse Club Registry of America if an Arabian; the American Paint Horse Association if a Paint; the Pinto Horse Association of America, Inc., if a Pinto; or any successors to any of the foregoing or other registry recognized by the Commission.

(2) The original, replacement, or corrected Certificate of Foal Registration, or other registration issued by the official registry for such horse is not on file with the Racing Secretary prior to the race in which the horse is scheduled to race. The Stewards may make exceptions in certain stakes races, in which case such Foal Certificate must be on file no later than one (1) hour prior to post time for the first race of that race program, except that in emergency situations for finals and stakes races, the Stewards may allow a horse to start in a race if an acceptable photocopy of

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the Foal Certificate is provided by a representative of a turf governing body, a licensed racetrack or a breed registry, and the original Foal Certificate is on file with that entity. However, under no circumstances shall any money earned be paid to said starter until the original, replacement, or corrected Foal Certificate is received by the Stewards so that all information may be verified and any eligibility notations recorded on or attached to the Foal Certificate.

(3) Such horse has been entered or raced at any recognized race meeting under any name or designation other than the name or designation duly assigned by and registered with the official registry.

(4) The Win Certificate, Certificate of Foal Registration, eligibility papers, or other registration issued by the official registry has been materially altered, erased, removed, or forged.

(5) Such horse is ineligible to enter said race, is not duly entered for such race, or remains ineligible to time of starting.

(6) The ownership and Trainer of such horse has not completed the prescribed licensing procedures required by the Commission before starting the horse, or the horse is in the care of an unlicensed Trainer.

(7) Such horse is owned in whole or in part or trained by any person who is suspended or ineligible for a license or ineligible to participate under the rules of any Turf Governing Authority or Stud Book Registry.

(8) Such horse is a suspended horse.

(9) Such horse is on the Stewards' List, Starter's List, or the Veterinarian's List.

(10) Except with permission of the Stewards and Horse Identifier, the identification markings of the horse do not agree with the identification as set forth on the Registration Certificate to the extent that a correction is required from the appropriate breed registry.

(11) Except with the permission of the Stewards, the horse has not been lip tattooed by a Commission-approved Tattooer.

(12) The entry of a horse is not in the name of its true Owner.

(13) The horse has drawn into the field or has started in a race on the same day.

(14) The age of the horse as determined by an examination of its teeth by the Official Veterinarian does not correspond to the age shown on its Registration Certificate, such determination by tooth examination to be made in accordance with the current OFFICIAL GUIDE FOR DETERMINING THE AGE OF THE HORSE as adopted by the American Association of Equine Practitioners.

(15) The Certificate of Registration of a horse reflects an unknown sire or dam.

(16) An Ownership transfer for a claimed horse is being processed by the Racing Secretary to a breed registry, and an acceptable photocopy of the Foal Certificate is not on file with the Racing Secretary.

(17) A horse is wholly or partially owned by a disqualified person, or a horse is under the direct or indirect management of a disqualified person.

(18) A horse is wholly or partially owned by the spouse of a disqualified person or a horse is under the direct or indirect management of the spouse of a disqualified person, in such cases, it being presumed that the disqualified person and spouse constitute a single financial entity with respect to the horse, which presumption may be rebutted.

(19) The horse is a cloned horse.

(20) The horse has an open hole in its trachea, by means of a tracheotomy or otherwise.

[OAR Docket #16-562; filed 6-16-16]

TITLE 325. OKLAHOMA HORSE RACING COMMISSION CHAPTER 25. ENTRIES AND DECLARATIONS

[OAR Docket #16-563]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

325:25-1-10. Horses ineligible to start in a race [AMENDED]

AUTHORITY:

75 Oklahoma Statutes §§ 302, 305, and 307; Title 3A O.S., § 204(A); Oklahoma Horse Racing Commission

SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:

January 28, 2016

COMMENT PERIOD:

February 16, 2016 to March 31, 2016

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March 21, 2016

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March 31, 2016

SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:

March 31, 2016

APPROVED BY GOVERNOR'S DECLARATION:

Approved by Governor's declaration on June 9, 2016

FINAL ADOPTION:

June 9, 2016

EFFECTIVE:

September 11, 2016

SUPERSEDED EMERGENCY ACTIONS:

Superseded rules:

325:25-1-10. Horses ineligible to start in a race

Gubernatorial approval:

February 15, 2016

Register publication:

33 Ok Reg 452

Docket number:

16-301

INCORPORATIONS BY REFERENCE:

n/a

ANALYSIS:

The Ad Hoc Committee on Rules is comprised of three Commissioners, the Commission Executive Director, the Commission Counsel, the Commission Staff Attorney and the Executive Directors of the two horsemen's representative organizations [the Oklahoma Quarter Horse Racing Association and the Thoroughbred Racing Association of Oklahoma].

The Rules Committee proposed the rule amendment to address the ineligibility of a horse to start in a race if the Owner or Trainer is suspended or ineligible for a license or ineligible to participate under the rules of any Turf Governing Authority or Stud Book Registry.

The amendment of the Rule is necessary to ensure Oklahoma and the Horse Racing Commission are complying with Federal Anti-Trust Laws, in light of the recent United States Supreme Court's decision in *North Carolina*

State Board of Dental Examiners v. Federal Trade Commission, (2015). At present, Commission Rule OAC 325:25-1-10 establishes various grounds that make a horse ineligible to start in a race conducted under the Commission's jurisdiction. Among those grounds is one contained in present subsection (A)(7) of the Rule, that makes a horse ineligible if, "such horse is owned in whole or in part or trained by any person who is suspended or ineligible for a license or ineligible to participate **under the rules of any Turf Governing Authority or Stud Book Registry.**" *Id.* (emphasis added).

Thus, under this present provision in the Rule, the Commission is required to recognize suspensions on ineligibility based on decisions and policies of non-sovereign entities, Turf Governing Authorities and Stud Book Registries.

As the United States Supreme Court's decision in the *North Carolina* case recognized, non-sovereign entities controlled by market participants that do not receive active supervision by the state, are not entitled to *Parker* state-action immunity from federal anti-trust laws. In that case, a state regulatory board, the North Carolina Board of Dental Examiners, was considered a non-sovereign entity; the Horse Racing Commission, under the Court's analysis, might also be considered a non-sovereign entity, as under the present rule the Commission might be viewed as merely acting as an enforcement arm of the private, non-sovereign breed registries. Without the rule change, the Commission would be totally acting on the basis of decisions and policies of private organizations, the Turf Governing Authority and Stud Book Registry.

At present, the rule would require the Commission to recognize and hold owners and trainers ineligible regardless of whether the grounds for such rulings by the Turf Governing Authority and Stud Book Registry were based on policies consistent with Oklahoma's public policy.

The intent of the rule amendment is to correct this situation by eliminating paragraph 7 and replacing it with a new subsection (B) that requires that decisions of Stud Book Registries be recognized only when the Commission determines:

- That the Stud Book Registry has adopted uniform criteria and procedures for use in excluding horses from participating in races for the Registry's breed and for suspending or finding an owner or trainer ineligible,
- That the Stud Book Registry has adopted procedures that afford affected owners and trainers with notice and meaningful opportunity to respond prior to suspension or finding the owner or trainer ineligible or excluding a horse, that comports with due process, and
- That the Stud Book Registry has provided the Commission's Director of Law Enforcement Division with:

(1) the Registry's Order of Suspension or Ineligibility for an act or omission that violates the Oklahoma Horse Racing Act and/or Commission Rules, and

(2) the Due Process Notice provided to the owner or trainer prior to the proceeding leading to the Order of Suspension or Ineligibility.

The amendment to the rule thus ensures that a horse would be ruled ineligible on the basis of clearly articulated and affirmatively expressed State policy—here, the Oklahoma Horse Racing Act or Commission Rule.

The amendment would also ensure that no ruling by such Registries would be recognized unless the Commission finds that the affected owner or trainer has been afforded due process by the Stud Book Registry.

In the *North Carolina State Board of Dental Examiners* case, the Court held that to be entitled to the protection of *Parker* immunity, the market restraint of an entity, such as the Board Dental Examiners, had to be one clearly articulated and affirmatively expressed public policy.

The change in the rule ensures that the Commission's recognition of any of the Registry's actions will only be afforded in those cases in which the owner or trainer's actions are contrary to clearly articulated and affirmatively expressed state policy, as expressed in the Oklahoma Horse Racing Commission Act or Commission Rules, bringing the rule into compliance with one of the major criteria for *Parker* immunity.

CONTACT PERSON:

Bonnie Morris, Action Rulemaking Liaison, Oklahoma Horse Racing Commission, Shepherd Mall, 2401 N.W. 23, Suite 78, Oklahoma City, OK 73107, (405) 943-6472

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, 2016:

325:25-1-10. Horses ineligible to start in a race

(a) In addition to any other valid ground or reason, a horse is ineligible to start in any race if:

(1) Such horse is not registered by The Jockey Club if a Thoroughbred; the American Quarter Horse Association if a Quarter Horse; the Appaloosa Horse Club if an Appaloosa; the Arabian Horse Club Registry of America if an Arabian; the American Paint Horse Association if a Paint; the Pinto Horse Association of America, Inc., if a Pinto; or any successors to any of the foregoing or other registry recognized by the Commission.

(2) The original, replacement, or corrected Certificate of Foal Registration, or other registration issued by the official registry for such horse is not on file with the Racing Secretary prior to the race in which the horse is scheduled to race. The Stewards may make exceptions in certain stakes races, in which case such Foal Certificate must be on file no later than one (1) hour prior to post time for the first race of that race program, except that in emergency situations for finals and stakes races, the Stewards may allow a horse to start in a race if an acceptable photocopy of the Foal Certificate is provided by a representative of a turf governing body, a licensed racetrack or a breed registry, and the original Foal Certificate is on file with that entity. However, under no circumstances shall any money earned be paid to said starter until the original, replacement, or corrected Foal Certificate is received by the Stewards so that all information may be verified and any eligibility notations recorded on or attached to the Foal Certificate.

(3) Such horse has been entered or raced at any recognized race meeting under any name or designation other than the name or designation duly assigned by and registered with the official registry.

(4) The Win Certificate, Certificate of Foal Registration, eligibility papers, or other registration issued by the official registry has been materially altered, erased, removed, or forged.

(5) Such horse is ineligible to enter said race, is not duly entered for such race, or remains ineligible to time of starting.

(6) The ownership and Trainer of such horse has not completed the prescribed licensing procedures required by the Commission before starting the horse, or the horse is in the care of an unlicensed Trainer.

~~(7) Such horse is owned in whole or in part or trained by any person who is suspended or ineligible for a license or ineligible to participate under the rules of any Turf Governing Authority or Stud Book Registry.~~

(78) Such horse is a suspended horse.

(89) Such horse is on the Stewards' List, Starter's List, or the Veterinarian's List.

~~(940)~~ Except with permission of the Stewards and Horse Identifier, the identification markings of the horse do not agree with the identification as set forth on the Registration Certificate to the extent that a correction is required from the appropriate breed registry.

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(1044) Except with the permission of the Stewards, the horse has not been lip tattooed by a Commission-approved Tattooer.

(1142) The entry of a horse is not in the name of its true Owner.

(1243) The horse has drawn into the field or has started in a race on the same day.

(1344) The age of the horse as determined by an examination of its teeth by the Official Veterinarian does not correspond to the age shown on its Registration Certificate, such determination by tooth examination to be made in accordance with the current OFFICIAL GUIDE FOR DETERMINING THE AGE OF THE HORSE as adopted by the American Association of Equine Practitioners.

(1445) The Certificate of Registration of a horse reflects an unknown sire or dam.

(1546) An Ownership transfer for a claimed horse is being processed by the Racing Secretary to a breed registry, and an acceptable photocopy of the Foal Certificate is not on file with the Racing Secretary.

(1647) A horse is wholly or partially owned by a disqualified person, or a horse is under the direct or indirect management of a disqualified person.

(1748) A horse is wholly or partially owned by the spouse of a disqualified person or a horse is under the direct or indirect management of the spouse of a disqualified person, in such cases, it being presumed that the disqualified person and spouse constitute a single financial entity with respect to the horse, which presumption may be rebutted.

(1849) The horse is a cloned horse.

(19) The horse has an open hole in its trachea, by means of a tracheotomy or otherwise.

(b) Additionally, a horse is ineligible to start in a race if:

(1) The horse is owned in whole or in part or is trained by any person who is suspended or ineligible for a license or ineligible to participate under the rules of any Stud Book Registry; and

(2) The Commission determines that:

(A) The Stud Book Registry has adopted uniform criteria and procedures for use in excluding horses from participating in a race for the horse's breed and for suspending or finding an Owner or Trainer ineligible;

(B) The Stud Book Registry has adopted procedures that afford the affected Owner(s) or Trainer(s) with Notice and a meaningful opportunity to respond, that comports with due process, prior to suspending or finding the Owner or Trainer ineligible or excluding a horse; and

(C) The Stud Registry has provided the Commission's Director of Law Enforcement Division with (1) the Registry's Order of Suspension or Ineligibility for an act or omission that violates the Oklahoma Horse Racing Act and/or Commission Rules and (2) the Due Process Notice provided to the Owner or Trainer in

the proceeding leading to the Order of Suspension or Ineligibility.

[OAR Docket #16-563; filed 6-16-16]

TITLE 325. OKLAHOMA HORSE RACING COMMISSION CHAPTER 30. CLAIMING RACES

[OAR Docket #16-564]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

325:30-1-8. Form and deposit of claim [AMENDED]

325:30-1-9. Errors which invalidate claim [AMENDED]

AUTHORITY:

75 Oklahoma Statutes §§ 302, 305, and 307; Title 3A O.S., § 204(A); Oklahoma Horse Racing Commission

SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:

December 23, 2015

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December 15, 2015 to February 18, 2016

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January 15, 2016

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SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:

February 26, 2016

APPROVED BY GOVERNOR'S DECLARATION:

Approved by Governor's declaration on June 9, 2016

FINAL ADOPTION:

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EFFECTIVE:

September 11, 2016

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

ANALYSIS:

The Ad Hoc Committee on Rules is comprised of three Commissioners, the Commission Executive Director, the Commission Counsel, the Commission Staff Attorney and the Executive Directors of the two horsemen's representative organizations [the Oklahoma Quarter Horse Racing Association and the Thoroughbred Racing Association of Oklahoma]. The Committee has been reviewing the *Rules of Racing* document, proposing amendments to update information and/or delete obsolete language.

The Ad Hoc Committee on Rules proposed amendment to OAC 325:30-1-8 to add language that the claim envelope must have the correct race number written on it. The Rules Committee also proposed amendment to OAC 325:30-1-9 that the claim would be invalid if the claim envelope does not include the correct race number.

CONTACT PERSON:

Bonnie Morris, Agency Rulemaking Liaison, Oklahoma Horse Racing Commission, Shepherd Mall, 2401 N.W. 23, Suite 78, Oklahoma City, OK 73107, (405) 943-6472

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, 2016:

325:30-1-8. Form and deposit of claim

All claims shall be in writing on a form approved by the Commission, shall be enclosed in the claim envelope on which the correct race number shall be written, sealed and deposited in the claim box at least ten (10) minutes before post time of the race in which the horse to be claimed is entered. No money shall accompany a claim form, and any person or racing interest making a claim shall first have the amount of the claim and all applicable taxes on deposit with the Horsemen's Bookkeeper at the race meeting. The filing of a claim by depositing the claim form in the claim box constitutes a contract of purchase at the established price and in accordance with the rules for claiming.

325:30-1-9. Errors which invalidate claim

A claim is invalid if the name of the horse to be claimed is erroneously spelled or not specified on the claim form, or if the claim form is not signed by an Owner authorized to claim or a member of a racing interest authorized to claim or their properly registered Authorized Agent, or is not accompanied by a certification from the Horsemen's Bookkeeper that the amount of the claim and all applicable taxes are on deposit with the organization or such Horsemen's Bookkeeper, or does not specify the racing interest making the claim, or fails to specify the designated claiming price, or does not include the correct race number on the envelope, or is otherwise so defective in any particular that the Stewards cannot approve its validity.

[OAR Docket #16-564; filed 6-16-16]

**TITLE 325. OKLAHOMA HORSE RACING COMMISSION
CHAPTER 35. GENERAL CONDUCT**

[OAR Docket #16-565]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

- 325:35-1-8. Intoxication [AMENDED]
- 325:35-1-10.1. Filing and processing of financial responsibility complaints [AMENDED]
- 325:35-1-18. Communicating results of races [REVOKED]

AUTHORITY:

75 Oklahoma Statutes §§ 302, 305, and 307; Title 3A O.S., § 204(A); Oklahoma Horse Racing Commission

SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:

August 21, 2015

COMMENT PERIOD:

September 15, 2015 to November 19, 2015

PUBLIC HEARING:

October 19, 2015

ADOPTION:

November 19, 2015

SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:

November 23, 2015

APPROVED BY GOVERNOR'S DECLARATION:

Approved by Governor's declaration on June 9, 2016

FINAL ADOPTION:

June 9, 2016

EFFECTIVE:

September 11, 2016

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

ANALYSIS:

The Ad Hoc Committee on Rules is comprised of three Commissioners, the Commission Executive Director, the Commission Counsel, the Commission Staff Attorney and the Executive Directors of the two horsemen's representative organizations [the Oklahoma Quarter Horse Racing Association and the Thoroughbred Racing Association of Oklahoma]. The Committee has been reviewing the *Rules of Racing* document, proposing amendments to update information and/or delete obsolete language.

For 325:35-1-8, the amendment proposed an editorial change 'on the enclosure' to 'within the enclosure' to read: "No person shall in any manner or at any time disturb the peace or make themselves obnoxious on the enclosure of an Organization Licensee." For 325:35-1-10.1, the proposed amendments limited Stewards' involvement to those financial complaints that are in excess of \$100.00 and addition that the complainant must bear the expense of service of the summons rather than the Commission. For 325:35-1-18, the Commission proposed the revocation of this rule since it is outdated and unenforceable.

CONTACT PERSON:

Bonnie Morris, Agency Rulemaking Liaison, Oklahoma Horse Racing Commission, Shepherd Mall, 2401 N.W. 23, Suite 78, Oklahoma City, OK 73107, (405) 943-6472

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, 2016:

325:35-1-8. Intoxication

No licensee, employee of the Organization Licensee or its concessionaires shall be under the influence of intoxicating liquor or the combined influence of intoxicating liquor and any controlled dangerous substance while within the enclosure of any Organization Licensee. No person shall in any manner or at any time disturb the peace or make themselves obnoxious ~~on~~within the enclosure of an Organization Licensee.

325:35-1-10.1. Filing and processing of financial responsibility complaints

(a) Any creditor filing a financial responsibility complaint against an occupation licensee for alleged failure to pay any monies owed in excess of \$100.00 for any service or supplies connected with such licensee's operation within an enclosure of a racetrack licensed by the Commission must file such complaint on a form prescribed by the Commission, and

- (1) a verified statement and documentation of the services or supplies provided and the fees alleged to be due, or
- (2) a judgment from a court of competent jurisdiction.

(b) Such complaints, with the required verification, shall be filed with the Board of Stewards at a Commission-licensed racetrack where the goods or services were performed or delivered. When either party to such a complaint seeks the issuance of a subpoena, a request for the issuance of a subpoena shall be filed with the Board of Stewards, and any member of the Board of Stewards shall be empowered to issue the requested subpoena. It shall be the responsibility of the person requesting the subpoena to serve the subpoena. When such service is

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to be accomplished by mail, it shall be sent by way of certified mail, return receipt requested, and the return receipt shall be addressed to the issuing Board of Stewards.

(c) The party filing the complaint shall pay the cost of service of the summons at the time of the filing of the financial responsibility complaint if the summons is to be served by certified mail, return receipt requested. If the complaining party chooses to have the summons served by a private process server, both the cost of the service and arrangements for the service shall be the responsibility of the complaining party. A return of service shall be filed with the Board of Stewards prior to the commencement of a hearing.

(d) Financial responsibility complaints that are not in excess of \$100.00 shall not be accepted by the Board of Stewards.

325:35-1-18. Communicating results of races [REVOKED]

~~No person shall communicate the results of any race or the pari-mutuel payoffs of such race to any other person outside the racing enclosure until no less than fifteen (15) minutes have elapsed after the race has been declared official. This shall not apply to any live broadcast of any radio or television station nor to private line telephone communications authorized by the organization and licensed by the Commission.~~

[OAR Docket #16-565; filed 6-16-16]

TITLE 325. OKLAHOMA HORSE RACING COMMISSION CHAPTER 35. GENERAL CONDUCT

[OAR Docket #16-566]

RULEMAKING ACTION:
PERMANENT final adoption

RULES:
325:35-1-37. Agreements to be filed [AMENDED]

AUTHORITY:
75 Oklahoma Statutes §§ 302, 305, and 307; Title 3A O.S., § 204(A); Oklahoma Horse Racing Commission

SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
October 21, 2015

COMMENT PERIOD:
November 16, 2015 to January 14, 2016

PUBLIC HEARING:
January 4, 2016

ADOPTION:
January 14, 2016

SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:
January 22, 2016

APPROVED BY GOVERNOR'S DECLARATION:
Approved by Governor's declaration on June 9, 2016

FINAL ADOPTION:
June 9, 2016

EFFECTIVE:
September 11, 2016

SUPERSEDED EMERGENCY ACTIONS:
n/a

INCORPORATIONS BY REFERENCE:

n/a
ANALYSIS:

The Ad Hoc Committee on Rules is comprised of three Commissioners, the Commission Executive Director, the Commission Counsel, the Commission Staff Attorney and the Executive Directors of the two horsemen's representative organizations [the Oklahoma Quarter Horse Racing Association and the Thoroughbred Racing Association of Oklahoma]. The Committee has been reviewing the *Rules of Racing* document, proposing amendments to update information and/or delete obsolete language.

The Ad Hoc Committee on Rules proposed an amendment to change the deadline for submitting the next year's Horsemen's Agreement [between a racetrack and a horsemen's representative organization] from June 1 to October 1 of the preceding year. This would allow more comprehensive negotiate conditions in the next year's Horsemen's Agreement since information could be provided about the fall race meetings held at two racetracks that begin in August.

CONTACT PERSON:

Bonnie Morris, Agency Rulemaking Liaison, Oklahoma Horse Racing Commission, Shepherd Mall, 2401 N.W. 23, Suite 78, Oklahoma City, OK 73107, (405) 943-6472

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, 2016:

325:35-1-37. Agreements to be filed

(a) Each Organization Licensee shall file a copy of its agreement with the Horsemen's Organization representing the horse Owners and Trainers at the race meeting by October 1 of the preceding year. In the event the Organization Licensee is unable to obtain and file such an agreement with its application by the October 1 deadline due to the lack of initiative or impasse between parties or due to other reasons, the Commission may, upon notice to the prospective parties to the agreement, conduct a hearing with regard to the conditions of the race meeting and take such actions as it may deem appropriate to ensure continuity of the racing program, including the recognition of the terms of the previous Horsemen's Representative agreement as the terms that will govern the relations between the Organization Licensee and the elected representative until such time the Commission approves an agreement submitted by the parties. The Horsemen's Organization shall provide a copy of the agreement for the conduct of the race meeting to any person requesting same. The Organization Licensee shall cause to be posted on the bulletin board of the Organization Licensee a notice of the location where a copy of the agreement may be obtained.

(b) A Financial Statement, including benevolence activity, shall be filed with the Commission by each elected horsemen's representative organization no later than sixty (60) days after the end of each calendar year for which the organization was the official horsemen's representative.

[OAR Docket #16-566; filed 6-16-16]

**TITLE 325. OKLAHOMA HORSE RACING COMMISSION
CHAPTER 45. MEDICATION AND EQUINE TESTING PROCEDURES**

[OAR Docket #16-567]

RULEMAKING ACTION:
PERMANENT final adoption

RULES:
325:45-1-20. Split samples [AMENDED]

AUTHORITY:
75 Oklahoma Statutes §§ 302, 305, and 307; Title 3A O.S., § 204(A); Oklahoma Horse Racing Commission

SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
August 21, 2015

COMMENT PERIOD:
September 15, 2015 to November 19, 2015

PUBLIC HEARING:
October 19, 2015

ADOPTION:
November 19, 2015

SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:
November 23, 2015

APPROVED BY GOVERNOR'S DECLARATION:
Approved by Governor's declaration on June 9, 2016

FINAL ADOPTION:
June 9, 2016

EFFECTIVE:
September 11, 2016

SUPERSEDED EMERGENCY ACTIONS:
n/a

INCORPORATIONS BY REFERENCE:
n/a

ANALYSIS:

The Ad Hoc Committee on Rules is comprised of three Commissioners, the Commission Executive Director, the Commission Counsel, the Commission Staff Attorney and the Executive Directors of the two horsemen's representative organizations [the Oklahoma Quarter Horse Racing Association and the Thoroughbred Racing Association of Oklahoma]. The Committee has been reviewing the *Rules of Racing* document, proposing amendments to update information and/or delete obsolete language.

For 325:45-1-20, the amendment proposed to add an explanatory phrase ['by the Referee Laboratory'] to the last sentence of the rule to read: "If the split sample is not confirmed as positive by the Referee Laboratory, the Owner or Trainer will be reimbursed the cost of testing by the Commission."

CONTACT PERSON:
Bonnie Morris, Agency Rulemaking Liaison, Oklahoma Horse Racing Commission, Shepherd Mall, 2401 N.W. 23, Suite 78, Oklahoma City, OK 73107, (405) 943-6472

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, 2016:

325:45-1-20. Split samples

As determined by the Official Veterinarian, when sample quantity permits, each test sample shall be divided into two (2) portions so that one (1) portion shall be used for the initial testing for substances in the sample. Urine and blood samples shall be collected unless otherwise provided by rule. Both the Trainer and Owner shall be notified in writing of positive lab report of the horse. If the duly notified Trainer and/or Owner

so requests in writing to the Stewards within forty-eight (48) hours of notice of a positive lab report on the test sample of his/her horse, the split sample shall be sent for further testing to a drug testing laboratory approved by the Commission. Nothing in this Section shall prevent the Commission or Executive Director from ordering first use of both sample portions for testing purposes. The results of said split sampling may not prevent the disqualification of the horse pursuant to the provisions of 325:45-1-15 and 325:45-1-4. All costs for the transportation, shipment and testing of the split sample shall be the financial responsibility of the requesting person, and payment shall be paid by the requesting person through the Horsemen's Bookkeeper or otherwise at the time of packaging. The Official Veterinarian shall have overall responsibility for the freezing, storage, and safeguarding of the split sample. Failure of an Owner and/or Trainer to make a written request of the Stewards for split sample testing within 48 hours or failure to make payment as required by this rule constitutes a waiver of any and all rights to have the split sample tested. If the split sample is not confirmed as positive by the Referee Laboratory, the Owner or Trainer will be reimbursed the cost of testing by the Commission.

[OAR Docket #16-567; filed 6-16-16]

**TITLE 330. OKLAHOMA HOUSING FINANCE AGENCY
CHAPTER 30. MULTIFAMILY HOUSING BOND PROGRAM ~~RESIDENTIAL RENTAL~~
MULTIFAMILY BOND PROGRAM RULES**

[OAR Docket #16-624]

RULEMAKING ACTION:
PERMANENT final adoption

RULES:

- Subchapter 2. General Provisions
- 330:30-2-1 [AMENDED]
- 330:30-2-1.1 [NEW]
- 330:30-2-1.2 [NEW]
- 330:30-2-2 [AMENDED]
- 330:30-2-3.1 [REVOKED]
- 330:30-2-5.1 [AMENDED]
- 330:30-2-6.1 [AMENDED]
- 330:30-2-7.1 [AMENDED]
- 330:30-2-8.1 [AMENDED]
- 330:30-2-9.1 [AMENDED]
- 330:30-2-10 [AMENDED]
- 330:30-2-11 [AMENDED]
- Subchapter 4. Application and Processing Procedures
- 330:30-4-1.1 [AMENDED]
- 330:30-4-2.1 [AMENDED]
- 330:30-4-4.1 [AMENDED]
- 330:30-4-4.2 [NEW]
- Subchapter 8. Fees and Expenses
- 330:30-8-1 [AMENDED]
- 330:30-8-3 [AMENDED]
- 330:30-8-5 [AMENDED]
- 330:30-8-6 [REVOKED]
- 330:30-8-7 [AMENDED]
- Subchapter 12. Compliance and Reporting Requirements
- 330:30-12-3 [AMENDED]
- Subchapter 14. Sale, Transfer/Assumption
- 330:30-14-1 [AMENDED]

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AUTHORITY:

These Chapter 30 Rules are authorized by 75 O.S., Section 302; 60 O.S., Sections 176 through 180.3; the Board of Trustees of OHFA, the Amended Trust Indenture, and the Bylaws of OHFA as established by the OHFA Board of Trustees.

SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:

December 28, 2015

COMMENT PERIOD:

January 27, 2016 through March 8, 2016

PUBLIC HEARING:

March 7, 2016

ADOPTION:

March 23, 2016

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March 29, 2016

APPROVED BY GOVERNOR'S DECLARATION:

Approved by Governor's declaration On June 9, 2016

FINAL ADOPTION:

June 9, 2016

EFFECTIVE:

October 1, 2016

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

ANALYSIS:

These Rules shall be applicable to OHFA programs, transactions and activities relating to the financing of multifamily rental Developments with tax exempt debt and/or taxable debt. The Rules of this Chapter have been adopted for the purpose of complying with the provisions of the Administrative Procedures Act, 75 O.S., Section 250 et seq. The Trustees reserve the right to adopt, from time-to-time, priorities for financing of multifamily Developments pursuant to this Chapter, and to establish additional criteria for evaluating proposed Developments and Borrowers in regard to such priorities. Any such priorities and/or criteria shall be provided to each party inquiring about OHFA financing pursuant to these Rules. These Rules shall be applied in a manner consistent with Oklahoma's Housing Antidiscrimination Act, 15 O.S., Sections 1451-1453 and all federal laws prohibiting discrimination, including 42 U.S.C., Section 1983 and the Fair Housing Act, as amended 42 U.S.C., Sections 3601 et seq.

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 OCTOBER 1, 2016:

SUBCHAPTER 2. GENERAL PROVISIONS

330:30-2-1. Purpose

(a) The rules of this Chapter have been adopted for the purpose of complying with the provisions of the Administrative Procedures Act, 75 O.S., Section 250 et seq. This Chapter shall be applicable to Oklahoma Housing Finance Agency (OHFA) programs, transactions and activities relating to the financing of multifamily rental Developments with tax exempt ~~bonds~~ and/or taxable ~~bonds~~ (MF Bonds).

~~(b) The Board of Trustees of OHFA (Trustees) reserves the right to adopt, from time to time, priorities for financing of multifamily Developments pursuant to this Chapter, and~~

~~to establish additional criteria for evaluating proposed Developments and Borrowers in regard to such priorities. Any such priorities and/or criteria shall be provided to each party inquiring about OHFA financing pursuant to this Chapter and will be posted on the website of OHFA.~~

(e) OHFA provides tax exempt and taxable financing for the acquisition, construction, and/or rehabilitation of ~~multi-family~~ rental housing Developments which satisfy the goals and requirements of OHFA, and comply with applicable federal and State law. In any given year, the ability of OHFA to provide tax-exempt financing for Developments is contingent upon receipt of by OHFA of a tax-exempt bond allocation from the Council of Bond Oversight, through the State of Oklahoma annual private activity allocation.

330:30-2-1.1. Authority

OHFA derives its authority to issue MF Bonds from the Oklahoma Private Activity Bond Allocation Act (62 O.S. 695.21) and the Administrative Rules of the Council of Bond Oversight.

330:30-2-1.2. Scope

During each program year, MF Bonds will be made available to eligible entities for the purpose of implementing specific Developments that further the stated purpose of the MF Bond program. Eligible entities include, but are not limited to, for-profit Developers, non-profits, public agencies, Native American Tribes, and local governments.

330:30-2-2. Definitions

Masculine words, whenever used in this Chapter, shall include the feminine and neuter, and the singular includes the plural, unless otherwise specified. The following words or terms, when used in this Chapter shall have the following meaning, unless the context clearly indicates otherwise. Additional capitalized terms used in these Chapter 30 Rules are defined in the Code and these Chapter 30 Rules. When a conflict exists between the following definitions and the Code, the more restrictive meaning shall be applied.

"Affiliate" means any Person that directly or indirectly through one (1) or more intermediaries, Controls, is Controlled By, or is Under Common Control With any other Person.

"Applicant" means any Person and each Affiliate of such Person, which has submitted an Application to OHFA seeking financing under this Chapter. Applicant includes the Owner and ~~Owner's~~ predecessor in interest, if any, and includes any successor in interest, Transferee of all or any portion of the Development, and the heirs, executors, administrators, devisees, successors and assigns of any purchaser, grantee, Transferee Owner or lessee (other than a Resident) of all or any portion of the Development, and any other Person or entity having any right, title, or interest in the Development.

"Application" means an Application, in the form prescribed by OHFA, from time to time ~~at any of the processing stages set forth in this Chapter~~, including all exhibits and other materials filed by an Applicant with OHFA in support, or in connection with, financing under this Chapter.

"Application Packet" (referred to in these Rules as the "AP") means the Application in the form prescribed by OHFA annually, together with instructions and such other materials provided by OHFA to any Person requesting the same for the purpose of seeking to obtain from OHFA MF bonds. OHFA will solicit formal public input on the AP from interested parties, and provide explanation of any significant changes. Staff will present the following year's proposed AP to the Trustees for formal approval at a Trustees meeting. The AP may include definitive statements of what shall constitute Threshold Criteria, priorities, preferences, and compliance and monitoring requirements as may be authorized by or provided for in the Code and these Rules, and may include the necessary forms, instructions and requirements for Applications, market studies, Commitments, Agreements, elections, OHFA staff evaluation criteria for Threshold Criteria, compliance monitoring, and other matters deemed by Trustees, in their complete discretion, to be relevant to the process of evaluation of Applications and the Applicants in connection with the award or denial of MF Bonds.

"Area Median Gross Income" means the median Gross Income adjusted for household size, for the county or counties where each Building in a Development is located as determined and published annually by HUD.

"Bond Documents" means and may include, but is not limited to the bond purchase agreement, Preliminary Official Statement, the Official Statement and any other official documents of the Bond Indenture.

"Bond Indenture" or "Bond Trust Indenture" means the indenture of trust or other contract pursuant to which OHFA issues MF Bonds or other forms of indebtedness to secure proceeds with which to finance the Development pursuant to this Chapter.

"Borrower" means the Person holding title to the Development and who is financially responsible to MF Bond holders through the Trustee Bank for repayment of the related MF Bonds secured by the Development.

"Building" means a property containing residential Housing Units located on the Land and included in the Development. In the event more than one Building is located on the Land, each Building must be treated as part of the Development.

"Capital Needs Assessment" (CNA) means a qualified professional's opinion of a property's current physical condition determined after a physical inspection of the interior and exterior of the units and structures.

"Closing" means the execution and delivery of the OHFA MF Bonds and the Bond Documents pursuant to, and in accordance with, the Final Resolution of the OHFA Trustees.

"Code" means the Internal Revenue Code of 1986, as amended and supplemented, together with applicable rules and regulations, revenue rulings, guidelines, releases, pronouncements, notices or procedures promulgated thereunder or referred to therein or in the applicable rules and regulations.

"Compliance Period" means the period commencing on the later of the first day on which at least ten percent (10%) of the residential rental units in the Development are occupied or the issue date of the Qualified 142(d) Bonds issued to acquire

such facility and ending on the latest of the following: (A) the date that is fifteen years after the date on which at least fifty percent (50%) of the residential rental units in the Development are first occupied; (B) the first day on which no MF Bonds are outstanding.

"Conditional Commitment Resolution" means the Resolution duly approved and adopted by the Trustees authorizing the issuance of bonds to provide financing for a Development and establishing any conditions or requirements precedent to such issuance. This Resolution may be combined with the Final Resolution.

"Control" (including the terms "Controls", "Controlling", "Controlled By", and "Under Common Control With") means the possession, directly or indirectly, or the power to direct or cause the direction of the management and policies of any other Person, whether through an ownership interest in the other Person, by contract, agreement, understanding, designation, office or position held in or with the other Person or in or with any other Person, or by coercion, or otherwise.

"Developer" means the Person or entity with the responsibility of ensuring the effective construction or rehabilitation of the Development, which may also be the Applicant and/or Owner of the Development. Developer also includes any other Person or organization affiliated with, Controlled by, in Control of or a related party to, the Developer, as determined by OHFA.

"Development" means the Land and one (1) or more Buildings, structures, or other improvements now or hereafter constructed or located upon the Land. If more than one (1) Building is to be part of the Development, each Building must be financed under a common plan.

"Development Team" means the Applicant, Borrower, Developer, Owner, and the Affiliates and principals of each, the architect, general contractor, appraiser, market analyst, tax professional/accountant, attorney, consultant and property management company.

"Due Date" if a Due Date for submission of documents or fees falls on a weekend or a designated federal holiday, then the Due Date becomes the next business day.

"Final Resolution" or "Financing Resolution" means the Final Resolution duly approved and adopted by the Trustees approving a Development and its financing by OHFA. This Resolution may be combined with or represented by any other Resolution pertaining to the Development and its financing by OHFA, except the Inducement Resolution.

"HUD" means the United States Department of Housing and Urban Development.

"Inducement Resolution" means the initial Resolution adopted by OHFA Trustees pertaining to a specific Development which must be approved and adopted by OHFA Trustees at a separate meeting not less than thirty (30) days prior to the adoption of the Final Resolution.

"Land" means the site(s) for each Building in the Development and having the legal description set forth described in the regulatory agreement.

"OHFA" means Oklahoma Housing Finance Agency, a State beneficiary public trust.

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"Nonprofit" means a private Nonprofit organization that is organized under State or local laws; has no part of its net earnings inuring to the benefit of any member, founder, contributor, or individual; is neither Controlled By, nor under the direction of, individuals or entities seeking to derive profit or gain from the organization; has a tax exemption from the Internal Revenue Service under section 501(c) (3) or (4) of the Internal Revenue Code of 1986; does not include a public body; has among its purposes the provision of decent housing that is affordable to low-income persons, as evidenced in its charter, articles of incorporation, resolutions or by-laws; and, has at least a one year history of providing affordable housing, and is duly qualified to do business within the State.

"Owner" means the legal Owner of record of the Development, as set forth in the regulatory agreement and any and all successors(s) in interest. Owner also means any other Person or entity having or acquiring any right, title, or interest in the Development.

"Person" means, without limitation, any natural person, corporation, partnership, limited partnership, joint venture, limited liability company, limited liability partnership, trust, estate, association, cooperative, government, political subdivision, agency or instrumentality, Community Housing Development Organization (CHDO), interlocal cooperative, or other organization of any nature whatsoever, and shall include any two or more Persons acting in concert toward a common goal, or any other legally recognized entity, or any combination of the foregoing acting in concert.

"Program Rules" means the various written criteria, requirement, rules, and policies adopted from time to time by the Trustees to administer the MF Bond Program and to provide for issuance of OHFA MF bonds. The Program Rules must be followed by any participant in the Program. The Program Rules may include requirements that are more stringent than those under Code or other State requirements.

"Qualifying Households" means households whose annual incomes do not exceed the elected area median family income set-aside required in the Code.

"Rehabilitation Expenditures" means amounts that are capitalized and incurred for the addition to or improvement of an existing Building of a character subject to the allowance for depreciation under Section 167 of the Code. However, it does not include the costs of acquiring a Building or an interest in it, for example, any Developer fee properly allocated in acquiring a Building or any other soft costs or any amount not permitted by the Code.

"Resident" means an individual or group of individuals (other than an Owner) residing in a housing unit.

"Resolution" means an official action by OHFA of the Trustees and may include all Resolutions adopted by the Trustees with respect to a Development.

"Site Control" means the exercise of dominion or Control over the property through the execution of a purchase, sale, or long-term lease agreement (with a lease term that exceeds the Compliance Period), receipt of a deed or conveyance of the Land where the Development will be located, or an option to purchase the property (where the option is not revocable on the

part of the seller). OHFA alone will decide if an Applicant or Owner has obtained Site Control.

"State" means the State of Oklahoma.

"Transfer" means any sale, Transfer, merger, consolidation, liquidation, contribution, assignment, exchange or other change in all or part of the Ownership of the Land and/or Development or any Building which is a part thereof, whether voluntary or involuntary, and also includes: a Transfer, sale, contribution or assignment by the Applicant, Owner or Developer of all or any part of its rights, title or interest in the Application, Credit, Land, Building and/or Development to another party; or a withdrawal, change or addition of any partner to a general partnership, general partner of a limited partnership, any party to a joint venture or the manager of a limited liability company.

"Transferee" means any and all successor(s) in interest of Owner and any other Person or entity having or acquiring any right, title, or interest in the Development.

"Trustee Bank" means the bank selected by OHFA to act as trustee under the Bond Indenture executed by OHFA in connection with OHFA's financing of a Development pursuant to this Chapter.

"Trustees" means the Board of Trustees of OHFA.

330:30-2-3.1. Application evaluations [REVOKED]

(a) In evaluating whether to authorize the issuance of OHFA bonds for the purpose of financing a Development, the Trustees may take into consideration certain criteria. The list of criteria may include, but is not limited to the following.

(1) The Application must demonstrate a need and demand for the proposed Development. A market study must be submitted to demonstrate such need and demand.

(2) Whether there is any material negative impact upon the community in the general area of the Development.

(3) The availability of suitable credit enhancement to increase the security or creditworthiness of the proposed OHFA bonds.

(4) The proposed method of sale or placement of the OHFA bonds and the institutional or retail nature of the expected purchaser(s).

(5) The amount of OHFA bonds relative to total Development cost.

(6) The underwriting criteria applied by the credit enhancer or the proposed purchaser of the bonds; and

(7) Such other criteria as the Trustees, in their discretion, deem appropriate to further effectuate the public purpose objectives of OHFA and/or to better ensure the credit quality of OHFA bonds.

(b) Applications may be disapproved at any stage of processing, for any of the following criteria, in addition to any other specific reason(s) which may be established by the Trustees during the review process.

(1) The financing of such Development involves a risk to OHFA that its current or future financing ability or reputation in the credit markets may generally be adversely affected.

- (2) The financing of such Development is determined not to be cost effective in terms of its proposed utilization of OHFA financing capacity and/or other financial resources.
- (3) Failure to submit any information required by this Chapter, any Resolution of the Trustees and/or OHFA advisors at any stage of processing.
- (4) Failure to demonstrate, the proposal is consistent with OHFA's public purposes and priorities.
- (5) Failure to demonstrate, the proposed financing is reasonable and appropriate for the Development and market conditions.
- (6) Failure to demonstrate, that the Applicant and the other Development Team members have the good character, reputation, integrity, honesty, experience, resources and capacity to successfully execute the related financing plan and to properly manage the Development.
- (7) The information at the inducement stage varies materially from the information contained in the initial Application or the information filed at the conditional commitment and/or financing stage varies materially from the information filed in the initial Application and/or the inducement stage.
- (8) Any condition for Closing has not been satisfied.
- (e) Any Applicant, Borrower, Owner, Developer or any Affiliates of, or principals may not be eligible to obtain OHFA financing if that Person has been, within the preceding seven (7) years:
 - (1) The appointment of a Receiver; conviction on a felony criminal charge; or bankruptcy.
 - (2) Suspended or expelled from membership in, or suspended or barred from association with a member of, any securities exchange or self-regulating association, or suspended, barred or had any license revoked by any federal or state agency or local governmental unit, in regard to any federal or state statute, rule, regulation, executive or administrative order, or any local governmental ordinance, rule or regulation designed to protect consumers or any federal or state agency or local governmental unit established to protect consumers against unlawful practices involving insurance, securities, commodities or commodity futures, real estate or any interest therein, franchises, business opportunities, consumer goods, benefits under any federal state or local governmental unit program, or other services offered by federal, state or local governmental units or by private entities.
 - (3) Having been involved in uncured financing defaults, foreclosures, or placement on HUD's list of debarred contractors;
 - (4) Events of material uncorrected noncompliance with any federal or State assisted housing programs in any jurisdiction;
 - (5) Removal as a general partner or managing member;
 - (6) Failure to comply with OHFA's requests for information or documentation on any Development funded or administered by OHFA.
- (d) No Applicant, Borrower, Development Team member or any third party shall have any recourse against OHFA or any

of its Trustees, employees, representatives, attorneys, financial advisors or other consultants for any failure to approve.

330:30-2-5.1. Eligibility of Borrowers

- (a) The AP, as approved by the Trustees may modify, expand, or clarify the following criteria.
- (ab) Eligible Borrowers may include any Person as defined in this Chapter.
- (bc) Each Borrower must meet the requirements set forth in this subsection:
 - (1) If the Borrower is a business entity, the entity must be in good standing and be qualified to do business in Oklahoma under Oklahoma laws and these Rules.
 - (2) The Borrower must have all necessary legal authority to incur the obligations relating to the MF Bonds bonds requested.
 - (3) The Borrower must demonstrate creditworthiness and repayment ability.
 - (4) The Borrower must demonstrate, it is capable of and can reasonably be expected to achieve successful completion of the proposed Development.

330:30-2-6.1. Financing requirements

- (a) The AP, as approved by the Trustees may modify, expand, or clarify the following criteria.
- (ab) OHFA may finance Developments through acquisition, rehabilitation, construction and/or permanent MF Bonds bonds.
- (bc) OHFA may participate with other institutions in the issuance of MF Bonds bonds to finance Developments under this Chapter.
- (c) Before closing on a Development for which OHFA will not provide 100% of the permanent financing, the Borrower must provide evidence of a permanent commitment from a lender approved by OHFA with terms satisfactory to OHFA.
- (d) Subject to any limitations imposed by the Code for Developments for which any tax exempt financing is sought, OHFA financing may include all reasonable and approved Development costs.
- (e) OHFA may lend up to one hundred percent (100%) of the approved Development costs, provided the related financing demonstrates the Development is financially feasible and viable, and provided that such costs are not prohibited by any applicable law, rule or regulation.
- (fd) OHFA MF Bonds bonds shall meet all reasonable underwriting requirements, and will be subject to adjustment if necessary.
- (ge) OHFA or one of its bond professionals shall prescribe the form and content of all Closing documents, including without limitation, the Bond Documents, construction facility documents and the regulatory agreement(s). The regulatory agreement(s) may, at the discretion of OHFA, limit the profit and rate of return on investment of a Borrower/Owner either directly or by control of rentals or limited income occupancy requirements imposed by applicable State or federal requirements.

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(h) Bonds may not be assumed or prepaid without the prior written consent of OHFA. All Bond Documents may be required to contain a "due on sale" clause.

(i) Borrowers must pay or cause to be paid any servicing fees, insurance premiums, or late charges that OHFA or the credit enhancer may require and that are permitted by State law.

(j) OHFA may require the Borrower to periodically deposit with OHFA or its designate, depository amounts to be applied toward the real estate taxes, hazard insurance premiums, mortgage insurance premiums, reserves for asset replacement and other expenses of the Development.

(k) OHFA may require a Borrower to fund, under the control of OHFA, by cash or by irrevocable letter of credit, a Development contingency fund in an amount equal to a specified percentage of the bond amount to cover any deficiency in the construction or rehabilitation of the Development. Such fund may be retained by OHFA for a period of time following the completion of construction or rehabilitation to cover operating deficiencies, repairs and cost increases or overruns, if any. OHFA, may at its discretion, determine when funds may be released.

(l) OHFA may require the following additional instruments or guarantees, in addition to the Bond Documents, to secure its MF Bonds, bonds:

(1) Such sureties or guarantees of the bonds as may be determined necessary by OHFA;

(2) Cash or an unconditional, irrevocable letter of credit from a financial institution approved by OHFA to meet working capital, operating deficit, development contingency funds and off site improvement completion requirements;

(3) Payment and performance bonds for all construction contracts each in an amount equal to one hundred percent (100%) of the contract price, or alternatively, cash or an irrevocable letter of credit equal to twenty five percent (25%) of the contract price.

(4) Guarantees of completion by the Owner(s), Borrower(s) and/or such other Persons as deemed by OHFA, in its discretion, to be credit worthy to make such Guarantees;

(5) Escrows of syndication proceeds when deemed by OHFA, in its discretion, to be necessary or appropriate.

(m) For any Development to be financed by the issuance of MF Bonds, bonds, the interest on which is intended to be excluded from federal income tax under the Code, the Borrower shall be responsible to insure that all applicable requirements of the Code concerning the design, construction and operation of the Development, and the use of any proceeds of such MF Bonds, bonds, are and remain satisfied for the requisite period of time.

330:30-2-7.1. Insurance

The Borrower must comply with all insurance requirements of OHFA relating to the Development. The requirements will be set forth more specifically in the AP.

330:30-2-8.1. Eligible Developments

(a) The AP, as approved by the Trustees may modify, expand, or clarify the following criteria.

(a) In order to qualify for MF Bonds, bond financing, a proposed Development must be multifamily (in excess of one unit) housing. ~~At a minimum, the rental housing must contain working cooking facilities, including a refrigerator and bathing facilities.~~ The Development must comply with all applicable federal, State and local laws. A Development may consist of detached housing, row houses, high-rises, or the residential portion of a mixed-use Development. ~~Multiple Buildings are part of the same Development only if such Buildings:~~

(1) Have similarly constructed units;

(2) Are owned by the same Person and are financed pursuant to a common plan, i.e., the financing of all such Buildings are provided by the same bond issue or several bond issues subject to a common Bond Indenture.

(b) The economic feasibility of the Development and the independent creditworthiness of the Borrower must demonstrate that the OHFA MF Bonds, bonds can reasonably be expected to be paid in full in accordance with its the terms of the Bond Documents. ~~In this regard the Borrower has the affirmative burden of demonstrating both the economic feasibility of the Development and the creditworthiness of the Borrower to the satisfaction of the Trustees prior to their approval of a Final Resolution.~~

(c) The Development has or will have, a remaining useful life at least equal to the term of the regulatory agreement(s) and/or the Bond Documents.

(d) If a Development is funded in whole or in part by other State or federal federal or State programs the Development must meet all requirements and qualifications of those programs.

330:30-2-9.1. Credit enhancement requirements

(a) The AP, as approved by the Trustees may modify, expand, or clarify the following criteria.

(a) Credit enhancement techniques or mechanisms may include, but are not limited to:

(1) Mortgage insurance, including mortgage pool insurance or payment guarantees;

(2) Bond insurance;

(3) Collateral pledges;

(4) Surety or other third party guarantees;

(5) Letters of credit; or

(6) Combinations thereof.

(b) Credit enhancement techniques or mechanisms may be employed in connection with the issuance of MF Bonds, bonds ~~by OHFA to achieve one or more of the following objectives, among others:~~

(1) ~~To obtain a rating from a nationally recognized bond rating service;~~

(2) ~~To secure a bond purchase commitment from a purchaser or investor;~~

(3) ~~To reduce the interest rate or total borrowing costs associated with the bonds; and~~

(4) ~~To provide for the purchase of the bonds by a certain class or classes of investors.~~

(c) Credit enhancement may be provided:

- (1) Upon issuance of bonds by OHFA, or
- (2) Upon application or disbursement of the proceeds of the bonds, whether occurring in installments (as with construction related draw downs) or in a lump sum (as upon completion of construction).
- (d) The form and structure of credit enhancement utilized in connection with any OHFA ~~MF Bonds~~ bonds must be approved by formal action of the Trustees.
- ~~(e) All bonds of OHFA which are to be initially offered to the general public and/or which may be purchased in a transaction not exempt from registration under the securities laws, rules and regulations of the federal government or any state government in subsequent secondary market transactions must be credit enhanced in a manner acceptable to OHFA, in its complete discretion.~~
- ~~(f) All bonds of OHFA which are to be initially offered to the general public and/or which may be purchased by the general public in subsequent, secondary market transactions must be credit enhanced in a manner acceptable to OHFA or be rated by a nationally recognized rating agency as being investment grade without Credit Enhancement.~~
- ~~(g) OHFA may authorize the issuance of bonds which are not the subject of a Credit Enhancement commitment if the purchasers of such bonds are limited to one or more institutional investors who execute an investment letter in a form acceptable to OHFA and acknowledging each of the following (unless specifically exempted by OHFA from one or more of these required acknowledgements):~~
 - ~~(1) That such investor(s) understand and acknowledge the financial risks involved;~~
 - ~~(2) That such investor(s) have financial resources sufficient to enable them to assume the risks associated with the purchase of the bonds;~~
 - ~~(3) That such investor(s) agree to restrict the secondary market resale of such obligations to other institutional investors who will provide an investment letter meeting the requirements of this paragraph; and~~
 - ~~(4) That such investor(s) will accept delivery of the obligations containing a legend to such effect.~~

330:30-2-10. Income eligibility of tenants

Developments must set aside at least forty percent (40%) of the units for households with incomes of sixty percent (60%) of Area Median Gross Income, or less, or twenty percent (20%) for households with incomes of fifty percent (50%), or less per Treasury (IRS) regulations (Code) as modified from time to time.

330:30-2-11. Compliance with Applicable laws

(a) The Applicant, the Development, the Owner(s), Development Team and the Affiliates of each, must comply with all applicable federal, State and local laws, rules, regulations and ordinances, including but not limited to, the Code and regulations promulgated thereunder, the Oklahoma Landlord Tenant Act, Titles VI and VII of the Civil Rights Act of 1964, as amended and Title VIII of the Civil Rights Act of 1968, as amended, all disclosure requirements promulgated by the

Securities Exchange Commission and/or the Municipal Securities Rulemaking Board. Neither the Applicant, the Owners(s), the Development Team nor the Affiliates of each shall discriminate on the basis of race, creed, religion, national origin, ethnic background, age, sex, familial status, or disability in the lease, use or occupancy of the Development or in connection with the employment or application for employment of Persons for the operation and/or management of any Development. Owners(s) of a Development will be required to covenant and agree in the regulatory agreement to comply fully with the requirements of the Fair Housing Act as it may from time to time be amended, for the time period promised in the Application.

(b) Any issuance of MF Bonds bonds by OHFA is subject to compliance with all applicable federal and State ~~State and federal~~ laws and all rules and regulations promulgated thereunder and all local ordinances, rules and regulations applicable to the Development, its financing, or any portion or aspect thereof.

(c) The Applicant and all members of the Development Team and the Affiliates of each must be in compliance with, and good standing under, any OHFA program in which any may participate.

SUBCHAPTER 4. APPLICATION AND PROCESSING PROCEDURES

330:30-4-1.1. Preliminary matters (Pre-Application)

- (a) The AP, as approved by the Trustees may modify, expand, or clarify the following criteria.
- ~~(a)~~ Prior to submission of an Application, it is advisable for the Applicant to schedule a meeting with OHFA's Executive Director or his designees to present a brief overview of the proposed Development. Any technical aspects of the Development or its proposed financing should be explained to OHFA at this meeting. OHFA should be advised of any anticipated difficulties or contingencies.
- ~~(b) The Applicant should, prior to submission of an Application, assemble the Development Team. The Development Team should be identified for OHFA at the pre-Application meeting.~~
- (c) While Applications may be submitted at any time, it is essential to discuss any proposal with OHFA to establish a timeline consistent with other transactions of OHFA. The ~~State's~~ State's approval process for allocating the ~~State's~~ State's annual private activity bond volume cap may affect timing and should also be taken into consideration.
- (d) OHFA requires adequate time to review any proposal. No proposal will be taken to the Trustees unless OHFA has had adequate review time.
- ~~(e) Applicants seeking funding from other programs administered by OHFA must submit Applications for such funding according to other program Application materials.~~
- ~~(f) OHFA will engage a team of professionals, according to State procedures. At a minimum, a financial advisor, bond counsel, underwriter, and Trustee Bank will be chosen. Any substitutions to this professional team have to be approved by OHFA and the team member proposed to be substituted. If a professional substitution is approved, the amount of~~

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fees charged cannot exceed those outlined through the State process.

330:30-4-2.1. Application Processing Stages

~~(a) The AP, as approved by the Trustees may modify, expand, or clarify the following criteria.~~

~~(ab) There are at least two stages in OHFA's review of Applications: The inducement stage and the final financing stage. Initial/Inducement Application Stage; ~~Conditional Commitment State/Final Financing Stage.~~ The Inducement Resolution may not be combined with the Final Resolution.~~

~~(b) The primary objective of this Initial/Inducement Application Stage review is to assess the extent to which:~~

~~(1) The Development addresses a need for housing, including special needs housing, in the related market;~~

~~(2) The Development is consistent with the public purpose objectives and priorities of OHFA;~~

~~(3) The Application demonstrates a reasonable plan of financing. The Development must be financially feasible and viable. OHFA will underwrite the Application.~~

~~(4) The Application demonstrates sufficient capacity, experience and performance history of the Applicant and the Development Team. The Applicant must provide evidence that the Applicant and Development Team have the capacity and experience to develop, construct, market and manage multifamily Developments.~~

~~(5) The Applicant has the ability to obtain a credit enhancement commitment and/or a bond purchase commitment, as applicable and whether the implementation of the undertaking is dependent upon identified contingencies (e.g., receipt of a State volume cap reservation, award of Affordable Housing Tax Credits, an award of HOME Investment Housing Partnership funding, the award of grants or loans from private or governmental sources, or other material contingencies).~~

~~(c) The Applicant will be notified and informed of any additional requirements for the Trustees to consider the Application for an Inducement Resolution. OHFA's notice to the Applicant will establish a timeline for filing additional or supplemental information.~~

~~(d) An Inducement Resolution may be issued before an Application is filed with OHFA. Specific requirements for documentation to be submitted will be in the AP.~~

~~(de) Following OHFA's review, only Applicants/Applications meeting all requirements of these Rules and any additional requirements of OHFA will be submitted to the Trustees for their consideration for approval of a an Inducement/Final Resolution.~~

~~(ef) After the Inducement Resolution is issued, a Public Hearing must be conducted by OHFA after reasonable public notice, for the purpose of receiving and evaluating comments in support of and/or in opposition to the proposed Development.~~

~~(fg) An application for State bond cap must be submitted with all required documentation. The application will be submitted by OHFA or one of its bond professionals, one of its designates.~~

~~(gh) Conditional Commitment/Final financing stage.~~

(1) The Applicant and OHFA, together with their respective legal and financial advisors or consultants, must prepare all documents and financial analyses required to enable OHFA to adopt a Financing Resolution. The Trustees may ~~combine the Conditional Commitment Resolution and Financing Resolution, conditioning condition~~ same upon such conditions precedent as the Trustees deem, in their discretion, necessary to Closing.

(2) All information previously provided must be updated and supplemented, to the extent necessary. Failure to comply with this requirement may result in the denial of the Application.

(3) ~~The Applicant/Borrower must prepare a mortgage credit package acceptable to OHFA containing sufficient information to enable OHFA to evaluate and underwrite the financial capacity of the Applicant to successfully execute the proposed financing plan. These requirements may include:~~

~~(A) A written representation regarding the nature, extent and availability of its own capital, bank credit lines, governmental grants or other sources of funds to meet or cover working capital requirements, equity contributions contemplated by the Applicant(s)'s Financing, or Development cost overruns should they occur;~~

~~(B) References from bankers, attorneys, accountants or other persons or firms having had prior business relationships with the Applicant(s), plus references of public agencies, as applicable;~~

~~(C) Current certified financial statements for all general partners or corporate Applicant and Borrower. At OHFA's option, current certified financial statements may also be required for each of the Applicant(s), and each of the proposed guarantors or other credit enhancement providers;~~

~~(D) If applying for OHFA financing without credit enhancement, audited financial statements for each of the Applicant(s) for each of the three fiscal years preceding the date of the Inducement Application, or from the inception of each of the Applicant(s) whichever time period is shorter, supplemented by unaudited financial statements for each of the subsequent accounting periods and the written representation(s) of each of the Applicant(s) that no material adverse changes in financial position have occurred since the date of the most recent audited financial statements submitted.~~

~~(E) Any additional financial information requested by OHFA, its Trustees or advisors.~~

(43) OHFA shall not be obligated to close on the financing on a Development unless the Board of Trustees in their respective complete discretion, are satisfied that all the requirements and standards imposed by federal and Oklahoma laws, rules and regulations and local ordinances, rules, regulations, and other applicable restrictions, and this Chapter, and the terms and conditions of all resolutions adopted by the OHFA Trustees pertaining to the

Development have been, and at the time of the Closing remain, fully completed and satisfied.

(54) The final terms and conditions of OHFA MF Bonds issued must be reflected in the Bond Documents relating to the transaction.

(6) The Bond Documents must reflect in all material respects the Application, as amended and supplemented and as approved by the Trustees in the related Commitment and Financing Resolution.

330:30-4-4.1. Basic Application requirements

(a) The AP, as approved by the Trustees may modify, expand, or clarify the following criteria.

(ab) Applicants are advised to consult with OHFA respecting the acceptable format for presentation of information. The form and presentation of each item will be as prescribed in the AP. OHFA reserves the right to require additional information if the disclosures provided are deemed inadequate. The content of the Initial/Inducement Application and the information required to be submitted during the first two (2) stages, may include, but is not limited to the following:

- (1) **Development name; Development name.**
- (2) **Borrower.**
 - (A) The legal name and tax identification number for the Borrower should be provided. Any Person having an ownership interest in the Borrower must be identified and the nature and percentage ownership disclosed.
 - (B) All formation documents and an Oklahoma certificate of good standing should be provided for the Borrower and any Person having an Ownership interest.
- (3) **Development Team.** Provide contact information of the Applicant, Borrower and each member of the Development Team.
 - (A) Resumes of the Development Team members and a summary of the multifamily and affordable housing development, ownership and management experience of each should be included. Resumes should include a list of all bond financed or affordable housing developments in which any Development Team member participated, during the prior seven years, including the particular nature of team member's role in each (i.e., Owner, Developer, manager, etc.) and in the case of bond financed transactions the name of the issuer, issue size, and date of issue. Any delinquencies or defaults or uncured noncompliance must be disclosed. Any changes to the Development Team at any time must be disclosed and the Application supplemented.
 - (B) If a nonprofit organization will have a direct or indirect Ownership interest in the Development identify and provide a history of the organization. Describe how such organization will be involved in the Development (i.e., specific areas of responsibility) and how the organization will function as part of the Development Team. Formation documents and proof of nonprofit status should be provided.

(4) **Certifications and Affidavits.** Each Applicant and the Development Team may be required to provide the following certifications and affidavits, in the form as prescribed by OHFA, in conjunction with the Application:

- (A) A verified conflict of interest statement;
- (B) A statement that each Development Team member understands the penalty under State law for submitting false information in its Application or in other materials submitted to OHFA;
- (C) An affidavit attesting the Affiant is not ineligible under the criteria set out in 330:30-2-3.1;
- (D) Anti-collusion affidavit;
- (E) Indemnity Letter from Applicant and Borrower holding OHFA and its Trustees, employees, representatives, attorneys, financial advisors and other consultants harmless. The indemnity letter must acknowledge that the Trustees have complete and absolute discretion to approve or fail to approve the issuance of any bonds at any point during the Application process.

(5) **Market Study.** The market study must comply in all respects with the market analysis required under OHFA's Affordable Housing Tax Credit Program. See current year's Tax Credit Application Instructions.

(6) **Development Description.** The Application should, at a minimum, include:

- (A) Street addresses, legal site description and site maps to locate the Development within its respective sub-market and within the larger market area;
- (B) Current or proposed site plans showing the location of all Buildings, site entrances/exits, driveways and parking areas, easements, recreational facilities and other significant features;
- (C) Number and type of Buildings number of units categorized by number of bedrooms/bathrooms and square footage plus floor plan layouts of each unit and Building configuration.
- (D) Shared facilities and amenities.
- (E) The population, if any that will be served by the Development.

(7) **Capital Needs Assessment.** For existing Developments, a Capital Needs Assessment must be provided. This must comply in all respects with the Capital Needs Assessment requirements under OHFA's Affordable Housing Tax Credit Program. See current year's Tax Credit Application Instructions.

(8) **Income and Expenses Information.** The Application should, at a minimum, include:

- (A) Schedule of current (if applicable) and proposed rents by unit type and any annual increase factor;
- (B) Other income and any annual increase factor;
- (C) Annual expenses, including replacement reserves and any annual increase factor; and
- (D) Fifteen year pro forma, demonstrating stabilized net operating income before debt service, and a reasonable debt coverage ratio.

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- (9) **Site Information.** ~~The Application should, at a minimum, include:~~
- ~~(A) Current ownership of the Land/Building(s);~~
 - ~~(B) Site control must be demonstrated through a deed, option to purchase, option to lease, etc. Any options must be long enough to close the Bonds, or have extensions to be long enough. A lease will be required to be at least as long as the period of affordability.~~
 - ~~(C) Current zoning of site, which allows for proposed type of Development;~~
 - ~~(D) Proposed construction and/or rehabilitation plans to be completed, including; and~~
 - ~~(E) Proposed timetable for completion of each of the major steps for the Development.~~
- (10) **Costs/Sources.** ~~The Application should, at a minimum, include:~~
- ~~(A) Schedule of total development costs including each significant component of hard costs, soft costs and a construction budget;~~
 - ~~(B) Detailed statement of all proposed sources of construction, permanent and credit equity if applicable.~~
 - ~~(C) Identification of proposed source(s) of credit enhancement supported by letters of intent or commitments from the related provider(s); and~~
- (11) **Management/Marketing.** ~~The Application should, at a minimum, include:~~
- ~~(A) For existing Developments, current resident profile by income and household size together with a discussion of resident displacement which could occur in order to effect rehabilitation or repairs, or to comply with imposed income limitations;~~
 - ~~(B) Overview of proposed marketing strategy, particularly regarding the strategy to achieve and maintain low income occupancy requirements; and~~
 - ~~(C) Overview of the proposed management plan for the Development.~~
- (12) **Supplemental Information.** Any and all additional information OHFA may require in order to analyze the Development and Application at any stage of its review.
- (b) ~~The Applicant shall submit an original Application in a three ring binder utilizing an index and corresponding tabs. Applications must be complete and consistent with all supporting documentation. Some information may be submitted electronically, if OHFA has stated or approved.~~
- (c) Any amendment or changes to information filed with OHFA must be disclosed immediately. This is a continuing disclosure requirement. Any amendments or changes not immediately brought to the attention of OHFA, in writing, may result in the Application being rejected.
- (b) Applications may be disapproved at any stage of processing, for any of the following criteria, in addition to any other specific reason(s) which may be established by the Trustees during the review process.
- (1) The financing of such Development involves a risk to OHFA that its current or future financing ability or reputation in the credit markets may generally be adversely affected.
 - (2) The financing of such Development is determined not to be cost-effective in terms of its proposed utilization of OHFA financing capacity and/or other financial resources.
 - (3) Failure to submit any information required by this Chapter, the AP, any Resolution of the Trustees and/or OHFA advisors at any stage of processing.
 - (4) Failure to demonstrate that the proposal is consistent with OHFA's public purposes and priorities.
 - (5) Failure to demonstrate that the proposed financing is reasonable and appropriate for the Development and market conditions.
 - (6) Failure to demonstrate that the Applicant and the other Development Team members have the good character, reputation, integrity, honesty, experience, resources and capacity to successfully execute the related financing plan and to properly manage the Development.
 - (7) The information at the inducement stage varies materially from the information contained in the initial Application or the information filed at the financing stage varies materially from the information filed in the initial Application and/or the inducement stage.
 - (8) Any condition for Closing has not been satisfied.
- (c) Any Applicant, Borrower, Owner, Developer or any Affiliates of, or principals may not be eligible to obtain OHFA financing if that Person has been, within the preceding seven (7) years:
- (1) The appointment of a Receiver; conviction on a felony criminal charge; or bankruptcy.
 - (2) Suspended or expelled from membership in, or suspended or barred from association with a member of, any securities exchange or self-regulating association; or suspended, barred or had any license revoked by any federal or state agency or local governmental unit in regard to any federal or state statute, rule, regulation, executive or administrative order, or any local governmental ordinance, rule or regulation designed to protect consumers; or any federal or state agency or local governmental unit established to protect consumers against unlawful practices involving insurance, securities, commodities or commodity futures, real estate or any interest therein, franchises, business opportunities, consumer goods, benefits under any federal state or local governmental unit program; or other services offered by federal, state or local governmental units or by private entities.
 - (3) Involved in uncured financing defaults, foreclosures for federal, State, or OHFA Programs, and/or placement on HUD's list of debarred contractors;

330:30-4-4.2. Application evaluations

(a) In evaluating whether to authorize the issuance of OHFA MF Bonds for the purpose of financing a Development, the Trustees may take into consideration certain criteria. These criteria will be outlined in the AP.

- (4) Events of material uncorrected noncompliance with any federal or State assisted housing programs in any jurisdiction;
- (5) Removed as a general partner or managing member;
- (6) Failure to comply with OHFA's requests for information or documentation on any Development funded or administered by OHFA.

(d) No Applicant, Borrower, Development Team member or any third party shall have any recourse against OHFA or any of its Trustees, employees, representatives, attorneys, financial advisors or other consultants for any failure to approve.

SUBCHAPTER 8. FEES AND EXPENSES

330:30-8-1. ~~Initial/Inducement~~ Application stage

(a) When notified by OHFA the Applicant shall remit to OHFA a nonrefundable ~~initial/inducement~~ Application ~~fee~~ Fee in an amount equal to the greater of:

- (1) Ten basis points (.10%) of the dollar amount of OHFA ~~MF Bonds~~ bonds requested; or
- (2) Five Thousand Dollars (\$5,000).

(b) If an Inducement Resolution is sought before an Application is submitted to OHFA, then One Thousand Dollars (\$1,000) is due before the Trustees consider the Inducement Resolution. The remaining balance of the fee would be due two weeks after the Trustees consideration.

(bc) OHFA may require an Applicant to make payments to third parties who provide services relating to OHFA's review and evaluation of the Application.

330:30-8-3. ~~Conditional Commitment/Final~~ Financing stage

(a) When notified by OHFA the Applicant shall remit to OHFA a nonrefundable ~~conditional commitment/final~~ financing ~~fee~~ Fee in an amount equal to the greater of:

- (1) Forty basis points (0.40%) of the dollar amount of OHFA ~~MF Bonds~~ bonds requested; or
- (2) Twenty Thousand Dollars (\$20,000).

(b) OHFA may require an Applicant to make payments to third parties who provide services relating to OHFA's review and evaluation of the Application.

(c) Fees for the ~~conditional commitment/final~~ financing stage and/or the fees due to third parties may be incorporated into the closing process.

(d) All fees outstanding will be due and payable by the Borrower at Closing.

330:30-8-5. ~~Administrative fee and compliance fee~~

(a) The Owner of each Development financed by OHFA shall be required to remit to OHFA ~~and a nonrefundable administrative and compliance fee, equal to twelve and one half basis points (0.125%) per annum of the principal amount of OHFA bonds outstanding as of the date of calculation.~~

(b) The administrative and compliance fee for the first five (5) years shall be paid in advance and must be paid at Closing

annually. The amount of the fee will be twelve and one half basis points (.125%) of the principal amount of OHFA MF Bonds issued.

(c) Thereafter, the administrative and compliance fee shall be paid in advance annually and equal to twenty-five basis points (.25%) per annum and calculated on amount of MF Bonds outstanding, if any.

330:30-8-6. Compliance fee [REVOKED]

~~(a) The Owner of each Development financed by OHFA shall be required to remit to OHFA annually a compliance fee equal to twelve and one half basis points (0.125%) per annum of the principal amount of OHFA bonds outstanding as of the date of calculation.~~

~~(b) The compliance fee shall be paid in advance and must be paid annually.~~

330:30-8-7. Assumption and/or Transfer fee

(a) OHFA may require, for each Development, the Bond Documents contain a "due on sale or change of Ownership or Control" clause in the Bond Documents.

(b) In connection with the Transfer or change of Ownership or Control of a Development the Owner/Borrower or the purchaser shall remit to OHFA a nonrefundable assumption/~~transfer~~ Transfer fee in an amount equal to one percent (1.00%) of the principal amount of OHFA ~~MF Bonds~~ bonds outstanding as of the date of Transfer of Ownership or \$3,000, whichever is greater.

SUBCHAPTER 12. COMPLIANCE AND REPORTING REQUIREMENTS

330:30-12-3. Audits and examinations

OHFA shall have the right, at any time and from time to time, to examine and audit any and all of the records or accounts of the Applicant, and/or Borrower and Affiliates of each pertaining to the Development, the MF Bonds bonds, and the direct and indirect Ownership in the Applicant and/or Borrower and the Affiliates of each.

SUBCHAPTER 14. SALE, TRANSFER/ASSUMPTION

330:30-14-1. Borrower's requirements

(a) Procedures for sale, Transfer or assumptions will be established in the AP, including the necessary documentation.

~~(ab) The Borrower and its Affiliates and Controlling parties must covenant and agree not to sell, Transfer, or otherwise dispose of the Development, or any material portion of the Development, or any portion of their Ownership or Controlling interest in the Development without first obtaining the prior written consent of OHFA.~~

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(b) ~~The Borrower, its Controlling parties and prospective buyers may be required to submit the following to OHFA for its review prior to any sale or Transfer:~~

- ~~(1) Assumption/Transfer fee according to 330:30-8-7;~~
- ~~(2) Such additional material as may be required by OHFA, its counsel, or the Trustees, in their complete discretion, including verification that neither the prospective buyer nor any of its Affiliates, Controlling parties or principals is disqualified under 330:30-2-3.1.~~

(c) OHFA's criteria for approval or denial of a proposed sale or Transfer shall be at the discretion of the Trustees, based upon the facts and circumstances presented by the Borrower and prospective buyer.

[OAR Docket #16-624; filed 6-23-16]

TITLE 340. DEPARTMENT OF HUMAN SERVICES

CHAPTER 1. FUNCTION AND STRUCTURE OF THE OKLAHOMA DEPARTMENT OF HUMAN SERVICES

[OAR Docket #16-570]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 11. Civil Rights and Nondiscrimination on ~~Basis of Race, Color, National Origin, Sex, Age, Religion, or Disability~~

Part 1. Methods of Administration

- 340:1-11-1 through 340:1-11-1.1 [AMENDED]
- 340:1-11-2 [REVOKED]
- 340:1-11-3 through 340:1-11-7 [AMENDED]
- 340:1-11-9 through 340:1-11-14 [AMENDED]
- 340:1-11-15 [REVOKED]

Part 2. ~~Food Stamp~~Supplemental Nutrition Assistance Program Discrimination Complaint and Non-compliance System [AMENDED]

- 340:1-11-20 through 340:1-11-22 [AMENDED]
 - 340:1-11-24 [AMENDED]
 - 340:1-11-26 through 340:1-11-27 [AMENDED]
- Part 3. The Americans with Disabilities Act Request and Complaint System

- 340:1-11-40 through 340:1-11-41 [AMENDED]
- 340:1-11-42 [REVOKED]
- 340:1-11-43 through 340:1-11-45 [AMENDED]
- 340:1-11-46 through 340:1-11-49 [REVOKED]
- 340:1-11-50 [AMENDED]
- 340:1-11-51 through 340:1-11-52 [REVOKED]
- 340:1-11-53 through 340:1-11-54 [AMENDED]
- 340:1-11-55 [REVOKED]

Appendix B. Response to Request for Reasonable Accommodation for a Disability [REVOKED]

(Reference WF 15-07)

AUTHORITY:

Director of Human Services; Section 162 of Title 56 of the Oklahoma Statutes (56 O.S. § 162).

SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:

March 25, 2016

COMMENT PERIOD:

February 16, 2016 through March 16, 2016

PUBLIC HEARING:

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ADOPTION:

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SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:

March 25, 2016

APPROVED BY GOVERNOR'S DECLARATION:

Approved by Governor's declaration on June 9, 2016

FINAL ADOPTION:

June 9, 2016

EFFECTIVE:

September 15, 2016

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

ANALYSIS:

The proposed revisions to Chapter 1, Subchapter 11, Part 1 amend the rules regarding the non-discriminatory procedures to align with current practice, incorporate plain language standards, and comply with federal anti-discrimination statutes and United States (U.S.) Supreme Court decisions.

CONTACT PERSON:

Dena Thayer, Programs Administrator, Office of Intergovernmental Relations and Policy, Oklahoma Department of Human Services, 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., SECTION 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 15, 2016:

SUBCHAPTER 11. CIVIL RIGHTS AND NONDISCRIMINATION ON BASIS OF RACE, COLOR, NATIONAL ORIGIN, SEX, AGE, RELIGION, OR DISABILITY

PART 1. METHODS OF ADMINISTRATION

340:1-11-1. Statement of compliance

The Oklahoma Department of Human Services ~~will administer~~(DHS) administers its programs and business, ~~either directly, indirectly, or through contractual or other arrangements, in accordance with per:~~

- (1) Title VI and Title VII of the Civil Rights Acts of 1964, ~~Title 45, Code of Federal Regulations;~~
- (2) Section 504 of the Rehabilitation Act of 1973;
- (3) the Age Discrimination Act of 1975, ~~and;~~
- (4) the Age Discrimination in Employment Act;
- (5) the Americans With Disabilities Act of 1990;
- (6) the Americans With Disabilities Act Amendments Act;
- (7) the Equal Pay Act;
- (8) the Pregnancy Discrimination Act;
- (9) the Genetic Information Non-Discrimination Act;
- (10) the Oklahoma Anti-Discrimination Act; and
- (11) the Oklahoma Merit Rules for Employment.

340:1-11-1.1. Definitions

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

"ADA" means the Americans With Disabilities Act of 1990, as amended at 42 U.S.C. § 12101-12117 Sections 12101-12117 of Title 42 of the United States Code (42 U.S.C. §§ 12101-12117), (SUPP. V.1994) Public Law 101-336.

"ADA, Title I" means employers do not discriminate against qualified individuals or applicants with disabilities. Employers reasonably accommodate the qualified employee or applicant by modifying work stations and equipment, unless undue hardship would result.

"ADA, Title II" means state and local governments do not discriminate against qualified individuals or applicants with a disability in any program, service, or activity provided or administered by public entities, regardless of whether federal funds are received.

"ADA, Title III" means public accommodations do not discriminate on the basis of disability. Existing physical barriers are removed, if possible. New construction will be accessible.

"ADA, Title IV" means telecommunications are provided by telephone companies for deaf and hard of hearing and speech impaired individuals 24 hours per day.

"Age Discrimination Act of 1975" means 29 U.S.C. 621-634. [Public Law 94-135] This law states it is unlawful to discriminate in employment practices based on age.

"DHHS-OCR" means the U.S. Department of Health and Human Services—Office For Civil Rights, Dallas, Texas 75202.

"Deaf person" means a person whose hearing loss is so severe that the individual cannot communicate through oral or aural means, or a person with a hearing loss to a degree that it impedes the conduct of essential business requirements, and poses a risk of possible personal or financial loss in the acquisition or receipt of social services, employment, health and safety situations, and other instances when meaningful communication is critical.

"Department" means the Oklahoma Department of Human Services (DHS).

"Director" means the Director of DHS.

"Disabled person" means, according to ADA, any person who:

- (A) has a physical or mental impairment which substantially limits one or more of his or her major life activities;
- (B) has a record of such impairment; or
- (C) is regarded as having such impairment.

"Discrimination or non-compliance" means discrimination or non-compliance based on age, religion, disability, political affiliation, sex, race, color, or national origin differential treatment, such as conduct, actions, or decisions, based on race, color, national origin, sex, religion, age, disability, genetic information, or political opinion or affiliation unless authorized by law.

"Drug" means a controlled substance, as defined in Schedules I through V of Section 202 of the Controlled Substance Act [21 U.S.C. 812] 29 C.F.R. 1630.3(a)(1).

"Essential job functions" means the fundamental job duties of an individual position. The term does not include marginal functions of the position. Evidence of the essential job functions are:

(A) the employer's judgment of the essential job functions;

(B) a written job description prepared before advertising or interviewing employees or applicants for the individual position;

(C) the amount of time spent performing the identified essential job functions; and

(D) if these functions are identified as critical on the employee's performance evaluation. The term does not include marginal functions of the position.

"FNS" means the U.S. Department of Agriculture, Food and Nutrition Service, Dallas Regional Office, Dallas, TX.

"Harassment" means unwelcome or offensive behavior based on membership in a protected class that is so severe and/or pervasive in nature that it alters the conditions of the victim's working environment.

"Has a record of such impairment" means the individual has a history of, or who is treated as having, a mental or physical impairment that substantially limits one or more major life activities.

"Illegal use of drugs" means the use of drugs of which possession or distribution is unlawful under the Controlled Substance Act, as periodically updated by the Food and Drug Administration.

"Is regarded as having such an impairment" means a person:

(A) has a physical or mental impairment that does not substantially limit major life activities but is treated by a covered entity as constituting such limitation;

(B) has a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others toward such impairment; or

(C) has none of the impairments defined herein but is treated by a covered entity as having a substantially limiting impairment.

"Local coordinator" means the local or county coordinator.

"Major life activities" means functions such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

"OCR" means the DHS Office for Civil Rights.

"Physical or mental impairment" means:

(A) any physiological disorder, or condition, cosmetic disfigurement, or anatomical loss affecting neurological, musculo-skeletal, special sense organs, respiratory, cardiovascular, reproductive, digestive, genitourinary, hepatic and lymphatic, skin, or endocrine systems; or

(B) any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, or specific learning disabilities.

"Protected Activity" means:

(A) filing a discrimination complaint or a request for reasonable accommodation;

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(B) participating in an investigation or administrative or court hearing regarding a complaint of discrimination; or

(C) opposing an alleged discriminatory act in a lawful manner.

"Protected Class" means a group of people or an identifying characteristic of people prohibited by law from being used as a basis or motivation for employment actions or program or service delivery or eligibility. Protected classes include race, color, national origin, religion, sex, age, disability, political opinion or affiliation, and genetic information.

"Qualified individual with a disability" means:

(A) employment: an individual with a disability who satisfies the requisite skill, experience, education, and other job related requirements of the individual employment position he or she holds or desires, and who, with or without reasonable accommodation, can perform the essential functions of such position; or

(B) programs: an individual with a disability who with or without reasonable modifications to rules, policies, or practices; removal of architectural, communication, or transportation barriers; or the provision of auxiliary aids and services, meets the essential eligibility requirements for the receipt of services or the participation in programs or activities administered by DHS.

"Reasonable accommodation" means modifications or adjustments:

(A) to a job application process that enable a qualified applicant with a disability to be considered for the position he or she desires;

(B) to the work environment, or to the manner or circumstances under which the position held or desired is customarily performed, that enable a qualified individual with a disability to perform the essential functions of that position; or

(C) that enable a covered entity's employee with a disability to enjoy equal benefits and privileges of employment as are enjoyed by the entity's other similarly situated employees without disabilities.

"Relationship or association with an individual with a disability" means a qualified individual with or without a disability who has a known relationship or association with an individual who has a known disability. While such individuals are protected from discrimination in terms of equal jobs and benefits, and equal programs and activities, there is no requirement for an employer to provide a person without a disability with a reasonable accommodation. This duty only applies to qualified applicants or employees with disabilities.

"Request Review Committee (RRC)" means the committee used to resolve ADA requests which exceed specified time frames, cost more than \$600, or are unresolved. The chair is appointed by the Director. The committee meets monthly or as needed and prepares written responses within ten working days of meeting.

"Retaliation" means actions, threats, or intimidation as a reprisal for participating in a protected activity.

"Section 504" means Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794. [Public Law 93-112] This Section guarantees the civil rights of a qualified disabled person. No qualified disabled person is excluded from participation or denied benefits on the basis of disability, or otherwise subjected to discrimination under any program or activity that receives or benefits from federal financial assistance.

"Substantially limits" means:

(A) unable to perform a major life activity that the average person in the general population can perform; or

(B) significantly restricted as to the condition, manner, or duration under which an individual can perform a particular major life activity as compared to the condition, manner, or duration under which the average person in the general population can perform that same major life activity.

"Title VI" means Title VI of the Civil Rights Act of 1964, Public Law 88-352, 42 U.S.C. 2000 et. seq., which prohibits discrimination based on race, color, national origin, religion, or sex in federally assisted programs.

"Title VII" means Title VII of the Civil Rights Act of 1964, as amended, Public Law 102-166, which prohibits discrimination in employment based on race, color, national origin, religion, or sex.

"Undue hardship" means, with respect to the provision of an accommodation, significant difficulty or expense incurred by a covered entity. The concept of undue hardship is not limited to financial difficulty. Undue hardship refers to any accommodation that would be unduly costly, extensive, substantial, or disruptive, or that would fundamentally alter the nature or operation of the business.

340:1-11-2. Designated agency [REVOKED]

The Department of Human Services is designated as the agency responsible for operating:

- (1) Aging Services;
- (2) Children and Family Services;
- (3) Child Support Enforcement;
- (4) Developmental Disabilities Services;
- (5) Family Support Services; and
- (6) all other programs administered by the Department.

340:1-11-3. Practices prohibited

(a) The Oklahoma Department of Human Services (DHS) Director does not discriminate ~~nor~~ and does not allow any member of his or her DHS staff, Department or DHS contractors, vendors, or sub-grantees, or other interested persons to discriminate.

(b) The DHS Director does not issue ~~nor~~ and does not allow the issuance of rules, regulations, directives, or other public communications that have the effect of subjecting individuals to discrimination.

340:1-11-4. Administration responsibilities

(a) The Oklahoma Department of Human Services (DHS) Director assumes full responsibility for compliance with Title

~~VI, Title VII, Section 504, and the ADA per Oklahoma Administrative Code (OAC) 340:1-11-1.~~

~~(b) The DHS Director designates as the OCR administrator a staff member of his or her staff not organizationally related to the Agency's DHS personnel administration, as the Office for Civil Rights (OCR) administrator. The OCR administrator is a person who is knowledgeable and sensitive to the problems of minorities and the disabled of civil rights laws. The OCR administrator is the employee responsible for implementing Section 504, Title VI, Title VII, and the ADA.~~

~~(c) The DHS Director assigns full compliance responsibility to all DHS administrators, and managers, and supervisors. The administrators, and managers, and supervisors keep and maintain essential records and files relative to Title VI, Title VII, Section 504, and the ADA per OAC 340:1-11-1.~~

~~(d) The administrators and Administrators, managers, and supervisors avail themselves of the OCR administrator's technical assistance and training provided by the OCR administrator. They comply Administrators, managers, and supervisors comply with the Methods of Administration, and the Plan for Implementation designed and prepared by the OCR administrator.~~

~~(e) The OCR administrator is responsible for:~~

- ~~(1) developing rule statements rules, regulations, and compliance programs for Title VI, Title VII, Section 504, and the ADA, which DHHS OCR and FNS determine necessary to fulfill the requirements of these Methods of Administration per OAC 340:1-11-1, and disseminated disseminating those requirements to:~~

- ~~(A) staff;~~
- ~~(B) beneficiaries clients;~~
- ~~(C) subcontractors or contractors, vendors, and sub-grantees;~~
- ~~(D) interested members of the general public; and~~
- ~~(E) customary referral services;~~

~~(2) developing a Plan for Implementation of the Methods of Administration and the Plan for Implementation;~~

~~(3) keeping the DHS Director, administrators, managers, and supervising personnel supervisors informed of all Title VI, Title VII, Section 504, and ADA nondiscrimination requirements and responsibilities, per OAC 340:1-11-1;~~

~~(4) monitoring and evaluating the Title VI, Title VII, Section 504, and ADA program DHS nondiscrimination activities of the Department, identifying the need for remedial action and appropriate follow-up review, and submitting reports, as required to the DHS Director, the Department of Health and Human Services-Office for Civil Rights DHHS OCR (DHHS-OCR), and FNS regarding data analysis, training, reviews, and similar reports the Food and Nutrition Service (FNS);~~

~~(5) providing training and technical assistance, and serving as a resource person to for DHS staff regarding Title VI, Title VII, Section 504, and ADA nondiscrimination responsibilities;~~

~~(6) assigning OCR personnel from OCR to perform compliance reviews, and to investigate discrimination complaints of discrimination and Equal Employment~~

~~Opportunity Commission (EEOC) charges, and initiating other Title VI and Title VII implementation procedures as required;~~

~~(7) preparing the annual DHS Affirmative Action Plan annually;~~

~~(8) making follow up reviews conducting Americans with Disabilities Amendments Act compliance inspections of all DHS facilities and recommending remedial action to the DHS Director and to the facility, when necessary;~~

~~(9) receiving appeals of Request Review Committee decisions;~~

~~(10) overseeing the preparation of compliance reports for submission to DHHS OCR and FNS as required in federal regulations investigations of discrimination complaints received by the Office for Civil Rights; and~~

~~(11) acting as the liaison between the DHS Director, DHHS-OCR, FNS, minority and community organizations, and groups advocating for persons with disabilities in all matters concerning Title IV, Title VII, ADA, and Section 504 and the nondiscrimination in the DHS delivery of the Department's services; and~~

~~(12) testifying in matters concerning civil rights before entities, such as boards, commissions, or legislative panels.~~

340:1-11-5. Administration of programs

Prior to implementation of any new programs or new methods for providing existing services, the Civil Rights Administrator, upon request, conducts a study and prepares a report which that shows the impact on minority groups and persons with disabilities, and the accessibility of the services, as proposed, to minority clients or clients with disabilities, both present and prospective.

340:1-11-6. Dissemination of policy

The Department Oklahoma Department of Human Services informs all employees staff, clients, applicants, contractors, vendors, sub-grantees, and the general public that all programs and services are provided on a nondiscriminatory basis.

340:1-11-7. Awareness training

~~(a) The Office for Civil Rights Administrator administrator ensures that all of the Department Oklahoma Department of Human Services (DHS) staff are provided with on-going training designed to instill awareness of ethnic, cultural and disability characteristics and to develop the capability for responding ensure awareness of diversity issues and of appropriate responses to unique needs of minorities and persons with disabilities or minority recipients. Such training will include Training includes:~~

- ~~(1) Title VI, Title VII, Section 504, and ADA requirements legal interpretations of anti-discrimination laws;~~
- ~~(2) compliance review objectives; and~~
- ~~(3) basis for determining discrimination; cultural and disability awareness~~

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- (4) ~~cultural awareness and characteristics; and~~
- (5) ~~disability awareness and characteristics.~~

(b) ~~The Civil Rights Administrator provides the administrators and managers with on-going training in compliance review techniques and procedures, reporting procedures, data gathering and analysis, and any other appropriate instruction pertaining to Title VI, Title VII, Section 504, and ADA.~~

340:1-11-9. Composition of planning and rulemaking bodies

(a) ~~The Department~~Oklahoma Department of Human Services (DHS) provides minority groups and persons with disabilities ~~the opportunity for membership opportunities~~ on its planning and advisory boards.

(b) ~~The Department~~DHS ensures that ~~all~~contractors, vendors, and sub-grantees are aware of, and ~~makes every reasonable effort to comply with;~~ the legal stipulations ~~outlined in~~per federal regulations pertaining to ~~the inclusion of~~ minorities and persons with disabilities ~~in~~on planning and advisory boards.

(c) ~~The Department~~DHS provides interested persons, including persons with disabilities or organizations representing persons with disabilities; the opportunity to assist in the self-evaluation of ~~its~~ current rules and practices and ~~the~~their effect, ~~thereof in regard to per Section 504 and ADA of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, and the Americans with Disabilities Act Amendments Act.~~

340:1-11-10. Interpreter Services Program

(a) The purpose of this Section is to establish a uniform system for processing requests for interpreter services for clients, employees, applicants for services or employment, or children in Oklahoma Department of Human Services (DHS) custody. ~~The Department~~DHS provides, at no charge, interpreter services for DHS clients, applicants, and employees with limited English proficiency (LEP), or who are deaf or hard of hearing to overcome language barriers and provide equal access and equal opportunity to participate in DHS services and employment.

(b) This ~~rule~~Section is applicable to all ~~divisions~~DHS programs; and offices ~~within the Department.~~

(c) Arrangements for interpreters are made as ~~described in~~per (1) and (2) ~~of this subsection.~~

(1) **LEP or bilingual interpreters.** Each local county office or facility maintains a list of employees and community members of ~~the community~~ who are available to provide interpreter/translation services. The list designates the interpreter's translator's name, contact phone number, and the language spoken. Employees use contracted language translation providers when a local, suitable translator is not available. Friends or family members of clients, especially children, are not used for translating information related to eligibility for services, except in emergency situations. In areas where the client population served by a program is 5% five percent or more non-English speaking,

a formalized procedure for bilingual services and literature in the respective language must be provided by DHS.

(2) **Deaf or hard of hearing interpreters.** DHS provides, at no cost, oral or sign language interpreter services to anyone who is deaf and needs an oral or sign language interpreter to receive or continue to receive DHS services, or retain or maintain DHS employment ~~with the Department.~~ ~~DHS has a contract~~uses contracted vendors to provide qualified interpreter services statewide for all deaf persons ~~desiring either~~requesting American Sign Language, Manually Coded English, or oral interpretation, except when services are specifically authorized through the Interpreter Services Program of the ~~State~~Oklahoma Department of Rehabilitation Services. Clients or employees may contact ~~the statewide contractor directly~~local DHS offices to request services. ~~The statewide contractor's name and toll free telephone numbers are listed on DHS poster number S96038 OKDHS, Notice of Interpreter Services for the Deaf and Hard of Hearing. Posters~~DHS Pub. No. 05-02, Sign Language Services, posters are placed ~~in prominent places~~ prominently in DHS offices and facilities.

340:1-11-11. Execution of compliance reviews

(a) ~~The~~Upon request, the Office for Civil Rights ~~Administrator~~administrator develops procedures to analyze and evaluate applications for new facilities with change of ownership and initial applications. ~~The procedures are distributed among the administrators and managers.~~ The procedures include, but are not limited to:

- (1) initiating an original information packet ~~of information;~~
- (2) orienting the facility to ~~Title VI, Title VII, ADA, and Section 504 and their regulations~~per Oklahoma Administrative Code (OAC) 340:1-11-1;
- (3) analyzing and evaluating material upon receipt; and
- (4) determining compliance status.

(b) ~~The Department~~Upon request, the Oklahoma Department of Human Services (DHS) makes periodic compliance reviews to ensure ~~that~~ practices being utilized conform to ~~Title VI, Title VII, ADA, Section 504~~ with OAC 340:1-11-1 and ~~the Department's~~DHS Methods of Administration and Statement of Compliance.

340:1-11-12. Complaint policy and procedures

(a) Any ~~person~~person or group who believes they, ~~or any specific class of persons, have been~~ were subjected to discrimination in a ~~Department~~ an Oklahoma Department of Human Services (DHS) program subject to ~~Title VI, Title VII, ADA, or Section 504~~ Oklahoma Administrative Code (OAC) 340:1-11-1 may make a complaint of discrimination in person, by representation, by telephone phone, or by written communications communication. The complainant has a right to file a complaint of the alleged discriminatory action(s) with ~~the Department~~DHS, FNS the Food and Nutrition Service (FNS), or with ~~DHHS OCR~~ the Department of Health and Human Services-Office of Civil Rights (DHHS-OCR).

(b) For ~~Food Stamp~~ Supplemental Nutrition Assistance Program or service-delivery ~~complaints, complaints see refer to~~ OAC 340:1-11-20.

(c) ~~The complainant has~~ Employees or applicants for employment have the right to file an ~~employment~~ complaint of alleged discriminatory ~~employment~~ action(s) with any or all of the entities listed in (1) - (4) of ~~this subsection~~. The complainant may file with:

(1) ~~the Department of Human Services~~ DHS within ~~180-calendar days;~~ ~~if~~ When the complaint is filed directly with the ~~Department~~ DHS, either at the State Office, ~~or any a~~ local county office, or at a facility, representatives of that office or facility explain both the federal and state complaint systems and advise the complainant of his or her right to file in either, or both, systems;

(2) the ~~Human Rights Commission~~ Oklahoma Attorney General's Office for Civil Rights Enforcement within ~~180-calendar~~ days;

(3) the Equal Employment Opportunity Commission within ~~300-calendar~~ days; ~~or~~

(4) the Oklahoma Merit Protection Commission (MPC) within ~~20-calendar~~ days of the discriminatory action; ~~or~~

(5) the DHS Employee Grievance Program within ~~20-calendar~~ days of the discriminatory action.

(d) ~~The time for filing may be extended by the responsible OCR official.~~

(~~e~~) Any person who expresses an interest in filing a complaint ~~may do so without fear of or files a complaint is protected from~~ retaliation, intimidation, coercion, or threats.

(~~f~~) No person is adversely affected because they made a complaint, testified, assisted, or participated in any manner in an investigation, review, proceeding, or hearing under this policy.

(~~g~~) ~~The Department must conduct~~ DHS conducts a prompt and thorough complaint investigation of the complaint. The Office for Civil Rights (OCR); administrator determines whether or not if discrimination did in fact occur occurred. ~~If~~ When discrimination occurred, the Department DHS takes all necessary action to correct the discriminatory practice(s). The complainant is timely advised, in a timely fashion, of the DHS findings of the Department regarding his or her complaint and is advised of the right to appeal to DHHS-OCR, FNS, or the Director if MPC, when not satisfied with the Department's DHS decision. Records are maintained which show that include the nature of the complaint, the investigation details of the investigation, and the DHS actions taken by the Department.

(~~h~~) In those cases where When the complaint is initially filed initially with DHHS-OCR, that office may proceed to investigate the complaint utilizing its own resources, or it may request the Department to conduct the investigation.

(~~g~~) In either instance, the The complainant's identity of complainants is kept confidential, except to the extent necessary for the to conduct of any the investigation, hearing, or judicial proceeding. Violations of confidentiality are subject to corrective discipline.

340:1-11-13. Determination of site or location of facilities

The site of the Oklahoma Department of Human Services (DHS) offices or facilities of the Department or those of a DHS vendor with whom the Department contracts contracted for the delivery of services are must be physically accessible to all minority groups and persons with disabilities. The access to services administered by the Department or its contractual participants shall not limit access to minority groups and persons with disabilities or jeopardize such access by an adverse change in the geographic location or relocation. The Department shall DHS may withhold approval until compliance with Civil Rights requirements per Oklahoma Administrative Code 340:1-11-1 are met by applicants for grants, reimbursements, and provisions of services, based on the criteria in (1) - (4) of this Section.

(1) The effect on the particular racial, ethnic, or disabled groups served by the facility prior to the proposed relocation is studied.

(2) Where a particular group has no other alternative services available, the contractual participant assures ensures services for minority and disabled persons.

(3) The relocating agency provides adequate assurance assurance that it does provide services to disabled persons and minorities residing in the community, for examples such as specialty hospitals or other unique service facilities.

(4) The relocating agency provides adequate assurance assurance that the facilities or agencies remaining in the area originally serviced will must provide adequate services to the concerned minorities or disabled group.

340:1-11-14. Department Oklahoma Department of Human Services (DHS) responsibility to vendors and subcontractors contractors, vendors, and sub-grantees

(a) The Department imposes upon DHS requires its contractors, vendors, and subcontractors methods of compliance with Title VI, Title VII, ADA and Section 504 comparable to these methods of administration sub-grantees to comply per Oklahoma Administrative Code (OAC) 340:1-11-1. Vendors and subcontractors Contractors, vendors, and sub-grantees are informed that their compliance with Title VI, Title VII, ADA and Section 504 OAC 340:1-11-1 is a condition of their the initial or continued participation in any part of the programs in which they may be are involved. In each DHS-written authorization of the Department for the purchase of services, a requirement is included that stipulating the services are rendered without regard to race, color, religion, sex, disability national origin, or national origin disability, age, or genetic information.

(b) The Department DHS incorporates in its requirements for contractors, vendors, and sub-grantees, as a condition of their approval, and a written assurance that every reasonable effort is made to comply with this section.

(c) The Department DHS obtains from each vendor and subcontractor contractor, vendor, and sub-grantee a written assurance that it will with Title VI, Title VII, ADA and Section

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~~504~~to comply, per OAC 340:1-11-1. Periodically ~~the Department~~DHS reviews its ~~vendors and subcontractors~~contractors, vendors, and sub-grantees to determine that ~~the requirements of the Department~~DHS requirements are being fulfilled and that practices being utilized conform to Title VI, Title VII, ADA and Section 504are nondiscriminatory. A complete report of the entire review is prepared and ~~made a part of the Department's~~is included in the DHS files for review by the ~~Regional DHHS OCR~~Department of Health and Human Services Office of Civil Rights regional review.

340:1-11-15. Recruitment and employment practices [REVOKED]

The Department, in compliance with 45 CFR 84 Subpart B, affirms that no qualified disabled person shall, on the basis of disability, be subjected to discrimination in employment under any program or activity of the Department.

PART 2. FOOD STAMPSUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM DISCRIMINATION COMPLAINT AND NON-COMPLIANCE SYSTEM

340:1-11-20. Purpose and scope

(a) The purpose of this Section is to establish a uniform system for processing discrimination complaints from clients who participate in, or apply for the ~~Food Stamp~~Supplemental Nutrition Assistance Program (SNAP).

(b) This policy is applicable to ~~all Divisions and Offices within the Department~~Oklahoma Department of Human Services (DHS) employees and to any person who may require DHS assistance or services~~from DHS~~.

(1) A copy of ~~DHS#S97104, Complaint Procedures~~ must be the United States Department of Agriculture's "And Justice for All" poster AD-475B, is posted in a conspicuous place in ~~the lobby of each DHS office and facility~~where applications for SNAP may be received.

(2) Copies of Form ~~OCR-14CR001E, Discrimination Complaint Form-Client or Vendor~~, are available in each DHS office and facility for use by any person upon request.

340:1-11-21. Complaints of discrimination in the Supplemental Nutrition Assistance Program (SNAP)

~~When operation, management, or delivery of services is alleged to be in non-compliance with laws, regulations, or guidelines mandated by the federal government, the~~The Office for Civil Rights (OCR) is the delegated authority to accept, investigate, and seek resolution of complaints of discrimination to SNAP applicants or participants~~of the Food Stamp Program~~. All written or verbal complaints alleging discrimination are ~~immediately~~forwarded to OCR ~~within five-business days~~ by the Oklahoma Department of Human Services employee who received the complaint.

340:1-11-22. Discrimination and non-compliance in the Supplemental Nutrition Assistance Program (SNAP)

(a) Discrimination is prohibited in all aspects of the delivery of ~~Food Stamp Program~~SNAP benefits. Prohibited actions include, but are not limited to:

(1) denial or unreasonable delay of a ~~household~~ household's application for any services or benefits based on protected class membership;

(2) distinction in the quality, quantity, or manner in which the benefits are provided;

(3) segregation or separate treatment of persons in any manner related to the receipt of program benefits;

(4) ~~use of criteria or methods of administration that have the effect of defeating or impairing the objectives of the program;~~ and

(5) selection of the site for certification and issuance of offices that have the effect of excluding persons.

(b) The Oklahoma Department of Human Services (~~OKDHS~~) does not condone rudeness or ~~disrespect~~ disrespectful behavior toward program applicants, recipients, or the general public. ~~Any substantiated claim of disrespect of any person is considered as non-compliance with OKDHS policies and procedures.~~

340:1-11-24. Retaliation

Any ~~person~~applicant or recipient who expresses an interest in filing a complaint or files a complaint may do so without fear of reprisal, intimidation, coercion, or threats. No person is adversely affected because they made a charge, testified, assisted, or participated in any manner in an investigation, review, proceeding, or hearing ~~under per this policy~~Section.

340:1-11-26. Confidentiality

~~All persons involved in the complaint process must respect the confidentiality and the right to privacy of all persons involved.~~ Information concerning any complaint ~~in process~~ is only given only to persons who have a need to know as determined by the ~~Department's OCR~~Oklahoma Department of Human Services (DHS) Director or the Office for Civil Rights administrator. Violations of confidentiality are subject to discipline ~~under per DHS rules concerning conduct and standards. DHHS and FNS are not bound by this rule regarding release of complaint records.~~

340:1-11-27. Civil Rights training

The ~~Department~~Oklahoma Department of Human Services conducts a continuing civil rights training for employees ~~involved with the Supplemental Nutrition Assistance program for food stamp eligibility~~Program, including workers, hearing officials, performance reporting system reviewers, and receptionists. Training ~~shall cover non-discrimination rights as it relates to~~topics include:

(1) nondiscrimination requirements relating to eligibility criteria;

(2) certification procedures;

(3) household rights and responsibilities; ~~and~~

- (4) complaint procedures;
- (5) protected classes; and
- (6) theories of discrimination.

PART 3. THE AMERICANS WITH DISABILITIES ACT REQUEST AND COMPLAINT SYSTEM

340:1-11-40. Purpose and scope

(a) The purpose of this Part Section is to establish a uniform system for processing:

- (1) establish a uniform system for processing requests for reasonable accommodation requests per the Americans with Disabilities Act Amendments Act (ADAAA) from employees, job applicants, or clients; and
- (2) establish a uniform system for processing appeals from employees, job applicants, or clients who participate in or apply for regarding a request for reasonable accommodation.

(b) ~~This policy is applicable to all Divisions and Offices within the Department and to any person who may require assistance, services or employment from DHS. All Oklahoma Department of Human Services (DHS) employees, job applicants for DHS employment, and clients served by the Department DHS have a the right to request a reasonable accommodation when circumstances exist which directly and adversely affect their employment with DHS or their ability to receive DHS services. No employee, job applicant, or client is discriminated against with regard to employment or services for exercising his or her rights under the request procedure. Copies of ADA 1 and ADA 2, Request for Reasonable Accommodation are available in each DHS office and facility for use by any person upon request.~~ a disability causes:

- (1) an employee to be unable to perform an essential function of the position;
- (2) an applicant for employment to need assistance to apply or interview; or
- (3) a client to be unable to access a DHS service or program.

(c) Discrimination, including retaliation, against persons exercising rights under the accommodation request procedure is prohibited. Form 14CR003, The Request for Reasonable Accommodation, is available online and in each office and facility upon request.

(d) Examples of reasonable accommodations are found at: www.askJAN.org.

340:1-11-41. Overview of reasonable accommodation Reasonable accommodations for Oklahoma Department of Human Services (DHS) employees - Title I

(a) The need for accommodation is determined DHS employee requests for reasonable accommodations are resolved at the lowest level possible, on a case-by-case basis, taking into consideration after Form 14CR003E, Request for Reasonable Accommodation, is accepted by the Office for Civil Rights

(OCR) and OCR has opened a case. OCR considers Americans with Disabilities Act (ADA) protocol for reasonable accommodation requests, when:

- (1) the employee's or job applicant's specific disabling condition and the existing limitations to the performance of a particular job function employee has a disability;
- (2) the essential duties of the particular job employee is qualified; and
- (3) the work environment; and
- (4) ~~whether the proposed an effective and reasonable accommodation would is available and does not create an undue hardship on the Department.~~

(b) In all cases, the When feasible, an employee or job applicant must be consulted before an makes a request for a reasonable accommodation is made in writing by submitting Form 14CR003E to the local ADA coordinator. The employee attaches a definitive, narrative medical statement from a medical professional that confirms the employee is disabled per the Americans with Disabilities Act Amendments Act (ADAAA) and specifies the reasonable accommodation(s) needed in order to perform the essential functions of the position.

(c) The concept of reasonable accommodation is considered in recruitment, training, promotion, reassignment, and developmental assignments. For example, in providing equal access to employees with visual impairments, promotion vacancy announcements may, upon request, be prepared in Braille, tape recorded, or they may be read to the employees. In short, the responsibility to provide reasonable accommodation does not end when the person with a disability is placed in a position local ADA coordinator signs Form 14CR003E, retains a copy, and forwards the original and the medical documentation to the deputy director, division or program director, or designee, who signs the form and retains a copy. Original Form 14CR003E and the medical documentation are immediately forwarded to the DHS OCR to open a case and approve the medical statement. Signatures under this subsection of the form serve only to acknowledge the request and do not indicate agreement to provide the accommodation requested or any other accommodation.

(d) An accommodation must be job related rather than intended for personal use. For example, personal hearing aids or eyeglasses will not be purchased by the Department When the original is fully-signed and was forwarded to OCR, and OCR approves the medical statement and opens a case, the local DHS office initiates the mandated interactive-process by meeting with the requesting employee one or more times in an attempt to clarify the need for accommodation and to determine what, if any, accommodation is provided. The interactive process may take up to 30-calendar days. At the end of the interactive process the employee is notified in writing of the decision, whether an accommodation is to be provided, and a copy of the notice is sent to OCR. When a decision is not made by the 30th day after OCR opens the case, OCR refers the request to the Request Review Committee (RRC) for a decision.

(e) The value and nature of a particular accommodation may be clarified by considering six questions, as listed in (1) (6) of this subsection.

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- (1) Is the accommodation necessary for performance of duties?
- (2) What effect will the accommodation have on the Department's operations and on the employee's performance?
- (3) To what extent does the accommodation compensate for the disabled person's limitations?
- (4) Will the accommodation give the person opportunity to function, participate or compete on a more equal basis with coworkers?
- (5) Will the accommodation benefit other individuals?
- (6) Are there alternatives that would accomplish the same purpose? Upon receipt of the fully-signed Form 14CR003E and an approved, definitive, narrative medical statement, OCR opens a file and notifies the requesting employee that the local DHS office approves or denies the request and of his or her right to appeal the decision. OCR monitors the interactive process and serves as a resource to all parties.
- (f) Accommodations that would result in an undue hardship to DHS do not have to be provided. Before making such a determination OCR consults with the regional director, division or program director, or designee.
- (g) Appeals to the RRC are routed through the DHS OCR administrator.
- (h) Employees who request a reasonable accommodation have the right to file a written appeal with the RRC when:
 - (1) his or her request is denied;
 - (2) a decision is not made by the 30th day of the interactive process; or
 - (3) the accommodation provided is not effective.

340:1-11-42. Examples of reasonable accommodation [REVOKED]

Specific examples of reasonable accommodation to known physical and mental limitations of otherwise qualified disabled employees, applicants, and clients that are used in DHS offices and facilities to meet requirements of the Americans with Disabilities Act (ADA) are provided in this Section.

- (1) **Modifying work sites.** In many cases, changes in the work environment enable persons with disabilities to perform job duties more effectively.
- (2) **Adjusting work schedules.** Some individuals with disabilities possess great productive potential that is unused because they cannot meet the requirements of a standard 40-hour work week. By taking advantage of the flexibility of alternative work schedules, accommodations can be made for various disabilities.
- (3) **Restructuring jobs.** Job restructuring is one of the principal methods by which some qualified disabled workers can be accommodated.
 - (A) **Trading job functions.** Job restructuring often involves trading of non-essential job functions between an employee with a disability and non-disabled employees.

- (B) **Performing essential job functions.** Employees with disabilities must be able to perform the essential functions of the position, not every function of the position. Job restructuring does not alter the essential functions of the job; it maximizes the abilities of the employee with a disability to perform the essential job functions. It does not stereotype, under employ, or limit job opportunities for the disabled. In job restructuring, the individual with the disability requiring accommodation is consulted first. Supplementary information can be obtained through consultation with a Vocational Rehabilitation Specialist.
- (C) **Modifying or adjusting a job.** A modification or adjustment must not fundamentally alter the essential nature of the employment position sought by an individual with a disability, nor can the adjustment fundamentally alter the essential nature of another identical employment position.
- (4) **Reassigning employees.** Reasonable accommodation does not require the creation of a new position for an employee with a disability. If the employee can no longer perform the essential job functions, reassignment of the employee to another existing position is considered. Reassignment is considered when accommodations are not effective in enabling the employee to perform all essential job functions. Such a reassignment is to a vacant position at the same grade and salary level, and one for which the employee is qualified with or without reasonable accommodation. **There is no requirement that the Department establish a new position for an employee with a disability or that the Department promote an employee with a disability as an accommodation.**
- (5) **Demotion or Termination.** Once it has been determined that no reasonable accommodation is possible, the Department is not required to maintain employees with disabilities in positions in which they cannot satisfactorily perform. When an employee cannot perform a job because of a disability and is not eligible for or does not wish to apply for disability retirement, then as a last resort the employee is removed from the position for failure to perform. This action is taken only if:
 - (A) there are no positions available for reassignment or placement.
 - (B) the employee refuses an offer of reassignment or placement.
- (6) **Providing special equipment.** Through new technologies, special equipment and assistive devices are available to aid disabled individuals. In many cases, employees with disabilities have adapted to their disabling conditions so well that no specialized equipment is necessary for satisfactory job performance. When such equipment is needed, however, the Department is prepared to assist employees in finding and purchasing it. As a general rule, DHS will provide equipment if it is determined that:
 - (A) use of the equipment is necessary for transaction of official business;

- (B) its purchase does not create an undue hardship on the Department; and
- (C) the equipment is not a personal item that the employee could reasonably be expected to provide.

(7) **Reproducing designated materials.** The Department, upon request from employees and clients with impaired sensory, manual or speaking skills, may provide designated DHS materials that are critical to the services they receive or to the performance of their position. These materials are reproduced in alternate forms that make them accessible to employees and clients.

(8) **Providing special services.** DHS may provide special services for individuals with disabilities.

(9) **Assigning parking spaces.** Where employee parking is available, qualified employees with disabilities will be assigned spaces convenient to an accessible entrance to the assigned work site. The assignment of parking spaces is based on medical certification of a disabled individual's need for parking accommodations.

340:1-11-43. Office for Civil Rights (OCR) responsibilities

OCR, as designated by the Oklahoma Department of Human Services Director, is responsible for coordination, oversight, and implementation of the reasonable accommodation request and complaint system of the ADA appeal process.

(1) ~~Continuously,~~ OCR continuously evaluates each ~~division~~ program, office, and facility to ensure compliance with all current rules, practices, and ~~ADAAA~~ Americans With Disabilities Act Amendments Act procedures of the ADA.

(2) OCR ~~is informed~~ receives notification of each ~~all~~ accommodation request reported to the ~~division coordinator~~ requests and dispositions. ~~In addition,~~ After opening a case, OCR is advised of the proposed solution and ~~monitors~~ each request to ensure the date the solution is to be carried out. OCR is a resource to assist the requests are processed in a timely manner and contacts the ~~responsible~~ associate regional director, division administrator or program director, ~~area director or designee~~ when an accommodation request is not resolved by the end of the 30-calendar day, interactive process.

(3) The division responds to a request for reasonable accommodations within 30 working days of receipt of the request. If the request is not addressed within the established time frame, or if the employee is not in agreement with the decision, the employee may directly contact OCR to request the accommodation. OCR contacts the associate director, division administrator, area director, or local coordinator to determine why the request has not been addressed and coordinates a timely resolution within a designated time frame.

(4) OCR maintains ~~records~~ a record of all requests for reasonable accommodation requests filed, as well as summary information on the number, nature, and ~~outcome~~ numbers, natures, and outcomes of requests filed ~~separately~~ separately and apart from individual employee personnel files and client case records.

(5) Statistical information concerning request activity is released or reported to interested persons. The Oklahoma Open Records Act governs access to individual request records and only those persons with a right of access as provided in the Oklahoma Open Records Act and this rule may review an individual request file. ~~Department request records are retained in accordance with DHS maintains open record requests per federal and state and federal laws governing record retention and destruction of records.~~

(6) OCR refers requests that exceed the time limit, unresolved requests, and requests which exceed \$600 to the Request Review Committee (RRC).

(7) OCR reviews appeals of the RRC decisions and makes recommendations for resolution to the Director.

(8) OCR provides the Director with complete records on requests being appealed.

(9) OCR receives all complaints from any level.

340:1-11-44. Request for accommodation by a client

(a) All ~~Department~~ Oklahoma Department of Human Services (DHS) employees are responsible for assisting ~~DHS clients~~ any client who may be in need of reasonable accommodation by referring the client to the local Americans with Disabilities (ADA) coordinator.

(b) If a person applying for or receiving DHS services reports a deficiency, he or she is referred to the The local ADA coordinator, who will complete ADA-2, may assist a client in completing Form 14CR003E, Request for Reasonable Accommodation, and then forwards the original form to OCR. The OCR coordinator confers at determines if the local level to determine request can be resolved locally, and if not an accommodation can be accomplished. When the accommodation cannot be accomplished at the local level, the request is transmitted through division lines to the division administrator forwarded to the regional director, division or program director, or designee for resolution. The division administrator resolves the request within the guidelines of OAC 340:1-11-49.

340:1-11-45. Request for accommodation by an employee or a job applicant

(a) An employee or a job applicant who wishes to file a request may do so verbally or on may request a reasonable accommodation for assistance in applying or interviewing for a position by submitting Form ADA-1, Request for Reasonable Accommodation 14CR003E, Request for Reasonable Accommodation, either to Oklahoma Department of Human Services (DHS) Human Resources Management (HRM), to the office that posted the opening, or by making a verbal request to either office. When requested, the applicant is responsible for providing medical documentation to confirm the need for the accommodation.

(b) The employee or job applicant must file this completed ADA-1 with HRM forwards the immediate supervisor or, if a verbal request is made, provide the requested information so the immediate supervisor can complete the ADA-1 request and the medical documentation to the hiring division, program, or

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facility staff who copies the documents and forwards the original form and medical documentation to the Office for Civil Rights (OCR) for medical documentation approval and to open a case.

(c) ~~The employee or job applicant hiring division, program, or facility is responsible for providing all required information, such as doctors statements, to ensure a prompt decision determining if any and what accommodation is provided after OCR approves the medical statement and opens a case.~~

(d) ~~Employee requests for reasonable accommodation are promptly addressed at the lowest possible level of supervision, as well as in the most cost efficient and least disruptive manner possible. The immediate supervisor assists job applicant is notified in writing, of the gathering of additional information, if needed, decision and confers with a copy of the local coordinator and local administrator in resolving the request at the local level notice is sent to OCR.~~

(e) ~~In the event the employee or job applicant does not agree with the resolution proposed at any level of the request process, the request progresses to the next step in accordance with procedures described in OAC 340:1-11-51.~~

340:1-11-46. Role of the immediate supervisor [REVOKED]

~~Employee requests for reasonable accommodation are promptly addressed at the lowest possible level of supervision, as well as in the most cost efficient and least disruptive manner possible. If a verbal request is made, the immediate supervisor will complete Form ADA 1. Upon receipt of a request, verbal or written, the immediate supervisor reviews it and refers it to the local coordinator for resolution. The immediate supervisor assists in the gathering of additional information, if needed, and confers with the local coordinator and local administrator in resolving the request at the local level.~~

340:1-11-47. Local coordinator and supervisor responsibilities [REVOKED]

~~In county offices, the county director may assign a county coordinator to evaluate the county's programs, activities, and architectural and material access to ensure persons with disabilities are fully served by the county office. In DHS institutions and facilities, the local administrator assigns a local coordinator to:~~

- ~~(1) assist employees and clients in the preparation and processing of requests;~~
- ~~(2) receive verbal and written requests for reasonable accommodations;~~
- ~~(3) complete Form ADA 1, Request for Reasonable Accommodation, Employee or Applicant for Employment, or Form ADA 2, Request for Reasonable Accommodation, Client or Applicant for Services, as appropriate;~~
- ~~(4) assist in gathering additional information, if needed; and~~
- ~~(5) confer in resolving requests at the local level, if less than \$600.~~

340:1-11-48. Division coordinator or county director responsibilities [REVOKED]

- (a) ~~The division coordinator is:~~
- ~~(1) appointed by the Division Administrator, Associate Director, or Area Director;~~
 - ~~(2) trained to evaluate programs, activities, and employment practices to assure that persons with disabilities have full and equal access;~~
 - ~~(3) responsible for reporting in writing any issues, concerns, or deficiencies to the division administrator who is responsible for taking corrective action; and~~
 - ~~(4) responsible for assisting employees or clients in complying with the requirements of DHS policy in the filing of a request, in the resolution of the request at the local level, and performing other request management duties in coordination with OCR;~~
- (b) ~~Designated division coordinators are responsible for:~~
- ~~(1) receiving all requests filed by employees and clients of the agency;~~
 - ~~(2) determining if requests filed are subject to the provisions of this Subchapter;~~
 - ~~(3) referring requests to the Request Review Committee;~~
 - ~~(4) providing technical assistance and information to employees and clients with the filing and processing of requests as needed;~~
 - ~~(5) identifying essential job functions for all announced positions;~~
 - ~~(6) ensuring that employees and clients have ready access to request forms;~~
 - ~~(7) helping employees, clients, supervisors, and other agency officials to resolve requests at the lowest possible step in the procedure; and~~
 - ~~(8) maintaining division request records.~~
- (e) ~~In divisions with more than one coordinator, the lead coordinator will be designated by the division administrator.~~

340:1-11-49. Division administrator, associate director, or area director responsibilities [REVOKED]

- (a) ~~The division administrator, associate director, or area director is responsible for:~~
- ~~(1) appointing the division coordinator;~~
 - ~~(2) evaluating the division on an ongoing basis for compliance with ADA;~~
 - ~~(3) notifying OCR of all reasonable accommodation requests;~~
 - ~~(4) taking corrective action on deficiencies identified by the division coordinator or OCR;~~
 - ~~(5) ensuring copies of OAC 340:1-11-40 through 340:1-11-55 are distributed and explained to all employees under their supervision; and~~
 - ~~(6) approving the selection of a local coordinator as applicable.~~
- (b) ~~Within ten working days, or longer by mutual agreement, after receiving a written request for a reasonable accommodation, the associate director, division administrator, or area director may:~~

- (1) grant the request if the cost of the accommodation is under \$600;
- (2) refer the request to the Request Review Committee (RRC) if the cost exceeds \$600; or
- (3) refer unresolved requests to the RRC.

340:1-11-50. Review by the Request Review Committee (RRC)

- (a) The RRC reviews:
 - (1) requests that ~~exceeded~~exceed the 30-calendar day time frame; after the case is opened by the Office for Civil Rights (OCR) and referred by OCR or the deputy director, division administrator or program director, or designee division administrator; and
 - (2) ~~unresolved requests; and~~appeals of decisions of the local Americans With Disabilities Act coordinator, deputy director, division or program director, or designee
 - (3) requests which exceed \$600.
- (b) The RRC prepares a written response to the accommodation request as promptly as possible, taking into consideration the needs of the employee. ~~In all cases the review is completed within ten working~~10-business days following the regularly scheduled monthly meeting held to review the request.
- (c) The RRC consists of representatives from each of the following:
 - (1) Office Support ServicesDivision;
 - (2) Office of Field OperationsAdult and Family Services;
 - (3) Human Resources Management Division(HRM);
 - (4) Child Welfare Services;
 - (5) Support Services Architecture; and Engineeringand Planning; and
 - (6) Developmental Disabilities Services Division.
- (d) In addition, three personsOklahoma Department of Human Services employees with disabilities who are employees of the Agency serve on the RRCas members. Ex-officio representatives are called upon from the Legal DivisionServices and Human Resources Management Risk and Safety Management. The RRC elects a chair and vice chair annually. The OCR administrator or designee is a non-voting RRC member of the RRC, with administrative responsibilities.
- (e) Written requests for accommodationreview or appeal, along with the appropriate documentation, are sent to: Request Review Committee, Office for Civil Rights, P.O. PO Box 25352, Oklahoma City, Oklahoma 73125.
- (f) The RRC meets monthly or as necessary to review requests for accommodations or appeal requests. The OCR administrator convenes the RRC when a request or appeal is received.

340:1-11-51. Appeal of request for reasonable accommodation [REVOKED]

- (a) The Director of Human Services or designee is the final authority for acting on appeals of requests for reasonable accommodation. Any disputes concerning requests for reasonable accommodation are subject to the final review and decision of the Director. The Director may intervene in requests at

any time in order to bring about a prompt and impartial decision to the request.

- (b) In the event the employee is not satisfied with the Request Review Committee proposed resolution for accommodation, the employee may appeal to the Director by notifying the division administrator and OCR in writing of the appeal. OCR provides the Director with a complete record of the prior proceedings concerning the request and the attempts to accommodate the employee. The Director has ten working days to prepare a written response to the request.
- (c) The right of a person to a prompt and equitable resolution of the request is not impaired by the person's pursuit of other remedies, such as the filing of an ADA complaint with the appropriate federal or state agencies. Use of this procedure is not a prerequisite to the pursuit of other remedies.
- (d) To assure that the Department of Human Services complies with the ADA and implementing regulations, this Section shall be construed to protect the substantive rights of interested persons to meet appropriate due process standards.

340:1-11-52. Medical documentation [REVOKED]

- (a) Medical documentation may be necessary in order for the Department to:
 - (1) determine if the employee is disabled under the meaning of the ADA;
 - (2) determine whether an accommodation is needed;
 - (3) assess what kind of accommodation is needed.
- (b) Documentation may be unnecessary when both the disability and the accommodation requirement are obvious.
- (c) The immediate supervisor advises the employee requesting an accommodation of the need for medical documentation, but this is not done without prior consultation with the division or local coordinator.
- (d) If, during any step in the procedure, the medical documentation presented in support of a request for reasonable accommodation is not adequate, the Department advises the employee and requests submission of additional documentation. When appropriate, a memorandum addressed to the physician explaining what information is needed and why it is needed can be provided to the employee.

340:1-11-53. Illegal use of drugsdrug use

- (a) The terms "disability" and "qualified individual with a disability" do not include any employee, applicant, or client who is currently engaged in theCurrent illegal use ofdrugsdrug use does not qualify as a disability.
- (b) The terms "disability" and "qualified individual with a disability" may not exclude an individual whoFormer, illegal drug users qualify as disabled, when they:
 - (1) ~~has~~have successfully completed a supervised, drug rehabilitation program;and is no longer engaging in the illegal use of drugs, or has
 - (2) ~~have~~ otherwise been rehabilitatedsuccessfully and is no longer engaging in the illegal use of drugs; and
 - (3) ~~is~~are participating in a supervised, drug rehabilitation program; and

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- (3) ~~is erroneously regarded as engaging in such use, but is not engaging in such use.~~
- (4) are no longer illegally using drugs.

340:1-11-54. Undue hardship and reasonable accommodation

~~In general, The Oklahoma Department of Human Services (DHS) is not required to provide a reasonable accommodation when doing so would place an undue hardship means, with respect to the provision of an accommodation in employment or programs, an action resulting in significant difficulty or expense, when considered in light of the factors described DHS in this Section terms of effort or expense.~~

- (1) **Employment.** ~~In determining whether an~~ For an employment-related accommodation imposes an undue hardship on the Department, following factors to be considered with regard to employment and include the:
 - (A) ~~the nature and cost of the accommodation needed under this Act;~~
 - (B) ~~the overall financial resources of the facility or facilities involved in providing the provision of the reasonable accommodation;~~
 - (C) ~~the number of persons employed at such the facility;~~
 - (D) ~~the effect on expenses and resources, or the impact otherwise of such the accommodation upon the facility's operation of the facility;~~
 - (E) ~~the overall DHS financial resources of DHS;~~
 - (F) ~~the overall size of the business of DHS with respect to the number of its employees;~~
 - (G) ~~the number, type, and location of DHS facilities;~~
 - (H) ~~the type of DHS operation or operations of DHS, including the composition, structure, and functions of the DHS work force of DHS; and~~
 - (I) ~~the geographic separateness; and~~

(J) ~~administrative, or fiscal relationship of the facility or facilities in question to DHS.~~

- (2) **Programs.** ~~In determining whether financial and administrative burdens are undue in the area of programs, (A) – (E) of this paragraph must be considered. For a program-related accommodation, the following factors are considered:~~

(A) ~~All the DHS resources available for use in the funding and operation of the service, program, or activity are considered;~~

(B) ~~The burden of proving that compliance with when the Act accommodation would fundamentally alter the nature of the service, program, or activity or would result in undue financial and administrative burdens rests with DHS;~~

(C) ~~In choosing among methods to meet compliance, DHS gives priority consideration to methods that are if the accommodation is consistent with providing services in the most integrated setting appropriate to the needs of individuals with disabilities; and~~

(D) ~~Structural changes in existing facilities are required only when there are no other feasible ways to make the Department's programs accessible.~~

(E) ~~DHS may comply with the program accessibility requirement by delivering services at alternate if an alternative and accessible sites or by making home visits as appropriate site is available for the provision of services.~~

340:1-11-55. Retaliation or coercion [REVOKED]

~~Individuals who exercise their rights under the ADA, or who assist others in exercising their rights, are protected from retaliation or coercion. Prohibited activities include harassment, threats, intimidation, or interference in the exercise of rights under the law.~~

**APPENDIX B. RESPONSE TO REQUEST FOR REASONABLE ACCOMMODATION FOR A DISABILITY
[REVOKED]**

TO: _____

(Print or type name and address of requestor)

FROM: Department of Human Services
Reasonable Accommodation Committee
c/o Affirmative Action
P.O. Box 25352
Oklahoma City, OK 73125

DATE: _____

Upon review of your request for a reasonable accommodation by the Department of Human Services Reasonable Accommodation Committee, your request has:

_____ BEEN ACCEPTED and the following accommodations have been approved:

_____ BEEN DENIED for the following reasons:

_____ CANNOT BE DETERMINED until we receive the following information:

JHS Affirmative Action Officer

Date

Okla. DHS Issued 7-92

[OAR Docket #16-570; filed 6-16-16]

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

[OAR Docket #16-572]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 3. Office of Client Advocacy

Part 5. Grievances

340:2-3-46 [AMENDED]

340:2-3-50 [AMENDED]

340:2-3-56 [NEW]

Part 7. Grievance and Abuse Review Committee

340:2-3-64 [AMENDED]

Part 9. Advocacy Programs

340:2-3-71 [AMENDED]

340:2-3-73 through 340:2-3-74 [AMENDED]

(Reference WF 15-05)

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:

March 25, 2016

COMMENT PERIOD:

February 16, 2016 through March 16, 2016

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APPROVED BY GOVERNOR'S DECLARATION:

Approved by Governor's declaration on June 9, 2016

FINAL ADOPTION:

June 9, 2016

EFFECTIVE:

September 15, 2016

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

ANALYSIS:

The proposed revisions achieve Oklahoma Department of Human Services (DHS) goals by ensuring that OCA policy corresponds with Senate Bill (SB) 1793 and with Section 1-9-112(D)(1) of Title 10A to the Oklahoma Statutes (O.S. 10A § 1-9-112(D)(1)), and that OCA rules reflect the current standards regarding Child Welfare Services (CWS) and Developmental Disabilities Services (DDS) rules.

CONTACT PERSON:

Dena Thayer, Programs Administrator, Office of Intergovernmental Relations and Policy, DHS, PO Box 25352, Oklahoma City, Oklahoma 73125, 405-521-4326.

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 15, 2016:

SUBCHAPTER 3. OFFICE OF CLIENT ADVOCACY

PART 5. GRIEVANCES

340:2-3-46. Contested grievances appealed to the ~~state office~~State Office

(a) **Application.** This Section describes the processes for contesting the second level response to Oklahoma Department of Human Services (~~OKDHS~~(DHS)) grievances, facility grievances at ~~OKDHS~~DHS-operated facilities, and provider grievances of Hissom class members. For contested grievances of approved foster parents refer to Oklahoma Administrative Code (OAC) 340:2-3-50.

(b) **Definitions.** The definitions in OAC 340:2-3-2 and 340:2-3-45(b) apply to this Section unless the context clearly indicates otherwise.

(c) **Initiating the contested grievance.** When a ~~decision-maker~~decision-maker asks to appeal a grievance to the ~~state office~~State Office administrator, within three-business days of notice of the request, the local grievance coordinator (LGC) transmits the grievance to the Office of Client Advocacy (OCA), ~~Attn-Attention~~ OCA grievance liaison, with Form 15GR002E, Local Grievance Coordinator (LGC) Worksheet, attaching the corresponding Form 15GR001P, Grievance Form, and other documents and information relevant to the subject matter of the grievance.

(d) **Documentation requirements.** When Form 15GR002E is submitted to OCA, ~~it has attached~~attachments are:

- (1) ~~the~~ corresponding Form 15GR001P;
- (2) supporting facts relating to the proposed resolution by the second level respondent, including documentation relating to the first level and second level of problem resolution processes; and
- (3) any written rule, policy, procedure, regulation, ~~and/or~~ other information relevant to the grievance subject matter ~~of the grievance~~.

(e) **OCA grievance processing of ~~grievance~~.** Within three-business days following receipt of an OCA receipt of a contested grievance, the OCA grievance liaison reviews the contested grievance and accompanying documentation and determines if ~~any~~additional information is necessary for disposition of the appeal. When ~~any~~information ~~appears to be~~is missing, the OCA grievance liaison contacts the person(s) in possession of the needed information and sets deadlines for submission of the information by the most efficient means to avoid delays in processing the contested grievance.

(f) **Rejected grievances.** ~~If~~When OCA determines the subject matter of a grievance falls in one of the categories listed in OAC 340:2-3-45(c)(2), the OCA grievance liaison returns the grievance to the LGC with a cover letter indicating the reason the grievance was not accepted for processing as a contested grievance. Within three-business days following receipt of receipt of the letter, the LGC contacts the grievant to inform the grievant of the status of the grievance.

(g) **OCA transmittal to ~~state office~~State Office administrator.** Within three-business days following receipt of an OCA receipt of a contested grievance and all documents required by ~~subsection~~ (d) of this Section, the advocate general or designee prepares and sends Form 15GR011E, Contested

Grievance Transmittal, to the ~~state office~~ State Office administrator with decision-making authority to respond to the subject of the grievance.

(h) **State office administrator's response.** The ~~state office~~ State Office administrator who receives a contested grievance responds to the grievant within ~~ten~~ 10-business days or by the due date on Form 15GR011E. The advocate general or designee may grant an extension when good cause is shown. The ~~state office~~ State Office administrator sends his or her response directly to the LGC after completing the ~~mid-~~ designated portion of Form 15GR011E. A copy is sent to the advocate general, or designee. The ~~state office~~ State Office administrator attaches his or her response to Form 15GR011E and includes:

- (1) the proposed resolution and how it is ~~to~~ will be implemented;
- (2) the ~~person(s)~~ names of those responsible for implementing the proposed resolution;
- (3) the proposed resolution target date for the ~~proposed resolution~~;
- (4) the facts and analysis supporting the proposed resolution, including relevant documentation; and
- (5) any relevant written rules, policies, procedures, regulations, ~~and~~ other information.

(i) **Timely response required.** The OCA grievance liaison monitors the timely response by the ~~state office~~ State Office administrator. ~~If~~ When a complete response is not timely received by the OCA grievance liaison and an extension ~~has~~ was not been granted, the OCA grievance liaison immediately processes the grievance for review by the Grievance and Review Committee (GARC), ~~in accordance with per~~ OAC 340:2-3-64(b). ~~In that event,~~ OCA notifies the grievant and affected ~~state office~~ State Office administrator that the grievance is being processed for GARC.

(j) **Presentation of proposed resolution.** The LGC or designee contacts the ~~decisionmaker~~ decision-maker within three-business days ~~of following receipt by the LGC of the state office~~ State Office administrator's response. ~~If~~ When the ~~decisionmaker~~ decision-maker accepts the proposed resolution, the LGC notes this on the OCA transmittal memo and files it in the client's grievance file.

(k) **Request for GARC review.** ~~If~~ When the grievant does not accept the State Office administrator's response ~~of the state office administrator,~~ the LGC completes the ~~bottom~~ designated portion of Form 15GR011E and returns it to the OCA grievance liaison within three-business days. Upon OCA receipt ~~by OCA~~ of Form 15GR011E, the grievance is processed for review by GARC, ~~in accordance with per~~ OAC 340:2-3-64.

340:2-3-50. Grievances of foster parents

(a) **Application.** This Section describes processes relating to ~~grievances of foster parents~~ parent grievances approved by the Oklahoma Department of Human Services (~~OKDHS~~) (DHS). Section 1-9-120 of Title 10A of the Oklahoma Statutes (10A O.S. § 1-9-120) confers on ~~OKDHS~~ DHS the responsibility to establish grievance procedures for foster parents contracting with state agencies or child-placing agencies.

(b) **Definitions.** The definitions in Oklahoma Administrative Code (OAC) 340:2-3-2 and 340:2-3-45(b) apply to this Section unless the context clearly indicates otherwise.

(c) **Notice of grievance rights.** Form 15GR008E, Notice of Grievance Rights - Foster Parents, is given to each foster parent when approved as ~~an OKDHS~~ a DHS foster parent, ~~and~~ at reassessment, and with each new placement. It is given to the foster parent by the Child Welfare (~~CW~~) Services (CWS) specialist assigned to the foster home within two-business days of the approval, ~~or the reassessment, or placement.~~ ~~This form~~ Form 15GR008E is used to ~~identify the local grievance coordinator (LGC) and to~~ explain the foster parent's right to grieve and to inform the foster parent of the means through which a grievance may be filed. After the foster parent signs ~~the form~~ Form 15GR008E, a copy is given to the foster parent and the original is maintained in the permanent record for the foster parent. ~~If the designated LGC changes, the state agency or child placing agency notifies the foster parent(s) of the name and contact information of the new LGC within ten business days.~~

(d) **Grievance defined.** Foster parents may file grievances with respect to the provision or receipt of services.

(1) **Grievable issues.** Except for the limitations listed in subsection (d)(2) of this Section, matters ~~which can be~~ that are the ~~subjects~~ subjects of a grievance include:

- (A) the substance or application of any DHS policy, rule, or regulation, ~~written or unwritten, of OKDHS;~~ or
- (B) a decision, act, or omission of ~~an~~ a DHS employee of ~~OKDHS.~~

(2) **Summary dispositions. Non-grievable issues.** ~~If~~ When it is determined ~~that~~ the foster parent is asking to grieve a problem or concern covered ~~by any of the categories in Section~~ OAC 340:2-3-45(c)(2) or by any of the categories listed in (A) through (G) ~~the LGC of this paragraph,~~ the Office of Client Advocacy (OCA) Intake Unit must notify the Foster Care Ombudsman (FCO). It is the FCO's or designee's responsibility to ~~notify~~ inform the foster parent in writing, why the grievance is not being processed, ~~using Form 15GR016E, Notice of Summary Disposition of Foster Parent Grievance.~~ In addition to ~~the categories in Section~~ OAC 340:2-3-45(c)(2), situations that are not grievable by foster parents under this grievance system are:

- (A) a decision of a court;
- (B) findings of a child abuse and neglect investigation or assessment in a foster home. The process for appealing these findings is ~~found~~ located at OAC 340:75-1-12, ~~23~~ 340:75-3-530;
- (C) disposition of a fair hearing regarding closure of a foster home. The fair hearing process regarding closure of a foster home is ~~found~~ located at OAC 340:75-7-94;
- (D) disputes with other foster parents;
- (E) written plans of compliance. The foster parents provide ~~their~~ written input on the compliance documentation;

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- (F) ~~replacement of a child in a decision not to return a child in DHS custody to a foster home after removal due to a child abuse or neglect investigation. The fair hearing process regarding replacement in foster care is found~~ located at OAC 340:75-1-12.6; and
- (G) ~~a complaint alleges~~ alleging retaliation by ~~an~~ a DHS employee of ~~OKDHS~~. When retaliation is alleged, the complaint is forwarded to the OCA Investigations Unit for review and disposition.
- (3) **Allegations of retaliation or harassment.** ~~Allegations of retaliation or discrimination~~ harassment, as ~~those terms are defined in~~ per OAC 340:2-3-38(b), are processed ~~in accordance with~~ per that Section.
- (4) **Allegations of discrimination.** Allegations of discrimination or non-compliance based on sex, age, national origin, religion, race, color, national origin, sex, age, religion, or disability, political affiliation or opinion, or genetic information unless authorized by law are referred to the OKDHS DHS Office for Civil Rights (OCR) and the ~~LGC~~ FCO immediately forwards the complaint to the ~~OKDHS civil rights~~ DHS OCR administrator, and ~~so~~ informs the foster parent ~~using Form 15GR016E~~ in writing.
- (e) **Filing and processing of a grievance.** A grievance filed by a foster parent is processed as ~~an OKDHS~~ a DHS grievance, ~~per~~ per OAC 340:2-3-45 unless otherwise provided in this Section.
- (1) ~~The district director serves as the LGC for grievances filed by foster parents. For grievances involving specialized foster care, the applicable Developmental Disabilities Services Division (DDSD) area manager or designee serves as the LGC.~~ Foster parent grievances are filed with the Office of Juvenile System Oversight (OJSO) of the Oklahoma Commission on Children and Youth (OCCY). Resolution of disputes with foster parents must be accomplished quickly, informally, and at the lowest possible level.
- (2) Foster parent grievances must be filed within 45-calendar days of the event. For a grievance to be considered valid, a complaint must be timely filed at OKfosterparentvoices.org or by phoning 1-405-606-4900 or to 1-866-335-9288. When a course of misconduct is alleged, the foster parent grievance must be filed within 45-calendar days of the most recent occurrence.
- (3) After the grievance procedure ~~has been~~ is completed, a foster parent or former foster parent has a right of access to the ~~grievance~~ record of grievances ~~the foster parent~~ he or she filed.
- (4) Foster parent grievances are deemed timely-resolved within no more than 60-calendar days of the complaint filing date.
- (f) **Contested grievances** Informal Problem Resolution (IPR). ~~Contested grievances are processed in accordance with OAC 340:2-3-46 unless otherwise provided in this Section.~~
- (1) Within three-business days following receipt of the grievance from the OCA Intake Unit, the FCO identifies the respondent and submits the grievance and supporting documentation to the respondent.
- (2) The FCO monitors the respondent for a timely response. Within three-business days following receipt of the grievance from the FCO, the respondent reviews the grievance, prepares a proposed resolution, and submits the resolution to the FCO. The FCO may grant an extension to the respondent, when requested. When a timely response is not received the FCO immediately proceeds to first level problem resolution.
- (3) Within three-business days following receipt of the respondent's proposed resolution, the FCO or designee sends written notice to the decision-maker containing the proposed resolution and information on the right to elevate the grievance when dissatisfied with the proposed resolution.
- (4) The decision-maker has three-business days to accept or reject the proposed resolution. Failure to respond to the proposed resolution is deemed acceptance of the resolution. When the decision-maker rejects the respondent's resolution at the IPR level, the grievance proceeds to the first level problem resolution unless the decision-maker requests mediation.
- (g) **Foster parent mediation.** When the decision-maker rejects the respondent's proposed resolution, the decision-maker may request mediation of the grievance.
- (1) When the decision-maker chooses not to request mediation after rejecting the respondent's proposed resolution, the grievance proceeds to the first level problem resolution process.
- (2) When the decision-maker requests mediation, all deadlines are suspended while mediation is ongoing. When a foster parent requests an extension in order to pursue mediation through OCCY Foster Parent Mediation Program per 10 O.S. § 601.6, the FCO must grant the requested extension. The grievance is not processed until mediation is completed, and grievance timeframes are suspended for the duration of the mediation. When mediation resolves the original grievance, the foster parent(s) may withdraw the grievance or the FCO may declare the grievance "administratively resolved." When a foster parent grieves and requests mediation of the dispute through the OCCY mediation program before filing a grievance alleging retaliation, the FCO counts from the mediation date when computing deadlines.
- (3) When the grievance is not resolved through mediation, the grievance proceeds to the first level problem resolution.
- (h) **First level problem resolution.**
- (1) Within three-business days after the grievant requests a first level review, the FCO identifies the first level respondent and submits the complaint and supporting documentation to the first level respondent.
- (2) The FCO monitors timely response by the first level respondent. Within five-business days following receipt of the grievance from the FCO, the first level respondent reviews the grievance, prepares a proposed resolution, and submits the resolution to the FCO. The FCO may grant an extension to the respondent, when requested. When

a timely response is not received the FCO immediately proceeds to the "contested grievance" level.

(3) Within three-business days following receipt of the first level respondent's proposed resolution, the FCO sends written notice including the proposed resolution and information on the grievant's right to elevate the grievance when the decision-maker is dissatisfied with the proposed resolution.

(4) The decision-maker has three-business days to accept or reject the proposed resolution. Failure to respond to the proposed resolution is deemed acceptance of the resolution. When the decision-maker opts to reject the first level respondent's proposed resolution, the grievance proceeds to the "contested grievance" level.

(i) **Contested grievances.**

(1) When a decision-maker asks to appeal a grievance to the State Office administrator, within three-business days of the request, the FCO prepares and sends the following to the State Office administrator with decision-making authority to respond to the subject of the grievance:

- (A) a copy of the complaint;
- (B) all prior proposed resolutions;
- (C) all responses by the grievant to said proposed resolutions; and
- (D) instructions for response, including any relevant deadlines.

(2) The State Office administrator who receives a contested grievance responds to the grievant within seven-business days. The State Office administrator sends his or her response to the FCO. The contested level response must be on DHS letterhead and include:

- (A) the proposed resolution and implementation;
- (B) the person(s) responsible for implementing the proposed resolution;
- (C) the target date for the proposed resolution;
- (D) the facts and analysis supporting the proposed resolution including relevant documentation; and
- (E) any relevant written rules, policies, procedures, regulations, or other information.

(3) The FCO monitors the timely response by the State Office administrator. The FCO may grant an extension, when requested. When a timely response is not received, the FCO immediately proceeds to the Grievance and Review Committee (GARC) per OAC 340:2-3-64(b). The FCO notifies the grievant and the affected State Office administrator that the grievance is being processed for GARC.

(4) Within three-business days following receipt of the proposed resolution, the FCO sends written notice to the decision-maker containing the proposed resolution and information on the right to elevate the grievance when dissatisfied with the proposed resolution.

(5) The decision-maker has three-business days to accept or reject the proposed resolution. Failure to respond to the proposed resolution is deemed acceptance of said resolution. When the decision-maker rejects the State

Office administrator's proposed resolution, the grievance proceeds to GARC.

(j) **GARC review.** A GARC review is conducted, per OAC 340:2-3-64.

340:2-3-56. Foster Care Ombudsman (FCO) services

(a) **Legal Authority.**

(1) Section 1-9-112(D)(1) of Title 10A of the Oklahoma Statutes (10A O.S. § 1-9-112(D)(1)) requires the Office of Client Advocacy (OCA) investigate any complaint received by the Office of Juvenile System Oversight (OJSO) of the Oklahoma Commission on Children and Youth (OCCY) alleging that an Oklahoma Department of Human Services (DHS) or child-placing agency employee threatened a foster parent with removal of a child from the foster parent, harassed a foster parent, refused to place a child in a licensed or certified foster home, or disrupted a child placement as retaliation or discrimination toward a foster parent who engaged in a protected activity.

(2) 10A O.S. § 1-9-120 requires OCA establish grievance procedures for foster parents with whom DHS or child-placing agencies contract.

(3) 10A O.S. § 1-9-120(C) requires OCA to designate one employee to receive and process foster care grievances. OCA designated the FCO. OCA conferred the responsibility for fulfilling the duties set forth in (e) of this Section on the FCO.

(b) **Scope.**

(1) The FCO provides services relating to complaints brought by foster parents against employees of DHS or child placing agencies.

(2) Per 10A O.S. § 1-9-112(D)(2), this Section shall not apply to any complaint by a foster parent regarding the result of a criminal, administrative, or civil proceeding for a violation of any law, rule, or contract provision by that foster parent or the action taken by DHS or any child-placing agency in conformity with the result of any such proceeding.

(c) **Definitions.** The definitions used in this Section are located in Oklahoma Administrative Code (OAC) 340:2-3-2, 340:2-3-45, and 340:2-3-50.

(d) **Confidentiality.** Information in OCA records relating to complaints filed by foster parents with the FCO is confidential and protected from unauthorized use. Only authorized individuals are given access to case records or provided information from these records. A breach of confidentiality may result in criminal prosecution. Violations by DHS employees can also result in personnel action. The relevant confidentiality provisions are located at 10A O.S. § 1-6-107 and OAC 340:75-1-42.

(e) **Duties.** The FCO is responsible for:

(1) overseeing and resolving grievances between foster parents and state agencies or child-placing agencies, per OAC 340:2-3-50;

(2) referring complaints meeting the criteria for retaliation per 10A O.S. § 1-9-112(D)(1) to the OCA Investigative Unit per OAC 340:2-3-38;

(3) referring cases for mediation, when appropriate, per OAC 340:2-3-50(g);

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- (4) collecting and maintaining data necessary to identify systemic issues that may be addressed and resolved to improve the foster care system. In partnership with OCCY, prepares an annual report for the legislature based on collected data and makes recommendations as appropriate for improvements of procedures and policies to benefit children and families;
- (5) conducting training, education, and outreach activities for the benefit of those involved in, or potentially involved in foster care, and maintaining personal accessibility in order to address questions and concerns;
- (6) providing resources and referrals to interested parties; and
- (7) collaborating with foster parents, Child Welfare Services, Developmental Disabilities Services, OCCY, and OJSO in efforts to improve the foster care system.
- (f) **Initial disposition of the complaint.** Upon receipt, the OCA Intake Unit must examine the complaint to determine if it meets the criteria for a grievance, retaliation, harassment, discrimination investigation or if another disposition is appropriate. Foster parents may file grievances with respect to the provision or receipt of services.
- (1) **Grievable issues.** Except for the limitations listed in OAC 340:2-3-50(d)(2), matters that can be the subject of a grievance include:
- (A) the substance or application of any policy or rule of DHS or its agents; or
- (B) any decision or action by a DHS employee or its agent; or
- (C) a violation by a DHS or a child-placing agency employee of the Foster Parent Bill of Rights, per 10A O.S. § 1-9-119.
- (2) **Non-grievable issues and intra-agency referrals.** When the OCA Intake Unit, working in consultation with the FCO determines the complaint is not grievable, and does not present an issue of retaliation, harassment, or discrimination suitable for investigation, the OCA Intake Unit forwards the complaint to the FCO. The FCO determines if an intra-agency referral is appropriate, makes any necessary referrals, and closes the file. Foster parent complaints subject to an intra-agency referral are deemed closed at the time the referral is made.
- (3) When the complaint meets none of the criteria above, but is resolvable through the provision of information readily obtainable by the FCO or designee, the FCO may, at his or her discretion, resolve the complaint by obtaining the necessary information.
- (4) **Preliminary inquiry.** When the information contained in the complaint is insufficient to enable the OCA Intake Unit, in consultation with the FCO, to determine appropriate disposition, a preliminary examination may be completed.

PART 7. GRIEVANCE AND ABUSE REVIEW COMMITTEE

340:2-3-64. **Grievance and Abuse Review Committee (GARC) review of unresolved contested grievances**

- (a) **Application.** The Grievance and Abuse Review Committee (GARC) reviews unresolved contested grievances of children in Oklahoma Department of Human Services (DHS) custody, Developmental Disabilities Services (DDS) service recipients, and approved or kinship foster parents when the advocate general receives a proper request for a GARC review, in accordance with per Oklahoma Administrative Code (OAC) 340:2-3-46(k).
- (b) **The GARC worksheet.** If/When the grievance was filed by, or on behalf of, a ~~Developmental Disabilities Services Division (DDSD) services~~ DDS service recipient who receives Office of Client Advocacy (OCA) advocacy services, including residents of the ~~Southern Oklahoma Resource Center (SORC), the Northern Oklahoma Resource Center of Enid (NORCE), or the Greer Center Facility (Greer),~~ the OCA advocate prepares a GARC worksheet using a format prescribed by OCA which that includes:
- (1) the grievance number and the names of the resident, grievant, guardian, parent(s), case manager, and OCA advocate;
 - (2) a summary of the grievance process, resolutions offered at each level, and the decision-makers' responses;
 - (3) the applicable statutes, policies, and other authorities;
 - (4) the resolution sought by the grievant;
 - (5) relevant documentation;
 - (6) the OCA advocacy position with regard to the subject of the grievance; and
 - (7) a ~~copy~~ copies of Form Forms 15GR001E, Grievance Form, and Form 15GR002E, Local Grievance Coordinator (LGC) Worksheet.
- (c) **GARC review summary.** For all children in DHS custody or DDS service recipient grievances of DHS custody children or DDS service recipients being reviewed by GARC, the OCA grievance liaison prepares a GARC review summary that is included and includes it in the GARC file. For approved foster parents the grievance is submitted on the GARC report summarizing all responses from initiation.
- (d) **Scope of GARC review.** GARC conducts a *de novo* paper review of the grievance.
- (1) Within three-business days following receipt of receiving a proper request for GARC review, pursuant to per OAC 340:2-3-46(k), the advocate general or designee informs the affected state office State Office administrator and administrator of the date of the GARC meeting date.
 - (2) The grievant, administrators, state office State Office administrators, and their designees may attend the GARC meeting to answer questions. If/When a grievance involves a Hissom class member, the OCA programs administrator for the community advocacy program may also attend.
 - (3) If/When the grievant wants to submit additional evidence not considered during the processing of the grievance, it is submitted to the advocate general within five-business days of the request for GARC review, but

not less than seven-business days prior to the GARC meeting. ~~If~~When the ~~administrator or affected state office~~State Office administrator wants to submit additional evidence not considered during the processing of the grievance, or when the GARC review is the result of an untimely response, ~~in accordance with~~ per OAC 340:2-3-46(I), or for good cause shown, evidence can be submitted to the advocate general seven-business days before the GARC meeting.

(4) When additional information is needed in order for GARC to complete its review, GARC may continue ~~it's~~the grievance review ~~of a grievance~~ until ~~it's~~the next meeting. GARC may request additional information from OCA, ~~an administrator, or a state office~~State Office administrator.

(e) **GARC report contents.** Within 15-business days of a GARC meeting to review an unresolved grievance of a child in DHS custody or a DDS service recipient, GARC prepares a report that includes the:

- (1) ~~the~~ subject of the grievance and identifying information about the grievant, ~~the administrator,~~ and the ~~state office~~State Office administrator;
- (2) ~~the~~the grievance procedural history ~~of the grievance,~~ and identifying proposed resolutions and responses at each level in the grievance process, prior to the GARC review;
- (3) ~~the~~ resolution sought by the grievant and the resolution proposed by the ~~state office~~State Office administrator;
- (4) GARC recommended resolution of the grievance;
- (5) ~~the~~ facts on which GARC bases its recommendation;
- (6) ~~the~~ information GARC considered in making its recommendation; and
- (7) areas of concern identified by GARC during its review of the grievance.

(f) **GARC findings regarding approved foster parents.** Within three-business days following the GARC meeting, GARC records the decision on the GARC report. The completed GARC report for foster parent grievances includes the:

- (1) subject of the grievance and identifying information about the grievant and the State Office administrator;
- (2) procedural history of the grievance including, but not limited to, proposed resolutions and responses at each level in the grievance process prior to the GARC review;
- (3) resolution sought by the grievant and the resolution proposed by the State Office administrator;
- (4) GARC recommended resolution of the grievance;
- (5) facts on which GARC bases its recommendation;
- (6) information GARC considered in making its recommendation; and
- (7) areas of concern identified by GARC during its review of the grievance.

(fg) **Distribution of GARC report.** The advocate general forwards the GARC report to the applicable local grievance coordinator (LGC). Within three-business days ~~following receipt of receipt of~~ the GARC report, the LGC contacts the ~~decisionmaker~~decision-maker to inform him or her of the GARC recommended resolution, and determines if the ~~decisionmaker~~decision-maker is satisfied ~~with it~~.

(1) ~~If~~When the ~~decisionmaker~~decision-maker needs time to decide whether to accept the proposed resolution, the ~~decisionmaker~~decision-maker has three-business days to make a decision. ~~If no~~When a decision is not communicated to the LGC within three-business days, the ~~decisionmaker~~decision-maker is deemed to have accepted the proposed resolution.

(2) ~~If~~When the ~~decisionmaker~~decision-maker is satisfied, the LGC notifies the advocate general, and the advocate general ~~then~~ notifies interested parties. An affected ~~state office~~State Office administrator has three-business days ~~from following~~ receipt of this notification to submit to the ~~advocate general~~ a written request for review by the ~~Oklahoma Department of Human Services (OKDHS) (DHS) Director to the advocate general.~~

(3) ~~If~~When the ~~decisionmaker~~decision-maker is not satisfied with the GARC recommended resolution and elects to contest it, the LGC notifies the advocate general within four-business days ~~offollowing~~ receipt of the GARC report. The advocate general or designee transmits the request and the GARC report for review by the ~~OKDHS~~DHS Director.

(h) **Distribution of GARC report for approved foster parents.** The advocate general forwards the final GARC resolution on the GARC report to the FCO. Within one-business day following receipt of the GARC report, the FCO notifies the decision-maker and affected State Office administrator of the GARC recommended resolution.

(1) The FCO upon notifying the decision-maker and affected State Office administrator of GARC's recommended resolution, advises the parties of their right to appeal the decision to the DHS Director. An affected State Office administrator or decision-maker has three-business days following receipt of this notification to submit a written request to the advocate general for review by the DHS Director.

(2) When the resolution of the grievance involves an action to be taken by a DHS employee by a future target date, the FCO monitors compliance with that target date. In the event the resolution is not implemented or not implemented within the time specified, the FCO informs the advocate general and he or she notifies the DHS Director in writing.

(3) When an appeal is not requested by the decision-maker or affected State Office administrator within three-business days following receipt of the recommended resolution, the FCO sends the closure notice to the grievant and State Office administrator.

(gi) **OKDHS**DHS Director's review of a GARC recommendation. Upon receipt by the advocate general of a proper and timely written request for review by the ~~OKDHS~~DHS Director, ~~pursuant to subsection~~per (e) of this Section, the advocate general or designee transmits the request and the GARC report to the ~~OKDHS~~DHS Director.

(1) Within 15-business days ~~offollowing~~ receipt of the GARC report, the ~~OKDHS~~DHS Director decides ~~whether~~ to:

- (A) adopt the GARC recommended resolution;

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- (B) adopt the GARC recommendation with modifications;
 - (C) return the matter to GARC for further consideration; or
 - (D) direct another resolution of the grievance.
- (2) ~~If~~When the ~~OKDHS~~DHS Director does not respond within 15-business days, the grievance or appeal is deemed resolved, ~~in accordance with~~ per the GARC recommended resolution.
- (3) The advocate general notifies the grievant and other interested parties of the result of the ~~OKDHS~~DHS Director's review. The ~~decisionmaker~~decision-maker is informed ~~that~~ this concludes the grievant's administrative remedies. ~~If~~When the grievant is a minor or foster parent, a copy of the grievance and related materials are forwarded to the Office of Juvenile Systems Oversight in the Oklahoma Commission for Children and Youth ~~in the Oklahoma Commission for Children and Youth of the Oklahoma Commission for Children and Youth~~.
- (hj) **Monitoring of resolution for children in DHS custody or DDS recipients.** ~~If~~When the resolution of the grievance involves an action to be taken by an ~~OKDHS~~DHS employee by a future target date, the OCA grievance liaison monitors compliance with that target date. In the event the resolution is not implemented or not implemented within the time specified, the OCA grievance liaison informs the advocate general and the advocate general notifies the ~~OKDHS~~DHS Director in writing.

PART 9. ADVOCACY PROGRAMS

340:2-3-71. Office of Client Advocacy (OCA) general advocacy services

- (a) **Legal authority.**
- (1) Section 1415.1(A)(2) of Title 10 ~~to~~of the Oklahoma Statutes (10 O.S. § 1415.1(A)(2)) requires the Oklahoma Department of Human Services (DHS) to establish an ombudsman program for each institution and residential facility for persons with intellectual disabilities operated by DHS. DHS 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 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) ~~DHS assigned OCA other advocacy responsibilities as outlined in Part 9~~Per, Oklahoma Administrative Code (OAC) 340:2-3-71 through 340:2-3-75, DHS assigned additional advocacy responsibilities to OCA.
- (b) **Scope.** OCA provides advocacy services to ~~clients of the~~ clients of the Developmental Disabilities Services (DDS) clients 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 Robert M. Greer Center (Greer) are outlined in greater detail 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) are outlined in greater detail in OAC 340:2-3-73. m class members are outlined in greater detail in OAC 340:2-3-74.
- (3) OCA advocacy services for 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 DDS clients who have a special advocacy needs per OAC 340:2-3-75.
- (c) **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 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.~~
- (1) ~~Self-determination~~self-determination. Advocates promote the individual as the driving force of life choices and decisions-;
- (2) ~~Meaningful~~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-;
- (3) ~~Active~~active citizenry. Advocates promote the inclusion and involvement of persons with developmental disabilities in the social and political structures of the community-; and
- (4) ~~Well-being~~well-being. Advocates promote access to physical and emotional supports necessary for a healthy life-style.
- (d) **Definitions.** In addition to 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) **"Capacity assessment"** means the process of determining an individual's ability to make informed decisions and the need for assistance with decision-making regarding personal and financial matters, per OAC 340:100-3-5.
- (2) **"Human Rights Committee"** or **"HRC"** means the committee charged with the responsibility for external monitoring and advocacy to address protection of individual rights.
- (3) **"Individual plan"** or **"IP"** ~~or~~ **"plan"** means a written document developed by the Personal Support Team based upon assessment of need. The ~~plan~~IP specifies outcomes being pursued on behalf of the individual, steps being taken to achieve outcomes, and all services and supports necessary to achieve outcomes.
- (4) **"Informed consent"** means informed consent 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 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 provider agency to a service recipient.

(7) **"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.

(e) **Confidentiality Client records.** 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 ~~applies~~ apply 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~~ 43A O.S. §§ 10-103, 10-110, and 10-110.1.

(3) A breach of confidentiality may result in a criminal prosecution. Violations by 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 DDS clients under ~~Oklahoma and~~ federal and state law.

(g) **Client representation.**

(1) OCA assigns advocates to represent Greer residents.

(2) OCA assigns advocates, per Part 9, OAC 340:2-3-71 through 340:2-3-75, to represent specific DDS clients living in community residential settings,

including Hissom class members living in Oklahoma and former residents of SORC and NORCE.

(3) An OCA advocate is knowledgeable about the clients 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. 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 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:

~~(A)~~ visits and other forms of contact with the client, staff, family members, and others who know the client;

~~(B)~~ reviewing records, documentation, contracts, and financial agreements between clients and providers of services, incident reports, and professional assessments; and

~~(C)~~ attendance at IP and other ~~Personal Support Team (PST)~~ meetings.

~~(D)~~ 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~~ per laws and rules relating to client confidentiality, and release of information protocols.

~~(E)~~ The monitoring role of an OCA advocate ensures:

~~(A)~~ individual needs, preferences, and choices are identified and met appropriately and consistently;

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- (~~B~~ii) health, safety, and welfare standards and safeguards are maintained; and
- (~~C~~iii) 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. 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~~ An OCA advocate files grievances on behalf of clients, per ~~Part 5,~~ OAC 340:2-3-45 through 340:2-3-55, ~~as needed.~~ OCA also advises clients and assists them ~~with filing~~ file grievances on their own behalf.
- (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, per ~~Part 3,~~ OAC 340:2-3-32 through 340:2-3-39.
- (A) OCA advocates assist OCA, ~~and~~ Adult Protective Services investigators, ~~and~~ law enforcement officers ~~to~~ obtain information necessary to complete investigations when a client is an alleged victim.
- (B) Advocates engage in appropriate follow-up activity in response to a referral from the OCA ~~intake unit~~ Intake Unit, per OAC 340:2-3-35.
- (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~~ qualified intellectual disabilities professional (QIDP), as applicable, and others, such as DDS staff, provider or facility staff, treatment staff, or health care professionals as circumstances warrant.
- (D) Immediately upon becoming aware of concerns regarding imminent risk of harm, an advocate advises the applicable residential or vocational provider and the client's case manager.
- (E) An OCA advocate ensures that ~~allegations of~~ abuse, neglect, maltreatment, and/or exploitation ~~allegations~~ are reported to the OCA ~~intake~~ Intake Unit, 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 assistance to a client in understanding options and potential consequences of a decision. ~~If~~ When a client is unable to make an informed choice, the advocate seeks to provide the client's legal guardian, Guardian ad Litem, volunteer advocate, and

other representative(s) with access to information to make an informed decision on the 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 PST decisions and in the manner 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 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 per federal and state ~~and federal~~ 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 that affect them, in the development of maximum self-reliance and independence, and the appointments of guardians and others, only to the extent necessitated by the mental and adaptive limitations or other conditions of individuals, per 30 O.S. § 1-103. Because a full guardianship of the person and 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 feasible under the circumstances including, but not limited to:

- (A) limited guardianship;
- (B) representative payee for financial benefits;
- (C) volunteer advocate;
- (D) supportive friends and family;
- (E) health care proxy;
- (F) durable power of attorney; and
- (G) advance directives.

(10) **Promoting inclusion.** An advocate:

(A) promotes the realization of active citizenship and inclusion in the community. This includes, but is not limited to, encouraging clients to:

- (i) learn the rights and responsibilities of good citizenship;
- (ii) vote;
- (iii) take classes;
- (iv) participate in volunteer services organizations;
- (v) attend religious services of the client's choice;
- (vi) attend recreational, cultural and social events; and
- (vii) join citizen advocacy organizations that promote inclusion in the community;

~~(B) An advocate~~ encourages the development of friends who can serve as natural supports for a client; and

~~(C) 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 or intellectual disability do not differ from those of other individuals. Regardless of the medical circumstance that brought these issues to the forefront, an OCA advocate seeks to have a client's physicians, guardians, and loved ones 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 choices, an advocate presumes the client would choose life-sustaining measures.

(i) **Contacting an OCA advocate.** When an advocate is not available during office hours, his or her supervisor serves as an advocate back-up to the ~~advocate~~. Information about the name of the advocate assigned to a client, the advocate's phone numbers and the name of the advocate's supervisor is obtained ~~from~~ by phoning OCA at 1-800-522-8014.

(j) **OCA access to client records and information.** OCA staff is provided access to all records, files, documents, and information needed to fulfill OCA responsibilities regarding a client. DDS case managers and employees, and provider agency staff send the assigned OCA advocate copies of documents and notices sent to the client.

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)

(a) **Application.** This Section describes advocacy services the Office of Client Advocacy (OCA) provides to former residents of SORC, and NORCE) 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, per Oklahoma Administrative Code (OAC) 340:2-3-71. Pursuant to the Oklahoma Commission for Human Services November 1, 2012, resolution the ~~Advocate General~~ 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~~ has an OCA advocate assigned to act as a separate voice to ensure his or her needs ~~were~~ are met and ensure they ~~were~~ are 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 legal rights 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.** 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~~ regarding the advocate assigned to represent them to the extent feasible, considering the geographic location of the client's residence and ~~the~~ OCA advocate caseloads. Requests for a change in the advocate representing an individual are made to the advocate general or designee.

(c) **Personal Support Team (PST) membership.** As a representative of a Developmental Disabilities Services (DDS) client living in a community residential placement, an OCA advocate is a member of the client's PST. As a PST member, the advocate receives ~~from the client's DDS case manager~~ timely notice of all PST meetings, including emergency PST meetings from the client's DDS case manager. Within the 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. 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 guardianship appointment. When the current capacity assessment for the client recommends a guardian or volunteer advocate, the OCA advocate participates with the PST in identifying persons who might serve as the client's guardian or volunteer advocate. An advocate encourages the development of friends in the community who might become the client's guardian or volunteer advocate. 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 is identified, the OCA advocate promotes the filing of a petition with the guardianship court 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~~ per 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~~ was completed and everything on the checklist is in place prior to any change in residence;

(2) ~~making a home visit with the client~~ visiting the client's home within 30-calendar days after the client moves into a new residence;

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- (3) conducting a face-to-face visit with the client at least quarterly once every three months and more frequently as indicated;
- (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 completing a meaningful contact regarding each client served, at least monthly;
- (5) completion of completing a service review semi-annually every six months;
- (6) verifying that direct contact staff have completed required training in connection with each service review; verifying that direct contact staff have completed required training;
- (7) participating as a member of a resident's PST;
- (8) attending annual individual plan (IP) meetings, person-centered planning meetings, interim meetings, and follow-up planning meetings;
- (9) attending emergency PST meetings;
- (10) attending other PST meetings when significant issues are addressed, including when a rights restriction or an intrusive behavior intervention strategy is contemplated or recommended;
- (11) attending the client's PST capacity assessment meetings of the client's PST;
- (12) attending other PST meetings at the request of the client, guardian, or involved family or friend;
- (13) requesting DDS Quality Assurance to conduct an administrative inquiry of suspected provider contract violations, per OAC 340:100-3-27;
- (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;
- (15) review of reviewing documents and electronic files including, but not limited to:
 - (A) assessments, IP, and interim IP documents;
 - (B) incident reports;
 - (C) Adult Protective Services and OCA investigation findings; and
 - (D) behavior data collection forms;
- (16) attending mortality review meetings held, per OAC 340:100-3-35;
- (17) attending legal proceedings involving the client, including guardianship proceedings, as warranted by the circumstances;
- (18) providing an annual copy of Form 15GR006E, Notice of Grievance Rights: DDS Service Recipients, to each client or guardian an annual copy of Form 15GR006E, Notice of Grievance Rights: DDS Service Recipients;
- (19) monitoring semi-annually every six months, the hot water temperature in homes, using a thermometer to ensure the water does not exceed 114 degrees Fahrenheit; and
- (20) bi-annually at least every six months, verifying that appropriate records have been kept with regard to an individual's personal finances every five to seven months, 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~~ intermediate care facilities for persons—individuals with Intellectual Disabilities (ICF/ID) intellectual disabilities (ICF/IID).** Advocacy and monitoring services for former residents of NORCE and SORC who reside in a private ~~(ICF/ID)~~ ICF/IID 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)~~ ICF/IID 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~~ contacts, the advocate inquires about ~~individual~~ the client's 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 when one has been~~ is appointed. The OCA advocate ~~also contacts the guardian~~ in response to an expression by the client of dissatisfaction with the current residential arrangements, contacts the guardian. 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)~~ ICF/IID case manager and requests ~~to be notified~~ notification in advance of yearly planning meetings, interim, and emergency meetings. The advocate brings the expressed desires of the individual and any concerns expressed by the individual, guardian, or other family members 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~~ 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 ~~federal and 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 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 (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' 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 DHS administrative appeal and/or grievance procedures; and
- (3) referral to Oklahoma protection and advocacy agencies 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 OCA advocates' caseloads. Requests for a change in the advocate

representing an individual are made to the advocate general or designee.

(c) **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 PST. As a PST member, the advocate receives from the client's Developmental Disabilities Services (DDS) case manager timely notice of all PST meetings, including emergency 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 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 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. 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 O6CB034E, 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 once every three 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~~ completing a meaningful contact regarding each client served, at least monthly;
- (4) completion of a service review twice a year, at least once every six months;
- (5) ~~verifying direct contact staff have completed required training in connection with each service review; verifying direct contact staff have completed required training;~~
- (6) participating as a member of a client's PST;
- (7) attending annual individual plan (IP) meetings, person-centered planning meetings, interim meetings, and follow-up planning meetings;
- (8) attending emergency PST meetings;

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- (9) attending other 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 PST;
 - (11) attending other team meetings at the request of the client, guardian, or involved family or friend;
 - (12) requesting DDS Quality Assurance to conduct an administrative inquiry of suspected provider contract violations 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 and electronic files 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 and OCA investigation findings;
 - (16) attending mortality reviews conducted, 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 every six months,~~ of the hot water temperature in homes, using a thermometer to ensure the water does not exceed 114 degrees Fahrenheit;
 - (20) verifying that appropriate records are kept with regard to an individual's personal finances at least once every six months; and
 - (21) providing each client or guardian 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) of this Section~~ 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.
- (g) **Advocacy services for Hissom class members in a private ~~intermediate care facility for persons with intellectual disabilities (ICF/ID)~~ intermediate care facilities for individuals with intellectual disabilities (ICF/IID).** Advocacy and monitoring services for class members who reside in a private ~~(ICF/ID)~~ ICF/IID in Oklahoma are contained in this subsection.
- (1) The assigned OCA advocate personally visits a client living in a private ~~(ICF/ID)~~ ICF/IID 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~~ was 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/ID)~~ ICF/IID case manager, generally a Qualified

~~Mental Retardation Professional~~ qualified intellectual disability 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/ID)~~ ICF/IID. The advocate provides advocacy assistance regarding the individual's expressed desires. The advocate brings 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, 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 OCA can provide is needed ~~which OCA can provide~~. The advocate, either directly or through referral, 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 DHS Aging Services, long-term care ombudsman. The advocate also informs the ~~Long Term Care Ombudsman Office~~ long-term care ombudsman office of concerns involving other individuals living in an ~~(ICF/ID)~~ ICF/IID that come to the advocate's attention.

(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.

(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 DOC or a county sheriff's custody, except those who are detained pre-trial, are contained in this subsection. The assigned OCA advocate:

- (1) contacts the client at least every six months; these contacts are in person when feasible;
- (2) obtains copies of court documents that reflect the sentence the class member 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, with resolving concerns identified by the client or by others on behalf of the client. Advocacy assistance is provided in regard to

enforcing the rights of clients under the Americans with Disabilities Act and other federal and state ~~and federal~~ laws to the extent they are applicable to persons who are in custody; and

(4) provides advocacy assistance and works with the DDS case manager to 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.

(i) **Services for Hissom class members who decline DDS services.** Per OAC 340:100-3-11, class members and their legal representatives have the right to refuse services from ~~DHS~~ DDS. The OCA advocate for a class member, who 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.

[OAR Docket #16-572; filed 6-16-16]

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

[OAR Docket #16-571]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

- Subchapter 5. Fair Hearings
- Part 11. Child Care Facility Licensing
- 340:2-5-110 through 340:2-5-112 [AMENDED]
- 340:2-5-114 through 340:2-5-120 [AMENDED]
- 340:2-5-122 [AMENDED]
- 340:2-5-124 [AMENDED]
- Subchapter 28. Office of Administrative Hearings: Child Support
- 340:2-28-4.2 [AMENDED]
- (Reference WF 15-06)

AUTHORITY:

Director of Human Services; Section 162 of Title 56 of the Oklahoma Statutes (56 O.S. § 162); and 10 O.S. § 405.3(A)(2).

SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:

March 25, 2016

COMMENT PERIOD:

February 16, 2016 through March 16, 2016

PUBLIC HEARING:

March 25, 2016

ADOPTION:

March 25, 2016

SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:

March 25, 2016

APPROVED BY GOVERNOR'S DECLARATION:

Approved by Governor's declaration on June 9, 2016

FINAL ADOPTION:

June 9, 2016

EFFECTIVE:

September 15, 2016

SUPERSEDED EMERGENCY ACTIONS:

n/a

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INCORPORATIONS BY REFERENCE:

n/a

ANALYSIS:

The proposed revisions to Chapter 2 Subchapter 5 amend the rules to comply with Section 405.3(A)(2) of Title 10 of the Oklahoma Statutes by adding the recording of an individual on the Child Care Restricted Registry, also known as Joshua's List, or Registry to those who are entitled to an administrative hearing.

CONTACT PERSON:

Dena Thayer, Programs Administrator, Office of Intergovernmental Relations and Policy, Department of Human Services, 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., SECTION 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 15, 2016:

SUBCHAPTER 5. FAIR HEARINGS

PART 11. CHILD CARE FACILITY LICENSING

340:2-5-110. Legal bases

Sections ~~405.3~~, 407, and 408 of Title 10 of the Oklahoma Statutes provide ~~an~~for administrative ~~hearing~~hearings when the Oklahoma Department of Human Services (DHS):

- (1) ~~denies an application for a license to operate a child care facility;~~
- (2) ~~revokes a license to operate a child care facility; and~~
- (3) ~~has issued~~issues an ~~emergency order~~Emergency Order to a child care facility; ~~and~~
- (4) records an individual on the Child Care Restricted Registry.

340:2-5-111. Hearings conducted by the Oklahoma Department of Human Services (DHS) Legal Services Appeals Unit

The DHS Legal Services Appeals Unit presides over hearings when an ~~applicant or licensee~~appealing party requests a hearing regarding:

- (1) denial of an application for a child care facility license;
- (2) revocation of a child care facility license; ~~and~~
- (3) an ~~emergency order~~Emergency Order relating to a child care facility; ~~and~~
- (4) recording an individual on the Child Care Restricted Registry.

340:2-5-112. Definitions

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

"Access to the case file" means ~~that the applicant, licensee, and authorized representative have~~appealing party

has the right to review any information ~~to be~~ used by the Oklahoma Department of Human Services (~~OKDHS~~)(DHS) in the hearing.

(A) The review may be made at a reasonable time before the date of the hearing.

(B) Access to the case file means access to the ~~applicant or licensee~~appealing party file but does not include the ~~Children and Family Services Division (CFSD)~~Child Welfare Services records and any report to the district attorney unless ordered released by the administrative hearing officer (AHO). The order is based ~~upon~~on a request by the ~~applicant or licensee~~appealing party and, after an in camera review by the AHO, a determination that a compelling reason exists and that disclosure is necessary for the protection of a public or private interest. Any child's name and the reporter's name ~~is~~are removed prior to submitting the information to the AHO.

(C) When a request for file access is made, the local office ~~must make~~makes arrangements for the ~~applicant or licensee and authorized representative~~appealing party to review the case file with as much privacy as possible. A supervisory staff member observes the review of the case file to ensure ~~that~~ contents of the case file are not removed from the record.

(D) The ~~applicant, licensee, and authorized representative~~appealing party is free to make written notes from the record or obtain copies of available documents. An ~~applicant, licensee, or representative~~appealing party is not charged for copies of documents made for the purpose of hearing preparation or presentation.

"Administrative hearing officer (AHO)" means:

(A) the professional staff member of the DHS Legal Services Appeals Unit who ~~has been~~is designated by the Appeals Unit supervisor to conduct an administrative hearing and issue a decision; or

(B) a lawyer who has a contract with ~~OKDHS~~DHS to preside over administrative hearings and issue a ~~decision~~decisions.

"Appealing party" means an applicant, licensee, potential registrant, and the authorized representative.

"Appeals Unit" means the unit established within the DHS Legal Services, ~~which~~that is responsible for conducting administrative hearings.

"Appeals Unit supervisor" means the person designated by the ~~OKDHS~~DHS general counsel to supervise the Appeals Unit.

"Applicant or licensee" means:

(A) an applicant for a license to operate a child care facility; or

(B) the holder of a license to operate a child care facility ~~which has been~~that was revoked.

"Authorized representative" means a person authorized by the applicant or licensee to represent them in the hearing process.

(A) Any party may be represented by a lawyer or legal intern licensed to practice by the Supreme Court of Oklahoma.

(B) A party may be represented by a non-lawyer.

(C) If the representative is not a lawyer, ~~OKDHS~~DHS verifies the authority of the person to represent the ~~applicant or licensee~~ appealing party through verbal or written authorization of the ~~applicant or licensee~~ appealing party.

"Child Care Services (CCS)" means any office in any division or unit within CCS that is responsible for the act, or failure to act, which is the subject of the hearing request.

"Clear and convincing evidence" means the degree of proof ~~which has that~~ produced in the AHO a firm belief as to the truth of the allegation sought to be established.

"DHS" means the Oklahoma Department of Human Services.

"Division of Child Care (DCC)" means any office in any division or unit within DCC which is responsible for the act, or failure to act, which is the subject of the hearing request.

"Hearing" means the process by which evidence is obtained and a decision is made regarding the ~~OKDHS~~DHS action being protested.

"Hearings on licensing actions related to child care facilities and child placing agencies" means:

(A) the process to review an ~~OKDHS~~ DHS decision on denial or revocation of a license for a child care facility or child-placing agency; or

(B) hearings on ~~emergency orders~~ Emergency Orders to cease operation of a child care facility.

"Hearing request" means a written expression by an ~~applicant, licensee, or authorized representative~~ appealing party of the ~~applicant's or licensee's~~ appealing party's desire to contest an action by ~~OKDHS~~DHS through the hearing process.

"OAC" means the Oklahoma Administrative Code, which contains the regulations promulgated by each state agency.

"Official record" means:

(A) all evidence ~~offered for introduction~~ admitted as evidence at the hearing;

(B) an electronic recording of the hearing, or a transcription of the hearing; and

(C) the hearing decision.

"OKDHS" means the Oklahoma Department of Human Services.

"Registrant" means an individual recorded on the Child Care Restricted Registry.

340:2-5-114. Hearing request

(a) A hearing request must be in writing and signed by the ~~applicant, licensee, or authorized representative~~ appealing party.

(b) To be considered timely, a hearing request must be received by the Oklahoma Department of Human Services (~~DHS~~) within:

(1) 30-calendar days of receipt of the notice of denial or revocation; ~~or~~

(2) ~~ten~~ 10-calendar days of receipt of an ~~emergency order~~ Emergency Order; ~~or~~

(3) 30-calendar days of receipt of the notice of recording on the Child Care Restricted Registry.

340:2-5-115. Appeals Unit action following receipt of a hearing request

(a) Upon receipt of a hearing request, a hearing number is assigned.

(b) The Appeals Unit supervisor assigns the case to an administrative hearing officer (AHO). The AHO determines if the hearing request:

(1) ~~hearing request~~ hearing request was made timely; and

(2) ~~hearing request~~ hearing request involves an appealable issue. An issue is appealable only if the Oklahoma Department of Human Services (~~DHS~~) ~~has notified the applicant or licensee~~ appealing party in writing that:

(A) an application for a child care facility license is denied;

(B) a child care facility license is revoked; ~~or~~

(C) an ~~emergency order has been~~ Emergency Order was issued; ~~or~~

(D) an individual received notice of his or her name being recorded on the Child Care Restricted Registry.

(c) ~~If~~ When a hearing request is both timely and relates to an appealable issue the:

(1) AHO sets a hearing date. In appeals of ~~emergency orders~~ Emergency Orders, the hearing must be held within ~~ten~~ 10-calendar days of receipt of the ~~applicant's or licensee's~~ appealing party's request for a hearing;

(2) Appeals Unit supervisor designates an AHO; and

(3) Appeals Unit mails the notice of hearing to the ~~applicant or licensee~~ appealing party. Copies of this notification are sent to the ~~Division of Child Care Services~~, appropriate supervisory staff, and the authorized representative, if any. The notice of hearing is mailed in cases involving:

(A) license denial or revocation, by certified mail not less than ~~two weeks~~ 14 calendar days prior to the hearing date, unless waived by the ~~applicant or licensee~~ appealing party; ~~and~~

(B) appeals of ~~emergency orders~~ Emergency Orders, notice is given as far in advance of the hearing date as possible; ~~and~~

(C) recording on the Child Care Restricted Registry, by certified mail not less than 14 calendar days prior to the hearing date, unless waived by the registrant.

340:2-5-116. Communications with the administrative hearing officer (AHO)

Following a hearing request, there is no direct or indirect contact regarding the merits of the case between the AHO and a person with a direct or indirect interest in the case, unless there is notice to all parties and an opportunity to participate in the communication, except the AHO may:

(1) be contacted on matters of an informational or procedural nature; or

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- (2) contact ~~the Division of Child Care Services~~ in order to obtain information regarding:
- (A) timeliness of the hearing request; or
 - (B) ~~whether~~ if an appealable issue exists.

340:2-5-117. Hearing continuance, withdrawal, and dismissal

(a) Continuance of hearing.

(1) **Additional evidence.** At the conclusion of a hearing, the administrative hearing officer (AHO) may determine that additional evidence is needed before a final decision can be made. If so, the AHO may continue the hearing and direct the parties to submit any additional evidence ~~the AHO deems~~ deemed necessary. The AHO may set time limits for the submission.

(2) **Scheduling.** If the AHO is informed, in advance of a hearing, that the ~~applicant, licensee, authorized representative, appealing party~~ or the Oklahoma Department of Human Services (DHS) needs a continuance, the AHO continues the hearing ~~if when~~ good cause is shown.

(b) **Withdrawal of request for hearing.** An ~~applicant, licensee, or authorized representative appealing party~~ may withdraw a hearing request in writing, signed by the ~~applicant, licensee, or authorized representative appealing party~~.

(c) **Dismissal of hearing request.** ~~If when~~ the ~~applicant, licensee, or authorized representative appealing party~~ fails to appear for the scheduled hearing and fails to submit sufficient evidence to establish good cause for failure to appear at the appointed time, the AHO issues a letter of decision. The letter advises the ~~applicant, licensee, or authorized representative appealing party~~ that the request for the hearing has been dismissed and ~~that the Division of Child Care Services~~ will take action to implement the decision.

340:2-5-118. Presence of Oklahoma Department of Human Services (DHS) employees or DHS records at hearings

An administrative hearing officer (AHO) does not have the authority to issue subpoenas for the presence of people or production of evidence at hearings.

(1) An AHO, at the request of an ~~applicant, licensee, authorized representative, appealing party~~ or on his or her own motion, may require the presence at a hearing of:

- (A) a particular DHS employee;
- (B) DHS records; and
- (C) other ~~DHS~~ evidence ~~belonging to DHS~~.

(2) An ~~applicant's or licensee's~~ appealing party request for the presence of a DHS employee, DHS documents, or other evidence, is granted by the AHO only ~~if when~~ the ~~applicant or licensee~~ appealing party shows that the presence of the DHS employee or evidence is:

- (A) relevant to the issues involved in the hearing;
- (B) necessary for determination of the issue;
- (C) not otherwise obtainable by the ~~applicant or licensee~~ appealing party; and
- (D) not confidential pursuant to state or federal law.

(3) ~~If when~~ the AHO determines that a DHS employee needs to be present, or the records or evidence in DHS possession are to be produced at the hearing, the AHO gives notice to the DHS employee or office where the evidence is located of the date, time, and location of the hearing.

340:2-5-119. Standard of review and burden of proof

(a) **Standard of review.** The administrative hearing officer (AHO) determines whether the Oklahoma Department of Human Services (~~OKDHS~~) (DHS) action is supported by clear and convincing evidence and not contrary to the applicable law.

(b) **Burden of proof.** The party who seeks to alter the status quo has the burden of proof. The burden of proof is on:

- (1) an applicant to show that the applicant is eligible to receive a child care facility license;
- (2) ~~OKDHS~~ DHS to show that a child care facility license should be revoked; ~~and~~
- (3) ~~OKDHS~~ DHS to show that the issuance of an ~~emergency order~~ Emergency Order was necessary to protect the health, safety, or welfare of a child receiving child care; ~~and~~
- (4) DHS to show that the person should be recorded on the Child Care Restricted Registry.

340:2-5-120. Hearing procedures

(a) **Hearings.** All hearings scheduled by the Appeals Unit are conducted by an administrative hearing officer (AHO), who:

- (1) designates the hearing location;
- (2) administers oaths;
- (3) conducts the hearing in an orderly manner;
- (4) rules on the admissibility of evidence; and
- (5) takes such action as the AHO deems necessary to reach a proper disposition of the case.

(b) **Hearings are not open to the public.**

(1) In order that the confidential nature of case material and the relationship between the ~~applicant or licensee~~ appealing party and the Oklahoma Department of Human Services (DHS) is maintained, hearings are not open to the public.

(2) ~~In~~ With approval of the AHO, in addition to the ~~applicant or licensee, the authorized representative~~ appealing party and the local office representative, ~~with approval of the AHO~~, persons permitted to attend the hearing are:

- (A) ~~with permission of the AHO~~, persons invited by the ~~applicant or licensee~~ appealing party;
- (B) witnesses, subject to the AHO's direction that witnesses are excluded from the hearing prior to their testimony; and
- (C) any member of the Child Care Advisory Committee who ~~wishes~~ wants to attend the hearing.

(c) **Pre-hearing conference.** A conference may be conducted by the AHO prior to the formal beginning of a hearing. The pre-hearing conference is not recorded.

(d) **Recording the hearing.**

(1) The AHO is responsible for arranging for the hearing to be recorded. The hearing may be recorded electronically or by a certified court reporter.

(2) The AHO's recording of the hearing is the official recording. The ~~client or authorized representative~~ appealing party may provide his or her own recording device for use during the hearing if such recording is not disruptive. ~~In no case is videotaping~~ Videotaping is not allowed.

(3) Upon written request to the Appeals Unit, DHS provides the ~~applicant, licensee, or authorized representative~~ appealing party a copy of the:

(A) tape recording of the hearing. A transcript of the recording is provided only when required by federal or state law; or

(B) court reporter's transcript.

(e) **Sequestration of witnesses.** The AHO may require that any witness, other than the ~~applicant, licensee~~ appealing party or the ~~Division of Child Care Services~~ representative, absent himself or herself from the hearing room except when the witness is testifying.

(f) **Presentation of the case.**

(1) The AHO directs the order of presentation of the case.

(2) When presentation of the evidence is complete, the AHO allows closing statements.

(3) The AHO renders a decision immediately following closing statement.

340:2-5-122. Hearing decision

(a) The factual basis of the decision is information that was available to the Oklahoma Department of Human Services (DHS) on the date of the decision and, if DHS failed to follow its own rules regarding the gathering of information, the information that would have been available to DHS at the time of the decision had the rules been followed. This information is obtained through:

(1) hearing testimony;

(2) exhibits ~~introduced~~ admitted as evidence at the hearing; or

(3) facts or law of which the administrative hearing officer (AHO) has taken judicial notice.

(b) The law applied to the case is described in (1) - (3) of this subsection.

(1) The relevant sections of the Oklahoma Administrative Code (OAC) are applied.

(2) Where the OAC is ambiguous or silent on a point critical to the decision, reference to other sources, including state and federal ~~statutes~~ statutes; federal regulations, sub-regulatory material, and case law is appropriate.

(3) The AHO ~~shall~~ does not declare any ~~section~~ Section of the OAC invalid. However, if the validity of any ~~section~~ Section of the OAC is raised as an issue, the AHO permits arguments concerning that issue so ~~that~~ the issue is preserved for subsequent review.

(c) The AHO renders a decision at the conclusion of the presentation of the case and indicates the decision on the date

of the hearing on a form ~~which~~ that includes a statement of the applicant's, ~~or licensee's, or registrant's~~ appeal rights.

(d) Immediately after pronouncing the decision, the AHO:

(1) requests ~~that the applicant or licensee~~ appealing party sign the statement on the decision form to acknowledge receipt of the decision; and

(2) provides a copy of the decision to:

(A) the applicant, ~~or licensee, or registrant;~~

(B) the authorized representative, if any;

(C) ~~the Division of Child Care Services;~~ and

(D) any other component of DHS ~~which~~ that is necessary for implementation of the decision.

340:2-5-124. Appeals to district court

(a) **Revocation or denial.** ~~If~~ When the decision of the Oklahoma Department of Human Services (DHS) to revoke or deny a license to operate a child care facility is upheld, the administrative hearing officer (AHO) informs the ~~applicant or licensee~~ appealing party that an appeal to district court may be filed within ~~ten~~ 10-calendar days after the decision is rendered.

(b) **Emergency orders.** ~~If~~ When the DHS decision is upheld, the AHO informs the ~~applicant or licensee~~ appealing party that an appeal may be filed in the district court within ~~30~~ 10-calendar days after the decision is rendered.

(c) **Recording on Child Care Restricted Registry.** When the DHS decision is to record an individual on the Child Care Restricted Registry, the AHO informs the registrant that an appeal to district court may be filed within 10-calendar days after the decision is rendered.

SUBCHAPTER 28. OFFICE OF ADMINISTRATIVE HEARINGS: CHILD SUPPORT

340:2-28-4.2. Terms and location of Office of Administrative Hearings: Child Support

(a) The Office of Administrative Hearings: Child Support (OAH); is in session at ~~the~~ district child support offices on days docketed for administrative hearings; ~~at the offices.~~ Pleadings, pleadings, other documents, and orders may be filed with, or presented to, the administrative law judge (ALJ) ~~at the district child support office~~ on administrative hearing docket days. On days when OAH is not in session at the district child support office, pleadings, other documents, and orders must be filed at OAH located in the Sequoyah Building, ~~in~~ 2400 North Lincoln Boulevard, Oklahoma City, Oklahoma. The mailing address is ~~P.O. PO Box 5302525352, Oklahoma City, OK 73105 and the finding address is 2400 N. Lincoln Blvd., Oklahoma City, OK Oklahoma 73125-0352.~~

(b) Proceedings cannot ~~be~~ commenced commence unless and until an administrative case is opened through ~~the~~ Oklahoma Department of Human Services Child Support ~~Enforcement Division~~ Services.

(c) All proceedings are commenced by filing pleadings at OAH. The OAH file is maintained at OAH located in the

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Sequoyah Building unless otherwise designated by the OAH chief ALJ ~~of OAH~~.

(d) All pleadings filed and exhibits introduced are kept in OAH unless an ALJ directs otherwise ~~directed by an ALJ~~, and are not removed except upon order of an ALJ. In that event, a receipt specifying the record or document removed must be submitted to OAH by the party obtaining the record or document. The receipt must be legible and state the date and the name, business address, and telephone number of the person removing the document. Any party who obtains an order for the removal of a transcript made by the official court reporter or as directed by the ALJ or makes a copy in the OAH office may be required to pay the copying costs ~~according to OAC~~ per Oklahoma Administrative Code 340:2-21-16.

[OAR Docket #16-571; filed 6-16-16]

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

[OAR Docket #16-573]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 5. Operational Policies
Part 7. The Case Record - Computer File Records and Case Folders
340:25-5-55 [AMENDED]
Part 9. Disclosure of Information
340:25-5-67 [AMENDED]
Part 15. Case Initiation, Case Management, and Case Closure
340:25-5-124.2 [AMENDED AND RENUMBERED TO OAC 340:25-5-286]
340:25-5-124.3 [AMENDED]
340:25-5-124.4 [NEW]
Part 20. Medical Support
340:25-5-168 [AMENDED]
Part 21. Establishment
340:25-5-176.1 [AMENDED]
340:25-5-178 [AMENDED]
Part 22. Review and Modification
340:25-5-198.1 [AMENDED]
Part 23. Enforcement
340:25-5-200 [AMENDED]
340:25-5-200.1 [AMENDED]
340:25-5-200.3 [NEW]
340:25-5-211.1 [AMENDED]
340:25-5-213 [AMENDED]
Part 33. ~~Interstate and International~~ Intergovernmental Cases
340:25-5-270 [AMENDED]
340:25-5-285 [AMENDED]
340:25-5-286 [NEW]
Part 39. Accounting and Distribution
340:25-5-345.1 [AMENDED]
(Reference WF 15-08)

AUTHORITY:

Director of Human Services, Section 162 of Title 56 of the Oklahoma Statutes (56 O.S. § 162); Section 1681b of Title 15 of the United States Code (15 U.S.C. § 1681b); 18 U.S.C. § 228; 28 U.S.C. § 1738B; 31 U.S.C. § 3716; 42 U.S.C., Chapter 7, Subchapter IV, Part D; 50A U.S.C. §§ 501 through 596; Sections 285.1 and 285.3 of Title 31 of the Code of Federal Regulations (31 C.F.R. §§ 285.1 and 285.3); 45 C.F.R., Subtitle B, Chapter III; 3A O.S. § 724.1; 10 O.S. § 83; 10A O.S. §§ 1-4-702, 7700-307, 7700-308, and 7700-312; 12 O.S. §§ 719 through 726, 842, 1171.2, and 2005; 21 O.S. §§ 566, 566.1, 567, and 852; 24 O.S. §§ 112 through 123; 36 O.S. §§ 6058A and 6059A; 43 O.S.

§§ 112, 112A, 112.1A, 118 through 118I, 118.2, 119, 120, 135, 137, 139, 139.1, 140, 413, 601-100 through 601-901; 47 O.S. §§ 1-153, 6-201, 6-201.1, 6-211, and 6-212; 56 O.S. §§ 183, 230.50, and 231 through 240.23; Title 58; Title 62; 63 O.S. §§ 1-311 and 1-311.3; 68 O.S. §§ 205.2 and 205.3; 70 O.S. § 11-103; Internal Revenue Service Publication 1075; Executive Order 13019; and Section 6305 of the Internal Revenue Code of 1954.

SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:

March 25, 2016

COMMENT PERIOD:

February 16, 2016 through March 16, 2016

PUBLIC HEARING:

March 25, 2016

ADOPTION:

March 25, 2016

SUBMISSION OF ADTOPED RULES TO GOVERNOR AND LEGISLATURE:

March 25, 2016

APPROVED BY GOVERNOR'S DECLARATION:

Approved by Governor's declaration on June 9, 2016

FINAL ADOPTION:

June 9, 2016

EFFECTIVE:

September 15, 2016

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

ANALYSIS:

The proposed amendments to Chapter 25 Subchapter 5 amend the rules to: (1) implement policy changes recommended during the annual Child Support Services (CSS) policy review process; (2) comply with statutory changes following the passage of Senate Bill (SB) 486; and (3) make non-substantive housekeeping changes to improve the rule clarity.

CONTACT PERSON:

Dena Thayer, Programs Administrator, Office of Intergovernmental Relations and Policy, Oklahoma Department of Human Services, 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., SECTION 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 15, 2016:

SUBCHAPTER 5. OPERATIONAL POLICIES

PART 7. THE CASE RECORD - COMPUTER FILE RECORDS AND CASE FOLDERS

340:25-5-55. Case records

(a) ~~The Oklahoma Department of Human Services Child Support Enforcement Division (CSED) Services (CSS)~~ establishes, maintains, and closes case records ~~under~~ per:

(1) Sections 652, 653, 654a, and 666 of Title 42 of the United States Code; and

(2) Sections 302.15, 303.2, 303.11, and 307.11 of Title 45 of the Code of Federal Regulations and Sections 652, 653, 654a, and 666 of Title 42 of the United States Code.

(b) ~~CSED~~ CSS maintains information in case records through a combined use of the statewide automated data processing and information retrieval system and paper documents. The information in case records includes, but is not limited to:

- (1) names and addresses of custodial persons (CP), biological parents (BP), alleged fathers, noncustodial parents (NCP), and children;
- (2) names and addresses of employers of ~~custodial persons~~CPs, ~~biological parents~~BPs, alleged fathers, and ~~non-custodial parents~~NCPs;
- (3) Social Security numbers of ~~custodial persons~~CPs, ~~biological parents~~BPs, alleged fathers, ~~non-custodial parents~~NCPs, and children;
- (4) paternity records and related information;
- (5) records of all legal and collection actions on cases;
- (6) records of all accruals, payments, and distribution of payments;
- (7) location, asset, employment, insurance, and financial information for ~~custodial persons~~CPs, ~~biological parents~~BPs, and ~~non-custodial parents~~NCPs; and
- (8) case log, correspondence, personal notes, work products, records of contacts, communications, and other actions; and ~~other~~ information concerning the case.

(c) When a case participant requests a name change, CSS staff updates an existing, open CSS case record when the participant submits Form 03GN543E, Name Change Request, with documentation of the participant's new legal name.

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 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 for an authorized purpose, 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; income information, records of payment, and balances;
- (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

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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 a CSS state's attorney; and

(5) persons with written authorization from a child support case member to release information.

PART 15. CASE INITIATION, CASE MANAGEMENT, AND CASE CLOSURE

340:25-5-124.2. Tribal case referral of cases to an Oklahoma tribal child support office [AMENDED AND RENUMBERED TO 340:25-5-286]

(a) **Definitions.** The following words and terms, when used in this Section, have the following meanings:

(1) **"Native American"** means a person who is an enrolled member of a federally recognized Indian tribe.

(2) **"Tribal child support office program"** means a federally recognized comprehensive IV-D child support program in Oklahoma.

(b) **Scope.** The tribal child support programs:

(1) provide child support services to tribal members as outlined in their tribal codes; and

(2) do not provide child support services when the child(ren) is in a deprived or delinquent state juvenile court action.

~~(c) **Tribal case referrals from Oklahoma Child Support Services (OCSS) to tribal child support programs.**~~

~~(1) Per OAC 340:25-5-124, Oklahoma's Interstate Central Registry and Oklahoma's Centralized Support Registry, also known as the State Disbursement Unit, assign to a district child support office incoming interstate referrals, Form 03EN001E, Application for Child Support Services, and Form 03AD020E, Request for Paternity Testing and Services Notice of Applicant Responsibilities, with a:~~

~~(A) Native American noncustodial parent;~~

~~(B) tribal child support order; or~~

~~(C) tribal employer.~~

~~(2) OCSS retains cases with tribal members and tribal child support orders unless:~~

~~(A) the applicant of the OCSS case applies for child support services with a tribal child support program, and the OCSS case meets the eligibility requirements as determined by the tribal child support program;~~

~~(B) the noncustodial parent is a tribal employee, and the employer refuses to honor the OCSS income withholding order; or~~

~~(C) the child is in a deprived or delinquent juvenile court case in tribal court and not subject to a state court deprived or delinquent juvenile action.~~

~~(3) Upon confirmation from a tribal child support program that the OCSS case applicant has applied for tribal child support services and there is no pending litigation, the district office provides copies of relevant documents from the district office case file to that tribal child support program and retains the district office case file.~~

~~(4) OCSS maintains a case record when state assistance is being provided to the child or assistance has been provided in the past and there is assigned child support or cash medical support owed per OAC 340:25-5-117.~~

~~(d) **Tribal case referrals from tribal child support programs to OCSS.** OCSS accepts case referrals from a tribal child support program when:~~

~~(1) there is lack of jurisdiction to proceed in the tribal court system;~~

~~(2) a current customer with a tribal child support program applies for services with OCSS; or~~

~~(3) a noncustodial parent leaves tribal employment and the applicant on the former OCSS case does not apply for services with the tribal child support program.~~

~~(e) **Registration of tribal child support orders.** OCSS registers tribal child support orders in state courts per The Full Faith and Credit for Child Support Orders Act (FFCCSOA) in Section 1738B of Title 28 of the United States Code and may establish and enforce a child support order in tribal or federal courts outside the tribal programs' service area.~~

340:25-5-124.3. Assignment and management of deprived cases

When a case includes a child(ren) in a deprived court action, Oklahoma Department of Human Services Child Support Services (~~OCSS~~)(CSS) assigns cases ~~under~~per this Section.

(1) **No existing child support order.** When there is no existing child support order, the case is assigned to a district office serving the county in which the district court has jurisdiction over the deprived action.

(2) **Existing case.** When there is a prior Family and Domestic district court case involving the parent(s) and child(ren), the case is assigned to a district office serving the county in which the order was entered or docketed, regardless of whether a child support order was entered as to either parent.

(3) **Split jurisdiction.** When the case involves split jurisdiction, the district offices coordinate paternity and child support order establishment and child support order enforcement procedures with the district courts.

(4) **No prior child support order.** When no child support order was entered prior to the filing of the juvenile petition, there is no existing Family and Domestic district court case, the parental rights of the noncustodial parent (NCP) are terminated, and the child is not placed with ~~that noncustodial parent~~ the NCP, the child support case is assigned and transferred according to (A) through ~~(E)~~(D) of this paragraph, as applicable.

(A) ~~When a child(ren) is permanently placed within Oklahoma, the child support case is assigned to the district office serving the county where the minor child(ren) resides,~~ there is one NCP or when both NCPs reside in the same county, the CSS case is assigned to the district office serving the county where the NCP(s) resides.

(B) ~~When a child(ren) is permanently placed outside Oklahoma, the child support case is assigned to the district office serving the county where the non-custodial parent resides.~~

~~(C)~~ When there are multiple ~~noncustodial~~ NCPs residing in different ~~areas~~ counties, the district offices within whose jurisdiction the ~~non-custodial~~ NCPs reside reach an agreement regarding district office assignment.

~~(D)~~ When parental rights ~~have been~~ are terminated, ~~OCSS~~ CSS requests the court refer all child support issues regarding the parent whose rights have been terminated to ~~OCSS~~ CSS for filing in the appropriate court.

~~(E)~~ When the juvenile court ~~has~~ entered a child support order but no longer desires to exercise jurisdiction to enforce the order, no prior Family and Domestic district court case exists, and the child(ren) is not placed with the ~~noncustodial parent~~ NCP, ~~OCSS~~ CSS docket the juvenile child support or paternity order in a new district court case according to (i) through ~~(iii)~~(ii) of this subparagraph, as applicable:

(i) in the county in which the ~~noncustodial parent~~ NCP resides or the NCP's last verified address ~~of the noncustodial parent~~; or

(ii) ~~if~~ when both parents are ~~noncustodial~~ NCPs, ~~(C)~~(B) of this paragraph applies; or

~~(iii) in the county where the child(ren) resides if parental rights have been terminated.~~

(5) **Prior child support order.** When a prior child support order exists and after final adjudication and dismissal of the deprived action from the juvenile court, or when child support issues have been deferred by the juvenile court, the office with the existing child support order docket any juvenile child support or paternity order in its district court and proceeds with both judicial and non-judicial enforcement of the child support order.

(6) **Adoption.** When the child(ren) is adopted and the deprived action terminates, the child support case is assigned as described in (A) and (B) of this paragraph.

(A) When there is an existing child support order prior to the child(ren) entering foster care, the case

is assigned to the district office serving the county where the order was established.

(B) When there is no existing child support order prior to the child(ren) entering foster care, and a child support order is established during the deprived action, the case is assigned to the district office serving the county where the ~~noncustodial parent~~ NCP resides.

340:25-5-124.4. Multiple case processing

(a) **Definitions.** The following words and terms when used in this Section shall have the following meanings unless the context clearly indicates otherwise:

(1) **"Multiple case action"** means a noncustodial parent (NCP) has multiple cases that are worked together for the primary purpose of right-sizing the NCP's child support orders. A multiple case action includes either an establishment action, modification action, or both. Child Support Services (CSS) presents multiple case actions to the Office of Administrative Hearings: Child Support (OAH) or district court as appropriate. When appropriate, CSS may pursue enforcement action in addition to completing the other action(s). CSS follows Oklahoma Administrative Code (OAC) 340:25-5-200.3 when multiple case processing involves enforcement actions only.

(2) **"Right-sizing"** means establishing and modifying child support orders and setting judgment payments that reflect current circumstances and actual income, unless the evidence supports imputing, to encourage NCP compliance and consistent, reliable support collections for the child(ren) involved.

(b) **Determination of multiple case actions.** CSS determines whether there is evidence to justify a modification per OAC 340:25-5-198.2 and Section 237 of Title 56 of the Oklahoma Statutes (56 O.S. § 237). When determining whether it is appropriate to conduct a multiple case action, CSS considers:

- (1) the NCP's income;
- (2) the NCP's ability to pay all child support orders each month, in full;
- (3) if the NCP is paying on all cases; and
- (4) the monthly child support amount per 43 O.S. §§ 118-118I.

(c) **Interstate multiple case actions.** Multiple case actions involving non-Oklahoma orders are worked per this subsection.

(1) When Oklahoma has continuing exclusive jurisdiction, a case is included in a multiple case action.

(2) When Oklahoma does not have continuing exclusive jurisdiction and:

(A) current support is still due, a case may be included in a multiple case action when all necessary parties consent for Oklahoma to exercise jurisdiction to modify the support order per 43 O.S. § 601-611; or

(B) consent is not received for Oklahoma to exercise jurisdiction to modify, the interstate case is included only for determination of the judgment payment plan.

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(d) **Initial transfer of cases.** When CSS initiates a multiple case action, CSS transfers cases as necessary to the office completing the multiple case action.

(e) **Initial notice.** CSS provides notice to the custodial persons and the NCP, explaining their case:

- (1) is involved in a multiple case action;
- (2) was temporarily transferred, as appropriate, to another office for the multiple case action; and
- (3) will be returned to its original office after completion of the multiple case action.

(f) **Child support computation preparation.** In multiple case actions, CSS prepares:

- (1) individual child support computation forms for each case, including medical support and child care costs for the family group; and
- (2) one combination child support computation form that treats the NCP's children as one family, allowing a child support amount based on a pro rata share. The combined child support computation form uses the NCP's income and an average of all the cases' biological parents' (BP) income and does not include medical support or child care costs.

(g) **Filing.** CSS files multiple case actions in OAH or district court and requests the court:

- (1) consider all of the NCP's cases at the same time;
- (2) deviate from the individual guidelines child support amount due to extreme economic hardship and to more equitably distribute the resources available, as supported by 43 O.S. § 118H and OAC 340:25-5-178;
- (3) order a pro rata child support amount calculated by averaging the BPs' incomes and dividing the NCP's total child support amount evenly among all children; and
- (4) add medical support and child care costs from the individual child support computation form to the pro rata child support amount.

(h) **Conclusion of multiple case action.** After a multiple case action is concluded, the multiple case processing office transfers each case back to the original office.

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 (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), 43 O.S. §§ 112, 118-118I, 118.2 and 119, and 56 O.S. § 237.

(b) **Medical support provision of child support order.** A child support order established by CSS must contain a medical support provision.

(c) **Calculating the cost of medical support.** To calculate the actual premium cost of health insurance, 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, 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, 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, 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~~When 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, CSS requests the court give priority to the preference of the CP.

(h) **Exceptions to hierarchy.** 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 per~~ (f)(1) or (2) 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)(4) of this Section is chosen as the provision for medical support, CSS requests the court order cash medical support to be paid by the NCPs, until insurance is provided under paragraphs (1) through (3) of subsection per~~ (f)(1) through (3) of this Section.

(2) CSS refers to the Cash Medical Income Guidelines Table as found in the child support computation form prescribed by CSS and published by the Administrative Office of the Courts on the Oklahoma State Courts Network site per 43 O.S. § 120 to determine the cash medical support amount.

(3) CSS computes a cash medical order by applying the Cash Medical Income Guidelines Table, using the gross income for the NCP of the child in the case under consideration and the number of children in the instant case.

(A) When the NCP's gross income is at or below the income amount for the number of children in the case, CSS requests the court order a cash medical order at \$0 per month.

(B) When the NCP's gross income exceeds the income amount for the number of children in the case, 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 NCP's share of the cash medical amount is added to the child support obligation.

(D) ~~When neither parent is the obligor or NCP due to equally shared physical custody and the application of the parenting time adjustment, 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. CSS does not request the court set cash medical support against a parent who has equally shared physical custody with at least 182 overnights.~~

(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) CSS seeks cash medical support only as part of a prospective order for child support. 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, 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 DHS adopted children.** CSS does not request health insurance or cash medical support for children who are adopted through DHS Adoption Services. 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 CSS receives notice the parent ordered to pay cash medical support enrolled the child(ren) in health insurance, 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 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, CSS reviews the case within 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. 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) CSS files a Notice of Termination of Cash Medical Support with the proper court when no party requests a:

- (A) review within the 10-day time period; or

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- (B) hearing after CSS notifies them of the review decision.
- (5) 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, 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) CSS seeks reinstatement of the cash medical order when:
- (A) a child support court order previously ordered the 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) CSS uses one of the following processes to seek reinstatement of the cash medical order:
- (A) **Modification.** CSS seeks modification of the child support order and reinstatement of cash medical support 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~~was 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, CSS uses an expedited process to reinstate the cash medical support. CSS uses the expedited process when there is an address of record for the obligor.
- (3) CSS initiates a reinstatement of cash medical support when it receives notice 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. 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 CSS with supporting health care coverage documentation. 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. CSS provides the CP and the 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) 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 CSS notifies them of the review decision.
- (m) **Fixed medical costs.** When the parties agree or the court orders, CSS includes the total monthly fixed medical costs in the child support guidelines computation. 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, 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. 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 CP requests it.
- (2) CSS does not request cash medical support when IHS is the chosen provider.
- (o) **Notification requirements.** The NCP and the CP must notify 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, 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.

PART 21. ESTABLISHMENT

340:25-5-176.1. Challenges to paternity establishment

- (a) Oklahoma Department of Human Services Child Support Services (CSS) objects to a paternity challenge proceeding when:
- (1) 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); or
- (3) paternity ~~has been~~was 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) 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 or alleged father, CSS takes necessary steps to bring the paternity challenge before the appropriate court for resolution.

340:25-5-178. Calculation of 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; 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. 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.
- (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 parent(s) or custodial person (CP) except when (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.
- (f) **Child care subsidy.** When the parent(s) or CP is participating in the DHS Child Care Subsidy Program per 56 O.S. § 230.50, CSS uses DHS Appendix C-4, Child Care Eligibility/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~~a parent's share of the base monthly obligation for child support and the ~~CP's~~gross monthly income amount reflected in the records of the DHS Child Care Subsidy Program as the CP's monthly income when applying Appendix C-4. Upon selecting the applicable income level on Appendix C-4, CSS uses the corresponding family share co-payment amount based on the number of children in DHS subsidized child care.

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CSS allocates the family share co-payment amount indicated on Appendix C-4, in the same proportion as base child support. CSS staff performs a separate child support guidelines calculation for each NCP.

(2) When ~~the CP a parent~~ 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.

(g) **Juvenile Court cases.**

(1) **Deprived cases.** When a case is referred, 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.

(2) **Delinquent cases.** When a case is referred, CSS establishes a child support order against each parent of a child in the custody of the Oklahoma Office of Juvenile Affairs per 43 O.S. §§ 118 through 118I.

(h) **Intergovernmental majority age.** CSS establishes child support orders for a child(ren) for whom child support is impossible under applicable law.

(i) **Minor parents.** When the NCP is a minor, CSS establishes paternity per Oklahoma Administrative Code 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 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.

(j) **Adult disabled child.** CSS enforces child support orders for adults with disabilities per 43 O.S. § 112.1A. CSS establishes or modifies child support orders to continue after the child reaches the age of majority per 43 O.S. § 112.1A ~~if~~when 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.** 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 back 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 back 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 back 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 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~~is 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.

PART 22. REVIEW AND MODIFICATION

340:25-5-198.1. Review of a child support order

(a) **Purpose.** The purpose of the review process is to determine whether a child support order should be modified to ensure substantial compliance with the child support guidelines in Sections 118-118I through 119 of Title 43 of the Oklahoma Statutes (43 O.S. §§ 118-118I & 119) and Oklahoma Administrative Code (OAC) 340:25-5-178.

(b) **Notification requirements.** At least once every three years after a child support order is established, reviewed, or modified, Oklahoma Department of Human Services (DHS) Child Support Services (CSS) notifies all parties in a full-service case of the right to request a review of the child support order and the process for requesting a review.

(c) **Authority for review.** CSS conducts a review every three years in cases with a Temporary Assistance for Needy

Families (TANF) assignment. CSS determines the tribunal with jurisdiction under subsection (e) of the Full Faith and Credit for Child Support Orders Act, codified in Section 1738B(e) of Title 28 of the United State Code (28 U.S.C. § 1738B(e)) and the Uniform Interstate Family Support Act (UIFSA) in 43 O.S. §§ 601-101 through ~~601-901~~601-903 to modify the order. When another tribunal has jurisdiction to modify the child support order, CSS follows the provisions in (j) of this Section. When Oklahoma has jurisdiction to modify the child support order, CSS follows the provisions of this subsection. CSS completes the review and modification process within 180-calendar days after a request is received or the non-requesting party is located, whichever is later.

(d) **Initiation of review.**

(1) CSS reviews an order upon written request by a customer or on its own initiative:

- (A) when there ~~has been~~ is a material change in circumstances per 43 O.S. § 118I; or
- (B) per 56 O.S. § 237 when the evidence in the case justifies a modification as per OAC 340:25-5-198.2, regardless of whether there ~~has been~~ is a change of circumstances.

(2) CSS notifies the parties of the review with instructions for submitting financial and other information required for the review.

(3) CSS does not initiate a review upon customer request when:

- (A) the non-initiating party is not located;
- (B) it has been less than 12 months since the child support order was established, reviewed, or modified unless there ~~has been~~ is a material change of circumstances; ~~or~~
- (C) the preliminary information indicates the change of circumstances will not significantly impact the child support amount or the change of circumstances is temporary; ~~or~~
- (D) there is evidence the monthly child support amount or judgment payment is based on a noncustodial parent's (NCP) ability to pay and the NCP is working in a job consistent with his or her education and training.

(4) When CSS determines the customer review request does not meet the provisions in ~~paragraph~~ (1) of this subsection, CSS provides available pro se self-help modification forms to the customer.

(5) CSS does not seek an upward modification of a child support order or a judgment payment upon request when an NCP is:

- (A) employed full-time in an occupation consistent with his or her education and training;
- (B) ordered to pay more than 20 percent of his or her gross income; and
- (C) is not paying the full court-ordered monthly child support amount.

(e) **Medical enforcement only (MEO) cases.**

(1) When either the custodial person or the noncustodial parent requests a review, CSS changes the services

offered from an MEO to a full-service case. CSS notifies the parties of the change in services provided.

(2) When the non-applicant requests the review, the non-applicant must complete Form 03EN001E, Application for Child Support Services, per OAC 340:25-5-110.1.

(f) **Initial review.** Within 15-calendar days after receiving a request for a review, CSS determines if the criteria described in ~~paragraph (1) of subsection (d)~~(1) of this Section are met. CSS notifies the requesting person when the criteria for review are not met. If the criteria are met, CSS may:

- (1) request further information as necessary from the parties; or
- (2) proceed with the review process when CSS considers it has information sufficient to complete the process.

(g) **Final review.** Within 30-calendar days after the deadline for the parties to submit requested financial and other information to CSS, ~~under per (d)(1) of this Section,~~ CSS completes the review process and notifies parties of its determination as to whether the support order should be modified.

(h) **Modification after review.** CSS staff follows OAC 340:25-5-198.2 to determine if the child support order is modified after the review process is complete.

(i) **Termination of the review process.**

- (1) The person requesting a review may withdraw the request after the review process begins, upon CSS approval. CSS does not accept requests to withdraw the review after making a determination that the child support order be modified.
- (2) When the requesting person fails to supply information requested by CSS as instructed, CSS may terminate the review process, unless CSS or the non-requesting party requests the process continue.
- (3) When the review is initiated by CSS, failure of the parties to return requested information does not stop the review process. CSS proceeds, using the best information available.

(j) **Interstate cases.**

(1) When a tribunal other than an Oklahoma district or administrative court has jurisdiction under UIFSA to modify an order, CSS obtains the information necessary for the review.

(A) CSS transmits the documents to the Title IV-D agency in the other state within 20-calendar days after receipt of the request to modify the order and of the completed documents from the person requesting the modification.

(B) CSS issues and enforces a subpoena to compel compliance with the request for documents if the non-requesting party fails to return the required documents or CSS is unable to obtain the necessary information to proceed and an Oklahoma tribunal has personal jurisdiction over the non-requesting party.

(C) CSS may terminate the review process in an interstate case ~~as provided in subsection (g) per (i) of this Section and~~ 43 O.S. §§ 601-611 and ~~601-613~~ 601-616.

(2) When Oklahoma has jurisdiction to modify the order of another state, ~~Native American tribe, territory, or~~

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foreign country as defined by 28 U.S.C. § 1738B(b) per 43 O.S. § 601-102, the order is registered in Oklahoma for modification per 28 U.S.C. § 1738B(i) and 43 O.S. §§ 601-609 through 601-616.

PART 23. ENFORCEMENT

340:25-5-200. Scope and applicability

(a) **Enforcement.** The Oklahoma Department of Human Services Child Support Services (~~OCSS~~)CSS follows Part D of Subchapter IV of Chapter 7 of Title 42 and Section 1738B of Title 28 of the United States Code (28 U.S.C. § 1738B), Section 303.6 of Title 45 of the Code of Federal Regulations (45 C.F.R. § 303.6), and Section 240.1 of Title 56 of the Oklahoma Statutes (56 O.S. § 240.1) in initiating enforcement proceedings.

(1) Orders for current and past child and spousal support, health care coverage, fixed amounts of medical support, judgments, and delinquencies may be enforced through expedited and judicial processes, or through other collection efforts.

(2) Past-due child support is a judgment by operation of law and may be enforced in the same manner as any other money judgment—per 43 O.S. § 137.

(3) Post-judgment remedies do not require an adjudicated judgment by a district or administrative court.

(4) Each missed support payment is a judgment; thus, a judgment increases with each missed payment. This total judgment becomes a lien on the real and personal property of the noncustodial parent (NCP).

(b) **Non-Oklahoma support order.** ~~OCSS~~CSS registers a support order from another state, Native American tribe, territory, or foreign country, as defined by subsection (b) of the Full Faith and Credit for Child Support Orders Act codified in Section 28 U.S.C. § 1738B(b) of Title 28 of the United States Code and Section 43 O.S. § 601-101102(21) of Title 43 of the Oklahoma Statutes when enforcement of the order is sought.

(c) **Multiple support orders.** When multiple child support orders have been entered in the same or different tribunals involving the same noncustodial parent NCP and child, ~~OCSS~~CSS seeks a determination of controlling order under Sections per 43 O.S. §§ 601-207, 601-307, and 601-601 through 601-603 of Title 43 of the Oklahoma Statutes and ~~OAC~~Oklahoma Administrative Code (OAC) 340:25-5-270.

(d) **Legal remedies.** ~~OCSS~~CSS determines appropriate enforcement actions and may use any legal remedy to enforce support obligations. ~~OCSS~~CSS chooses remedies that are designed to obtain compliance with an obligor's support obligations and does not use any remedy for the purpose of punishment. When an NCP is participating in the Court Liaison Program (CLP) or complying with a seek work order, CSS considers the NCP's participation and compliance per OAC 340:25-5-200.3 when choosing enforcement remedies. Remedies ~~OCSS~~CSS may use include, but are not limited to:

(1) annual notice to noncustodial parents as provided in Section NCPs per 56 O.S. § 237A of Title 56 of the Oklahoma Statutes and OAC 340:25-5-213;

(2) income assignment, garnishment, and levy as provided in Chapter 21 of Title 12, Sections 43 O.S. §§ 115 and 601-501 through 601-507 of Title 43, Sections 56 O.S. §§ 237, 240.2, and 240.23 of Title 56 of the Oklahoma Statutes, and Section 42 U.S.C. § 666 of Title 42 of the United States Code;

(3) hearing on assets as provided in Section per 12 O.S. § 842 of Title 12 of the Oklahoma Statutes;

(4) intercept of federal tax refunds, as provided in Section per 42 U.S.C. § 664 of Title 42 of the United States Code, Sections 31 C.F.R. § 285.3 of Title 31 and 45 C.F.R. § 303.72 of Title 45 of the Code of Federal Regulations, and OAC 340:25-5, Part 25, and intercept. Intercept of state tax refunds as provided in Section per 45 C.F.R. § 303.102 of Title 45 of the Code of Federal Regulations, Sections 68 O.S. §§ 205.2 and 205.3 of Title 68 of the Oklahoma Statutes, and OAC 340:25-5, Part 27;

(5) administrative offsets as provided in Section per 31 U.S.C. § 3716 of Title 31 of the United States Code, Section 31 C.F.R. § 285.1 of Title 31 of the Code of Federal Regulations, and Executive Order 13019;

(6) denial, revocation, or suspension of United States passports, as provided in Section per 56 O.S. § 240.1 of Title 56 of the Oklahoma Statutes and Sections 42 U.S.C. §§ 652 and 654 of Title 42 of the United States Code;

(7) revocation, suspension, non-renewal, and non-issuance of various licenses including, but not limited to, revocations of certificates of motor vehicle titles as provided in Sections per 43 O.S. §§ 139 and 139.1 of Title 43, Sections 47 O.S. §§ 1-153, 6-201, 6-201.1, and 6-211 of Title 47, and Sections 56 O.S. §§ 237.1 and 240.15 through 240.21A of Title 56 of the Oklahoma Statutes;

(8) imposing liens and executing and levying on personal and real property, including, but not limited to, workers' compensation benefits, personal injury, wrongful death, and probate actions as provided in Section per 43 O.S. § 135 of Title 43, Section 56 O.S. § 240.23 of Title 56, and Titles 12 and 58 of the Oklahoma Statutes;

(9) registration of foreign support orders under the Uniform Interstate Family Support Act as provided in Sections per 43 O.S. §§ 601-100 through 601-901 of Title 43 of the Oklahoma Statutes 601-903;

(10) credit bureau referrals as provided in Sections per 42 U.S.C. § 666 of Title 42 and 15 U.S.C. § 1681b of Title 15 of the United States Code, Section 56 O.S. § 240.7 of Title 56 of the Oklahoma Statutes, and OAC 340:25-5, Part 31;

(11) financial institution data match as provided in Sections per 42 U.S.C. §§ 666 and 669A of Title 42 of the United States Code, Sections 56 O.S. §§ 240.22 through 240.22G of Title 56 of the Oklahoma Statutes, and OAC 340:25-5-212;

(12) seek work orders as provided in Section per 56 O.S. § 240.10 of Title 56 of the Oklahoma Statutes;

(13) indirect civil contempt of court as provided in Sections per 21 O.S. §§ 566 and 567 of Title 21, Section 43 O.S. § 137 of Title 43, and Section 56 O.S. § 234 of Title 56 of the Oklahoma Statutes. ~~OCSS~~CSS does not use contempt as a penal sanction and does not recommend

incarceration to the district court at sentencing in an indirect civil contempt proceeding unless there is evidence or information available that the obligor can purge the contempt. ~~OCSS~~CSS asks the court to set a reasonable purge fee pursuant to the terms of ~~per~~ Rule 8.3 of the Rules of the District Court;

(14) action to void the transfer or obtain favorable settlement in cases in which a debtor transferred income or property to avoid payment to a child support creditor ~~under~~ per the Uniform Fraudulent Transfer Act, ~~Sections 24 O.S. §§ 112 through 123 of Title 24 of the Oklahoma Statutes and Section 42 U.S.C. § 666 of Title 42 of the United States Code;~~

(15) registration of foreign judgments ~~under~~ per the Uniform Enforcement of Foreign Judgments Act, ~~Sections 12 O.S. §§ 719 through 726 of Title 12 of the Oklahoma Statutes;~~

(16) criminal actions brought ~~under Section~~ per 21 O.S. § 852 of Title 21 of the Oklahoma Statutes;

(17) civil actions brought ~~under Section~~ per 42 U.S.C. § 660 of Title 42 of the United States Code;

(18) transfer of child support obligation to another custodian ~~under Section~~ per 56 O.S. § 237 of Title 56 of the Oklahoma Statutes;

(19) referral to the United States Attorney for federal prosecution ~~under Section~~ per 18 U.S.C. § 228 of Title 18 of the United States Code;

(20) full collection services by the Secretary of the Treasury ~~under Section~~ per 6305 of the Internal Revenue Code of 1954; and

(21) attachment of lottery prize winnings from the Oklahoma Lottery Commission ~~under Section~~ per 3A O.S. § 724.1 of Title 3A of the Oklahoma Statutes.

(e) **Servicemember.** When ~~OCSS~~CSS initiates proceedings to enforce a child support order for a child of a ~~noncustodial parent~~ NCP or a custodial person who is a servicemember, ~~OCSS~~CSS applies the provisions of the Servicemembers Civil Relief Act, ~~codified in Sections~~ per 50A U.S.C. §§ 501 through 596 of Title 50A of the United States Code.

340:25-5-200.1. Administrative review process

(a) When the opportunity for administrative review is specifically provided by statute, federal regulation, or administrative rule, and a procedure for administrative review is not otherwise prescribed, ~~Oklahoma~~ Child Support Services (~~OCSS~~)CSS uses the procedure described in this Section.

(b) ~~OCSS~~CSS notifies parties of the opportunity to request an administrative review of the action by regular mail. Notices include the date of mailing, a description of the grounds for requesting administrative review, and instructions for the time and manner to request the review in writing.

(c) Upon timely receipt of a written request for an administrative review, the ~~OCSS~~CSS office conducts a review within 30-calendar days or within a shorter period if when otherwise required. Reviews are usually desk reviews completed by ~~OCSS~~CSS staff using available information from the parties and electronic resources. If When a meeting or telephone conference is necessary, ~~OCSS~~CSS notifies the parties.

(d) The review is conducted by ~~an OCSS~~ a CSS representative. The representative may contact any of the parties if when additional information or clarification is required.

(e) After completion of the review, the ~~OCSS~~CSS office issues a notice of administrative review decision regarding the disputed action. ~~OCSS~~CSS mails the notice of the administrative review decision to the parties by regular mail.

(f) When the parties disagree with the notice of administrative review decision, the parties have 45-20-calendar days from the date of mailing the review decision to request a hearing.

340:25-5-200.3. Child Support Services (CSS) Court Liaison Program (CLP)

(a) CLP is the program designated by Oklahoma Department of Human Services CSS as the problem-solving court program referenced in Section 140 of Title 43 of the Oklahoma Statutes (43 O.S. § 140), 21 O.S. § 566.1, and 56 O.S. § 240.10.

(b) When a noncustodial parent (NCP) is participating in CLP, CSS staff follows (1) and (2) of this subsection.

(1) When an NCP is complying with CLP requirements or a seek work order, CSS staff coordinates, within an office and between offices, to find a case management strategy that treats NCP's cases consistently and is most likely to result in a reliable source of support in all of NCP's cases.

(2) "Complying" means the NCP is following the CLP Individual Service Plan to remove barriers to paying support or is otherwise meeting the requirements set out in a seek work order, including disclosing all information about earnings and assets.

340:25-5-211.1. License revocation and reinstatement for failure to comply with child support order

(a) **Legal basis.** Oklahoma Department of Human Services Child Support Services (~~OCSS~~)CSS follows Sections 139 and 139.1 of Title 43 of the Oklahoma Statutes (43 O.S. §§ 139 and 139.1), Sections 47 O.S. §§ 1-153, 6-201, 6-201.1, and 6-211 of Title 47 of the Oklahoma Statutes, and Sections 56 O.S. §§ 237.1, 240.15 through 240.17, and 240.19 through 240.21A of Title 56 of the Oklahoma Statutes in processing enforcement actions to order the revocation, suspension, nonissuance, nonrenewal, or probation of a license for a noncustodial parent (NCP) who is not in compliance with an order for child support.

(b) **License Reinstatement Process.**

(1) **Request for license reinstatement; desk review.** When ~~OCSS~~CSS receives a written request to reinstate a license, ~~OCSS~~CSS conducts a desk review of the case file within 15-calendar days after receipt of a written request for reinstatement.

(2) **Compliance with payment plan.**

(A) When ~~OCSS~~CSS determines ~~that a noncustodial parent~~ an NCP is complying with a court-ordered payment plan and other terms of a support order, and the reinstatement provisions of Section 43 O.S. § 139.1 of Title 43 or Section 56 O.S. § 240.17 of Title

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~~56 of the Oklahoma Statutes, OCSSCSS requests a reinstatement of the license from the tribunal that revoked the license.~~

~~(B) OCSS may request a reinstatement of the license when the noncustodial parent is participating in a problem-solving court program under Section 140 of Title 43 or Section 240.10 of Title 56 of the Oklahoma Statutes.~~

(3) Alternative compliance. CSS may request a reinstatement of the license when:

(A) the NCP is actively participating in the CSS Court Liaison Program per 43 O.S. § 140 or complying with a seek work order, per 56 O.S. § 240.10; and

(B) a CSS state's attorney determines reinstating the NCP's license would increase the likelihood that the NCP is able to pay support.

(34) Noncompliance with payment plan.

~~(A) When OCSSCSS determines a noncustodial parent and NCP is not complying with a court-ordered payment plan, other terms of a support order, or the reinstatement provisions of Section per 43 O.S. § 139.1 of Title 43 of the Oklahoma Statutes, OCSSCSS sends a notice to the noncustodial parent NCP that the request for reinstatement of a license is denied. The notice advises the noncustodial parent NCP that the noncustodial he or she has 15 calendar days to request a reinstatement hearing in writing. Upon timely receipt of a written request for a hearing, OCSSCSS schedules the matter for a hearing before the tribunal that ordered the license revocation.~~

~~(B) OCSSCSS provides notice of the hearing to the custodial person pursuant to Section per 12 O.S. § 2005 of Title 12 or Section 43 O.S. § 112A of Title 43 of the Oklahoma Statutes.~~

~~(C) If When a license has been was reinstated pursuant to subsection per (b) of this section Section and the noncustodial parent NCP subsequently is in non-compliance with a payment plan, OCSSCSS requests the court to immediately revoke the NCP's license(s) of the noncustodial parent.~~

340:25-5-213. Annual notice

(a) Oklahoma Department of Human Services Child Support Services (~~OCSS~~)CSS sends a notice, referred to as the Notice and Order of Child Support Lien or annual notice, ~~required by~~per Section 237A of Title 56 of the Oklahoma Statutes (56 O.S. § 237A) to noncustodial parents (~~NCPs~~)NCP and custodial persons (~~CPs~~)CP in Title IV-D cases at least once every 12 months, *unless the amount of past due support has been determined in a court proceeding within the past twelve months.* The annual notice:

- (1) confirms the amount of past support and establishes a payment plan to collect past support;
- (2) includes notice of the procedure to submit address changes to the Central Case Registry;
- (3) informs the NCP that child support services under the state plan are being provided;

(4) instructs the NCP to redirect the support payments to the Centralized Support Registry;

(5) advises the NCP of the amount of past support and collection actions that may be taken to collect the support debt;

(6) includes directions for the NCP to make specified monthly payments to satisfy past due support; and

(7) ~~may establish~~establishes an address of record for the NCP and CPs.

(b) The annual notice includes directions for the NCP to make specified monthly payments to satisfy past-due support. To promote healthy families, ~~OCSSCSS~~ sets a payment schedule per ~~OAC~~Oklahoma Administrative Code 340:25-5-140.

(c) The initial notice is served upon the NCP as ~~provided in~~per 12 O.S. § 2005. ~~If~~When there is an address of record on file with the Central Case Registry under 43 O.S. § 112A, the notice may be served by regular mail at the address on record. Subsequent notices may be served by regular mail with a certificate of mailing to the last address of record. The initial notice and subsequent annual notices are sent to the CP by regular mail with a certificate of mailing.

(d) The annual notice sent to the NCP must not include the CP's address or employer's name and address. The annual notice sent to the CP must not include the NCP's address or employer's name and address.

(e) The NCP or CP may timely request in writing, an administrative review of the annual notice ~~under~~per 56 O.S. § 237A. ~~If~~When all disputed issues are not settled at the administrative review, ~~OCSSCSS~~ sets the matter for hearing.

PART 33. INTERSTATE AND INTERNATIONAL INTERGOVERNMENTAL CASES

340:25-5-270. Interstate Intergovernmental cases

(a) **Legal base basis.** When referring and processing ~~interstate intergovernmental~~ Title IV-D cases, Oklahoma Department of Human Services Child Support Services (~~OCSS~~)CSS is governed by:

(1) ~~the Uniform Interstate Family Support Act as provided in Sections 601-100 through 601-901 of Title 43 of the Oklahoma Statutes~~Section 1738B of Title 28 of the United States Code (28 U.S.C. § 1738B) and 42 U.S.C. §§ 654, 659A, and 666;

(2) ~~Section 240.9 of Title 56 of the Oklahoma Statutes~~Sections 302.36 and 303.7 of Title 45 of the Code of Federal Regulations (45 C.F.R. §§ 302.36 and 303.7); and

(3) ~~Sections 1738B of Title 28 and 654, 659A, and 666 of Title 42 of the United States Code; and~~the Uniform Interstate Family Support Act per Sections 601-101 through 601-903 of Title 43 of the Oklahoma Statutes (43 O.S. §§ 601-101 through 601-903) and 56 O.S. § 240.9.

(4) ~~Sections 302.36 and 303.7 of Title 45 of the Code of Federal Regulations.~~

(b) **Definition.** For purposes of this Section, forum state means the state in which the hearing is held or the responding

court proceeding is filed to establish or enforce a support order.

(b) **Interstate**

(c) **Intergovernmental central registry.** OCSSCSS operates an ~~interstate~~ intergovernmental central registry per ~~Section 303.7 of Title 45 of the Code of Federal Regulations~~ 45 C.F.R. §§ 302.36 and 303.7.

(ed) **Forms.** OCSSCSS uses forms issued by the Secretary of the United States Department of Health and Human Services per ~~Section 652 of Title 42 of the United States Code~~ 42 U.S.C. § 652 as applicable for processing ~~interstate~~ intergovernmental cases.

(de) **Communication.** When:

(1) Oklahoma is the initiating state, OCSSCSS obtains information from the other Title IV-D agency and communicates with the custodial person in Oklahoma.

(2) Oklahoma is the responding state, OCSSCSS communicates to the initiating state with which OCSSCSS has established a case.

(3) OCSSCSS receives written communication from a party or a party's attorney, OCSSCSS sends copies to the appropriate agency or person within two-business days of receipt, ~~as required by Section 601-307 of Title 43 of the Oklahoma Statutes~~ per 43 O.S. § 601-307.

(ef) **Family violence and nondisclosure.** When Oklahoma is the initiating state and a party claims family violence, OCSSCSS does not release the physical address of the party without a court order. OCSSCSS:

(1) enters the address of record, ~~if when~~ designated, or the district office's address instead of the physical address of the party requesting nondisclosure on the Child Support Enforcement Transmittal # 1, Initial Request, and on the General Testimony, ~~if when~~ applicable;

(2) does not file the interstate transmittal forms with the tribunal;

(3) does not release a copy of the interstate transmittal form to the other party per ~~OAC~~ Oklahoma Administrative Code (OAC) 340:25-5-67; and

(4) seeks an order from the appropriate tribunal regarding release of the information when the initiating state, responding state, or a party requests release of specific identifying information per ~~Section 601-312 of Title 43 of the Oklahoma Statutes~~ 43 O.S. § 601-312.

(fg) **Services provided.** Except as provided in paragraphs (1) through (4) of this subsection, OCSSCSS processes ~~interstate~~ intergovernmental cases in the same manner as intrastate cases. ~~OCSS processes intrastate cases,~~ per OAC 340:25-1-1.2.

(1) **Evidence.** If one of the parties is a nonresident of the forum state, OCSSCSS arranges for telephonic testimony at the request of the nonresident party or a Title IV-D agency, and requests the court to admit evidence per ~~Section 601-316 of Title 43 of the Oklahoma Statutes~~ 43 O.S. § 601-316.

(2) **One-state processing.** In the absence of an order to establish paternity or support, OCSSCSS uses a one-state process to establish an order if personal and subject matter jurisdiction may be exercised over a nonresident party per

~~Section 303.7 of Title 45 of the Code of Federal Regulations~~ 45 C.F.R. § 303.7 and ~~Section 601-201 of Title 43 of the Oklahoma Statutes~~ 43 O.S. § 601-201.

(3) **Determination of controlling order.** When there are multiple orders for current support for the same child, OCSSCSS seeks a determination of controlling order (DCO) or a new order from the appropriate tribunal per ~~Sections 601-207 and 601-602 through 601-615 of Title 43 of the Oklahoma Statutes~~ 43 O.S. § 601-207 and 43 O.S. §§ 601-602 through 601-616.

(A) When making the arrears calculation for the DCO proceeding, ~~OCSS-CSS~~ OCSSCSS applies the law of the respective issuing states in determining the arrears under each order.

(B) Once the court issues a DCO, OCSSCSS applies the law of the controlling order state to the consolidated arrears, even when the support orders of other states contributed a portion to those arrears.

(4) **Redirection of payments.** ~~In accordance with Sections 601-307 and 601-319 of Title 43 of the Oklahoma Statutes~~ Per 43 O.S. §§ 601-307 and 601-319:

(A) OCSSCSS issues a notice to redirect payments to the Title IV-D agency in the state in which the custodial person resides and issues an Order/Notice to Withhold Income for Child Support to implement the order when:

- (i) Oklahoma is the state that issued the child support or income assignment order;
- (ii) neither the noncustodial parent, custodial person, or any child lives in Oklahoma; and
- (iii) OCSSCSS or another Title IV-D agency makes the request.

(B) OCSSCSS issues a notice to redirect payments to the Title IV-D agency in the state of residence of the custodial person when:

- (i) a child support or income assignment order ~~has been~~ was issued;
- (ii) neither the noncustodial parent, custodial person, or any child lives in the issuing state; and
- (iii) Oklahoma provides child support services.

(C) OCSSCSS furnishes a certified record of payments to a requesting party or tribunal when OCSSCSS receives redirected payments per ~~Section 601-319 of Title 43 of the Oklahoma Statutes~~ 43 O.S. § 601-319.

(gh) **Determination of arrears.** When Oklahoma has personal and subject matter jurisdiction and can obtain service of process on the noncustodial parent, OCSSCSS uses the annual notice, notice of support debt, contempt, or other appropriate proceedings to determine past support and interest before requesting a tribunal of another state to enforce.

(hi) **Choice of law.** The applicable law for determination of duration of support and other choice of law issues is controlled by subsection (h) of the Full Faith and Credit for Child Support Orders Act, ~~codified in Section 1738B(h) of Title 28 of the United States Code~~ per 28 U.S.C. § 1738B(h) and Sections 601-604 and 601-611 of Title 43 of the Oklahoma Statutes 43 O.S. §§ 601-604 through 601-616. The law of the initial

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controlling order state governs the duration of support even after the order is modified by another state.

(i) **Definition.** For purposes of this Section, ~~forum state~~ means the state in which the hearing is held or the responding court proceeding is filed to establish or enforce a support order.

(j) **Genetic testing.** When genetic testing is required in ~~interstate~~ intergovernmental cases, the responding state is responsible for paying the cost of testing per ~~Section 303.7 of Title 45 of the Code of Federal Regulations~~ 45 C.F.R. § 303.7 and OAC 340:25-5-176.

340:25-5-285. International cases

(a) **Legal base/basis.** ~~The Oklahoma Department of Human Services Child Support Enforcement Division (CSED) Services (CSS) follows the provisions of Oklahoma Administrative Code (OAC) 340:25-5-270 when Oklahoma is providing child support services on international cases, except for time frames specified in~~ per Section 303.7 of Title 45 of the Code of Federal Regulations.

(b) **Foreign reciprocating countries.** ~~CSED~~ CSS initiates or responds to proceedings with foreign reciprocating countries ~~under~~ per Section 659A of Title 42 of the United States Code.

(c) **Bilateral agreements.** ~~CSED~~ initiates or responds to proceedings with countries with whom Oklahoma has a bilateral agreement.

(d) **Conversion of child support orders to foreign currency.**

(1) Upon request of a foreign responding tribunal, ~~CSED~~ CSS converts the child support order amount into foreign currency and prepares certificates or other documents to be issued by the Oklahoma tribunal ~~under~~ per Section 601-304 of Title 43 of the Oklahoma Statutes (43 O.S. § 601-304).

(2) Upon request of a foreign initiating tribunal to enforce an order specified in foreign currency, ~~CSED~~ CSS converts the child support order amount into United States dollars and requests an Oklahoma tribunal to make a finding of the converted child support amount.

(ed) **Modification of international orders.**

(1) When modification of an order of a foreign country is requested and that country cannot or will not modify its order, ~~CSED~~ CSS seeks a modification of the foreign order in an Oklahoma tribunal ~~if~~ when Oklahoma has personal jurisdiction over both parties, as provided ~~in Section 601-615 of Title 43 of the Oklahoma Statutes~~ per 43 O.S. § 601-616.

(2) When ~~CSED~~ CSS determines another state has jurisdiction over both parties, ~~CSED~~ sends an interstate transmittal CSS forwards a Child Support Enforcement Transmittal # 1 to the state with jurisdiction over the parties requesting that state to register and modify the foreign order.

340:25-5-286. Tribal case referrals and transfers

(a) **Legal basis.** When referring to or processing cases from a comprehensive tribal Title IV-D agency (tribal program), Oklahoma Department of Human Services Child Support Services (CSS) is governed by:

(1) Section 1738B of Title 28 of the United State Code (28 U.S.C. § 1738B) and 42 U.S.C. §§ 654, 659A, and 666;

(2) Part 302.36 of Title 45 of the Code of Federal Regulations (45 C.F.R. § 302.36) and 45 C.F.R. § 303.7;

(3) the Uniform Interstate Family Support Act per Sections 601-101 through 601-903 of Title 43 of the Oklahoma Statutes (43 O.S. §§ 601-101 through 601-903); and

(4) 56 O.S. § 240.9.

(b) **Scope.** Tribal programs provide child support services under applicable federal law and are governed by relevant tribal law as to their administrative processes and the jurisdiction of the tribal courts.

(c) **Intergovernmental case referrals.** CSS and tribal programs request assistance from each other by referring cases for full or limited services.

(1) **Outgoing referrals.** CSS may initiate an outgoing intergovernmental referral to a tribal program when CSS determines the noncustodial parent is within the tribal program's jurisdiction and it is not appropriate for CSS to use its one-state remedies to establish paternity or establish, modify, or enforce a support order in accordance with 45 C.F.R. 303.7 (c)(3 & 4). A separate case is maintained by CSS when an outgoing intergovernmental referral is sent to a tribal program.

(2) **Incoming referrals.** CSS accepts a referral from a tribal program in accordance with 45 C.F.R. § 303.7.

(d) **Program of choice and case transfer.** When an applicant on an existing CSS case completes a tribal program application that includes a request that CSS close its case, CSS may accept that as a request for transfer of its case to the tribal program and for closure of the CSS case. CSS refers the case for limited services and does not close its case, when:

(1) state services are being provided or if there is unpaid assigned support;

(2) there is an active deprived or delinquent state juvenile court case; or

(3) there is a pending paternity, establishment, or modification action filed with the court by CSS and the non-applicant was served, unless the pending action is withdrawn or dismissed.

(e) **Registration of tribal child support orders.** CSS registers tribal child support orders in state courts per 28 U.S.C. § 1738B.

PART 39. ACCOUNTING AND DISTRIBUTION

340:25-5-345.1. Accounting and fiscal policies and procedures

(a) In its accounting and fiscal policies and procedures related to collections, distribution, and reporting, ~~the Oklahoma Department of Human Services Child Support Enforcement~~

~~Division (CSED) Services (CSS)~~ follows standard accounting procedures and the applicable provisions of:

- (1) ~~OAC 340:2-11~~ Section 1396k and Part A of Subchapter IV of Chapter 7 of Title 42 of the United States Code;
 - (2) ~~Sections 235 and 237 of Title 56 and Title 62 of the Oklahoma Statutes and directions and instructions from the Office of State Finance~~ Parts 302 and 303 of Title 45 of the Code of Federal Regulations;
 - (3) ~~Section 1912 and Part A of Subchapter IV of Chapter 7 of Title 42 of the United States Code~~ Sections 235 and 237 of Title 56, and Title 62 of the Oklahoma Statutes; and
 - (4) ~~Parts 302 and 303 of Title 45 of the Code of Federal Regulations~~ Oklahoma Administrative Code 340:2-11; and
 - (5) directions and instructions from the Office of Management and Enterprise Services.
- (b) ~~CSED~~ CSS maintains an accounting system and supporting records adequate to ensure claims for federal funds meet applicable federal requirements ~~under~~ per Part ~~7475~~ 75 of Title 45 of the Code of Federal Regulations.
- (c) ~~CSED~~ CSS maintains methods of administration designed to ensure separation of cash handling and accounting functions ~~in accordance with the requirements in~~ per ~~Section 302.20 of Title 45 of the Code of Federal Regulations (per 45 C.F.R. § 302.20).~~
- (d) Employees and agents within the program are bonded against loss to meet the requirements in 45 C.F.R. § 302.19 ~~of Title 45 of the Code of Federal Regulations.~~

[OAR Docket #16-573; filed 6-16-16]

**TITLE 340. DEPARTMENT OF HUMAN SERVICES
CHAPTER 50. SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM**

[OAR Docket #16-574]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

- Subchapter 5. Non-Financial Eligibility Criteria
 - Part 1. Household Definition
 - 340:50-5-6 through 340:50-5-7 [AMENDED]
 - 340:50-5-10.1 [AMENDED]
 - Part 3. Special Households
 - 340:50-5-28 through 340:50-5-29 [AMENDED]
 - Part 7. Related Provisions
 - 340:50-5-64 [AMENDED]
- Subchapter 7. Financial Eligibility Criteria
 - Part 3. Income
 - 340:50-7-29 [AMENDED]
 - 340:50-7-31 [AMENDED]
- Subchapter 9. Eligibility and Benefit Determination Procedures
 - 340:50-9-5 [AMENDED]
- Subchapter 11. Special Procedures
 - Part 1. Households Entitled to Expedited Service
 - 340:50-11-1 [AMENDED]
- Subchapter 15. Overpayments and Fraud
 - Part 1. Overpayments
 - 340:50-15-1 [AMENDED]

- 340:50-15-3 through 340:50-15-6 [AMENDED]
 - Part 3. Fraud
 - 340:50-15-25 through 340:50-15-26 [AMENDED]
- (Reference WF 15-02)**

AUTHORITY:

Director of Human Services; Section 162, 241.3, and 243 of Title 56 of the Oklahoma Statutes; Sections 271.2, 273.1, 273.2, 273.7, 273.9, 273.11, 273.12, 273.13, 273.15, 273.16, 273.18, and 273.24 of Title 7 of the Code of Federal Regulations (C.F.R.).

SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:

March 25, 2016

COMMENT PERIOD:

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ADOPTION:

March 25, 2016

SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:

March 25, 2016

APPROVED BY GOVERNOR'S DECLARATION:

Approved by Governor's declaration on June 9, 2016

FINAL ADOPTION:

June 9, 2016

EFFECTIVE:

September 15, 2016

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

ANALYSIS:

The proposed rules are amended to make policy easier to understand for clients, local county office staff, and the public by reordering information, adding taglines, adding clarifying information, and adding policy cite references.

The proposed rules are amended to: (1) correct information regarding utility expenses are considered when the household includes a non-household member or a disqualified member; (2) update terminology regarding victims of domestic violence; (3) remove incorrect information regarding groups considered institutional residents (4) correct and separate language regarding when care of a minor child and care of an incapacitated person is an exemption for an ABAWD; and (5) removal of the estimated homeless shelter deduction based on guidance received from FNS.

In addition to making rules easier to understand, the proposed rules regarding overpayment claims are amended to update information based on current processes and statute changes.

CONTACT PERSON:

Dena Thayer, Programs Administrator, Office of Intergovernmental Relations and Policy, Department of Human Services, 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., SECTION 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 15, 2016:

SUBCHAPTER 5. NON-FINANCIAL ELIGIBILITY CRITERIA

PART 1. HOUSEHOLD DEFINITION

340:50-5-6. Households with non-household members

- (a) ~~For those~~ The worker does not count the income of non-household members who have ~~are not been~~ are not disqualified,

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such as ineligible students who are ineligible, the worker does not count the income of the non-household member per Section 273.11(d) of Title 7 of the Code of Federal Regulations (C.F.R.) (7 § C.F.R. 273.11(d)).

(b) When the earned income of one or more household members and the earned income of a non-household member are combined into one wage, the worker determines the income for the household members by:

- (1) counting the portion due to the household when it is possible to identify the household's share; or
- (2) prorating the earned income equally and counting the household member's pro rata share when it is not possible to identify the household's share.

(c) When the household shares deductible expenses with the non-household member, the worker only deducts the amount the household actually paid or contributed as a household expense with the exception of utility expenses.

(1) Per 7 § C.F.R. 273.9(d)(6)(iii)(F), when the household pays part of the utility expenses, the household is allowed the full utility standard deduction for which it qualifies based on criteria per Oklahoma Administrative Code 340:50-7-31.

(2) When the payments or contributions cannot be differentiated, the worker prorates the expenses evenly among persons actually paying or contributing to the ~~expense~~expenses and deducts only the household's pro rata share with the exception of the utility expenses per (1) of this subsection.

340:50-5-7. Excluded households and/or household members

(a) **Food distribution programs (FDP) operated by Indian tribal organizations (ITO).** Several ITO operate FDP in the State of Oklahoma. Households or any member of a household participating in a FDP are not eligible to participate in the Oklahoma Department of Human Services (~~OKDHS~~)(DHS) Supplemental Nutrition Assistance Program (SNAP) for the same month.

(1) Households with A household may elect to participate in the FDP instead of SNAP when the household:

(A) includes at least one adult household member of any Indian tribe; and

(B) living lives within the boundaries of an ITO location either in a rural area or in a town with a population of less than 10,000, ~~may elect to participate in the FDP persons.~~

(2) A household may switch between the FDP and SNAP as long as there is no dual participation for any member for the same month.

(3) To ensure ~~that~~ dual participation does not occur, exchange of client benefit information between ITO and ~~OKDHS~~DHS is needed.

(~~1A~~) The worker is responsible for ~~contacting~~ calling the appropriate ITO when there are indications ~~that~~ an applicant ~~could meet or recipient meets~~ the criteria for FDP eligibility, before approving or renewing food benefits.

(i) The worker makes a telephone inquiry to the appropriate ITO ITOs in Oklahoma are listed on ~~OKDHS~~DHS Appendix D-4-C, Indian Food Distribution Programs, to verify.

(ii) When calling, the worker verifies if the household currently receives FDP and if the household has not been was certified since the date of the last ~~compiled list~~ inquiry.

(iii) ~~Closure of~~ When an FDP case is open, the worker ~~must also be verified~~ verify, by a telephone call to or receive written notice from the FDP office that FDP benefits are closed, before a household can be certified for food benefits.

(2B) The FDP office contacts the county office to determine if the household receives food benefits before approving the household for a FDP. The worker provides ~~any~~ the ITO with information pertinent to participation in, or eligibility for ~~either program~~ SNAP food benefits.

(34) When the worker discovers the household received FDP benefits and SNAP food benefits for the same month or months, the household is responsible for repaying the overpayment to DHS or the ITO. Dual receipt will result in a food benefit overpayment if When the household was ~~already~~ receiving FDP benefits at the time of SNAP certification, it is a SNAP food benefit overpayment.

(45) ~~When~~ a client is disqualified from FDP or SNAP, he or she is prohibited from receiving benefits from the other program per ~~Section 4211 of the 2008 Farm Bill~~ Section 273.11(k) of Title 7 of the Code of Federal Regulations (7 § CFR 273.11(k)).

(b) **Ineligible households.**

(1) **Boarders.** Residents of a commercial boarding house and boarders ~~as defined in~~ per 7 § CFR 273.1(b)(3) and Oklahoma Administrative Code (OAC) 340:50-5-5 are not eligible to participate in SNAP.

(A) A commercial boarding house is defined as an establishment that offers meals and lodging for compensation with the intention of making a profit. The number of boarders residing in a boarding house cannot be used to determine if a boarding house is a commercial enterprise.

(B) Households containing a boarder or the proprietor of a commercial boarding house may participate in the program, separate and apart from the boarders or residents of the boarding house, when the household meets all of the eligibility requirements for participation.

(2) **Residents of institutions.** Persons are considered residents of an institution when the institution provides them with over 50 percent of three meals daily as part of the institution's normal services. ~~Residents~~ Per 7 § C.F.R. 273.1(b)(7)(vi) residents of institutions are not eligible for participation in the program unless they are:

(A) residents of federally subsidized houses for the elderly, built either under Section 202 of the Housing Act of 1959 or Section 236 of the National Housing Act;

(B) ~~persons addicted to drugs or alcohol, who for the purpose of participation in residents of a drug addiction or alcoholic treatment and rehabilitation program, reside at a treatment center meeting criteria per OAC 340:50-5-26;~~

(C) ~~residents of group homes who are considered blind or disabled per OAC 340:50-5-4 when the group home meets criteria per OAC 340:50-5-27. Group home means a private or public non-profit, residential setting serving no more than 16 residents certified by the Oklahoma State Department of Health under regulations issued per Section 1616(e) of the Social Security Act;~~

(D) ~~persons who do not receive meals from the institution but prepare their own meals or are participating in a delivered meals program or a communal dining program are eligible for food benefits if they meet other eligibility requirements;~~

(E) ~~women or women with victims of domestic violence and their children who are temporarily residing in a domestic violence shelter for battered women and children meeting criteria, per OAC 340:50-5-28. Shelter for battered women and children A domestic violence shelter means a public or private non-profit, residential facility serving battered women victims and their children. When the facility also serves other persons, a portion of the facility must be set aside on a long-term basis to serve only battered women victims of domestic violence and their children;~~

(F) ~~students who attend school away from home as long as they return home for at least part of each month; or~~

(G) ~~residents of public or private non-profit shelters for homeless persons when the shelter meets criteria per OAC 340:50-5-30.~~

(ii) ~~is acting with the intent to avoid prosecution or arrest.~~

(B) When the worker has information that a person has a felony warrant issued for his or her arrest, the worker:

(i) does not initiate contact with law enforcement officials;

(ii) verifies the person has knowledge of the warrant by asking the person if he or she has satisfied the warrant; and

(iii) allows the person an opportunity to submit documentation showing the warrant ~~has been~~ was satisfied.

(I) If the warrant ~~has~~ was not ~~been~~ satisfied, the person is not eligible to receive food benefits.

(II) If the household provides verification showing the person is not a fleeing felon, the person may be included in the food benefits, if otherwise eligible;

(4) failure to obtain or refusal to provide a Social Security number per OAC 340:50-5-68;

(5) not being a citizen or qualified alien per OAC 340:50-5-67;

(6) being a probation or parole violator; or

(7) being an able-bodied adult without dependents and not meeting work requirements ~~specified in~~ per OAC 340:50-5-64.

(b) Income and deductible expenses of a disqualified person. ~~The disqualified household member is not included in household size when determining other household members' food benefit allotment. Individual A disqualified member's income and deductible expenses are handled differently, depending on the reason for disqualification, per Section 273.11(c) of Title 7 of the Code of Federal Regulations (C.F.R.) (7 C.F.R. § 273.11(c)). Refer to OAC 340:50-7-29(d) for income and expense handling information.~~

340:50-5-10.1. Disqualified household members

(a) **Disqualified household members.** ~~Individual~~ When a household ~~member~~ member meets one of the criteria listed in (1) through (7) of this subsection, he or she may be disqualified for Supplemental Nutrition Assistance Program (SNAP) food benefits per Section 273.1(b)(7) of Title 7 of the Code of Federal Regulations (C.F.R.) (7 C.F.R. § 273.1(b)(7)). Disqualification criteria include:

(1) ~~willful misrepresentation committing an intentional program violation or fraud per Oklahoma Administrative Code (OAC) 340:50-5-7 or 340:50-15-25;~~

(2) ~~failure failing to register for employment or participate in the Supplemental Nutrition Assistance Program SNAP Employment and Training Program per OAC 340:50-5-85;~~

(3) ~~being a meeting fleeing felon criteria per (A) of this paragraph.~~

(A) ~~Fleeing~~ A fleeing felon means ~~the~~ a person who

(i) ~~has knowledge that~~ knows a warrant ~~has been~~ was issued for his or her arrest in relation to a felony; ~~and~~

PART 3. SPECIAL HOUSEHOLDS

340:50-5-28. Shelter for ~~battered women~~ victims of domestic violence and their children

Residents of shelters for ~~battered women~~ victims of domestic violence and their children may ~~file an application~~ apply and ~~are~~ be certified for food benefits on their own behalf using program requirements applicable to any other household per Section 271.2 and 273.11(g) of Title 7 of the Code of Federal Regulations (C.F.R.). ~~Residents of shelters providing meals voluntarily apply for food benefits on their own behalf.~~ They may name a shelter staff member or other person to act as an authorized representative for application and certification purposes; however, the residents are expected to control the use of their own food benefits.

(1) **Verification for shelter status.** Oklahoma Department of Human Services (~~OKDHS~~) DHS staff are responsible for verifying the shelter for ~~battered women~~ victims of domestic violence and their children meets the

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definition specified in Oklahoma Administrative Code (OAC) 340:50-5-7(b) 340:50-5-7(b)(2)(E).

(A) Verification of non-profit status is accomplished by seeing correspondence from the Internal Revenue Service (IRS) stipulating the organization is tax-exempt as a charitable or educational entity under per Section 501(c)(3) of the IRS code.

(B) ~~If~~When IRS documentation is not available, the worker sends a copy of the shelter's by-laws to ~~the Adult and Family Support Services Division Supplemental Nutrition Assistance Program (SNAP) Section to determine non-profit status.~~

(C) SNAP ~~Section~~ staff ~~notifi~~notifies the worker of the determination of non-profit status.

(D) ~~OKDHS staff are~~The county director is responsible for keeping a list of domestic violence shelters in theirthe county for battered women and children whose status has ~~been~~is verified and ~~must also keep the supporting documentation of that verification.~~

(2) **Separate households.** ~~Shelter residents who are~~A shelter resident included in another active household may participate as a separate household ~~ifwhen~~the active household which includes them is the household containingincludes the person who ~~subjected them to abuse~~abused the resident. TheyThe resident may receive an additional allotment as a separate household ~~only~~ once a month. The worker takes prompt action to remove shelter residents from the active household's composition and allotment.

(3) **Income and expenses.** The worker certifies ~~residents a resident~~residents a resident applying as a separate household ~~solely on the basis of their own~~based on the resident's current income and the expenses for which they are responsible. When the shelter charges a room payment, it is considered a shelter expense for the resident. Income The worker excludes the income and the expenses of theirthe resident's former householdare excluded. Room payments to the shelter are considered as shelter expense. The worker expedites processing the application when the resident meets expedited services criteria per OAC 340:50-11-1.

340:50-5-29. Homeless households

(a) A household is not required to have a fixed residence in order to receive food benefits. A homeless household ~~is comprised of~~may include one or more homeless persons.

(b) ~~Homeless~~Per 271.2 of Title 7 of the Code of Federal Regulations (7 C.F.R. § 271.2), homeless person means a person who lacks a fixed and regular ~~night time~~nighttime residence or a person whose primary ~~night time~~nighttime residence is a:

- (1) supervised shelter designed to provide temporary accommodations;
- (2) half-way house or similar institution ~~that provides~~providing temporary residence for persons intended to be institutionalized;
- (3) temporary accommodation in the residence of another person of not more than 90-calendar days from the application date. The worker applies the 90-calendar day

time frame ~~must be applied~~ to each subsequent ~~period~~ of temporary accommodation as long as it ~~differs in a different~~ household and location; or

(4) place not designed for, or ordinarily used, as a regular sleeping accommodation for human beings, such as a hallway, bus station, lobby, car, or similar places.

~~(b) A~~Per 7 C.F.R. § 273.2(f)(4)(v) and Oklahoma Administrative Code 340:50-7-31, when a homeless households who incur or can expect household incurs or expects to incur a shelter cost during the month, are entitled to use the estimated homeless the household is eligible for a shelter deduction in the Oklahoma Department of Human Services (OKDHS) Appendix C 3, Maximum Food Benefit Allotments and Standards for Income and Deductions, to determine food benefit eligibility and benefit level. This estimate covers all shelter costs described in OAC 340:50-7-31. If the household's actual verified shelter cost exceeds the estimated amount, the larger amount is used. When a homeless household lives in a vehicle and makes monthly payments on the vehicle, the monthly payment is an allowable shelter cost.

PART 7. RELATED PROVISIONS

340:50-5-64. Work requirements

(a) **Able-bodied adults without dependents (ABAWDs).** ABAWDs who are members of eligible households receiving food benefits must be exempt from, or comply with work requirements to be eligible to participate as a member of any food benefit household for longer than three months, consecutive or otherwise, during any 36-month period. It is the worker's responsibility to explain to the applicant the household member's work requirements and responsibility. At each application the worker must establish that each adult household member, per Section 273.24(a) of Title 7 of the Code of Federal Regulations (C.F.R.) (7 § C.F.R. 273.24(a)):

- (1) ~~is working~~works continuously 20 hours or more per week, averaged monthly;
- (2) participates in and complies with:
 - (A) Workforce Investment Act (WIA) Program assignment;
 - (B) Trade Adjustment Assistance Program assignment; or
 - (C) Employment and Training (E&T) Program, not including job search; or
- (3) ~~is exempt~~meets an exemption from the work requirements ~~listed in~~per (b) of this Section.

(b) **Exemptions from the work requirements.** ~~A~~Per 7 § C.F.R. 273.7 or 7 § C.F.R. 273.24(c), a person is exempt from the work requirement provision of the Supplemental Nutrition Assistance Program ifwhen the person is:

- (1) younger than 18 years of age or 50 years of age and/or older;
- (2) medically certified as physically or mentally unfit for employment. Persons:
 - (A) Persons who are physically or mentally incapable of gainful employment ~~either~~ on a permanent

or temporary basis or participating in federal or state programs based on disability are considered exempt.

(B) ~~Persons~~ claiming exemption as unfit for employment must, in the absence of physical evidence, obtain documented evidence from medically qualified sources to substantiate the medical exemption.

(i) Medically qualified sources may include, but are not limited to:

- (I) therapists;
- (II) counselors; and
- (III) medical social workers.

(ii) The documented evidence must indicate the person has a physical or mental condition that limits the person's ability to work.

(C) ~~Persons~~ claiming temporary exemption are required to comply when ~~they are~~ released by ~~their~~ a medically qualified source to return to work;

(3) a parent or other member of a household with responsibility for care of ~~a dependent child younger than 18 years or~~ an incapacitated person of any age;

(4) pregnant;

(5) receiving or ~~has~~ applied for unemployment insurance benefits;

(6) a regular participant receiving treatment for drug or alcohol addiction in a rehabilitative program on a resident or non-resident basis;

(7) an eligible student enrolled at least half-time in any recognized school, training program, or institution of higher education;

(8) ~~a household member~~ registered for, or participating in ~~the~~ Temporary Assistance for Needy Families (TANF) Work;

(9) employed a minimum of 30 hours per week or receiving weekly earnings ~~which~~ ~~that~~ equal the minimum hourly rate under the Fair Labor Standards Act of 1938, as amended, multiplied by 30 hours; or

(10) a resident living in a county approved for exemption of the work requirements by the United States Department of Agriculture (USDA) parent or other adult included in the food benefit household with a minor child less than 18 years of age.

(c) **Participation without time limits.** Food benefit participation without time limits applies to a person who:

(1) is exempt;

(2) works continuously 20 hours or more per week, averaged monthly; or

(3) participates in, and complies with:

- (A) WIA Program assignment;
- (B) Trade Adjustment Assistance Program assignment; or
- (C) E&T Program, not including job search.

(d) **Participation with time limits.** Persons who are not exempt or fail to comply with work participation requirements are eligible for only three months, consecutive or otherwise, during any 36-month period. Once the person reaches the three-month eligibility limit ~~has been reached~~, eligibility can be regained for at least an additional three consecutive months ~~if~~ when the person:

- (1) works 80 hours or more in any 30-day period; or
- (2) participates for 80 hours or more in, and complies with:

- (A) WIA Program assignment;
- (B) Trade Adjustment Assistance Program assignment; or
- (C) E&T Program, not including job search.

(e) **Persons who regain eligibility.** A person can regain eligibility only one time for an additional three consecutive months during the 36-month period by meeting the requirements of ~~(4) or (2) of subsection (d)(1) or (2) of this Section.~~ A person who regains eligibility maintains eligibility by complying with the requirements of ~~subsection~~ listed in (c) of this Section. If eligibility is subsequently lost, the person may receive food benefits only ~~if~~ when he or she meets one of the exemptions listed in ~~subsection (b) of this Section is met~~ or the 36-month period ~~has expired~~ expires.

(f) **ABAWD work requirement waiver prohibition.** Per 7 C.F.R. § 273.24(f), states are allowed to request an ABAWD work requirement waiver in certain instances. Effective October 1, 2013, Section 241.3 of Title 56 of the Oklahoma Statutes prohibits the Oklahoma Department of Human Services from requesting an ABAWD work requirement waiver from the United States Department of Agriculture.

SUBCHAPTER 7. FINANCIAL ELIGIBILITY CRITERIA

PART 3. INCOME

340:50-7-29. Income inclusions

(a) **Sources of income considered.** The worker considers all household income, unless specifically excluded ~~at per~~ Section 273.9(c) of Title 7 of the Code of Federal Regulations (C.F.R.) (7 § C.F.R. 273.9(c)) and Oklahoma Administrative Code (OAC) 340:50-7-22, in determining monthly gross income. Income is classified as earned or unearned.

(1) When one or more household members are absent from the home, before deciding whether to consider the absent household member's income, the worker must determine if the person returns to the home for part of the month.

(A) Per OAC 340:50-5-2, the worker does not include the absent member in the benefit amount and only counts the portion of his or her income that he or she makes available to the rest of the household when the household member does not return for part of the month.

(B) When the household member returns for part of each month, the worker includes him or her in the benefit amount and counts all of his or her income unless excluded per OAC 340:50-7-22.

(2) Per OAC 340:50-5-5, the household has the option of including a child receiving a foster payment, that includes a payment for kinship care, in the food benefit. When the household chooses not to include the child

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receiving a foster care payment in the food benefit, the worker does not count the child's income, including the foster payment.

(3) When the household adopts a child previously in the custody of the Oklahoma Department of Human Services (~~OKDHS~~) (DHS) and receives an adoption subsidy payment for the child, the worker includes the child in the food benefit and counts the child's income, including the adoption subsidy payment.

(4) When a member of the household becomes the guardian of a child and receives a guardianship payment from ~~OKDHS~~ DHS, the payment is considered as income. The child for whom the payment is received must be included in the food benefit.

(b) **Earned income.** ~~Earned~~ Per 7 § C.F.R. 273.9(b)(1), earned income is income a household receives in the form of wages, commission, self-employment, or training allowances, and for which a person puts forth physical labor. Temporary disability insurance payments and temporary ~~worker's~~ workers' compensation payments are considered earned income ~~if when~~ payments are employer funded and the person remains employed. The types of earnings listed in (1) through (4) of this subsection, including money from the sale of whole blood or blood plasma, are considered earned income.

(1) **Wages.** ~~The worker counts as earned income all wages~~ Wages and salaries for ~~services performed as an employee, including~~ include sick pay paid by the employer to an employee who plans to return to work when recovered, ~~excess benefit allowance payments. This includes~~ and wages garnisheed or diverted ~~and paid to pay~~ a third party for a household's expenses. 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).

(2) **Self-employment.** ~~The worker determines the household's total gross income from a self-employment enterprise per procedures described per~~ Refer to OAC 340:50-7-30 for self-employment income procedures.

(3) **Title I payments of the Domestic Volunteer Services Act.** Countable earned income includes payments paid to a household member under Title I of the Domestic Volunteer Services Act of 1973 as amended ~~per~~ Public Law (P.L.) 93-113, unless excluded per OAC 340:50-7-22.

(4) **On-the-job training (OJT).** The worker counts income earned in OJT positions as earned income. This includes OJT provided ~~under per~~ Section 204(b)(1)(e) ~~or Section 264(e)(1)(A)3(44)~~ of the Workforce ~~Investment~~ Innovation and Opportunity Act of 2014 for persons 19 years of age or older.

(c) **Unearned income.** In general, unearned income is ~~that~~ income ~~which~~ a household receives and is not in the form of wages, self-employment, or training allowances, and for which a person does not put forth physical labor. The income listed in (1) through (6) of this subsection, while not all inclusive, are considered unearned per 7 § C.F.R. 273.9(b)(2).

(1) **Assistance payments.** The worker counts payments from a federally aided public assistance program, such as Supplemental Security Income (SSI), Temporary Assistance for Needy Families (TANF), or assistance programs based on need, such as State Supplemental Payments, as unearned income.

(A) A household's food benefit amount does not increase when the benefit received from another program is reduced, suspended, or terminated because of a penalty imposed for an intentional failure to comply with a requirement of that program. The other program must be a means-tested, federal, state, or local welfare or public assistance program ~~which is~~ governed by welfare or public assistance laws or regulations ~~and which that~~ distributes public funds, such as SSI and TANF. OAC 340:10-2-2 explains the TANF penalty considered for Supplemental Nutrition Assistance Program (SNAP).

(i) When a worker is not able to obtain the necessary information and cooperation from another federal, state, or local means-tested welfare, or public assistance program to comply with the provision in (A) of this paragraph, ~~OKDHS~~ DHS is not held responsible. The worker must make a good faith effort to get the needed information and record the details and results of this effort in the case file.

(ii) The worker does not reduce, suspend, or terminate the household's current food benefit amount when the benefits under another assistance program are decreased.

(iii) When the worker adds eligible members to the food benefit, the benefit must be adjusted regardless of whether the household is prohibited from receiving benefits for the additional member under another federal, state, ~~or~~ local welfare, or public assistance means-tested program.

(iv) Changes in ~~the~~ household circumstances ~~which are~~ not related to the penalty imposed by another federal, state, ~~or~~ local welfare, or public means-tested assistance program are not affected by the provision in (A) of this paragraph.

(v) The application of the provision in (A) of this paragraph applies for the duration of the imposed penalty.

(B) The provision in (A) of this paragraph does not apply to persons or households subject to disqualification from SNAP for noncompliance with a comparable work requirement ~~under per~~ Title IV of the Social Security Act or an unemployment compensation work requirement.

(2) **Pension and Social Security.** Annuities, pensions, retirement, veterans' or disability benefits, workers' or unemployment compensation, survivors' or Social Security benefits, and strike benefits are unearned income. The worker considers disability payments as:

(A) unearned income when the person is no longer considered an employee of the company and an

agency outside of the company pays the disability benefits; and

(B) earned income when the person is still considered an employee of the company and the company pays the disability benefits.

(3) **Support and alimony.** The worker counts as ~~unearned income~~ support and alimony payments paid directly to the household from non-household members as unearned income. The worker also counts as ~~unearned income~~, money deducted or diverted to a third party to pay a household expense as unearned income when the court order directs the payment be made to the household. The worker does not count as ~~income~~ money the court order states must be paid to a third party as income.

(4) **Grants, dividends, royalty, and interest payments.** Payments from government sponsored programs, such as Agricultural Stabilization and Conservation Service Programs, grants, dividends, royalties, interest, and all other direct money payments from any source ~~which can be~~ construed to be a gain or profit are considered as income. The worker treats income from these sources as unearned income. The household must provide proof of income from these sources so income can be averaged to determine monthly countable income.

(5) **Monies ~~which are~~ withdrawn or dividends ~~which that~~ are or could be received by a household from trust funds.** Dividends ~~which~~ the household has the option of either receiving as income or reinvesting in the trust are considered as income in the month they become available to the household.

(6) **Department of Veteran's Affairs (VA) Aid and Attendance.** When a person receives VA Aid and Attendance income and does not pay someone outside of the food benefit household to care for him or her, this is countable income. Any portion of the VA Aid and Attendance paid to someone outside of the food benefit household for care is excluded.

(d) **Income of disqualified or ineligible household members.** OAC 340:50-5-10.1 ~~gives~~ provides a complete list of reasons for disqualification of household members. The worker counts the income of disqualified persons and unqualified aliens as indicated in ~~paragraphs~~ (1) and (2) of this subsection.

(1) **Income of a person disqualified for failure to comply with food benefit Employment and Training (E&T) Program requirements, a fleeing felon disqualification, or willful misrepresentation or fraud.** All income of a person disqualified for failure to comply with food benefit E&T Program requirements, a fleeing felon disqualification, or willful misrepresentation or fraud, is counted in ~~its~~ its entirety as available to the remaining household members per 7 § C.F.R. 273.11(c)(1)(i). The worker does not prorate utility, medical, dependent care, and excess shelter deductions.

(2) **Income of persons disqualified for reasons other than willful misrepresentation, a fleeing felon disqualification, or failure to comply with E&T Program requirements.** The worker prorates the income of

persons disqualified for reasons other than those stated in ~~paragraph~~ (1) of this subsection among all household members per 7 § C.F.R. 273.11(c)(2)(ii).

(A) A pro rata share of the income of a disqualified person is considered as ~~income~~ available to the remaining members. The worker calculates the pro rata share by first subtracting the allowable exclusions from the disqualified member's income and dividing the income evenly among the household members, including the disqualified member.

(B) The worker counts all but the disqualified member's share as income available to the remaining household members. The earned income deduction, ~~from OKDHS~~ per OAC 340:50-7-31 and DHS Appendix C-3, Maximum Food Benefit Allotments and Standards for Income and Deductions, applies to the prorated income attributed to the household ~~if~~ when it was earned by the disqualified member.

(C) The portion of the household's allowable shelter and dependent care expenses ~~that are either~~ paid by or billed to the disqualified member is divided evenly among the household members, including the disqualified member. ~~When the household is using the utility standard, it is evenly prorated.~~ All but the disqualified member's share is considered as a deductible shelter expense for the remaining household members, ~~with the exception of utility expenses per 7 § C.F.R. 273.9(d)(6)(iii)(F).~~ When the household is responsible for utility expenses, the household is allowed the full utility standard for which it qualifies per OAC 340:50-7-31.

(3) **Determining eligibility and benefit level.** The worker does not consider the needs of a disqualified or ineligible household member when determining the household's size for purposes of assigning a benefit level to the household or comparing the household's monthly income with the income eligibility standard per 7 § C.F.R. 273.11(c)(2)(iv).

340:50-7-31. Deductions

(a) **Deductible expenses.** ~~Deductible~~ Households are allowed certain deductible expenses from income include only certain costs of dependent care, shelter, the earned income allowance, a standard deduction, certain medical costs for elderly or disabled household members, and legally binding child support payments as described in OAC 340:50-7-

(1) ~~The portion of the household's allowable shelter, utility, and dependent care expenses, paid by or billed to a disqualified household member, per OAC 340:50-7-29(c)(2), is divided evenly among the household members, including the disqualified member. All except the disqualified member's share is considered a deductible shelter expense for the remaining household members.~~

(2) ~~Business expenses for the self-employed are handled per OAC 340:50-7-30.~~

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~~(b) Deductions from income are allowed for the expenses listed in paragraphs as described in (1) through (6) of this subsection and per 273.9(d) of Title 7 of the Code of Federal Regulations. The household reports current medical, dependent care, legally-binding child support, and shelter expenses at certification, mid-certification renewal, and certification renewal. The household must also report current shelter costs when the household moves.~~

~~(1) **Standard deduction.** The appropriate~~All households are allowed a standard deduction as shown in per Oklahoma Department of Human Services (OKDHS) (DHS) Appendix C-3, Maximum Food Benefits Allotments and Standards for Income and Deductions, ~~is deducted from the household's income.~~

~~(2) **Earned income deduction.** The appropriate amount of~~Households with earned income are allowed an earned income deduction from OKDHS per DHS Appendix C-3 is deducted from the gross earned income to cover the cost of state and local income taxes, pensions, union dues, and work related expenses. ~~The earned income deduction is not allowed on any portion of income that is attributable to public assistance. No other deduction is allowed from the gross earned income. Refer to Oklahoma Administrative Code (OAC) 340:50-7-30 for information regarding business expenses for self-employed persons.~~

~~(3) **Medical expense deduction.** A medical expense deduction is only allowed for household members meeting the definition of elderly or disabled per OAC 340:50-5-4. Medical~~For these household members, medical expenses exceeding \$35 per month incurred by elderly or disabled household members, per OAC 340:50-5-4, are deductible when verified. The \$35 is subtracted from medical expenses once per household even though, not per person, when the household has more than one elderly or disabled member. ~~When the household does not know the amount of on going medical expenses anticipated monthly during the certification period, the anticipated expense amount is determined by averaging at least the past two month's expenses.~~

~~(A) **Allowable medical expenses.** Allowable medical expenses include:~~

~~(i) medical and dental care, including psychotherapy and rehabilitation services provided by a licensed practitioner or other qualified health professional authorized by state law;~~

~~(ii) hospitalization or outpatient treatment, nursing care, and nursing home care, including payments by the household for a person who was a household member immediately prior to entering a hospital or nursing home provided by a facility recognized by the state;~~

~~(iii) prescription drugs and other over-the-counter medication, including insulin, when approved by a licensed practitioner or other qualified health professional authorized by state law. Costs of medical supplies, sick-room equipment, including rentals, or other prescribed equipment are also included;~~

~~(iv) health, dental, and hospitalization policy premiums;~~

~~(v) Medicare premiums and any cost-sharing or spend-down expenses incurred by Medicare or SoonerCare (Medicaid) recipients;~~

~~(vi) dentures, hearing aids, and prosthetics;~~

~~(vii) eye glasses prescribed by a licensed practitioner, and securing and maintaining a seeing eye or hearing dog, including the cost of dog food and veterinarian bills;~~

~~(viii) reasonable cost of lodging and transportation to obtain medical treatment or services. Lodging costs are allowed when the elderly or disabled member is required to spend the night away from home to receive medical services. Reasonable transportation costs are based on the type of transportation used. When the elderly or disabled member:~~

~~(I) uses his or her own vehicle, the state's current mileage reimbursement is allowed;~~

~~(II) uses public transportation, the actual cost of the transportation is allowed; or~~

~~(III) pays a non-household member for transportation, the amount charged by the person is allowed;~~

~~(ix) maintaining an attendant, homemaker, home-health aide, child care services, or housekeeper due to age, infirmity, or illness. When this expense also qualifies as a dependent care expense per (4) of this subsection, it is considered a medical expense rather than a dependent care expense. Additionally, when the household furnishes a majority of the caretaker's meals, an amount equal to one allotment is added to the medical expense for meals provided. The allotment used is the amount in effect at certification.~~

~~(B) **Medical expenses not allowed.** Expenses not allowed include:~~

~~(i) costs associated with special diets;~~

~~(ii) premiums for health and accident insurance policies, such as those payable in lump sum settlements for death or dismemberment;~~

~~(iii) premiums for income maintenance policies, such as those that continue mortgage or loan payments while the beneficiary is disabled;~~

~~(iv) items that can be purchased with food benefits, such as dietary supplements; and~~

~~(v) the cost of meals or other incidentals when the person spends the night away from home to receive medical services.~~

~~(C) **Medical expense verification requirements.**~~

~~Households are required to report and verify medical expenses at certification and ~~recertification~~ certification renewal. Households are not required to report changes in medical expenses during the certification period.~~

~~(i) When a household voluntarily reports a ~~change~~ reduction in medical expenses that will~~

~~reduce~~decrease the food benefit allotment, no verification is needed. However, the change ~~does~~requires notice of adverse action per OAC 340:50-9-5.

(ii) When a household voluntarily reports a ~~change in~~additional medical expenses that will increase the food benefit allotment, the ~~change must be verified~~household must verify the additional expenses before the ~~change is made~~worker changes the medical expense deduction.

(iii) ~~If OKDHS~~When the worker finds out about a change from a source other than the household, the change is acted on when verified upon receipt, such as when the worker is notified via data exchange of a Medicare premium change. ~~The worker does not contact the household is not contacted~~ for additional information. When the change requires household contact for additional information or verification, ~~the worker does not make the change~~is not made.

~~(B)iv~~ If ~~When~~ a household ~~report~~reports but does not verify an anticipated medical expense ~~at the time of certification, but is unable to provide the verification at that time, the worker informs the household is told~~ the expense will be allowed when the household provides verification is provided during the certification period. Upon verification, a household may elect a ~~one time medical deduction or to average the expense over the remaining months of the certification period or to have the expense deducted for the next effective month only~~. Allowable costs are:

- ~~(i) medical and dental care, including psychotherapy and rehabilitation services provided by a licensed practitioner or other qualified health professional authorized by state law;~~
- ~~(ii) hospitalization or outpatient treatment, nursing care, and nursing home care, including payments by the household for a person who was a household member immediately prior to entering a hospital or nursing home provided by a facility recognized by the state;~~
- ~~(iii) prescription drugs and other over the counter medication, including insulin, when approved by a licensed practitioner or other qualified health professional authorized by state law. Costs of medical supplies, sick room equipment, including rentals, or other prescribed equipment are also included;~~
- ~~(iv) health, dental, and hospitalization policy premiums;~~
- ~~(v) Medicare premiums, and any cost sharing or spend down expenses incurred by Medicare or SoonerCare (Medicaid) recipients;~~
- ~~(vi) dentures, hearing aids, and prosthetics;~~
- ~~(vii) eye glasses prescribed by a licensed practitioner, and securing and maintaining a seeing eye~~

~~or hearing dog, including the cost of dog food and veterinarian bills;~~

~~(viii) reasonable cost of transportation and lodging to obtain medical treatment or services; and~~
~~(ix) maintaining an attendant, homemaker, home health aide, child care services, or housekeeper due to age, infirmity, or illness. If this expense also qualifies as a dependent care expense as described in paragraph (4) of this subsection, it is considered as a medical expense rather than a dependent care expense. Additionally, if the household furnishes a majority of the caretaker's meals, an amount equal to one allotment is added to the medical expense for meals provided. The allotment used is the amount in effect at certification.~~

~~(C) Costs not allowable as medical expense deductions include:~~

- ~~(i) costs associated with special diets;~~
- ~~(ii) premiums for health and accident insurance policies such as those payable in lump sum settlements for death or dismemberment;~~
- ~~(iii) premiums for income maintenance policies such as those that continue mortgage or loan payments while the beneficiary is disabled; or~~
- ~~(iv) items that can be purchased with food benefits such as dietary supplements.~~

~~(D) When medical expenses vary. When the household's on-going medical expenses vary from month to month, the worker determines the anticipated expense amount by averaging at a minimum, the past two month's expenses.~~

(4) **Dependent care.** Dependent care is payment for the actual cost for the care of a child or other dependent when necessary for a household member to seek, accept, or continue employment or to attend training or education preparatory to employment.

(A) ~~This~~The deduction is ~~applicable~~applies regardless of whether the household member is subject to the Supplemental Nutrition Assistance Program Employment and Training requirements.

(B) ~~If this~~When the expense also qualifies as a medical expense, it is considered as a medical expense rather than a dependent care expense.

(C) There is no maximum dependent care deduction. The total reported by the client is an allowable expense as long as it meets the criteria in this Section.

(D) Dependent care is only verified when the expenses claimed actually result in a deduction and other information available to the worker is inconsistent with the household's claim that it incurs a dependent care expense.

(5) **Legally-binding child support.** A deduction is allowed for verified legally-binding child support payments paid by a household member to or for a non-household member, including payments made to a third party on behalf of the non-household member.

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(6) **Shelter costs.** A household is allowed a shelter deduction when the monthly shelter cost exceeds 50% percent of the household's income after all other deductions are allowed. The shelter deduction cannot exceed the maximum amount as shown in ~~OKDHS~~ allowed per DHS Appendix C-3, unless the household ~~has~~ includes an elderly or disabled member. Households with an elderly or disabled member receive an excess shelter deduction for the monthly cost exceeding 50% percent of the household's income after the deductions listed in paragraphs (1) through (6) of this subsection are allowed. ~~All homeless households who incur or expect to incur a shelter cost during the month are entitled to use the estimated homeless shelter deduction to determine food benefit eligibility and benefit level. This estimate covers shelter costs as described in this paragraph. If a homeless household is living in a vehicle for which they are making payments, the monthly payment is allowed as a shelter cost. If the household's actual verified shelter cost exceeds the estimated amount, the larger amount is used. Shelter costs only include:~~ When the household includes a non-household member or disqualified member, refer to (b)(4) and (5) of this Section to determine whether to prorate shelter costs.

(A) **Allowable rent or mortgage costs.** ~~continuing charges~~ Allowable rent or mortgage costs for the shelter occupied by the household, including include the:

(i) monthly rent, or mortgage payment, or other continuing charges leading to the ownership of the shelter, such as loan repayments for the purchase of a mobile home, including interest on such payments;

(ii) ~~The charge for renting or buying the land on which a mobile home is located is also a shelter cost;~~

(iii) ~~property taxes, state and local assessments, and insurance on the structure, except for the separate costs for insuring furniture or personal belongings.~~

(i) ~~The cost of vehicle registration or tag for a mobile or motor home is not a shelter expense.~~

(ii) ~~A mobile home is taxed as part of the property tax when the land is owned or being purchased, and is a shelter expense;~~

(iii) ~~Unregistered personal property tax for unregistered mobile homes on rented land are taxed as personal property. The personal property tax for the mobile home is a shelter expense. No other personal property tax is a shelter expense; or~~

(v) monthly vehicle payment when a homeless household lives in the vehicle.

(B) **Expenses not considered as shelter costs.** The worker does not consider as shelter costs, the cost for:

(i) insuring furniture or personal belongings when paid separately from the insurance on the home;

(ii) vehicle registration or a tag for a mobile or motor home; or

(iii) personal property tax except as allowed per (6)(A)(iv) of this subsection.

(C) **Allowable utility costs.** ~~charges for heating, cooling, or cooking fuel; electricity; water, sewage, garbage, and trash collection fees; and the basic service fee and tax for one telephone.~~ When the household incurs utility expenses, the worker determines which of the three standard utility allowances applies to the household's expenses based on criteria in (i) through (iii) of this subparagraph. A household incurring an allowable utility expense receives the total amount of the applicable utility standard specified in ~~OKDHS~~ per DHS Appendix C-3 for one of the mandatory utility standards in (i) through (iii) of this subparagraph.

(i) The standard utility allowance (SUA) is a single standard based on annual averages that include costs for heating or cooling; and cooking fuel, electricity, basic telephone service, water, sewage, and garbage.

(I) The household is eligible for the SUA is used as long as when the household is billed for heating or cooling during the year. Households billed less often than monthly for heating costs, such as butane or propane may continue to use the utility standard between billing months.

(II) ~~If the~~ When a household reports they no longer incur a heating or cooling expense, but still have a utility expense, the standard must be changed to the basic utility allowance (BUA) or telephone standard.

(III) ~~A~~ When a household with utility household's heating or cooling expenses that are partially reimbursed or paid by an excluded payment, such as a vendor payment, Housing and Urban Development (HUD), or Farmers Home Administration (FmHA) payment, may use the household remains eligible for the SUA when heating or cooling costs exceed the excluded payment amount.

(ii) The BUA includes utility charges the household incurs other than for heating and/or cooling, such as cooking fuel, water, sewage, garbage collection, and basic telephone service.

(iii) The telephone standard is used when the household is not entitled to use the SUA or BUA, but has a telephone cost; and.

(D) **When shelter costs for an unoccupied home are allowed.** ~~the shelter~~ Shelter costs for the an unoccupied home even when not actually occupied by may be allowable when the household; is temporarily away from home because of employment or training away from home, illness, or abandonment of the home due to a disaster or casualty loss to the home, or to attend an employment or training opportunity.

(i) For the cost of a vacated home to be included in shelter costs the:

- (I) household must intend to return to the home;
- (II) current occupants of the home, if any, must not be claiming claim the shelter costs during the household's absence of the household; and
- (III) home must not be rented or leased during the household's absence of the household.

(ii) ~~If a deductible expense must be verified and obtaining the verification may delay the household's certification, the worker advises the household that the household's eligibility and benefit level may be determined without providing a deduction for the claimed but unverified expense.~~

~~(iii) The appropriate A household that has both an occupied home and an unoccupied home is only allowed one standard utility standard is used if the household is entitled to claim it deduction.~~

(eb) **Expense calculation.** The worker calculates a household's expenses based on the expenses the household expects to be billed for during the certification period. The worker anticipates expenses based on the most recent month's bills unless the household is reasonably certain a change will occur.

(d1) **Billing fluctuations.** ~~Households~~The household may elect to have an expense that:

- (1) ~~is average expenses when the billed monthly amount fluctuates averaged; monthly,~~
- (2) ~~is billed less often than monthly, averaged forward over the interval between scheduled billings; or~~
- (3) ~~if there is no scheduled billing interval, averaged forward over the period as in the case of some medical expenses, the expense is intended to cover changes throughout the certification period.~~

(e2) **When expenses are owed but not paid.** ~~A deduction~~The household is allowed a deduction in the month the expense is billed or otherwise becomes due, regardless of when the household intends to pay the expense.

- (1) ~~For example, rent due each month is included in the household's shelter costs, even if the household has not yet paid the expense.~~
- (2) ~~Amounts carried forward from past billing periods are not deductible even if included in the most recent billing and actually paid by the household.~~
- (3) ~~A particular expense may be deducted only once.~~

(f3) **Reimbursed expenses.** The portion of an expense paid by an excluded reimbursement or vendor payment is not deductible. The amount left after deducting the excluded payment is deductible and includes HUD and FmHA rent and utility payments. Expenses are only deductible ~~if~~when the service is provided by someone outside of the household and the household makes a monetary payment for the service.

(4) **When the household includes a disqualified household member.** When the household includes a disqualified household member per OAC 340:50-5-10.1,

expense calculation depends on the disqualification reason.

(A) **Disqualification for failure to comply with food benefit Employment and Training (E&T) Program requirements, a fleeing felon disqualification, or willful misrepresentation or fraud.** When the household member is disqualified because of failure to comply with food benefit E&T Program requirements, a fleeing felon disqualification, or willful misrepresentation or fraud, the remaining household members are eligible for all allowable income deductions. The worker does not prorate allowable deductions because the disqualified member's income is counted in its entirety per OAC 340:50-7-29(d).

(B) **Disqualification for other reasons.** When the household member is disqualified for a reason other than those included in (A) of this paragraph, the worker prorates the allowable deductions evenly between the household members, including the disqualified member. The remaining household members are not eligible for the disqualified member's portion of the expenses, except for utility expenses because the disqualified member's income is also prorated per OAC 340:50-7-29(d). When the household is responsible for utility expenses, the household is allowed the full utility standard deduction for which it qualifies per Oklahoma Administrative Code 340:50-7-31(a)(6)(C).

(5) **When the household includes a non-household member.** When the household shares deductible expenses with a non-household member, the worker only deducts the amount the household actually pays or contributes toward household expenses with the exception of the utility expenses. When the household pays part of the utility expenses, the household is allowed the full utility standard deduction for which it qualifies per OAC 340:50-7-31(a)(6)(C). When the payments or contributions cannot be differentiated, the worker prorates the expenses evenly among persons actually paying or contributing to the expense and deducts only the household's pro rata share with the exception of the utility expenses.

SUBCHAPTER 9. ELIGIBILITY AND BENEFIT DETERMINATION PROCEDURES

340:50-9-5. Changes after application and during the certification period

(a) **Change reporting requirements.** Section 273.12 of Title 7 of the Code of Federal Regulations (7 § C.F.R. 273.12) contains change reporting requirements after application and during the certification period described in (a) through (i) of this Section.

(b) **Applicant households.** Applicant households must report all changes related to their food benefit eligibility and

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benefit amount. Households must report changes that occur after the interview but before the date of the notice of eligibility, within 10-calendar days of the date of the notice.

(c) **Annual reporting households.** Annual reporting households are households in which all adult members are elderly or disabled with no earned income.

(1) **Certification period.** A 24-month certification period is automatically assigned to annual reporting households. Annual reporting households must complete a mid-certification renewal between certification periods to report current household circumstances.

(2) **Change reporting between renewal periods.** Between the mid-certification renewal and certification renewal reporting months, the household must report gross income changes when the household's income exceeds the maximum gross income scale for household size shown on Form 08MP006E, Information for Benefit Renewal, within 10-calendar days of the change occurring. The maximum gross income scale is based on 130 percent of the monthly poverty income guidelines.

(3) **Action taken on reported changes.** The worker must act on all changes reported by households.

(A) The computer system determines if the change results in an increase, decrease, or no change in benefits.

(B) Between the mid-certification renewal and certification renewal months, the changes the worker makes do not decrease or close benefits until the mid-certification renewal is due unless the:

(i) household's income increase exceeds the maximum gross income scale for household size shown on Form 08MP006E;

(ii) household requested benefit closure; or

(iii) worker has information about the household's circumstances considered verified upon receipt per (h) of this Section.

(C) The computer system applies all changes that increase benefits.

(d) **Mid-certification renewal for annual reporting households.** Annual reporting households are sent notification in the 11th month of certification that the mid-certification renewal is due. The notice explains methods the household may choose to complete the renewal and required verification needed. An interview is not required.

(1) **When the mid-certification renewal is due.** The household must complete the benefit renewal and provide required verification by the last day of the 12th month of certification.

(2) **Completion of mid-certification renewal.** The worker reviews benefit renewal information and verification provided to determine completeness and continued eligibility.

(A) When the renewal is complete and the household remains eligible, the worker acts on all reported changes and the computer system applies any increase or decrease in benefits.

(i) When the household fails to provide sufficient information regarding a deductible expense

requiring verification, the worker processes the mid-certification renewal without regard to the deduction.

(ii) When benefits are decreased, an advance notice is sent per Appendix B-2, Deadlines for Case Actions.

(B) When the household is no longer eligible, the worker closes food benefits effective the next advance-notice deadline date per Appendix B-2.

(C) When the renewal is incomplete, the computer system closes food benefits effective the next advance-notice deadline date per Appendix B-2.

(3) **When benefits may be reopened.** Food benefits may be reopened following closure when criteria is met per (i) of this Section.

(e) **Semi-annual reporting households.** Food benefit households are considered semi-annual reporting households unless they meet criteria per (c) or (g) of this Section.

(1) **Certification period.** A 12-month certification period is automatically assigned to semi-annual reporting households.

(2) **Change reporting between renewal periods.** Between the mid-certification renewal and certification renewal reporting months, the household must report within 10-calendar days of the change occurring when:

(A) the household's gross income exceeds the maximum gross income scale for household size shown on Form 08MP006E. The maximum gross income scale is based on 130 percent of the monthly poverty income guidelines; and

(B) a decrease in work hours below an average of 20 hours per week or 80 hours per month occurs for any household member meeting the able-bodied adults without dependents (ABAWD) work rules per Oklahoma Administrative Code (OAC) 340:50-5-64.

(3) **Action taken on reported changes.** The worker must act on all changes reported by households.

(A) The computer system determines if the change results in an increase, decrease, or in no change in benefits.

(B) Between mid-certification renewal and certification renewal months, the changes the worker makes do not decrease or close food benefits until the mid-certification renewal is due unless the:

(i) the household's income increase exceeds the maximum gross income scale for household size shown on Form 08MP006E;

(ii) household requested benefit closure;

(iii) worker has information about the household's circumstances considered verified upon receipt per (h) of this Section; or

(iv) an ABAWD must be removed from the food benefit household because he or she does not meet the ABAWD work rule per OAC 340:50-5-64.

(C) The computer system applies all changes that increase benefits.

(f) **Mid-certification renewal for semi-annual reporting households.** Semi-annual reporting households are sent notification in the fifth month of certification that the mid-certification renewal is due. An interview is not required.

(1) **When the mid-certification renewal is due.** The household must complete the benefit renewal and provide required verification by the last day of the sixth month of certification.

(2) **Completion of mid-certification renewal.** The worker reviews benefit renewal information and verification provided to determine completeness and continued eligibility.

(A) When the renewal is complete and the household remains eligible, the worker acts on all reported changes and the computer system applies any increase or decrease in benefits.

(i) When the household fails to provide sufficient information regarding a deductible expense requiring verification, the worker processes the mid-certification renewal without regard to the deduction.

(ii) When benefits are decreased, the worker sends an advance notice per Appendix B-2. Deadlines for Case Actions, deadline dates.

(B) When the household is no longer eligible, the worker closes food benefits effective the next advance-notice deadline date per Appendix B-2.

(C) When the renewal is incomplete, the computer system closes food benefits effective the next advance-notice deadline date per Appendix B-2.

(3) **When benefits may be reopened.** Food benefits may be reopened following closure when criteria is met per (i) of this Section.

(bg) **Certified households/Change reporting households.** Those Change reporting households are assigned a certification period other than 12 or 24 months. These households are required to report changes within 10-calendar days of the change occurring.

(1) **Household characteristics.** Households not approved for a 12- or 24-month certification period include households approved for:

(A) expedited services for one or two months because the interview and/or verification was postponed per OAC 340:50-3-2; and

(B) a three or four month certification period because the household includes one or more ABAWDs that do not meet the work rule per OAC 340:50-5-64.

(2) **Required change reporting.** These households must report changes in:

- (1A) sources of income;
- (2B) unearned income of \$50 per month or more;
- (3C) earned income of more than \$100 per month;
- (4D) household composition, such as an addition or loss of a household member;
- (5E) residence and resulting changes in shelter costs; and
- (6F) the legal obligation to pay child support.

(e3) **Change affecting food benefit/Action taken on case changes.** If a reported change affects the household's eligibility or food benefit amount, the household is notified of the adjustment to be made and the effective date. The worker must act on changes reported by the household within 10-calendar days from the date the household reported the change is reported to take the necessary action and provided necessary verification.

(4A) If when the household fails to report a change within the 10-calendar day period and, as a result, receives benefits to which it is not entitled, an overpayment claim is referred to the Adult and Family Services (AFS) Benefit Integrity and Recovery Section per OAC 340:50-15.

(2B) If when the worker fails to take timely action on a reported change within the prescribed time limits and benefits are lost, they are restored to the household worker supplements the household's food benefits.

(d4) **Changes that increase benefits.** Changes resulting in a benefit increase must be verified. When the household reports a change that increases benefits the household must verify the information before the worker makes the change. The worker gives the household is allowed 10-calendar days to verify the information.

(e5) **Changes that decrease or close benefits.** Food benefits are closed; never suspended, if when a change in household circumstances causes a household to be ineligible for food benefits.

(A) When a household's benefit decreases or closes, an advance notice is required unless exempt from such a notice for a reason listed in (1) and (2) (i) or (ii) of this subsection. When an advance notice is required, the decrease or termination of the benefit is effective no later than the month following the month in which the advance notice period expired. When the change is reported less than 10 calendar days before the advance notice deadline, the action must be taken before advance notice deadline the following month. The household retains its right to a fair hearing and continuation of benefits when a fair hearing is requested within 10-calendar days of the change notice. Advance notice is not required when the:

(4i) Oklahoma Department of Human Services (OKDHS) DHS receives a clear written statement signed by a responsible household member:

- (I) stating he or she the household no longer wishes to receive food benefits; or
- (II) gives giving information that requires closure or reduction of food benefits and stating that he or she understands the food benefit will be reduced or closed. The household retains its right to a fair hearing and continuation of benefits if a fair hearing is requested within 10 calendar days of the change notice; and/or

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(2j) ~~reduction or closure of the worker closes or reduces food benefits is based on situations listed in (k) per (i) of this Section.~~

(B) When an advance notice is required, the benefit decrease or closure is effective the next advance notice deadline date per Appendix B-2. When the household reports a change:

(i) 10-calendar days or more before the advance-notice deadline per Appendix B-2, the worker decreases or closes the food benefit effective the first of the following month; or

(ii) less than 10-calendar days before the advance-notice deadline per Appendix B-2, the worker must take action before the advance-notice deadline the following month.

(C) When a reported change increases food benefits, the worker makes the change by the non-advance-notice deadline date per Appendix B-2.

(h) **Changes considered verified upon receipt.** Verified upon receipt means the information is not questionable and the provider is the primary source of the information. For example, when DHS receives Social Security and Supplemental Security Income verification through data exchange with the Social Security Administration (SSA), it is considered verified upon receipt because SSA is the primary source. When the worker receives information considered verified upon receipt, he or she makes the change within 10-calendar days of notification using Appendix B-2 deadline dates.

(i) **When benefits may be reopened following closure.** The food benefit may be reopened following closure using current eligibility information when:

(1) ~~OKDHS~~DHS did not administer policy and procedures correctly. The food benefit is reopened ~~back to effective~~ the first day of the month of closure;

(2) the household fails to complete the mid-certification renewal timely, but provides all required verification by the first day of the month of closure. The food benefit is reopened ~~back to effective~~ the first day of the month of closure; or

(3) the household fails to complete the mid-certification renewal ~~by the last day of the month of closure~~ timely, but provides all required verification by the last day of the month of closure. The food benefit is reopened and prorated from the date the mid-certification renewal is completed.

(g) **Annual reporting households.** Food benefit households with all adult members elderly or disabled with no earned income are known as annual reporters. A 24 month certification period is automatically assigned. These households are only required to report changes that result in their gross monthly income exceeding 130 percent of the monthly poverty income guidelines for their household size unless it is the mid certification renewal or certification renewal month. The worker must act on any changes reported by households that increase or decrease their benefits. The system determines if the change results in an increase or decrease in benefits. ~~Between mid certification renewal or certification renewal months, a decrease in benefits does not occur unless the:~~

~~(1) household requested benefit closure; or~~

~~(2) worker has information about the household's circumstances considered verified upon receipt.~~

(h) **Mid certification renewal for annual reporting households.** Annual reporting households are sent notification in the 11th month of certification that the mid certification renewal is due. An interview is not required. In order to continue to receive benefits, the household must complete the benefit renewal. This includes providing all required verification by the last day of the 12th month of certification. The worker reviews information to determine whether changes are needed.

~~(1) The worker must act on changes reported at mid certification renewal.~~

~~(2) When the reported changes result in a decrease or closure of benefits, an advance notice must be sent to the household.~~

~~(3) If the household fails to provide sufficient information regarding a deductible expense requiring verification, the worker processes the mid certification renewal without regard to the deduction.~~

(i) **Semi-annual reporting households.** All food benefit households, except those considered annual reporters or certain households containing one or more able bodied adults without dependents (ABAWD), are assigned a 12 month certification period.

~~(1) Between the mid certification renewal or certification renewal months, households are only required to report changes that result in their gross monthly income exceeding 130 percent of the monthly poverty income guidelines for their household size unless their household contains an ABAWD meeting the work rule per OAC 340:50-5-64(a). Households with an ABAWD meeting the work rule at certification must report if the hours decrease below an average of 20 per week or 80 per month.~~

~~(2) The worker must act on any changes reported by households that increase or decrease their benefits. The system determines if the change results in increase or decrease in benefits.~~

~~(3) Between mid certification renewal or certification renewal months, a decrease in benefits does not occur unless the:~~

~~(A) household requested benefit closure; or~~

~~(B) worker has information about the household's circumstances considered verified upon receipt.~~

(j) **Mid certification renewal for semi-annual reporting households.** Semi annual reporting households are sent notification in the fifth month of certification that the mid certification renewal is due. An interview is not required. In order to continue receiving benefits, the household must complete the mid certification renewal that includes providing all required verification, by the last day of the sixth month of certification. The worker reviews information provided to determine whether changes are needed.

~~(1) The worker must act on changes reported at mid certification renewal.~~

(2) If the reported changes result in a decrease or closure of benefits, an advance notice must be sent to the household.

(3) If the household fails to provide sufficient information regarding a deductible expense, the worker processes the mid-certification renewal without regard to the deduction.

(k) **Advance notice of adverse action not required.** Advance notice of adverse action is not required when for actions (1) through (8) of this subsection per 7 § C.F.R. 273.12(e) and 7 § C.F.R. 273.13(b).

(1) **Mass changes.** When DHS initiates mass changes are initiated because of changes or requirements in federal or state law, the computer system closes benefits by the non-advance-notice deadline per Appendix B-2. In these situations, the individual notification requirement is waived and AFS mails generic notices to the affected households informing them of the changes that are about to be made.

(2) **Deceased household members.** When the worker determines, based on reliable information, that all members of the household are deceased, the worker closes benefits by the non-advance-notice deadline per Appendix B-2.

(3) **Moved out of state.** When the worker determines, based on reliable information, the household has moved out of state, the worker closes benefits by the non-advance-notice deadline per Appendix B-2.

(4) the household is previously notified in writing when restoration of lost benefits is completed and the household's food benefit is reduced due to completion of restoration of lost benefits;

(5) **Unfinished issuance certification.** When the household benefit amount varies from month to month within the unfinished issuance process is used at certification, period the worker adjusts the benefit to take into account changes that were anticipated at the time of certification, and the household was so notified at the time of The certification notice informs the household of all benefit changes included in this process.

(6) **Disqualified household member.** When a person is the only household member is disqualified for willful misrepresentation an intentional program violation or fraud per OAC 340:50-15-25, food benefits are closed by the non-advance-notice deadline per Appendix B-2. When there is more than one person in the household, the benefits of the remaining household members are reduced or terminated to reflect closed because of the disqualification of that household member by the non-advance-notice deadline per Appendix B-2.

(7) the household fails to make agreed upon cash or food benefit repayment of an overpayment;

(8) **Facility loses approval.** When a household's eligibility is being terminated food benefit closes because the drug or alcohol treatment center or group home facility where they reside the household resides is no longer approved, the worker closes benefits by the non-advance-notice deadline per Appendix B-2.

(9) circumstances occur per OAC 340:50-11-27;

(10) **Household provides written statement.** The worker closes or reduces benefits by the non-advance-notice deadline per Appendix B-2 when the client household provides a written statement:

(A) stating the household no longer wishes to receive food benefits; or

(B) requesting closure or reduction in food benefits to avoid or repay an overpayment.

(11) **Case transfer.** When the worker closes food benefits are closed in one case in order to transfer the food benefits to another case without a decrease or disruption in benefits, the worker closes benefits by the non-advance-notice deadline per Appendix B-2.

(12) **Action on changes when fair hearings are requested.** When a household requests a fair hearing within 10-calendar days of the date shown on the adverse action notice, the household may continue to receive food benefits at the same level pending the outcome of the hearing per 7 § C.F.R. 273.15(k). Refer to OAC 340:2-5 for fair hearing procedures.

SUBCHAPTER 11. SPECIAL PROCEDURES

PART 1. HOUSEHOLDS ENTITLED TO EXPEDITED SERVICE

340:50-11-1. Criteria

These criteria apply to all households making an initial application or reapplication for food benefits, including residents of approved drug and alcohol treatment centers and group homes. Households Per 273.2(i) of Title 7 of the Code of Federal Regulations, households entitled to expedited services include households:

- (1) with less than \$150 gross income if their when liquid resources do not exceed \$100;
(2) with migrant or seasonal farm workers who are considered destitute if their when liquid resources do not exceed \$100; and
(3) whose combined monthly gross income and liquid resources are less than the household's monthly rent or mortgage and/or utilities.

SUBCHAPTER 15. OVERPAYMENTS AND FRAUD

PART 1. OVERPAYMENTS

340:50-15-1. Scope and applicability

(a) **Scope and applicability.** The scope and applicability of overpayment procedures contained in this Subchapter apply to recipients of Supplemental Nutrition Assistance Program (SNAP) food benefits. Section 273.16 of Title 7 of the Code of Federal Regulations (7 § C.F.R. 273.16) contains federal requirements regarding disqualification for intentional program

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violations and 7 § C.F.R. 273.18 contains federal requirements regarding overpayment claims against households.

(b) Overpayment claim definition. ~~An overissuance or A Supplemental Nutrition Assistance Program (SNAP) food benefit overpayment of food benefits~~ occurs when a household receives more food benefits than it is entitled to receive or when benefits are trafficked.

(c) Persons responsible for repaying an established overpayment claim. Refer to Oklahoma Administrative Code (OAC) 340:50-15-6 for repayment procedures. Persons responsible for repaying an established overpayment claim include:

(1) every adult included in the food benefit allotment when the overpayment or benefit trafficking occurred; and

(2) a person connected to the household, such as an authorized representative or other individual, when the person trafficked benefits or caused the overpayment.

(d) Overpayment referral. ~~When the worker determines a household may have received more food benefits than it is entitled to receive an overpayment occurred,~~ the worker documents the circumstances leading to the overpayment and computes the amount of the overpayments sends an overpayment referral to Adult and Family Services (AFS) Benefit Integrity and Recovery (BIR) for overpayment classification and establishment. The overpayment referral consists of a completed Form 08OP005E, Report of Food Benefit (FB) Overissuance, and supporting documents.

~~(1) Instances which may result in establishment of~~ Reasons to submit an overpayment claim referral to AFS BIR include, but are not limited to, when:

~~(A1)~~ the household:

~~(iA) failing~~ failed to provide the Oklahoma Department of Human Services with correct or complete information;

~~(iiB) failing~~ failed to report changes in household circumstances per OAC 340:50-9-5;

~~(iiiC) electing~~ chose to continue to receive benefits pending a fair hearing decision which ~~subsequently found~~ and the fair hearing decision finds the household ineligible or eligible for fewer benefits; or

~~(ivD) trafficking~~ trafficked SNAP food benefits per OAC 340:50-15-25;

~~(B2)~~ the worker:

~~(iA) assigning~~ incorrectly computed the household's income or deductions or otherwise issued an incorrect benefit allotment;

~~(iiB) failing~~ failed to take prompt action on a change reported by the household resulting in an over-issuance;

~~(iiiC) incorrectly computing the household's income, deductions, or both applied policy or procedures that resulted in an over-issuance or issuing benefits to an ineligible household; or~~

~~(ivD) incorrectly authorizing issuance~~ issued or renewed food benefits to a-an ineligible household; or

~~(E) failed to reduce food benefits because the household's public assistance benefits changed;~~

~~(3) the computer system incorrectly issued benefits to a household;~~

~~(C4) any overissuance discovered as a result of an Office of Inspector General (OIG) Administrative Review Unit AFS SNAP Quality Control staff discovered the over-issuance during a quality control review; or~~

~~(5) the OIG Investigative Unit discovered an over-issuance.~~

~~(2) Persons responsible for paying a claim are:~~

~~(A) each person who was an adult member of the household when the overpayment or trafficking benefits occurred and which resulted in an established overpayment claim; or~~

~~(B) a person connected to the household, such as an authorized representative, who actually trafficks or otherwise causes an overpayment or trafficking.~~

~~(3e) Overpayment classification and claim establishment.~~

~~The Family Support Services Division (FSSD) Benefit Integrity and Recovery Section Per OAC 340:50-15-4, AFS BIR staff classifies overpayments an overpayment as an inadvertent household error, intentional program violation also known as or fraud, or agency error and establishes the overpayment claim per procedures in OAC 340:50-15-3. All food benefit overpayment claims are considered as inadvertent household error or agency error until Form 08OP016E, Administrative Disqualification Hearing Waiver, is signed or a court of law finds a household guilty of fraud. Refer to OAC 340:50-15-2 for instances when an overpayment claim is not required.~~

~~(4) The worker and supervisor calculate all overpayment claims and establish any overpayments under \$500 due to inadvertent household error and all agency error overpayments, regardless of the amount. Once an overpayment is established, notices sent to the client include:~~

~~(A) the Notification of Food Benefit Overpayment notice;~~

~~(B) page 1 of Form 08OP005E, Report of Food Benefit Overissuance; and~~

~~(C) Form 08OP118E, Food Benefit Repayment Agreement.~~

~~(5) When the overpayment is \$500 or more and due to inadvertent client error, it is sent to the FSSD Benefit Integrity and Recovery Section. FSSD Benefit Integrity and Recovery Section staff either establishes the overpayment claim and notifies the household of the overpayment with appropriate notices or refers the case to OIG for a possible judicial determination.~~

~~(A) When the case is transferred to OIG, the overpayment claim is not established and notices are not sent to clients until after OIG completes its determination.~~

~~(B) After OIG acquires a judicial determination and the claim is either determined to be an intentional program violation or fraud or remains an inadvertent household error, the claim is released back to the FSSD Benefit Integrity and Recovery Section to establish the overpayment claim.~~

(C) After the overpayment claim is established, the client is sent Form 08OP009E, page 1 of Form 08OP005E, and Form 08OP118E.

(6) Food benefit overpayment claims classified as inadvertent household error or agency error do not cover more than 12 months prior to the month in which the overpayment was discovered. Food benefit overpayments classified as fraud or intentional program violation may cover the entire time the overpayment occurred. However, the time covered cannot include periods more than six years prior to the date the overpayment was discovered.

(7) Food benefit overpayments arising from trafficking-related offenses are the value of the trafficked benefits as determined by the person's admission, adjudication, or documentation that forms the basis for the trafficking determination. OIG refers these cases directly to the FSSD Benefit Integrity and Recovery Section for establishment of the claim and/or disqualification.

(f) **Development of repayment plan.** After AFS BIR staff verifies and calculates the overpayment claim, he or she establishes the claim by notifying the household of the overpayment debt. Once established, AFS BIR staff develops a repayment plan with the household per procedures in OAC 340:50-15-6.

(g) **Disqualification penalty.** When a person commits an intentional program violation or fraud, the person is disqualified from receiving food benefits for a period of time per OAC 340:50-15-25, in addition to being responsible for repaying the overpayment debt.

340:50-15-3. Overpayment claim procedures

(a) **Overpayment determination.** Overpayments are calculated by Adult and Family Services (AFS) local county office or support center staff and are referred to AFS Benefit Integrity and Recovery (BIR) for final determination.

(1) ~~The~~When the household failed to report earned income in a timely manner per Oklahoma Administrative Code (OAC) 340:50-9-5, the worker does not subtract an earned income deduction is not allowed in determining from gross earnings when calculating the overpayment amount when a recipient fails to report earned income in a timely manner.

(b2) ~~When the worker believes a household received an overissuance of food benefits, the worker~~AFS local county office or support center staff documents the circumstances causing the overpayment and calculates the overpayment claim calculations used to determine the over-issuance amount on Form 08OP005E, Report of Food Benefit (FB) Overissuance, and sends Form 08OP005E and supporting documentation to AFS BIR staff for claim establishment. The food benefit claim is considered established when the overpayment notice is dated and mailed to the client.

(3) When Office of Inspector General (OIG) staff determines the overpayment occurred because of a trafficking-related offense, he or she bases the overpayment amount on the value of the trafficked benefits. Per Section 273.18(c) of Title 7 of the Code of Federal Regulations, the value of the trafficked benefits is determined by:

(A) the household member or authorized representative's admission;

(B) adjudication; or

(C) OIG's documentation that formed the basis for the trafficking determination.

(b) **Overpayment claim establishment.** AFS BIR staff is responsible for evaluating overpayment referrals, establishing overpayment claims, and referring overpayment claims to OIG when fraudulent intent is suspected. An overpayment claim is considered established on the date AFS BIR staff sends the overpayment notice to the household.

(1) When fraudulent intent is not suspected, AFS BIR staff:

(A) establishes the overpayment claim and classifies it as an inadvertent household or agency error per OAC 340:50-15-4;

(B) notifies the household and worker per (d) and (e) of this Section; and

(C) sets up a repayment plan with the household per OAC 340:50-15-6.

(2) When fraudulent intent is suspected, AFS BIR staff sends the overpayment referral to OIG to determine whether fraudulent intent occurred. The overpayment claim is not established and notices are not sent until OIG completes its investigation and releases the claim back to AFS BIR. Refer to OAC 340:50-15-25 for procedures when overpayments are referred for an intentional program violation determination.

(c) **Claim establishment time frame.** The amount of time included in an overpayment claim varies.

(1) When AFS BIR classifies an overpayment as an inadvertent household error or agency error, the established overpayment claim does not cover more than 12 months prior to the month in which the overpayment was discovered.

(2) When an intentional program violation is determined, the established overpayment time frame may cover up to six years prior to the date the overpayment was discovered.

(ed) **Household notification.** ~~The worker and supervisor establish overpayment claims classified as inadvertent household error and less than \$500, and all agency error claims regardless of the amount. Notices sent to~~AFS BIR staff sends the client include household:

(1) the Notification of Food Benefit Overpayment notice;

(2) page 1 of Form 08OP005E, ~~Report of Food Benefit Overissuance~~ showing the overpayment over-issuance amount; and

(3) Form 08OP118E, Food Benefit Repayment Agreement.

(de) **County office notification.** ~~Calculated overpayments that are \$500 and over that are not due to agency error are not established until reviewed by staff in the Family Support Services Division (FSSD) Benefit Integrity and Recovery Section staff. In most instances after calculation, FSSD staff sends these overpayments to the Office of the Inspector General (OIG) to determine fraudulent intent prior to establishing the~~

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~~overpayment.~~ After claim establishment, AFS BIR staff sends the county office:

- (1) a copy of the Notification of Food Benefit Overpayment notice sent to the client;
- (2) the completed Form 08OP005E; and
- (3) the County Notification of Overpayment notice.

340:50-15-4. Overpayments by classification

(a) **Overpayment claim classified as inadvertent household error.** ~~An~~ Adult and Family Services (AFS) Benefit Integrity and Recovery (BIR) staff classifies an overpayment claim as ~~classified~~ as an inadvertent household error if ~~when the overissuance~~ Supplemental Nutrition Assistance Program (SNAP) food benefit over-issuance was caused by a misunderstanding or unintended error on the part of the household. Instances of inadvertent household error ~~which~~ that ~~may result in an established overpayment claim include, but are not limited to, when the household inadvertently:~~

- (1) failed to provide the Oklahoma Department of Human Services (OKDHS)(DHS) with correct or complete information;
- (2) failed to report changes in household circumstances per Oklahoma Administrative Code (OAC) 340:50-9-5; or
- (3) received benefits or more benefits than it was entitled to receive pending a fair hearing decision.

(b) **Overpayment claim classified as agency error.** ~~An~~ AFS BIR staff classifies an overpayment claim as ~~classified~~ as an agency error if ~~the overissuance was caused by OKDHS~~ when the DHS action or failure to take action caused the over-issuance. Instances of agency error ~~which~~ errors that may result in an overpayment include, but are not limited to, when OKDHS:

- (1) AFS staff:
 - (A) failed to take prompt action on a change reported by the household that resulted in an over-issuance;
 - (2B) incorrectly computed the household's income or deductions, or otherwise assigned ~~issued~~ an incorrect benefit allotment;
 - (3C) incorrectly issued or renewed food benefits to ~~an~~ ineligible household;
 - (4D) incorrectly applied policy or procedure that resulted in an over-issuance or issuing benefits to an ineligible household; or
 - (5E) failed to reduce food benefits because the household's public assistance benefits changed; or
- (2) the computer system incorrectly issued benefits to a household.

(c) **Overpayment claim classified as intentional program violation.** An overpayment claim is classified as an intentional program violation when it is determined that a person ~~has~~ intentionally given ~~gave~~ false information or withheld facts in order to receive food benefits or trafficked benefits for cash or non-food items.

- (1) This determination is made ~~An intentional program violation is determined through:~~
 - (A) an administrative disqualification hearing conducted by DHS Legal Services Appeals Unit staff;

(B) the accused person signing Form 08OP016E, Administrative Disqualification Hearing Waiver; or
(C) by a court decision. When the court decision is a deferment, the prosecutor asks the accused person to sign Form 19MP002E, Disqualification Consent Agreement.

(2) Instances of intentional program violation ~~which~~ that ~~may result in an overpayment claim include, but are not limited to, when a person in the an adult household member:~~

- (1A) made a false or misleading statement, or misrepresented, concealed, or withheld facts; or
- (2B) committed an act that constitutes a violation of the Supplemental Nutrition Assistance Program, relative to the use, presentation, transfer, acquisition, receipt, or possession of food benefits.

340:50-15-5. Right to appeal

~~If there is a disagreement~~ When the household disagrees with the overpayment decision, the household may request a fair hearing within 90-calendar days of the date on the Notification of Food Benefit Overpayment notice per Section 273.15(g) of Title 7 of the Code of Federal Regulations. Upon notification from the Oklahoma Department of Human Services (DHS) Legal Services Appeals Unit of receipt of Form 13MP001E, Request for a Fair Hearing or local county staff that the household requested a timely fair hearing, the Adult and Family Support Services Division (FSSD) Benefit Integrity and Recovery Section staff postpones reduction in food benefits ceases all collection efforts, including allotment reduction, pending the hearing decision. Per Oklahoma Administrative Code 340:2-5-63, an item mailed by DHS, is presumed to be received on the second day mail is delivered, following the date on the notice.

340:50-15-6. Development of repayment

(a) **Repayment of established overpayment claims.** Households must make repayment on all established Supplemental Nutrition Assistance Program (SNAP) food benefit overpayment claims regardless of the reason or classification for the overpayment. ~~Adult and Family Support Division (FSSD) Services (AFS) Benefit Integrity and Recovery Section BIR staff initiates collection efforts against all adult household members except those who are deceased included in SNAP food benefits during the overpayment time.~~

- (1) Collection ~~AFS BIR staff may be received~~ initiate collection efforts from two separate households for the same claim.
- (2) ~~Any~~ AFS BIR staff may use any repayment option shown at (d) per (c) of this Section may be used to collect the overpayment claim from any adult:
 - (A) who was in the household at the time of the overpayment and who is not currently a member of the household undergoing allotment reduction; or
 - (B) connected to the household, such as an authorized representative or other individual when the person trafficked benefits or caused the overpayment.

(b) **Repayment plan time frames.** After AFS BIR staff establishes the overpayment, is established, the FSSD Benefit Integrity and Recovery Section sends "he or she mails the household the Notification of Food Benefit Overpayment notice and Form 08OP118E, Food Benefit Repayment Agreement, that Form 08OP118E informs the household of the responsibility to repay the overpayment and explains the acceptable debt repayment methods of repayment for the debt classification. The client household is responsible for completing and returning Form 08OP118E within the appropriate time frame.

(1) The SNAP food benefit overpayment claim is considered delinquent if when, within 30-calendar days of the date shown on the Notification of Food Benefit Overpayment notice, the household does not:

(A) pay the overpayment claim is not paid within 30 days of the date of the Notification of Food Benefit Overpayment notice in full; or

(B) a monthly payment, as designated on the repayment agreement, has not been made by the due date complete and return Form 08OP118E. AFS BIR staff must approve the repayment plan proposed by the household.

(2) A The SNAP overpayment claim is not considered delinquent if another food benefit overpayment claim for the same household is currently being paid either through a previous repayment agreement or allotment reduction when, within 30-calendar days of the date shown on the Notification of Food Benefit Overpayment notice, the:

(A) household's food benefit allotment reduction begins; or

(B) household is undergoing recoupment to repay a previous SNAP overpayment claim at the time AFS BIR staff mails the Notification of Overpayment notice.

(3) When allotment reduction stops because the SNAP food benefit closes for any reason, the household must repay the debt in full or contact AFS BIR to request a repayment arrangement, within 30-calendar days of benefit closure.

(c) **Consequences of non return of repayment agreement.** Paragraphs (1) and (2) of this subsection describe the consequences of non return of the repayment agreement within appropriate time frames.

(1) **Agency error or inadvertent household error.** To make a voluntary plan of repayment of an agency error or inadvertent household error claim, the client must complete and return Form 08OP118E within 30-calendar days of the date on the form. If the client fails to return Form 08OP118E, FSSD begins recoupment from the client's food benefits or other collection methods.

(2) **Intentional program violation.** To make a voluntary plan of repayment of an intentional program violation debt, the client must complete and return Form 08OP118E, within 30 calendar days of the date on the form. If the client fails to return Form 08OP118E, FSSD begins recoupment from the client's food benefits or other collection methods.

(d) **Repayment options.** Form 08OP118E informs the client of available repayment options and advises the client not to send cash through the mail. Repayment options include repaying the overpayment claim:

(1) **Payment in full.** The client may repay an overpayment claim in one lump sum by personal check, money order, cashier's check, or Electronic Benefit Transfer (EBT) debit with a signed statement;

(2) **Monthly payments.** The client may repay an overpayment claim in regular monthly installments, when he or she has an approved repayment agreement on file with AFS BIR. Payment may be made by personal check, money order, cashier's check, or approved EBT debits debit with a signed statement. The amount to be repaid in monthly installments cannot be less than the amount that could be recovered through allotment reduction.

(A) **Agency error or inadvertent household error.** The FSSD Benefit Integrity and Recovery Section processes the reduction in the amount of 10% of the client's monthly allotment or \$10, whichever is greater. The client may request a reduction up to the client's maximum monthly allotment.

(B) **Intentional program violation.** The FSSD Benefit Integrity and Recovery Section processes the reduction in the amount of 20% of the client's monthly allotment or \$20, whichever is greater. The client may request a reduction up to the client's maximum monthly allotment.

(3) **Lost benefit reductions.** Any by applying any lost benefit due the household is used as payment on a toward the food benefit overpayment claim per Oklahoma Administrative Code 340:50-11-46;

(4) **Client authorized EBT debits.** A household may make by authorizing a voluntary payment through a debit from the EBT Access account. In order to debit the EBT account, a The client or the household's authorized representative must mail, fax, or email a signed statement must be received from the client or the household's authorized representative to AFS BIR giving permission for the debit before BIR staff debits the account. This statement is faxed to the FSSD Benefit Integrity and Recovery Section for immediate processing; or

(5) **Expunged benefits.** by applying expunged food benefits toward the food benefit overpayment claim when known and identified. Expunged food benefits are those where the benefits remaining in an EBT account the household has not been accessed for one year. These expunged benefits, when known and identified with an overpayment account are used to adjust the overpayment balance by the amount of the expunged benefit;

(6) **Stale benefits.** Stale food benefits are those where the account has not been accessed for three months. These benefits, when known and identified with an overpayment account, are used as payment on a food benefit overpayment claim by allotment reduction. Allotment reduction is an involuntary method of collecting SNAP overpayment

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claims by reducing the monthly benefit amount a household receives. AFS BIR staff does not reduce benefits for the initial month of certification or use other involuntary collection methods against household members while the benefit allotment is reduced. When AFS BIR staff establishes an:

(A) agency error or inadvertent household error overpayment claim, he or she reduces the household's monthly benefit allotment by 10 percent or \$10, whichever is greater. The client may request a higher reduction up to its monthly allotment; or

(B) intentional program violation overpayment claim, he or she reduces the household's monthly benefit allotment by 20 percent or \$20, whichever is greater. The household may request a higher reduction up to its monthly allotment; or

(7) by court ordered restitution.

(d) **Monthly statement.** A monthly statement computer-generates to the household around the 20th day of each month, informing the household of the remaining debt obligation.

(e) **Reconsideration of repayment plan.** The client may request reconsideration of the repayment plan by submitting information regarding changes in family and financial circumstances directly to the FSSD Benefit Integrity and Recovery Section AFS BIR. The FSSD Benefit Integrity and Recovery Section reconsiders any AFS BIR staff makes adjustments to the repayment plan if when circumstances warrant.

(f) **Consequences of a delinquent claim.** When an overpayment claim becomes delinquent, AFS BIR staff may refer it to the Treasury Offset Program (TOP) for collection per (g) of this Section or use other involuntary collection actions including, but not limited to:

(1) referrals to collection and/or other similar private and public sector agencies;

(2) state tax refund and lottery offsets;

(3) wage garnishments;

(4) property liens; and

(5) small claims court.

(g) **Referrals for Treasury Offset Program (TOP).** If the client fails to pay the overpayment claims or payments have become delinquent, the FSSD Benefit Integrity and Recovery Section makes a referral AFS BIR staff refers delinquent overpayment claims to TOP for collection when criteria in (1) of this subsection is met. Debts are collected in TOP through interception of federal monies including, but not limited to, federal income tax refunds, Social Security Administration (SSA) benefits, and federal employee wages. The client may be responsible for paying any collection or processing fees charged by the federal government.

(1) **Criteria for TOP.** The TOP criteria for state and federal tax offsets are the:

(A) amount owed must be at least \$25;

(B) claim is under ten years delinquent except for judgment claims;

(C) claim is delinquent by 180- or more calendar days and legally enforceable;

(D) overpayment claim is not part of a bankruptcy stay, or under litigation, or under review per (3) of this subsection;

(E) client received the original notification of the debt; and

(F) overpayment claim is not being collected through allotment reduction, also known as recoupment, or under an approved repayment plan.

(2) **Notification of TOP.** The FSSD Benefit Integrity and Recovery Section At least 60-calendar days before referring an overpayment claim to TOP, AFS BIR staff notifies the person of any the intended referral to TOP 60 calendar days prior to referring the overpayment claim to making the TOP. The AFS BIR staff mails the 60-calendar day notice is mailed to the household at the address provided by United States Department of Agriculture (USDA), Food and Nutrition Service TOP. Information contained in the notice includes:

(A) the person's debtor's Social Security number;

(B) the citation of the statutory authority for the offset;

(C) the instructions on how to pay the claim avoid the TOP referral;

(D) the person's right to request a review of the intended action per (3) of this subsection;

(E) information regarding all TOP exemptions and restrictions;

(F) information regarding spousal protection from the offset; and

(G) a statement that all adult household members who were members when the overpayment occurred are liable for repayment of the food benefit overpayment claim; and

(H) the person's debtor's right to review applicable records.

(3) **Request for review of intended action.** A person whose food benefit overpayment claim is referred to TOP may ask for To consider a request timely, the person being referred to TOP must request a review of the intended action in writing, within 60-calendar days of the date AFS BIR staff sends the 60-calendar day letter. The person's contention that the claim is not past due or legally enforceable is the basis for the review.

(A) A claim is not past due and legally enforceable if when the person provides proof:

(i) proves the claim has been paid in full;

(ii) the person cited for the offset is not the person who owes the claim;

(iii) that substantiates bankruptcy action; or

(iv) denies he or she was informed of the overpayment claim and a review of Oklahoma Department of Human Services files substantiates the denial the household's benefit allotment is currently being reduced to repay the debt.

(B) The person must request the review within 60 calendar days of the TOP notice date. FSSD Benefit Integrity and Recovery Section AFS BIR staff conducts the requested review and sends the

person written notification of the review decision to ~~persons requesting reviews~~ within 30-calendar days of the request. The review decision notice informs the person requesting ~~a~~ the review;

(i) if the debt is past due and legally enforceable;

(ii) ~~why~~ if the overpayment is, or is not being referred to TOP and further review rights to which he or she is entitled; and

(iii) of his or her right to appeal the decision by requesting another review from the Food and Nutrition Services (FNS) Regional Office within 30-calendar days of the date on the review decision letter. The notice includes the FNS Regional Office address and the contact person's name.

(C) ~~The~~ When, after review, AFS BIR staff finds the debt is past due and legally enforceable, the person ~~can~~ may avoid referral to TOP if the person pays by paying the overpayment claim in full or a payment specified by the FSSD Benefit Integrity and Recovery Section along with setting up an acceptable repayment agreement is received within 60 calendar days from the date of the TOP notice with AFS BIR staff.

(h) **Case record retention.** The Oklahoma Department of Human Services is mandated to retain case records containing overpayments for three years from the date:

- (1) the overpayment debt is paid in full; or
- (2) no further action is taken to collect the debt because of reasons, such as when the client dies or files bankruptcy that discharges the debt.

PART 3. FRAUD

340:50-15-25. Cases referred for intentional program violation determination

(a) ~~Cases determined by~~ referred for an administrative disqualification hearing (ADH). For a determination of intentional program violation, Family Support Services Division (FSSD) Benefit Integrity and Recovery Section and Oklahoma Department of Human Services (~~OKDHS~~) DHS Office of Inspector General (OIG) staff ~~make referrals for an ADH~~ refers cases to the ~~OKDHS~~ DHS Legal Division Services Appeals Unit to conduct an ADH to determine if the client committed an intentional program violation. The cases referred contain documentary evidence of intentional program violation, but do not warrant civil or criminal prosecution.

(4b) **Waiving of ADH.** AOIG staff gives a client suspected of an intentional program violation ~~may choose~~ the option to waive his or her rights to an ADH. . The client must complete and sign Form 08OP016E, Administrative Disqualification Hearing Waiver, if the client ~~requests~~ to request a waiver. A waiver of the hearing subjects the client to the same penalties as if the hearing process determined intentional program violation.

(2c) **Penalties for intentional program violation.** When the ADH results in an intentional program violation determination or the client waives his or her right to the hearing process, ~~the FSSD~~ Adult and Family Services (AFS) Benefit Integrity and Recovery Section ~~BIR staff imposes the penalties in (A)–(B) of this paragraph~~ disqualification penalty.

(A) **Disqualification.**

(i) ~~Notification.~~ FSSD Benefit Integrity and Recovery Section AFS BIR staff sends Form 08AD019E, Program Penalty/Disqualification Notice, to the disqualified member. Form 08AD019E includes information regarding the remaining household members' eligibility.

(ii) ~~Period of disqualification.~~ The disqualification period of ~~disqualification~~ for a person is one year for the first violation, two years for the second violation, and permanently for the third violation.

(IA) Any person disqualified for intentional program violation prior to April 1, 1983, is considered to have one ~~violation~~ previous disqualification, regardless of the number of ~~prosecutions~~ previous disqualifications.

(HB) A person is disqualified for a period of ~~ten~~ 10 years ~~if the~~ when an ADH decision finds the person is found to have made a fraudulent statement or representation with respect to identity or place of residence in order to receive multiple, simultaneous Supplemental Nutrition Assistance Program (SNAP) food benefits ~~simultaneously under the Supplemental Nutrition Assistance Program (SNAP).~~

(iii) ~~Disqualification effective date.~~ Disqualification The disqualification period begins the first, possible effective month following the date of AFS BIR staff mails Form 08AD019E, or the date specified on the ADH decision letter. Once the disqualification period begins, it runs continuously until the end of the period imposed, regardless of whether the household remains eligible for food benefits during the person's disqualification period.

(iv) ~~Disqualification computation.~~ Either the worker or FSSD Benefit Integrity and Recovery AFS BIR staff removes the disqualified person from the household size or closes the SNAP food benefit based on fraud when it is a one person household. The Per Oklahoma Administrative Code (OAC) 340:50-7-29(d)(1), the worker counts the total gross income of the disqualified person in their entirety as available to in determining the remaining household members eligibility and allows all applicable deductions for the remaining household members.

(BE) **Repayment.** A client must repay the SNAP food benefit overpayments—overpayment claim regardless of any disqualification penalty imposed. FSSD Benefit Integrity and Recovery Section notifies the client of the necessity for making a repayment plan by AFS BIR staff sends Form 08OP118E, Food Benefit Repayment Agreement,—The to notify the household of the need to make a repayment plan and the repayment options for the repayment plan are the

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~~same as those listed in~~ available to the client per OAC 340:50-15-6.

(bd) ~~Cases determined by a court.~~ The FSSD Benefit Integrity and Recovery Section AFS BIR staff refers all cases suspected of intentional program violation to OIG to ~~make a determination of whether~~ determine if court action is feasible.

(1) ~~OKDHS~~ When OIG staff refers the person for court action, AFS BIR staff must not discuss the overpayment claim with the ~~client~~ household until court action is ~~completed~~ complete or the FSSD Benefit Integrity and Recovery Section AFS BIR staff notifies the ~~human services center~~ worker of any needed action to be taken. Local county staff forwards further information or directs client inquiries regarding the overpayment to the FSSD Benefit Integrity and Recovery Section AFS BIR staff.

(2) A court of appropriate jurisdiction may find one or more persons in the household guilty of obtaining food benefits by fraudulent means. The court may charge the person with either a misdemeanor or felony ~~depending on the amount of food benefits fraudulently obtained.~~

(3) ~~Procedures for disqualification penalties~~ Disqualification penalty procedures for court and ADH determined cases are the same, as in cases determined by administrative disqualification hearings at (a)(2) of this Section with the exceptions included in except for (A) through (D) of this paragraph.

(A) The court may specify the length of the disqualification. ~~These court~~ Court specified periods of disqualification override (a)(2)(i)(c)(2) of this Section.

(B) A person determined by a federal, state, or local court to have committed intentional program violations of trading SNAP food benefits for firearms, ammunition, explosives, or controlled substances is subject to disqualification:

(i) for two years for the first offense and permanently for the second offense involving the sale of a controlled substance for SNAP food benefits; and

(ii) permanently for the first offense involving the sale of firearms, ammunition, or explosives for SNAP food benefits.

(C) A person convicted in a federal, state, or local court of trafficking SNAP food benefits ~~for an aggregate amount~~ of \$500 or more is permanently disqualified from SNAP participation in SNAP. ~~Trafficking includes~~ Per Section 271.2 of Title 7 of the Code of Federal Regulations and Section 243 of Title 56 of the Oklahoma Statutes (56 O.S. § 243), the definition of trafficking means:

(i) ~~fraudulently using, transferring, altering, acquiring, or possessing Electronic Benefit Transfer~~ the buying, selling, stealing, or otherwise effecting an exchange of SNAP benefits issued and accessed via electronic benefit transfer (EBT) cards, or access devices card numbers, and personal identification numbers (PINs) or by manual voucher and signature for cash or consideration other than eligible food, either directly, indirectly,

in complicity or collusion with others, or acting alone; or

(ii) ~~presenting food benefits for payment or redemption knowing the same to have been fraudulently obtained or transferred~~ the exchange of firearms, ammunition, explosives, or controlled substances, per Section 802 of Title 21 of the United States Code, for SNAP benefits;

(iii) ~~purchasing a product with SNAP benefits that has a container requiring a return deposit with the intent of obtaining cash by discarding the product and returning the container for the deposit amount, intentionally discarding the product, and intentionally returning the container for the deposit amount;~~

(iv) ~~purchasing a product with SNAP benefits with the intent of obtaining cash or consideration other than eligible food by reselling the product, and subsequently intentionally reselling the product purchased with SNAP benefits in exchange for cash or consideration other than eligible food;~~

(v) ~~intentionally purchasing products originally purchased with SNAP benefits in exchange for cash or consideration other than eligible food;~~

(vi) ~~attempting to buy, sell, steal, or otherwise affect an exchange of SNAP benefits issued and accessed via EBT cards, card numbers, PINs, or by manual voucher and signatures, for cash or consideration other than eligible food, either directly, indirectly, in complicity or collusion with others, or acting alone; or~~

(vii) ~~the possession of stolen SNAP EBT cards.~~

(D) A person is disqualified from participation in SNAP for a 10-year period ~~if~~ when the person is found to have made a fraudulent statement or representation with respect to identity or place of residence in order to receive multiple benefits simultaneously under SNAP.

(4) The court may also stipulate a repayment plan. The repayment plan cannot be renegotiated. ~~The FSSD Benefit Integrity and Recovery Section~~ AFS BIR staff may refer the case back to the district attorney's office if the client fails to comply with the repayment plan.

(5) Per 56 O.S. § 243(B)(5), any district attorney who enters into a deferred adjudication or who negotiates for a deferred sentence with a defendant charged with fraud must present the defendant with a disqualification consent agreement as part of the deferred adjudication or sentence.

340:50-15-26. Reporting incidences of abuse in the Supplemental Nutrition Assistance Program

In addition to submitting overpayments involving suspected household fraud ~~of households~~, the worker is also responsible for submitting any incidence of reported abuse on the part of any person, or a participating food store. Other incidences of reported fraud are submitted by memorandum to

the ~~Adult and Family Support Services Division (AFSSD) (AFS) Supplemental Nutrition Assistance Program (SNAP) Section.~~

(1) ~~The~~In the memorandum, the worker outlines the complaint in sufficient detail to facilitate a follow-up investigation. Further action is not taken by ~~human services center (HSC) local county office~~ staff pending investigation, and suspected ineligible continue to participate in SNAP during the investigation.

(2) ~~The AFSSD Section~~AFS SNAP staff refers the complaint to the Office of Inspector General (OIG) for investigation and determination of whether to pursue administrative and/or court action against the household.

(3) ~~Instances~~In addition, OIG staff, on behalf of the Oklahoma Department of Human Services Director, may refer instances of misrepresentation or fraudulent acts on the part of a participating merchant may be referred to the United States Department of Agriculture by the Oklahoma Department of Human Services (OKDHS) Director.

[OAR Docket #16-574; filed 6-16-16]

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

[OAR Docket #16-575]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 3. Eligibility for Benefits
340:65-3-1 through 340:65-3-2 [AMENDED]
340:65-3-4 [AMENDED]
(Reference WF 15-02)

AUTHORITY:

Director of Human Services; and Sections 162, 167, 167.1, and 168 of Title 56 of the Oklahoma Statutes.

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September 15, 2016

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

ANALYSIS:

The proposed revisions to Chapter 65 Subchapter 3 amend the rules to: (1) update and clarify information regarding the eligibility determination process, application processing, collateral contacts, and data exchange; (2) add and update policy cite references; (3) remove outdated language regarding near

real time benefit processing; (4) remove unnecessary language regarding the application process and food benefit payee; (5) remove information regarding Adult Protective Services (APS) home visits; and (6) update terminology.

CONTACT PERSON:

Dena Thayer, Programs Administrator, Office of Intergovernmental Relations and Policy, Department of Human Services, 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., SECTION 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 15, 2016:

SUBCHAPTER 3. ELIGIBILITY FOR BENEFITS

340:65-3-1. Determination of eligibility

(a) **Eligibility determination.** The process of determining eligibility includes the applicant filing ~~an~~ signed application, the worker certifying or denying benefits, and all subsequent activities required to receive continuous benefits. The applicant has the right and responsibility to participate in the eligibility determination and is relied on as the first source of information.

(1) Someone acting on the applicant's behalf, such as an authorized representative or a person with power-of-attorney, may complete the application for all programs except for Temporary Assistance for Needy Families (TANF). The applicant must ~~personally~~ personally complete ~~the application for and sign a TANF application.~~

(2) When someone other than the applicant applies on behalf of the applicant, he or she must bring a signed statement from the applicant giving this person permission to act on the applicant's behalf or the applicant must have designated this person as his or her authorized representative on the signed application. The SoonerCare (Medicaid) programs allow others to apply for the applicant without a written designation.

(b) **Filing an application.** ~~Each household wishing a household must complete an application to apply for the Child Care Subsidy Program, Low Income Home Energy Assistance Program (LIHEAP), SoonerCare (Medicaid) program, Supplemental Nutrition Assistance Program (SNAP), State Supplemental Payment (SSP), Supplemental Security Income Disabled Children's Program (SSI-DCP), or TANF must complete an application.~~ The applicant may request one or more benefits on the same application with the exception of LIHEAP, ~~which~~ as LIHEAP is not an ongoing benefit.

(1) The applicant may apply for benefits in ~~the~~ the local county office of his or her choice. When someone applies on behalf of the applicant and lives in a different county, the person may apply in his or her county of residence or in the applicant's county of residence.

(2) When the applicant applies for TANF cash assistance in a county in which he or she does not live, the applicant's TANF Work activities are assigned in the

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- county where the applicant states creates the least barrier to offering more participation opportunities for the client.
- (3) ~~The system auto assigns the application to a specific Oklahoma Department of Human Services (OKDHS) office when~~ When the applicant applies online via okdhslive.org, the system auto-assigns the application based on the applicant's ZIP code.
- (c) **Signature requirements.** The applicant, guardian, or someone acting on the applicant's behalf, such as an authorized representative or a person with power-of-attorney must sign the application, prior to benefit approval.
- (1) TANF applications must be signed by the applicant. ~~When the TANF applicant is living~~ lives with his or her spouse, both spouses must sign the application.
- (2) The applicant may voluntarily withdraw the request for benefits or services either before or after signing the application.
- (3) An applicant who is:
- (1A) eligible for Medicare signs the application using the name on his or her Medicare Health Insurance Benefits (HIB) card; or
- (2B) not eligible for Medicare signs the application using the name shown on his or her Social Security card.
- (d) **Interview requirements.** ~~Whether an interview is required varies depending on the~~ Interview requirements vary by program.
- (1) Prior to benefit approval for benefits, the applicant must complete a face-to-face interview for:
- (A) SNAP. Exceptions are found at OAC 340:50-3-2; or
- (B) the TANF program.
- (2) ~~The applicant must complete a~~ telephone or face-to-face interview is required for the:
- (A) Child Care Subsidy program; Program;
- (B) SSP program; Program;
- (C) SoonerCare (Medicaid) long-term care programs, such as Advantage ADvantage Waiver, nursing home care, or personal care; or
- (D) SoonerCare (Medicaid) programs that categorically relate to the aged, blind, and disabled population, such as Qualified Medicare Beneficiary Plus (QMBP), Specified Low-Income Medicare Beneficiary (SLMB), or Qualified Disabled and Working Individuals (QDWI); or
- (E) SNAP.
- (3) An interview is not required prior to approval for ~~the~~ when a person applies for:
- (A) LIHEAP; or
- (B) SoonerCare (Medicaid) population in online enrollment with when the Oklahoma Health Care Authority (OHCA) or LIHEAP benefits is responsible for determining eligibility per Oklahoma Administrative Code (OAC) 317:35-5-63.
- (e) **Worker responsibilities.** ~~The~~ During the eligibility determination process, the worker is responsible for:
- (1) ~~advising~~ informing the applicant during the application process of the:
- (A) ~~OKDHS~~ Oklahoma Department of Human Services (DHS) responsibility for reaching a decision and notifying the applicant of eligibility or ineligibility within the appropriate time limits per OAC 340:65-3-5;
- (B) applicant's right to request a fair hearing per OAC 340:2-5, either orally or in writing, and be represented at the hearing by any person the applicant chooses per OAC 340:2-5. ~~The applicant may request a fair hearing may be requested~~ when there is a:
- (i) delay beyond the established time limits for determining eligibility per OAC 340:65-3-5; or
- (ii) disagreement with any action taken on the case;
- (C) applicant's legal responsibility for reporting all facts pertinent to eligibility;
- (D) types of changes the applicant must report within ten 10-calendar days;
- (E) penalty for failure failing to report changes;
- (F) information needed to establish eligibility. ~~When requesting information or verification from the applicant, the~~ The worker uses Form 08AD092E, Client Contact and Information Request, to request an interview or verification and gives the applicant at least ten 10-calendar days to respond to the request comply per OAC 340:65-3-2.1;
- (G) type of assistance provided by ~~OKDHS~~ DHS provides in establishing eligibility;
- (H) permission the applicant gives ~~OKDHS~~ DHS to obtain information from sources other than the applicant by signing the application; and
- (I) requirement that the applicant must applicant's responsibility to cooperate with state and federal officials if when the applicant's case is selected for a Quality Control review;
- (2) collecting information necessary for determining the applicant's initial and continuing eligibility. Information is considered verified upon receipt if that information is when not questionable or inconsistent with known facts, and the provider of the information provider is the primary source of the information, is. The worker accepts, without further verification, the:
- (A) applicant's statement concerning:
- (i) residency;
- (ii) relationship;
- (iii) age;
- (iv) living in the home of a relative payee;
- (v) a minor parent living in the home of a relative;
- (vi) Social Security number (SSN);
- (vii) non-liquid resources;
- (viii) household members;
- (ix) school attendance; and
- (x) third party insurance;
- (B) unearned income information obtained through:

- (i) Beneficiary and Earnings Data Exchange System (BENDEX), from the Social Security Administration (SSA);
 - (ii) Supplemental Security Income (SSI)/State Data Exchange System (SDX), from SSA;
 - (iii) Unemployment Insurance Benefits (UIB), from the Oklahoma Employment Security Commission (OESC); and
 - (iv) workers' compensation documents from Workers' Compensation Court; and
- (C) alien status information obtained through Systematic Alien Verification for Entitlements (SAVE), from the United States Citizenship and Immigration Services (USCIS);
- (3) ~~contacting other persons who may be able to help in establishing~~ establish eligibility ~~if when~~ the applicant is unable to participate in the eligibility determination because of physical or mental disability, inability to speak English, or other difficulties;
- (4) determining whether the applicant is currently receiving benefits from another state when he or she has ~~lived~~ resided in Oklahoma for less than 12 months;
- (5) recognizing expressed or implied needs ~~which includes~~ that include:
- (A) determining ~~whether if~~ there is a need for crisis intervention;
 - (B) addressing the applicant's social services needs; and
 - (C) making appropriate referrals; and
- (6) denying the application ~~if when~~ sufficient facts are available to substantiate ineligibility.
- (f) ~~Requirement for SSN requirement.~~ The applicant must provide a verifiable SSN or application for a pending SSN is required application for every person whose needs are included for requesting food benefits, SSP, SSI-DCP, LIHEAP, or TANF benefits. The requirement for a verifiable SSN also applies to all persons whose needs are included for SoonerCare (Medicaid) benefits, except newborn children deemed eligible per OAC 317:35-6-60 and undocumented aliens who are residing in the United States (U.S.) unlawfully requesting emergency medical services per OAC 317:35-5-25.
- (1) The worker accepts the applicant's statement to document ~~the each household member's~~ SSN unless the information is inconsistent or there are other facts or observations ~~which that~~ cause the worker to question the statement.
- (A) Persons for whom a SSN is required, but not available must be referred to the appropriate SSA office for SSN enumeration.
 - (i) The worker uses Form 08AD101E, SSN Enumeration Referral, to refer persons to the SSA office for a SSN application.
 - (ii) The return of Form 08AD101E to ~~OKDHS~~ DHS validates the application(s) or indicates which persons have not provided SSA appropriate original evidence of age, identity, and citizenship.
 - (B) Parents of newborns who participate in Enumeration at Birth (EAB) receive ~~from hospital personnel~~ Form SSA-2853-OP3, Message From Social Security, from hospital personnel. This receipt form is verification the newborn was enumerated at birth.
- (2) ~~The worker denies the application or does not include the person for benefits if~~ When the person fails or refuses to furnish or to apply for a SSN, the worker takes action per (A) and (B) of this paragraph.
- (A) For TANF purposes, the person's needs are included; however, the worker imposes a 25% percent payment standard reduction penalty ~~is imposed~~ until an application for or a SSN is provided.
 - (B) For food benefit and SoonerCare (Medicaid) purposes, only the needs of the person for whom a SSN is not provided or applied for are not included.
- (g) **Citizenship requirement.** All persons applying for ~~federal or state or federal~~ public assistance benefits, such as ~~child care subsidy~~ Child Care Subsidy, SNAP food benefits, LIHEAP, SoonerCare (Medicaid), SSP, or TANF must declare the citizenship or alien status for each household member applying for such benefits on the application or benefit renewal. When the payee requests benefits for additional household members between application and benefit renewal, the payee completes and signs Form 08MP022E, Declaration of Citizenship Status, to declare the citizenship or alien status of the additional household members. Citizenship and alien status for persons applying for SoonerCare (Medicaid) benefits is determined using specific program requirements ~~found at per~~ OAC 317:35-5-25.
- (1) When the applicant declares that some or all of the household members applying for benefits are aliens, the worker must follow SAVE procedures ~~described at per~~ OAC 340:65-3-4 to determine ~~if the validity of documents provided to verify legal alien status are valid.~~
- (2) The worker ~~also~~ must follow ~~specific program each program's~~ policy regarding citizenship and alien status requirements to determine benefit eligibility ~~found at per~~:
- (A) OAC 340:40-7-5 for ~~child care subsidy~~ Child Care Subsidy benefits;
 - (B) OAC 340:50-5-67 for SNAP food benefits;
 - (C) OAC 340:20-1-8, 340:20-1-10, and 340:50-5-67 for LIHEAP;
 - (D) OAC 317:35-5-25 for SSP; and
 - (E) OAC 340:10-15-1 for TANF.
- (3) The citizenship requirements ~~at per~~ (g)(3)(A) through (C) and (g)(4) of this Section are pursuant to Section 71 of Title 56 and Section 20j of Title 74 of the Oklahoma Statutes.
- (A) Lawful status in the United States (U.S.) is considered verified ~~if each when~~:
 - (i) ~~the person applying for benefits has furnished~~ provides a SSN or SSA completed Form 08AD101E ~~from SSA~~ indicating SSA accepted the person ~~has completed the person's SSN application to apply for a SSN.~~ OKDHS; and
 - (ii) DHS, through ~~at the~~ automated SSN enumeration data exchange transaction with SSA,

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~~attempts to match SSN data exchange information with SSA is able to verify the person's SSN.~~

(B) Prior to receiving benefits, when ~~OKDHS~~DHS is unable to ~~match~~verify the SSN with SSA for a person 14 years of age or older who is applying for benefits, ~~that~~the person must:

- (i) ~~sign~~provide a signed and have notarized Form 08MP005E, Citizenship Affidavit, attesting to his or her U.S. citizenship or alien status; or
- (ii) provide a U.S. birth certificate, U.S. passport, or a Certificate of Naturalization. ~~Documents or other acceptable as verification of citizenship for SoonerCare (Medicaid) described at document per OAC 317:35-5-25 are also acceptable as verification of to verify lawful status.~~

(C) When the person fails or refuses to ~~sign~~provide a signed and have notarized Form 08MP005E or ~~provide~~ one of the documents ~~described at~~per (g)(3)B(ii) of this Section, ~~the worker denies or closes~~ benefits are denied or closed for that person.

(4) The application, benefit renewal, and Form 08MP022E contain a statement ~~advising~~informing the applicant that DHS reports fraudulent claims of citizenship or lawful alien status ~~are reported~~ to the U.S. Attorney and the person may be subject to criminal prosecution.

(5) When the worker ~~finds that~~discovers a person who signed Form 08MP005E attesting to U.S. citizenship or legal alien status made a false claim:

(A) the worker sends to ~~Adult and Family Services (AFS) any applicable evidence and a memo that includes~~and supporting documentation to Adult and Family Services (AFS). The memo must include:

- (i) the ~~benefits~~time frame, benefit type, and amount the person fraudulently applied for or obtained; and
- (ii) the time frame benefits were received; and
- (iii) how the worker ~~knows~~discovered the claim was false;

(B) AFS staff in consultation with ~~Office of General Counsel~~Legal Services staff, review the memo and ~~any evidence provided by the workers~~supporting documentation; and

(C) when AFS and ~~Office of General Counsel~~Legal Services staff determine the person made a false claim, Legal Services staff files a complaint is ~~filed~~with the U.S. Attorney for the applicable district based upon the venue in which the affidavit was executed.

(h) **Eligibility determination.** The worker determines eligibility after the applicant or other authorized person signs the application, completes an interview, when required, and provides required proof.

340:65-3-2. Definitions

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

"**Applicant**" means a person who directly, or through a person acting responsibly on the applicant's behalf, requests a formal eligibility determination of eligibility for one or more programs administered by the Oklahoma Department of Human Services (DHS) Adult and Family Support Services Division (AFSSD)(AFS) of the Oklahoma Department of Human Services (OKDHS).

"**Application process**" means the process by which the ~~applicant's request is formalized~~applicant requests benefits, completes program requirements, provides necessary proof, and the worker determines eligibility. The applicant may start the application process with a worker using the Family Assistance/Client Services (FACS) system or by submitting an online or paper application. The application process may require an interview with a worker, either face to face or by telephone, depending on the program. Any person who fraudulently represents facts, acts without authority, or exceeds his or her authority to perform a transaction may be prosecuted under all applicable criminal and civil laws.

"**Client**" means a person ~~who is~~ applying for or receiving services, cash assistance, or other benefits.

"**Date of application**" means, for:

(A) ~~child care benefit~~Child Care Subsidy applications, the date the applicant or a person acting on the applicant's behalf completes the child care interview and provides all necessary verification, including the name of the child care provider the applicant ~~wishes~~wants to use.

(B) Temporary Assistance for Needy Families (TANF), Supplemental Nutrition Assistance Program (SNAP) food benefits, SoonerCare (Medicaid), State Supplemental Payment (SSP), and the Low Income Home Energy Assistance Program (LIHEAP), the date the applicant or a person acting on the applicant's behalf signs the application.

(i) ~~When~~ the application is initiated outside of ~~OKDHS~~DHS, the application date is the date the application is stamped in the local county office or received electronically in the human services center (HSC) through okdhslive.org.

(ii) Receipt of Form 08MA005E, Notification of Needed Medical Services, preserves the date of application for SoonerCare (Medicaid) ~~populations not included in Oklahoma Health Care Authority OHCA Online Enrollment~~eligibility groups for which DHS is responsible for determining eligibility, per Oklahoma Administrative Code (OAC) 317:35-6-15(b)317:35-5-63.

(C) When DHS staff receives a verbal request is received prior to the signature date of signature on the application, ~~the date of the~~staff enters the verbal request is ~~entered~~date in red above the signature date. The ~~date of the~~verbal request date is the application date of application for the TANF, SSP, and the SoonerCare (Medicaid) ~~Programs not included in the Online Enrollment~~eligibility groups for which DHS determines eligibility.

(i) Per OAC 340:50-3-1, a verbal request for food benefits does not preserve the application date. ~~The only exception is when~~unless the applicant advises staff a hardship exists that prevents him or her from signing a request on that date. A hardship may exist when the applicant states no one can come to the local county office because of a situation beyond the applicant's control such as illness, disability, or lack of transportation and the applicant is unable to file the application electronically at www.okdhslive.org or call 1-877-653-4798 to file by telephone.

(ii) A verbal request for LIHEAP does not preserve the application date as funding for the program is limited.

(iii) ~~When the~~The verbal request date preserves the application date ~~for a program, it is protected only if~~when the applicant signs the application is ~~signed~~ within 30-calendar days.

(I) ~~If~~When the applicant fails to sign the application within 30-calendar days, no application request is considered made.

(II) ~~If~~When the applicant subsequently contacts ~~OKDHS~~DHS after 30-calendar days and completes the application process, the application date is the date the applicant completes and signs the application.

(D) When the applicant comes to the ~~HSC~~local county office to request benefits and cannot stay to complete the application with a worker or no appointment times are available that day, ~~OKDHS staff advises the applicant to~~must submit a completed and signed Form 08MP001E, Request for Benefits, ~~to the HSC to preserve the application date. When the applicant does not leave a completed and signed Form 08MP001E at the HSC, an application date is not preserved and an appointment for an interview is not set.~~

"**Inquiry**" means a request for information but does not imply a request for assistance.

"**Near real time (NRT) benefit processing**" means the ~~application for child care benefits is processed within two business days of receiving verification needed to determine eligibility for assistance.~~

"**Payee**" means the person in the household in whose name benefits are issued. The person considered the payee varies depending on the requested programs. The payee may or may not be included in the benefit.

(A) For the Child Care Subsidy Program, the payee must be the person responsible for the child for whom benefits are requested. The payee ~~does not have~~is not required to be related to the child. ~~If~~When the parent of the child is in the home, the parent is ~~considered~~must be the payee, per OAC ~~340:40-3-1(a)(3)~~340:40-3-1(a)(2).

(B) For the TANF Program, the payee must have a certain degree of relationship to the child for whom

benefits are requested, per OAC 340:10-3-56 and 340:10-9-1.

(C) ~~For the Supplemental Nutrition Assistance Program (SNAP), the payee may be any responsible adult living in the home per OAC 340:50-3-1. If the only adult living in the home is a non-household or ineligible member, that person is shown as the payee on the case per OAC 340:50-3-1, 340:50-5-5, and 340:50-5-8.1.~~

(D) For the SoonerCare (Medicaid) Program, the payee is the person for whom benefits are requested or the person responsible for the minor child for whom benefits are requested. The payee ~~does not have~~is not required to be related to the child. ~~If~~When the parent of the child is in the home, the parent is ~~considered~~must be the payee, per OAC 317:35-7-15.

(E) For the SSP Program, the payee is the person for whom benefits are requested. ~~If~~When the person for whom benefits is requested is a minor child, the child is coded as a payee with a guardian.

(F) For LIHEAP, the payee may be any responsible adult living in the home. When the household receives other benefits, the payee is the same person shown as payee for the other benefits.

"**Recipient**" means a person who receives services, cash assistance, or other benefits.

340:65-3-4. Investigation of eligibility conditions and services planning

The worker is responsible for collecting information necessary for determining the client's eligibility for benefits and addressing the client's social services needs. ~~When verification of information~~proof from a source other than the client's statement is necessary, the sources described in this Section are used.

(1) **Home visits.** Home visits are sometimes necessary for ~~Field Operations Division (FOD)~~Adult and Family Support Services (FSS)(AFS) staff to provide services and benefits and ~~to~~ promote safety and stability for families. All home visits ~~must be~~are planned and coordinated to prevent duplication of efforts.

(A) ~~FOD, Adult Protective Services (APS) staff may make home visits and client contacts outside normal working hours within policy as outlined in OAC 340:5.~~

~~(B) All other FSS workers may make~~AFS staff makes home visits or other client contacts during normal work hours whenever possible. Home visits may be made outside normal working business hours when it is in the best interest ofplanned with the client and approved by appropriate supervisory personnel.

(B) ~~Home visits are made~~The AFS worker makes a home visit when:

(i) there is a need to confirm the accuracy of statements made by the client and documentation cannot be obtained ~~he or she is unable to obtain~~ documentation from other sources;

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- (ii) an office visit ~~would create~~ creates a hardship for the household;
 - (iii) a Temporary Assistance for Needy Families (TANF) ~~ease is closed~~ benefit closes due to failure to cooperate per Oklahoma Administrative Code (OAC) 340:10-2-2;
 - (iv) it is the best method to complete or review the TANF employability plan;
 - (v) protective services are needed; or
 - (vi) the worker deems it necessary for another reason and the supervisor concurs.
- (2) **Collateral contact.** A collateral contact is ~~verbal confirmation of a household's circumstances by~~ a person outside of the household that confirms the household's circumstances. The collateral contact may be made ~~either~~ in person or over the phone.
- (A) ~~The acceptability of a~~ collateral contact is not restricted to a particular person, but may be any one ~~that can be expected~~ able to provide an accurate third party verification of the household's statement. Examples of acceptable collateral contacts are:
- (i) employers;
 - (ii) agencies, businesses, or community action groups;
 - (iii) migrant service agencies;
 - (iv) neighbors of the household;
 - (v) landlords; or
 - (vi) other persons outside of the household.
- (B) ~~The client's signature on the application or review is the necessary authorization for securing~~ renewal authorizes the worker to secure the required information or verification from collateral contacts. This authorization includes the permission of the client's spouse for information regarding his or her circumstances to be given in connection with the same application or review and of the client's parents when the client is a dependent child who is blind or disabled.
- (C) ~~If~~ When the collateral contact requires additional written authorization before supplying information to the Oklahoma Department of Human Services (~~OKDHS~~) (DHS) regarding:
- (i) the client or a dependent child, the client signs Form 08AD060E, Request for Release of Information, to give authorization.
 - (ii) ~~When information is needed regarding another adult household member, that person may need to sign~~ signs Form 08AD060E ~~before the collateral contact agrees to release information for another adult household member~~ give authorization.
- (C) The worker ~~advises persons~~ informs the person contacted for information ~~related to the client's eligibility of how the~~ DHS will use the requested information is used and the reason it is needed. ~~If~~ When the person is ~~unwilling for~~ does not want the client to know his or her identity, the worker does not record the person's name is not recorded in the case record

~~and is not revealed~~ nor reveal the person's name to the client.

(D) When someone contacts ~~OKDHS~~ DHS with information related to the client's eligibility and requests anonymity, ~~that the worker does not record the person's name is not recorded~~ in the case record ~~nor revealed~~ nor reveal the person's name to the client.

(E) ~~The~~ When the collateral contact provides information related to the client's eligibility that conflicts with information provided by the client, the worker is responsible for discussing with gives the client any inconsistent information obtained from collateral contacts related to the client's eligibility. The client is given the opportunity to clear up conflicting information resolve the inconsistency when possible.

(3) **Public records.** ~~Sources of~~ The worker may obtain information in the form of from public records ~~that provide essential information may be obtained that affects the person's eligibility without obtaining the person's consent from any person whose transactions are involved.~~

(4) **Data exchange.** Automated data exchange with other agencies provides DHS with benefit, wage, tax information, and verification of regarding household members' benefits, wages, taxes, Social Security numbers, and current addresses. The system compares information obtained is electronically ~~compared~~ with data stored within ~~OKDHS~~ DHS electronic records to determine if there are discrepancies ~~that need~~ to be addressed. Automated data exchange information is also available within the ~~OKDHS~~ DHS system to determine discrepancies. Refer to OAC 340:65-1-2 for information regarding practices for safeguarding case information and raw tax data. The worker is responsible for:

(A) reviewing data exchange information at ~~the time of application and review of eligibility renewal.~~ Data Available data exchange information screens ~~available are~~ include:

- (i) Beneficiary and Earnings Data Exchange System (BENDEX);
- (ii) Buy-In Data Exchange (BIL);
- (iii) Supplemental Security Income (SSI)/State Data Exchange System (SDX);
- (iv) Social Security Administration (SSA) Beneficiary Earnings Exchange Record (BEER/BWG);
- (v) New Hire Employee list (NHL);
- (vi) Social Security Number (SSN) Verification - SSN Enumeration;
- (vii) Wage Data Exchange;
- (viii) Unemployment compensation; and
- (ix) Unearned Income Eligibility Verification System (IEVS) income report (IEVS-IRS) and resource data from the Internal Revenue Service (IRS);

(B) initiating appropriate queries; and

(C) resolving data exchange discrepancy messages within 45-calendar days of the date the message is posted on the data exchange inquiry screen.

(5) **Systematic Alien Verification for Entitlement (SAVE).** All applicants and recipients of the TANF, SoonerCare (Medicaid), Supplemental Nutrition Assistance Program (SNAP), Low Income Home Energy Assistance Program (LIHEAP), State Supplemental Payment (SSP), and Child Care Subsidy Program benefits are required to declare their citizenship status. Persons who declare themselves or their minor child non-citizens must present documentation of their legal alien status from the United States Citizenship and Immigration Services (USCIS) or other acceptable source. The status, as determined from the documentation, must be verified through the Alien Status Verification Index (ASVI) maintained by USCIS.

(6) **Workers' compensation.** ~~Family Support Services Division (FSSD)~~ AFS staff reviews copies of all Workers' Compensation Court documents by matching SSNs with ~~OKDHS~~ DHS records. Any court action that appears to potentially impact eligibility is forwarded to the servicing ~~OKDHS~~ DHS office for clearance. ~~A copy of the document is retained in the case record.~~

(7) **Birth verification.** For persons born in Oklahoma, ~~OKDHS~~ DHS has an agreement with the Oklahoma State Department of Health to electronically verify birth ~~electronically~~ for persons with an open SoonerCare (Medicaid) benefit.

(8) **Food stamp disqualification (FSD).** When a client has ~~been~~ is disqualified for SNAP food benefits due to fraud, the FSD screen shows the date the disqualification began and the length of the disqualification period.

[OAR Docket #16-575; filed 6-16-16]

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

[OAR Docket #16-576]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

- Subchapter 1. General Provisions of Child Welfare Services
- Part 10. Oklahoma Children's Services (OCS)
 - 340:75-1-150 [AMENDED]
 - 340:75-1-151.1 [AMENDED]
 - 340:75-1-151.2 [AMENDED]
 - 340:75-1-152 [AMENDED]
 - 340:75-1-152.3 [AMENDED]
 - 340:75-1-152.5 [AMENDED]
 - 340:75-1-152.6 [AMENDED]
 - 340:75-1-152.7 [AMENDED]
 - 340:75-1-152.9 [AMENDED]
 - 340:75-1-154 [AMENDED]
 - 340:75-1-155 [AMENDED]
- Subchapter 6. Permanency Planning
- Part 5. Permanency Planning Services
 - 340:75-6-30 [AMENDED]
 - 340:75-6-31.4 [AMENDED]
- Part 7. Family and Child Individualized Service Planning Components
 - 340:75-6-40.3 [AMENDED]
- Part 8. Child Welfare Specialist Role
 - 340:75-6-48 [AMENDED]

- Part 11. Permanency Planning and Placement Services
 - 340:75-6-88 [AMENDED]
 - Subchapter 8. Therapeutic Foster Care and Developmental Disabilities Services
 - Part 3. ~~DDSD~~ DDS Services for Children in Custody
 - 340:75-8-35 [REVOKED]
 - 340:75-8-36 [AMENDED]
 - 340:75-8-37 [AMENDED]
 - 340:75-8-38 [AMENDED]
 - 340:75-8-39 [AMENDED]
 - 340:75-8-40 [AMENDED]
 - Subchapter 11. Child Welfare Community-Based Residential Care
 - Part 17. Contracted Community-Based Residential Care Providers
 - 340:75-11-233 [AMENDED]
 - 340:75-11-234 [AMENDED]
 - 340:75-11-236 [AMENDED]
 - 340:75-11-238 [AMENDED]
 - Part 19. Residential Diagnostic and Evaluation Services [REVOKED]
 - 340:75-11-250 [REVOKED]
 - Part 21. Residential Intensive Treatment Services
 - 340:75-11-265 [AMENDED]
 - Part 22. Substance Abuse Treatment Services
 - 340:75-11-275 [AMENDED]
 - Part 23. Specialized Community Homes
 - 340:75-11-286 [AMENDED]
 - 340:75-11-287 [AMENDED]
 - 340:75-11-289 [AMENDED]
 - Part 25. Non-Funded and Funded Contracted Level B Placements
 - 340:75-11-300 [AMENDED]
 - 340:75-11-301 [AMENDED]
 - Part 27. Residential Maternity Services
 - 340:75-11-321 [AMENDED]
 - 340:75-11-322 [AMENDED]
 - Part 29. ~~Non-Funded and Funded~~ Contracted Level C Placements
 - 340:75-11-330 [AMENDED]
 - Part 31. Contracted Level D Placements
 - 340:75-11-350 [AMENDED]
 - Subchapter 15. Adoptions
 - Part 14. Post Adoption Services
 - 340:75-15-128.4 [AMENDED]
 - Subchapter 16. ~~Mental Behavioral~~ Health Treatment Services
 - Part 1. Inpatient ~~Mental Behavioral~~ Health Treatment
 - 340:75-16-28 [AMENDED]
 - 340:75-16-30 [AMENDED]
 - 340:75-16-32 [AMENDED]
 - 340:75-16-33 [AMENDED]
 - 340:75-16-36 [AMENDED]
 - 340:75-16-37 [AMENDED]
 - 340:75-16-38 [AMENDED]
 - Part 3. Outpatient Behavioral Health Care Services
 - 340:75-16-45 [AMENDED]
 - 340:75-16-46 [AMENDED]
 - Subchapter 19. Working with Indian Children
 - 340:75-19-3 [AMENDED]
 - 340:75-19-5 [AMENDED]
 - 340:75-19-6 [AMENDED]
 - 340:75-19-7 [AMENDED]
 - 340:75-19-8 [AMENDED]
 - 340:75-19-11 [AMENDED]
 - 340:75-19-12 [AMENDED]
 - 340:75-19-13 [AMENDED]
 - 340:75-19-14 [AMENDED]
 - 340:75-19-19 [AMENDED]
 - 340:75-19-20 [AMENDED]
 - 340:75-19-23 [AMENDED]
 - 340:75-19-26 [AMENDED]
 - 340:75-19-26.1 [AMENDED]
 - 340:75-19-28 [AMENDED]
 - 340:75-19-29 [AMENDED]
 - 340:75-19-30 [AMENDED]
 - 340:75-19-32 [AMENDED]
 - 340:75-19-33 [AMENDED]
- (Reference WF 15-10)**

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AUTHORITY:

Director of Human Services; Section 162 of Title 56 of the Oklahoma Statutes (56 O.S. § 162); Chapter 75 Subchapter 1: 10A O.S. § 1-9-110; Chapter 75 Subchapter 6: 10A O.S. §§ 1-3-102, 1-4-203 and 1-4-204, 1-4-704, 1-4-707, 1-4-709 through 1-4-711, 1-4-807, 1-4-811, 1-7-103 through 1-7-106, 1-7-113; 30 O.S. §§ 1-101 et seq.; 43A O.S. §§ 118 and 119; 20 U.S.C. §§ 1400 through 1461; 42 U.S.C. §§ 671 and 673; Chapter 75 Subchapter 11: 10A O.S. §§ 1-1-102, 1-2-101, 1-3-102, 1-6-107, 1-7-103, 1-7-105, and 1-9-119; 70 O.S. § 1-113; Chapter 75 Subchapter 16: 10A O.S. § 1-7-103; 43A O.S. §§ 5-501 through 5-513 and 5-521; Chapter 75 Subchapter 19: 10 O.S. §§ 40 through 40.9; 10A O.S. §§ 1-4-503, 1-6-101 through 1-6-103, and 1-7-112; 19 U.S.C. § 1151; 25 U.S.C. §§ 1911 through 1915; 43 U.S.C. §§ 1602 and 1606.

SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:

March 25, 2016

COMMENT PERIOD:

February 16, 2016 through March 16, 2016

PUBLIC HEARING:

March 25, 2016

ADOPTION:

March 25, 2016

SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:

March 25, 2016

APPROVED BY GOVERNOR'S DECLARATION:

Approved by Governor's declaration on June 9, 2016

FINAL ADOPTION:

June 9, 2016

EFFECTIVE:

September 15, 2016

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

ANALYSIS:

The proposed revisions to Chapter 75 Subchapter 1 amend rules of Oklahoma Children's Services (OCS) to cite the statute that guides OCS, streamline the referral process, and clarify OCS case protocols. The proposed revisions to Chapter 75 Subchapter 6 amend child permanency planning rules to update: (1) requirements for child visitation with parents, siblings, and community connections and Title IV-E kinship guardianship assistance to comply with federal law per House Resolution 4980 (2014); (2) references to assessment of child safety and preliminary inquiry; and (3) definitions regarding medical services for custody children. The proposed revisions to Chapter 75 Subchapter 8 amend rules to update policy governing the delivery of Developmental Disabilities Services (DDS) to children in the custody of the Oklahoma Department of Human Services (DHS) custody.

The proposed revisions to Chapter 75 Subchapter 11 amend community-based residential care (CBRC) rules to: (1) align with other Child Welfare Services (CWS) policy; and (2) outline roles and responsibilities that changed due to Pinnacle Plan implementation.

The proposed revisions to Chapter 75 Subchapter 15 amend post-adoption special needs policy to update definitions to align with federal reporting requirements, Adoption and Foster Care Analysis and Reporting System (AFCARS).

The proposed revisions to Chapter 75 Subchapter 16 amend mental health treatment services rules to: (1) reflect changes in Oklahoma Health Care Authority policy regarding psychiatric services; and (2) outline roles and responsibilities that changed due to Pinnacle Plan implementation.

The proposed revisions to Chapter 75 Subchapter 19 amend working with Indian children rules to include changes developed in consultation with the tribes and DHS reorganization of the tribal program unit.

CONTACT PERSON:

Dena Thayer, Programs Administrator, Office of Intergovernmental Relations and Policy, Oklahoma Department of Human Services, 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, 2016:

SUBCHAPTER 1. GENERAL PROVISIONS OF CHILD WELFARE SERVICES

PART 10. OKLAHOMA CHILDREN'S SERVICES (OCS)

340:75-1-150. Oklahoma Children's Services

Oklahoma Children's Services (OCS) is a community-based contracted services program authorized by Section 1-9-110 of Title 10A of the Oklahoma Statutes (10A O.S. § 1-9-110) available throughout Oklahoma. Contracts are awarded to one lead agency in each of the five Oklahoma Department of Human Services (~~OKDHS~~)(DHS) Child Welfare Services ~~service~~ regions. OCS offers services designed to help ensure and enhance the safety, well-being, and social functioning of the child and the child's family. The OCS service components include:

- (1) Comprehensive Home-Based Services (~~CHBS~~); and
- (2) Parent Aide Services(~~PAS~~).

340:75-1-151.1. Oklahoma Children's Services (OCS) contracting agency's request to rejeetrefuse a referral

The ~~Oklahoma Children's Services (OCS)~~ contractor has no right to refuse referrals or disrupt service provision without consultation with and approval of the child welfare (CW) specialist, CW supervisor, and the OCS contract liaison.

340:75-1-151.2. Oklahoma Children's Services (OCS) emergency service response

~~Oklahoma Children's Services (OCS)~~ may be initiated on an emergency basis with verbal authorizationapproval from the OCS contract liaison.

340:75-1-152. Oklahoma Children's Services (OCS) waiting list

When ~~eases referred to OCS~~ referrals for Comprehensive Home-Based Services or Parent Aide Services exceed the contractor's service capacity, waiting lists are maintained by both the contractor and the OCS contract liaison (OCSL). The contractor provides weekly updates to the ~~OCS contract liaison~~ OCSL on the status of the waiting list status and provides consultation on prioritization of referrals for assignment as openings become available.

340:75-1-152.3. Oklahoma Children's Services (OCS) initiation, transfer staffings, ongoing staffings, and family team meetings (FTM)

The Oklahoma Children's Services (OCS) contractor notifies the ~~Child Welfare~~ child welfare (CW) worker specialist, CW supervisor, and ~~(OCS) contract liaison of the~~ the referral status by email within ~~24 business hours~~ one-business day of receipt of the ~~authorized copy of Form 04MP032E, Referral for Contracted Service~~ approved referral for Comprehensive Home-Based Services or Parent Aide Services. The OCS contractor provides the name of the contract case manager or parent aide assigned referral responsibility for the referral. When the referral is placed on a waiting list, the contractor follows procedures in ~~OAC~~ Oklahoma Administrative Code 340:75-1-152.

340:75-1-152.5. Request for extended Oklahoma Children's Services (OCS)

~~Oklahoma Children's Services contracted services are concluded before the standard six-month Comprehensive Home-Based Services (CHBS) and Parent Aide Services (PAS) service period expires, unless the family is in crisis or new safety concerns arise as the case is terminating warranting an extension~~ are initially approved for a six-month service period. Approval for an extension of CHBS and PAS can be requested when the family is in crisis or new safety concerns arise.

340:75-1-152.6. Comprehensive Home-Based Services maintenance level services

Maintenance level ~~Comprehensive Home-Based Services (CHBS):~~

- (1) ~~are authorized~~ approved by the Oklahoma Children's Services contract liaison when a family:
 - (A) ~~has~~ achieved most of the risk-related goals; or
 - (B) is required to participate in other ongoing services as part of a ~~child welfare treatment and service plan~~ an individualized service plan or court order; and
- (2) requires a minimum of ~~a one-hour, monthly contractor face-to-face contact with meeting~~ by the contractor each month with the primary caregiver and the child five-5 years of age or younger. Additional visits ~~with a paraprofessional~~ with a paraprofessional, when appropriate.

340:75-1-152.7. Oklahoma Children's Services (OCS) case suspension or early termination of services

(a) ~~OCS case suspension. Oklahoma Children's Services (OCS) Comprehensive Home Based Services (CHBS) or Parent Aide Services (PAS) may be suspended when a family member is temporarily unavailable to participate in services such as when a participant is scheduled for inpatient drug and alcohol treatment, surgery, during planned trips away from home, or when reunification with the child has been delayed.~~

(b) **Early termination of OCS services.** The OCS contract case manager or the parent aide may recommend early termination of ~~OCS CHBS~~ Comprehensive Home-Based Services or ~~PAS~~ Parent Aide Services after consulting the contract supervisor when:

- (1) case goals are met;
- (2) further progress is unlikely; or
- (3) services are not effective in improving protective capacities.

340:75-1-152.9. Oklahoma Children's Services (OCS) contractor's notification to Child Welfare Services (CWS) of increased risk

The ~~Oklahoma Children's Services (OCS)~~ contract case manager (CCM) and parent aide are required to submit a Critical Incident Report (CIR) to ~~Child Welfare Services (CWS)~~ when the safety or well-being of a child participating in ~~an (OCS) program~~ Comprehensive Home-Based Services or Parent Aide Services is in question.

- (1) The CIR is ~~a risk alert~~ documented in KIDS as a notification that may require protective action by ~~OKDHS~~ the Oklahoma Department of Human Services and a determination as to whether contract services will continue.
- (2) When the CW specialist has prior knowledge of the child safety risk circumstances, the CIR is not used. For example, a CIR is not required when the information is disclosed to the CCM or parent aide by CW staff or when the CCM or parent aide and CW specialist were both present when the new safety risk was identified.

340:75-1-154. Special funding Funding for the purchase of goods and services for active open Oklahoma Children's Services cases

Special funding is available for the purchase of concrete goods and services necessary for the family participating in Oklahoma Children's Services. Each contractor ~~has special funds budgeted in the contract for utilization only when assistance from other community resources is unavailable or cannot be accessed in a timely manner to resolve family crisis situations~~ authorizes special funds when assistance from other community resources is unavailable or cannot be accessed in a timely manner to resolve crisis situations.

340:75-1-155. Role of the Oklahoma Department of Human Services (OKDHS)(DHS) Oklahoma Children's Services (OCS) contract liaison

The ~~OKDHS~~ DHS OCS contract liaison screens and ~~authorizes~~ approves or denies referrals to ~~for~~ Comprehensive Home-Based Services and Parent Aide Services.

SUBCHAPTER 6. PERMANENCY PLANNING

PART 5. PERMANENCY PLANNING SERVICES

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340:75-6-30. Child's visitation with parents and siblings

(a) **Visitation is a right.** The child and parent have a right to regular visitation when the child is in Oklahoma Department of Human Services (~~OKDHS~~) (DHS) custody and in an out-of-home placement.

(1) A court may not deny visitation based solely on the failure of a parent to prove that the parent has not used legal or illegal substances or complied with an aspect of the court-ordered individualized service plan per Section 1-4-707 of Title 10A of the Oklahoma Statutes (10A O.S. § 1-4-707).

(2) When the court determines reunification services are appropriate for the child and parent, the court allows reasonable visitation with the parent or legal guardian from whose custody the child was removed, unless visitation is not in the best interests of the child, taking into consideration the child's:

- (A) physical safety;
- (B) need for protection from traumatizing contact with the parent or sibling or contact that could endanger the child's life; and
- (C) expressed wishes.

(b) **Frequency of parent-child visitation.** Per 10A O.S. § 1-7-105, the child has the right to communicate and visit with his or her family, kin, and community on a regular basis, ~~and to communicate with persons in the community~~ provided the communication or visitation is in the best interests of the child.

(1) Family visitation begins no later than ~~one week~~ seven-calendar days after the child's removal from the home.

(2) A visitation schedule that considers the child's needs is developed and includes ~~more than one time per~~ minimum of two times per calendar month visitation thereafter until the child is returned or the permanency plan is no longer reunification.

(3) Exceptions to the frequency of visitation, including the termination of visitation are made when the:

- (A) parent fails or declines to cooperate with visitation arrangements;
- (B) court orders no visitation;
- (C) whereabouts of the parent is unknown despite continuous attempts to locate;
- (D) visitation, even when supervised, endangers or is determined ~~by a behavioral health professional to submit the child to highly damaging psychological stress~~ not to be in the child's best interest;
- (E) court orders a different visitation frequency; or
- (F) the permanency plan is not reunification.

(c) **Child's mail and phone contacts.** Per 10A O.S. § 1-7-105, a child has 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 or ~~if~~ when authorized by the court for the child's protection ~~of the child~~.

(1) The child's contact with the child's parent, extended family, and friends through phone calls, email, social

media, and ~~letters~~ mail is encouraged. The child's phone calls, email, ~~mail~~, social media, and ~~phone calls~~ mail are not monitored or restricted unless done so for the child's protection.

(2) Restrictions to mail and phone contact ~~are only~~ occur when court-ordered and may be considered when:

- (A) threats are made to the child;
- (B) the contact causes harm to the child's emotional well-being;
- (C) there is an attempt to influence the child's testimony; or
- (D) an attempt is made to undermine a present or future placement.

(d) **Child's contact with siblings.** Per Section 471(a)(31) of the Social Security Act (42 U.S.C. § 671(a)(31)), 10A O.S. §§ 1-4-807 and 1-4-811, and ~~OAC~~ Oklahoma Administrative Code 340:75-6-85.3, ~~OKDHS~~ DHS makes ongoing reasonable efforts to place sibling groups, ~~who have been removed, together in both temporary and permanent placements. When joint placement of siblings is unsafe or contrary to the child's well-being, DHS must justify and document the justification for the decision, make monthly efforts to resolve the barriers to joint placement, provide frequent visitation, and arrange for ongoing interaction.~~ When this is not possible, on going Frequent contact, such as face-to-face visitation, phone calls, email, social media, letters, or email/mail contact between siblings is arranged, when appropriate. DHS must make efforts to resolve barriers to joint placement and visitation a minimum of once a month.

(e) **Child's visits and contacts with relatives and others.** When a child is in ~~OKDHS~~ emergency, temporary, or permanent ~~DHS~~ custody, ~~requests for visitation or contact from with relatives, extended family members, or others are evaluated considering information from the child's parent and the significance of the relationship to the child's well-being or other community connections is encouraged whenever it is safe and in the child's best interest.~~

340:75-6-31.4. Permanent Legal guardianship

(a) **Permanent guardianship established pursuant to the Oklahoma Children's Code.** The court may establish a permanent guardianship between a child and a relative or other adult per Sections 1-4-709 and 1-4-710 of Title 10A of the Oklahoma Statutes (10A O.S. §§ 1-4-709 and 1-4-710) when the guardianship is in the child's best ~~interests~~ interest and when all conditions listed in 10A O.S. § 1-4-709 are substantially satisfied. When the child is in Oklahoma Department of Human Services (~~OKDHS~~) (DHS) custody, ~~OKDHS~~ DHS conducts an assessment of the proposed guardian's home and provides a report to the court regarding:

- (1) the suitability of the proposed guardian; and
- (2) whether guardianship is in the child's best interests.

(b) **Filing the 10A permanent guardianship motion.** The district attorney or child's attorney is responsible for filing a motion for permanent guardianship with the juvenile court in the deprived case and the prospective guardian signs the verification of the information contained in the motion for permanent guardianship per 10A O.S. § 1-4-710.

(1) ~~When it is necessary to file for a Title 30 guardianship, the proposed guardian has the responsibility to obtain an attorney for this purpose.~~

(2) ~~A limited monetary reimbursement for the legal fees and costs associated with a Title 30 guardianship is available to an attorney when the attorney represents a proposed relative guardian in the transfer of legal responsibility of the child to the relative.~~

(c) Filing the Title 30 guardianship proceeding. The court must authorize a Title 30 guardianship to be filed following a determination by the court that a return home or adoption is not an appropriate permanency option for the child. When it is necessary that a Title 30 guardianship be filed in order for the child to achieve the permanency plan of guardianship, the proposed guardian has the responsibility to obtain an attorney for this purpose. Per 10A O.S. § 1-4-101, the written consent of the judge presiding over the deprived case must be obtained and filed in the Title 30 guardianship case prior to the guardian being appointed for the child. Limited monetary reimbursement for attorney fees and costs is available when the attorney represents a proposed relative guardian in a Title 30 guardianship proceeding.

(ed) Types of permanent guardianship assistance funding available. ~~Permanent guardianship~~ Guardianship assistance for a Title 10A or Title 30 guardianship may be funded through the:

- (1) Temporary Assistance for Needy Families (TANF) Supported Permanency Program;
- (2) Title IV-E Subsidized Guardianship Program; or
- (3) state.

(de) Requirements for permanent guardianship without benefits. A ~~permanent~~ guardianship may be established without accessing a benefit funding source when the:

- (1) guardianship is in the child's best interests; and
- (2) conditions listed in 10A O.S. § 1-4-709 are substantially satisfied for a Title 10A guardianship; or
- (3) the court authorized a Title 30 guardianship be filed when the court determined a return home or adoption is not an appropriate permanency option for the child.

(ef) Requirements for permanent guardianship with TANF Supported Permanency Program benefits.

(1) A ~~permanent~~ guardianship may be established with TANF Supported Permanency Program benefits subject to the availability of funds and ~~OKDHS~~ DHS approval when the:

- (A) guardianship is in the child's best interests;
- (B) conditions listed in 10A O.S. § 1-4-709 are substantially satisfied for a Title 10A guardianship or a return home or adoption is not an appropriate permanency option for the child when a Title 30 guardianship was authorized by the court;
- (C) child in ~~OKDHS~~ DHS custody is placed in a paid kinship foster home with a relative who resides in Oklahoma and the relative meets the specified degree of relationship as defined by the TANF program, per Oklahoma Administrative Code (OAC) 340:10-9-1(a);

(D) child is 12 years of age or older or has a sibling 12 years of age or older who resides in the same relative foster home. The deputy director for programs may, for good cause, approve supported permanency for a child 8 years of age through 11 years of age and his or her sibling when the child has no older eligible sibling;

(E) court makes a finding that termination of the parent's rights is either not legally possible or not in the best interests of the child or adoption is not the permanency plan for the child;

(F) relative meets requirements for approval as ~~an OKDHS~~ a DHS foster home;

(G) child is currently residing with the relative in Oklahoma and has been for four of the previous six months;

(H) relative is willing to assume legal responsibility for the child; and

(I) court and, when appropriate, the child are in agreement with the plan for the relative to obtain legal responsibility for the child.

(2) ~~The~~ TANF Supported Permanency Program assistance includes:

(A) a limited monetary reimbursement to an attorney representing a prospective relative guardian for the legal fees and costs incurred in the transfer of legal responsibility for the child from ~~OKDHS~~ DHS to the relative;

(B) a monthly payment standard for the child, per ~~OKDHS~~ DHS Appendix C-1, Maximum Income, Resource, and Payment Standards, Schedule XVII;

(C) a Medicaid card for the child's medical care; and

(D) an assigned Adult and Family Services worker who provides referrals for services, when needed.

(fg) Requirements for permanent guardianship with Title IV-E Subsidized Guardianship benefits.

(1) A ~~permanent~~ guardianship may be ~~established with~~ eligible for Title IV-E ~~Subsidized~~ guardianship assistance when:

(A) the guardianship is in the child's best interests;

(B) all conditions listed in 10A O.S. § 1-4-709 are substantially satisfied for a Title 10A guardianship or a return home or adoption is not an appropriate permanency option for the child when a Title 30 guardianship was authorized by the court;

(C) the child meets eligibility for Title IV-E ~~relative~~ kinship guardianship assistance payments ~~under~~ per Section 473(d)(3)(A) of Title IV-E of the Social Security Act (42 U.S.C. § 673(d)(3)(A)). The relative may reside in or out-of-state but must meet the specified relationship per OAC 340:75-7-24;

(D) the child ~~has been~~ was removed from his or her home pursuant to a voluntary placement agreement or as a result of a judicial determination that continuation in the home ~~would be~~ is contrary to the child's welfare and the child is Title IV-E eligible, per OAC 340:75-13-13 for at least six consecutive months;

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- (E) the child is a sibling to a child eligible for, or receiving Title IV-E ~~relative kinship~~ guardianship assistance, and is residing or planning to reside in the same placement;
- (F) the child is 12 years of age or older or has a sibling 12 years of age or older who resides in the same relative foster home. The deputy director may, for good cause, approve Title IV-E ~~relative kinship~~ guardianship assistance payments for a child 8 years of age through 11 years of age and his or her sibling when the child has no older, eligible sibling;
- (G) termination of the parent's rights is either not legally possible or not in the child's best interests ~~of the child~~ or adoption is not the permanency plan for the child;
- (H) the relative has completed requirements to be an approved ~~OKDHS/DHS~~ or tribal foster home;
- (I) the child is currently residing with the relative and has been for six consecutive months;
- (J) the relative is willing to assume legal responsibility for the child and has a strong commitment to permanently care for the child;
- (K) the child who is 14 years of age or older ~~has been~~ was consulted regarding the kinship guardianship arrangement;
- (L) the child demonstrates a strong attachment to the prospective relative guardian; and
- (M) ~~a written agreement~~, Form 04MP049E, Title IV-E Subsidized Guardianship Agreement, is signed prior to the transfer of legal responsibility by ~~OKDHS/DHS~~ and the prospective relative guardian, outlining the assistance provided to the relative guardian.
- (2) The Title IV-E Subsidized Guardianship agreement outlines the assistance provided to the relative that includes:
- (A) a limited monetary reimbursement to an attorney representing the prospective relative guardian when a Title 30 instead of a Title 10A guardianship is filed for legal fees and costs incurred in the transfer of legal responsibility of the child to the relative;
- (B) a monthly payment standard for the child, per ~~OKDHS/DHS~~ Appendix C-20, Child Welfare Services Rates Schedule;
- (C) the manner in which the payment may be adjusted periodically, in consultation with the relative guardian, based on the circumstances of the relative guardian and the child's needs;
- (D) a Medicaid card for the child;
- (E) a right to a fair hearing per OAC ~~340:75-1-12.4~~ 340:75-1-12.6;
- (F) the additional services and assistance for which the child and relative guardian are eligible under the agreement;
- (G) the procedure by which the relative guardian applies for additional services; and
- (H) assurance the agreement will remain in effect if the relative guardian moves to another state.
- (3) The child's case plan describes:
- (A) how the child meets the eligibility requirements;
- (B) the steps ~~OKDHS/DHS~~ took to determine that a return to the home or adoption is not appropriate and termination of the parent's rights is either not legally possible or not in the child's best interests ~~of the child~~;
- (C) the efforts ~~OKDHS/DHS~~ made to discuss adoption with the child's relative foster parent and the reasons why adoption by the relative foster parent is not an option;
- (D) the reason a permanent placement with a prospective relative guardian and receipt of a guardianship assistance payment is in the child's best interests;
- (E) the DHS efforts ~~made by OKDHS~~ to discuss with the child's parent the ~~relative kinship~~ guardianship assistance arrangements or why efforts were not made; and
- (F) when the child's placement with the prospective relative guardian does not include siblings, a description of the reasons the child is separated from siblings during placement.
- (h) **Successor guardian and eligibility for Title IV-E guardianship assistance.** Per 42 U.S.C. § 673(d)(3)(C), in the event of the death or incapacity of the relative guardian, the eligibility of a child for a kinship guardianship assistance payment under this subsection is not affected by reason of the replacement of the relative guardian with a successor legal guardian named in the Title IV-E kinship guardianship assistance agreement.
- (gi) **Requirements for a permanent guardianship with state-funded benefits.**
- (1) A ~~permanent~~ guardianship may be established with state-funded assistance, when:
- (A) the guardianship is in the child's best interests;
- (B) all conditions listed in 10A O.S. § 1-4-709 are substantially satisfied for a Title 10A guardianship or a return home or adoption is not an appropriate permanency option for the child when a Title 30 guardianship was authorized by the court;
- (C) the child is not eligible for TANF Supported Permanency Program or ~~the~~ Title IV-E Subsidized Guardianship; and
- (D) the deputy director for programs, for good cause, approves state-funded payments to the guardian for the benefit of the child.
- (2) The state-funded benefit is a monthly payment standard for the child, per ~~OKDHS/DHS~~ Appendix C-20, Child Welfare Services Rates Schedule.
- (hj) **Court may order ordered provisions within the permanent guardianship to provide providing for the child's safety and well-being.** Per 10A O.S. § 1-4-710, the court, upon finding ~~that~~ grounds exist for a permanent guardianship, may order visitation with the parent, siblings, or other relatives of the child when contact is in the child's best interests, and any other provision necessary to provide for the child's continuing safety and well-being.

(ik) **Child support ordered with permanent guardianship.** Per 10A O.S. § 1-4-710, the court orders the parent to contribute to the support of the child pursuant to child support guidelines, as provided in per 43 O.S. §§ 118 and 119.

(jl) **Permanent guardianship placement not supervised by OKDHS/DHS.** Per 10A O.S. § 1-4-710, the order appointing a permanent guardian may not require OKDHS/DHS supervision of the placement.

(km) **Permanent guardianship placement review period.** Per 10A O.S. § 1-4-710, the permanent guardianship order:

- (1) requires the placement be reviewed within one year after transfer;
- (2) requires the permanent guardian to submit records or reports the court deems necessary for the one year review; and
- (3) does not require periodic reviews by the court after the one year review when the parties and court agree the reviews are not necessary to serve the child's best interests of the child, unless periodic reviews are otherwise required by the court.

(hn) **Child returned to OKDHS/DHS custody when permanent guardianship terminated.** When a permanent guardianship, established pursuant to the Oklahoma Children's Code, is terminated due to the guardian's abuse or neglect of the child, death, or inability to care for the child, the court must order the child returned to OKDHS/DHS legal custody pending further hearing.

- (1) OKDHS/DHS develops a new permanency plan for the child to present to the court within 30-calendar days from the permanent guardianship termination date.
- (2) Unless parental rights have been terminated, the child's parent is notified and is entitled to participate in the upcoming permanency planning hearing.
- (3) The court may order that reunification services again be provided to each parent or consider each parent for custody of the child with OKDHS/DHS supervision when the parent can prove conditions previously existing at the time the permanent guardianship was granted have been substantially corrected and reunification is the best alternative for, and in the best interests of the child.

PART 7. FAMILY AND CHILD INDIVIDUALIZED SERVICE PLANNING COMPONENTS

340:75-6-40.3. Family Functional Assessment/Permanency Assessments

(a) **Family functional assessment (FFA).** Form 04KI028E, Family Functional Assessment, is a component of the case plan. The family's strengths and protective factors are evaluated during the family functional assessment to identify resources that may support the family's ability to meet family needs and protect the child. An initial in-depth family assessment begins as soon as possible and is completed within the first 60-calendar days using the earliest date: after the child's removal, the filing of the petition, or the signing of the family service agreement. This assessment process identifies and evaluates the family's strengths, resources, protective factors,

and underlying causes of behavior that create the unsafe conditions.

(1) The family functional assessment FFA, is a tool where all information that is gathered during the in-depth assessment is documented. The FFA incorporates information collected through the safety assessment documented in the initial assessment of child safety, lists all safety threats, identifies any underlying causes of behavior related to those safety threats that led to removal, and integrates the information into a behaviorally-based individualized service plan.

(2) The assessment process is ongoing as information is gathered, obtained, and added to the assessment document.

(b) **Ongoing assessment of child safety.** Evaluating child safety is a primary function of all child welfare specialists during the investigative process and ongoing casework. Safety is assessed by the CW specialist during every contact with the family. The safety evaluation is a continuous process that occurs throughout the life of the case. The ongoing evaluation determines if the behaviors and conditions that led to the child's removal continue to rise to the level of a safety threat and assesses for additional safety threats and for safety as the case progresses and in reunification. This process is documented on Form 04KI030E, Assessment of Child Safety.

(c) **Preliminary inquiry.** A preliminary inquiry is conducted when the child, in an open permanency planning, trial reunification, Interstate Compact on the Placement of Children, or family-centered services case is reported to have a physical injury and the cause of the injury is unknown per Oklahoma Administrative Code 340:75-3-130.

PART 8. CHILD WELFARE SPECIALIST ROLE

340:75-6-48. Oklahoma Department of Human Services (OKDHS)(DHS) contacts with child, placement providers, parents, and service providers

(a) **Foster child/Child visitation required by the Oklahoma Children's Code.** Per Section Sections 1-4-707, 1-7-103, and 1-7-113 of Title 10A of the Oklahoma Statutes, Oklahoma Department of Human Services (OKDHS)DHS:

- (1) visits each foster child in DHS custody a minimum of one time per calendar month, with no less than two visits per quarter in the foster home or out-of-home placement; and
- (2) interviews, or, if when an infant, observes each child alone without the foster parent placement provider or parent present at least one time per quarter month in an environment where the child would be able to talk freely about safety, permanency, and well-being. The foster parent provides or placement provider identifies a place in the home where the child can be interviewed outside of the foster parent's presence. This interview with the child can occur privately. Interviews always include discussing or, when an infant, observing the child's safety, permanency, and well-being.

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(b) ~~Foster child~~Child visitation requirement as of July 1, 2013, and December 1, 2013 following initial placement and subsequent placement changes.

(1) ~~Beginning July 1, 2013, OKDHS visits each child in out of home care in the child's placement a minimum of two times during the child's first month in each placement and one time per month thereafter.~~

(2) ~~Beginning December 1, 2013, OKDHS~~The assigned child welfare specialist visits each child in out of home care~~DHS custody~~ in the child's placement on the day the placement is made, and a minimum of two times per month during the child's first and second month in each placement, and one time per calendar month thereafter.

PART 11. PERMANENCY PLANNING AND PLACEMENT SERVICE

340:75-6-88. Medical services for the child in Oklahoma Department of Human Services (~~OKDHS~~)(DHS)

(a) **Definitions.** The following words and terms, when used in this Section, shall have the following meaning, unless the context clearly indicates otherwise:

(1) **"Consent"** means obtaining approval from a person for the procedure after providing an explanation of the necessity for the procedure involved, any known risks involved, and, when appropriate, any alternative course of care.

(A) **"Informed consent"** means voluntary written consent from a person who received full, accurate, and sufficient information and explanation about a child's medical condition, medication, and treatment to enable the person to make a knowledgeable decision without being subjected to any deceit or coercion.

(B) **"Separate and specific consent"** means a licensed physician, psychiatrist, or other medical professional recommended a treatment or medication and requires an additional consent form provided by the professional be signed to authorize the treatment to occur or medication to be administered.

(C) **"Sufficient explanation"** means information provided and explained in plain language by the prescribing physician or physician's representative to the consent-giver including, but not limited to, the:

- (i) medical care and treatment or the medication;
- (ii) reason for prescribing the treatment or medication and the medication's purpose or intended results;
- (iii) side effects, risks, and contraindications including the effects of stopping the medication;
- (iv) method for administering the treatment or medication and dosage range, when applicable;
- (v) potential drug interactions;
- (vi) alternative treatments;

(vii) behavioral health or other services used to complement the use of the psychotropic medication, when applicable; and

(viii) other treatment interventions considered by the physician that may include, but are not limited to, medical, mental health, behavioral, counseling, or other services.

(2) **"DHS custody"** means a child is in the voluntary, emergency, temporary, or permanent custody of the Oklahoma Department of Human Services (DHS).

(3) **"Medical care or treatment"** means per Section 1-3-102 of Title 10A of the Oklahoma Statutes (10A O.S. § 1-3-102) medical care or treatment that is either extraordinary or routine and ordinary.

(A) Extraordinary medical care and treatment includes, but is not limited to:

- (i) surgery;
- (ii) general anesthesia;
- (iii) blood transfusions; or
- (iv) invasive or experimental procedures.

(B) Routine and ordinary medical care and treatment does not include any type of extraordinary care or treatment and includes, but is not limited to:

- (i) any necessary medical and dental examinations and treatment;
- (ii) medical screenings;
- (iii) clinical laboratory tests;
- (iv) blood testing;
- (v) preventative care;
- (vi) health assessments;
- (vii) physical examinations;
- (viii) immunizations;
- (ix) contagious or infectious disease screenings;
- (x) tests and care required for treatment of illness and injury, including x-rays, stitches, and casts; or
- (xi) the provision of psychotropic medication.

(4) **"Placement provider"** means the person, foster parent, or administrator of a facility providing out-of-home care for a child in DHS custody.

(5) **"Psychotropic medications"** means medications with well-demonstrated efficacy in the treatment of mental disorders through the modification of behavior, mood, and emotions.

(~~a~~b) **Medical services for the child in ~~OKDHS~~DHS custody in out-of-home care.**

(~~1~~) ~~Section 1-7-103 of Title 10A of the Oklahoma Statutes (10A O.S. § 1-7-103) requires OKDHS~~DHS to provide medical care necessary to preserve the child's health of the child in accordance with the provisions of the per Oklahoma Children's Code provisions. The child in ~~OKDHS~~DHS custody receives:

(~~A~~1) Early Periodic, Screening, Diagnosis, and Treatment (EPSDT) screening according to the schedule of frequency, or at a minimum an annual physical exam. In addition, ~~OKDHS~~DHS provides, as soon as practicable, after the filing of the petition, an initial health screening

for each child placed in ~~OKDHS~~DHS emergency custody, to identify any health problems that ~~require~~requiring immediate treatment, ~~diagnosed~~diagnosis of infections and communicable diseases, and ~~evaluate an~~ evaluation of injuries or other signs of abuse or neglect.

~~(B2)~~ a yearly behavioral health or developmental screening, and when recommended a behavioral health or developmental assessment, within 60-calendar days of the screening;

~~(C3)~~ a yearly dental exam when the child is over ~~three~~3 years of age. A child under ~~three~~3 years of age receives dental services as needed;

~~(D4)~~ an initiation of immunizations that are kept current;

~~(E5)~~ a visual and hearing evaluation exam and corrective lenses or hearing ~~aides~~aids, when indicated;

~~(F6)~~ outpatient or inpatient behavioral mental health treatment, when appropriate;

~~(G7)~~ physician's services when the child is sick. This service is not considered a physical exam; and

~~(8)~~ contagious or infectious disease screenings, including Human Immunodeficiency Virus (HIV) exams or testing, are provided as needed or upon request by a placement provider in a manner consistent with the Centers for Disease Control guidelines for time and testing frequency, per Oklahoma Administrative Code 340:75-1-113; and

~~(H9)~~ follow-up and referral services as recommended by a qualified professional.

(bc) Consent for medical services.

~~(1) **Consent.** Consent for medical services is informed consent, requiring an explanation of the necessity for the procedure involved, any known risks involved, and, when appropriate, any alternative course of care.~~

~~(2) **Extraordinary medical care or treatment.** 10A O.S. § 1-3-102 provides that extraordinary medical care and treatment includes, but is not limited to:~~

- ~~(A) surgery;~~
- ~~(B) general anesthesia;~~
- ~~(C) blood transfusions; or~~
- ~~(D) invasive or experimental procedures.~~

~~(3) **Routine and ordinary medical care and treatment.** 10A O.S. § 1-3-102 provides that routine and ordinary medical care and treatment does not include any type of extraordinary care or treatment and includes, but is not limited to:~~

- ~~(A) any necessary medical and dental examinations and treatment;~~
- ~~(B) medical screenings;~~
- ~~(C) clinical laboratory tests;~~
- ~~(D) blood testing;~~
- ~~(E) preventative care;~~
- ~~(F) health assessments;~~
- ~~(G) physical examinations;~~
- ~~(H) immunizations;~~
- ~~(I) eontagious or infectious disease screenings;~~
- ~~(J) tests and care required for treatment of illness and injury, including:~~
 - ~~(i) x-rays; and~~
 - ~~(ii) stitches and casts; or~~

~~(K) the provision of psychotropic medication.~~

(41) ~~OKDHS~~DHS authority to consent to routine and ordinary medical care and treatment.

~~(A) ~~OKDHS~~DHS may consent to routine and ordinary medical care and treatment when the child is in ~~OKDHS~~ voluntary, emergency, temporary, or permanent ~~DHS~~ custody. ~~OKDHS~~DHS makes reasonable attempts, per 10A O.S. § 1-3-102, when the child is in voluntary, emergency, or temporary custody to:~~

- ~~(i) notify the child's parent or legal guardian of the provision of routine and ordinary medical care and treatment; and~~
- ~~(ii) keep the parent or legal guardian involved in the care.~~

~~(B) ~~OKDHS~~DHS may authorize the placement provider, in writing, through the placement provider agreement, any person, foster parent, or administrator of a facility into whose care the child is entrusted to consent to routine and ordinary medical care and treatment to be provided to needed for the child upon the advice of a licensed physician, including the continuation of psychotropic medication. Providers are not granted authority to consent to new psychotropic medications when a separate and specific consent is requested.~~

(52) Consent for extraordinary medical care.

~~(A) No DHS employee is authorized to consent to extraordinary medical care and treatment for any child in DHS voluntary, emergency, temporary, or permanent custody.~~

~~(AB) When the child is in ~~OKDHS~~DHS voluntary, emergency, or temporary custody, consent for the child's extraordinary medical care and treatment is obtained from the parent or legal guardian, unless the:~~

- ~~(i) parent is unavailable to provide consent;~~
- ~~(ii) parent refuses to consent; or~~
- ~~(iii) care and treatment is related to the suspected abuse or neglect.~~

~~(BC) Court authority is required for extraordinary medical care and treatment when the:~~

- ~~(i) child is in ~~OKDHS~~DHS permanent custody;~~
- ~~(ii) parent is unavailable to provide consent;~~
- ~~(iii) parent refuses to provide consent; or~~
- ~~(iv) care and treatment is related to the suspected abuse or neglect.~~

~~(CD) When the recommended extraordinary medical care and treatment is not ~~an~~the result of a life-threatening emergency requiring immediate medical intervention, the court, per 10A O.S. § 1-3-102:~~

- ~~(i) holds a hearing, upon the application of the district attorney and notice to all parties; and~~
- ~~(ii) may authorize the recommended extraordinary care and treatment.~~

~~(DE) ~~OKDHS~~DHS does not, in any circumstance, consent to a child's abortion, sterilization, termination of life support, or a Do Not Resuscitate order. The~~

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court may authorize the withdrawal of life-sustaining medical treatment or the denial of the administration of cardiopulmonary resuscitation on behalf of the child in ~~OKDHS~~DHS custody, upon the written recommendation of a licensed physician, after notice to the parties, and a hearing.

~~(E) No OKDHS employee is authorized to consent to extraordinary medical care and treatment for any child in OKDHS voluntary, emergency, temporary, or permanent custody.~~

(63) Medical consent for child in protective custody.

(A) Per 10A O.S. § 1-3-102, when the child taken into protective custody without a court order, requires emergency medical care prior to the emergency custody hearing, a peace officer, court employee, or the court may authorize treatment as necessary to safeguard the health and life of the child when the:

- (i) ~~the~~ treatment is related to the suspected abuse and neglect;
- (ii) ~~the~~ parent or guardian is unavailable to consent to the treatment recommended by a physician; or
- (iii) ~~the~~ parent or guardian refuses to consent to the treatment recommended by a physician.

(B) Before a peace officer, court employee, or the court authorizes treatment based on the unavailability of the parent or legal guardian, law enforcement exercises diligence in locating the parent or guardian, if when known.

(74) Consent for medical care for the child in his or her own home. The parent, of the child in ~~OKDHS~~DHS custody placed in his or her own ~~home~~home consents to routine and ordinary medical care and treatment and extraordinary medical care and treatment needed by the child. In the event of parental refusal, DHS may consent to routine and ordinary medical care and treatment needed by a child in DHS custody as provided by OAC 340:75-6-88(c)(1). In the event of parental refusal to consent to extraordinary medical care and treatment needed by a child in DHS custody, DHS complies with the procedures set forth in OAC 340:75-6-88(c)(2).

(85) Consent for extraordinary medical care for the child who has traveled out-of-state. When the child is out-of-state and requires extraordinary medical care and treatment, the judge may authorize the physician or medical facility to provide the extraordinary medical care via a verbal or written order.

(96) Experimental medical procedures. Medical procedures that are experimental ~~are~~may not be compensable through Medicaid and are considered to be extraordinary medical care and treatment that must be authorized by the parent or court order.

SUBCHAPTER 8. THERAPEUTIC FOSTER CARE AND DEVELOPMENTAL DISABILITIES SERVICES

PART 3. ~~DDSD~~DEVELOPMENTAL DISABILITIES SERVICES FOR CHILDREN IN CUSTODY

340:75-8-35. Purpose [REVOKED]

~~Children in the Department's custody who meet eligibility requirements for Home and Community Based Waiver services according to OAC 317:40-1-1 are jointly served by Child Welfare and DDSD.~~

340:75-8-36. Identification, application, and needs assessment

(a) Children in Oklahoma Department of Human Services (~~OKDHS~~)DHS custody, who have ~~mental retardation~~ may be eligible for Home and Community Based Waiver Services (HCBS), per OAC 317:40-1-1 an intellectual disability and meet eligibility requirements for Home and Community-Based Services (HCBS), per Oklahoma Administrative Code (OAC) 317:40-1-1, may be jointly served by Child Welfare Services (CWS) and Developmental Disabilities Services (DDS).

~~(b) Child Welfare workers have primary~~The child welfare (CW) specialist has responsibility to make application for ~~Developmental Disabilities Services Division (DDSD)~~DDS services for children in ~~OKDHS~~DHS custody.

~~(bc)~~ A needs assessment for ~~DDSD~~DDS services is initiated by the child's ~~Child Welfare (CW) workers~~specialist at the earliest possible time for the child ~~age three~~3 years of age or older.

(1) ~~DDSD~~DDS area intake staff completes the needs assessment and identifies services necessary to meet the child's needs.

(2) ~~DDSD~~DDS services, when appropriate and when funding is available, may be provided in the child's:

- (A) ~~own~~family home;
- (B) foster home;
- (C) adoptive home; ~~and~~or
- (D) group home per OAC 317:40-1-1.

~~(ed)~~ When the needs assessment determines ~~that~~ the child's needs require ~~HCBS~~HCBS, ~~DDSD~~DDS area staff forwards the completed ~~DDSD~~applicationDDS eligibility packet to the Oklahoma Health Care Authority (OHCA). The completed ~~application~~eligibility packet includes Form ~~06MR001E06MP001E, Application Request for Developmental Disabilities Services, and all required attachments provided by the CW workers~~specialist.

~~(de)~~ OHCA reviews the completed ~~application~~eligibility packet and makes a determination of eligibility for ~~HCBS~~HCBS.

340:75-8-37. ~~CW worker~~Child welfare (CW) specialist responsibilities for a child receiving ~~HCBS~~Home and Community-Based Services (HCBS)

The role and responsibilities of the ~~Child Welfare (CW) workers~~specialist for a child in Oklahoma Department of Human Services (~~OKDHS~~)DHS custody do not change when a child is eligible for or receives ~~Home and Community Based~~

~~Waiver Services (HCBWS)HCBS. The CW workers comply specialist complies with Oklahoma Administrative Code (OAC) 340:75 and supports supports the application for and delivery of Developmental Disabilities Services Division (DDSD) services(DDS). (1) The child's CW county of jurisdiction workers specialist is responsible for:~~

- ~~(A1) applying for Supplemental Security Income (SSI) on behalf of the child per OAC 340:75-13-28 and 340:75-13-29;~~
- ~~(B2) applying for medical services per OAC 340:75-13-61;~~
- ~~(C3) visiting the child in OKDHS/DHS custody in DDSD/DDS placement, when placed in the county of jurisdiction, per OAC 340:75-6-48;~~
- ~~(D4) participating in the development of the child's DDSD/DDS Individual Plan and attending meetings and case staffing as notified by DDSD/DDS case management staff;~~
- ~~(E5) notifying the DDSD/DDS case manager of court hearings and requesting pertinent information for reports to the court; and~~
- ~~(F6) arranging for the child's transportation, in collaboration with the DDSD/DDS case manager, when the child must attend court;~~
- ~~(G) maintaining monthly phone contact, if the child is placed outside the county of jurisdiction, with the CW county of placement worker and updating the worker on the court status and permanency plans; and~~
- ~~(H) maintaining the child's primary case record. When the child is placed outside the county of jurisdiction, the CW county of jurisdiction supervisor assigns secondary case responsibility to the county of placement in KIDS and the CW county of jurisdiction worker forwards a copy of the child's paper case record to the county of placement per OAC 340:75-1-26.~~

~~(2) When the child is placed outside of the county of jurisdiction, the CW county of placement worker:~~

- ~~(A) provides information to the CW county of jurisdiction worker regarding the child's progress and any problems in the DDSD placement;~~
- ~~(B) maintains contact with the child in accordance with OAC 340:75-6-48; and~~
- ~~(C) may attend case staffing and meetings related to the development and subsequent reviews of the child's DDSD Individual Plan.~~

340:75-8-38. DDSD/Developmental Disabilities Services (DDS) case manager responsibilities for a child receiving HCBWS/ Home and Community-Based Services (HCBS)

~~The Developmental Disabilities Services Division (DDSD)/DDS case manager:~~

- ~~(1) provides services to children in Oklahoma Department of Human Services (OKDHS)/(DHS) custody receiving Home and Community-Based Waiver Services (HCBWS)/HCBS;~~

~~(2) identifies team members and includes the referring and county of jurisdiction Child Welfare (CW) workers/child's child welfare (CW) specialist, if different, as team members, in accordance with per Oklahoma Administrative Code (OAC) 340:100-5-52;~~

~~(3) submits copies of any progress reports or information requested for court reports to the CW county of jurisdiction workers specialist;~~

~~(4) notifies the CW county of jurisdiction workers specialist of needed medical consents for pre-planned or emergency medical treatment for children in OKDHS/DHS custody in DDSD/DDS placements; and~~

~~(5) attends court hearings for children in OKDHS custody when requested and notified by the CW worker.~~

340:75-8-39. Child welfare (CW) worker specialist and DDSD/Developmental Disabilities Services (DDS) staff shared responsibilities for a child receiving HCBWS/ Home and Community-Based Services (HCBS)

~~(a) Long-term plan. Child Welfare (CW) and Developmental Disabilities Services Division (DDSD)/DDS staff work together in identifying and developing the best long-term plan for a child in Oklahoma Department of Human Services (OKDHS)/(DHS)-custody who has mental retardation/an intellectual disability. Permanency planning begins immediately after a child enters OKDHS/DHS custody, per Oklahoma Administrative Code (OAC) 340:75-6-31, and continues until the child returns home or an appropriate permanency plan is achieved.~~

~~(b) Guardianship. When a child in OKDHS/DHS custody reaches age 16 years of age, the CW workers specialist and DDSD/DDS case manager review the permanency plan for transition to adulthood and complete a guardianship/capacity assessment in accordance with to determine necessity for an adult guardian, per OAC 340:100-3-5. Guardianship is generally not established prior to age 18 years of age.~~

~~(1) If/When guardianship is determined appropriate for a child who is transitioning from OKDHS/DHS custody to independence, the CW workers specialist coordinates with DDSD/DDS to identify and establish a guardianship relationship for the child.~~

~~(2) The CW workers specialist, DDSD/DDS area guardianship coordinator, and, when applicable, DDSD/DDS volunteer recruiter, assist the potential guardian to petition for guardianship a minimum of 30-calendar days prior to the child's 18th birthday in preparation for a hearing on or immediately following the child's 18th birthday.~~

340:75-8-40. Accessing DDSD services/Developmental Disabilities Services (DDS) for a child with a developmental/an intellectual disability

~~An array of services, support options, and placement settings, designed to meet individual needs exist for a child in~~

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Oklahoma Department of Human Services (~~OKDHS~~) (~~DHS~~) custody who has a ~~developmental~~ intellectual disability. Per Oklahoma Administrative Code (OAC) 340:75-8-36, the child may live with a family or in another community-based setting while receiving ~~Developmental Disabilities Services Division (DDSD) DDS~~ services.

(1) ~~The Child Welfare (CW) county of jurisdiction worker~~ child's child welfare (CW) specialist pursues appropriate placement resources for a child in ~~OKDHS/DHS~~ custody consistent with OAC 340:75-6-40.

(2) Home and Community-Based ~~Waiver~~ Services, arranged by ~~DDSD/DDS~~ staff, ~~are~~ may be available to meet the child's identified needs and may be provided in most placement settings.

(3) Early identification, expedient application, and joint planning between CW and ~~DDSD/DDS~~ staff, facilitate appropriate referrals and service plan development for a child with a developmental disability.

SUBCHAPTER 11. CHILD WELFARE COMMUNITY-BASED RESIDENTIAL CARE SERVICES

PART 17. CONTRACTED COMMUNITY-BASED RESIDENTIAL CARE PROVIDERS

340:75-11-233. Placement of children into more restrictive community-based residential care (CBRC) placements

(a) Sections 1-1-102 and 1-7-103 of Title 10A of the Oklahoma Statutes ~~requires~~ require children in Oklahoma Department of Human Services (~~OKDHS~~) DHS custody be served in the least restrictive setting that meets the treatment needs of each child in the closest geographic proximity as possible to the child's home, per Oklahoma Administrative Code (OAC) 340:75-6-85.

(b) ~~Community-based residential care (CBRC)~~ CBRC placements are more restrictive placement settings than the child's own home, relative's home, or foster family home. The request and referral for the placement of a child in ~~OKDHS/DHS~~ custody in a CBRC placement is made through ~~Children and Family Division (CFSD) Placement Section~~ the Child Welfare Services (CWS) Specialized Placements and Partnerships Unit (SPPU).

(c) Children ~~younger than ten~~ 13 years of age and younger in ~~OKDHS/DHS~~ custody are not placed in CBRC placements, except when maintaining sibling groups together in placement, maintaining a DHS custody parent and child together in placement, or in CBRC placements that provide services to a younger age population due to the child's treatment needs, when an exception is received.

(d) A child in ~~OKDHS/DHS~~ custody residing in a CBRC placement on his or her 18th birthday may receive voluntary

care in his or her CBRC placement after ~~age~~ 18 years of age per OAC 340:75-6-110.

(e) The child's ~~primary~~ primary case assignment remains in the county of jurisdiction.

(f) CBRC placements must:

(1) be licensed by ~~OKDHS/DHS~~ or another approved licensing body, and are either operated by, or under formal contract with ~~OKDHS/DHS~~ ; and

(2) provide appropriate treatment interventions for children that improve the child's functioning level of functioning of children, resulting in a successful discharge to a less restrictive placement, such as his or her own home, relative home, foster family home, therapeutic foster care, adoptive home, or independent living successful adulthood.

(g) CBRC placements are subject to the availability of funds in the ~~OKDHS/DHS~~ budget. ~~CFSD Placement Section~~ CWS SPPU maintains the waiting list for children requiring CBRC placements when the need for CBRC exceeds the availability of CBRC resources.

340:75-11-234. Community-based residential care (CBRC) placement contracts

(a) Contracts for the provision of ~~community-based residential care (CBRC)~~ placements are issued according to rules and procedures ~~found in per Oklahoma Administrative Code (OAC) 340:2-13-10 through 340:2-13-14.18~~ 340:2-13, established by statutory requirements found in Section 85.1 et seq. of Title 74 of the Oklahoma Statutes.

(b) Contracts are monitored on-site, at least annually by the Child Welfare Services Contract Performance Review team, ~~in order~~ to ensure the:

- (1) ~~the~~ contractor's compliance with all contract terms;
- (2) services provided are in compliance with contract terms; and
- (3) clients receive the maximum benefit from the contractual services, ~~per OAC 340:2-13-14.14~~.

(c) As part of weekly visits to the CBRC, child welfare facility liaisons, per OAC 340:75-11-240, monitor for contract compliance.

340:75-11-236. ~~Contract~~ Child welfare (CW) facility liaisons

~~A Child Welfare (CW) worker, in the county where the contracted community-based residential care (CBRC) facility is located,~~ CW specialist from the Specialized Placements and Partnerships Unit is assigned to each CBRC contract community-based residential care (CBRC) provider as the CW facility liaison to the contractor. Duties of the contract CW facility liaison duties are in accordance with the type of CBRC provider per OAC—Oklahoma Administrative Code 340:75-11-239.

340:75-11-238. ~~Child Welfare county of jurisdiction worker's Assigned child welfare (CW) specialist general responsibilities for children placed in community-based residential care (CBRC)~~

The ~~Child Welfare county of jurisdiction worker assigned CW specialist~~ has general responsibilities for children in Oklahoma Department of Human Services custody placed in any CBRC placement.

PART 19. RESIDENTIAL DIAGNOSTIC AND EVALUATION SERVICES [REVOKED]

340:75-11-250. ~~Contracted residential diagnostic and evaluation services [REVOKED]~~

~~(a) A residential diagnostic and evaluation facility that offers a 20-day admission program for children in Oklahoma Department of Human Services (OKDHS) custody, six to 18 years of age, is available to provide a comprehensive assessment of each child admitted. The comprehensive evaluation includes:~~

- ~~(1) a psychological evaluation that addresses the child's:

 - ~~(A) level of emotional development;~~
 - ~~(B) capacity for self control;~~
 - ~~(C) need for supervision;~~
 - ~~(D) specific therapy needs; and~~
 - ~~(E) risk to self, others, and the community;~~~~
- ~~(2) a family and social history evaluation;~~
- ~~(3) an educational evaluation;~~
- ~~(4) a substance abuse evaluation;~~
- ~~(5) a behavioral evaluation;~~
- ~~(6) a speech and hearing evaluation;~~
- ~~(7) a recreational evaluation; and~~
- ~~(8) a medical evaluation, including psychiatric if appropriate.~~

~~(b) All evaluations are completed by professional staff licensed or credentialed in their respective professions. The contractor employs such staff or contracts for professional services.~~

~~(c) The time frame for the completion of the comprehensive assessment of the child is limited to 20 calendar days.~~

- ~~(1) Upon the child's admission, an interdisciplinary staffing that includes the Child Welfare (CW) county of jurisdiction worker is scheduled to be held prior to the 20th day to produce the summary of treatment and placement recommendations.~~
- ~~(2) The provider submits this summary and the individual evaluation reports to the CW county of jurisdiction worker and the contract liaison.~~

~~(d) Psychological or psychiatric intervention is available for children through direct contact with a psychologist or psychiatric consultant. Individual counseling or therapy is provided, as needed, for each child by the contractor's designated social work or counseling staff.~~

~~(e) The provider:~~

- ~~(1) receives referrals of children from the contract liaison;~~

~~(2) considers the age, gender, and presenting behaviors of each child in determining which children share bedrooms to ensure the safety of all children;~~

~~(3) provides a 12-month school on campus. Curriculum provided in the educational setting conforms to the course of instruction approved by Oklahoma State Department of Education. The contractor ensures that educational opportunities are available that meet the child's special educational requirements;~~

~~(4) provides clothing, after initial placement of a child. Emergency funds for clothing may be accessed per OAC 340:75-13-45;~~

~~(5) provides 24-hour on-call and on-site crisis intervention and behavior management services to each child, as needed. Emergency or crisis intervention services include face-to-face encounters with the child to resolve acute emotional dysfunction by providing intervention resolution and stabilizing functions through triage screening, planning, and documentation;~~

~~(6) provides recreation opportunities, directed by a recreation therapist, for each child on a daily basis through a wide range of planned activities, both indoors and outdoors;~~

~~(7) completes a written incident report describing any extreme behavioral incident or major rule violation and includes the contractor's response to the incident. The incident report is maintained in the child's case record and included in the child's behavioral evaluation;~~

~~(8) meets the staffing guidelines defined in the OKDHS contract;~~

~~(9) complies with children's rights per OAC 340:75-11-237;~~

~~(10) complies with all general requirements per OAC 340:75-11-240;~~

~~(11) complies with Part 105 of OAC 317:30-5 for residential behavior management services in group settings and non-secure diagnostic and evaluation centers;~~

~~(12) is reimbursed by OKDHS at a fixed daily rate. The fixed daily rate is a blend of Title IV-E and Title XIX federal funds, per eligibility of each child served, and state funds; and~~

~~(13) submits Form 04CB002E, CFSD Claim for Purchase of Residential Care, for reimbursement to the Children and Family Services Division Administrative Services Unit.~~

PART 21. RESIDENTIAL INTENSIVE TREATMENT SERVICES

340:75-11-265. ~~Contracted residential intensive treatment services (ITS)~~

~~(a) Contracted residential intensive treatment services (ITS) are available to provide crisis stabilization interventions to children in Oklahoma Department of Human Services (OKDHS)(DHS) custody, eight~~8~~ to 18 years of age, who are experiencing a mental-behavioral health or psychiatric crisis to~~

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~~prevent~~ avoid admission to psychiatric care and enable ~~the~~ his or her return to a community-based ~~placement~~ residential care.

(b) Children served by ITS are diagnosed with a serious emotional disturbance, per Oklahoma Administrative Code (OAC) 340:75-11-230:

(1) ~~seriously emotionally disturbed~~ and at imminent risk of admission to acute psychiatric care or a psychiatric residential treatment center (RTC); or

(2) ~~seriously emotionally disturbed~~ with developmental disabilities and/or certified for services through Developmental Disabilities Services ~~Division (DDSD)~~ (DDS); or

(3) in need of crisis stabilization to avoid inpatient psychiatric treatment and maintain community based placement.

(c) Contracted residential ITS are intensive, short-term, individualized, ~~mental behavioral~~ health treatment services for children ~~used as an alternative to admission to an inpatient acute psychiatric setting or RTC~~, and include:

(1) an initial period, a maximum of 72 hours, of crisis stabilization in a crisis residential bed provided by a licensed child-placing agency or a licensed residential child care facility;

(2) crisis stabilization, ~~mental behavioral~~ health services, per Part 105 of OAC 317:30-5, available 24-hours a day, seven-calendar days a week;

(3) 24-hours a day, seven-calendar days per week access by phone to an employee of the contractor so ~~that~~ referrals are made and services are provided in emergency situations;

(4) development of a safety plan ~~for implementation~~ by the child's placement provider for implementation, upon discharge from ITS;

(5) consultation with a psychiatrist or doctoral-level licensed, ~~mental behavioral~~ health professional 24-hours a day, seven-calendar days per week; and

(6) 24-hour on-call and on-site crisis intervention and behavior management services with the child, as needed. Emergency or crisis intervention services include face-to-face encounters with the child to resolve acute emotional dysfunction by providing intervention resolution and stabilizing functions through triage screening, planning, and documentation.

~~(d) The crisis residential beds are provided in a setting licensed as a child placing agency group home or residential child care facility that is not located in:~~

~~(1) a residential facility already under contract with OKDHS for the placement of children in OKDHS custody;~~

~~(2) a residential facility already under contract with Office of Juvenile Affairs (OJA) for the placement of children in OJA custody;~~

~~(3) a hospital, either medical or psychiatric; or~~

~~(4) a psychiatric residential treatment center (RTC).~~

~~(ed) The provider:~~

~~(1) receives referrals of children from the contract child welfare (CW) facility liaison, CW workers specialists, and~~

~~Children and Family Services Division (CFSD) Child Welfare Services (CWS) Specialized Placements and Partnerships (SPPU) programs staff;~~

~~(2) considers the age, gender, and presenting behaviors of each child in determining which children are admitted and share bedrooms; to ensure the safety of all children;~~

~~(3) completes a written incident report describing any extreme behavioral incident or major rule violation, including the provider's response, submits the copy to the child's CW county of jurisdiction worker assigned CW specialist and CW facility liaison, and files the original in the child's case record;~~

~~(4) meets the staffing guidelines defined in the contract;~~

~~(5) complies with children's rights per OAC 340:75-11-237;~~

~~(6) complies with all general requirements per OAC 340:75-11-240;~~

~~(7) complies with Part 105 of OAC 317:30-5 for residential behavior management services in group settings and non-secure diagnostic and evaluation centers;~~

~~(8) submits monthly and annual reports to the CFSD Community Based Residential Care (CBRC) programs manager CWS SPPU program staff to provide an overview of the contractor's activities.~~

~~(A) The monthly report includes:~~

~~(i) significant behavior events of each child;~~

~~(ii) each child's absent without leave (AWOL) days unapproved absence from the program and duration of the time away;~~

~~(iii) total bed days utilized;~~

~~(iv) total bed days not utilized;~~

~~(v) total number of children served during the month;~~

~~(vi) number of children served:~~

~~(I) who are also certified for ~~DDSD~~ DDS services;~~

~~(II) by county of jurisdiction;~~

~~(III) by age;~~

~~(IV) by gender;~~

~~(V) by ethnicity;~~

~~(VI) who were admitted to psychiatric care;~~

~~(VII) in placement for ~~seven~~ three-calendar days or less, and the average length of stay; and~~

~~(VIII) in placement for more than ~~seven~~ three-calendar days, and the average length of stay; and~~

~~(vii) vacancies in contract mandated staffing requirements and other significant program events.~~

~~(B) The annual report, due within 60-calendar days after the end of the contract year, includes ~~the required~~ information listed in OAC 340:75-11-265(e)(8)(A) 340:75-11-265(d)(8)(A) for the total contract year;~~

~~(9) is reimbursed paid by OKDHS DHS at a fixed daily rate. The fixed daily rate is a blend of Title IV-E and Title XIX federal funds, per eligibility of each child served, and state funds; and~~

(10) submits Form 04CB002E, ~~CFSD~~CWS Claim for Purchase of Residential Care, monthly for ~~reimbursement~~payment to ~~CFSD Administrative Services~~the CWS Contracting and Acquisitioning Unit.

PART 22. SUBSTANCE USE OR ABUSE TREATMENT CENTERS

340:75-11-275. Substance use or abuse treatment services

(a) Each substance use or abuse treatment services provider serves a specially defined target population of children both in the custody of Oklahoma Department of Human Services (~~OKDHS~~)(DHS) and those not in the custody of ~~OKDHS~~DHS.

- (1) Children served:
 - (A) are ~~ages~~ 13 years of age ~~to 17.11~~ through 17 years of age;
 - (B) vary by gender and behaviors exhibited;
 - (C) require 24-hour awake supervision; and
 - (D) are ~~voluntary placements~~voluntarily placed and must follow the ~~substance abuse treatment program and complete the 90-calendar day~~ substance use or abuse treatment program.
- (2) ~~The provider provides or obtains~~Services include:
 - (A) substance use or abuse treatmentservices;
 - (B) counseling by a licensed, ~~clinical social worker~~ behavioral health professional; ~~and~~
 - (C) a completed Addiction Severity Index (ASI); ~~and~~
 - (D) ~~along with~~ an evaluation on each youth.

(b) The substance use or abuse treatment services provider must comply with:

- (1) children's rights per ~~OAC~~Oklahoma Administrative Code (OAC) 340:75-11-237;
- (2) all general requirements per OAC 340:75-11-240; and
- (3) ~~any~~ other requirements in the ~~OKDHS~~DHS contract.

PART 23. SPECIALIZED COMMUNITY HOMES

340:75-11-286. Requirements for specialized community home (SCH) contractors

(a) Each ~~specialized community home (SCH)~~SCH contractor serves a specially defined target population of four children in Oklahoma Department of Human Services (~~OKDHS~~)(DHS) custody.

- (1) Children served:
 - (A) vary by age, gender, and behaviors exhibited; and
 - (B) do not require 24-hour awake supervision.
- (2) The contractor provides or obtains:
 - (A) individually focused therapeutic interventions to meet the treatment needs of these children; and

(B) educational and employment opportunities, cultural enrichment, and ~~independent~~living successful adulthood skills consistent with each child's treatment plan.

- (b) The SCH contractor must comply with:
 - (1) children's rights per Oklahoma Administrative Code (OAC) 340:75-11-237;
 - (2) all general requirements per OAC 340:75-11-240; and
 - (3) ~~any~~ other requirements in the ~~OKDHS~~DHS contract.

(c) The SCH applicant must meet the requirements for ~~OKDHS foster homes~~DHSfoster home care, per OAC 340:75-7.

(d) The SCH contractor must meet the requirements described in (1) through (4) of this subsection.

(1) **Education and experience.** The SCH contractor meets one of the education and experience qualifications listed in (A) through (D) of this paragraph.

(A) A Master or Doctor of Philosophy in Social Work degree or other related area of study and one year of direct experience working with children with comparable treatment needs to those requiring treatment in the SCH.

(B) A Bachelor in Social Work degree or other related area of study and two years direct experience working with children with comparable treatment needs to those requiring treatment in the SCH.

(C) An Associate degree in a social service field and four years direct experience working with children with comparable treatment needs to those requiring treatment in the SCH; or

(D) A high school diploma or General Educational Development (GED) and six years of direct experience working with children with comparable treatment needs to those requiring treatment in the SCH plus training hours pertinent to residential child care.

(2) **Outside employment.** The SCH contractor is not allowed other employment outside of the operation of the SCH contract and is not eligible for paid day care.

(3) ~~Respite care provider~~**Alternate caregiver.** During the mutual family assessment process, the SCH contractor identifies a Child Welfare Services (CWS) approved ~~respite care provider~~alternate caregiver, per OAC 340:75-7-65, to provide ~~alternative~~respite care when the SCH provider takes leave from his or her SCH contract responsibilities.

(A) The SCH contractor identifies the ~~respite care provider~~alternate caregiver at the time of the initial assessment. The ~~respite care provider~~alternate caregiver:

- (i) must be at least 21 years of age; and
- (ii) is not ~~an OKDHS~~a DHS foster parent, a ~~Children and Family Services Division (CFSD), Child Welfare (CW), CWS employee, or an Office of Juvenile Affairs (OJA) employee, as the~~respite

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~~care provider alternate caregiver~~ must be available on short notice when the contractor takes leave.

(B) When the SCH contractor takes leave, ~~he or she~~ the contractor selects one of the three options listed in (i) through (iii).

(i) The approved ~~respite care provider alternate caregiver~~ utilizes the SCH to provide ~~alternate respite care~~ respite care. Prior to approving the ~~respite care provider alternate caregiver~~ the ~~CW worker CWS resource specialist~~ in the ~~county region~~ where the SCH home is located:

(I) makes personal contact with the ~~respite care provider alternate caregiver~~ and conducts a personal assessment of the provider to determine his or her ability and willingness to provide alternate care;

(II) discusses SCH policy, per OAC 340:75-11-286 through 340:75-11-289, and foster care policy, per OAC 340:75-7, with the respite care provider;

(III) contacts two references for, and completes the background investigation of the ~~respite care provider alternate caregiver~~ including an Oklahoma State Bureau of Investigation (OSBI) name search, OSBI records search, and a Federal Bureau of Investigation (FBI) records search, and fingerprinting per OAC 340:75-7-15; and

(IV) files the personal assessment of the ~~respite care provider alternate caregiver~~ in the SCH resource record.

(ii) The children go to the home of the approved ~~respite care provider alternate caregiver~~ for alternate care.

(iii) The children go to their own homes or relative homes on planned leave approved by the ~~CW county of jurisdiction workers child's assigned CW specialist~~.

(C) The SCH contractor is:

(i) encouraged to take two weeks, planned time away from the home each year;

(ii) responsible for reimbursing the ~~respite care provider alternate caregiver~~ from ~~his or her the contractor's~~ salary; and

(iii) responsible for training the ~~respite care provider alternate caregiver~~.

(4) **Mandatory training for SCH contractors.** All SCH contractors must:

(A) ~~prior to placement of children in the home~~, complete all training requirements for ~~OKDHS DHS~~ foster parents ~~prior to placement of children in the home~~, per OAC 340:75-7-14;

(B) be certified in a behavior management system directed at managing aggressive and non-aggressive acting out behavior ~~described in~~ per OAC 340:75-11-237. Spouses or significant others must also be certified;

(C) obtain 21 hours of training each calendar year geared toward working with the children served in the SCH contract;

(D) attend the annual mandatory meetings for SCH contractors scheduled by ~~CFSD CWS~~ Specialized Placements and Partnerships Unit that provide training hours; and

(E) participate in other training curricula required of ~~OKDHS DHS~~ foster parents.

(e) ~~CFSD CWS~~ does not enter into SCH contracts with any person related, either directly or through marriage, to:

(1) an OJA employee;

(2) a ~~CFSD or CW CWS~~ employee ~~in the county where the SCH home is located~~; or

(3) an ~~OKDHS a DHS~~ employee who substantially influenced the funding of the contract.

340:75-11-287. Rights and responsibilities of the specialized community home (SCH) contractor

(a) ~~Specialized community home (SCH)~~ SCH contractors have rights as Oklahoma Department of Human Services (~~OKDHS~~) (DHS) foster parents, per Oklahoma Administrative Code (OAC) 340:2-3-50 and Section 1-9-119 of Title 10A of the Oklahoma Statutes.

(b) The SCH contractor provides a full range of social services, including:

(1) direct social services to the child on an individual and group basis that focuses on the child's individual treatment goals;

(2) community resources for the child, such as outpatient ~~mental~~ behavioral health treatment;

(3) educational and vocational services and tutoring, as needed, for the child;

(4) skills training to prepare the child for employment and facilitate job placement and retention, as appropriate per the child's age;

(5) crisis intervention on a 24-hour basis for each child;

(6) recreational activities and opportunities for each child to pursue his or her talents, hobbies, and chosen interests;

(7) adequate clothing and shoes for each child;

(8) skills training in personal hygiene and grooming for each child;

(9) medical and dental care for each child within the scope of ~~OKDHS DHS~~ policy and contract mandates;

(10) proper food and nutrition for each child;

(11) ~~independent living~~ successful adulthood skills training for eligible youth;

(12) establishment and maintenance of grievance procedures for each child consistent with OAC 340:2-3-45 and 340:2-3-47;

(13) positive role modeling for the child;

(14) ~~respite care alternate caregiver~~ per OAC 340:75-11-286;

(15) written ~~house rules~~ expectations and an orientation process for each child upon initial placement; and

- (16) discharge planning and preparing each child for discharge.

340:75-11-289. Specialized community home (SCH) contract reimbursement

(a) **Monthly allotment.** ~~Specialized community home (SCH)~~SCH contractors are reimbursed at an annual fixed rate of reimbursement, paid in 12 equal monthly allotments. The SCH contractor submits a monthly claim for the monthly allotment on Form 04CB002E, ~~CFSD~~CWS Claim for Purchase of Residential Care, to ~~Children and Family Services Division (CFSD) Administrative Services~~Child Welfare Services Contracting and Acquisition Unit on the first business-day of each month.

(b) **Boarding home reimbursementFoster care maintenance payment.** In addition to the monthly allotment reimbursement, the SCH contractor is ~~reimbursed~~paid at the daily ~~OKDHS~~Oklahoma Department of Human Services foster care ~~reimbursement maintenance payment~~ rate, per actual number of days in each month, according to the child's age. The SCH contractor signs the Fixed Rate Foster Home Contract for ~~Specialized Community Homes~~ at the same time the SCH contract is initiated, ~~and on a yearly basis thereafter. If the new SCH contractor is already an OKDHS approved foster home, the Fixed Rate Foster Home Contract is cancelled and a new Fixed Rate Foster Home Contract for Specialized Community Homes is initiated with the same effective date of the SCH contract.~~

- (1) SCH contractors are reimbursed for up to a total of ~~ten~~10-calendar days for planned treatment leave per child, per child placement year, ~~for example for such as a~~ pre-placement visitation or family reunification.
- (2) A child's placement year begins on the date a child is placed in the home and terminates 12 months later or on the date of discharge within that 12-month period. ~~If~~When a child is discharged, then readmitted to the same or another facility, a new child placement year begins.
- (3) SCH contractors are reimbursed for a child who is ~~absent without leave (AWOL) runs away~~ a total of five-calendar days per child, per child placement year, when there is reasonable expectation the child will return to the SCH from ~~AWOL~~runaway status.
- (4) SCH contractors are reimbursed ~~if when~~ a child is hospitalized for a period not to exceed ~~ten~~10-calendar days ~~if when~~ the contractor maintains daily contact with the child and the child returns to the SCH upon discharge.
- (5) The SCH ~~contract~~child welfare facility liaison and supervisor approves all reimbursement for planned leave, hospital leave, or ~~AWOL~~runaway status.
- (6) SCH contractors are not eligible for difficulty of care payments for children in SCH placements.

PART 25. NON-FUNDED AND FUNDED CONTRACTED LEVEL B PLACEMENTS

340:75-11-300. Non-funded and funded contracted Level B placements

(a) Non-funded Level B placements are provided by ~~faith-based~~ residential agencies that provide the equivalent to foster home placements for children requiring a home-like environment with a full-time house parent ~~couple or parents~~.

(b) ~~Funded contracted Level B placements are provided by the Murrow Indian Children's Home and meet the placement preferences required by the Indian Child Welfare Act (ICWA).~~

(c) Non-funded and funded contracted Level B services include:

- (1) group treatment for each child, as needed, ~~that focuses~~focusing on maintenance issues and daily living matters;
- (2) individual treatment for each child, as needed;
- (3) active teaching and redevelopment of the child's basic living and social skills, both on-site and in the community. At minimum, the focus is on the restoration of skills for:
 - (A) personal health and hygiene;
 - (B) maintenance of the living environment, including food preparation;
 - (C) money management;
 - (D) job skills readiness, acquisition, and retention;
 - (E) community awareness and mobility, including the use of community resources; and
 - (F) socialization skills and techniques, including communication;
- (4) developing and implementing policy and procedures for delivery of ~~independent living (IL)~~successful adulthood skills training to youth, using an approved curriculum for teaching IL skills;
- (5) assisting in the provision of federally mandated ~~IL~~successful adulthood services that include coordinating with the ~~Child Welfare (CW) county of jurisdiction worker~~assigned child welfare (CW) specialist to ensure:
 - (A) the ~~Daniel Memorial or Ansell Casey~~Life Skillslife skills assessment is completed ~~on~~with each youth, ~~age 16~~ 14 years of age or older, and implementing the ~~IL~~ plan produced by this assessment; and
 - (B) each youth ~~age 15.5~~ 14 years of age or older, attends one community contractor ~~IL~~ seminar each year;
- (6) ensuring the youth applies for Medicaid upon his or her ~~18th~~ 18th birthday, ~~if the youth when he or she~~ remains in placement in voluntary care to complete his or her secondary education, per ~~(CAC) 340:75-6-115.9~~Oklahoma Administrative Code (OAC) 340:75-6-110; and
- (7) providing 24-hour on-call and on-site crisis intervention and behavior management services to each child, as needed.

(d) Contracted Level B placements are provided in a setting licensed as a child-placing agency ~~group home~~ or residential child care facility that is not located in a hospital, either medical or psychiatric, or a psychiatric residential treatment center.

- (e) The contractor:
- (1) does not provide 24-hour awake supervision of children;

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- (2) may provide clothing for the child in Oklahoma Department of Human Services (~~OKDHS~~)(DHS) custody. Emergency clothing authorizations may be accessed per OAC 340:75-13-45;
- (3) completes a written incident report describing any extreme behavioral incident or major rule violation, including the contractor's response, submits the original to the ~~Children and Family Services Division (CFSD) Community Based Residential Services programs manager~~ Child Welfare Services (CWS) Specialized Placements and Partnerships Unit program staff, and a copy to the child's ~~CW county of jurisdiction worker, assigned CW specialist and CW facility liaison~~, and files a copy in the child's case record;
- (4) meets the staffing guidelines defined in the ~~OKDHS~~DHS contract;
- (5) complies with children's rights per OAC 340:75-11-237;
- (6) complies with all general requirements per OAC 340:75-11-240;
- (7) provides placements of children at no cost to ~~OKDHS~~DHS for non-funded, contracted Level B services;
- (8) maintains documentation of each child's ~~absent without leave (AWOL) unapproved absence from the program~~ and leave days set forth in the funded, Level B contract and reports leave days on Form 04CB002E, ~~CFSD CWS Claim for Purchase of Residential care~~ Care; and
- (9) is ~~reimbursed~~ paid by ~~OKDHS~~DHS at a fixed daily rate for funded, Level B services. The fixed daily rate is a blend of Title IV-E funds, per eligibility of each child served, and state funds. The contractor submits Form 04CB002E for ~~reimbursement~~ payment to ~~CFSD Administrative Services Unit~~ the CWS Contracting and Acquisition Unit.

340:75-11-301. Children served in non-funded and funded, contracted Level B placements

- (a) Children in Oklahoma Department of Human Services (DHS) custody are provided a structured and supportive living environment that provides direction and guidance. Children appropriate for placement:
 - (1) demonstrate the ability to positively interact with adult caregivers and have limited, ~~failed~~ unsuccessful placements;
 - (2) agree to the placement;
 - (3) agree to attend the placement provider's identified place of worship in non-funded group homes;
 - (4) demonstrate the ability to attend public school; and
 - (5) exhibit minimal behavioral or emotional problems.
- (b) In general, children served are male or female, ~~ten~~ 13 to 18 years of age. Exceptions to the age range may be made for ~~sibling groups or younger children as appropriate~~ when keeping sibling groups together in placement, or maintaining a minor parent in DHS custody and his or her child together, with the agreement of the contractor and ~~Children and Family Services Division (CFSD) Community Based Residential~~

- ~~Care programs manager and~~ Child Welfare Services (CWS) Specialized Placements and Partnerships Unit (SPPU) program staff. Exceptions to the age range are documented by the ~~contract child welfare (CW) facility liaison~~. Children served in the funded, Level B group home are Native American.
- (c) Each non-funded and funded, Level B contractor serves a different target population.
- (d) The placement provider and ~~contract~~ CW facility liaison screen referrals for appropriateness for the placement of children to non-funded Level B group homes.
- (e) Referrals to funded, Level B group homes are made by ~~CFSD Placement Section through~~ CWS SPPU program staff to the contract CW facility liaison, with notification to the contractor.
- (f) Referrals to ~~the~~ non-funded, Level B group homes are made by the ~~contract~~ assigned CW specialist through the CW facility liaison to the facility.

PART 27. RESIDENTIAL MATERNITY SERVICES

340:75-11-321. Placements for infants of youth in non-funded and funded, contracted residential maternity services

- (a) Infants served are the newborn infants whose mothers are in Oklahoma Department of Human Services (~~OKDHS~~)(DHS) custody and ~~served~~ in the residential maternity services placement.
- (b) The infant is accompanied in care by his or her mother and the length of stay does not exceed 45-calendar days, except with the approval of the ~~Children and Family Services Division (CFSD) Community Based Residential Services programs manager~~ Child Welfare Services (CWS) Specialized Placements and Partnerships Unit.
- (c) The contractor provides residential maternity services for infants in care that include:
 - (1) a separate, suitable bed in a room shared with his or her mother. No other adults or children share the room with the mother and infant;
 - (2) child care equipment, including bedding, high chairs, ~~if~~ when needed, car seats, appropriate toys, and furniture;
 - (3) clothing;
 - (4) all food, formula, diapers, and personal hygiene items; and
 - (5) pediatric care. Prior consultation and consent from infant's mother is required for any medical procedure.
- (d) The contractor documents the interaction between the mother and the infant in the child's case record.
- (e) The funded contractor is:
 - (1) ~~reimbursed~~ paid by ~~OKDHS~~DHS at a fixed daily rate, based upon actual utilization. The fixed daily rate is a blend of Title IV-E funds, per eligibility of each child served, and state funds; and
 - (2) submits Form 04CB002E, ~~CFSD CWS Claim for Purchase of Residential Care~~, for ~~reimbursement~~ payment

to ~~CFSD Administrative Services~~ the CWS Contracting and Acquisition Unit.

340:75-11-322. Responsibilities of the ~~Child Welfare county of jurisdiction worker assigned child welfare (CW) specialist and contract CW facility liaison for children in contracted residential maternity services placements~~

- (a) The ~~Child Welfare (CW) county of jurisdiction worker assigned CW specialist~~ has responsibilities for children in Oklahoma Department of Human Services (OKDHS) custody placed in contracted residential maternity services placements.
- (b) The ~~Child Welfare (CW) worker assigned as the CW facility liaison~~ to contracted residential maternity services placement providers has specific duties and responsibilities.

PART 29. NON-FUNDED AND FUNDED CONTRACTED LEVEL C PLACEMENTS

340:75-11-330. ~~Non-funded and funded Contracted Level C placements and children served~~

- (a) ~~Placements Contracted Level C placements are equivalent to foster home placements care for children requiring a home-like environment with a full-time house parent couple are contracted by:~~
 - (1) ~~faith based residential agencies for non-funded Level C placements; and~~
 - (2) ~~non-faith based residential agencies for funded Level C placements or parents.~~
- (b) ~~Non-funded and funded contracted Contracted Level C services include:~~
 - (1) structured group treatment, a minimum of one hour per week for each child;
 - (2) individual treatment for each child, as needed;
 - (3) family visitation, when the case plan is reunification;
 - (4) family treatment, when deemed appropriate by the contractor and the ~~Child Welfare (CW) county of jurisdiction worker assigned child welfare (CW) specialist~~;
 - (5) active teaching and redevelopment of the child's basic living and social skills, both on-site and in the community. At minimum, the focus is on the restoration of skills for:
 - (A) personal health and hygiene;
 - (B) maintenance of the living environment, including food preparation;
 - (C) money management;
 - (D) job skills readiness, acquisition, and retention;
 - (E) community awareness and mobility, including the use of community resources; and
 - (F) socialization skills and techniques, including communication;
 - (6) developing and implementing policy and procedures for delivery of ~~independent living (IL)~~ successful

adulthood skills training to youth, using an approved teaching curriculum for teaching IL skills;

- (7) assisting in the provision of federally mandated ~~IL~~ services that include coordinating with the ~~CW county of jurisdiction worker assigned CW specialist~~ to ensure:
 - (A) the ~~Daniel Memorial or Ansell Casey Life Skills~~ life skills assessment is completed ~~on~~ with each youth ~~age 16-14 years of age~~ or older and implementing the ~~IL~~ successful adulthood plan produced by this assessment; and
 - (B) each youth ~~age 15-14 years of age~~ or older attends one successful adulthood community contractor ~~IL~~ seminar each year;
 - (8) ensuring the youth applies for Medicaid upon his or her 18th birthday, ~~if when~~ the youth remains in placement in voluntary care to complete his or her secondary education per Oklahoma Administrative Code (OAC) 340:75-6-110; ~~and~~
 - (9) ~~providing 24 hour on call and on site crisis intervention and behavior management services to each child, as needed.~~
- (e) ~~In addition, funded Level C services include:~~
- (1) ~~substance use or abuse or chemical dependency therapy within a group or individual counseling or therapy sessions for each child, as needed;~~
 - (2) ~~behavior redirection 24-hours a day, seven days a week to meet the goals and objectives of the treatment plan and respond to any behavioral crisis of the child. The contractor ensures staff are available to respond in a crisis to stabilize the child's behavior and prevent placement disruption; and~~
 - (3) ~~24-hour on-call and on-site crisis intervention and behavior management services to each child, as needed. Emergency or crisis intervention services include face-to-face encounters with the child to resolve acute emotional dysfunction by providing intervention resolution and stabilizing functions through triage screening, planning, and documentation.~~
- (d) ~~Non-funded and funded contracted Contracted Level C placements are provided in a setting licensed as a child-placing agency group home or residential child care facility that is not located in a hospital, either medical or psychiatric, or psychiatric residential treatment center.~~
- (e) ~~The non-funded contractor:~~
- (1) ~~does not provide 24 hour awake supervision of children;~~
 - (2) ~~is not required to provide clothing for the child in Oklahoma Department of Human Services (OKDHS) custody. Emergency clothing authorizations may be accessed per OAC 340:75-13-45;~~
 - (3) ~~completes a written incident report describing any extreme behavioral incident or major rule violation, including the contractor's response, submits the original to the Children and Family Services Division, Community-Based Residential Services programs manager and a copy to the child's CW county of jurisdiction worker, and files a copy in the child's case record;~~

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- (4) meets the staffing guidelines defined in the OKDHS contract;
 - (5) complies with children's rights per OAC 340:75-11-237;
 - (6) complies with all general requirements per OAC 340:75-11-240; and
 - (7) provides placements of children at no cost to OKDHS.
- (fd) The ~~funded~~ Level C contractor:
- (1) provides clothing after initial placement of a child. Emergency clothing authorizations may be accessed per OAC 340:75-13-45;
 - (2) maintains documentation of each child's ~~absent without leave (AWOL)~~ unapproved absence from the program and leave days defined in the contract and reports leave days on Form 04CB002E, ~~CFSD~~ CWS Claim for Purchase of Residential Care;
 - (3) is ~~reimbursed~~ paid by ~~OKDHS~~ the Oklahoma Department of Human Services at a fixed daily rate. The fixed daily rate is a blend of Title IV-E per eligibility of each child served and state funds; and
 - (4) submits Form 04CB002E for ~~reimbursement~~ payment to ~~CFSD~~ Administrative Services ~~the Child Welfare Services (CWS) Contracting and Acquisition Unit.~~
- (ge) Children served in ~~non funded~~ and funded Level C placements.
- (1) The primary goal of services is the remediation of mild to moderate ~~behavior problems~~ behavioral health conditions through a focus on daily living issues rather than clinical interventions.
 - (2) ~~Non funded contractors:~~
 - (A) ~~provide services to children, male or female, ten to 18 years of age. Each contractor serves a different target population of children; and~~
 - (B) ~~serve children whose typical behaviors include minor criminal offenses, difficulty in school, problems with authority figures, verbal aggression, peer difficulty, or infrequent runaway behavior with a few failed placements in a family setting.~~
 - (3) ~~Funded Level C~~ Level C contractors provide services to ~~male~~ children, eight ~~13 to 18 years of age, whose typical behaviors include behavioral health conditions, such as impulse control problems and those behaviors listed in OAC 340:75-11-330(g)(2)(B) disorders, result in actions that may include, but are not limited to, minor criminal offenses, difficulty in school, verbal aggression, issues with peer interaction, defiance with authority figures, infrequent runaway behavior, or a few unsuccessful placements in a family setting.~~
 - (4) ~~Children not appropriate for non funded placement:~~
 - (A) ~~have a history of setting fires or sexual penetration;~~
 - (B) ~~are chemically dependent or have used drugs in the last 30 days;~~
 - (C) ~~are psychotic or on anti-psychotic medications;~~

- (D) ~~have lived on the streets for the prior six months; or~~
 - (E) ~~are intellectually limited with an intelligence quotient (IQ) below 70 and have poor verbal skills.~~
- (5) ~~The funded~~ The Level C contractor receives referrals of children for placement from the ~~CFSD Placement Section~~ CWS Specialized Placements and Partnerships Unit ~~and the non-funded contractor receives referrals of children through the contract liaison to the facility.~~

PART 31. CONTRACTED LEVEL D PLACEMENTS

340:75-11-350. Contracted Level D placements and children served

- (a) Contracted Level D placements are designed to serve the special needs of children, ~~male or female, 12~~ 13 to 17 years of age, in Oklahoma Department of Human Services (DHS) custody, with emotional disorders who are ~~emotionally disturbed~~ and certified as developmentally disabled by Developmental Disabilities Services Division (DDSD) (DDS).
- (b) The placement of children who are ~~emotionally disturbed~~ adjudicated deprived and certified as developmentally disabled in Level D facilities is a joint decision made by the ~~Children and Family Services Division (CFSD)~~ Child Welfare Services (CWS) programs ~~manager~~ supervisor or liaison to ~~DDSD~~ DDS and ~~DDSD~~ DDS programs manager for Residential Services.
- (c) Providers of Level D placements are under contract with both ~~CFSD~~ CWS and ~~DDSD~~ DDS.
- (d) Contractors receive referrals for children who are ~~emotionally disturbed~~ adjudicated deprived and certified as developmentally disabled from DDSD the DDS programs ~~staff manager.~~
- (e) Level D contracted services include:
 - (1) structured group therapy, a minimum of one hour per week for each child;
 - (2) individual therapy, a minimum of one hour per week for each child;
 - (3) family visitation, when the case plan is reunification;
 - (4) family therapy, when deemed appropriate by the ~~Child Welfare (CW)~~ county of jurisdiction worker assigned child welfare (CW) specialist;
 - (5) substance use or abuse or chemical dependency therapy within a group or individual counseling or therapy session for each child, as needed;
 - (6) crisis intervention and behavior management services, as indicated in each child's ~~DDSD~~ DDS Individualized Plan and in compliance with Oklahoma Administrative Code (OAC) 340:100-5-57. Emergency or crisis intervention services include face-to-face encounters with the child to resolve acute emotional dysfunction by providing intervention resolution and stabilizing functions through triage screening, planning, and documentation;

(7) staff available to respond in a crisis to stabilize a child's behavior and prevent placement disruption, 24-hours a day, seven-calendar days per week;

(8) active teaching and redevelopment of the child's basic living skills. At minimum, the focus is on the restoration of skills for:

- (A) personal health and hygiene;
- (B) maintenance of the living environment, including food preparation;
- (C) money management;
- (D) job skills readiness, acquisition, and retention;
- (E) community awareness and mobility, including the use of community resources; and
- (F) socialization skills and techniques, including communication;

(9) developing and implementing policy and procedures for delivery of ~~independent living (IL)~~ successful adulthood skills training to youth, using an approved curriculum for teaching ~~IL~~ successful adulthood skills; and

(10) providing 24-hour awake supervision of children.

(f) The contractor:

(1) complies with Part 105 of OAC 317:30-5 for residential behavior management services in group settings and non-secure diagnostic and evaluation centers;

(2) provides clothing after initial placement of a child. Emergency funds for clothing may be accessed per OAC 340:75-13-45;

(3) complies with group home regulations per OAC 340:100-6;

(4) completes a written incident report describing any extreme behavioral incident or major rule violation, including the contractor's response, submits a copy to the child's ~~CW~~ county of jurisdiction ~~worker~~ CW specialist, and ~~DDS~~ DDS case manager, and files the original in the child's case record;

(5) meets the staffing guidelines set forth in the ~~OKDHS~~ DHS contract and OAC 340:100-6;

(6) complies with children's rights per OAC 340:75-11-237;

(7) complies with all general requirements per OAC 340:75-11-240;

(8) maintains documentation of each child's ~~absent without leave (AWOL)~~ unapproved absences for the program and leave days set forth in the contract and reports leave days on Form 04CB002E, ~~CFSD~~ CWS Claim for Purchase of Residential Care;

(9) is reimbursed guaranteed payment by ~~CFSD~~ CWS for the total number of beds specified in the contract;

(10) is ~~reimbursed~~ paid by ~~OKDHS~~ DHS at a fixed daily rate. The fixed daily rate is a blend of Title IV-E and Title XIX federal funds, per eligibility of each child served, and state funds; and

(11) submits Form 04CB002E for ~~reimbursement~~ payment to ~~CFSD Administrative Services~~ CWS Contracting and Acquisition Unit.

PART 14. POST ADOPTION SERVICES

340:75-15-128.4. Determination of special needs

A child must have special needs determined to be eligible for:

- (1) federally funded adoption assistance, per Oklahoma Administrative Code (OAC) 340:75-15-128.2;
- (2) state-funded adoption assistance, per OAC 340:75-15-128.3; or
- (3) reimbursement of non-recurring adoption expenses, per OAC 340:75-15-128.1. A child is determined to have special needs by meeting all criteria in ~~subparagraphs (A) through (C) of this paragraph~~.

(A) **The child cannot return home.** Oklahoma Department of Human Services (~~OKDHS~~)(DHS) recommends ~~that~~ the child not return to the home of his or her parent. The recommendation that a child not be returned to his or her home is documented with:

- (i) a Petition for Termination of Parental Rights;
- (ii) an Order of Termination of Parental Rights from a court of competent jurisdiction;
- (iii) a signed Relinquishment of Parental Rights, when the child is under the jurisdiction of the court;
- (iv) other official documentation when a child can be adopted in accordance with state or tribal law without a termination of parental rights or relinquishment of parental rights; or
- (v) verification of the parent's death, when the child is orphaned.

(B) **Special factors or conditions exist.** ~~When OKDHS~~ DHS determines that one or more of the factors or conditions listed in ~~units (i) through (vii) of this subparagraph~~ exists, and the child may not be placed with the adoptive parent without adoption assistance.

(i) **Physical disability.** The child has a physical ~~disability that requires regular treatment with a specific diagnosis by the child's physician~~ condition that adversely affects the child's day-to-day motor functioning.

(ii) **Mental disability.** The child ~~meets the eligibility criteria for educable multi-handicapped (EMH) or trainable multi-handicapped (TMH) classes and has been evaluated by a licensed psychologist, psychometrist, or recognized diagnostic center. A child with a demonstrable need for intensive adult supervision beyond ordinary age needs also qualifies~~ has a significantly sub-average, general cognitive capacity and/or motor-functioning existing concurrently with deficits in adaptive behavior manifested during the developmental period adversely affecting a child's or youth's socialization and learning.

(iii) **Age and type of placement.** Eligibility based on the child's age and type of placement is

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determined according to ~~subunit~~ (I) and (II) of this unit.

- (I) **Kinship placement.** There is no age requirement when the child is placed with a relative that meets the specified degree of relationship ~~as defined in~~ OAC 340:10-9-1.
- (II) **Non-related.** When no other special needs are determined, the child must be ~~eight~~ 8 years of age or older.
- (iv) **Sibling relationship.** ~~The child is part of a sibling group as specified in subunits (I) and (II) of this unit:~~
- (I) A child of any age and at least one sibling are placed in trial adoption status in the same home.
- (II) A child younger than ~~three~~ 3 years of age, not determined eligible to receive an adoption assistance payment at the time of the adoption assistance application, becomes eligible when there is a sibling relationship.
- (III) ~~If the adoptive parent, within one year of the child's adoption finalization, finalizes the adoption of the child's sibling, the subsequent child is, and the child originally adopted, if not eligible at the time of adoption would then be, eligible for an adoption assistance payment.~~ When an adoptive child was not adoption assistance eligible at the time of adoption and the adoptive parent adopts an adoption assistance eligible sibling within one year of the original child's adoption finalization, then the original child is now eligible for an adoption assistance payment.
- (IV) The effective date the adoption assistance payment begins for the child is also the effective date the adoption assistance ~~payment would begin~~ begins for the sibling.
- (v) **Emotional disturbance.** A child ~~meets this criteria when the emotional disturbance is with an emotional disturbance exhibits one or more of the following characteristics over an extended period of time and to a marked degree:~~
- (I) ~~established by a physician, psychologist, behavioral therapist, or social worker an inability to build or maintain satisfactory interpersonal relationships;~~
- (II) ~~corroborated by the Child Welfare specialist's observations of the child's behavior in inappropriate types of behavior or feelings under normal circumstances;~~
- (III) ~~corroborated by one or more caregivers, such as a foster parent, Head Start or school personnel, or child care provider; and~~
- (IV) ~~documented with a specific diagnosis and prognosis, when applicable a general pervasive mood of unhappiness or depression; or~~

(IV) a tendency to develop physical symptoms or fears associated with personal problems.

- (vi) **Racial or ethnic factor.** The child is American Indian, Hispanic or Latino, Asian, or African American and ~~three~~ 3 years of age or older.
- (vii) **High risk ~~potential for of emotional disturbance, physical or mental diseasedisability.~~** The child who has a high risk potential for of emotional disturbance, or physical or mental diseasedisability for conditions that are not currently being treated may qualify. When no other special factors or conditions exist, a monthly payment is not approved until there are documented symptoms of emotional disturbance, or physical or mental diseasedisability. Indicators of high risk potential for emotional disturbance, or physical or mental diseasedisability are:
- (I) social and medical history, such as mental illness of a biological parent or family member;
- (II) events or life experiences, such as severe sexual abuse; and
- (III) prenatal exposure to drugs or alcohol.
- (C) **Unsuccessful efforts to place the child without assistance.** A reasonable, but unsuccessful effort was made to place the child without adoption assistance, except where it would not be in the child's best interests due to factors, such as a strong emotional tie to a foster parent who plans to adopt the child or placement with a relative.
- (i) Documentation of efforts to place the child without adoption assistance is required and includes specific recruitment efforts for an adoptive parent who can meet the child's special needs. Examples of specific recruitment efforts include:
- (I) area staffings;
- (II) adoption parties;
- (III) adoption resource exchanges; and
- (IV) media and Internet efforts.
- (ii) Form 04AN001E, Adoption Assistance Application, per OAC 340:75-15-128.5; must include a statement of the reasons the child may not be placed in an adoptive home without adoption assistance, including:
- (I) the specific factors that make it difficult to place the child;
- (II) a description of efforts to place the child without assistance; and
- (III) the reasons it is not in the child's best interests to attempt to place the child for adoption without assistance.

SUBCHAPTER 16. MENTAL BEHAVIORAL HEALTH TREATMENT SERVICES

PART 1. INPATIENT MENTAL-BEHAVIORAL HEALTH TREATMENT SERVICES

340:75-16-28. Purpose and legal basebasis

(a) **Purpose.** The purpose of the ~~Children and Family Services Division's (CFSD) mental health behavioral health treatment~~ services is to ensure children in the custody of the Oklahoma Department of Human Services (~~OKDHS~~) (DHS) custody receive inpatient ~~mental health behavioral health~~ treatment as needed ~~in accordance with~~ per Sections 5-501 through 5-513 of Title 43A of the Oklahoma Statutes (43A O.S. §§ 5-501 through 5-513), Inpatient Mental Health and Substance Abuse Treatment of Minors Act. The primary purpose of inpatient ~~mental health behavioral health~~ treatment is ~~for the~~ short-term crisis stabilization of children.

(b) **Legal basebasis.** The rules in ~~OAC~~ Oklahoma Administrative Code 340:75-16 are issued in compliance with ~~Sections 5-501 through 5-513 of Title 43A of the Oklahoma Statutes, Inpatient Mental Health and Substance Abuse Treatment of Minors Act, 43A O.S. §§ 5-501 through 5-513 and Section 1-1-7-103 of Title 10A of the Oklahoma Statutes, 10A O.S. § 1-7-103,~~ that mandates ~~OKDHS~~ to DHS review and assess each child in the custody of ~~OKDHS~~ DHS custody to determine the type of placement consistent with the child's treatment needs of ~~the child~~ in the nearest geographical proximity possible to the home of the child.

340:75-16-30. Admission to inpatient mental behavioral health treatment

The ~~inpatient reviewer~~ Oklahoma Health Care Authority (OHCA) or its designated agent facilitates all inpatient ~~mental health services behavioral health treatment~~ for children in Oklahoma Department of Human Services (~~OKDHS~~) (DHS) custody prior to admission.

(1) ~~Inpatient review~~ Prior authorization. An ~~inpatient review~~ Prior authorization is required for Title XIX Medicaid reimbursement of ~~acute inpatient mental health treatment and residential mental behavioral health~~ treatment for children in ~~OKDHS~~ DHS custody.

(A) ~~The inpatient reviewer~~ OHCA or its designated agent is responsible for:

- (i) determining ~~whether if~~ the child meets medical necessity criteria for inpatient behavioral health treatment; ~~and~~
- (ii) ~~completing the medical necessity review form at APS Healthcare and submitting to the facility.~~

(B) ~~The inpatient review~~ Prior authorization is a phone review or face-to-face evaluation to determine the level of inpatient mental behavioral health treatment needed by the child, based on the medical necessity criteria developed for each level of treatment, acute and residential.

(2) **Authorization and denial.** Authorization for the length of services is approved at the time of admission for treatment. When ~~the inpatient reviewer~~ OHCA or its designated agent denies inpatient mental behavioral health

treatment for the child, the ~~Child Welfare~~ assigned child welfare (CW) specialist may request OHCA reconsideration of the decision ~~by the inpatient reviewer.~~

(3) **Admission.** When ~~the inpatient reviewer~~ OHCA or its designated agent authorizes inpatient mental behavioral health treatment based on the facility assessment, the child is admitted to an inpatient mental behavioral health treatment facility on an emergency basis ~~for up to five days from the time of admission, excluding weekends and holidays.~~

(A) The assigned CW worker ~~specialist~~ gives notification of the ~~emergency inpatient admission to~~ notifies the child's attorney, court-appointed special advocate (CASA), guardian ad litem, post adjudication review board (PARB), judge, and district attorney of the emergency, inpatient admission, no later than the next business day following the child's admission to the facility.

(B) A mental behavioral health evaluation, per Section 5-507 of Title 43A of the Oklahoma Statutes (43A O.S. § 5-507), is:

- (i) completed by a licensed mental behavioral health professional at the inpatient facility and a report is provided to the district attorney within 48 hours of admission, excluding weekends and holidays; and
- (ii) attached to the petition requesting inpatient treatment.

(4) **Petition.** After filing the petition, the district attorney obtains a pre-hearing ~~detention commitment~~ order authorizing the child to remain inpatient pending the hearing.

(A) The hearing is set within one to three judicial days from the petition filing of the ~~petition.~~

(B) The child is detained in the mental behavioral health treatment facility no longer than necessary for a hearing on the petition as ~~provided by~~ per 43A O.S. § 5-510.

(C) The inpatient facility submits a proposed individualized treatment plan to the court 24-hours in advance of the scheduled hearing.

(5) **Hearing.** At the hearing, the court determines whether by clear and convincing evidence the child is a minor in need of ~~mental health and substance abuse~~ treatment. When the court:

(A) finds the child is not a minor in need of ~~mental health and substance abuse~~ treatment, the court dismisses the commitment case;

(B) finds the child is a minor in need of ~~mental health and substance abuse~~ treatment, but does not require inpatient treatment, the court may order ~~mental behavioral health and substance abuse~~ treatment or services through a less restrictive alternative;

(C) finds the child is a minor in need of ~~mental health and substance abuse~~ treatment and requires inpatient treatment in an inpatient mental behavioral health treatment facility, the court orders the commitment of the child to a mental behavioral health

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treatment facility for not more than 30-calendar days;
or

(D) commits a child to a mental/behavioral health treatment facility for inpatient treatment, the court sets the case for review every 30-calendar days from the date of the commitment hearing provided the child receives inpatient treatment.

(6) **Telephonic or teleconference hearing.** Per 43A O.S. § 5-511, when authorized by the court, any proceeding held pursuant to the Inpatient Mental Health and Substance Abuse Treatment of Minors Act may be conducted via teleconference communication; provided, that when a parent or child appears for a proceeding via teleconference, the attorney representing ~~that~~the parent or child personally appears at the hearing. Teleconference communication means participation in the hearing by interactive telecommunication, including telephonic communication, by the absent party, parties present in court, the attorneys, and other participants deemed necessary to the proceeding including, but not limited to, foster parents and facility staff where ~~a~~the child may be receiving care or treatment.

(7) **Individualized treatment plan.** ~~An~~Per 43A O.S. § 5-513, an individualized treatment plan is submitted by the facility within 10-calendar days after the order authorizing inpatient treatment.

(8) **Progress report.** The inpatient facility submits a report on progress and recommendations three-calendar days prior to any review hearing.

(9) **Child's rights.** The child's rights during the commitment process include:

- (A) notice of hearing;
- (B) representation by an attorney;
- (C) right to a private hearing unless the judge directs otherwise according to the statute;
- (D) right to a jury trial; and
- (E) right to cross examine.

340:75-16-32. Length of stay ~~in and extensions for inpatient mental health facilities and extension by APS Healthcare inpatient reviewer~~behavioral health services

(a) **Initial length of stay.** ~~The initial length of stay for acute inpatient mental health treatment is up to five calendar days and residential inpatient mental health treatment is up to ten calendar days. Length of stay~~behavioral health services is the decision of the ~~inpatient reviewer of APS Healthcare~~Oklahoma Health Care Authority (OHCA) or its designated agent based upon information provided by the inpatient facility staff at the completion of the assessment and ongoing treatment recommendations that ~~will~~ determine the number of days required to resolve the identified presenting problems.

(b) **Extension requests.** Extension requests for behavioral health care services must be made to OHCA or its designated agent by the treating facility staff on or before the last business day of the current authorization for inpatient services. The number of days allowed is determined by OHCA or its designated agent based on the medical necessity criteria.

(1) **Inpatient.** ~~An extension for acute inpatient mental health treatment is up to five calendar days as determined by the inpatient reviewer, based upon the documented need for the extension of care. A request for extension is made by staff of the treating facility via phone on or before the last business day of the current authorization for inpatient care.~~

(2) **Residential.** ~~An extension for residential mental health treatment is up to 30 calendar days. The number of days allowed is determined by the inpatient reviewer, based on the level of impairment, severity, and chronicity of the symptoms present that meet the medical necessity criteria. The treating facility submits the request for an extension three calendar days before the end of the current authorization.~~

(c) **Reconsideration request.** ~~A reconsideration request for the length of stay~~an extension of behavioral health services is made to ~~APS Healthcare~~OHCA or its designated agent by the ~~Child Welfare (CW) worker, per OAC 340:75-16-30, when the inpatient reviewer denies an extension and the CW worker or the inpatient psychiatric facility has additional information that was not considered in the extension decision by the inpatient reviewer~~Child Welfare Services or the inpatient behavioral health facility.

340:75-16-33. Discharge and transition plan

(a) The treating facility prepares a discharge plan with the ~~Child Welfare~~assigned child welfare (CW) worker's specialist's input prior to discharge and submits a copy to ~~the CW worker~~him or her. The discharge plan includes:

- (1) the services required by the child in the community to meet his or her needs for treatment, ~~education, housing, physical care,~~ and safety; and
- (2) identification of ~~the~~ public and private community-based agencies that are involved in providing treatment and support for the child. Linkages with the agencies are made prior to the child's discharge to allow for a smooth transition.

(b) The child is discharged from the facility when he or she no longer meets medical necessity or commitment criteria as determined by appropriate inpatient ~~mental health-behavioral health service~~ staff.

(c) The child is discharged upon the expiration of the court order or when a new court order directs the child's discharge.

(d) Discharge and transition planning is provided one hour per week in inpatient acute care and thirty-minutes per week in inpatient residential care.

340:75-16-36. Out-of-state inpatient mental health ~~treatment~~behavioral health services

(a) A child in Oklahoma Department of Human Services (~~OKDHS~~)(DHS) custody admitted to inpatient ~~mental health treatment~~behavioral health service facilities out-of-state must meet the same medical necessity criteria for inpatient ~~mental health treatment~~behavioral health services required in Oklahoma.

(1) A child in ~~OKDHS~~DHS custody is only admitted to a facility that is an Oklahoma Health Care Authority (OHCA) approved, Title XIX provider under formal contract with OHCA and ~~Children and Family Services Division (CFSD)~~Child Welfare Services Specialized Placements and Partnerships Unit.

(2) Admission of a child in ~~OKDHS~~DHS custody to an out-of-state, inpatient ~~mental health treatment~~behavioral health service facility requires prior approval through the Interstate Compact on the Placement of Children (ICPC) and facilitation via ~~APS Health~~OHCA.

(b) ~~A child in OKDHS custody in out of state placement who requires inpatient mental health treatment may only be admitted to an out of state facility that is OHCA approved and has a formal contract with CFSD. The CW county of jurisdiction worker assigned child welfare specialist visits a child in an out-of-state mental health treatment behavioral health service facility every six months.~~

(c) A child who is ~~placed~~admitted to an inpatient ~~mental health treatment~~behavioral health service facility in Oklahoma by another state does not have to meet ~~the~~ Oklahoma Medicaid requirements.

340:75-16-37. Child who no longer meets medical necessity criteria for inpatient ~~mental health treatment~~ behavioral health services

When the ~~inpatient reviewer~~Oklahoma Health Care Authority or its designated agent determines a child in Oklahoma Department of Human Services custody no longer meets medical necessity criteria for inpatient ~~mental health treatment~~behavioral health services and when the attending physician agrees to discharge, the child is discharged and placed in an appropriate placement with consideration of the inpatient ~~mental health treatment~~behavioral health services staff's recommendation.

340:75-16-38. Rights of ~~children~~ a child in an inpatient ~~mental health treatment~~ behavioral health service facility

(a) Child's rights.

(1) A child is not subjected to unreasonable silence rules, group punishment for inappropriate individual acts, profanity, verbal abuse, or threats of unnecessary or unauthorized physical force by staff, or "make work"; provided nothing herein prevents a child from performing routine housekeeping tasks or maintenance work directly related to a vocational program, such as specific skill training.

(2) Except in situations that pose a serious threat to a child's life or health, a child has the right to refuse medications. Refused medications cannot be administered unless a court order is obtained authorizing its forcible administration. Necessary medication, prescribed by a physician, may be forcibly administered by staff trained in the administration of medication who are familiar with the child's condition.

(b) The facility strictly prohibits all forms of corporal punishment, abuse, neglect, or other ~~mistreatment~~maltreatment of ~~residents~~a child as required by state law and Oklahoma Department of Human Services (~~OKDHS~~DHS) policy. The facility agrees to comply with the terms of ~~OKDHS~~DHS policy on ~~mistreatment~~maltreatment investigations per Oklahoma Administrative Code (OAC) 340:2-3-32 through 340:2-3-37, and immediately reports as provided in policy any abuse, neglect, or ~~mistreatment~~maltreatment of a ~~resident~~child to the ~~Office of Client Advocacy~~DHS Child Abuse and Neglect Hotline.

(~~b~~c) The facility agrees to cooperate in any investigation made pursuant to a report of abuse, neglect, or ~~mistreatment~~maltreatment, and makes available to the investigator all records pertaining to an incident of abuse, neglect, or ~~mistreatment~~maltreatment, including personnel records when needed.

(~~e~~d) The facility operates a system for the resolution of grievances by ~~residents~~a child regarding the application of any written or unwritten policy or rule of the facility, or any decision, behavior, or action by the facility, its agents, or employees. The grievance system used by the facility complies with the ~~OKDHS~~DHS grievance policy for private and public agencies per OAC 340:2-3-45 through 340:2-3-47 and 340:2-3-49, and is approved by the Office of Client Advocacy (OCA). The facility submits to ~~the Office of Client Advocacy~~OCA, on a monthly basis, a copy of any grievance filed during that month by ~~residents~~children who are in ~~OKDHS~~DHS custody.

(~~d~~e) ~~Residents are not subjected to unreasonable silence rules, group punishment for inappropriate individual acts, profanity, verbal abuse, or threats of unnecessary or unauthorized physical force by staff, or "make work"; provided that nothing herein prevents children from performing routine housekeeping tasks, or maintenance work directly related to a vocational program, such as specific skill training. Maintenance work directly related to a vocational program must be part of a resident's individualized treatment plan, be performed voluntarily, must monetarily compensate the resident at a percentage of the minimum hourly wage that is equal to the amount of work completed as a percentage of the total work that would normally be completed by a skilled adult, and the work conditions must comply with applicable law and regulations.~~

(~~e~~f) The facility provides, whether on or off-campus, education and training for each ~~resident~~child that conforms with the course of instruction approved by the State Board of Education, ~~as provided by~~ per Section 11-103 of Title 70 of the Oklahoma Statutes (70 O.S. § 11-103). The facility ~~assures that~~ensures educational opportunities are available that ~~will~~ satisfy each ~~resident's~~child's special educational requirements, ~~in accord with~~ per 70 O.S. §§ 13-101 et seq., and all applicable federal laws. Services are provided or arranged for by the facility for ~~those residents~~a child who are ~~deemed~~ by the facility, the school system, or ~~OKDHS~~DHS ~~deems~~ is in need of services.

(~~f~~g) ~~The~~A child's religious preferences of ~~residents~~ are respected and each ~~resident~~child has reasonable opportunity to practice the religion of his or her choice.

(~~g~~h) The facility allows ~~residents~~a child visitation with parents, other family members, and legal guardians, unless

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otherwise ordered by ~~at~~ the court of jurisdiction. In emergencies, based upon demonstrable evidence, the ~~resident's~~ child's physician may disapprove visitation by specific family members and legal guardians. The facility involves the child's ~~Child Welfare~~ assigned child welfare (CW) worker specialist in the decision to disapprove visitation and in determining the need for subsequent denials. Disapproval of visitation is not extended beyond the next court review of the ~~resident's~~ child's case without a court order. In every instance of disapproved visitation, the facility fully documents the reasons for disapproval and promptly notifies and informs the ~~resident's~~ child's assigned CW worker specialist of the reasons. The facility maintains a written schedule of reasonable visiting days and hours, a copy of which is provided to each ~~resident's~~ child's parent or legal guardian. The visitation schedule accommodates the special needs of working family members. Attorneys are permitted to visit privately with ~~residents~~ a child during business hours and at all other reasonable times by arrangement with facility administration. The facility may ask attorneys to verify the existence of an attorney-client relationship, ~~or the request for attorney visitation may be orally confirmed by the resident.~~ In no case is attorney visitation denied when the visitation ~~has been~~ was requested by the ~~resident~~ child. ~~Residents are~~ A child is permitted reasonable access to an unmonitored telephone to make or receive calls from attorneys, ~~and~~ family members, ~~and legal guardians~~ who ~~have were~~ not ~~been~~ denied visitation by the court or the ~~resident's~~ child's physician.

(h) The facility allows ~~residents~~ a child to send and receive written correspondence. The facility ~~assures~~ ~~the~~ ~~ensures~~ delivery of incoming mail and posting of outgoing mail within 24 hours, excluding weekends and holidays. ~~Unless~~ ~~permission is given by the resident, on a case by case basis,~~ ~~written~~ Written correspondence is not read or censored, but may be inspected for contraband. When mail is opened for inspection of contraband, it is done by the resident in the presence of facility staff. Correspondence may be denied, based upon demonstrable evidence by the ~~resident's~~ child's physician in specific instances where it is clearly documented ~~that~~ the correspondence is from someone whose continued relationship poses, or may pose, a decided detriment to the ~~resident's~~ child's care and treatment. In each case involving the denial of written correspondence, the facility physician fully documents reasons, promptly notifies and informs ~~resident's~~ the child's assigned CW worker specialist of the reasons. The facility actively involves the ~~resident's~~ child's assigned CW worker specialist in the decision of subsequent denial. In cases where correspondence is denied, the facility promptly returns the correspondence to the sender.

(i) Medications, such as stimulants, tranquilizers, or psychotropics, may be administered only as a part of a program of medically approved therapy, are included in the ~~resident's~~ child's individual ~~treatment~~ plan of care, and are listed in the facility's formulary. Prior to the implementation of the order of such medication, the ~~resident's~~ county child's assigned CW worker specialist and the ~~resident~~ child are informed of the benefits and hazards of the medication. When the ~~county worker~~ child's assigned CW specialist cannot be located, the facility informs ~~the facility liaison.~~ ~~When the liaison is~~

~~unavailable, the county worker's assigned CW specialist's supervisor or county district director or his or her designee is informed.~~ The administration or dispensing of such drugs is ~~periodically~~ monitored by a licensed psychiatrist according to accepted medical standards. The use of medication for punishment, experimentation and research, staff convenience, control, or program management is prohibited.

~~(j) The resident has the right to refuse medications and such medications cannot be administered to the resident unless a court order is obtained authorizing its forcible administration; except in situations that pose a serious threat to life or health of the resident necessary, medication, prescribed by a physician may be forcibly administered by staff trained in the administration of medication who are familiar with the resident's condition.~~

PART 3. OUTPATIENT BEHAVIORAL HEALTH CARE SERVICES

340:75-16-45. Outpatient ~~mental~~ behavioral health services

(a) The child in Oklahoma Department of Human Services (~~OKDHS~~) (DHS) custody is eligible to receive a ~~men-~~ tal behavioral health assessment once per local community mental health center services provider or other outpatient Medicaid approved provider, without prior authorization. The ~~mental~~ behavioral health service plan development may also be provided without prior authorization.

(b) Prior authorization from ~~APS Health~~ ~~are~~ the Oklahoma Health Care Authority is required for the child in ~~OKDHS~~ DHS custody to receive outpatient behavioral health rehabilitative services beyond the initial assessment and service plan development.

(1) The ~~Child Welfare (CW) worker~~ child's assigned child welfare specialist refers the child for services to the local community mental health center or Medicaid approved provider in the county where the child resides.

(2) The mental health professional develops an assessment and service plan to indicate ~~problem areas~~ strengths, needs, and potential services.

340:75-16-46. Systems of care

(a) Systems of care is ~~fun~~ ded a framework through Oklahoma Department of Mental Health and Substance Abuse Services (~~ODMHSAS~~) per Section 5-521 of Title 43A of the Oklahoma Statutes and offers a comprehensive array of ~~mental~~ behavioral health and other support services organized into a coordinated network to meet the multiple and changing needs of children with serious emotional disturbances and their families. Counties are selected based on an evaluation of community readiness and the intensity of children's behavioral health needs within a community. ~~Participating counties are listed at www.osoci.org/index.htm.~~

(b) Systems of care is individualized to each child, family, and community, and includes services that are:

- (1) child-centered;
- (2) family-focused;

- (3) needs-driven;
- (4) strengths-based; and
- (5) based on a national best practice model.
- (c) The core aspects of systems of care are:
 - (1) partnerships with families;
 - (2) collaboration with all child-serving agencies; and
 - (3) local control of services that are enhanced through:
 - (A) the wraparound service philosophy;
 - (B) flexible funds;
 - (C) respite care;
 - (D) case management; and
 - (E) transitional services.
- (d) Expected outcomes of systems of care are:
 - (1) an improved level of functioning;
 - (2) improved school attendance and performance;
 - (3) fewer encounters with the juvenile justice system;
 - (4) a reduced number of out-of-home placements; and
 - (5) parent and child satisfaction.

SUBCHAPTER 19. WORKING WITH INDIAN CHILDREN

340:75-19-3. Definitions

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

"Active efforts" per Section 671(A) of Title 42 of the United States Code (42 U.S.C. § 671(A)) means actions intended primarily to maintain and reunite an Indian child with his or her family or tribal community and constitutes more than reasonable efforts.

"Child custody proceeding" means any proceeding regarding child custody under the Federal and State Acts, including:

- (A) **"Adoptive placement"** means the permanent placement of the Indian child for adoption, including any action that results in a final decree of adoption.
- (B) **"Foster care placement"** means any action removing the Indian child from the parent or Indian custodian for temporary placement in a foster home, institution, or the home of a guardian or conservator where the parent or Indian custodian cannot have the child returned upon demand, but where parental rights have not been terminated.
- (C) **"Preadoptive placement"** means the temporary placement of the Indian child in a foster home or institution after the termination of parental rights, but prior to or in lieu of an adoptive placement.
- (D) **"Termination of parental rights"** means any action resulting in the termination of the parent-child relationship.

"Extended family member" means any person as defined by the law or custom of the Indian child's tribe, or, in absence of such law or custom, a person who is at least 18 years of age and is the Indian child's grandparent, aunt or uncle, brother or sister, brother-in-law or sister-in-law, niece or nephew, first or second cousin, or stepparent.

"Indian" means any person who is a member of an Indian tribe, or who is an Alaska Native and a member of a Regional Corporation as defined in ~~per~~ Section 7 of the Alaska Native Claims Settlement Act, 43 U.S.C. § 1606.

"Indian child" means any unmarried person who is under 18 years of age and is:

- (A) a member of an Indian tribe; or
- (B) eligible for membership in an Indian tribe and the biological child of a member of an Indian tribe.

"Indian child's tribe" means:

- (A) the Indian tribe in which an Indian child is a member or eligible for membership; or
- (B) the Indian tribe with which the Indian child, who is a member of or is eligible for membership in more than one tribe, has the more significant contacts, as determined in accordance with the BIA's ~~Guidelines for State Courts Indian Custody Proceedings~~ designated.

"Indian country or tribal land" means lands, as defined in Section 1151 of Title 18 of the United States Code per 18 U.S.C. § 1151, and any lands not covered under Section 1151, title to which is held by the United States in trust for the benefit of any Indian tribe or individual or held by any Indian tribe or individual subject to a restriction by the United States against alienation. Tribal land may also be referred to as "trust land." ~~Tribal land is under the jurisdiction of the federal government or an Indian tribe, and usually not the state.~~

"Indian custodian" means any Indian person who has legal custody of the Indian child under tribal law or custom or under state law or to whom temporary physical care, custody, and control has been transferred by the child's parent.

"Indian tribe" means any Indian tribe, band, nation, or other organized group or community of Indians federally recognized as eligible for the services provided to Indians by the Secretary of the Interior because of their status as Indians, including an Alaska Native village as defined in section per Section 3 (c) of the Alaska Native Claims Settlement Act, 43 U.S.C. 1602 (c).

"Parent" means any biological parent of the Indian child, or an Indian person who has lawfully adopted an Indian child, including adoptions under tribal law or custom, but not including an unwed father where paternity has not been acknowledged or established.

"Secretary" means the Secretary of the Interior.

"State Act" means the Oklahoma Indian Child Welfare Act, which that is also referred to by the acronym OICWA.

"Tribal-certified foster home" means a foster home maintained and certified through an Indian tribe.

"Tribal court" means a court with jurisdiction over child custody proceedings, including:

- (A) a court of Indian offenses;
- (B) a court established and operated under the code or custom of an Indian tribe; or
- (C) any other administrative body of a tribe that has authority over child custody proceedings.

"Youth" means a child 13 through 17 years of age.

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340:75-19-5. Tribal and state court jurisdiction

Tribal courts have exclusive jurisdiction over any child custody proceeding involving an Indian child who resides within the reservation of such tribe. The tribal court shares concurrent jurisdiction with the state court in state court proceedings for foster care placement of, or termination of parental rights to, an Indian child not residing within the reservation of the Indian child's tribe. The tribe, either parent, or an Indian custodian may request transfer of state court proceedings to tribal court.

340:75-19-6. Tribal intervention in state court proceedings and tribal inspection of Oklahoma Department of Human Services (OKDHS)(DHS) records without a court order

(a) ~~Tribal and Indian custodian right to intervene in state court proceeding.~~ The Indian child's tribe, ~~the Indian child, and the child's Indian custodian have~~ has the right to intervene at any point in a state court proceeding involving the foster care placement or termination of parental rights to the Indian child per Section 1911 of Title 25 of the United States Code (25 U.S.C. §. 1911). Upon intervening, the tribe becomes a party to the state court proceeding.

(b) **Tribal inspection of the Indian child's OKDHS/DHS records without a court order.**

(1) Per Section 1-6-103 of Title 10A (~~10A O.S. § 1-6-103~~) of the Oklahoma Statutes (10A O.S. § 1-6-103), OKDHS/DHS records pertaining to a child may be inspected, and their contents disclosed, without a court order to a federally recognized Indian tribe, upon showing of proper credentials and pursuant to the tribal representative's lawful duties when the child who is the subject of the record is a member or is eligible to become a member of the tribe; and is the biological child of a member of an Indian tribe pursuant to the provisions of the Federal Indian Child Welfare Act and the Oklahoma Indian Child Welfare Act; provided such Indian tribe in the course of the tribe's official duties is:

(A) investigating a report 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; or

(B) providing services to or for the benefit of a child including, but not limited to, protective, emergency, social and medical services; or

(C) the tribe, the tribal court, or the tribal child welfare program asserting jurisdiction or intervention in any case in which the child is the subject of the proceedings or is a party to the proceedings pursuant to the authority provided in the Oklahoma Indian Child Welfare Act.

(2) The records provided to Indian tribes include all case records, reports, and documents as defined in per 10A O.S. § 1-6-101.

(c) **Disclosure of OKDHS/DHS records to federally recognized Indian tribe to assist the tribe consider persons**

as tribal placement resources. Per 10A O.S. § 1-6-102, OKDHS/DHS is authorized to disclose OKDHS/DHS records in a reasonable amount of time to a federally recognized Indian tribe pertaining to any individual who ~~has~~ applied to provide tribal foster care, adoptive, or guardianship placement; provided, the tribe is required to maintain the confidentiality of the records.

340:75-19-7. Transfer of jurisdiction proceeding to tribal court

(a) A parent, Indian custodian, or tribe may request transfer of a state court proceeding for foster care placement or termination of parental rights of an Indian child to tribal court. Whenever a parent, Indian custodian, or tribe seeks to transfer the case, it is presumptively in the Indian child's best interest to transfer the case to the Indian tribe's jurisdiction. When a proper request for transfer is made, jurisdiction is transferred by the state court to the tribal court unless:

(1) either parent objects to the such transfer of jurisdiction; or

(2) the court finds good cause ~~not to deny~~ transfer of the case; or

(3) the tribal court declines the transfer.

(b) ~~A state court's decision to transfer is subject to acceptance by the tribal court. A tribal court may decline to accept transfer.~~

(c) ~~Good cause not to transfer the proceeding may exist when:~~

(1) ~~the proceeding is at an advanced stage at the time the petition to transfer is received and the petitioner did not file the petition promptly after receiving notice of the hearing;~~

(2) ~~the Indian child is 12 years of age or older and objects to the transfer;~~

(3) ~~the evidence necessary to decide the case cannot be adequately presented in the tribal court without undue hardship to the parties or witnesses; or~~

(4) ~~the parents of the child over five years of age are not available and the child had little or not contact with the child's tribe or members of the child's tribe.~~

(d) ~~The socioeconomic conditions and the perceived adequacy of tribal or Bureau of Indian Affairs social services or judicial systems is not considered in a proceeding to determine whether good cause exists to deny a transfer to tribal court~~

(b) In determining if good cause exists, recommendations to the court do not include:

(1) whether the case is at an advanced stage;

(2) whether transfer would result in a change in the child's placement;

(3) the Indian child's contacts with the tribe or reservation;

(4) the tribal court's prospective placement for the Indian child; or

(5) the socio-economic conditions and any perceived inadequacy of tribal or Bureau of Indian Affairs social services or judicial systems.

340:75-19-8. Identification of an Indian child

(a) The Oklahoma Indian Child Welfare Act (OICWA) per ~~Sections~~Section 40.3(C) 1-3 of Title 10 of the Oklahoma Statutes (10 O.S. § 40.3(C) 1-3) ~~require~~requires the state court to ~~determine~~seek a determination of the child's Indian status when ~~the~~:

- (1) ~~the~~ court is informed by an interested party, an officer of the court, a tribe, an Indian organization, or a public or private agency that the child is Indian;
- (2) ~~the~~ child who is the subject of the proceeding gives the court reason to believe he or she is an Indian child; or
- (3) ~~the~~ court has reason to believe the child's residence or domicile is within a predominantly Indian community.

(b) The court seeks verification of the Indian status of the child from the Indian tribe or ~~the Bureau of Indian Affairs (BIA)~~. The determination of membership by the Indian tribe is conclusive. ~~The BIA determination is conclusive in the absence of a contrary determination by the Indian tribe.~~

340:75-19-11. Notice of Indian child custody proceedings

(a) ~~Notice~~**Statutory notice of Indian child custody proceeding.** The Federal and Oklahoma Indian Child Welfare Act address procedures for notice to Indian tribes of voluntary and involuntary child custody proceedings, including review hearings, involving Indian children. The Oklahoma Indian Child Welfare Act per Section 40.4 of Title 10 of the Oklahoma Statutes (10 O.S. § 40.4) requires the state court to ensure the initiating party, usually the district attorney, sends notice by certified mail, return receipt requested, to the:

- (1) Indian child's parents;
- (2) Indian custodians;
- (3) child's tribe; and
- (4) the appropriate Bureau of Indian Affairs office.

(b) **Notice requirements.** Per 10 O.S. § 40.4, the notice of the Indian child custody proceeding is written in clear and understandable language and includes:

- (1) ~~the~~ name, date of birth, birthplace, and tribal affiliation of the Indian child;
- (2) a copy of the petition;
- (3) name of petitioner and name and address of petitioner's attorney;
- (34) a statement of the rights of the biological parents or Indian ~~custodians~~custodian, and the Indian tribe to:
 - (A) intervene in the proceeding;
 - (B) petition the court to transfer the proceeding to the tribal court;
 - (C) request an additional 20-day extension of time, up to 20 additional calendar days, to prepare for the proceeding. ~~The court may approve further extensions of time;~~

(45) a statement of the potential legal consequences of an ~~adjudication~~the proceedings on the future custodial rights of the parents or Indian custodians;

(56) a statement that counsel will be appointed for the parent or custodian ~~if they are~~when unable to afford counsel; ~~and~~

(7) mailing addresses and phone numbers of the court, information related to all parties to the proceeding, and individuals notified; and

(78) a statement that tribal officials must keep information contained in the notice confidential.

(c) Under the Federal Act, a proceeding for foster care placement or termination of parental rights is not held until ~~at least ten~~10-calendar days after receipt of notice by the parent or Indian custodian and the tribe.

(d) **Invalidation of action upon showing of certain violations.** Per 25 U.S.C. § 1914, motions to invalidate state court actions based on violations of the provisions of 25 U.S.C. §§ 1911, 1912, and 1913 may be filed by:

- (1) the Indian child who is the subject of any action for foster care placement or termination of parental rights under Oklahoma law;
- (2) any parent or Indian custodian from ~~whom~~ whose custody the child was removed; and
- (3) the child's tribe.

340:75-19-12. Adjudication of an Indian child

(a) **Time restriction for pre-adjudicatory custody of the Indian child.** ~~Under~~Per the Oklahoma Indian Child Welfare Act (OICWA), Section 40.5 of Title 10 of the Oklahoma Statutes, the maximum time period for pre-adjudicatory custody of the Indian child is 90-calendar days.

(b) **Standards of ~~proof~~evidence for deprived adjudication of the Indian child.** Adjudication of an Indian child per ~~25 U.S.C. 1912(e)~~Section 1912(e) of Title 25 of the United States Code requires:

(4) a determination, by the court supported by clear and convincing evidence, including testimony of a qualified expert ~~witnesses~~witness, that the continued custody of the child by the parent or Indian custodian is likely to result in serious emotional or physical damage or harm to the child; ~~and;~~

(2) ~~a showing that active efforts have been made to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family and these efforts have proved unsuccessful.~~

(c) **Demonstration of active efforts.** A party petitioning a state court for foster care placement of an Indian child must demonstrate to the court that active efforts were made to prevent removal of the child from the parent or Indian custodian and those efforts were unsuccessful.

340:75-19-13. Qualified expert witness testimony in the case requiring Indian Child Welfare Act compliance

(a) ~~Qualified expert witness testimony.~~ Per Section 1912 of Title 25 of the United States Code (25 U.S.C. § 1912) no foster care placement or termination of parental rights may be ordered without the ~~supporting~~ testimony of a qualified expert witness that the continued custody of the Indian child by the parent or Indian custodian is likely to result in serious emotional or physical damage or harm to the child.

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(b) ~~**Bureau of Indian Affairs (BIA) guidelines for qualified expert witness.**~~ The Federal and State Indian Child Welfare Acts (ICWA) do not define the term qualified expert witness, but the BIA Guidelines, although non-binding, list three types of experts who are most likely to meet the requirements. A qualified expert witness has specific knowledge of the Indian tribe's culture and customs. Persons with the following characteristics, in descending order, meet the requirements for a qualified expert witness, a:

- (1) a member of the Indian child's tribe ~~who is~~ recognized by the tribal community as knowledgeable in tribal customs as they pertain to family organizations and child rearing practices;
- (2) a lay expert witness ~~having substantial experience in the delivery of child and family services to Indians, and extensive knowledge of prevailing social and cultural standards and child rearing practices within the Indian child's tribe; and~~
- (3) a professional person ~~having substantial education and experience in the area of his or her specialty~~ member of another tribe recognized to be a qualified expert witness by the Indian child's tribe based on his or her knowledge of the delivery of child and family services to Indians and the Indian child's tribe;
- (3) layperson recognized by the Indian child's tribe as having substantial experience in the delivery of child and family services to Indians, and knowledge of prevailing social and cultural standards and childrearing practices within the Indian child's tribe; and
- (4) professional person with substantial education and experience in the area of his or her specialty who can demonstrate knowledge of the prevailing social and cultural standards and childrearing practices within the Indian child's tribe.

(c) The court or any party may request the assistance of the Indian child's tribe or the Bureau of Indian Affairs agency serving the child's tribe in locating persons qualified to serve as an expert witness.

340:75-19-14. Placement preferences for the Indian child

(a) **Statutory authority for placement preferences for the Indian child.** The Federal and State Indian Child Welfare Acts (ICWA) per Section 1915 (a) and (b) of Title 25 of the United States Code (25 U.S.C. § 1915 (a) and (b)) and Section 40.6 of Title 10 of the Oklahoma Statutes (10 O.S. § 40.6) establish an order of placement preferences for foster care, pre-adoptive, and adoptive placement for Indian children. The placement preferences are in order of most preferable to least preferable. The order of placement preferences for foster and pre-adoptive placements differs from the order of placement preferences for adoptive placements. The State ICWA establishes placement preferences prior to adjudication court, when appropriate, considers the preferences of the extended family or siblings, the Indian child, or parent.

(b) **Foster care or pre-adoptive placement preferences for the Indian child.** The Indian child in foster care or pre-adoptive placements is placed:

- (1) in the least restrictive, most family-like setting;
- (2) in reasonable proximity to the child's home, extended family, or siblings;
- (3) where the child's special needs, ~~if~~ when any, may be met; and
- (4) in the following descending order of preference, absent good cause to the contrary, with:
 - (A) a member of the Indian child's extended family;
 - (B) a foster ~~resource~~ home licensed, approved, or specified by the Indian child's tribe; whether on or off the reservation, Indian country, or tribal land;
 - (C) an Indian foster ~~resource~~ home licensed or approved by an authorized non-Indian licensing authority; or
 - (D) an institution for children approved by an Indian tribe or operated by an Indian organization ~~which that~~ has a program suitable to meet the Indian child's needs.

(c) **Adoptive placement preferences for the Indian child.**

The Indian child in an adoptive placement is placed in the following descending order of preference, absent good cause to the contrary, with:

- (1) a member of the child's extended family;
- (2) other members of the Indian child's tribe; or
- (3) other Indian families.

(d) **Tribal authority to establish tribe-specific placement preferences.**

(1) Per 25 U.S.C. § 1915 (c) of the Federal Indian Child Welfare Act (ICWA), the child's tribe may establish a different order of preference by resolution and ~~OKDHS~~ the Oklahoma Department of Human Services (DHS) follows the tribe's order when the placement is the least restrictive setting appropriate to the child's needs. ~~When appropriate, the preference of the Indian child or parent is considered.~~

(2) ~~Tribes who have Tribal/State Agreements for Foster Care set out the tribe's order of placement preference in the Agreement.~~

(e) **Utilization of the child's tribe to secure placement.**

Per 10 O.S. § 40.6, in the placement of the Indian child, ~~OKDHS utilizes~~ DHS must utilize, to the maximum extent possible, the services of the child's Indian tribe in securing placement consistent with the provisions of the Oklahoma Indian Child Welfare Act.

(f) **Good cause to modify placement preference.** ~~The court may find good cause to modify the placement preferences when state court must find, by clear and convincing evidence, that good cause exists to deviate from the placement preferences. The determination must be based on one of the following considerations, the:~~

- (1) ~~requested by the biological parents or the child when the child is of sufficient age;~~
- (2) ~~the child has extraordinary physical or emotional needs as established by the testimony of a qualified expert witness; or~~
- (3) ~~after a diligent search for families meeting the preference criteria, suitable families for placement are not available~~ request of the parents, when both parents attest

they reviewed the placement options that comply with the order of preference:

(2) request of the child, when the child is able to understand and comprehend the decision being made;

(3) extraordinary physical or emotional needs of the child, such as specialized treatment services that may be unavailable in the community where families who meet the criteria live, as established by testimony of a qualified expert witness; provided that extraordinary physical or emotional needs of the child does not include ordinary bonding or attachment that may have occurred as a result of a placement or the fact that the child has, for an extended amount of time, been in another placement that does not comply with FICWA; or

(4) unavailability of a placement after a showing by the applicable agency and a determination by the court that active efforts were made to find placements meeting the preference criteria, but none were located.

(g) **Indian child's placement records.** A record of each placement of an Indian child is maintained by ~~OKDHS~~DHS, evidencing the efforts to comply with the order of preference specified in 25 U.S.C. § 1915, and is made available at any time upon request of the Secretary of the Interior or the Indian child's tribe.

340:75-19-19. Termination of parental rights to the Indian child

Proceedings to terminate parental rights to the Indian child, pursuant to the Federal Indian Child Welfare Act, per Section 1912(f) of Title 25 of the United States Code (~~25 U.S.C. § 1912(f)~~) require:

(1) ~~the testimony of a qualified expert witness that continued custody by the parent or Indian custodian is likely to result in serious emotional or physical harm to the child;~~

(2) evidence beyond a reasonable doubt, supported by testimony of a qualified expert witness that continued custody by the parent or Indian custodian is likely to result in serious emotional or physical harm or damage to the child; and

(3) a showing that active efforts have been made to provide remedial services and rehabilitative services designed to prevent the breakup of the Indian family and that these efforts have proved unsuccessful.

340:75-19-20. Special procedures for placement of the Indian child in Oklahoma Department of Human Services (DHS) custody in a tribal-certified foster home or residential placement

(a) **Placement of the Indian child in ~~Oklahoma Department of Human Services (OKDHS)~~DHS custody in tribal-certified foster home.** The Indian child in Oklahoma Department of Human Services (~~OKDHS~~) (DHS) custody may be placed in a tribal-certified foster home with permission of the applicable tribal child welfare program.

(b) **Placement of the Indian child in ~~OKDHS~~DHS custody in residential placement.** Section 1915 of Title 25 of

the United States Code (~~25 U.S.C. § 1915~~) provides as a last placement preference for the Indian child in foster care or pre-adoptive placement who is in ~~OKDHS~~DHS custody, placement in an institution for children approved by an Indian tribe or operated by an Indian organization that has a program suitable to meet the Indian child's needs.

340:75-19-23. Adoptive placement of the Indian child

(a) **Adoptive placement preference for the Indian child.** Adoptive placements are defined by the Federal Indian Child Welfare Act (ICWA) as the permanent placement of the Indian child ~~after parental rights have been terminated for adoption, including any action resulting in a final decree of adoption.~~ The Indian Child Welfare Act (ICWA) establishes an order of placement preference for the Indian child in an adoptive placement. Unless the court finds good cause to place outside of deviate from the ICWA-specified, placement preference, or the Indian child's tribe has established by resolution a different order of specified preference, Section 1915 of Title 25 of the United States Code (25 U.S.C. § 1915) requires that Indian children in adoptive placement are placed within descending order:

- (1) a member of the child's extended family;
- (2) other members of the Indian child's tribe; or
- (3) members of other Indian families.

(b) **Standards applied to adoptive placement preference.** The criteria for the placement of the Indian child, per 25 U.S.C. §1915(d) includes consideration of the prevailing social and cultural standards of the Indian community in which the parent or extended family resides or in which the parent or extended family members maintain social and cultural ties. The court, where appropriate, considers the preference of the Indian child or parent.

(c) **Adoptive placement with non-Indian family.** Adoptive placement in a non-Indian resource is considered only after ~~OKDHS~~the Oklahoma Department of Human Services determines, no:

- (1) ~~no~~ extended family are available for adoptive placement;
- (2) ~~no~~ Indian families of the child's tribe are available for adoptive placement; and
- (3) ~~no~~ Indian families of other tribes are available for adoptive placement.

(d) **Good cause hearing required prior to placement in non-family or non-Indian resource.** Prior to the adoptive placement of the Indian child in a ~~non-extended family or non-Indian resource~~ placement that deviates from the preference order, the court of adjudication conducts must conduct a good cause hearing to determine if good cause exists to deviate from the adoptive placement preference order.

340:75-19-26. Foster care reimbursement/maintenance payment for the child in tribal custody

(a) Oklahoma Department of Human Services (~~OKDHS~~) (DHS) provides foster care ~~reimbursement~~ maintenance payment to approved tribal-certified foster homes for the placement of the child in tribal custody when

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~~OKDHS~~DHS has a contractual agreement with the child's tribe for the payment of foster care and the tribe has submitted Form 04TB004E, Indian Child Welfare Program Referral, along with a copy of the court order and case plan to the assigned ~~tribe's liaison~~DHS tribal program staff.

(b) The tribe sends copies of updated case plans and current court orders to ~~the OKDHS tribal liaison~~program staff. The Indian child's tribe immediately notifies ~~the OKDHS~~DHS tribal ~~liaison~~program staff via Form 04TB003E, Indian Child Welfare Program Update, of any change in the child's placement or custody.

(c) The child's tribe provides services and supervises the child's placement when the child is in tribal custody.

(d) The child's tribe makes application on behalf of the child for any financial benefits, such as Social Security, to which the child is entitled. When the child is determined eligible, the child's tribe immediately notifies ~~the OKDHS~~DHS tribal ~~liaison~~program staff by submitting Form 04TB003E with updated information. The foster care maintenance payment is reduced by the dollar amount of the benefit.

(e) Each tribe develops and implements policies and practices ~~in accordance with~~per federal regulations related to Titles IV-B and IV-E. Tribes may request technical assistance from ~~OKDHS to ensure compliance with~~DHS regarding:

- (1) federal law, policy, and regulation;
- (2) accountability for fiscal and program operations;
- (3) reporting procedures; and
- (4) compliance with the terms and conditions of tribal and ~~OKDHS~~DHS agreements.

(f) When ~~OKDHS~~DHS identifies questionable foster care practices or circumstances that may jeopardize continued federal funding, the situation is reviewed and reconciled by a panel of tribal and ~~OKDHS~~DHS officials on a case-by-case basis. When reconciliation is not possible, both parties may present views to the ~~OKDHS~~DHS Director who determines ~~whether~~if continued payment is made on behalf of the cases affected.

340:75-19-26.1. Therapeutic foster care (TFC) for the child in tribal custody

~~When the child in tribal custody requires~~therapeutic foster care (TFC), per Part 1 of Oklahoma Administrative Code (OAC) 340:75-8, the:

- (1) tribal Indian child welfare (ICW) worker:
 - (A) ~~completes Form 04KI010E, Placement Worksheet, and contacts the designated gatekeeper for a telephonic review of the case and a~~Oklahoma Health Care Authority (OHCA) to obtain the initial determination of whether the child meets medical necessity criteria for TFC; ~~and~~
 - (B) seeks alternate placement for a child determined by OHCA to not meet TFC criteria; and
 - (C) faxes Form 04KI010E, Placement Worksheet, tocontacts the Child Welfare Services (CWS) DHS tribal liaisonprogram staff regarding TFC placement for a child determined by OHCA to meet TFC criteriawhen the designated gatekeeper indicates the child may meet medical necessity criteria for TFC. The CWS tribal liaison enters information

~~from Form 04KI010E in the child's case record via KIDS to generate a referral to the area resource coordinator (ARC). The designated gatekeeper faxes the OKDHS ARC a notice that further evaluation for TFC is deemed necessary and provides required child information to CWS tribal program staff when seeking a TFC placement;~~

(2) ~~ARC contacts TFC agencies within the ARC's respective area to seek placement for the child.~~CWS tribal program staff:

(A) places the required information obtained from the ICW worker in the child's KIDS File Cabinet;

(B) creates a new placement recommendation for TFC placement in KIDS and obtains supervisory level approval to generate the automated case assignment to the TFC placement coordinator; and

(C) provides the TFC placement coordinator with the OHCA approval and the required child information for seeking TFC placement;

(3) TFC placement coordinator:

(A) refers the required child information to all TFC contractors to seek placement;

(B) authorizes the placement in KIDS when TFC placement is completed; and

(C) closes the case assignment in KIDS;

(4) ~~TFC agency~~contractor contacts the ICW worker with available TFC placements and sends the TFC placement coordinator a notice of child location when placement is made;

(5) ~~(ICW)~~ICW worker accepts the appropriate placement and notifies ~~the CWS DHS tribal liaison~~program staff of suchthe accepted placement; and

(6) ~~CWS~~DHS tribal ~~liaison~~program staff enters the TFC placement in the child's KIDS case and notifies the ARC of the child's placement.

340:75-19-28. Difficulty of care payments for the child in tribal custody

(a) Difficulty of care (DOC) payments are available to reimburse tribal foster parents for the care of the child in tribal custody.

(b) The Indian child welfare (ICW) worker submits a written request for DOC to ~~the OKDHS Oklahoma Department of Human Services (DHS) tribal coordinator~~program staff when the ICW worker determines the child meets DOC criteria. ~~The OKDHS DHS tribal coordinator program staff approves or denies the written request within 30-calendar days from the date the request is received.~~

(c) The written request details the child's special needs, including statements from medical or psychological reports that describe the child's condition and diagnosis, utilizing the rate descriptions as ~~set out in Oklahoma Department of Human Services OKDHS Ap C 20~~per DHS Appendix C-20, Child Welfare Services Rates Schedule, as amended from time to time, as approved by the Commission for Human Services.

(1) The effective date of DOC approval is the first day of the month in which the request is received by Child Welfare Services.

(2) No retroactive payments are made prior to the date of the request.

(d) The ICW worker:

(1) reviews the child's DOC rate increase every twelve months;

(2) one month prior to the end date of DOC approval, submits notification to ~~the OKDHS~~DHS tribal ~~coordinator~~program staff for continuation of DOC or that DOC is no longer needed;

(3) notifies ~~the OKDHS~~DHS tribal ~~coordinator~~program staff when the Indian child's placement changes to a placement other than tribal foster care or the child returns to his or her own home; and

(4) when the child's special needs change, requiring a DOC rate change, prepares a detailed request and submits the request to ~~the OKDHS~~DHS tribal ~~coordinator~~program staff. ~~The OKDHS~~DHS tribal ~~coordinator~~program staff terminates the original request.

340:75-19-29. Voluntary foster care for the child in tribal custody younger than 18 years of age

(a) **Purpose of voluntary foster care.** The Indian child may be placed in voluntary foster care with either Oklahoma Department of Human Services (~~OKDHS~~)(DHS) or the tribe at the request of the parent or legal guardian. Voluntary foster care:

(1) is available as a preventive and protective service to enhance family functioning without court intervention, per ~~OAC~~Oklahoma Administrative Code 340:75-4-12.1; and

(2) may be approved for an initial period of 30-calendar days and extended up to a maximum of 90-calendar days when reunification appears likely without court intervention during that time. Court intervention is required when foster care is required beyond 90-calendar days.

(b) **Tribe's responsibilities for voluntary foster care.**

(1) When the Indian child welfare (ICW) worker places the child in voluntary foster care, the tribe obtains a written voluntary foster care agreement.

(A) The agreement does not require court action, and the child is returned to the parent or guardian upon request. When the parent or guardian fails to meet the terms of the agreement or cannot be located, court involvement is required.

(B) The tribe submits to ~~the CWS~~DHS tribal ~~liaison~~program staff Form 04TB004E, Indian Child Welfare Program Referral, and a memo requesting approval for voluntary foster care.

(2) The child's tribe notifies ~~the CWS~~DHS tribal ~~liaison~~program staff when:

(A) the child leaves the placement; or

(B) court action is initiated.

(c) **Evidence gathered during the Indian child's voluntary foster care episode.** The ~~Indian child welfare~~ (ICW) worker or ~~OKDHS~~ CWDHS ~~child welfare~~ specialist advises the parent, Indian custodian, or legal guardian at the time of the child's placement that any evidence gathered during the time

the child is placed in voluntary foster care may be used as a basis for court action, per Section 1-7-112 of Title 10A of the Oklahoma Statutes.

340:75-19-30. Voluntary foster care for the ~~child~~ youth in tribal custody after 18 years of age

(a) The tribe may continue to provide foster care services on a voluntary basis to a youth in tribal custody who turns 18 years of age prior to completing his or her:

(1) high school education; or

(2) General Educational Development (GED).

(b) ~~One month prior to the youth's 18th birthday, the Indian child welfare (ICW) worker provides to the Child Welfare Services (CWS) tribal liaison:~~

(1) ~~a memo requesting voluntary foster care for the youth and a recommended time for the care; and~~

(2) ~~a written request from the youth requesting voluntary foster care.~~

(c) The youth:

(1) ~~signs a notarized statement agreeing to reimburse Oklahoma Department of Human Services (OKDHS) for the cost of care with any benefits or resources available;~~

(2) ~~remains eligible for voluntary foster care until he or she completes high school or GED requirements or reaches his or her 21st birthday. When the youth stops pursuing an education, the youth is no longer eligible for voluntary foster care; and~~

(3) ~~agrees to:~~

(A) participate in the development of an ~~independent living (IL)~~successful adulthood plan outlining the steps to achieve self-sufficiency;

(B) participate in ~~IL~~successful adulthood services and activities; and

(C) abide by the ~~IL~~successful adulthood plan.

(d) ~~The ICW worker assists the youth with applying for Title XIX medical benefits as soon as possible after the youth's 18th birthday.~~

340:75-19-32. ~~Tribal/state agreements~~ Agreements for foster care

(a) The Oklahoma Indian Child Welfare Act (OICWA) Section 40.7 of Title 10 of the Oklahoma Statutes authorizes ~~the Oklahoma Department of Human Services (OKDHS) (DHS)~~ to enter into contractual agreements with Indian tribes for the care of Indian children. The objective of the agreements is to enhance coordination and cooperation between the tribes and ~~OKDHS~~DHS in providing appropriate foster care and related services to Indian children in both ~~OKDHS~~DHS and tribal custody.

(b) ~~OKDHS~~DHS pays the costs of foster care to tribally approved foster homes for the placement of Indian children ~~who are in OKDHS~~DHS or tribal custody.

(c) Tribes develop and implement tribal foster home standards according to each tribe's culture and standards. The tribe's foster home standards are submitted in writing to ~~the OKDHS~~DHS tribal ~~coordinator~~program staff and are

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used by the tribe to certify tribal foster homes. ~~Tribally approved Tribal-certified~~ foster families may serve as placement resources for the Indian child in ~~OKDHS~~ DHS or tribal custody.

(d) The foster care maintenance payment to the ~~tribal tribal-certified~~ foster home is initiated only after the tribe submits the ~~Tribal Foster Resource Home Study~~ tribal-certified foster resource home study. Maintenance payments are not provided to any tribal foster home prior to the date of the approval. The tribe mails or faxes each completed ~~Tribal Foster Resource Home Study~~ tribal-certified foster resource home study and re-assessment to ~~the CFSDDHS tribal coordinator program staff~~. The Indian child welfare (ICW) worker sends documentation of the effective date and reason for closure of tribal foster homes to ~~the OKDHS DHS tribal coordinator program staff~~.

(e) Confidentiality is addressed in each ~~Tribal/State Agreement for Foster Care~~ contractual agreement for foster care. The tribe agrees to exercise confidentiality and provide information only to those persons who need the information in order to exercise the tribes' rights under the federal and state ICWA.

(f) Federal and Oklahoma laws and regulations regarding review hearings, permanency hearings, case plans, and recordkeeping are applicable to the Indian child placed in tribal custody and a tribal foster home.

(g) Each ~~Tribal/State Agreement for Foster Care~~ contractual agreement for foster care includes ~~OKDHS~~ DHS responsibilities for placement of the Indian child ~~who is~~ in tribal custody.

(h) The tribe agrees to abide by the placement preferences of the federal and state ICWA unless the tribe ~~identifies~~ establishes by resolution a different order of preference. The tribe submits any changes in the tribe's placement preference order, in writing, within 10-calendar days, to ~~the OKDHS~~ DHS tribal ~~coordinator~~ program staff.

(i) The Plan of Operation is a binding part of each ~~Tribal/State Agreement for Foster Care~~ contractual agreement for foster care and sets forth tribal foster home procedures and protocols for the placement of the Indian child in tribal custody.

(j) Each ~~Tribal/State Agreement for Foster Care~~ contractual agreement for foster care is renewed annually and may be amended or ~~canceled~~ terminated at any time by mutual consent of the parties, as set out in the agreement.

(k) ~~The tribe advises the OKDHS tribal coordinator and the local OKDHS office within 10 calendar days of any changes in Indian child welfare personnel.~~

340:75-19-33. ~~Roles~~ Role of the Child Welfare Services (CWS) Oklahoma Department of Human Services (DHS) tribal liaison and child welfare specialist program staff

An Oklahoma Department of Human Services (OKDHS) Child Welfare Services (CWS) DHS tribal liaison program staff is assigned for each tribe with a ~~Tribal/State Agreement for Foster Care~~ contractual agreement for foster care, ~~per Oklahoma Department of Human Services (OKDHS) Appendix D-4 D, Tribal/State Agreements for Foster Care~~.

[OAR Docket #16-576; filed 6-16-16]

TITLE 340. DEPARTMENT OF HUMAN SERVICES CHAPTER 100. DEVELOPMENTAL DISABILITIES SERVICES

[OAR Docket #16-577]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 3. Administration

Part 1. General Administration

340:100-3-14 [AMENDED]

340:100-3-15 [REVOKED]

Part 3. Administration

340:100-3-29 [REVOKED]

Subchapter 5. Client Services

Part 5. Individual Planning

340:100-5-50 through 340:100-5-52 [AMENDED]

340:100-5-56 through 340:100-5-57 [AMENDED]

(Reference WF 15-04)

AUTHORITY:

Director of Human Services; Section 162 of Title 56 of the Oklahoma Statutes (56 O.S. § 162); and Sections, 441.301, 441.302, 441.715, 441.720, and 441.725 of Title 42 of the Code of Federal Regulations.

SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:

March 25, 2016

COMMENT PERIOD:

February 16, 2016 through March 16, 2016

PUBLIC HEARING:

March 25, 2016

ADOPTION:

March 25, 2016

SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:

March 25, 2016

APPROVED BY GOVERNOR'S DECLARATION:

Approved by Governor's declaration on June 9, 2016

FINAL ADOPTION:

June 9, 2016

EFFECTIVE:

September 15, 2016

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

ANALYSIS:

The proposed amendments update and clarify DDS rules in accordance with federal and state laws and regulations. The Center for Medicare and Medicaid Services (CMS) issued a final rule on January 10, 2014, defining person-centered planning requirements. The proposed amendments meet those new requirements and provide clear guidance to staff to implement person-centered planning principles. The proposed amendments position DDS to adhere to "best practice" standards.

CONTACT PERSON:

Dena Thayer, Programs Administrator, Office of Intergovernmental Relations and Policy, Department of Human Services, 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, 2016:

SUBCHAPTER 3. ADMINISTRATION

PART 1. GENERAL ADMINISTRATION

340:100-3-14. Statewide Human Rights and Behavior Review Committee (SBRC)(SHRBRC)

(a) **Purpose.** Review and approval is required prior to the use of a restrictive or intrusive procedure except in emergencies per Oklahoma Administrative Code (OAC) 340:100-5-57. The Statewide Behavior Review Committee (SBRC)(SHRBRC) is established to review each restrictive or intrusive procedure included in a behavioral, protective intervention plan with restrictive or intrusive procedures protocol to ensure that the plan complies compliance with Development Disabilities Services Division (DDSD)(DDS) policy on the use of restrictive or intrusive procedures given in per OAC 340:100-5-57.

- (1) The Personal Support Team (Team):
 - (A) ensures the protective intervention protocol complies with requirements per OAC 340:100-5-57;
 - (B) documents review, revision, and approval of the protective intervention protocol; and
 - (C) ensures the service recipient or his or her guardian participates in the development of the protective intervention protocol and provides written informed consent for protocol implementation.
- (2) The case manager submits a protective intervention protocol containing restrictive or intrusive procedures to the SHRBRC for review per this Section.
- (3) The SBRCSHRBRC ensures that:
 - (A) each protective intervention plan protocol complies with requirements found in per OAC 340:100-5-57;
 - (B) each protective intervention plan protocol focuses on:
 - (i) prevention person-centered principles and positive procedures;
 - (ii) education to maximize the individual's growth and skill development in areas, such as communication and choice making;
 - (iii) staff training and conduct; and
 - (iv) other positive approaches; environmental and programmatic changes.
 - (C) due process is provided prior to the use of each restrictive or intrusive procedure. is:
 - (i) Proper consents must be obtained justified based on the severity and frequency of risk;
 - (ii) The restrictive or intrusive procedure must be the least restrictive alternative. and used only after less intrusive methods were determined ineffective; and
 - (iii) The protective intervention plan must comply with all applicable DDSD policy used only with the continued use of positive procedures.
 - (iv) Educational procedures must be in place to assist the individual in restoring the restricted right(s).
 - (v) Personal Support Team (Team) participation in developing the positive protective intervention plan must be documented.

(24) In addition to review of protective intervention plans protocols containing restrictive or intrusive procedures, the SBRCSHRBRC may:

- (A) review protective intervention plans protocols without restrictive or intrusive procedures if when requested by a member of the Team; or to address relevant concerns of committee members or others;
 - (B) identify systems issues and make recommendations as appropriate to the DDS director of DDSD.
- (b) **Membership.** The SBRCSHRBRC members are appointed by the DDS director of DDSD.
- (1) The committee is chaired by the DDS DDS director of psychological and behavioral supports or his or her designee.
 - (2) Other members are appointed in writing by the DDS director of DDSD for a three-year term of three years. Members and may be re-appointed.
 - (3) An associate chair is appointed by the chair to conduct committee business in the absence of the chair.
 - (4) The SBRCSHRBRC includes:
 - (A) at least three professional members with expertise in areas relating to the duties of the committee, including:
 - (i) positive behavior supports and educational methodologies;
 - (ii) issues involving client rights;
 - (iii) related medical or psychiatric issues; or
 - (iv) other qualifying experience as accepted by the DDS DDS director. Documentation of members' additional credentials is maintained in the SBRC file of membership resumes by DDS;
 - (B) at least two individuals who receive DDSD DDS services or are a family member, guardian, or advocate of an individual who receives DDSD DDS services; and
 - (C) ex-officio, non-voting members as appropriate to assist in the business of the committee. The positive support field specialist serves as a non-voting member, when presenting proposals or plans present to discuss protective intervention protocols submitted by the Team.
 - (54) At least one-half of the voting committee members must be present to conduct business.
 - (65) No A professional whose protective intervention plan protocol is the subject of review may not vote on the his or her protocol approval of that plan.
 - (76) No A member may not vote on an issue or recommendation if when there is a professional, pecuniary, or familial conflict of interest.
 - (87) Members are required to protect the confidentiality of all records and information disclosed in carrying out the duties and activities of the committee.
 - (A) Each committee member is required to sign a confidentiality statement.
 - (B) Confidentiality is protected in all communications of the committee to non-members.
- (c) **Review by the positive support field specialist.** The case manager, or provider agency program coordination staff

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member if there is no DDS case manager, submits all protective intervention plans to the positive support field specialist for review to determine if the plan contains:

- (1) restrictive or intrusive procedures requiring approval by the SBRC; or
 - (2) any significant deviation from acceptable standards of positive behavior supports.
- (d) **Due process.** Due process is required prior to use of a restrictive or intrusive procedure, except in an emergency as defined in subsection (f) of OAC 340:100-5-57. For persons in a resource center or the Greer Center, review and approval by the resource center Behavior Review Committee (BRC) and Human Rights Committee (HRC) are required when restrictive or intrusive procedures are planned.
- (e) **Documentation of SBRC minutes and tracking SHRBRC reviews.** The SBRC-SHRBRC chairperson of the SBRC must maintain:
- (1) a record of each meeting that includes:
 - (A) a summary of the disposition of each protective intervention plan/protocol reviewed;
 - (B) a record of attendance; and
 - (C) the date of the meeting; and
 - (D) documentation of other issues discussed by the committee;
 - (2) a tracking system that allows for retrieval of information pertinent to:
 - (A) individual protective intervention protocols;
 - (B) program protective intervention protocol authors; and
 - (C) types of restrictions;
 - (D) general questions regarding programming which involve restrictive or intrusive procedures; and
 - (E) matters specific to the SBRC such as attendance and protective intervention plan review activities.
- (f) **Standards for protective intervention plans.** Committee members examine each protective intervention plan developed in accordance with subsection (d) of OAC 340:100-5-57 to determine whether the plan meets all standards defined in OAC 340:100-5-57.

(g) **Recommendations/Findings of the SBRC-SHRBRC.** All recommendations for required changes, or requests for additional information, and SHRBRC recommendations are supported by a consensus of the committee.

- (1) Protective intervention plans/protocols must be modified to accommodate the recommendations of the SBRC-required SHRBRC changes and approved in accordance with per this Section prior to implementing the proposed restrictive or intrusive procedure(s).
- (2) Educational supports in addition to those required by the protective intervention plan/protocol may be recommended by the SBRC-SHRBRC to assist the Team in maximizing the individual's growth and skill development. Recommended supports address specific educational needs of the individual or training needs of the support staff and are designed to reduce or eliminate the need for restrictive or intrusive procedures.

(3) Additional medical evaluation(s) may be recommended by the SBRC-SHRBRC to determine if challenging behaviors are due to physical or medical conditions.

(4) If/When the Team is resistant to positive approaches and preventions, the SBRC-SHRBRC may recommend administrative action when deemed necessary.

(5) The SBRC-SHRBRC is the final approval authority for protective intervention plans/protocols that include a restrictive or intrusive procedure(s)/procedures.

(6) SBRC approval is for no longer than one year and Continued use of the restrictive or intrusive procedure must be renewed/reviewed and approved annually as long as the restrictive or intrusive procedure is in place.

(h) **Notification of the Team.** The SBRC-SHRBRC sends a copy of the SBRC minutes and a copy of protective intervention plan/protocol review summary to the case manager. The review summary specifies whether the protective intervention plan/protocol is:

- (1) approved by a consensus of the committee;
- (2) conditionally approved, with required information or changes to be provided within a time period-SBRC-SHRBRC specified by the SBRC time period; or
- (3) conditionally approved with required educational supports or staff training as specified; or
- (4) not approved, with required information or changes to be provided within a time period specified by the SBRC. The case manager convenes the Team within ten working 10-business days of receipt of the SBRC minutes and summary for SHRBRC review and makes necessary modifications to the protective intervention plan/protocol.

(i) **Revisions and addenda to protective intervention plans/protocols.** Changes, revisions, and addenda/Revisions to protective intervention plans/protocols are conspicuously clearly marked when re-submitted to the SBRC-SHRBRC.

(1) If/When the information or revision requested by the SBRC-SHRBRC is not provided within the time frame-SHRBRC specified by the SBRC, the SBRC may require additional, more current information time period, the restrictive or intrusive procedure contained in the protective intervention protocol is considered not approved for use.

(2) If the Team's revision of the protective intervention plan does not contain the requested changes or information: When the Team is unclear on how to meet the SHRBRC requirements, they may request technical assistance from the positive support field specialist.

(A) the SBRC may request an administrative inquiry as provided by OAC 340:100-3-27 if the SBRC believes there are service deficiencies associated with the development of the protective intervention plan;

(B) the Team may request technical assistance from the positive support field specialist if they are unclear how to meet the requests of the SBRC; or

(3) The SHRBRC may request an administrative inquiry per OAC 340:100-3-27.1 when it determines there

are service deficiencies associated with the development of the protective intervention protocol.

(4) ~~the~~The Team may request a ~~SHRBRC~~ hearing of the ~~SBRC~~, when presenting the ~~later revision~~revisions, to provide an opportunity to further explain the direction taken in the protective intervention ~~plan~~protocol.

(g) **The Robert M. Greer Center (Greer).** For persons served by Greer, review and approval by the center's Behavior Review Committee and HRC are required when restrictive or intrusive procedures are proposed.

340:100-3-15. SoonerStart [REVOKED]

(a) **Purpose.** ~~SoonerStart Early Intervention Program (SoonerStart) is a statewide, interagency, multidisciplinary system of services to families with children, birth to 36 months, who have developmental delays. Focusing on the family, SoonerStart seeks to:~~

- (1) ~~enhance the development of children served and minimize their potential for developmental delay;~~
- (2) ~~enhance and strengthen the abilities of families to meet the needs of children with developmental delays;~~
- (3) ~~reduce the need for special education and related services as these children reach school age; and~~
- (4) ~~maximize each child's potential for leading a productive life in the community as an adult.~~

(b) **Eligibility.** ~~SoonerStart is available to all children deemed eligible regardless of income, custody status, or eligibility for other Oklahoma Department of Human Services (OKDHS) programs. A child who is eligible for SoonerStart must be age birth through two years, 0 to 36 months, and:~~

- (1) ~~exhibit a delay in his or her development of 50 percent or score two standard deviations below the mean in one or more domains of:~~
 - (A) ~~eognitive development;~~
 - (B) ~~physical development;~~
 - (C) ~~ommunication development;~~
 - (D) ~~social or emotional development; or~~
 - (E) ~~adaptive development;~~
- (2) ~~exhibit a delay in his or her development of 25 percent or score one and one half standard deviations below the mean in two or more domains of:~~
 - (A) ~~eognitive development;~~
 - (B) ~~physical development;~~
 - (C) ~~ommunication development;~~
 - (D) ~~social or emotional development; or~~
 - (E) ~~adaptive development; or~~
- (3) ~~have a diagnosed physical or mental condition that has a high probability of resulting in delay, including, but not limited to:~~
 - (A) ~~chromosomal disorders;~~
 - (B) ~~neurological abnormalities;~~
 - (C) ~~inborn errors of metabolism;~~
 - (D) ~~genetic disorders;~~
 - (E) ~~eongenital malformation of the brain;~~
 - (F) ~~eongenital infections;~~
 - (G) ~~sensory abnormalities and impairments; or~~
 - (H) ~~other identified syndromes.~~

(e) **Background and authority.** ~~SoonerStart is authorized by Section 1471 of Title 20 of the United States Code (20 U.S.C. § 1471) and Section 13-121 et seq. of Title 70 of the Oklahoma Statutes (70 O.S. § 13-121 et seq.), Oklahoma Early Intervention Act.~~

(1) ~~70 O.S. § 13-121 et seq. sets forth joint participation in funding and provision of services from:~~

- (A) ~~Oklahoma State Department of Education (OSDE);~~
- (B) ~~OKDHS;~~
- (C) ~~Oklahoma State Department of Health (OSDH); and~~
- (D) ~~Oklahoma Department of Mental Health and Substance Abuse Services (ODMHSAS).~~

(2) ~~OSDE is the designated lead agency for general administration, supervision, and monitoring of the SoonerStart program and activities.~~

- (A) ~~OSDH provides or arranges designated early intervention services.~~
- (B) ~~Oklahoma Commission on Children and Youth (OCCY) administers the Interagency Coordinating Council (ICC) for Early Childhood Intervention that advises and assists OSDE. ICC is composed of 15 to 25 members appointed by the Governor, including parents of children with disabilities and public and private agency representatives.~~

(d) **Structure.** ~~SoonerStart is a multidisciplinary program that capitalizes on the resources and functions of participating agencies.~~

- (1) ~~OSDE, OSDH, OKDHS, and OCCY have designated staff to serve as SoonerStart coordinators for their agencies. The OKDHS SoonerStart coordinator is located in the Developmental Disabilities Services Division (DDSD).~~
- (2) ~~Oklahoma is divided into ten service delivery regions with 26 SoonerStart sites. Larger regions have several SoonerStart sites that cover several counties. Each region consists of a regional coordinator and resource coordinators employed by OSDE and service providers employed by OSDH.~~

- (A) ~~The resource coordinators provide case management services to children and families.~~
- (B) ~~The regional coordinator supervises the resource coordinators and is responsible for direct linkage between the community, other agencies, local schools, and service providers in SoonerStart.~~
- (C) ~~OSDH service providers are responsible for the direct services to children and families.~~

(e) **Direct services.** ~~SoonerStart uses a family centered approach to arrange services for the child while helping the parent(s) understand and enhance the child's development. Services may include:~~

- (1) ~~diagnostic and evaluation services;~~
- (2) ~~ease management;~~
- (3) ~~family training, counseling, and home visits;~~
- (4) ~~certain health and medical services;~~
- (5) ~~nursing services;~~
- (6) ~~nutrition services;~~

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- (7) occupational, physical, and speech language therapy;
 - (8) audiological services;
 - (9) special instruction;
 - (10) social work services; and
 - (11) psychological services.
- (f) **Service provision.** A multidisciplinary team evaluates the child for eligibility purposes and assesses the child's individual needs. The parent(s) participates in all aspects of the evaluation process.
- (1) A written Individualized Family Service Plan (IFSP) is developed by the family and service providers based on the child's evaluation.
 - (2) The IFSP is the plan of action for services to the child and family taking into consideration the child's and family's strengths, priorities, and resources.
 - (3) Services are provided in the child's natural environment, such as the home, day care center, or other community setting that best meets the child's needs.
- (g) **Funding.** There is no direct cost to families for services. Funding sources include Individuals with Disabilities Education Act, Medicaid (Title XIX), Maternal and Child Health (Title V), and state appropriated dollars.
- (h) **Referrals.** Referrals are encouraged and accepted from all sources. A parent(s) or other referral source may contact SoonerStart by phone, written, or personal contact.
- (1) The referral process includes gathering information, such as child's name and birth date, parent(s)' name, phone number, and address, reason for referral, and other available information.
 - (2) When possible, the parent(s) is informed when a SoonerStart referral is made on behalf of the child. If the parent(s) is unsure about the referral or in need of more information, then SoonerStart may be contacted directly. The information can be mailed to the referral source to be shared with the parent(s) or mailed directly to the parent(s).
- (i) **Children in foster care.** Children, younger than three years of age, placed in foster care through OKDHS are referred to SoonerStart. Under the Oklahoma Early Intervention Act and special education federal regulations, the foster parent(s) serves as the child's parent(s) in giving consent for services and releasing information from SoonerStart to other agencies, including OKDHS.
- (j) **Transition.** Eligibility for SoonerStart ends when the child attains three years of age. The child may then be eligible for special education services through the local school district. Children who do not meet the criteria for special education services are referred to appropriate community programs.

PART 3. ADMINISTRATION

340:100-3-29. Foster Grandparent Program [REVOKED]

All foster grandparent volunteer activities and requests for volunteers 55 years of age or older are recorded and monitored through the Oklahoma Department of Human Services

(OKDHS) Foster Grandparent Program Office, in accordance with the Domestic Volunteer Service Act (DVSA) of 1973, Public Law (P.L.) 93-113, as stated in the current Foster Grandparent Program Operations Handbook.

- (1) Foster Grandparent Program volunteers provide services to persons younger than 22 years of age.
- (2) Volunteers receive an hourly stipend if his or her total household income is within the National Senior Service Corps (NSSC) guideline.
- (3) Volunteers provide services no more than 2,088 hours per year.
- (4) Volunteers receive all benefits as stipulated in the Corporation for National and Community Service, CNCS Foster Grandparent Program Operations Handbook.
- (5) Required criminal background and ongoing registry checks for potential foster grandparents. Prior to serving as volunteers and:
 - (A) annually thereafter, the volunteer must consent to his or her name being checked on the:
 - (i) Sex Offender Registry; and
 - (ii) Mary Rippy Violent Crime Offenders Registry;
 - (B) every three years thereafter, the volunteer must complete:
 - (i) the Developmental Disabilities Services Division (DDSD) Community Services Worker Registry;
 - (ii) an Oklahoma State Bureau of Investigation name and criminal records history search; and
 - (iii) a Department of Public Safety history.
 - (C) an Oklahoma State Bureau of Investigation name and criminal records history search;
 - (D) the Mary Rippy Violent Crime Offenders Registry; and
 - (E) a Department of Public Safety history.
- (6) Prior to volunteering and annually thereafter, the foster grandparent must have an OKDHS vendor contract in force for travel, meals, or stipend reimbursement, when applicable.
- (7) DDSD staff submits monthly expenditure reports to the OKDHS Finance Division federal programs accountant.

SUBCHAPTER 5. CLIENT SERVICES

PART 5. INDIVIDUAL PLANNING

340:100-5-50. Principles of individual planning

The intent of the Developmental Disabilities Services Division—(DDSD)(DDS) is to secure services and supports for persons with developmental disabilities to live, work, and participate in their communities. The principles in this subsectionSection provide direction and purpose in designing services and supports for persons with developmental disabilities.

- (1) Understanding the ways in which a person with a developmental disability communicates with others is critical. Case managers, program coordinators, and other involved Personal Support Team (Team) members must actively solicit, listen to, and respond to the person's needs, ideas, and choices, whether these are communicated verbally or non-verbally.
- (2) ~~DDS~~ DDS employs a service person-centered planning, implementation, and monitoring process which focuses on the needs, desires, and choices that is an individually focused approach identifying the needs, preferences, goals, and desired outcomes of the person receiving services.
- (3) The Individual Plan (Plan) process assures that ensures people receiving services have access to quality services and supports which that foster:
- (A) independence, learning, and growth;
 - (B) choices in everyday life;
 - (C) meaningful relationships with family, friends, and neighbors;
 - (D) presence and full participation in their his or her communities community;
 - (E) dignity and respect;
 - (F) positive approaches aimed at focused on skill enhancement; and
 - (G) health and safety.
- (4) The case manager ensures ~~that~~ the Team makes maximum use of services ~~which are~~ available to all citizens.
- (5) Services and supports are provided, based on assessed needs as explained in per Oklahoma Administrative Code (OAC) 340:100-5-51.
- (6) The case manager ~~assures that ensures~~ the services and supports developed by the Team support the person's ~~own~~ network of personal natural resources. The willing efforts of family members or friends to support areas of the person's life are not replaced with paid supports.
- (7) Planning focuses on the needs and outcomes which the person receiving services wishes wants to achieve. The Team first considers the preferences of the person receiving services first and ~~then~~ family, friends, and advocates secondarily.
- (8) Each person served has a single, unified Plan. All services and supports are ~~an~~ integrated part parts of the Plan. Programs involving professional and specialized services are jointly developed to assure ensure integration of service outcomes. The Team ensures ~~that~~ services and supports:
- (A) are integrated into the individual's daily activities important for the person to meet the needs identified through an assessment of functional need;
 - (B) take advantage of every opportunity for social inclusion are important to the person with regard to preferences for service delivery;
 - (C) reflect positive approaches aimed at skill enhancement are commensurate with the person's level of need and the scope of services available through

- Home and Community-Based Services (HCBS) Waivers; and
- (D) make use of the least intrusive and least restrictive options are integrated into the person's daily living;
 - (E) take advantage of every opportunity for social inclusion;
 - (F) reflect positive approaches focused on skill enhancement; and
 - (G) use the least intrusive and restrictive options.
- (9) The case manager ~~assures that ensures~~ the Team identifies needed services and supports.
- (A) ~~If~~ When services and supports are unavailable near the ~~area of the person's home community,~~ the case manager submits a list of such services and supports to the area manager for resource development.
 - (B) ~~If~~ When the Team identifies a lack of available services and supports as a barrier, the Team develops alternative strategies, using ~~currently~~ available services and supports, pending the development of additional resources.
 - (C) ~~If~~ When an identified service is not within the scope of the State's programs, the Team creatively seeks methods to meet the need.

340:100-5-51. Individual assessment

An individual assessment process forms the basis for developing an Individual Plan (Plan).

- (1) Psychological, medical, social, and functional assessments are completed prior to the development of an initial Plan.
 - (2) The medical, social, and functional assessments are reviewed and updated at least annually.
 - (3) Consistent with the service recipient-directed focus of ~~an In Home Supports Waiver~~ planning, the Developmental Disabilities Services ~~Division (DDSD) (DDS)~~ case manager completes a needs ensures completion or update of a person-centered assessment, and necessary assessments to support the need for services, with the service recipient at least annually, with the service recipient to form the basis for developing the Plan of Care.
 - (4) ~~Consistent with a service recipient centered focus, the DDSD case manager ensures completion of a review and update at least annually of necessary assessments to support the need for services, as well as assessment of the skills, supports, and needs of the service recipient through the Community Waiver and Homeward Bound Waiver.~~
- (A) Assessments address the service recipient's needs and choices for supports and services related to:
 - (i) personal relationships;
 - (ii) home;
 - (iii) employment, education, or both;
 - (iv) transportation;
 - (v) health and safety;
 - (vi) leisure;
 - (vii) social skills; and
 - (viii) communication.

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(B) The ~~DDSDDS~~ case manager ensures early intervention and prevention by the Personal Support Team when changes occur. Events, such as the loss of a loved one, change in roommates, staff, schedules, health changes, or loss of a job prompt a re-assessment of needs, services, and supports.

340:100-5-52. The Personal Support Team (Team)

(a) The ~~Personal Support Team~~ (Team) is composed of people selected by the service recipient who know and work with the service recipient or whose participation is necessary to achieve ~~the outcomes desired by the service recipient~~ recipient's desired outcomes.

(1) To respect the service recipient's dignity and privacy ~~of the service recipient~~, the Team is no larger than is necessary to plan ~~for~~ and implement the services needed to achieve the service recipient's desired outcomes. The Team is large enough to possess the expertise and capacity necessary to address the service recipient's needs, but not so large as to intimidate the service recipient or to stifle the service recipient's participation ~~on the part of the service recipient or that of his or her representatives~~.

(2) ~~At its~~ The core, ~~the~~ Team includes the service recipient, his or her case manager, the legal guardian, and advocate(s), ~~if there is one~~ when applicable and, who may be a parent, a family member, a friend, or another individual who knows the service recipient well. The service recipient is assured ~~the~~ of his or her opportunity to select an individual to serve as an advocate.

(3) Depending on the service recipient's needs ~~of the service recipient~~ and the issues ~~to be~~ addressed, the Team may include others. The selection of these additional Team members reflects the service recipient's choices ~~of the service recipient~~.

(b) The Team role ~~of the Team~~ is ~~explained~~ detailed in this subsection.

(1) Team members implement responsibilities identified in the Individual Plan (Plan) or in the Oklahoma Department of Human Services (~~OKDHS~~) (DHS) or Oklahoma Health Care Authority (OHCA) rules. Implementation of the Plan may only be delegated to persons who are appropriately qualified and trained.

(2) The Team develops the Plan and reviews and approves strategies, ~~plans protocols~~, and guidelines developed to implement services or supports.

(3) The service recipient or his or her guardian participate in the development of the Plan and provide written, informed consent for the Plan's implementation.

(~~34~~) The Team implements the Plan upon approval of the Plan of Care, and inclusion of service providers' signatures on the Plan signature sheet.

(~~45~~) A copy of the Plan is maintained per Oklahoma Administrative Code (OAC) 340:100-3-40. All staff implementing the Plan must be knowledgeable about its contents and have access to a copy of the Plan.

(~~56~~) Each Team member responsible for services identified in the Plan sends a quarterly summary of progress on assigned outcomes and action steps to the case manager.

(A) The quarterly summary of progress is due by the ~~tenth~~ 10th of:

(i) April for services rendered in January, February, and March;

(ii) July for services rendered in April, May, and June;

(iii) October for services rendered in July, August, and September; and

(iv) January for services rendered in October, November, and December, unless an alternative schedule is specified in the Plan.

(B) The quarterly summary of progress includes:

(i) whether services were provided ~~as specified in~~ per the Plan, and if not why; and

(ii) if the outcomes ~~have been~~ were achieved; or

(iii) the outcome progress status, ~~of progress on the outcome~~ if not achieved.

(c) The case manager role ~~of the case manager~~ is detailed in this subsection.

(1) Prior to the initial and ~~each~~ annual Team meeting, the case manager meets with the service recipient and ~~the service recipient's~~ his or her advocate or legal guardian, ~~if there is one~~ when applicable, to review the individual situation, including the service recipient's ~~desired~~ vision and progress ~~in~~ attaining the vision. Among the questions explored are whether the service recipient is satisfied with the results of the Plan and whether outcomes need to be revised, based on the progress achieved, or on changing circumstances in the service recipient's life. This review provides a clear agenda for the Team meeting and ~~assures~~ ensures the service recipient's input and participation.

(2) The case manager identifies available service providers for selection by the service recipient or legal guardian.

(3) The case manager ensures ~~that~~ the size and composition of the Team support the person-centered planning process.

(A) The case manager plans for the participation of people whom the service recipient ~~desires to have~~ wants on the Team, people whose services are needed to achieve identified outcomes, and people who know the service recipient best. The case manager sends ~~written notice of the annual meeting to all Team members~~ written notice of the meeting, at least two weeks in advance of the annual Team meeting.

(B) Planning may occur in Team meetings or through individual or small group consultation according to the ~~desire~~ service recipient's wants and needs ~~of the service recipient~~.

(C) The case manager notifies a Team member by letter ~~that~~ when his or her services on the Team are no longer required:

(i) at the request of the service recipient or the legal guardian; or

(ii) ~~if~~ when the performance of the Team member reveals a course of action that:

- (I) is not in the best interest of the service recipient;
 - (II) is destructive toward the collaborative process of the Team; or
 - (III) violates ~~OKDHS~~DHS or OHCA rules or accepted standards of professional practice.
- (4) Unless the service recipient elects to chair his or her own meetings, the case manager serves as chair of the Team.
- (5) The case manager empowers and supports the service recipient in setting the direction for the Team and in actively participating in Team meetings.
- (6) The case manager writes or revises the Plan based on input from the Team.
- (7) The case manager assists the Team in developing strategies, ~~plans~~protocols, and guidelines to achieve the ~~outcomes desired~~service recipient's preferred or needed by the service recipientoutcomes.
- (8) The case manager monitors all aspects of the Plan's implementation per OAC 340:100-3-27.
- (9) The case manager routinely asks the service recipient, ~~and~~ his or her family, guardian, or advocate about their satisfaction with services and supports, and initiates appropriate action to identify and resolve barriers to consumer satisfaction.
- (10) The case manager convenes Team meetings as needed.
- (A) The Team, ~~as needed~~, evaluates ~~whether if~~ the Plan and its components are meeting the service recipient's objectives of the service recipient.
 - (B) The case manager ~~convenes~~may convene a Team meeting, ~~when needed~~, at the request of any Team member.
 - (C) Meetings are held at times and locations convenient for the service recipient.
- (11) Case manager responsibilities are carried out by provider-agency program coordination staff when the service recipient receives state funded employment, state funded group home, or assisted living services without waiver supports. Each person filling this role in a provider agency must have a minimum of four years of any combination of college level education and full-time equivalent experience in serving persons with disabilities, unless this requirement is waived in writing by the ~~DDS~~DDS director or designee.
- (12) The planning process must:
- (A) reflect the service recipient's cultural considerations;
 - (B) be provided in plain language in an accessible manner; and
 - (C) provide needed language services or aids.
- (13) In order to avoid a conflict of interest, DDS staff including the case manager, case management supervisor, and plan of care reviewer must not:
- (A) be related by blood or marriage to the service recipient, or any paid service provider for the service recipient;

- (B) be financially responsible for the service recipient;
- (C) be empowered to make financial or health related decisions for the service recipient; or
- (D) hold a financial interest in any entity paid to provide care for the service recipient.

340:100-5-56. Risk assessment

The personal support team (Team) completes an assessment ~~which that~~ identifies:

- (1) potential areas ~~in~~ which where the ~~individual's~~service recipient's safety is at risk, including physical, emotional, medical, financial, ~~or~~ legal risks, or risk to community participation; and
- (2) the frequency and degree of potential harm to the individual or others; and
- (~~3~~) why, when, where, and how often the risk to safety may occur, including:
 - (A) ~~issues such as circumstances, places, conditions, or times in the individual's surroundings;~~
 - (B) ~~early signs, clues, or other indicators of potential safety risks;~~
 - (C) ~~the actions and communications of the individual and others, including staff;~~
 - (D) ~~the individual's understanding of risk;~~
 - (E) ~~the individual's skills and concepts which impact safety risks, including:~~
 - (i) ~~communication;~~
 - (ii) ~~coping;~~
 - (iii) ~~educational;~~
 - (iv) ~~social;~~
 - (v) ~~self-reliance;~~
 - (vi) ~~leisure;~~
 - (vii) ~~vocational; and~~
 - (viii) ~~relationships;~~
 - (F) ~~the individual's past experience;~~
 - (G) ~~medical, psychiatric, or pharmacological issues;~~
 - (H) ~~recent or predictable changes in the person's life; and~~
 - (I) ~~previous incidents in which the individual's safety was at risk;~~
- (4) ~~discussion of previous supports, services, and strategies that have been effective or ineffective in preventing or reducing the risks; and~~
- (5) ~~services and supports which are needed.~~
- (3) the approaches, supports, services, and the actions needed or used to reduce or eliminate the risk, including:
 - (A) assisting the service recipient in having as much control and decision-making abilities as possible;
 - (B) changes in the environment to reduce stressors;
 - (C) communication between team members;
 - (D) consistency of provider-agency support staff;
 - (E) daily activities;
 - (F) frequency and quality of supervision;
 - (G) offering positive activities;

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- (H) prescribing staff training when additional training is needed;
- (I) recognition of early signs or indicators of potential risks;
- (J) skill building;
- (K) supporting the individual in communicating choices;
- (L) teaching coping skills;
- (M) temporarily avoiding situations too difficult or uncomfortable for the service recipient; and
- (N) understanding how and what the person is communicating.

340:100-5-57. Protective intervention ~~plan~~protocol

(a) **Purpose.** The purpose of protective intervention protocol is to ensure the service recipient's safety, ~~if~~when physical, emotional, medical, financial, legal, or community participation issues place the service recipient at risk.

(b) **Elements of the protective intervention ~~plan~~protocol.** The protective intervention ~~plan~~protocol is part of the Individual Plan (Plan) developed with the participation of the service recipient and Personal Support Team (Team).

(1) The protective intervention ~~plan~~protocol:

(A) ~~addresses all the elements of the risk assessment~~uses the least restrictive approaches necessary to address safety risks identified in the safety risk assessment, per Oklahoma Administrative Code (OAC) 340:100-5-56;

(B) identifies the early signs, clues, or other indicators of potential safety risks;

~~(C)~~ describes preventative supports, services, and actions to be taken~~take in order~~ to reduce or eliminate safety risks;as needed, including:

(i) ~~requirements or changes in the service recipient's environment; and~~

(ii) ~~program and service requirements including:~~

(I) ~~consistency of support staff;~~

(II) ~~frequency and quality of supervision and oversight of support staff;~~

(III) ~~communication between Team members;~~

(IV) ~~daily activities;~~

(V) ~~an educational plan with teaching methods for learning skills and concepts;~~

(VI) ~~detailed instructions for staff interaction with the service recipient or others if necessary; and~~

(VII) ~~recognition of early signs, clues, or other indications of potential safety risk;~~

~~(C)~~ describes detailed instructions and procedures to be taken by staff and Team members during a situation that places the safety of the service recipient or others at risk, including:

(i) ~~procedures that~~ to keep the service recipient and others who may be affected as safe as possible;

(ii) ~~steps to defuse, reduce, or eliminate the~~ harm or injury; and

(iii) ~~protocols~~procedures for securing assistance from other Team members or provider agency staff;

~~(D)~~ includes education components that outcomes targeting skill enhancement, health improvement, choice making, development of meaningful relationships, and participation in the community;

(i) ~~assess and identify educational objectives and specify how the objectives relate to the challenging issues;~~

(ii) ~~describe teaching methods in sufficient detail to provide clear direction to support staff to assist the service recipient in learning relevant skills; and~~

(iii) ~~affirm the dignity of the service recipient;~~

~~(E)~~ prescribes staff training when additional training is neededdescribes teaching methods in sufficient detail to provide clear direction to provider agency support staff to assist the service recipient learn relevant skills;

~~(F)~~ identifies methods and time frames to evaluate the effectiveness of the protective intervention ~~plan~~protocol;

~~(G)~~ is revised when circumstances change or the ~~plan~~protective intervention protocol is no longer effective;

~~(H)~~ treats the service recipient with dignity and is reasonable, humane, practical, not controlling, and the least restrictive alternative; and

~~(I)~~ is submitted to the ~~positive support field specialist and Human Rights Committee (HRC)~~ for review at least annually, ~~if~~ when the plan imposes a restrictive or intrusive procedure; and

(2) ~~The Team may request the services of appropriate professionals, if needed, in the development of protective intervention plans~~is submitted to the Statewide Human Rights Behavior Review Committee (SHRBC) per OAC 340:100-3-14.

(3) ~~Staff instructions regarding management of risks or challenging issues are prohibited unless developed by the Team per OAC 340:100-5-57.~~

(4) ~~Staff meets all training and in-service requirements set forth in OAC 340:100-3-38.~~

(c) **Serious risk or dangerous behavior.** ~~If~~When a protective intervention ~~plan~~protocol addresses challenging behaviors that create serious risk of physical injury or harm to the service recipient or others, ~~creates~~ a risk of involvement in the civil or criminal processes, or places at serious risk the service recipient's physical safety, environment, relationships, or community participation, the protective intervention ~~plan~~protocol must be developed and overseen by the Team and an appropriately licensed professional or a family trainer approved by Developmental Disabilities Services ~~Division (DDSD)~~(DDS) with the assistance of the positive support field specialist.

(d) **Restrictive or intrusive procedures.** ~~If~~When the Team determines restrictive or intrusive procedures, per OAC 340:100-1-2, are essential for safety, the Team must develop

a protective intervention ~~plan~~protocol with the assistance of a ~~DDS~~DDS positive support field specialist.

~~(1)~~ In addition to ~~the~~ requirements ~~of~~in OAC 340:100-5-57 (b) of this Section, each ~~protective intervention plan containing a restrictive or intrusive procedure~~the Team must:

~~(1A) include sufficient justification for the use of a restrictive or intrusive procedure, including:~~

- ~~(i) current information on~~describe the severity and frequency of the ~~problem~~risk or dangerous behavior;
- ~~(ii) summary of relevant incident reports over the last six months; and~~
- ~~(iii) any other related information;~~

~~(2B)~~ address any limitations placed on the service recipient's access to goods, services, and activities, and document the Team's plan to restore access to such;

~~(3C)~~ include instructions to staff on how to:

- ~~(i) calm the service recipient during dangerous or disruptive episodes;~~
- ~~(ii) take appropriate action to protect the service recipient, staff, and others when the service recipient's behavior is dangerous;~~
- ~~(iii) call for assistance when necessary; and~~
- ~~(iv) prevent the misuse of restrictive and intrusive procedures~~identify positive approaches used prior to implementing the restrictive or intrusive procedure;

~~(4D)~~ collect and report data for the prescribing physician per OAC 340:100-5-26. Ensure the procedures cause no harm to the service recipient; and

~~(5E)~~ include a ~~description of~~describe methods to help the service recipient develop skills that serve the same function as, or reduce or eliminate the possibility of, the dangerous behavior or serious risk. These methods must be individualized and provide clear direction to provider agency support staff to develop the service recipient's pro-social and coping skills.

~~(2) The Team must submit each protective intervention plan containing a restrictive or intrusive procedure to the HRC and Statewide Behavior Review Committee (SBRC).~~

(e) **Physical management.** Physical management ~~or restraint~~, per OAC 340:100-1-2, is ~~used~~ used to prevent physical injury. Prompting that does not restrict the service recipient's movement or choice is not considered physical management or restraint. Any protective intervention ~~plan~~protocol that includes a physical management ~~component~~ requires the Team to:

- (1) identify ~~whether~~if the service recipient has any health concerns related to the use of physical management, ~~or restraint, or~~ any other intrusive method proposed;
- (2) ask the service recipient's physician or the ~~University of Oklahoma College of Pharmacy~~DDS pharmacy director to assess whether the current medication regimen ~~would pose~~poses any risk for the service recipient ~~under~~due to the stress of the physical management procedure;

(3) include ~~in the planning sessions~~ a ~~DDS~~DDS approved trainer of physical management procedures ~~in the planning sessions.~~

(A) The trainer:

- (i) makes recommendations about the effectiveness and safety of the physical management procedure in particular environments;
- (ii) assists the Team in identifying alternative approaches when standard procedures do not appear appropriate for the service recipient or the situation; and
- (iii) identifies existing physical obstacles to the implementation of a procedure for particular staff.

(B) The Team includes the trainer's recommendations in the physical management component;

(4) identify any situation in which physical management procedures cannot be used ~~as such use would be because they are unsafe or ineffective per this subsection~~ and

(5) comply with OAC 340:100-5-57(f) of this Section; and

~~(6) submit the protective intervention plan to the SBRC or resource center Behavior Review Committee (BRC) per OAC 340:100-3-14. The SBRC or resource center BRC notifies the Team:~~

- ~~(A) to proceed with implementation of the protective intervention plan; or~~
- ~~(B) when the physical management component is not approved and must be redrafted or removed pursuant to recommendations.~~

(f) **Emergency intervention.** Emergency intervention is the use of a restrictive or intrusive procedure not included in a protective intervention ~~plan~~protocol, in response to an unanticipated and unpredictable situation or event or the sudden occurrence of an event so severe and dangerous ~~that~~ urgent action precludes less restrictive measures. Physical management, per OAC 340:100-1-2, is only used ~~only~~ during emergencies to ensure physical safety and prevent injury.

(1) Emergency intervention:

- (A) cannot be used as a substitute for positive approaches or a protective intervention ~~plan~~protocol; and
- (B) is used for no longer than necessary to eliminate the clear and present danger of serious physical harm to the service recipient or others.

(2) Physical management must be terminated as soon as the service recipient is calm or the threat ~~has ended~~ and must not exceed two minutes at a time with attempts to release every two minutes to ensure the safety of the service recipient.

(3) When responding to an emergency, no one may authorize or use an amount of force that exceeds ~~that~~ which ~~what~~ is reasonable and necessary under the circumstances to protect the service recipient or others.

(4) Any person who has reason to believe ~~that~~ abuse ~~has~~ occurred is responsible to contact the appropriate authorities.

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(g) ~~Expedited~~ **Temporary approval of restrictive or intrusive procedures.** After the first use of an emergency restrictive or intrusive procedure, ~~if~~ when the Team in consultation with the positive support field specialist determines the use of a restrictive or intrusive procedure must be continued to ensure the safety of the service recipient or others, the positive support field specialist or ~~DDS~~ **DDS** director of psychological and behavioral supports may provide temporary immediate approval ~~off~~ for continued use of restrictive or intrusive procedures.

(1) The ~~DDS~~ **DDS** case manager contacts the positive support field specialist to request ~~expedited~~ **temporary** approval of restrictive or intrusive procedures to protect the service recipient or others from serious physical harm.

(2) The positive support field specialist approves or denies the request for use of emergency interventions using Form 06MP042E, Request for ~~Expedited~~ **Temporary** Approval of Restrictive Procedures.

(A) If the ~~expedited~~ **temporary** request is approved, the positive support field specialist assists the Team in ensuring needed structure and training are in place for safe and proper implementation of the emergency interventions.

(B) ~~Expedited~~ **Temporary** approval of use of emergency interventions lasts no longer than ~~45~~ **60**-calendar days.

(3) Form 06MP042E must be ~~completed~~ **and** provide sufficient information to demonstrate positive supports were attempted, and the danger of severe harm still exists. ~~At a minimum, required information includes all incident reports from the last three months, with details on the harm caused and other indications of severity, as well as a description of existing positive supports and services.~~

(4) A ~~DDS~~ **DDS** trainer of ~~DDS~~ approved physical management procedures provides training regarding the authorized intrusive procedure.

(5) To continue using the temporarily approved restrictive or intrusive procedure, the Team must submit, within ~~25~~ **60**-calendar days following approval, a protective intervention ~~plan~~ **protocol** that incorporates the requested procedures. ~~If~~ When the submitted protective intervention ~~plan~~ **protocol** does not receive ~~SBRCSHRBRC~~ approval, ~~SBRCSHRBRC~~ may extend the ~~expedited~~ **temporary** approval ~~if~~ when ~~SBRCSHRBRC~~ determines conditions warrant extension, for a maximum of ~~45~~ **an** additional ~~60~~ **60**-calendar days.

(h) **Review and revision of the Individual Plan (Plan).** The Plan is reviewed and, as necessary, revised when an unexpected high risk event occurs and is likely to reoccur.

(1) Review and revision to the Plan is appropriate when the:

(A) service recipient was recently seen in a hospital emergency room due to a behavioral crisis;

(B) service recipient was recently admitted to a psychiatric facility for stabilization;

(C) police were called to intervene because the service recipient is displaying challenging behavior; and

(D) service recipient was placed in police custody as the result of his or her challenging behavior.

(2) Team planning shall include, at a minimum:

(A) consultation with the positive support field specialist;

(B) a review of recent events, including challenging behaviors;

(C) identification of the signs or behaviors indicating the event may reoccur;

(D) assisting the service recipient to develop an individualized safety plan;

(E) detailed action steps for provider agency support staff to follow, when the predicted situation occurs; and

(F) consultation with other professional services, when appropriate.

(i) **Mechanical restraint in a medical context.** Restraints and mechanical supports used in a medical context are exempt from (d) of this Section requirements. These exemptions include, but are not limited to:

(1) sedation prescribed by a physician or dentist prior to a medical or dental procedure;

(2) restraints used to control the movement of the service recipient during a time sensitive and necessary medical or dental procedure;

(3) time limited restraints to promote healing following a medical procedure or injury;

(4) devices prescribed by a physician, physical therapist, or an occupational therapist to maintain body alignment or otherwise support or position a service recipient;

(5) devices normally used for safety reasons, such as car seats or seat belts;

(6) helmets used to protect a service recipient from injury during or following a seizure;

(7) bed rails used to keep a service recipient from falling out of bed; or

(8) wheelchair brakes, unless used for the purpose of restricting mobility.

[OAR Docket #16-577; filed 6-16-16]

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

[OAR Docket #16-579]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 1. General Provisions

Part 1. Licensing Services-Child Care

340:110-1-4.1 [REVOKED]

340:110-1-8.1 [AMENDED]

340:110-1-9.1 [AMENDED]

340:110-1-15 [AMENDED]

Part 3. Licensing Services-Residential Care and Agencies

340:110-1-43.1 [REVOKED]

340:110-1-47.1 [AMENDED]

340:110-1-54 [AMENDED]

Subchapter 3. Licensing Standards for Child Care Facilities

Part 1. Requirements for Child Care Centers

340:110-3-1 [REVOKED]

340:110-3-2 [AMENDED AND RENUMBERED TO 340:110-3-275]
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 340:110-3-33 [AMENDED AND RENUMBERED TO 340:110-3-279]
 340:110-3-33.1 [AMENDED AND RENUMBERED TO 340:110-3-308]
 340:110-3-33.2 [AMENDED AND RENUMBERED TO 340:110-3-311]
 340:110-3-33.3 [REVOKED]
 Part 2. Requirements for Part-Day Children's Programs [REVOKED]
 340:110-3-35 through 340:110-3-49.7 [REVOKED]
 Part 9. Requirements for Residential Child Care Facilities
 340:110-3-146 [AMENDED]
 340:110-3-152 [AMENDED]
 340:110-3-153.1 [AMENDED]
 340:110-3-154.1 [AMENDED]
 Part 14. Requirements for School-Age Programs [REVOKED]
 340:110-3-220 through 340:110-3-242 [REVOKED]
 Part 15. Requirements for Child Care Centers, Day Camps, Drop-In Programs, Out-of-School Time Programs, Part-Day Programs and Programs for Sick Children [NEW]
 340:110-3-275 through 340:110-3-311 [NEW]
 Subchapter 5. Requirements for Child-Placing Agencies
 Part 1. Requirements for Child-Placing Agencies
 340:110-5-3 [AMENDED]
 340:110-5-6 [AMENDED]
 Part 5. Requirements for Foster Home Agencies
 340:110-5-57 [AMENDED]
 340:110-5-58 [AMENDED]
 340:110-5-61 [AMENDED]
 340:110 Appendices EE through NN [NEW]
(Reference APA WF 14-07 and 15-11)

AUTHORITY:

Director of Human Services; Section 162 of Title 56 of the Oklahoma Statutes (O.S. 56 § 162); 21 O.S. § 870, 10 O.S. § 404, Oklahoma Child Care Facilities Licensing Act, 10A O.S. § 1-1-105, and P.L. 113-183.

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Subchapter 1. General Provisions
 Part 1. Licensing Services-Child Care
 340:110-1-4.1 [REVOKED]
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 Part 3. Licensing Services-Residential Care and Agencies
 340:110-1-43.1 [REVOKED]
 340:110-1-46 through 340:110-1-47.1 [AMENDED]
 340:110-1-54 [AMENDED]
 Subchapter 3. Licensing Standards for Child Care Facilities
 Part 1. Requirements for Child Care Centers
 340:110-3-1 [REVOKED]
 340:110-3-2 [AMENDED AND RENUMBERED TO 340:110-3-275]
 340:110-3-3 [AMENDED AND RENUMBERED TO 340:110-3-276]
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 340:110-3-9.1 [AMENDED AND RENUMBERED TO 340:110-3-287]
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 340:110-3-14 [AMENDED AND RENUMBERED TO 340:110-3-302]
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 340:110-3-25 [REVOKED]
 340:110-3-25.1 [AMENDED AND RENUMBERED TO 340:110-3-289]
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 340:110-3-25.3 [AMENDED AND RENUMBERED TO 340:110-3-281.4]
 340:110-3-25.4 [AMENDED AND RENUMBERED TO 340:110-3-291]
 340:110-3-25.5 [AMENDED AND RENUMBERED TO 340:110-3-296]
 340:110-3-25.6 [AMENDED AND RENUMBERED TO 340:110-3-286]
 340:110-3-26 [AMENDED AND RENUMBERED TO 340:110-3-288]
 340:110-3-27 [AMENDED AND RENUMBERED TO 340:110-3-294]
 340:110-3-28 [AMENDED AND RENUMBERED TO 340:110-3-298]
 340:110-3-29 [AMENDED AND RENUMBERED TO 340:110-3-305]
 340:110-3-31 [AMENDED AND RENUMBERED TO 340:110-3-299]
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 340:110-3-33.1 [AMENDED AND RENUMBERED TO 340:110-3-308]
 340:110-3-33.2 [AMENDED AND RENUMBERED TO 340:110-3-311]
 340:110-3-33.3 [REVOKED]
 Part 2. Requirements for Part-Day Children's Programs
 340:110-3-35 through 340:110-3-49.7 [REVOKED]
 Part 14. Requirements for School-Age Programs
 340:110-3-220 through 340:110-3-242 [REVOKED]
 Part 15. Requirements for Child Care Centers, Day Camps, Drop-In Programs, Out-of-School Time Programs, Part-Day Programs and Programs for Sick Children [NEW]
 340:110-3-275 through 340:110-3-311 [NEW]
 340:110. Appendices EE through NN [NEW]
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Subchapter 3. Licensing Standards for Child Care Facilities
 Part 9. Requirements for Residential Child Care Facilities
 340:110-3-146 [AMENDED]
 340:110-3-152 [AMENDED]
 340:110-3-153.1 [AMENDED]
 340:110-3-154.1 [AMENDED]
 Subchapter 5. Requirements for Child-Placing Agencies
 Part 1. Requirements for Child-Placing Agencies
 340:110-5-3 [AMENDED]
 340:110-5-6 [AMENDED]
 Part 5. Requirements for Foster Home Agencies
 340:110-5-57 [AMENDED]
 340:110-5-58 [AMENDED]
 340:110-5-61 [AMENDED]

Permanent Final Adoptions

(Reference WF 15-11)

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INCORPORATIONS BY REFERENCE:

n/a

ANALYSIS:

The proposed amendments Chapter 110 Subchapters 1 and 3 are to: (1) clarify division practice and procedure; and (2) amend licensing requirements for child care centers, day camps, drop-in programs, school-age programs, part-day programs, and programs caring for sick children. Rule Sections revoked are issued as new Sections. Revisions to licensing requirements include the areas of professional development of child care personnel, areas impacting children's health and safety, emergency preparedness, learning program principles, health, hygiene, and nutrition.

The proposed revisions to Chapter 110, Subchapter 3 Part 9 and Subchapter 5 Parts 1 and 5 amend rules for requirements for residential programs and child-placing and foster home agencies to comply with statutory changes following passage of House Bill (HB) 1078 during the 2015 legislative session with a November 1, 2015, effective date. This parallels Public Law (P.L. 113-183) revisions effective 9-29-14 allowing for a 9-29-15 implementation date. Language amendments include definition of age and developmentally appropriate activities and the application of reasonable and prudent parenting standards.

CONTACT PERSON:

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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):

Subchapter 1. General Provisions Part 1. Licensing Services-Child Care
Oklahoma Administrative Code (OAC) 340:110-1-4.1 is revoked because the Section is redundant since form numbers and names are listed throughout the Subchapter.

OAC 340:110-1-8.1 is amended to clarify program practice and procedure.

OAC 340:110-1-9.1 is amended to clarify certification procedures and program practice and procedure.

OAC 340:110-1-15 is amended to reflect DHS organizational structure.

Part 3. Licensing Services-Residential Care and Agencies

OAC 340:110-1-43.1 is revoked because the Section is redundant since form numbers and names are listed throughout the Subchapter.

OAC 340:110-1-47.1 is amended to clarify program practice and procedure.

OAC 340:110-1-54 is amended to reflect DHS organizational structure.

PART 1. REQUIREMENTS FOR CHILD CARE CENTERS

OAC 340:110-3-1 is revoked because language is found in Section 401 et seq. of Title 10 of the Oklahoma Statutes.

OAC 340:110-3-2 is amended and renumbered to OAC 340:110-3-275.

OAC 340:110-3-3 is amended and renumbered to OAC 340:110-3-276.

OAC 340:110-3-5 is amended and renumbered to OAC 340:110-3-277.

OAC 340:110-3-5.1 is amended and renumbered to OAC 340:110-3-278.

OAC 340:110-3-6 is amended and renumbered to OAC 340:110-3-281.2.

OAC 340:110-3-7.1 is amended and renumbered to OAC 340:110-3-284.

OAC 340:110-3-9.1 is amended and renumbered to OAC 340:110-3-287.

OAC 340:110-3-10 is amended and renumbered to OAC 340:110-3-293.

OAC 340:110-3-11 is amended and renumbered to OAC 340:110-3-300.

OAC 340:110-3-14 is amended and renumbered to OAC 340:110-3-302.

OAC 340:110-3-22 is amended and renumbered to OAC 340:110-3-301.

OAC 340:110-3-25 is amended and renumbered to OAC 340:110-3-297.

OAC 340:110-3-25.1 is amended and renumbered to OAC 340:110-3-289.

OAC 340:110-3-25.2 is amended and renumbered to OAC 340:110-3-290.

OAC 340:110-3-25.3 is amended and renumbered to OAC 340:110-3-281.4.

OAC 340:110-3-25.4 is amended and renumbered to OAC 340:110-3-291.

OAC 340:110-3-25.5 is amended and renumbered to OAC 340:110-3-296.

OAC 340:110-3-25.6 is amended and renumbered to OAC 340:110-3-286.

OAC 340:110-3-26 is amended and renumbered to OAC 340:110-3-288.

OAC 340:110-3-27 is amended and renumbered to OAC 340:110-3-294.

OAC 340:110-3-28 is amended and renumbered to OAC 340:110-3-298.

OAC 340:110-3-29 is amended and renumbered to OAC 340:110-3-305.

OAC 340:110-3-31 is amended and renumbered to OAC 340:110-3-299.

OAC 340:110-3-33 is amended and renumbered to OAC 340:110-3-279.

OAC 340:110-3-33.1 is amended and renumbered to OAC 340:110-3-308.

OAC 340:110-3-33.2 is amended and renumbered to OAC 340:110-3-311.

OAC 340:110-3-33.3 is revoked because it is no longer accurate. PART 2.

REQUIREMENTS FOR PART-DAY CHILDREN'S PROGRAMS

OAC 340:110-3-35 is revoked because language is found in Section 401 et seq. of Title 10 of the Oklahoma Statutes.

OAC 340:110-3-36 is revoked and repositioned to OAC 340:110-3-275.

OAC 340:110-3-37 is revoked and repositioned to OAC 340:110-3-276.

OAC 340:110-3-38 is revoked because it is no longer required.

OAC 340:110-3-39 is revoked and repositioned to OAC 340:110-3-277.

OAC 340:110-3-40 is revoked and repositioned to OAC 340:110-3-278.

OAC 340:110-3-41 is revoked and repositioned to OAC 340:110-3-281.2.

OAC 340:110-3-42 is revoked and repositioned to OAC 340:110-3-284.

OAC 340:110-3-43 is revoked and repositioned to OAC 340:110-3-287.

OAC 340:110-3-44 is revoked and repositioned to OAC 340:110-3-300.

OAC 340:110-3-45 is revoked and repositioned to OAC 340:110-3-302.

OAC 340:110-3-46 is revoked and repositioned to OAC 340:110-3-301.

OAC 340:110-3-47 is revoked and repositioned to OAC 340:110-3-297.

OAC 340:110-3-48 is revoked and repositioned to OAC 340:110-3-289.

OAC 340:110-3-49 is revoked and repositioned to OAC 340:110-3-291.

OAC 340:110-3-49.1 is revoked and repositioned to OAC 340:110-3-296.

OAC 340:110-3-49.2 is revoked and repositioned to OAC 340:110-3-288.

OAC 340:110-3-49.3 is revoked and repositioned to OAC 340:110-3-294.

OAC 340:110-3-49.4 is revoked and repositioned to OAC 340:110-3-298.

OAC 340:110-3-49.5 is revoked and repositioned to OAC 340:110-3-305.

OAC 340:110-3-49.6 is revoked and repositioned to OAC 340:110-3-299.

OAC 340:110-3-49.7 is revoked and repositioned to OAC 340:110-3-279.

Part 9. Requirements for Residential Child Care Facilities

Oklahoma Administrative Code (OAC) 340:110-3-146 is amended to reflect definitions of "age or developmentally appropriate activities" and "reasonable and prudent parenting standard."

OAC 340:110-3-152 is amended to include application of the reasonable and prudent parent standard when approving activity for a child.

OAC 340:110-3-153.1 is amended to require that programs must have an on-site official authorized to apply the reasonable and prudent parent standard and ensure the designated on-site official receives training in the use and application of reasonable and prudent parent standard. Amendments also include the deletion of TB testing for program employees as approved by OSDH.

OAC 340:110-3-154.1 is amended to require that the program provide residents with opportunities to engage in age or developmentally appropriate activities. Subchapter 5. Requirements for Child-Placing Agencies PART 14.

REQUIREMENTS FOR SCHOOL-AGE PROGRAMS

OAC 340:110-3-220 is revoked because language is found in Section 401 et seq. of Title 10 of the Oklahoma Statutes.

OAC 340:110-3-221 is revoked and repositioned to OAC 340:110-3-275.

OAC 340:110-3-222 is revoked and repositioned to OAC 340:110-3-276.

OAC 340:110-3-223 is revoked and repositioned to OAC 340:110-3-277.

OAC 340:110-3-224 is revoked and repositioned to OAC 340:110-3-278.

OAC 340:110-3-225 is revoked and repositioned to OAC 340:110-3-281.2.

OAC 340:110-3-226 is revoked and repositioned to OAC 340:110-3-284.

OAC 340:110-3-227 is revoked and repositioned to OAC 340:110-3-287.

OAC 340:110-3-228 is revoked and repositioned to OAC 340:110-3-293.

OAC 340:110-3-229 is revoked and repositioned to OAC 340:110-3-300.

OAC 340:110-3-230 is revoked and repositioned to OAC 340:110-3-302.

OAC 340:110-3-231 is revoked and repositioned to OAC 340:110-3-301.

OAC 340:110-3-232 is revoked and repositioned to OAC 340:110-3-290.

OAC 340:110-3-233 is revoked and repositioned to OAC 340:110-3-281.4.

OAC 340:110-3-234 is revoked and repositioned to OAC 340:110-3-291.

OAC 340:110-3-235 is revoked and repositioned to OAC 340:110-3-286.

OAC 340:110-3-236 is revoked and repositioned to OAC 340:110-3-288.

OAC 340:110-3-237 is revoked and repositioned to OAC 340:110-3-294.

OAC 340:110-3-238 is revoked and repositioned to OAC 340:110-3-298.

OAC 340:110-3-239 is revoked and repositioned to OAC 340:110-3-305.

OAC 340:110-3-240 is revoked and repositioned to OAC 340:110-3-299.

OAC 340:110-3-241 is revoked and repositioned to OAC 340:110-3-279.

OAC 340:110-3-242 is revoked and repositioned to OAC 340:110-3-307. Part 15. Requirements for Child Care Centers, Day Camps, Drop-In Programs, Out-of-School Time Programs, Part-Day Programs, and Programs for Sick Children

OAC 340:110-3-275 is issued for requirement language pertaining to definitions. Revisions include the definitions for: (1) day camp programs to clarify use of outdoor areas; (2) out-of-school-time programs (formerly identified as school-age programs) to include children in public school pre-K programs; and (3) specialized services professional. A new definition of the age of infants for part-day programs was added and revisions to language clarifying current licensing enforcement were made.

OAC 340:110-3-276 is issued for requirement language pertaining to necessity, issuance, and maintenance of a permit or license. Revisions include the owner and director's knowledge of a rights and responsibilities publication. Revisions to language also clarify current licensing enforcement.

OAC 340:110-3-277 is issued for requirement language pertaining to other business, shared facility, and collaborations. Revisions reflect requirements for alternate play areas and collaborations. Revisions to language also clarify current licensing enforcement.

OAC 340:110-3-278 is issued for requirement language pertaining to policy. Revisions include additional topics for program policy, personnel and volunteer policies. Revisions also include language for policy for child care center, drop-in, centers caring for sick children, and part-day programs. Revisions to language also clarify current licensing enforcement.

OAC 340:110-3-279 is issued for requirement language pertaining to emergency preparedness. Revisions include emergency plans, procedures, drills, and reviews. Revisions also include specifics for shelter-in place, lock down, and relocation plans and procedures. Other revisions include telephones required in vehicles and with off-site activities, first aid kit supplies, emergency supply kits, carbon monoxide alarm testing, and monthly tornado drills. Revisions include language for part-day, out-of-school time and day camp programs. Revisions to language also clarify current licensing enforcement.

OAC 340:110-3-280 is issued for requirement language pertaining to reporting. Revisions reflect additional situations that need to be reported to licensing and parents. Illnesses and diseases needing prompt or next business day reporting to the Oklahoma State Department of Health were clarified. Revisions include language for part-day, out-of-school time, and day camp programs. Revisions to language also clarify current licensing enforcement.

OAC 340:110-3-281 is issued for requirement language pertaining to general records and documentation. Revisions clarify requirements for storage and maintenance of program records, clarify confidentiality of children's records, and revisions allow for provisions of electronic methods for maintenance of records and documentation. Revisions also require DHS forms not be altered unless specified otherwise. Revisions to language also clarify current licensing enforcement.

OAC 340:110-3-281.1 is issued for requirement language pertaining to posted records and documentation. Revisions clarify location of specific posting of program records and needed information. Additional posting requirements include DHS Star certificate, personnel in charge, children's allergies, micro-wave warnings, hand washing and diaper changing procedures, and emergency information. Revisions to language also include part-day, out-of-school time, and day camp programs. Revisions to language also clarify current licensing enforcement.

OAC 340:110-3-281.2 is issued for requirement language pertaining to program records and documentation. Revisions require specific documentation of program records. Revisions also include contents of the program's compliance file, emergency preparedness information, animal rabies vaccinations, Psittacosis tests, injury and poison exposure log information, a physical environment checklist, and child passenger safety checks. Revisions to language also clarify current licensing enforcement.

OAC 340:110-3-281.3 is issued for requirement language pertaining to personnel and non-personnel records and documentation. Revisions require specific personnel and non-personnel records, and documentation and maintenance of records. Revisions include personnel records being available to licensing by close of the next licensing business day, maintenance of a professional development plan, and professional development verification submitted to the Oklahoma Professional Development Registry. Higher risk qualifications and volunteer records are to be maintained for 120-calendar days. Revisions include language for part-day, out-of-school time, and day camp programs. Revisions to language also clarify current licensing enforcement.

OAC 340:110-3-281.4 is issued for requirement language pertaining to child records and documentation. Revisions require specifics regarding child records and documentation. Revisions include information required for verbal authorization of a child to be picked-up, special service professional permission, food reward exception plan, and medication permission. Other revisions include records for infant safe sleep environment, transportation, field trip permissions, and children's swimming skills statement provided by parents. Revisions include language for part-day programs. Revisions to language also clarify current licensing enforcement.

OAC 340:110-3-282 is issued for requirement language pertaining to background investigations. Revisions to language also clarify current licensing enforcement.

OAC 340:110-3-283 is issued for requirement language pertaining to prohibited individuals. Revisions to language also clarify current licensing enforcement.

OAC 340:110-3-284 is issued for requirement language pertaining to general qualifications, responsibilities, and professional development. Revisions include obtaining and maintaining an Oklahoma Professional Development Ladder certificate and development of professional development plans. Revisions to orientation topics include mandatory disease reporting, diaper changing, and infant safe sleep practices. Directors and required number of master teachers needs certification in cardiopulmonary resuscitation and first aid. Revisions also include new definitions for formal and informal professional development; and reading and television programs no longer count toward training. Revisions allow three months for personnel to receive child passenger safety training when trained personnel are no longer employed. Additional orientation topics are revised for part-day, out-of-school time, and day camp programs; and infection control is required annually for part-day programs. Revisions to language also include part-day, out-of-school time, and day camp programs. Revisions to language also clarify current licensing enforcement.

OAC 340:110-3-284.1 is issued for requirement language pertaining to director and personnel in charge. Revisions include director qualifications regarding limitations of serving as a director or master teacher at another program with concurrent operating hours and part-day requirements for a director being present at the program. Revisions also include registering the program on the Oklahoma Professional Development Registry, completing a compliance review of licensing requirements, and the age of personnel in charge increased to 21 years of age. Revisions to language also include part-day programs. Revisions to language also clarify current licensing enforcement.

OAC 340:110-3-284.2 is issued for requirement language pertaining to teaching personnel. Revisions require teaching personnel to have and maintain an Oklahoma Professional Development Ladder certificate, require specific hours for Master teachers to be present at a program, limit the number of months for assistant teachers to obtain a GED, and limit them from being solely responsible with children during a high risk activity, and revisions to substitute professional development timeframes. Revisions also include out-of-school time and day camp with regard to assistant teacher limitations and revisions for substitutes for part-day, out-of-school time, and day camps. Revisions to language also clarify current licensing enforcement.

OAC 340:110-3-284.3 is issued for requirement language pertaining to support personnel. Revisions include requirements for support personnel to include food service training from an approved source and child passenger safety information to be received by program personnel. Revisions include language for part-day, out-of-school time, and day camp programs. Revisions to language also clarify current licensing enforcement.

OAC 340:110-3-284.4 is issued for requirement language pertaining to other personnel, non-personnel, specialized service professionals, and volunteers. Revisions to language also clarify current licensing enforcement.

OAC 340:110-3-285 is issued for requirement language pertaining to licensed capacity. Revisions to language also clarify current licensing enforcement.

OAC 340:110-3-286 is issued for requirement language pertaining to child-staff ratio and group sizes. Revisions include staff ratio during rest time when groups of children are combined. Revisions also include language for classrooms for part-day, out-of-school time, and day camp programs. Revisions to language also clarify current licensing enforcement.

OAC 340:110-3-287 is issued for requirement language pertaining to supervision. Revisions include additional exceptions to supervision requirements of 6 year olds and older under specific circumstances and notifying parents when a child is not present at a school to be picked up by the program. Revisions also included language for supervision for part-day,

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out-of-school time, day camp, and drop-in programs. Revisions to language also clarify current licensing enforcement.

OAC 340:110-3-288 is issued for requirement language pertaining to discipline. Revisions include time-out practices only being used for children 2 years of age and older and categories of inappropriate discipline expanded to include punishment associated with homework, denying outdoor play and food reward practices unless a food reward exception plan applies. Revisions also included language for discipline for part-day, out-of-school time, day camp, centers caring for sick children, and drop-in programs. Revisions to language also clarify current licensing enforcement.

OAC 340:110-3-289 is issued for requirement language pertaining to learning program principles. Revisions included language for daily classroom schedules, transition time, lesson plans, reading to children 15 minutes a day, teacher-led physical activities, and five required interest areas for children 2 years of age and older. Revisions also include safety of children with Internet use, prohibiting screen time when all children are 1 year old or younger and limitation of screen time for other aged children and program personnel; however, language allows for special exceptions under specific circumstances. Revisions also include 20-minute rotation of 1 year olds and younger in play equipment. Revisions also included language for learning program principles for part-day, out-of-school time, and day camp programs. Revisions to language also clarify current licensing enforcement.

OAC 340:110-3-290 is issued for requirement language pertaining to higher risk activities. Revisions include this category for part-day programs. Revisions to language also clarify current licensing enforcement.

OAC 340:110-3-291 is issued for requirement language pertaining to water activities. Revisions include language for water features with an approved safety and supervision plan, clarifying sprayground activities, restrictions for wading, supervision, parent statement regarding child's swimming skills, and life jackets to be worn by personnel when boating. Revisions also included language for water activities for part-day programs. Revisions to language also clarify current licensing enforcement.

OAC 340:110-3-292 is issued for requirement language pertaining to animals. Revisions include animals that are prohibited and inaccessible, Psittacosis testing, children's health practices when having contact with a potential Salmonella bacteria carrying animal, general animal health, increased health practices with regard to hand washing, cleaning of animal feeding containers, and visiting animal exhibits. Revisions also included language for animals for part-day programs. Revisions to language also clarify current licensing enforcement.

OAC 340:110-3-293 is issued for requirement language pertaining to parent communication and family engagement. Revisions include language for parent resources that are provided electronically and two parent activities or special events (if this method is chosen by program) are offered every 12 months. Revisions to language also clarify current licensing enforcement.

OAC 340:110-3-294 is issued for requirement language pertaining to health protection and disease control. Revisions include posting of hand washing procedures, allowing for hand sanitizer under specific circumstances, use of thermometers, allowing programs to develop and follow a head-lice separation and exclusion, sun safety and sunscreen policy, requirements for tobacco-free environment, and restrictions for programs in residences. Revisions to language also clarify current licensing enforcement.

OAC 340:110-3-295 is issued for requirement language pertaining to medication. Revisions include medication only being administered by designated personnel, labeling and storing of medications, and accessibility of life-threatening condition medications. Revisions to language also clarify current licensing enforcement.

OAC 340:110-3-296 is issued for requirement language pertaining to rest time. Revisions include infant safe sleep environment, swaddling, prohibition of blankets, prohibiting play equipment in cribs, and restrictions for mobiles. Revisions also included language for rest time for part-day, out-of-school time, and day camp programs. Revisions to language also clarify current licensing enforcement.

OAC 340:110-3-297 is issued for requirement language pertaining to diapering and toileting. Revisions include requirements for procedures for diaper changing, diaper changing areas and sinks, alternate diaper changing areas, and potty chairs. Revisions also included language for diapering and toileting for part-day programs. Revisions to language also clarify current licensing enforcement.

OAC 340:110-3-298 is issued for requirement language pertaining to nutrition. Revisions include the addition of snacks meeting current Child and Adult Care Food Program (CACFP) guidelines that includes milk and fruit juice. Sweetened and caffeinated drinks are not provided by the program; however, language allows for special occasions. Language clarifies

requirements when parents provide food for their child or other children in the program. Revisions also include foods eaten by personnel (in front of children) meet CACFP guidelines, overfeeding of children, additional types of chokeable foods, and breast milk storage and preparation requirements. Revisions also included language for nutrition for part-day programs. Revisions to language also clarify current licensing enforcement.

OAC 340:110-3-299 is issued for requirement language pertaining to food service. Revisions include allowing for approved food sources to include farmers' markets and gardens. Language was revised with regard to food service health and safety relating to food storage and preparation temperatures, bare-hand contact, microwave use, and storage of poisonous and toxic materials. Revisions also included needed quantity of food contact items and location of thermometer in the refrigerator. Revisions also included language for food service for part-day, out-of-school time, and day camp programs. Revisions to language also clarify current licensing enforcement.

OAC 340:110-3-300 is issued for requirement language pertaining to the physical facility. Revisions include language to allow for portable heaters, required water supply testing, hand washing sinks in classrooms with diaper changing, restrictions of portable sinks, marking of windows and doors, screens on exterior doors and windows, and carbon monoxide alarms. Revisions also included language for physical facility for part-day, out-of-school time, day camp, and centers caring for sick children programs. Revisions to language also clarify current licensing enforcement.

OAC 340:110-3-301 is issued for requirement language pertaining to indoor and outdoor play areas. Revisions include infant room square footage, use of basements, use zone requirements, and approval of loose fill materials. Revisions also included language for indoor and outdoor areas for part-day, out-of school-time, and day camp programs. Revisions to language also clarify current licensing enforcement.

OAC 340:110-3-302 is issued for requirement language pertaining to equipment. Revisions include annual equipment inventory conducted by programs, prohibitions of play yards with new programs, and when replacing sleeping equipment and additional requirements for prohibited equipment. Revisions also included language for equipment for part-day, out-of-school time, and day camp programs. Revisions to language also clarify current licensing enforcement.

OAC 340:110-3-303 is issued for requirement language pertaining to hazards. Revisions include children's health and safety regarding pest control applications, storage of weapons and ammunition, and accessibility of stairways for children 1 year of age and younger. Revisions also included language for hazards for part-day, out-of-school time, and day camp programs. Revisions to language also clarify current licensing enforcement.

OAC 340:110-3-304 is issued for requirement language pertaining to cleanliness and sanitation. Revisions include use of approved sanitizers and disinfectants. Revisions also included language for cleanliness and sanitation for part-day, out-of-school time, and day camp programs. Revisions to language also clarify current licensing enforcement.

OAC 340:110-3-305 is issued for requirement language pertaining to transportation. Revisions include children sitting in back seats and bus exemptions regarding child passenger restraints. Revisions also included language for transportation for part-day, out-of-school time, and day camp programs. Revisions to language also clarify current licensing enforcement.

OAC 340:110-3-306 is issued for requirement language pertaining to requirements for child care centers. Language addresses exemptions or additional requirements to language in OAC 340:110-3-275 through 340:110-3-305. Revisions to language also clarify current licensing enforcement.

OAC 340:110-3-307 is issued for requirement language pertaining to requirements for day camps. Language addresses exemptions or additional requirements to language in OAC 340:110-3-275 through 340:110-3-305. Revisions to language also clarify current licensing enforcement.

OAC 340:110-3-308 is issued for requirement language pertaining to requirements for drop-in programs. Language addresses exemptions or additional requirements to language in OAC 340:110-3-275 through 340:110-3-305. Revisions to language also clarify current licensing enforcement.

OAC 340:110-3-309 is issued for requirement language pertaining to requirements for out-of-school time programs. Language addresses exemptions or additional requirements to language in OAC 340:110-3-275 through 340:110-3-305. Revisions to language also clarify current licensing enforcement.

OAC 340:110-3-310 is issued for requirement language pertaining to requirements for part-day programs. Language addresses exemptions or additional requirements to language in OAC 340:110-3-275 through

340:110-3-305. Revisions to language also clarify current licensing enforcement.

OAC 340:110-3-311 is issued for requirement language pertaining to requirements for programs for sick children. Language addresses exemptions or additional requirements to language in OAC 340:110-3-275 through 340:110-3-305. Revisions to language also clarify current licensing enforcement.

OAC 340:110-5-3 language is amended to reflect definitions of "age or developmentally appropriate activities" and "reasonable and prudent parenting standard."

OAC 340:110-5-6 is amended to require child-placing agencies to notify the Oklahoma Bureau of Narcotics of suspected trafficking of children. Part 5. Requirements for Foster Home Agencies

OAC 340:110-5-57 is amended to reflect training for foster parents on the application of the reasonable and prudent standard.

OAC 340:110-5-58 is amended to require that foster parents must apply the reasonable and prudent parent standard when approving activity for a foster child.

OAC 340:110-5-61 is amended to require that foster home agencies ensure the child in foster care is provided opportunities to engage in age or developmentally appropriate activities.

OAC 340:110 APPENDIX EE. OKLAHOMA DIRECTOR'S CREDENTIAL is created to provide criteria for the Oklahoma Director's Credential.

OAC 340:110 APPENDIX FF. OKLAHOMA PROFESSIONAL DEVELOPMENT LADDER is created to provide information regarding the various levels of professional development.

OAC 340:110 APPENDIX GG. RATIOS AND GROUP SIZES is created to provide requirements for child care programs regarding staff to child ratios.

OAC 340:110 APPENDIX HH. HAND HYGIENE is created to provide requirements regarding hand washing and use of hand sanitizer.

OAC 340:110 APPENDIX II. IMMUNIZATIONS is created to provide requirements for children's immunization schedule.

OAC 340:110 APPENDIX JJ. EXCLUSION CRITERIA FOR CHILDREN WHO ARE ILL is created to provide exclusion criteria for child care programs regarding children who are ill.

OAC 340:110 APPENDIX KK. DIAPER CHANGING PROCEDURES is created to provide requirements for diaper changing procedures for child care programs.

OAC 340:110 APPENDIX LL. MEAL AND SNACK PATTERNS is created to provide nutritional requirements for child care programs as adapted from the Child and Adult Care Food Program Minimum Meal Requirements.

OAC 340:110 APPENDIX MM. EQUIPMENT is created to provide requirements regarding basic, indoor, outdoor, and play equipment for child care programs.

OAC 340:110 APPENDIX NN. CLEANERS, SANITIZERS, AND DISINFECTANTS is created to provide requirements for child care programs regarding use of cleaners, sanitizers, and disinfectants.

[OAR Docket #16-579; filed 6-16-16]

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

[OAR Docket #16-578]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

- Subchapter 1. General Provisions
- Part 1. Licensing Services - Child Care
- 340:110-1-8 [AMENDED]
- 340:110-1-8.3 through 340:110-1-9 [AMENDED]
- 340:110-1-17 [AMENDED]
- 340:110-1-21 [AMENDED]
- Part 3. Licensing Services - Residential Care and Agencies
- 340:110-1-46 through 340:110-1-47 [AMENDED]
- 340:110-1-47.2 [AMENDED]
- (Reference WF 15-09)**

AUTHORITY:

Director of Human Services; Section 162 of Title 56 of the Oklahoma Statutes (O.S. 56 § 162) and O.S. 10 § 404.

SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:

March 25, 2016

COMMENT PERIOD:

February 16, 2016 through March 16, 2016

PUBLIC HEARING:

March 25, 2016

ADOPTION:

March 25, 2016

SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:

March 25, 2016

APPROVED BY GOVERNOR'S DECLARATION:

Approved by Governor's declaration on June 9, 2016

FINAL ADOPTION:

June 9, 2016

EFFECTIVE:

November 1, 2016

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

ANALYSIS:

Chapter 110 Subchapter 1 Part 1: The proposed revisions address needed alignment for differential quality rating and improvement criteria with minimum licensing requirements affecting child care centers, day-camps, drop-in, part-day and out-of-school time programs, and programs for sick children.

Chapter 110 Subchapter 1 Parts 1 and 3: The proposed revisions clarify division processes and procedures.

CONTACT PERSON:

Dena Thayer, Programs Administrator, Office of Intergovernmental Services and Policy, Department of Human Services, 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 NOVEMBER 1, 2016:

SUBCHAPTER 1. GENERAL PROVISIONS

PART 1. LICENSING SERVICES - CHILD CARE

340:110-1-8. Types of issuance

(a) **Six-month permit.** New child care centers, day camps, drop-ins, out-of-school time, part-day children's programs, school age programs, programs for sick children, and family child care homes may be issued a six-month permit. The primary purpose of a six-month permit is to provide an opportunity for the Oklahoma Department of Human Services (~~OKDHS~~)(~~DHS~~)~~Oklahoma~~ Child Care Services (~~OCCS~~)(~~CCS~~) licensing staff to evaluate the ~~facility's~~program's ability to comply with minimum licensing requirements on an ongoing basis, and to provide a legal basis to contract with ~~OKDHS~~DHS to receive child care subsidy, and receive Child and Adult Care Food Program funding reimbursement.

(1) ~~The~~ Licensing staff may recommend a permit when the facility program is in compliance

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with ~~critical~~ requirements regarding background investigations, required number of qualified ~~staff personnel~~, required ~~training professional development~~, hazards indoors or outdoors, liability insurance coverage, adequate equipment, fencing, playground safety, fire safety, or other areas affecting children's safety. The owner's previous history of licensing compliance is considered.

(2) ~~The licensing~~ Licensing staff makes a complete monitoring visit documenting compliance with ~~critical~~ requirements no more than 60-calendar days, prior to issuance of the six-month permit.

(b) Documentation for six-month permit.

(1) Child care centers, day camps, drop-ins, out-of-school time, part-day children's programs, and school-age programs, and programs for sick children. Items required to be on file for issuance of a six-month permit ~~are~~ include:

(A) Form 07LC004E, Request for License — ~~Child Care Facility~~ Child Care Program, and proof of ownership;

(B) verification of approved director credential and required master teachers, when applicable;

(C) Form ~~07LC002F~~ 07LC002E, ~~Staff Personnel Summary~~;

(D) Form 07LC041E, ~~Staff Personnel Information - Child Care Facility~~, for each ~~staff person~~ personnel;

(E) Form 07LC057E, Physical Plant, including drawing and calculation;

(F) verification of adequate equipment for the recommended capacity;

(G) documentation of fire department approval within the previous 12 months;

(H) documentation of health approval within the previous 12 months, if when meals are prepared and served;

(I) Form ~~07LC003E~~, Monitoring Report - Child Care Center, Form ~~07LC010E~~, Monitoring Report - Part Day Children's Program, or Form ~~07LC023E~~, Monitoring Report - School Age Program monitoring checklist and summary; and

(J) documentation of all required background investigations per ~~OAC - Oklahoma Administrative Code (OAC) 340:110-1-8.1~~, including completed criminal history review results for all required individuals.

(2) **Family child care homes.** The items required to be on file for issuance of a six-month permit for a family child care home ~~are~~ include:

(A) Form ~~07LC042E~~, Request for License - Family Child Care Home and Large Child Care Home Form 07LC004E, Request for License Child Care Program, and proof of ownership;

(B) Form ~~07LC086E~~, Staff Information - Family Child Care Home Form 07LC041E, Personnel Information, for primary caregiver and prior to employment for assistants and substitutes;

(C) Form ~~07LC086E~~, Staff Information - Family Child Care Home, for assistants and substitutes, prior to their employment;

(D) Form ~~07LC014E~~, Monitoring Report - Family Child Care Home monitoring checklist and summary;

(E) ~~D~~ documentation of fire department approval within the previous 12 months for a large family child care home operating in a mobile home; and

(F) ~~E~~ documentation of all required background investigations per OAC 340:110-1-8.1, including completed criminal history review results for all required individuals.

(c) **Second and subsequent six-month permits.** ~~If~~ When additional six-month permits are recommended, the procedures in this subsection are followed.

(1) Assistant licensing coordinator approval is needed for subsequent permits ~~if~~ when facilities are recommended for, or are in the process of, a ~~negative action consent agreement or denial of request for license~~.

(2) ~~The licensing~~ Licensing staff consults with the licensing supervisor prior to recommending a second permit.

(3) The licensing supervisor consults with the licensing regional programs manager (RPM) before recommending the issuance of a third permit.

(4) The ~~licensing~~ RPM consults with the statewide licensing coordinator or designee before recommending the issuance of a fourth or subsequent permit.

(5) ~~The licensing~~ Licensing staff sends a letter to the applicant notifying him or her of the recommendation each time a second or subsequent permit is recommended. The reason for the recommendation is clearly stated in the letter, with each area of non-compliance listed separately.

(6) ~~If~~ When the permit is issued due to numerous, repeated, or serious non-compliance with requirements, ~~the~~ licensing staff visits the facility at least monthly, and is accompanied, when possible, by a witness, when possible. ~~If at any point~~ When the non-compliance indicates the ~~facility~~ program is unable or unwilling to meet licensing requirements, the statewide licensing coordinator or designee is consulted to discuss ~~negative~~ appropriate actions.

(7) ~~If~~ When requirements are met before the expiration of the second or subsequent six-month permit, the issuance of a license may be recommended.

(8) ~~If~~ When children have not been in care on a regular basis during the previous year, the applicant is asked to withdraw ~~his or her application~~ the request for license.

(d) **Issuance of license.** A license is issued after ~~OKDHS~~ has DHS investigated the applicant's activities and standards of care, ~~of the applicant~~ and has determined ~~that~~ the applicant meets all ~~critical~~ requirements identified in (a) and (b) of this Section, and has demonstrated substantial compliance with all other requirements, including entry level training requirements for child care center employees personnel, when required per licensing requirements.

(1) Prior to recommending issuance of a license, ~~the~~ licensing staff completes a minimum of three monitoring visits, and an equipment inventory, when required per

licensing requirements, in child care centers, day camps, drop-ins, out-of-school time and part-day children's programs, and school-age programs for sick children and equipment inventory.

(2) Children in care must be observed by licensing staff during at least one monitoring visit.

(3) A monitoring visit must be made within 60 calendar days of the issuance date.

(4) A license is in effect unless it is revoked or the facility program voluntarily closes.

(e) **Documentation for license.**

(1) **Child care centers, day camps, drop-ins, out-of-school time and part-day programs, and programs for sick children.** In addition to the items listed in (a) through (b)(1) of this Section for issuance of a six-month permit, items required to be on file before a license is issued to a child care center are include:

- (A) daily program schedule;
- (B) ~~updated current~~ Form 07LC002T/07LC002E, ~~Staff/Personnel~~ Summary;
- (C) outdoor play schedule, ~~if when~~ applicable;
- (D) Form 07LC006E, Equipment Inventory — ~~Child Care Center~~ for Child Care Programs, as required per licensing requirements;
- (E) statement of completed compliance review, ~~if when~~ applicable;
- (F) director's references;
- (G) one-week sample menu of meals and snacks provided by the program;
- (H) documentation of fire department approval within the previous 24 months;
- (I) documentation of health approval within the previous 24 months ~~if when~~ meals are prepared and served; ~~and statement of water test results if not on public water supply~~
- (J) statement of water test results when not on public water supply.
 - (i) ~~If When~~ the test indicates the level of bacteria, nitrates, or lead is too high for safe use, the ~~caregiver~~ director may sign a statement agreeing to use bottled water for drinking, cooking, and, ~~if when~~ applicable, bathing of children.
 - (ii) ~~If When~~ there is a high level of bacteria or a high level of lead, boiled or bottled water must be used for hand washing and dish washing.
 - (iii) ~~If When~~ programs are licensed for 25 or more children, approval from Department of Environmental Quality (DEQ) is required, ~~when not on a public water supply system; and~~
- (JK) Form 07LC003E, ~~Monitoring Report — Child Care Center~~ monitoring checklist.

(2) **Part-day children's programs and school-age programs.** In addition to the items listed in (a) through (b)(1) of this Section for issuance of a six-month permit, ~~the items required to be on file before a license is issued to a part-day children's program or school-age program are:~~

- (A) outdoor play schedule, ~~if applicable~~;

~~(B) daily program schedule for school-age programs;~~

~~(C) updated Form 07LC002T, Staff Summary;~~

~~(D) Form 07LC020E, Equipment Inventory — Part-Day Children's Program, or 07LC024E, Equipment Inventory — School-Age Program, as applicable;~~

~~(E) statement of completed compliance review, if applicable;~~

~~(F) director's references for school-age programs;~~

~~(G) one-week sample menu of foods provided by the program;~~

~~(H) documentation of fire department approval within the previous 24 months;~~

~~(I) documentation of health department approval within the previous 24 months if meals are prepared and served; and~~

~~(J) statement of water test results if not on public water supply.~~

~~(i) If the test indicates the level of bacteria, nitrates, or lead is too high for safe use, the caregiver may sign a statement agreeing to use bottled water for drinking, cooking, and, if applicable, bathing of children.~~

~~(ii) If there is a high level of bacteria or a high level of lead, boiled or bottled water must be used for hand washing and dish washing.~~

~~(iii) If programs are licensed for 25 or more children, approval of DEQ is required when not on a public water supply system; and~~

~~(K) Form 07LC010E, Monitoring Report Part-Day Children's Program, or Form 07LC023E, Monitoring Report — School-Age Program.~~

(3) **Family child care homes.** In addition to the items listed in (a) through (b)(2) of this Section for issuance of a six-month permit, the items required to be on file before a license is issued to a family child care home are include:

- (A) one-week sample menu;
- (B) references;
- (C) Form 07LC014E, ~~Monitoring Report — Family Child Care Home~~ monitoring checklist and summary; and
- (D) statement of water test results, ~~if when~~ not on public water supply.
 - (i) ~~If When~~ the test indicates the level of bacteria, nitrates, or lead is too high for safe use, the caregiver may sign a statement agreeing to use bottled water for drinking, cooking, and, ~~if when~~ applicable, bathing of children.
 - (ii) ~~If When~~ there is a high level of bacteria or a high level of lead, boiled or bottled water must be used for hand washing and dish washing.

(f) **Evaluation and disposition.**

(1) The licensing supervisor reviews ~~the~~ licensing staff's recommendation for case action before forwarding it to the statewide licensing coordinator or designee.

(2) The statewide licensing coordinator or designee approves all recommendations for case actions. ~~If When~~ a

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license or permit is approved, notification is made to the owner.

340:110-1-8.3. Certification of ~~facilities~~ programs to receive a differential quality rating and improvement level

(a) **Purpose.** The differential quality rating and improvement system was developed to improve the overall quality of care by increasing the professional development and education of child care providers and to provide the public with a method to evaluate child care. Certification is required for a provider to receive a differential quality rate for children whose families are receiving subsidized child care benefits through the Oklahoma Department of Human Services (~~OKDHS~~)(DHS).

(b) **Criteria for child care centers and homes certification levels.** The certification process and quality rating and improvement criteria for child care facilities ~~are contained in OAC programs is described in Oklahoma Administrative Code (OAC) 340:110-1-8.4 — 340:110-1-8.3~~ through OAC 340:110-1-8.10.

(c) **Application Request for star certification process.** The following ~~application~~ process is required for certification.

(1) **Criteria for one star centers and homes.** A facility program operating on a permit or license is automatically designated as a one star facility program.

(2) **Criteria for one star plus center centers and home facilities homes.** To be approved as a one star plus facility program, the owner must complete and submit Form 07LC025E, Request for Child Care Center Star Certification, or Form 07LC027E, Request for Family Child Care Home Star Certification, and meet all criteria described in (b) of this Section.

(3) **Criteria for two star centers and homes.** To be approved as a two star facility program, the owner must either:

(A) complete Form 07LC025E or Form 07LC027E, and meet all one star plus and two star criteria described in (b) of this Section; or

(B) complete Form 07LC025E or Form 07LC027E, meet licensing status and compliance per OAC 340:110-1-8.4, and provide documentation ~~that~~ the facility program is:

(i) accredited by a national accrediting body approved by ~~Oklahoma~~ Child Care Services (~~OCCS~~)(CCS); or

(ii) a Head Start grantee and compliant with Head Start Performance Standards.

(4) **Criteria for three star center centers and home facilities homes.** To be approved as a three star facility program, the owner of a facility must:

(A) complete Form 07LC025E, or Form 07LC027E; and

(B) meet one star plus and two star ~~center~~ criteria described in (b) of this Section, and either be:

(i) accredited by a national accrediting body approved by ~~OCCS~~CCS; or

(ii) a Head Start grantee and compliant with Head Start Performance Standards.

(d) **Approval for certification for centers and homes and centers.** The procedures contained in this subsection are followed for initial approval for certification and requests for higher certification level.

(1) The owner submits Form 07LC025E, ~~Request for Child Care Center Star Certification~~, or Form 07LC027E, ~~Request for Family Child Care Home Star Certification~~, and required documentation to ~~OCCS~~CCS.

(2) The stars outreach specialist determines whether the certification criteria have been met by reviewing the case record and ~~the~~ documentation submitted. If it has been four months since the last monitoring visit, the stars outreach specialist requests licensing staff make a monitoring visit. The stars outreach specialist reviews all information and consults with ~~the~~ licensing staff and ~~the~~ stars program ~~manager~~ administrator or designee as needed, prior to approval.

(A) The monitoring visits and substantiated complaints for the last 24 months of operation are reviewed to determine whether the facility program meets the compliance criteria. If, within the 24-month period reviewed, there are numerous, repeated, or serious non-compliance per OAC 340:110-1-8.4 or ~~one~~ single serious incident resulting in injury or imminent risk of harm to a child, the request may be denied.

(B) If the facility program meets the criteria, the stars outreach specialist ~~updates the licensing database.~~ ~~The stars outreach specialist~~ sends a letter confirming the approval and the effective date and updates the licensing database. If numerous, repeated, or serious non-compliance was identified during review of the case for the star certification, the letter includes a statement that these non-compliances are considered, and may result in reduction of the star certification if subsequent serious non-compliances occur.

(C) If the facility program fails to meet the criteria, the stars outreach specialist sends a letter identifying criteria ~~that have not been being~~ met. The ~~application request for star certification~~ is also reviewed by the stars outreach specialist to determine if another certification level can be met. ~~The stars outreach specialist~~ and updates the licensing database accordingly.

(D) The owner may reapply at any time the criteria are met. If the request for a higher certification level is denied due to numerous, repeated, or serious non-compliance with licensing requirements, the facility program is not approved for a higher certification level for six months after the date of the denial of the request. The six-month waiting period may only be reduced by the regional programs manager (RPM) upon evaluation of the facility's licensing record, written documentation of corrective actions taken, and observation and documentation by licensing staff of substantial improvement in compliance. The RPM ~~notifies the provider in writing~~ provides written notification of the decision to the program.

(E) The owner may withdraw the ~~application request~~ for star certification prior to certification denial.

(F) The owner of a ~~home or center or home~~ may request a reduction in star status at any time. The request must be made in writing to OCCSCCS. The stars outreach specialist sends a letter documenting the request for reduction, ~~along with~~ including the effective date of the new star level, and updates the licensing database to show with the facility's program's new star level. A reduction request to be reduced does not constitute a reduction in certification level ~~as set forth in~~ per (h) of this Section.

(e) **Complaint investigations.** Pending complaint investigations ~~do not~~ may impact the decision to approve the ~~stars application request~~ for star certification.

(f) **Ongoing monitoring review.** The procedures contained in this subsection are followed for ongoing ~~monitoring review~~.

(1) **Facility Program notification to OCCSCCS.** The owner, director, or primary caregiver is required to notify OCCSCCS in writing within five ~~work~~ ing program-business days of any change in information that ~~affects~~ affecting the ~~facility's~~ program's star certification, such as loss of a master teacher. If OCCSCCS has not been notified of changes and certification criteria have not been met for over 90-calendar days, the case is reviewed by OCCSCCS staff. Referrals may be made to the ~~stars outreach specialist~~ stars program administrator or designee and the certification level may be reduced ~~according to~~ per (h) of this Section.

(2) **Periodic certification reviews.** OCCSCCS staff completes a full star certification review, ~~a minimum of once a year~~ using Form 07LC026E, Child Care Center Star Certification Review, or Form 07LC028E, Family Child Care Home Star Certification Review, ~~to verify that during a minimum of three periodic monitoring visits annually verifying certification criteria is still current and accurate. Programs operating less than a full year or having a cooperative licensing agreement with a tribal program are required to have a minimum of two periodic certification reviews annually.~~

(3) **Periodic monitoring visits.** If OCCS staff observe violations of the star criteria during periodic monitoring visits, ~~staff complete Form 07LC026E, Child Care Center Star Certification Review, or Form 07LC028E, Family Child Care Home Star Certification Review, as a partial visit to address the violations.~~

(4) **Non-compliance.** If a facility program has serious non-compliance with licensing requirements, within a 24-month period, a serious incident resulting in injury or imminent risk of harm to a child or violations with other star criteria, the star level of a one star plus, two, or three star facility programs may be reduced.

(5) **Violations.** If violations of certification criteria are documented, or when the facility program notifies OCCSCCS in writing of any change, the procedures in (A) through (C) of this paragraph are followed.

(A) OCCSCCS staff provides written notification to the director or primary caregiver and owner ~~of a facility to document~~ documenting the violations, ~~and include~~ including a statement that a reduction in the star certification level may occur when:

- (i) the facility program has serious non-compliances with licensing requirements;
- (ii) a serious incident occurs resulting in injury or imminent risk of harm to a child;
- (iii) violations are not corrected in the agreed-upon time frame; or
- (iv) an Emergency Order or notice of proposed denial or revocation of license is issued.

(B) The statement informs the director or primary caregiver, ~~they~~ he or she may request an extension of time to comply, ~~as outlined in~~ per (g) of this Section.

(C) The facility program submits a written plan to OCCSCCS to correct the violations within an agreed-upon time frame. The plan ~~can not~~ cannot exceed 90-calendar days from the date the violation occurred or the date a facility program was notified of a substantiated complaint.

(6) **Follow up of violation of criteria.** OCCSCCS staff ~~are~~ is responsible for verifying violations of star criteria are corrected as determined by the approved plan of correction.

(7) **Written notice.** OCCSCCS staff provides written notice to the owner that certification criteria are not being met when:

- (A) there is serious non-compliance with requirements, per OAC 340:110-1-8.4;
- (B) a serious complaint that may place the health, safety, or well-being of children at imminent risk of harm is substantiated; and/or
- (C) OCCSCCS staff have knowledge the faci- ity program is not meeting certification criteria, such as having an insufficient number of master teachers.

(g) **Extension of time to comply.**

(1) A request for an extension of time to comply may be submitted when violations of star criteria cannot be corrected within the agreed-upon plan of correction time.

(2) A request for an extension of time to comply to meet licensing requirements, such as director qualifications is not approved.

(3) The owner, director, or primary caregiver submits Form 07LC074E, Request for Extension of Time to Comply, ~~along with~~ and supporting documentation to the stars program ~~manager~~ administrator or designee 30-calendar days prior to the expiration of the agreed-upon time frame for the correction of the violations.

(4) The decision to approve or deny an extension of time to comply is made by the stars program ~~man-~~ ager administrator or designee. One or more discretionary extensions of time to comply may be granted. Approval of an extension of time to comply does not set a precedent and each request is independently evaluated. The director or primary caregiver is notified of the decision in writing.

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(h) Reduction in one star plus, two, and three star certification levels.

(1) A reduction in one star plus, two, and three star certification levels occurs when ~~OCCS~~ has ~~CCS~~ issued a written Emergency Order or notice of denial or revocation of license.

(2) A reduction may occur when:

(A) the facility program has serious non-compliance with licensing requirements within a 24-month time frame;

(B) a serious incident occurs resulting in injury or imminent risk of harm to a child;

(C) violations are not corrected within the agreed-upon time frame; or

(D) a facility program fails to employ a qualified director for a period of six months or more.

(3) The procedures in this subsection are followed if a reduction is warranted.

(A) ~~The licensing~~ Licensing staff reviews the case with the supervisor and RPM. The decision on whether to make a referral to the stars program ~~manager~~ administrator or designee is made by the RPM and referrals are made in writing to the stars program ~~manager~~ administrator or designee. The RPM may enter into an agreement for an alternative settlement with the owner of a facility program in lieu of ~~referral~~ for reduction. The alternative settlement documents how the facility program will go above and beyond minimum licensing requirements and ensure a higher standard or quality of care. It is the RPM's decision to accept or deny the alternative settlement.

(B) If a reduction is warranted, the stars program ~~manager~~ administrator or designee sends a certified letter to the primary caregiver or director and owner documenting the reduction in certification level and notifying the provider of the right to request an administrative review of the decision.

(C) The certified mail delivery receipt card is addressed to return to the CCS director or designee ~~of OCCS or designee~~.

(D) In order to receive an administrative review, the owner must submit a written request to the CCS director or designee ~~of OCCS or designee~~ within 15-calendar days of receipt of the reduction notification ~~letter notifying of the reduction~~.

(E) The request must include written documentation stating the provider's grounds for appeal.

(4) ~~OCCS~~ licensing Licensing staff ~~update~~ updates any changes in the star status level and star payment rate following verification of receipt of the certified letter and the administrative review, if requested.

(5) The purpose of the administrative review process is to determine if the reduction of the star certification level was in accordance with ~~OKDHS~~ DHS policy and whether the reduction is substantially supported by the evidence. The procedures in (A) through (C) of this paragraph are followed when an administrative review is requested.

(A) Within 30-calendar days of receipt of the request for an administrative review, a letter is sent notifying the provider of the date of the administrative review. The letter is sent to the provider's last known address. The provider is given at least ~~two weeks~~ 14-calendar days written notice prior to the administrative review. Additional documentation may be presented prior to, or at the beginning of, the administrative review, with copies provided to all representatives. The provider may submit written documentation and appear at the administrative review.

(B) The review is conducted by the stars review panel, ~~which consists~~ consisting of two ~~OKDHS~~ DHS staff ~~persons who have not been~~ involved in the decision to reduce the certification level and one member of the Child Care Advisory Committee ~~who has~~ having no relationship to the facility program.

(C) When possible, the ~~reviewing~~ review panel makes a determination to either affirm or reverse the ~~OCCS~~ CCS decision on the date of the administrative review and announces the decision ~~at the conclusion of the review~~. Time constraints or the complexity of issues may require the panel to take a matter under advisement. Written findings are completed within ~~ten~~ 10-calendar days from the review date ~~of the review~~.

(6) The owner may reapply for a higher certification level at any time the criteria are met. If the certification level is reduced due to serious non-compliance with licensing requirements, the facility program is not approved for a higher certification level for six months after the receipt of the certified reduction letter.

(i) **Change in ownership.** When there is a change in ownership or change in form of business entity of a family child care home, child care center, part-day ~~children's program~~, or ~~school-age out-of-school time~~ program, the case is closed and the star status is removed, unless otherwise determined per OAC 340:110-1-9. To be approved for a higher star level, the new owner ~~must complete~~ completes and ~~submits~~ submits Form 07LC025E, Request for Child Care Center Star Certification, or Form 07LC027E, Request for Family Child Care Home Star Certification, ~~and meet~~ meeting all the requirements applicable to the star level ~~for which application is made~~ requested.

(j) **Change in location.** If the location of a facility program changes, the licensing staff completes Form 07LC026E, Child Care Center Star Certification Review, or Form 07LC028E, Family Child Care Home Star Certification Review, to verify compliance with the criteria at the new location.

(k) **Record-keeping.** Periodic review ~~forms~~ and certification request forms, and supporting documentation are maintained in the official licensing file or in a separate file ~~that is~~ as part of the open record, ~~with the exception of page 6, of Form 07LC025E, Request for Child Care Center Star Certification, staff salary report, which is kept confidential.~~ When maintained, ~~pay stubs and photos that include~~ photographs of children are ~~also~~ kept confidential.

340:110-1-8.4. Licensing status and compliance for differential quality rating and improvement certification criteria

- (a) **Licensing status criteria for one star plus, two star, and three star levels.** For certification, ~~facilities~~programs must have a license or permit.
- (b) **Compliance criteria for one star plus, two star, and three star levels.** The monitoring visits and substantiated complaints for the last 24 months of operation are reviewed. The licensing record from the applicant's previous licenses, if any is considered. Numerous, repeated, and serious non-compliance per ~~OAC~~Oklahoma Administrative Code (OAC) 340:110-1-9.3 are considered when approving or denying star certification. The request for certification may be denied or status may be reduced, if:
 - (1) there are numerous, repeated, or serious non-compliance with applicable licensing requirements; or
 - (2) a serious incident resulting in injury or imminent risk of harm.

340:110-1-8.5. Administrative differential quality rating and improvement certification criteria

- (a) **Criteria one star plus centers.** Administrative criteria listed in (1) - ~~(5)~~(4) of this subsection are required.
 - (1) ~~At least annually, the~~The director or supervising ~~staff~~personnel evaluates ~~staff~~personnel in writing using the Oklahoma Core Competencies and develops the educational professional development plan, at least annually.
 - (2) ~~All staff have access to licensing requirements.~~
 - ~~(3) The center~~program provides an employee handbook for ~~staff and includes personnel~~ including information on hiring and firing, job duties and responsibilities, professional development requirements, child abuse reporting, and personnel attendance policy.
 - ~~(4) The facility is~~Programs are registered as a direct care organization with the Oklahoma Professional Development Registry (OPDR) by following and maintaining all items listed in the Direct Care Facility Guide Handbook.
 - ~~(5) Staff~~Program personnel counted in staff-child ratio are members of the ~~Oklahoma Professional Development Registry~~OPDR and have current professional development ladder certificates. New ~~staff~~personnel must be listed on the registry within 12 months of employment.
- (b) **Criteria two star and three star centers.** Administrative criteria listed in subsection (a) and (1) - (2) of this subsection are required.
 - (1) A policy and procedure manual is maintained on site for ~~staff~~personnel and includes the program's mission or vision statement, information on organizational structure, and code of professional conduct, ~~and the center's discipline philosophy.~~
 - (2) A minimum of two ~~staff~~personnel meetings are conducted annually and include time to discuss quality and its impact on the ~~facility~~program.
- (c) **Criteria one star plus homes.** Administrative criteria listed in (1) - (2) of this subsection are required.

- (1) The primary caregiver is a member of the ~~Oklahoma Professional Development Registry~~OPDR and has a current professional development ladder certificate.
- (2) Assistant caregivers are members of the ~~Oklahoma Professional Development Registry~~OPDR and have current professional development ladder certificates.
- (d) **Criteria two and three star homes.** Administrative criteria listed in subsection (c) and (1) - (2) of this subsection are required.
 - (1) The owner or primary caregiver has a written job description for any assistant caregiver ~~that defines~~defining the assistant's responsibilities.
 - (2) Assistants are evaluated in writing annually by the owner or primary caregiver, including developing the educational professional development plan.

340:110-1-8.6. Director, ~~staff~~ personnel, and primary caregiver qualifications for differential quality rating and improvement certification criteria

- (a) **Master teacher and primary caregiver qualifications for two and three star levels.** Master teachers and primary caregivers must be employed on-site on a full-time basis and trained in Oklahoma's Early Learning Guidelines. ~~A person~~An individual is not counted as a ~~center~~ master teacher, director, or primary caregiver at more than one ~~facility~~program, unless the ~~facilities~~ are programs ~~that~~ do not operate concurrently at any given time.
 - (1) Master teachers meet and maintain one of the requirements in ~~(2)(A) through (G)~~(H) of ~~paragraph (2)~~ of this subsection.
 - (2) Primary caregivers meet and maintain one of the requirements in (A) through ~~(H)~~(I) of this paragraph.
 - (A) Occupational child care competency certificate for master teacher or lead teacher through an Oklahoma technology center and three months of satisfactory full-time experience in a licensed or legally exempt child care setting.
 - (B) Current Child Development Associate (CDA) or Certified Childcare Professional (CCP) credential.
 - (C) Certificate of Mastery in early childhood education or child development from an accredited Oklahoma college or university.
 - (D) Thirty-college credit hours from an accredited college or university, including 15-credit hours in early childhood education, child development, or other coursework ~~that supports~~supporting working with children.
 - (E) Four-year degree from an accredited college or university with six-college credit hours in early childhood education, child development, or other coursework ~~that supports~~supporting working with children.
 - (F) Two- or four-year degree from an accredited college or university in early childhood education or child development.

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(G) A valid teaching certificate in early childhood education from the Oklahoma State Department of Education.

(H) Current Oklahoma Professional Development Ladder (OPDL) certificate of Level 3, specifically met by an Oklahoma Competency Certificate with a Master Teacher emphasis or Level 4 or higher.

~~(H) If~~ approved prior to June 1, 2004, the provider may continue to meet this criteria if the provider maintains 120 hours of job-related professional development within the last five years, five years of full-time experience in a licensed or legally exempt child care setting, and every two years receives a minimum score of 5.0 on the Family Child Care Environment Rating Scale - Revised.

(b) **School-age Out-of-school time master teacher qualifications.** In ~~centers~~programs licensed as ~~school-age out-of-school time~~ programs or programs where the majority of children are school age, the master teacher must be employed and on-site at least 50 ~~per cent~~percent of the weekly operating hours. The master teacher must currently meet and maintain either:

(1) one of the qualifications in (a) of this Section; however, a degree or coursework in (a)(2)(C) through (G) may also be in elementary education, recreation, or other coursework ~~that supports~~supporting working with children, families, and the community; or

(2) 120-clock hours of professional development within the last five years, one year of full-time experience in a licensed ~~or legally exempt school age child care out-of-school time~~ program or ~~legally exempt school age child care program~~, and every two years receive a minimum score of 5.0 on the School-Age Environment Rating Scale Updated Edition (SACERS-U), in a classroom where the master teacher is the lead teacher.

(c) **Master teachers required for two and three star centers.** There is a full-time master teacher for every 30 children of the licensed capacity. ~~During the second and subsequent years as a two or three star center, there must be a master teacher for every 20 children of the licensed capacity. This number does not include school age children, if the majority of children in care are younger than five years of age.~~

(1) ~~Centers~~Programs licensed as ~~school-age out-of-school time~~ programs or programs where the majority of children are school age must have a master teacher for every 40 children of the licensed capacity.

(2) ~~A person~~An individual is not counted as a master teacher, director, or primary caregiver in more than one facility program or considered a master teacher in one facility program and a director of another facility program, unless the ~~facilities are~~ programs that do not operate concurrently at any given time.

(d) **Director as master teacher.** The director may be counted as a master teacher only ~~if when~~ the licensed capacity ~~minus school age children~~ is 30 or less. The director may be counted as a master teacher in ~~centers~~programs licensed as ~~school-age out-of-school time~~ programs or programs where the majority of children are school age.

(e) **Master teacher responsibilities.** Master teachers work directly with children and support other teaching ~~staff~~personnel with responsibilities, such as program development, weekly lesson plans, use of space and equipment, interactions with parents, and program evaluation.

340:110-1-8.7. Professional development for differential quality rating and improvement certification criteria

(a) **Director professional development requirements for one star plus, two star, and three star centers.** No more than six hours of informal professional development as defined per Professional Development Ladder certification may be counted in total hours. Director qualifications listed in (1) - ~~(6)~~(4) of this subsection are required.

(1) The director must have documentation of at least two college credits or 30-clock hours of job-related professional development within the last 12 months prior to ~~application~~request for star certification.

(2) ~~If~~When a new director is hired, the director must have documentation of at least two college credits or 30-clock hours of job-related professional development within the last 12 months prior to employment. If the new director does not have ~~the~~ two college credits or 30-clock hours of professional development, the ~~facility~~program is required to submit a written plan to licensing staff for correcting the violation within 90-calendar days of the new director's hire date.

(3) In subsequent years of star status certification, the director must have documentation of at least two college credits or 30-clock hours of job-related professional development per ~~employment year~~Professional Development Ladder certification.

(4) ~~A director may count a total of six hours of in-service training each year. In-service training includes videos and informal on-site staff training. Reading does not count for professional development.~~

(5) ~~A person~~An individual is not counted as a center master teacher, director, or primary caregiver at more than one facility program, unless the ~~facilities are~~ programs that do not operate concurrently at any given time.

(6) ~~The director has a written educational professional development plan on file at the center. The educational professional development plan is reviewed annually and updated as needed.~~

(b) **Staff Personnel professional development requirements for one star plus, two star, and three star centers.** No more than six hours of informal professional development per Professional Development Ladder certification may be counted in total hours. Staff Personnel qualifications listed in (1) - ~~(7)~~(5) of this subsection are required.

(1) At application, center ~~staff~~personnel employed at the facility program for at least 12 months and counted toward meeting the staff-child ratio must have at least two college credits or 20-clock hours of job-related professional development per employment year. At initial ~~application~~request for star certification, professional

development may be counted if obtained within the last 12 months or within the ~~staff's personnel's~~ employment year.

(2) After initial approval for certification, the professional development criteria of at least two college credits or 20-clock hours of job-related professional development must be met within the ~~staff's employment year~~ personnel's Professional Development Ladder certification.

(3) The professional development requirement applies to part-time ~~staff personnel~~ and ~~permanent~~ substitutes who have worked at the ~~child care center program~~ more than a total of ~~4080~~ hours. ~~Staff persons who perform~~ Personnel performing only auxiliary duties, such as cooking, transportation, or maintenance are exempt from this professional development requirement.

(4) ~~Staff may count a total of six hours of in service training each year. In service training includes videos and informal on site staff training. Reading does not count for professional development.~~

~~(5) All full time staff have a written educational professional development plan on file at the center. The educational professional development plan is reviewed annually and updated as needed.~~

(6) One ~~staff personnel~~ for every ~~2030~~ children of the licensed capacity must actively work toward the educational requirements to obtain master teacher qualifications.

(7) ~~Staff~~ Personnel working toward or meeting master teacher qualifications are trained in Oklahoma's Early Learning Guidelines.

(c) **Primary caregiver professional development requirements for one star plus, two star, and three star homes.** No more than six hours of informal professional development per Professional Development Ladder certification may be counted in total hours. Primary caregiver qualifications listed in (1) - (2) of this subsection are required.

(1) At ~~application request~~ request for star certification, the primary caregiver must have documentation of at least two college credits or 20-clock hours of job-related professional development. At initial ~~application request~~ request for star certification, the professional development may be counted if obtained within the last 12 months or within the primary caregiver's employment year.

(2) After approval for certification, the professional development criteria must be met within the primary caregiver's ~~employment year~~ Professional Development Ladder certification.

~~(A) A primary caregiver may count a total of six hours of in service training each year. In service training includes videos, informal on site and home association training. Reading does not count for professional development.~~

~~(B)~~ The primary caregiver has a written educational professional development plan ~~that~~ is kept on file in the home. The educational professional development plan is reviewed annually and updated as needed.

~~(C)~~ The primary caregiver must actively work toward the education requirements to obtain the provider qualifications.

~~(D)~~ The primary caregiver is trained in Oklahoma's Early Learning Guidelines.

(d) **Assistant caregiver professional development for one star plus, two star, and three star level homes.** No more than six hours of informal professional development per Professional Development Ladder certification may be counted in total hours. Assistant caregiver qualifications listed in (1) - ~~(3)~~ (2) of this subsection are required.

(1) Any assistant caregiver employed for at least 12 months must have documentation of at least two college credits or 20-clock hours of job-related professional development per ~~employment year~~ Professional Development Ladder certification.

~~(2) The assistant caregiver may count a total of six hours of in service training each year. In service training includes videos, informal on site, and home association training. Reading does not count for professional development.~~

~~(3)~~ The assistant caregiver has a written educational professional development plan on file in the home. The educational professional development plan is reviewed annually and updated as needed.

340:110-1-8.8. Learning environment differential quality rating and improvement certification criteria

(a) **Criteria for one star plus centers.** Learning environment criteria listed in (1) - ~~(5)~~ (2) of this subsection are required.

~~(1) The center has and follows current weekly lesson plans appropriate for the developmental needs of all groups of children. Current lesson plans are readily available in each classroom.~~

~~(2)~~ Space for children ~~two~~ 2 years of age and older is arranged in a ~~minimum~~ of six well-defined and equipped interest areas in each classroom to facilitate a variety of activities ~~that~~ and must include art, ~~block building, book reading, dramatic play, manipulative play, and music and movement.~~

~~(3) Teachers read to children a minimum of 15 minutes each day.~~

~~(4) The indoor, and as weather permits, outdoor environment are utilized daily for children to engage in physical activity.~~

~~(5)~~ Television or other screen time is not used for children ~~1-year-old or younger~~ than two years of age.

(b) **Criteria for two and three star centers.** Learning environment criteria listed in subsection (a) and (1) - ~~(4)~~ (2) of this subsection are required.

~~(1) The center has and follows a schedule that allows children time to complete tasks. The schedule reflects a balance and variety of activities that includes time for indoor and outdoor play, active and quiet play, rest periods, and meals.~~

~~(2)~~ Space for children ~~two~~ 2 years of age and older is arranged in a ~~minimum~~ of eight well-defined and equipped interest areas in each classroom to facilitate a variety of activities ~~that~~ and must include art, ~~block building, book~~

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~~reading, dramatic play, manipulative play,~~ math, music and movement, and science or nature. The program has at least two learning centers available outdoors for children's use.

(32) The program utilizes Oklahoma Early Learning Guidelines as a resource for lesson and curriculum planning.

~~(4) Staff participate in physical activity with children at least once per day.~~

(c) **Criteria for one star plus homes.** Learning environment criteria listed in (1) - (4) of this subsection are required.

(1) A written daily schedule ~~that reflects~~reflecting a balanced program of opportunities for learning, physical activity, indoor and outdoor play, rest periods, and meals is followed.

(2) The daily schedule is posted.

(3) Children are read to a minimum of 15 minutes each day.

(4) Television or other screen time is not used for children 1-year-old or younger than two years of age.

(d) **Criteria for two and three star homes.** Learning environment criteria listed in subsection (c) and in (1) - (2) of this subsection are required.

(1) Children have opportunities during the day to access art, block building, book reading, dramatic play, manipulative play, and music and movement.

(2) The provider has a plan for transition times.

340:110-1-8.9. Family engagement differential quality rating and improvement certification criteria

(a) **Criteria one star plus centers.** Family engagement criteria listed in (1) - ~~(8)~~(7) of this subsection are required.

(1) A system is established and maintained for sharing with, and communicating to families the happenings, activities, and related issues about a child's physical and emotional state.

(2) Families are welcomed into the center at all times, for example, to eat lunch with a child, observe, or volunteer in the classroom.

(3) Individual parent conferences are arranged and documented to discuss and set goals regarding the child's progress, accomplishments, and challenges, at least annually and as needed. Documentation of parent conferences is maintained with the child's records.

(4) There is a family resource area with books, pamphlets, ~~and/or~~ articles on children parenting and family issuescommunity resources accessible ~~and available~~ to families. When provided electronically, resources are easily accessible and printable.

(5) At least two family meetings with guest speakers or special events are held each year, such as open houses, brown bag lunches, family pot-luck dinners, and children's programs.

(6) Families are informed of the center's program by two of these methods:

(A) bulletin board;

(B) newsletter;

(C) parent handbook;

(D) website, specific to each center location; or

(E) email.

(7) Families participate in program and policy development through board involvement and planning meetings or are given an opportunity to complete yearly questionnaires.

~~(8) The program makes a copy of applicable licensing requirements available to families.~~

(b) **Criteria two and three star centers.** Family engagement criteria listed in subsection ~~(a) and (1) - (2)~~ of this subsectionSection are required.

~~(1) Parent~~In addition, parent conferences are held at least twice a year and a written report about the child is provided to parents at the conference.

~~(2) The program maintains a current list of available community resources including health care, education, nutrition, and counseling and assists families in locating and connecting with these services, as needed.~~

(c) **Criteria one star plus homes.** Family engagement criteria listed in (1) - (6) of this subsection are required. The primary caregiver:

(1) maintains a signed contract on file for each family ~~that includes~~including, but is ~~not~~ limited to, policy concerning hours, fees, payment schedules, vacations, and terminations;

(2) encourages families to visit any time their children are present and provides access to all parts of the home used for child care;

(3) arranges for, and documents individual parent conferences, to discuss and set goals regarding the child's progress, accomplishments, and challenges, at least annually and as needed. Documentation of parent conferences is maintained with the child's records;

(4) provides opportunities for families to be involved in the program's activities;

(5) has information available about common childhood issues and resources including health care, education, nutrition, and counseling ~~that provide services to for~~ families and children, and makes referrals as needed; and

(6) makes a copy of applicable licensing requirements available to families.

(d) **Criteria two and three star homes.** Family engagement criteria listed in ~~subsection (c) of this Section~~ and (1) - (2) of this subsection are required. The primary caregiver:

(1) provides parents a minimum of two references, including contact information. Relative references are not accepted; and

(2) has and uses a system to communicate with families the happenings, activities, and related issues regarding their child's physical and emotional state.

340:110-1-8.10. Program evaluation differential quality rating and improvement certification criteria.

(a) **Criteria one star plus centers and homes.** ~~The program~~Program evaluation criteria listed in (1) - ~~(3)~~(2) of this subsection ~~are~~is required for family child care ~~centers~~ homes.

Program evaluation criteria listed in ~~(1)~~ (2) of this subsection are required for familyall child care homes programs. In addition, program evaluation criteria listed in (3) of this subsection is required for part-day programs.

- (1) Health and safety checklists for both indoor and outdoor spaces are completed annually and kept on file at the facility.
- (2) StaffPersonnel and parents are surveyed annually to identify strengths and weaknesses of the program and evaluate the program's effectiveness in meeting the needs of children, parents, and staffpersonnel.
- (3) An equipment inventory is conducted annually using the appropriate Oklahoma Department of Human Services ~~(OKDHS)~~(DHS) form and kept on file at the center.

(b) **Criteria two and three star centers and homes.** Program evaluation criteria listed in ~~subsection (a) of this Section~~ are is required. All methods of program evaluation as described in (1) through (4) of this subsection must be completed within one year of receiving two star status and repeated as required.

- (1) The program is assessed every three years using an assessment tool approved by ~~Oklahoma~~ Child Care Services ~~(OCCS)~~(CCS). This assessment is not required for programs accredited by an ~~OCCS~~ CCS approved national accrediting body.
- (2) Program goals are established and updated annually based on information gathered from the completed health and safety checklists, parent and ~~staff~~ personnel surveys, and ~~an CCS approved~~ assessment tool ~~approved by OCCS.~~
- (3) The program has a written plan for meeting established goals ~~that includes including~~ professional development and educational needs of ~~center staff~~ personnel or the provider and assistant as well as facility ~~program~~ policy and procedures.
- (4) StaffPersonnel participate in program evaluation and the established goals are shared with staffpersonnel.

340:110-1-9. Case management

(a) **Periodic monitoring visits.** ~~The~~ Oklahoma Child Care Services ~~(OCCS)~~(CCS) licensing staff makes a minimum of three unannounced monitoring visits to ~~facilities that operate~~ programs operating a full-year program and two unannounced monitoring visits annually to ~~facilities that operate~~ programs operating less than a full year. Licensing staff varies the time of monitoring visits to include lunch observation and an evening visit to child care centers with extended hours.

(b) **Ongoing monitoring.** During monitoring visits, ~~the~~ licensing staff observes the entire facility, including the outdoor play space and vehicles used for transportation, ~~if~~ when available. At, or subsequent to each visit, licensing staff checks:

- (1) compliance with licensing ~~regulations~~ requirements;
- (2) records for new staffpersonnel including staffpersonnel sheets and compliance with background

investigations per ~~OAC~~ Oklahoma Administrative Code (OAC) 340:110-1-8.1;

- (3) ~~staff training~~ personnel professional development records;
- (4) the Oklahoma Department of Human Services ~~(OKDHS)~~ computer checks ~~(DHS)~~ data base on applicable ~~persons~~ individuals per OAC 340:110-1-8.1(g);
- (5) fire and health inspections within the last 24 months, ~~if~~ when applicable;
- (6) Form 07LC092E, Insurance Verification, within the last 12 months, or posting of Form 07LC093E, Insurance Exception Notification; and
- (7) other documentation requiring renewal.

(c) **Technical assistance and consultation.** Licensing staff provides:

- (1) technical assistance to licensees to assist them in meeting minimum requirements; and
- (2) consultation on various aspects of quality child care.

(d) **Agreements with tribal licensing programs and other monitoring agencies.** ~~OKDHS~~ DHS may enter into a cooperative licensing agreement with a tribal licensing program or other monitoring agency.

(e) **Equipment inventory.** Licensing staff completes ~~the appropriate Equipment Inventory Form 07LC006E, Equipment Inventory for Child Care Programs, 07LC020E, or 07LC024E,~~ prior to a license being issued. ~~The~~ licensing Licensing staff or the facility ~~program~~ may complete the appropriate equipment inventory prior to a change in facility class and prior to an increase in licensed capacity in a child care center, day camp, drop-in, out-of-school time, part-day children's program, and school age program, and program for sick children. The purpose of the inventory is to document the equipment available and items needed to comply with the equipment requirements. ~~The~~ licensing Licensing staff may conduct a complete inventory any time concern exists about the availability of required equipment.

(f) **Change of address.** Specific procedures are followed when a program moves to a new address.

(1) When a facility ~~program~~ moves to a new address, ~~the~~ licensing staff conducts a monitoring visit and completes a monitoring report to verify the new location meets licensing requirements, and obtains an updated application. For child care centers, part day children's programs, and school age programs, new fire and health inspections, ~~if applicable, are required.~~

- (A) obtains an updated Form 07LC004E, Request for License Child Care Program;
- (B) conducts a monitoring visit to verify the new location meets licensing requirements;
- (C) obtains new fire and health inspections, when applicable, for a child care center, day camp, drop-in, out-of-school time, part-day program, and program for sick children;
- (D) obtains Department of Environmental Quality approval, when applicable;
- (E) completes Form 07LC057E, Physical Plant, with required calculations; and

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- (F) requests a permit or license be issued reflecting the new address.
- (2) When a change of address involves care provided in a location other than the caregiver's primary residence, refer to OAC 340:110-1-6(a)(3).
- (g) **Change in facility program name.** When there is a change in facility program name, licensing staff verifies there is no change in ownership, and documents the name change in the case record and database. A new application Form 07LC004E reflecting the facility program name change is completed. Licensing staff requests a permit or license be issued reflecting the new program name.
- (h) **Change in director.** When there is a change in director, licensing staff:
- (1) verifies the new director meets qualifications;
 - (2) obtains the applicable page of Form 07LC004E, Request for License—Child Care Facility, completed by the new director;
 - (3) obtains references;
 - (4) obtains ~~from the director~~ an appropriate, complete Compliance Review Forms 07LC069E, 07LC072E, or 07LC073E, Form 07LC117E, Compliance Review for Child Care Programs, if from the director, when the director has no previous director experience;
 - (5) notifies the new director of current ~~employees that have been~~ personnel who were granted a waiver; and
 - (6) documents the information on Form 07LC080E, Licensing Services Supplemental Information.
- (i) **Change in primary caregiver.** When there is a change in primary caregiver, licensing staff:
- (1) verifies the primary caregiver meets qualifications;
 - (2) obtains the applicable page of Form 07LC004E, Request for License—Child Care Facility, completed by the new primary caregiver;
 - (3) obtains references;
 - (4) notifies the new primary caregiver of current ~~employees~~ personnel who have been were granted a waiver; and
 - (5) documents the information on Form 07LC080E.
- (j) **Change in household.** All changes in household members living in a facility are documented on the monitoring report summary. Form 07LC096E, Criminal History Review Request for Programs, must be submitted prior to a new adult household member residing in the home facility. When there is a new adult household member residing in a family child care home or large child care home facility, the required documentation includes:
- (1) the applicable page of Form 07LC004E completed by the new adult household member(s);
 - (2) background investigations per OAC 340:110-1-8.1; and
 - (3) ~~an OKDHS computer check~~ a DHS database search.
- (k) **Change in ownership.** When there is a change in ownership or change in form of business organization of a family child care home, child care center, day camp, drop-in, out-of-school time, part-day program, or school-age program for sick children, typically the case is closed and a new application Form 07LC004E is obtained. Prior to the issuance of a

permit or license, the facility program must be in compliance with background investigations per OAC 340:110-1-8.1. A permit may be issued ~~if~~ when a monitoring visit without numerous, repeated, or serious non-compliances was conducted at the facility program within the past ~~60-calendar~~ 14-calendar days. A full monitoring visit is conducted within ~~two weeks~~ 14-calendar days of change of ownership to verify the new owner is able to meet minimum licensing requirements.

(l) **Change in facility class.** When a facility program requests a change in facility class, the procedures contained in this subsection are followed.

(1) The case is closed and a new application Form 07LC004E is required when a: ~~family child care home converts to a child care center, part day program, or school age program, or when a child care center, part day program, or school age program converts to a family child care home.~~

(A) family child care home converts to a child care center, day camp, drop-in, out-of-school time, part-day program, or program for sick children; or
(B) child care center, day camp, drop-in, out-of-school time, part-day program, or program for sick children converts to a family child care home.

(2) Any other request for change in class does not require case closure and documentation includes:

(A) a request in writing from the provider;
(B) a new application Form 07LC004E, with updated information;
(C) documentation ~~that~~ the facility program meets the requirements for the requested class type;
(D) the appropriate equipment inventory, ~~if~~ when applicable;
(E) a current approved fire inspection, ~~if~~ when applicable;
(F) a current approved health inspection, ~~if~~ when applicable; and
(G) database updates to the appropriate class and monitoring frequency plan.

(m) **Procedure for increasing or decreasing capacity.** When a facility program requests an increase or decrease in licensed capacity, it is documented on Form 07LC080E, Licensing Services Supplemental Information, and must be approved by the licensing supervisor. ~~If the request to increase capacity is due to additional physical space, the facility~~ The program must not have a history of numerous, repeated, or serious non-compliance, and must provide:

- (1) the reason for the increase;
- (2) an updated floor plan on Form 07LC057E, ~~Physical Plant, that reflects~~ reflecting adequate indoor and outdoor space, toilets, and sinks for the increase and any changes;
- (3) fire department approval of any space not previously inspected;
- (4) health approval of any additional food preparation space not previously inspected;
- (5) an updated equipment inventory reflecting adequate equipment for the increase; and
- (6) verification of the number of required master teachers.

(n) **Inactive cases.** A facility program is determined to be in inactive status when care has not been provided for more than 90-calendar days.

(1) A facility program wanting to remain open after 90-calendar days submits a request in writing including a statement ~~that~~ the owner will notify licensing when care is resumed. Licensing staff verify compliance with requirements prior to resuming care.

(2) The facility program is contacted by licensing staff, a minimum of every four months by ~~telephone or phone,~~ letter, or email to update ~~the facility program~~ status including new household members ~~per (j) of this Section,~~ or other facility program changes, per (j) of this Section.

(3) ~~If~~When the facility program is a child care center, day camp, drop-in, out-of school time, part-day, or school age program, or program for sick children voluntary closure is discussed with the owner and an agreement to close is reached if possible.

(4) ~~If~~When care has not been provided for ~~more than~~ 12-consecutive months or more, licensing staff sends a letter to notify the owner of case closure within 10-calendar days of receipt of letter, unless ~~OCCSCCS~~ is notified within 10 days of receipt of letter ~~care has resumed.~~

(5) Licensing staff visits the inactive facility program, at least once a year to verify compliance with licensing requirements until closure is final.

(6) ~~If~~When a change of address occurs during the time a facility program is in inactive status, a full monitoring visit is required ~~to verify compliance and follow~~ change of address is followed per (f) of this Section.

(o) **Closure of an inactive family child care home and large child care home program.** Procedures (1) - (4) of this subsection are followed when closing an inactive family child care home program.

(1) Licensing staff contacts the owner of a family child care home and large child care home during the ~~twelfth~~ 12th month of inactive status to verify case status.

(2) Licensing documents the case status on Form 07LC080E, Licensing Services Supplemental Information, and notifies the owner the case will be closed should care not resume, prior to the end of the 12th month.

(3) ~~If~~When care has not been provided for ~~more than~~ 12-consecutive months or more, licensing staff sends a letter to notify the owner of case closure within 10-calendar days of receipt of letter, unless ~~OCCSCCS~~ is notified within 10 days of receipt of letter ~~care has resumed.~~

(4) The ~~family child care home and large child care home~~ case is closed and the owner must reapply and be approved for a license prior to resuming care, per OAC 340:110-1-6.

(p) **Response to a child death.** When notified of death of a child while in child care, licensing staff completes Form 07LC079E, Child Death Report, and forwards it to the statewide licensing coordinator or designee. When notified of a death, ~~the~~ licensing staff visits the facility program as soon as possible, unless advised otherwise by law enforcement.

(q) **Serious incident reports.** The licensing supervisor submits to the licensing regional programs manager, county director, and statewide licensing coordinator a report of any serious incident.

(r) **Self-reported incidents.** When a provider self-reports a non-compliance incident, Form 07LC080E, ~~Licensing Services Supplemental Information,~~ is completed and the data system licensing database is updated. A letter to include a copy of Form 07LC080E is provided to the facility program.

340:110-1-17. Child Care Advisory Committee bylaws

(a) **Purpose.** The purpose of the Child Care Advisory Committee ~~(Advisory Committee or CCAC)(CCAC)~~ is to:

(1) carry out the provisions of the Oklahoma Child Care Facilities Licensing Act, (Licensing Act), Section 404 of Title 10 of the Oklahoma Statutes to:

(A) ensure maintenance of minimum standards for the care and protection of children away from their homes, ~~that include~~ including:

- (i) constructive programs and services to meet the needs of each child and family;
- (ii) ~~staff personnel~~ of good moral character and ability to care for children;
- (iii) adequate and safe housing, sanitation, and equipment;
- (iv) good health care;
- (v) full educational and religious opportunities;
- (vi) good community relationships;
- (vii) essential records and administrative methods; and
- (viii) sufficient funds for sound operation;

(B) encourage and assist child care facilities toward maximum standards; and

(C) work for the development of sufficient and adequate services for child care through joint work with public and private agencies;

(2) prepare and recommend minimum requirements and standards for child care facilities programs for ~~adoption~~ promulgation by the Oklahoma Department of Human Services ~~(OKDHS)(DHS);~~

(3) serve in an advisory capacity to ~~OKDHS~~ DHS for developing quality child care programs and services; and

(4) educate the public and consumers regarding quality child care.

(b) **Function.** The CCAC function ~~of CCAC~~ is to:

(1) become informed on ~~OKDHS~~ DHS programs and policies regarding children;

(2) express the needs and concerns of the community and the State of Oklahoma as they relate to the care and treatment of children; and

(3) ~~bring~~ express recommendations for change, including the adoption approval of minimum requirements and encouraging maximum standards for child care.

(c) **Membership.**

(1) **Representation.** CCAC provides names for consideration of new appointments and reappointments of members to the ~~director~~ of Child Care Services (CCS)

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director. The ~~director of Child Care Services~~ CCS director makes recommendations for membership to the ~~OKDHS~~ DHS Director. Members are appointed to serve at the pleasure of the ~~OKDHS~~ DHS Director, based on their expertise, experience, and leadership in the field of child care.

(A) CCAC₂ at a minimum₂ consists of 18 members.

(B) The majority are representatives of ~~facilities~~ programs licensed by ~~OKDHS~~ DHS to care for children.

(C) Other members include at least one representative from the Oklahoma State Department of Health; the Oklahoma State Department of Education; the Office of the State Fire Marshal; tribal agencies; and Oklahoma Child Care Services (OCCS) CCS. These representatives are exempt from term limits.

(D) Other members include associations and agencies as recommended to the ~~OKDHS~~ DHS Director, such as the Oklahoma Child Care Association, Oklahoma Children's Agencies and Residential Enterprises Incorporated (OK-CARE), Oklahoma Department of Mental Health and Substance Abuse Services, Oklahoma Association of Youth Services, Office of Juvenile Affairs, Early Childhood Association of Oklahoma, and Head Start.

(E) A representative from the Oklahoma Commission on Children and Youth serves as an ex-officio member.

(2) Terms of office.

(A) The terms of CCAC members are for three years with a two-consecutive-term limit. ~~Effective November 1, 2008 members shall be appointed to CCAC for a period of three years and may be reappointed for an additional three year term.~~

(B) Members may be recommended for reappointment after completing ~~their~~ the first term of office.

(3) Officers.

The officers of CCAC are chairperson, vice-chairperson, and secretary.

(A) **Chairperson.** The chairperson is responsible for:

- (i) presiding over all meetings;
- (ii) ~~in coordination with OCCS,~~ planning the meeting agenda₂ at least ~~two weeks~~ 14-calendar days in advance; in coordination with CCS;
- (iii) ~~with the director of Child Care Services or representative,~~ appointing members of subcommittees; in consultation with the CCS director;
- (iv) ~~moderation of~~ moderating public hearings; and
- (v) ~~servesserving~~ as CCAC spokesperson for CCAC.

(B) **Vice-Chairperson.** The vice-chairperson works closely with the chairperson₂ assumes the responsibilities of the chairperson in his or her absence, and attends public hearings.

(C) **Secretary.** The position of secretary is held by the ~~OCCS~~ CCS representative. The secretary is

responsible for accurately recording the minutes of each meeting and making them available to the members prior to the next meeting. A permanent copy of the minutes is maintained by ~~OKDHS~~ CCS.

(4) Election of officers and terms of office.

(A) Upon vacancy of office, the chairperson and vice-chairperson are elected by a majority vote of members present during the next quarterly meeting following the office vacancy. Officers assume duties during the meeting in which the election is held.

(B) Terms of office are for one year. Officers may be elected to serve in one office for a maximum of three terms.

(5) Subcommittees.

(A) Subcommittees are appointed by the chairperson with consultation from ~~OCCS~~ CCS and are designated to:

- (i) draft licensing requirements for child care programs and services;
- (ii) study CCAC concerns; and
- (iii) address special issues of CCAC.

(B) The chairperson of the subcommittee is a CCAC member of CCAC.

(C) Subcommittee members include representatives of child care programs and services with experience and expertise in the field of child care and children's services.

(D) Subcommittees appointed to draft licensing requirements for child care programs:

- (i) present ~~their~~ recommendations to CCAC for approval prior to being approved by the ~~Commission for Human Services~~ DHS Director and the Governor;
- (ii) have a majority of members who represent private child care programs affected by the requirements; and
- (iii) include representatives from licensing, including supervisory and field staff.

(E) Standing subcommittees expand the opportunity for child care program operators to identify quality improvement resources, express concerns facing the industry, and recommend issues for consideration by CCAC.

- (i) The chairpersons of four standing subcommittees, ~~representing family child care, child care centers, residential child care, and child placing agencies,~~ are CCAC members and appointed by CCAC chairperson CCAC membership. Standing subcommittees represent:

- (I) family child care homes;
- (II) child care centers, day camp, drop-in, out-of-school time and part-day programs, and programs caring for sick children;
- (III) residential and child-placing agencies;
- and
- (IV) the quality rating and improvement system (QRIS) program.

- (ii) ~~Subcommittee~~Standing subcommittee members are identified and recruited by the standing subcommittee chairpersons with CCS consultation ~~from OCCS~~.
- (iii) ~~Subcommittee~~Standing subcommittees meet a minimum of twice a year.
- (iv) The standing subcommittee chairperson provides a written report to CCAC, at least twice a year.
- (F) A standing membership subcommittee helps to insure a broad representation of licensed ~~facilities~~programs are included within CCAC.
 - (i) The chair of the standing membership subcommittee works closely with other CCAC officers and provides oversight to the standing membership subcommittee.
 - (ii) The membership subcommittee meetings are held at least quarterly, prior to CCAC meetings.
 - (iii) The membership subcommittee chairperson provides a written quarterly report to CCAC.
 - (iv) The membership subcommittee recommends to CCAC ~~the names for new appointments.~~
 - (v) ~~The membership subcommittee recommends to CCAC the re-appointment of existing members based upon their attendance and participation on CCAC subcommittees.~~
 - (vi) ~~The membership subcommittee recommends a slate of officers to CCAC.~~
 - (I) the names of individuals for new appointments;
 - (II) the re-appointment of existing members based upon attendance and participation on CCAC subcommittees; and
 - (III) a slate of officers.
- (d) **Meetings.**
 - (1) **Frequency.** ~~The~~ CCAC meets quarterly. Additional meetings may be called or regular meetings cancelled at the discretion of the chairperson and ~~OCCS~~CCS representative.
 - (2) **Quorum.** A minimum of one third plus one of ~~the membership member~~ or designee must be present for a quorum.
 - (3) **Voting.** All members or ~~their~~ designees must receive orientation on the goals and practices of CCAC prior to voting.
 - (4) **Attendance.** Committee members or ~~their~~ designees must attend at least two ~~Advisory Committee~~CCAC meetings a year or may be removed from the committee at the discretion of the CCAC or ~~OKDHS~~DHS Director.
 - (5) **Active participation.** ~~Advisory Committee~~CCAC members or ~~their~~ designees are required to serve on subcommittees annually.
 - (6) **Guidelines.** ~~The CCAC adheres to established Guidelines for Organization and Function.~~ The practices of the CCAC are compatible with the Child Care Facilities Licensing Act.

- (7) **Rules of order.** ~~Roberts~~Robert's Rules of Order, as amended, are used to govern the meetings.
- (e) **Change of bylaws.** Bylaws may be altered, amended, or repealed only by a majority vote of the CCAC, provided ~~that~~ written notice of the proposed action is given in the call to the meeting and a quorum is present.

340:110-1-21. Evaluation of the child care licensing services program

~~The Oklahoma~~ Child Care Services (~~OCCS~~)(CCS) is responsible for ~~the~~ evaluation of the child care licensing services program.

- (1) The quality assurance manager is responsible for all activities associated with program evaluation includes including quality assurance audits reviews and provider division and child care industry satisfaction surveys.
- (2) ~~OCCS~~CCS establishes a method for continuously improving the internal ~~audit~~review program through feedback and recommendations from all concerned parties concerned. The ~~audit review~~:
 - (A) ~~is performed to determine~~determines whether licensing requirements, policies, and procedures are being fully implemented ~~and to evaluate the effectiveness of the program;~~
 - (B) evaluates the program's effectiveness; and
 - (~~BC~~) provides objective evidence to support the need for the reduction, elimination, and prevention of ~~non-conformities; and inconsistent interpretation of division policy and licensing requirements~~
 - (~~C~~) is conducted by the OCCS lead auditor, who is responsible for all activities associated with the evaluation of the program.

PART 3. LICENSING SERVICES - RESIDENTIAL CARE AND AGENCIES

340:110-1-46. Types of issuances

- (a) **Six-month permit.** New residential child care ~~facilities~~programs or child-placing agencies may be granted a six-month permit. ~~If~~When the facility program was previously licensed at another location and had a pattern of compliance, the six-month permit may be waived.
 - (1) A complete monitoring visit documenting compliance with ~~critical~~ licensing requirements must be made ~~not no~~ longer than 60-calendar days prior to issuance of the six-month permit. The recommendation to issue a permit is made after all forms and inspections ~~have been~~are completed and the facility program is in compliance with all requirements, including:
 - (A) eriminal history investigations;
 - (~~B~~) tuberculosis (TB) tests;
 - (~~C~~) required number of qualified staff personnel;
 - (B) completed criminal history review results for all required individuals;
 - (~~DC~~) required training professional development;
 - (~~ED~~) hazards indoors and outdoors;

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- (~~FE~~) liability insurance coverage;
 - (~~GF~~) fire safety; and
 - (~~HG~~) other areas affecting children's safety.
- (2) The items required to be on file for issuance of a six-month permit include:
- (A) Form 07LC040E, Request for License - Child-Placing Agency, and Residential Child Care, and Children's Shelter;
 - (B) proof of ownership;
 - (C) list of current ~~staff personnel~~;
 - (D) Form 07LC041E, ~~Staff Personnel~~ Information Child Care Facility;
 - (E) documentation of all required background investigations per ~~OAC 340:110-1-51~~ Oklahoma Administrative Code (OAC) 340:110-1-8.1;
 - (F) ~~TB test or chest x ray results for direct care staff~~;
 - (~~G~~) State Fire Marshal's approval for residential ~~facilities programs~~;
 - (~~HG~~) health department approval for residential ~~facilities programs~~;
 - (~~HH~~) physical plant drawing for residential ~~facilities programs~~;
 - (~~I~~) compliance review questionnaire with supporting documentation;
 - (~~KJ~~) monitoring ~~reports checklists and summary~~; and
 - (~~LK~~) Form 07LC060E, Residential Child Care Policy and Records Check applicable policy and records check.
- (3) During the six-month permit period, a minimum of three monitoring visits are completed to document ~~that~~ all requirements are met, and ~~to~~ observe child care, or child-placing activity where applicable.
- (b) **Second and subsequent six-month permits.** IfWhen additional six-month permits are recommended, the procedures in (1) through (5) of this ~~paragraph~~ subsection are followed.
- (1) ~~The licensing~~ Licensing staff consults with the programs manager prior to recommending a second or subsequent permit.
 - (2) ~~The licensing~~ Licensing staff sends a letter to the applicant notifying the applicant of the recommendation each time a second or subsequent permit is recommended. The reason for the recommendation is clearly stated in the letter, with each area of non-compliance listed separately.
 - (3) IfWhen the additional six-month permit is due to ~~repeated~~, numerous, repeated, or serious non-compliance with requirements, ~~the~~ licensing staff visits the facility program, at least monthly and is accompanied, when possible, by a witness. If at any point the non-compliance indicates the facility program is unable or unwilling to meet licensing requirements, the programs manager is consulted to discuss ~~negative~~ appropriate actions.
 - (4) IfWhen requirements are met before the expiration of the second or subsequent six-month permit, the issuance of a license may be recommended.

- (5) IfWhen children have not been in care on a regular basis during the previous year, the applicant is asked to withdraw the application request for license.
- (c) **License issuance.** When ~~the~~ licensing staff determines ~~that~~ the facility program or agency is operating in compliance with the facility's program's or agency's own policy and procedures and in compliance with ~~the~~ licensing requirements, a recommendation is made to issue a license. Prior to recommending issuance of a license, ~~the~~ licensing staff completes a minimum of three monitoring visits. A monitoring visit must be made within 60-calendar days of the issuance date. A license is in effect unless it is revoked or the facility program voluntarily closes.

340:110-1-47. Case management

- (a) **Periodic visits.**
- (1) Licensing staff annually conducts monitoring visits to document compliance with the requirements:
 - (A) two unannounced and one announced, to residential facilities programs; and
 - (B) two announced, to child-placing agencies.
 - (2) IfWhen caseloads prevent licensing staff from conducting all visits, the programs manager consults with licensing staff on case management, and the number of required visits may be reduced. This adjustment is approved and documented in the case record by the programs manager.
 - (3) During each monitoring visit, licensing staff:
 - (A) observes the entire facility, including outdoor play space and vehicles used for transportation, ifwhen available; and
 - (B) checks:
 - (i) resident files, ifwhen applicable;
 - (ii) records for new staff personnel including staff personnel sheets and compliance with background investigations per OAC 340:110-1-51 Oklahoma Administrative Code (OAC) 340:110-1-8.1 and copies of Form 07LC041E, Staff Information Child Care Facility, obtained for the case record;
 - (iii) Oklahoma Department of Human Services (OKDHS) computer checks on applicable persons per OAC 340:110-1-51;
 - (~~iv~~) Form 07LC092E, Insurance Verification, within the last 12 months;
 - (~~v~~) fire and health inspections within the last 12 months, ifwhen applicable; and
 - (~~vi~~) other documentation that requires requiring renewal.
- (b) **Consultation and technical assistance.** ~~The licensing~~ Licensing staff provides technical assistance to operators to meet and maintain minimum requirements. Consultation is provided to parties interested in licensure and to licensed facilities programs, and includes suggestions for improving the quality of care and for exceeding the minimum requirements.
- (c) **Change of address.** When a facility program moves to a new location address, licensing staff follows specific procedures to document the move change.

- (1) **Child-placing agency.** When a child-placing agency moves its office, licensing staff:
 - (A) obtains an updated application Form 07LC040E, Request for License Child-Placing Agency and Residential Child Care; and
 - (B) ~~files a narrative in the case file stating the new address and finding directions~~ requests the new permit or license be issued reflecting the new address.
- (2) **Residential facility program.** When a residential program moves, licensing staff:
 - (A) obtains an updated ~~application request for license~~;
 - (B) conducts a monitoring visit ~~and completes a monitoring report~~ to verify the new location meets licensing requirements;
 - (C) obtains new fire and health approvals;
 - (D) obtains Department of Environmental Quality approval, ~~if when~~ applicable; and
 - (E) ~~files a narrative in the case file stating the new address and finding directions~~ completes an updated physical plant drawing with required calculations; and
 - (F) requests the new permit or license be issued reflecting the new address.
- (d) **Satellite office.** When a child-placing ~~agency program~~ adds a satellite office, licensing staff:
 - (1) documents the location of each office; and
 - (2) requests files as needed from satellite locations.
- (e) **Change in ~~facility program~~ or agency name.** ~~If the~~ When licensing staff verifies there is a change in name but no change in ownership, the name change is documented in the case record and the database is updated. A new ~~application Form 07LC040E~~ reflecting the name change is completed. Licensing staff requests a permit or license be issued reflecting the new program or agency name.
- (f) **Change in executive or program director.** When there is a change in director, licensing staff:
 - (1) verifies the new director meets qualifications;
 - (2) obtains the applicable page of Form 07LC040E; ~~Request for License Child-Placing Agency or Residential Child Care Facility~~, completed by the new director;
 - (3) notifies the new director of current ~~employees that personnel who have been were~~ granted a waiver; and
 - (4) documents the information on Form 07LC080E, Licensing Services Supplemental Information.
- (g) **Increase or decrease in licensed capacity.** When a ~~facility program~~ requests an increase or decrease in licensed capacity, it is documented on Form 07LC080E, ~~Licensing Services Supplemental Information~~, and must be approved by the programs manager. When the increase involves new construction, architectural plans approved by the State Fire Marshal are submitted to licensing for approval prior to construction. ~~If when~~ the request to increase capacity is due to additional physical space, the required documentation includes:
 - (1) the reason for the increase;
 - (2) fire department approval;
 - (3) local health department approval of any additional food preparation space not previously inspected;
- (4) ~~the physical plant drawing indicating the measurements, total square footage, and number of additional children that can be accommodated; and required calculations; and~~
- (5) additional ~~staff personnel, if when~~ applicable.
- (h) **Inactive cases.** A ~~facility program~~ is determined to be in inactive status when care ~~or child-placing agency activity~~ has not been provided for ~~more than 90-calendar days or more.~~
 - (1) A ~~facility program~~ wanting to remain open after 90-~~calendar~~ days submits a request in writing including a statement that the owner will notify licensing when care ~~or child-placing agency activity~~ is resumed. Licensing staff ~~verify~~ verifies compliance with requirements prior to resuming care.
 - (2) The ~~facility program~~ is contacted by licensing staff, a minimum of every four months for residential programs, and a minimum of every six months for child-placing agencies by ~~telephone or phone~~, letter, or email to update the ~~facility program~~ status including changes in personnel, household members, or other ~~facility program~~ changes.
 - (3) The closure is discussed with the owner and an agreement to close is reached if possible.
 - (4) ~~If when~~ care has not been provided for ~~more than 12-consecutive months or more~~, licensing staff ~~sends may send~~ a letter to notify the owner of case closure within 10-calendar days from receipt of letter unless Oklahoma Child Care Services (CCS) is notified within 10 days of receipt of letter ~~care or child-placing agency activity has resumed.~~
 - (5) Licensing staff visits the inactive ~~facility program~~, at least once a year to verify compliance with licensing requirements until closure is final.
 - (6) ~~If when~~ a change of address occurs during the time a ~~facility program~~ is in inactive status, a ~~full monitoring visit~~ is required to ~~verify compliance and follow~~ change of address is followed per (c) of this Section.
- (i) **Change in ownership.** ~~If when~~ a residential program or child-placing agency assumes new ownership, the case file is closed, and the program must apply for a new license under the new owner. Prior to the issuance of a permit or license, the ~~facility program~~ must be in compliance with background investigations per OAC 340:110-1-51340:110-1-8.1. A permit may be issued ~~if when~~ a monitoring visit without numerous, repeated, or serious non-compliances was conducted at the ~~facility program~~ within the past 60-~~calendar~~ days. A full monitoring visit is conducted within ~~two weeks~~ 14-calendar days of change of ownership to verify the new owner is able to meet minimum licensing requirements.
- (j) **Response to a child death.** When notified of the death of a child while in care, licensing staff:
 - (1) completes Form 07LC079E, Child Death Report, and forwards it to the statewide licensing coordinator or designee; and
 - (2) visits the ~~facility residential program~~ as soon as possible, and contacts the child-placing agency unless advised otherwise by law enforcement.

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(k) **Serious incident reports.** ~~The licensing~~ Licensing staff submits ~~to the programs manager~~ a report of any serious incident ~~to the programs manager~~. A serious incident includes, but is not limited to, an incident:

- (1) ~~that results~~ resulting in the serious injury or death of a child, such as a:
 - (A) shaken baby;
 - (B) drowning or near drowning; or
 - (C) traffic accident resulting in serious injury;
- (2) ~~that places~~ placing a child at a high risk for death or injury, such as a child:
 - (A) ~~leaves a facility without the staff's knowledge;~~
 - (B) is left at a location away from the facility;
 - (C) is left unattended in a vehicle; or
 - (D) is left alone in a facility;
- (3) ~~that causes~~ causing significant damage to a facility, such as:
 - (A) fire;
 - (B) flood; or
 - (C) tornado; ~~and~~
- (4) ~~where media involvement is anticipated.~~

(l) **Coordination with state agencies.** ~~Residential licensing~~ Licensing staff works cooperatively with the ~~OKDHS~~ Oklahoma Department of Human Services (DHS) Office of Client Advocacy, ~~and~~ Child Welfare Services, the Oklahoma Commission on Children and Youth, ~~the~~ Oklahoma Health Care Authority, ~~and~~ law enforcement, ~~and~~ ~~OKDHS~~ Children and Family Services Division.

340:110-1-47.2. Non-compliance with requirements

(a) **Documentation of non-compliance.** Licensing staff documents clearly and concisely areas of non-compliance and the discussion with the operator on the monitoring report.

- (1) A plan of correction, including an agreed-upon time period for correction of the non-compliance, is documented on the monitoring report for each non-compliance or documentation indicates a plan of correction will be submitted by the executive or program director. ~~If~~ When a previous non-compliance was not corrected by the agreed-upon time period, the non-compliance is documented again with a shorter plan of correction date.
- (2) Immediate correction is required when the non-compliance has a direct impact on the health, safety, or well-being of a child(ren) in care.
- (3) Licensing staff requests ~~that~~ the operator sign the monitoring report, explaining the operator's signature indicates acknowledgment of the recorded information ~~recorded~~.
- (4) When the ~~person~~ individual in charge refuses to sign, the refusal is documented on the report.
- (5) The operator is given a copy of the completed monitoring report.

(b) **Referrals to fire and health officials.** When non-compliance regarding fire or health requirements places children at risk of harm or remains uncorrected, licensing staff requests an inspection by a fire, health, or Oklahoma Department of Environmental Quality (ODEQ) official.

(c) **Case management responses to non-compliant facilities.** The responses in this subsection may be used when there is repeated, numerous, or serious non-compliance.

- (1) **Technical assistance.** Technical assistance is offered along with referrals to consultants or ~~training~~ professional development resources, when necessary, ~~to assist~~ assisting the operator in meeting and maintaining licensing requirements.
- (2) **Follow-up phone call.** Phone calls are documented on Form 07LC080E, Licensing Services Supplemental Information, and a copy is mailed to the facility program.
- (3) **Non-compliance letter.** A non-compliance letter may be written to the operator. Licensing staff sends a copy of the monitoring report and non-compliance letter to the governing board or owner, when applicable.
- (4) **Return monitoring visit.** A return monitoring visit may be made ~~if~~ when there is repeated, numerous, or serious non-compliance with licensing requirements or when non-compliance places children at imminent risk of harm. ~~If~~ When 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 is made at that approximate time.
- (5) **Use of witnesses.** Licensing staff may be accompanied by a witness during monitoring visits ~~if~~ when the facility program has had numerous, repeated, or serious non-compliances or ~~if~~ when license denial or revocation is being considered. The witness may be an Oklahoma Department of Human Services (~~OKDHS~~) (DHS) employee or a representative from the ~~health or fire~~ health department. The witness signs the monitoring report in the space provided.
- (6) **Increased monitoring visits.** Licensing staff may increase the frequency of monitoring when there has been numerous, repeated, or serious non-compliance or when the need for additional technical assistance is indicated.
- (7) **Notice to comply.** Licensing staff provides the facility program with Form 07LC037E, Notice to Comply, on which the facility program documents the plan of correction. Immediate correction may be required when the non-compliance places the health, safety, or well-being of a child(ren) in care at risk.
 - (A) When the plan submitted by the operator is unacceptable to licensing staff, ~~the~~ licensing staff negotiates and documents a revised plan.
 - (B) ~~If~~ When the operator does not submit Form 07LC037E within the specified time period, licensing staff contacts the operator and documents the conversation.
 - (C) When non-compliances continue to place children at risk, licensing staff sends a letter stating non-compliances and/or continued failure to correct non-compliances may result in revocation of license, denial of the ~~application request for license~~, filing of an injunction, or issuance of an Emergency Order.
- (8) **Office conference.** Licensing staff may schedule an office conference with the owner of the facility program. The programs manager is present at the office conference.

Areas of non-compliance and progress toward meeting the plan(s) of correction are reviewed and technical assistance is offered. The office conference is documented on Form 07LC080E and signed by licensing staff, the operator, and witnesses present. This documentation includes a list of the ~~persons~~individuals present, purpose of the conference, and verification of correct documentation regarding ownership. Form 07LC037E is completed ~~if~~when one addressing these issues has not been completed recently.

(9) **Consent agreement.** ~~OKDHS~~DHS and the ~~facility~~program owner may enter into a consent agreement whereby the ~~facility~~program owner agrees to specific conditions in lieu of license denial or revocation.

(10) **Revocation.** Licensing staff may recommend the ~~application request~~license be denied or the license revoked when numerous, repeated, or serious non-compliance with requirements has been observed and documented or the ~~facility~~program failed to adequately protect children.

(11) **Voluntary cease care.** With State Office approval, the owner is asked to voluntarily cease caring for children or child-placing activity. The programs manager is notified of every situation involving a request for voluntary cease care or child-placing activity.

(12) **Voluntary closure.** ~~The~~With Child Care Services (CCS) state office approval, the owner is asked to voluntarily close the ~~facility~~program.

(d) **Case management responses when children are at risk.** When licensing staff documents non-compliance with requirements or is investigating a complaint that children may be at imminent risk of harm, options to consider during consultation with the operator and the programs manager are outlined in this subsection.

(1) The operator is asked to immediately correct the non-compliance; for example, the ~~staff person~~personnel will not work at the program or be present at the facility pending the outcome of an investigation.

(2) The owner is asked to voluntarily close the ~~facility~~program.

(3) Licensing staff requests an issuance of an Emergency Order when immediate action is needed to protect children in a child care ~~facility that is~~program on permit, licensed, on notice of revocation or denial, or operating during an appeal following revocation or denial.

(4) The owner agrees to enter into a consent agreement whereby the ~~facility~~program owner agrees to specific conditions in lieu of license denial or revocation.

(5) Licensing staff may recommend the license be denied or revoked when numerous, repeated, or serious non-compliance with requirements was observed and documented or the ~~facility~~program failed to adequately protect children.

(6) An injunction may be requested when the residential ~~facility~~program or child-placing agency is:

- (A) unlicensed;
- (B) on application status;
- (C) licensed;
- (D) violating an Emergency Order;

- (E) operating during an appeal following revocation or denial and children are at risk of harm; or
- (F) violating the notice to cease care following denial or revocation of license.

[OAR Docket #16-578; filed 6-16-16]

**TITLE 365. INSURANCE DEPARTMENT
CHAPTER 1. ADMINISTRATIVE
OPERATIONS**

[OAR Docket #16-606]

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:**
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COMMENT PERIOD:
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APPROVED BY GOVERNOR'S DECLARATION:
Approved by Governor's declaration on June 9, 2016

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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, 2016:**

**SUBCHAPTER 9. DESCRIPTION OF FORMS
AND INSTRUCTIONS**

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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 #16-606; filed 6-22-16]

TITLE 365. INSURANCE DEPARTMENT CHAPTER 10. LIFE, ACCIDENT AND HEALTH

[OAR Docket #16-607]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 1. General Provisions

Part 1. General Provisions

365:10-1-8. Proof of loss [REVOKED]

365:10-1-17. Life, accident, and health form filings [NEW]

Subchapter 31. Navigators and Navigator Entities

365:10-31-6. Individual navigator requirements [AMENDED]

365:10-31-7. Navigator entity requirements [AMENDED]

AUTHORITY:

Insurance Commissioner; 36 O.S. §§ 122, 307.1, 1415.5, and 4405(I)

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SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

ANALYSIS:

365:10-1-8 is revoked because it is based on statutory language which is no longer in effect.

365:10-1-17 is a new proposed rule that would specify the procedures for submitting life, accident, and health form filings to the Oklahoma Insurance Department. The rule requires form filings to be made through the System for Electronic Rate and Form Filing (SERFF) pursuant to the SERFF General

Instructions. These rules are based on the requirements for property and casualty form filings.

365:10-31-6 and 7 are amended to align with new law passed in 2015, which prohibits the transmittal of reports from navigators and navigator entities which contain personally identifiable information.

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, 2016:

SUBCHAPTER 1. GENERAL PROVISIONS

PART 1. GENERAL PROVISIONS

365:10-1-8. Proof of loss [REVOKED]

~~(a) **Purpose.** The purpose of this section is to define proof of loss and set forth time restraints for receipt of evidence of a claim.~~

~~(b) **Definitions.** The following words or terms, when used in this section, shall have the following meaning, unless the context clearly indicates otherwise:~~

~~(1) **"Proof of loss"** is defined in 36 O.S. Section 1219 as written proofs such as claim forms, medical bills, or other reasonable evidence of a claim, but shall not include information not necessary for determination of proof of loss and not pertinent to filed claims, such as any medical reports that the insurer wants to secure merely for completion of business records or files.~~

~~(2) **"Other reasonable evidence of a claim"** shall mean medical records necessary to satisfy the preexisting condition and medical necessity clauses of the policy, provided however, that such information is received within ninety (90) days after initial receipt of the claim form.~~

365:10-1-17. Life, accident, and health 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 Sections 3610 and 4402 of the Insurance Code.

(b) **Procedures.** Policy forms, endorsements, and revisions thereto, by insurance companies 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, Sections 3610 and 4402, requires that each insurer shall make its form filings by line of business directly with the Insurance Commissioner.

(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.**

(3) **Address requirements.** All filings shall be addressed as follows: Oklahoma Insurance Commissioner, 3625 NW 56th Street, Suite 100, Oklahoma City, Oklahoma 73112.

(4) **Submission.** All filings except those exempted shall be submitted through the System for Electronic Rate and Form Filing (SERFF) pursuant to the SERFF General Instructions, and shall include a description of the filing(s), all exhibits, forms, and additional information required by the Commissioner.

(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) **Property and casualty insurance.** This section does not apply to Property and Casualty filings and such filings shall be made in accordance with the applicable provisions of the Insurance Code and Rules of the Insurance Commissioner.

(8) **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 brief description of the content and context of the filing.**

(C) **A list or index of the forms filed 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 the 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.**

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(G) If a form is being withdrawn or amended due to a federal law or regulation of a federal agency, the filing entity shall furnish the legal citation of the pertinent provisions.

(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) **Duration of filings.** All filings are in effect until withdrawn or amended by the insurer, with approval of the Insurance Commissioner or until abrogated by the Insurance Commissioner.

(11) **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.

(12) **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.

(13) **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 or regulation of a federal or state agency.

(14) **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 with ten point or larger type, which, at the insured's election, may be delivered to the insured electronically; or

(C) A certificate including provisions and conditions of the original policy printed with ten point or larger type.

(15) **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.

SUBCHAPTER 31. NAVIGATORS AND NAVIGATOR ENTITIES

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 through 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 on-site 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 summary 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, but may exclude any personally identifiable information as defined in 36 O.S. § 1415.2(5).

(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 on-site 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 summary 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, but may exclude any personally identifiable information as defined in 36 O.S. § 1415.2(5).

(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.

[OAR Docket #16-607; filed 6-22-16]

**TITLE 365. INSURANCE DEPARTMENT
CHAPTER 15. PROPERTY AND CASUALTY**

[OAR Docket #16-608]

RULEMAKING ACTION:
PERMANENT final adoption

RULES:
Subchapter 1. General Provisions
365:15-1-3.1. Workers' compensation optional deductible form [AMENDED]
365:15-1-3.2. Financial requirements - mega deductible workers' compensation policies [NEW]
365:15-1-25. Loss runs and claims history [NEW]
Appendix B. Oklahoma Workers' Compensation Optional Deductible Acceptance/Rejection Form [REVOKED]
Appendix B. Oklahoma Workers' Compensation Optional Deductible Acceptance/Rejection Form [NEW]

AUTHORITY:
Insurance Commissioner; 36 O.S. § 307.1; 85A O.S. § 95
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:

January 25, 2016
COMMENT PERIOD:
February 16, 2016 through March 17, 2016

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APPROVED BY GOVERNOR'S DECLARATION:
Approved by Governor's declaration on June 9, 2016

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June 9, 2016

EFFECTIVE:
September 15, 2016

SUPERSEDED EMERGENCY ACTIONS:
n/a

INCORPORATIONS BY REFERENCE:
n/a

ANALYSIS:
365:15-1-3.1 is amended to provide greater clarity to the form required by Title 85A, Section 95.

365:15-1-3.2 is a proposed new rule setting out the requirements for insurance companies issuing certain mega deductible workers' compensation policies. The requirements include full collateralization of the aggregate outstanding deductible reimbursement obligations of the policyholder. The rule outlines what "collateral" can be used, and sets forth the financial requirements for insurers issuing these policies. The rule exempts an insurer that has an A.M. Best Company rating of A- or above, or a comparable rating accepted by the Commissioner, and either has at least \$200,000,000.00 in policyholder surplus or upon application to the Commissioner has been exempted by the Commissioner for good cause shown.

365:15-1-25 is a new rule that clarifies the information that must be included on loss runs provided by insurers.

Appendix B is revoked and re-passed to reflect a change to the authorizing statute and the updates to OAC 365:15-1-3.1.

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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, 2016:

SUBCHAPTER 1. GENERAL PROVISIONS

365:15-1-3.1. Workers' compensation optional deductible form

The offer of an optional deductible on all Oklahoma Workers' Compensation policies required pursuant to 85A O.S. § 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.

(a) The Administrative Workers' Compensation Act, 85A O.S. § 95 ("AWCA"), requires insurers issuing policies of workers' compensation insurance to offer, as a part of the policy or as an endorsement to the policy, deductibles, optional to the policyholder, for benefits payable under the AWCA. Each policy of workers' compensation that is issued, delivered, issued for delivery, or renewed under the AWCA shall include such optional deductible. The mandatory optional deductible required by the AWCA will be satisfied by the offer of a "Small Deductible" as defined in this Section. If an applicant and insurer mutually agree to a Large or Mega Deductible, such agreement shall satisfy the requirement of the AWCA that insurers offer optional deductibles. The selection of a Small, Large, or Mega Deductible shall be evidenced by signature of the applicant employer on the Commissioner's designated Acceptance/Rejection Form as contained in Appendix "B" to this Chapter. As used in this Section:

(1) "Deductible" means a policy provision or endorsement that, while requiring the insurer to pay 100% of each covered claim, creates a corresponding obligation of the insured employer to reimburse the insurance company for any portion of that claim that is part of the deductible.

(2) "Small Deductible" means a combined medical benefits and indemnity claims deductible of \$1,000.00; \$2,000.00; \$3,000.00; \$4,000.00, or \$5,000.00 per claim.

(3) "Large Deductible" means a combined medical benefits and indemnity claims deductible greater than \$5,000.00 but not more than \$100,000.00 per claim. A Large Deductible may be offered to applicants, on negotiated terms, based upon the applicant's financial condition, industry, claims experience, and collateral.

(4) "Mega Deductible" means a combined medical benefits and indemnity claims deductible greater than \$100,000.00 per claim. Mega Deductibles are subject to OAC 365:15-1-3.2.

(b) Insurers may offer a contractual limit on the employer's aggregate reimbursement liability.

(c) Obligations If Deductible Option Is Selected

(1) If the policyholder 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.

(2) The insurer shall pay all or part of the deductible amount, whichever is applicable to a compensable claim, to the person or medical providers entitled to the benefits conferred by the AWCA, and seek reimbursement from the insured employer for the applicable deductible amount.

(3) 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 for purposes of cancellation.

(d) Experience Modification for Small Deductibles. Premium reduction for deductibles shall be determined after the application of any experience modification, premium surcharge, or premium discounts. Benefits paid by the insured employer in connection with a small deductible shall not constitute benefits paid and shall not be charged against the experience of the employer.

(e) Experience Modification for Large or Mega Deductibles. Premium reduction for deductibles shall be determined after the application of any experience modification, premium surcharge, or premium discounts. Benefits paid by the insured employer in connection with a large or mega deductible shall constitute benefits paid and shall be charged against the experience of the employer.

365:15-1-3.2. **Financial requirements - mega deductible workers' compensation policies**

(a) Every insurer issuing mega deductible workers' compensation policies ("MDWC"), as defined in subsection c of this Section, shall comply with the following requirements:

(1) The MDWC policy shall require collateralization, as provided herein, of the outstanding deductible reimbursement obligations of the policyholder for any prospective period of coverage. "Collateralization" means deposit by the policyholder with the insurance company of assets to serve as security in the event that a policyholder fails to reimburse the insurer for losses within the deductible.

(2) For purposes of this section, only the following assets shall qualify as "collateral":

(A) Assets admissible pursuant to Article 16 of Title 36 of the Oklahoma Statutes;

(B) A surety bond issued by a surety insurer authorized to transact business by the Commissioner and whose financial strength and size ratings from A.M. Best Company are not less than "A" and "V", respectively;

(C) An irrevocable letter of credit, utilizing a form designated by the Commissioner, issued by a financial institution whose deposits are federally insured. Letters of credit meeting applicable standards of issuer acceptability as of the dates of their issuance or confirmation shall, notwithstanding the issuing or confirming institution's subsequent failure to meet applicable standards of issuer acceptability, continue to be acceptable as security until their expiration, extension, renewal, modification, or amendment, whichever first occurs; provided however, that a letter of credit must be replaced within three months after the date of the institution's failure to meet applicable standards of issuer acceptability;

(D) Guaranty of a solvent parent or affiliated entity that has:

(i) been continuously engaged in business for not less than three (3) years immediately preceding the application for the MDWC policy;

(ii) at least one hundred (100) employees (all states included); and

(iii) at least One Million Dollars (\$1,000,000.00) in net assets, as shown in its immediately preceding year-end GAAP audited financial statements. For purposes of this subparagraph, "affiliated" shall have the meaning ascribed in 36 O.S. § 1651; or

(E) Any combination of the foregoing.

(3) When a policy is written with an aggregate deductible option, the amount of the collateral may not exceed the aggregate deductible.

(4) Collateral held pursuant to this subsection shall be under the direct control of the insurer. Collateral shall be held for the express and sole purpose of securing the policyholder's obligations under the mega deductible workers' compensation policy. Collateral shall not be commingled with the assets of the insurer. Insurers shall not permit policyholders or agents or affiliates of policyholders, or any third party with any contractual or other relationship to the policyholder, directly or indirectly, to access such collateral.

(5) Claims information for each mega deductible insured employer and co-employer shall be maintained in the possession of the insurer for at least six years.

(6) Insurers shall not permit policyholders or agents or affiliates of policyholders, or any third party with any contractual or other relationship to the policyholder, directly or indirectly, to administer claims under a mega deductible workers' compensation policy.

(7) All agreements between insurers and policyholders relating to handling of claims by third parties shall be maintained by the insurer and made available to the Commissioner upon request.

(8) Notwithstanding any other limitation on the insurer's right to cancel the insurance, the policy shall provide that the policyholder's failure to post collateral as required by the policy or pay deductible reimbursements

when due, are grounds for policy cancellation, upon 10 days prior notice.

(9) Before issuing or renewing a mega deductible workers' compensation policy, the insurer shall obtain an audited financial statement for the policyholder, or a financially strong parent or affiliate that has issued an unconditional financial guaranty of the policyholder's deductible obligations. The amount of the policyholder's aggregate deductible obligation is limited to no more than 20% of the total net worth of the policyholder and guarantor, at each policy inception and renewal. Net worth shall be determined as of the fiscal year-end GAAP audited financial statements next preceding such inception or renewal. The Commissioner may request and consider more recent unaudited GAAP financial statements.

(10) If the policy covers employers, co-employers, sub-contractors, or other employers in addition to the policyholder, the policy shall provide that deductible reimbursements are the sole obligation of the policyholder, unless such additional covered employer has given informed written consent to be jointly obligated and the employer's maximum reimbursement obligation is limited to an amount consistent with paragraph 9 of this subsection.

(11) No insurer shall issue a mega deductible workers' compensation policy to a professional employer organization as defined by 40 O.S. § 600.2, which is affiliated with such insurer.

(b) An insurer is exempt from the requirements of this Section, with the exception of paragraph 7 of subsection a, if the insurer, at the time of issuance or renewal of the policy, has an A.M. Best Company rating of A- or above, or a comparable rating accepted by the Commissioner, and either:

(1) has at least \$200,000,000.00 in policyholder surplus, or

(2) upon application to the Commissioner, has been exempted by the Commissioner for good cause shown.

(c) The term "MDWC policy" means any workers' compensation insurance policy that is subject to endorsements or other direct or indirect agreements between the insurer and the policyholder or others that have the effect, singly or in combination, of requiring the policyholder to bear a combined risk of loss of greater than \$100,000.00 per covered employee. For purposes of this Section, entering into an agreement with an existing policyholder that has the effect of making its policy a mega deductible workers' compensation policy is considered to be the issuance of a mega deductible workers' compensation policy.

(d) An insurer found to be in a financially hazardous condition pursuant to the applicable Sections of Title 36 of the Oklahoma Statutes, or subject to an equivalent regulatory determination in any other state, may not issue or renew a MDWC policy.

(e) In addition to the provisions of Title 36 of the Oklahoma Statutes, an insurer issuing MDWC policies may be found to be in hazardous financial condition when one or more of the following conditions are found to exist:

(1) the insurer fails to perform a quarterly review of the sufficiency of the collateral maintained by the insurer

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to secure the policyholder's obligations to reimburse the insurer for claims paid and credit taken against reserves for each policy up to the negotiated deductible amount;

(2) the insurer issues a MDWC policy that does not state a specific dollar amount of deductible per claim and, if applicable, in the aggregate;

(3) the insurer issues a MDWC policy and fails to include an actuarially supported calculation of the total amounts owed by the policyholder through ultimate loss development;

(4) from the inception of the policy through ultimate loss development, the insurer fails to maintain collateral for 100% of the policyholder's liability for each MDWC policy; or

(5) the insurer fails to maintain or produce, upon the Department's request, gross and net premium data and first-dollar loss data for each workers' compensation policy with a mega deductible. Such data must be maintained on a quarterly basis in accordance with, or in a substantially similar format as, the Oklahoma Mega Deductible Workers' Compensation Experience Reporting Form created by the Commissioner.

(f) Insurers shall provide to the MDWC policyholder, documentation separate from the MDWC policy, explaining the financial responsibility of both the insurer to pay all covered

claims and the policyholder's obligation to reimburse the insurer for any deductible amounts paid by the insurer.

(g) The insurer shall report statistics under each MDWC policy to a statistical agency designated by the Commissioner. Statistics shall be reported separately for each insured and each coinsured employer. For statistical and ratemaking purposes, all claims paid by the insurer within the deductible amount shall be reported gross of payments under the deductible. Subject to applicable law, the instructions for statistical reporting shall be as required by that statistical agency.

(h) This Section applies to MDWC policies issued, delivered, issued for delivery, or renewed on and after the effective date of this Section.

365:15-1-25. Loss runs and claims history

Section 1204.1 of Title 36 of the Oklahoma Statutes requires property and casualty insurers and advisory boards or advisory organizations to make loss runs or claims history available to current and former policyholders within thirty (30) days upon a written request by the policyholder. Any such loss runs or claims history which cover multiple years shall indicate the insurer, policy number, effective date, and date of expiration or cancellation of such coverage.

**APPENDIX B. OKLAHOMA WORKERS' COMPENSATION OPTIONAL DEDUCTIBLE
ACCEPTANCE/REJECTION FORM [REVOKED]**

**APPENDIX B. OKLAHOMA WORKERS' COMPENSATION MANDATORY OPTIONAL DEDUCTIBLE
ACCEPTANCE/REJECTION FORM [NEW]**

Oklahoma law requires insurers issuing a policy under the Administrative Workers' Compensation Act ("AWCA") to offer deductibles, optional to the policyholder, for benefits payable under the AWCA.

This form is applicable to the optional deductibles required by 85A O.S. § 95 and OAC 365:15-1-3.1 only. For larger negotiated deductibles, see OAC 365:15-1-3.1 and 365:15-1-3.2.

All five deductible options set forth below shall be fully disclosed to the prospective policyholder in writing. The policyholder is not required to select a deductible option, but if the policyholder chooses a deductible, the policyholder may choose only one combined deductible amount. The maximum combined deductible, including medical benefits and indemnity claims, shall be \$5,000.00 per claim. Please carefully review the requirements for the deductible options outlined below.

DEDUCTIBLE OPTIONS

Combined optional deductible amounts are \$1,000.00; \$2,000.00; \$3,000.00; \$4,000.00; and \$5,000.00.

EMPLOYER OBLIGATIONS IF DEDUCTIBLE OPTION IS SELECTED

If the applicant employer chooses a deductible, the insurer shall pay compensable claims to the person or medical providers entitled to the benefits conferred by the AWCA, and obtain reimbursement from the insured employer for the applicable deductible amount.

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

Benefits paid by the insured employer under a deductible as provided herein may not be treated as benefits paid so as to harm the experience rating of the employer.

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ACCEPTANCE/REJECTION

Yes, I have read the optional deductible information summarized 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.

MEDICAL and INDEMNITY

- \$1,000.00
- \$2,000.00
- \$3,000.00
- \$4,000.00
- \$5,000.00

Yes, I understand that I am responsible for reimbursing my insurance company for the amounts of any deductible it pays.

No, I do not want the optional deductible described in this form.

NAMED INSURED: _____

ADDRESS: _____

TITLE: _____

SIGNATURE: _____

DATE: _____

THIS FORM IS NOT A PART OF YOUR POLICY AND DOES NOT PROVIDE COVERAGE.

This form is provided pursuant to Oklahoma Administrative Code 365:15-1-3.1.

[OAR Docket #16-608; filed 6-22-16]

**TITLE 365. INSURANCE DEPARTMENT
CHAPTER 25. OTHER LICENSEES**

[OAR Docket #16-609]

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]
 365:25-3-20.2. Cancellation language for vehicle protection product contract forms [AMENDED]
 Subchapter 5. Bail Bondsmen
 Part 5 General Provisions Pertaining to Bail Bondsmen
 365:25-5-34. Professional and multicounty agent bondsman deposits [AMENDED]
 365:25-5-36. Monthly reports [AMENDED]
 365:25-5-37. Usual and customary records [AMENDED]
 365:25-5-40. Computation of time in 59 O.S. §1332 [AMENDED]
 365:25-5-42. Professional/multicounty agent bondsman net worth [AMENDED]
 365:25-5-47. Financial statement required [AMENDED]
 365:25-5-48. Acts of a bail bondsman [AMENDED]
 Subchapter 7. Companies
 Part 5. Oklahoma Insurance Holding Company System Regulatory Act
 365:25-7-23. Forms: general requirements [AMENDED]
 365:25-7-24. Forms: incorporation by reference, summaries and omissions [AMENDED]
 365:25-7-26. Forms: additional information and exhibits [AMENDED]
 365:25-7-29.2. Enterprise Risk Report [NEW]
 Appendix AA. Form F [NEW]

AUTHORITY:

Insurance Commissioner; 36 O.S. §§ 307.1, 1435.19, 1435.29, 6217, 6660; 59 O.S. § 1302

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 9, 2016

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September 15, 2016

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

ANALYSIS:

The amendment to 365:25-3-1 sets out the types of courses that can be offered for continuing education to licensed producers. The amendment to 365:25-3-14 sets out the types of courses that can be offered for continuing education to licensed adjusters.

The amendment to 365:3-20.2 conforms the rule more closely to its authorizing statute.

The amendment to 365:25-5-34 includes multicounty agent bondsmen, which is a new license type created by statute in 2014. 365:25-5-36 is amended to clarify when a bondsman must continue to submit reports after their appointing authority is no longer conducting business or the bondsman no longer has an appointment from that surety. The amendment to 365:25-5-37 clarifies how long a bondsman must keep records, specifically setting forth the trigger for the retention. The amendments to 365:25-5-40, 42, and 47 include multicounty agent bondsmen, which is a new license type created by statute

in 2014. 365:25-5-48 is amended to include a section symbol in paragraph 11 that was erroneously omitted in the rule's initial publication in 2015.

The amendments to 365:25-7-23, 24, 26, and the new rule 365:25-7-29.2, include the required Form F filing, the contents of which are set forth in the new Appendix AA.

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, 2016:

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.

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- (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.** 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, 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.
 - (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.
 - (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, the following subjects: motivation, sales techniques, psychology, recruiting, and subjects not relating to the insurance license, and any insurance company specific sales techniques or prospecting.~~ 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

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- (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.

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- (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.
- (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.
- (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, the following subjects:~~ motivation, sales techniques, psychology, recruiting, time management, phone etiquette, basic pre licensing principles of adjusting, and subjects not relating to the adjuster's license, and insurance company specific sales techniques or prospecting.

(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-four (24) 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-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.

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- (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.

365:25-3-20.2. Cancellation language for vehicle protection product contract forms

~~Each~~ If a vehicle protection product contract ~~shall contain~~ contains a cancellation provision, the cancellation provision shall provide for a refund as described in this section. In the event the contract is canceled by the warranty holder, return of premium shall be based upon ninety percent (90%) of the unearned pro rata premium less the actual cost of any service provided under the contract. In the event the contract is canceled by the vehicle protection product warrantor, return of premium shall be based upon one hundred percent (100%) of unearned pro rata premium less the actual cost of any service provided under the contract.

SUBCHAPTER 5. BAIL BONDSMEN

PART 5. GENERAL PROVISIONS PERTAINING TO BAIL BONDSMEN

365:25-5-34. Professional and multicounty agent bondsman deposits

(a) ~~Bondsman~~ A bondsman making an initial deposit required by 59 O.S. ~~§ 1306, §§ 1306 or 1306.1~~ shall deliver the deposit to the office of the Insurance Commissioner in Oklahoma City, Oklahoma. The bondsman shall appear in person at the office of the Insurance Commissioner to execute an assignment or pledge of the deposit as instructed by 59 O.S. § 1306.

(b) ~~Bondsman~~ A bondsman making an additional deposit required by 59 O.S. ~~§ 1306, §§ 1306 or 1306.1~~ or replacing any portion of a deposit, may mail an executed assignment or pledge of the deposit to the Insurance Commissioner via certified mail. The additional or replaced deposit amount will not be added or included in the professional or multicounty agent bail bondsman's deposit total until the additional or replaced deposit amount is received, processed, and accepted by the Oklahoma Insurance Department staff.

(c) The phrase "required level," as described by 59 O.S. § 1332 (D)(4)(b), shall be the bondsman's amount on deposit prior to a forfeiture payment. A bondsman shall make a deposit equal to the amount withdrawn by the Commissioner following the Commissioner's withdrawal of professional or multicounty agent securities to pay a bond forfeiture. The deposit shall be made within ten (10) days from receipt of the withdrawal notice or mailing of the notice if no receipt is made. The bondsman shall follow the provisions of paragraph (a) of this section for the deposit.

365:25-5-36. Monthly reports

(a) Bail bondsmen are required to submit monthly reports to the Insurance Commissioner within fifteen (15) days after the end of each preceding month pursuant to 59 O.S. § 1314. All bondsmen must submit a report for each component of the license held, even if no bonds were written under any particular component during that month. The types of licenses include:

- (1) cash,

- (2) surety,
 - (3) property, ~~and~~
 - (4) professional, ~~and~~
 - (5) multicounty agent.
- (b) Bondsmen must submit a monthly report for:
- (1) each ~~surety~~ company, professional bondsman, or multicounty agent bondsman with which he/she is appointed, whether or not any bonds were written on that ~~company~~ surety during that month;
 - (2) each company, professional bondsman, or multicounty agent bondsman with which he/she has an outstanding liability, even though the appointment has been canceled; and
 - (3) each company, professional bondsman, or multicounty agent bondsman with which he/she has an outstanding liability even though the ~~company~~ surety is no longer active in the bail bond business.

365:25-5-37. Usual and customary records

(a) ~~Every~~ Bail bondsman shall maintain records at his/her place of business for a period of three (3) years immediately following the date ~~of the transaction~~ bondsman's liability on the bond is discharged by the court or the date collateral is returned to its lawful owner, whichever is later.

(b) If an appearance bond is never executed and filed with the court, then all records shall be maintained for three (3) years immediately following the date the document is prepared.

(c) Records shall be readily available for inspection to the Commissioner at any time during business hours and shall include, but not be limited to:

- (1) bail bond application,
- (2) indemnity agreement,
- (3) promissory note,
- (4) credit agreement,
- (5) copies of deeds or mortgages received or released,
- (6) description of personal properties received or released,
- (7) accounting of monies received and receipted,
- (8) copy of appearance bond,
- (9) copy of individually numbered power of attorney,
- (10) picture of defendant, and
- (11) bank records on escrow accounts.

365:25-5-40. Computation of time in 59 O.S. §1332

(a) In computing any period of time in 59 O.S. §1332, 12 O.S. §2006(A) will be followed. 12 O.S. §2006(A) states, in pertinent part, as follows: *The day of the act, event, or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a legal holiday as defined by Section 82.1 of Title 25 of the Oklahoma Statutes or any other day when the office of the court clerk does not remain open for public business until the regularly scheduled closing time, in which event the period runs until the end of the next day which is not a legal holiday or a day when the office of the court clerk does not remain open for public business until the regularly scheduled closing time. Unless otherwise provided by law,*

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when the period of time prescribed or allowed is less than eleven (11) days, intermediate legal holidays and any other day when the office of the court clerk does not remain open for public business until the regularly scheduled closing time shall be excluded from the computation.

(b) The defendant shall be returned to custody within ninety days or the forfeiture shall be paid on the ninety-first day, and the time begins to run as follows:

(1) If the bondsman dates the return receipt, or the date of receipt of the order and judgment of forfeiture is evidenced electronically, then the days start running the next day.

(2) If the bondsman does not date the return receipt or the date of receipt of the order and judgment of forfeiture is not evidenced electronically, but the insurer or professional bondsman or multicounty agent bondsman does, or the date of receipt is evidenced electronically, then the days start running the next day.

(3) If neither the bondsman nor the insurer or professional bondsman or multicounty agent bondsman dates the return receipt, nor is the date of receipt of the order of judgment of forfeiture evidenced electronically, then the days start running the day after the order and judgment of forfeiture was mailed.

365:25-5-42. Professional/multicounty agent bondsman net worth

For purposes of 59 O.S. § ~~1306(A)(2)~~ §§ 1306(A)(2) or 1306.1(A)(2), total assets of the bondsman shall include only those assets owned by the applicant for licensure as a bondsman. Any asset or liability owned jointly with another, including a spouse, shall be shown on financial reports as required pursuant to 59 O.S. § 1309(B) and Section 365:25-5-35 by percentage of ownership of the bondsman individually.

365:25-5-47. Financial statement required

If the license of a professional bondsman is transferred pursuant to 59 O.S. § 1306(D), or the license of a multicounty agent bondsman is transferred pursuant to 59 O.S. § 1306.1(C), the transferee shall submit a financial statement to the Department within 180 days after the date of the transfer.

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 7. COMPANIES

PART 5. OKLAHOMA INSURANCE HOLDING COMPANY SYSTEM REGULATORY ACT

365:25-7-23. Forms: general requirements

(a) Forms A, B, C, D, and E, and F. Forms A, B, C, D, ~~and E, and F,~~ as set forth in Appendices A, B, N, O, ~~and Q, and AA~~ of this Chapter, are intended to be guides in the preparation of the statements required by Sections 1653, 1654 and 1655 of the Act. They are not intended to be blank forms which are to be filled in. The statements filed shall contain the numbers and captions of all items, but the text of the items may be omitted provided the answers thereto are prepared in such a manner as to indicate clearly the scope and coverage of the items. All instructions, whether appearing under the items of the form or elsewhere therein, are to be omitted. Unless expressly provided otherwise, if any item is inapplicable, or the answer thereto is in the negative, an appropriate statement to that effect shall be made.

(b) **Filing statements.** Two (2) complete copies of each statement, including exhibits and all other papers and documents filed as a part thereof, shall be filed with the Commissioner by personal delivery to the Office of the Insurance Commissioner in Oklahoma City, Oklahoma, or by mail addressed to the Insurance Commissioner of the State of Oklahoma, 3625 NW 56th Street, Suite 100, Oklahoma City, Oklahoma 73112. A copy of a Form C shall be filed in each state in which an insurer is authorized to do business, if the Commissioner of that

state has notified the insurer of its request in writing, in which case the insurer has thirty (30) days from receipt of the notice to file such form. At least one of the copies shall be manually signed in the manner prescribed on the form. Unsigned copies shall be conformed. If the signature of any person is affixed pursuant to a power of attorney or other similar authority, a copy of such power of attorney or other authority shall also be filed with the statement.

(c) **Format of statements.** Statements should be prepared on paper 8 1/2" x 11" in size and preferably bound at the top or the top left hand corner. Exhibits and financial statements, unless specifically prepared for the filing, may be submitted in their original size. All copies of any statement, financial statements, or exhibits shall be clear, easily readable and suitable for photocopying. Debits in credit categories and credits in debit categories shall be designated so as to be clearly distinguishable as such on photocopies. Statements shall be in the English language, and monetary values shall be stated in United States Currency. If any exhibit or other paper or document filed with the statement is in a foreign language, it shall be accompanied by a translation into the English language and any monetary value shown in a foreign currency normally shall be converted into United States Currency.

365:25-7-24. Forms: incorporation by reference, summaries and omissions

(a) **Incorporated by reference.** Information required by an item of Form A or Form B or Form D or Form E or form E, as set forth in Appendices A, B, O, ~~and Q~~, and AA of this Chapter may be incorporated by reference in answer or partial answer to any other item. Information contained in any financial statement, annual report, proxy statement, statement filed with a governmental authority, or any other document may be incorporated by reference in answer or partial answer to any item of Form A or Form B or Form D or Form E or Form F provided such document or paper is filed as an exhibit to the statement. Excerpts of documents may be filed as exhibits if the documents are extensive. Documents currently on file with the Commissioner which were filed within three (3) years need not be attached as exhibits. References to information contained in exhibits or in documents already on file shall clearly identify the material and shall specifically indicate that such material is to be incorporated by reference in answer to

the item. Matter shall not be incorporated by reference in any case where such incorporation would render the statement incomplete, unclear or confusing.

(b) **Summary or outline of document.** Where an item requires a summary or outline of the provisions of any document, only a brief statement shall be made as to the pertinent provisions of the document. In addition to such statement, the summary or outline may incorporate by reference particular parts of any exhibit or document currently on file with the Commissioner which was filed within three years and may be qualified in its entirety by such reference. In any case where two or more documents required to be filed as exhibits are substantially identical in all material respects except as to the parties thereto, the dates of execution, or other details, a copy of only one of such documents need to be filed with a schedule identifying the omitted documents and setting forth the material details in which the omitted documents differ from the documents filed.

365:25-7-26. Forms: additional information and exhibits

In addition to the information expressly required to be included in Form A, Form B, Form C, Form D, ~~and Form E~~, and Form F as set forth in Appendices A, B, N, O, ~~and Q~~, and AA of this Chapter, the Commissioner may request such further material information, if any, as may be necessary to make the information contained therein not misleading. The person filing may also file such exhibits as he/she may desire in addition to those expressly required by the statement. Such exhibits shall be so marked as to indicate clearly the subject matters to which they refer. Changes to Forms A, B, C, ~~D~~, ~~E~~, or F, as set forth in Appendices A, B, N, O, ~~and Q~~, and AA of this Chapter, shall include on the top of the cover page the phrase: "Change No. [insert number] to" and shall indicate the date of the change and not the date of the original filing.

365:25-7-29.2. Enterprise risk report

The ultimate controlling person of an insurer required to file an enterprise risk report pursuant to Section 1654(L) of Title 36 of the Oklahoma Statutes shall furnish the required information on Form F, as set forth in Appendix AA, hereby made a part of these regulations.

APPENDIX AA. FORM F [NEW]

ENTERPRISE RISK REPORT

Filed with the Insurance Department of the State of Oklahoma
By

Name of Registrant/Applicant

On Behalf of/Related to Following Insurance Companies

Name Address

Date: _____, 20____

Name, Title, Address and telephone number of Individual to Whom Notices and Correspondence Concerning This Statement Should Be Addressed:

ITEM 1. ENTERPRISE RISK

The Registrant/Applicant, to the best of its knowledge and belief, shall provide information regarding the following areas that could produce enterprise risk as defined in Section 1651.4 of the Act, provided such information is not disclosed in the Insurance Holding Company System Annual Registration Statement filed on behalf of itself or another insurer for which it is the ultimate controlling person:

- Any material developments regarding strategy, internal audit findings, compliance or risk management affecting the insurance holding company system;

- Acquisition or disposal of insurance entities and reallocating of existing financial or insurance entities within the insurance holding company system;
- Any changes of shareholders of the insurance holding company system exceeding ten percent (10%) or more of voting securities;
- Developments in various investigations, regulatory activities or litigation that may have a significant bearing or impact on the insurance holding company system;
- Business plan of the insurance holding company system and summarized strategies for next 12 months;
- Identification of material concerns of the insurance holding company system raised by supervisory college, if any, in last year;
- Identification of insurance holding company system capital resources and material distribution patterns;
- Identification of any negative movement, or discussions with rating agencies which may have caused, or may cause, potential negative movement in the credit ratings and individual insurer financial strength ratings assessment of the insurance holding company system (including both the rating score and outlook);
- Information on corporate or parental guarantees throughout the holding company and the expected source of liquidity should such guarantees be called upon; and
- Identification of any material activity or development of the insurance holding company system that, in the opinion of senior management, could adversely affect the insurance holding company system.

The Registrant/Applicant may attach the appropriate form most recently filed with the U.S. Securities and Exchange Commission, provided the Registrant/Applicant includes specific references to those areas listed in Item 1 for which the form provides responsive information. If the Registrant/Applicant is not domiciled in the U.S., it may attach its most recent public audited financial statement filed in its country of domicile, provided the Registrant/Applicant includes specific references to those areas listed in Item 1 for which the financial statement provides responsive information.

ITEM 2: OBLIGATION TO REPORT.

If the Registrant/Applicant has not disclosed any information pursuant to Item 1, the Registrant/Applicant shall include a statement affirming that, to the best of its knowledge and belief, it has not identified enterprise risk subject to disclosure pursuant to Item 1.

[OAR Docket #16-609; filed 6-22-16]

Permanent Final Adoptions

TITLE 365. INSURANCE DEPARTMENT CHAPTER 40. HEALTH MAINTENANCE ORGANIZATIONS (HMO)

[OAR Docket #16-610]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 5. Life, Accident & Health Division and Consumer Assistance and Claims Division Rules

Part 9. HMO Requirements and Prohibitions

365:40-5-42. Individual conversion contracts [AMENDED]

AUTHORITY:

Insurance Commissioner; 36 O.S. §§ 307.1

SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:

January 25, 2016

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June 9, 2016

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September 15, 2016

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

ANALYSIS:

365:40-5-42 is amended to eliminate the requirement that an HMO offer individual conversion contracts to its subscribers. This requirement is rendered unnecessary because of federal law related to the "guaranteed issue" of health insurance.

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, 2016:**

SUBCHAPTER 5. LIFE, ACCIDENT & HEALTH DIVISION AND CONSUMER ASSISTANCE AND CLAIMS DIVISION RULES

PART 9. HMO REQUIREMENTS AND PROHIBITIONS

365:40-5-42. Individual conversion contracts

(a) ~~Each HMO shall offer an individual conversion contract to a subscriber (and his or her enrolled dependents) if coverage~~

~~under a group contract would otherwise terminate for any of the following:~~

- ~~(1) A subscriber who terminates his or her employment.~~
 - ~~(2) Each enrollee who would otherwise cease to be eligible for HMO enrollment because of his or her age or the death or divorce from a subscriber.~~
 - ~~(3) Any circumstances beyond the subscriber's control which leave the subscriber without alternative coverage.~~
- (b) ~~An HMO shall not be required to issue an individual conversion contract if any of the following occur:~~
- ~~(1) The enrollee becomes eligible for or covered by other comparable coverage.~~
 - ~~(2) The group contract is terminated or is not renewed, except as specified in Part 13 of this Subchapter.~~
 - ~~(3) The enrollee's coverage is terminated for cause.~~
 - ~~(4) The enrollee does not enroll for individual conversion coverage within 31 days.~~
 - ~~(5) Except for emergency services, an enrollee moves out of the HMO's service area.~~
- (c) ~~Nothing in Part 13 of this Subchapter requires an HMO offering benefit plans only to group health plans or through an association to offer coverage in the individual market. An HMO shall not be required to offer or issue any new individual conversion contract to a subscriber or his or her enrolled dependents.~~

[OAR Docket #16-610; filed 6-22-16]

TITLE 375. OKLAHOMA STATE BUREAU OF INVESTIGATION CHAPTER 15. OKLAHOMA REWARD SYSTEM

[OAR Docket #16-601]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

375:15-1-4 [AMENDED]

AUTHORITY:

Oklahoma State Bureau of Investigation; 74 O.S., §150.18(b)

SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:

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SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

ANALYSIS:

The purpose of the proposed amendments to OAC 375:15-1-4 is to bring the rule in line with recent changes to 74 Oklahoma Statutes §150.18. The proposed amendments to OAC 375:15-1-4 address changes to 74 Oklahoma Statutes §150.18 which now allows the offering and awarding of rewards for "materially assisting in the investigation of the commission or attempted commission of a crime as determined by the Oklahoma State Bureau of Investigation" in addition to "giving valuable information resulting in the arrest and conviction of an accused person".

CONTACT PERSON:

Jimmy Bunn Jr., Legal Counsel, OSBI, 6600 N. Harvey, Oklahoma City, OK., 73116, 405-879-2605, jimmy.bunn@osbi.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, 2016:

375:15-1-4. Eligible recipients; payment of reward

(a) The panel will determine the eligible recipient, if any, using established criteria. If there are multiple applicants, the panel may determine which, if any, of them are eligible. If more than one applicant is eligible, the panel may disburse the reward to each eligible applicant in proportion with his or her contribution to the case.

(b) Each person who seeks to collect a reward must provide the following information to the panel within six months of the conviction of the criminal action or actions of the applicant which are alleged to have justified payment of a reward.

- (1) The crime committed.
- (2) The name of the victim.
- (3) The name of the person arrested and/or convicted if an individual has been arrested and/or convicted at the time of the application for reward.
- (4) The name of the law enforcement agency with which the applicant cooperated.
- (5) A written statement from the head of that law enforcement agency providing details of the extent of the applicant's cooperation, and certifying the reward offer was the proximate cause for the receipt of the information and cooperation.
- (6) A certified copy of the ~~judgement~~ judgment and sentence of the criminal if an individual has been arrested and/or convicted at the time of the application for reward.
- (7) A sworn and notarized statement from the applicant detailing the applicant's material assistance in the investigation of the commission or attempted commission of the crime for which a reward was nominated.

(c) The panel may require additional information from the applicant and the law enforcement agency, and the panel may seek information from independent witnesses before making a recommendation as to eligibility or disbursement of the reward.

(d) The written approval of the Director of the recommendation of the panel as to the crimes for which rewards will be

offered, the amount of the reward, and the manner of disbursement of the reward, shall be final for purposes of the Oklahoma Administrative Procedures Act.

[OAR Docket #16-601; filed 6-21-16]

**TITLE 375. OKLAHOMA STATE BUREAU OF INVESTIGATION
CHAPTER 35. INVESTIGATIVE SERVICES**

[OAR Docket #16-602]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

- Subchapter 1. General Provisions
- 375:35-1-2 [AMENDED]
- 375:35-1-3 [NEW]

AUTHORITY:

Oklahoma State Bureau of Investigation; 74 O.S., §150.34

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n/a

INCORPORATIONS BY REFERENCE:

n/a

ANALYSIS:

The proposed amendments to Section 375:35-1-1 add definitions related to background investigations for the Judicial Nominating Commission by the Oklahoma State Bureau of Investigation. The proposed new Section 375:35-1 establishes that the OSBI will do an unlimited number of "Level One Background Investigations" of applicants for judicial vacancies with the Judicial Nominating Commission. It further establishes that the OSBI will do up to three "Level Two Background Investigations" per vacancy being considered by the Judicial Nominating Commission. Doing so will ensure an efficient and economic utilization of OSBI resources in providing background investigations to the Judicial Nominating Commission.

CONTACT PERSON:

Jimmy Bunn Jr., Legal Counsel, OSBI, 6600 N. Harvey, Oklahoma City, OK., 73116, 405-879-2605, jimmy.bunn@osbi.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, 2016:

SUBCHAPTER 1. GENERAL PROVISIONS

Permanent Final Adoptions

375:35-1-2. Definitions

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

"**CIU**" means Crimes Information Unit of the Oklahoma State Bureau of Investigation as established by Title 74 O. S., Section 150.21 a, and which shall hereafter be referred to as the Criminal Intelligence Unit.

"**Crime Prevention**" means activity by law enforcement officers or prosecutorial authorities which anticipates, hinders, frustrates, or stops suspected criminal activity. It does not include dissemination of information to persons other than commissioned peace officers.

"**Director**" means the Oklahoma State Bureau of Investigation's Director.

"**INTERPOL**" means the International Criminal Police Organization

"**Level One Background Investigation**" means an electronic database search and report of the following by an OSBI Analyst and/or Communications Specialist:

- (A) OSBI Criminal history.
- (B) State Court Records via OSCN/ODCR (and/or out of state equivalent).
- (C) Oklahoma Driver License status and traffic record.
- (D) NCIC/NCIC III files.
- (E) United States District Courts records.
- (F) United States Bankruptcy Court records.
- (G) INTERPOL records (if applicable).
- (H) OSBI Indices Records.
- (I) Intelligence Files.
- (J) Oklahoma Employment Security Commission.
- (K) Newspaper Archives.

"**Level Two Background Investigation**" means an Level One Background Investigation and the following additional queries to be completed and reported by investigative personnel of the OSBI:

- (A) Oklahoma Tax Commission.
- (B) Internal Revenue Service.
- (C) Ethics Commission.
- (D) Federal Bureau of Investigation.
- (E) Education Verification.
- (F) Military Service Verification.
- (G) Birth Certificate Verification.
- (H) Employment Verification for 10 years prior to application.
- (I) Neighborhood interviews.
- (J) Employer Interviews for 10 years prior to application
- (K) Reference Interviews.
- (L) Interviews of relevant Court Officials.
- (M) Verification of facts as submitted by the applicant.
- (N) Applicant interview.
- (O) Other applicable and relevant interviews developed as a result of Level One and Level Two Background Investigations

"**NCIC**" means the National Crime Information Center

"**NCIC/III**" means the National Crime Information Center Interstate Identification Index

"**ODCR**" means On Demand Court Records for the State of Oklahoma

"**OSBI**" means Oklahoma State Bureau of Investigation.

"**OSCN**" means The Oklahoma State Courts Network

"**Reasonable suspicion of criminal activity**" means that level of certainty which is created in the mind of an experienced and trained police officer that there is a reasonable possibility an individual or organization is involved in a definable criminal activity or enterprise.

375:35-1-3. **Judicial Background Investigations for the Judicial Nominating Commission**

The OSBI will conduct a Level One Background Investigation on all judicial applicants as requested by the Judicial Nominating Commission. The OSBI will conduct a Level Two Background Investigation on no more than three (3) applicants per judicial vacancy being considered by the Judicial Nominating Commission as requested by that agency.

[OAR Docket #16-602; filed 6-21-16]

TITLE 377. OFFICE OF JUVENILE AFFAIRS CHAPTER 1. FUNCTION AND STRUCTURE OF THE OFFICE OF JUVENILE AFFAIRS

[OAR Docket #16-603]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 1. Function and Structure of the Office of Juvenile Affairs
377:1-1-5. Board of Juvenile Affairs [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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SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

ANALYSIS:

The proposed rule revisions are necessary in order to be compliant with current statutory amendments regarding the Board of Juvenile Affairs responsibilities relating to Foster Care as found in Title 10A O.S., Section 2-7-614, charter school as found in Section 2-7-616, and minor formatting

changes. The proposed rules are necessary in order to be accurately reference in rule.

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, 2016:

SUBCHAPTER 1. FUNCTION AND STRUCTURE OF THE OFFICE OF JUVENILE AFFAIRS

377:1-1-5. Board of Juvenile Affairs

(a) **Composition.** Title 10A O.S., § 2-7-101, authorizes the Board of Juvenile Affairs (Board) as the governing body for the Office of Juvenile Affairs. The Board shall consist of seven (7) members appointed by the Governor with the advice and consent of the Senate in accordance with 10A O.S., § 2-7-101.

(b) **Meetings.** Regularly scheduled meetings of the Board shall be held at places, dates, and times fixed by the Board and after appropriate notice. Special meetings may be called by the Chair or by five (5) members of the Board by delivery of written notice to each member of the Board. Emergency meetings of the Board may be called as provided by Oklahoma statutes.

(1) Any member may waive notice of any meeting. The attendance of a member at a meeting shall constitute waiver of notice of such meeting except where the member attends for the express purpose of objecting to the transaction of any business because the meeting was not lawfully called or convened.

(2) All meetings, including executive sessions, shall be conducted in accordance with the provisions of the Open Meeting Act.

(c) **Voting.** A majority of members serving on the Board shall constitute a quorum.

(1) The acts of the majority of the members present at a meeting at which a quorum is present shall be the acts of the Board except that a vote of not less than four (4) members of the Board shall be required to amend these rules.

(2) A member may disqualify himself or herself from a vote at any time and without explanation. A member who disqualifies himself or herself from a vote shall be considered to be not present for purposes of that vote.

(d) **Election of officers.** At the first meeting of each calendar year, the Board shall elect one of its members to serve as Chair and another of its members to serve as ~~Vice Chair~~Vice-chair. The Chair or ~~Vice Chair~~Vice-chair shall hold office until his or her successor has been duly elected or until his or her death, resignation, or removal.

(e) **Vacancies.** A vacancy in the elected position of Chair or ~~Vice Chair~~Vice-chair because of death, resignation, removal,

disqualification, or otherwise, may be filled by the Board for the unexpired portion of the term of the position.

(f) **Duties of the position of Chair and ~~Vice Chair~~Vice-chair.** The Chair, or in his or her absence, the ~~Vice Chair~~Vice-chair, shall preside at all meetings of the Board, including executive sessions. The Chair, or ~~Vice Chair~~Vice-chair as the case may be, shall be the final authority on all procedural issues, and may, when appropriate, refer to and follow the recommendations of the legal counsel for the Office of Juvenile Affairs or "Robert's Rules of Order" to resolve a procedural issue.

(1) The Chair, within two weeks of a member's new appointment, shall:

- (A) brief the member of the Board regarding the duties and responsibilities of the Board and its members;
- (B) provide the new member a copy of the statutes pertinent to the Board and its duties;
- (C) provide a copy of the monthly operating budgets of the Office of Juvenile Affairs for the preceding twelve months;
- (D) provide a copy of the rules under which the Office of Juvenile Affairs functions and operates; and
- (E) provide such other information as is necessary to assure that the new member is advised of his or her duties and responsibilities.

(2) The Chair may delegate the briefing described in paragraph (1) of this subsection in whole or in part to the Executive Director of the Office of Juvenile Affairs or a managing officer of that agency, but the responsibility for its accomplishment shall remain with the Chair.

(g) **Responsibilities.** The purpose of the Board of Juvenile Affairs is to act as the governing board for the Office of Juvenile Affairs and to implement and direct the mandates of the Oklahoma Legislature with respect to the custody, care, and supervision of juveniles adjudicated to be delinquent or in need of supervision or persons sentenced as youthful offenders. The Oklahoma Juvenile Code, Title 10A O.S., § 2-1-101 *et seq.*, and other provisions of law related to children and youth gives the Board the responsibility for:

- (1) promulgating rules for the Office of Juvenile Affairs and for its own governance;
- (2) adopting an official seal for the Office of Juvenile Affairs;
- (3) appointing and setting the salary of the Executive Director of the Office of Juvenile Affairs;
- (4) reviewing and approving OJA's budget request to the Governor;
- (5) assisting OJA in conducting regular reviews and planning activities related to the goals, objectives, priorities, and policies of the Office of Juvenile Affairs;
- (6) providing a public forum for receiving comments and disseminating information to the public regarding the goals, objectives, priorities, and policies at least quarterly;
- (7) adopting nonbinding resolutions requesting action by the Office of Juvenile Affairs in response to comments from the public or upon the Board's own initiative;
- (8) establishing OJA contracting procedures and guidelines for rates of payment for services provided by

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contract; provided the Board may not increase payment rates during the time the Legislature is not in session;

(9) serving as the rulemaking body for the Office of Juvenile Affairs, including promulgating rules which implement the duties and responsibilities of the Office of Juvenile Affairs pursuant to the Oklahoma Juvenile Code;

(10) developing performance standards for programs implemented by the Office of Juvenile Affairs, either directly or by contract;

(11) appointing the Executive Director, or in the event of a vacancy, designating an interim or acting Executive Director, including the Chief of Staff of the Office of Juvenile Affairs, until a new and permanent Executive Director is appointed;

(12) establishing fee schedules;

(13) advising OJA with respect to real estate leases;

(14) approving criteria for designation of organizations as "Youth Services Agencies";

(15) establishing an administrative hearing and appeal process for denials of "Youth Service Agency" designation;

(16) reviewing annually the OJA report (OJA Annual Report) which analyzes and evaluates the effectiveness of OJA programs and services;

(17) reviewing annually the OJA report (OJA Annual Report) which analyzes and evaluates the effectiveness of the Youthful Offender Act;

(18) promulgating rules for the Office of Juvenile Affairs to obtain national criminal history records searches in accordance with Section 404.1 of Title 10 for personnel working with or around juveniles in the Office of Juvenile Affairs' institutions and Office of Juvenile Affairs' operated facilities;

(19) promulgating rules, outlining policies and procedures governing the operation of facilities operated by or through contract with OJA;

(20) promulgating rules defining contraband for purposes of inspection;

(21) promulgating rules governing the use of mechanical restraints in institutions and other facilities operated by or through contract with the Office of Juvenile Affairs;

(22) receiving and reviewing institutional inspection reports of the State Fire Marshall and Commissioner of Public Health;

(23) establishing standards for regimented juvenile training programs;

(24) establishing the proposal submission and education procedures and criteria for the implementation of the Delinquency and Youth Gang Intervention and Deterrence Act;

(25) promulgating rules necessary for the implementation of the "Juvenile Offender Victim Restitution Work Program";

(26) adopting rules as required to implement the Serious and Habitual Juvenile Offender Program and Juvenile Justice Information System;

(27) establishing certification standards for municipal juvenile facilities for temporary detention;

(28) promulgating standards for certification of juvenile detention facilities;

(29) developing, adopting, and implementing the "State Plan for the Establishment of Juvenile Detention Services";

(30) establishing procedures for the letting of contracts or grants for juvenile detention services or facilities;

(31) approving a form for the statistical reporting of detention of persons under the age of 18;

(32) establishing standards for the certification of detention services;

(33) with the State Department of Health, establishing standards for certification of jails, adult lock-ups and adult detention facilities used to detain juveniles;

(34) establishing guidelines and procedures for Juvenile Bureaus to ensure uniformity in the performance of the Juvenile Bureau's statutory duties;

(35) promulgating rules and forms necessary for the implementation of the juvenile sex offender registry;

(36) establishing Foster Care licensing standards for Office of Juvenile Affairs' foster home placements;

(37) promulgating rules for the expansion for criminal records searches or foster care eligibility assessments beyond the records searches conducted by the Oklahoma State Bureau of Investigation;

~~(3738)~~ Designating Youth Services Agencies; ~~and~~

~~(3839)~~ Adopting the State Plan for Youth Services Agencies; and

(40) promulgating rules as necessary for the establishment and operation of a charter school pursuant to 10A O.S., § 2-7-616.

[OAR Docket #16-603; filed 6-21-16]

TITLE 377. OFFICE OF JUVENILE AFFAIRS CHAPTER 3. ADMINISTRATIVE SERVICES

[OAR Docket #16-604]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 1. Office of the Executive Director

Part 3. Office of the Advocate General

377:3-1-21. Definitions [AMENDED]

377:3-1-25. Abuse, neglect, and caretaker misconduct of a child in OJA custody and placed in a secure facility or other facility operated by or through contract with OJA [AMENDED]

Subchapter 7. Finance Department

377:3-7-4. OJA financial system [AMENDED]

Subchapter 11. Risk Management

Part 1. Drug Policy

377:3-11-5. Substance screening [AMENDED]

Subchapter 13. Office of Public Integrity

Part 1. General Provisions

377:3-13-6. Certification of Secure Juvenile Detention Facilities, Municipal Juvenile Facilities, and Community Intervention Centers [AMENDED]

Part 7. Requirements for Community Intervention Centers (CIC)

377:3-13-81. Structure [AMENDED]

377:3-13-82. General provisions [AMENDED]

377:3-13-83. Information gathering/report data [AMENDED]

377:3-13-86. Organization, administration, and finance [AMENDED]

377:3-13-89. Juvenile records [AMENDED]
Part 11. Requirements for Certification of Secure Juvenile Facilities
377:3-13-129. General emergency procedures [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 11. Risk Management
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Subchapter 13. Office of Public Integrity
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n/a

ANALYSIS:

The rule revisions conform to the definition of abuse, as found in 10A O.S., Section 1-1-105(2), which includes sexual abuse in the definition of abuse. The rule revisions provide for identification of the employee that is to accept the reporting and identifies the statute that requires the reporting to that employee. The rule revisions provide for drug and alcohol testing of charter school employees, as well as provide an update to a job title, and changes to referencing those who are identified in the rule rather than listing the job families. The rule revisions conform to and interprets statute 10A O.S., Section 2-7-305, as it relates to one or more counties or municipalities may establish a Community Intervention Center (CIC), and provides clarification that a CIC receiving and holding a juvenile that is pending transportation to a detention center is not considered admitting the juvenile into the CIC. The rule revisions conform to statute 70 O.S., Section 5-149, regarding frequency and timing of tornado drills in schools, as well as the Oklahoma State Department of Education's requirements for schools, as per 10A O.S., Section 2-7-616. The rule revisions provide for minor grammar and formatting changes.

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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, 2016:

SUBCHAPTER 1. OFFICE OF THE EXECUTIVE DIRECTOR

PART 3. OFFICE OF THE ADVOCATE GENERAL

377:3-1-21. Definitions

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

"Abuse" is defined in Title 10A O.S., § 1-1-105, for purposes of this subchapter abuse includes ~~sexual abuse and~~ sexual harassment.

"Advocate defender" means the institutional staff member responsible for:

- (A) assuring that juveniles in custody have available and understand grievance channels;
- (B) monitoring and reviewing grievance procedures;
- (C) conducting the tentative release date hearings with juveniles and attending parole hearings;
- (D) supervising the communication of grievance procedure to staff and juveniles;
- (E) facilitating resolutions and regularly reviewing informal grievances;
- (F) ensuring allegations of abuse and neglect are properly reported to the Advocate General of the Office Of Juvenile Affairs; and
- (G) ensuring that allegations of caretaker misconduct by a person responsible for a child residing in an OJA secure facility not rising to the level of abuse or neglect are reported to the Advocate General of the Office of Juvenile Affairs.

"Caretaker" with regard to juveniles in the Office of Juvenile Affairs' custody means an agent or employee of a public or private institution or a public or private residential home above the level of foster care.

"Caretaker Misconduct" is defined in Department of Human Services' Rule OAC:340:2-3-2.

"Grievance coordinator" means a group home staff member responsible for:

- (A) assuring that juveniles in custody have available and understand grievance channels;
- (B) monitoring and reviewing grievance procedures and hearings;
- (C) supervising the communication of grievance procedure to staff and juveniles; and
- (D) regularly reviewing informal grievances and resolutions.

"Neglect" is defined in Title 10A O.S., § 1-1-105.

"Sexual harassment" as used in this subchapter is defined in 28 C.F.R. § 115.6.

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377:3-1-25. Abuse, neglect, and caretaker misconduct of a child in OJA custody and placed in a secure facility or other facility operated by or through contract with OJA

(a) **Requirements for reporting incidents of abuse and neglect.** Title 10A O.S., § 1-2-101 requires every person who, in good faith and exercising due care, has reason to believe that a child under the age of eighteen (18) is a victim of abuse or neglect to report the condition or incident to the appropriate office for investigation through the DHS statewide centralized hotline. For purposes of the reporting requirements for this subchapter, abuse is defined in Title 10A O.S., § 1-1-105, and shall include ~~sexual abuse and~~ sexual harassment. An employee who, in good faith and exercising due care, has reason to believe that a child is a victim of abuse or neglect shall make an immediate, verbal or email report, as required by 10A O.S., § 1-2-101 and to the supervisor who shall ensure a report is made to the OJA Office of Advocate General, or as required by 10A O.S., § 1-2-102 to the DHS hotline, when:

- (1) the employee has reason to believe such child has been the victim of abuse or neglect;
- (2) a child, parent, guardian, or other person makes an allegation of abuse or neglect of such child.

(b) **Use of restraints and physical force.** Abuse and neglect do not include the use of restraints or physical force as authorized by law, allowed by regulation or policy, and performed in such a manner as to be deemed acceptable by approved systems of restraint including, but not limited to, MANDT, CPI, CAPE, or CCMS. Medical attention shall be provided immediately upon the juvenile's release from restraint as a result of physical force even if there is no visible evidence or complaint of injury. Medical attention shall be provided in an institution by a licensed physician, licensed practical nurse, registered nurse, physician's assistant, or emergency medical technician; or in a group-home or private facility, staff certified in first aid and CPR may provide medical attention and are responsible for referring the juvenile to licensed medical personnel, if warranted.

(c) When a reportable situation arises and within 24-hours, each staff member, resident, or other person present during the incident shall prepare and submit to the facility administrator or designee, a written incident report describing what the person saw or heard. The facility administrator, shall ensure a preliminary assessment is conducted to:

- (1) assure the safety of any juvenile named in the referral and of other juveniles in the same placement;
- (2) protect the integrity of any evidence which may be relevant to the allegation, including taking photos following every restraint or act of physical force; and
- (3) coordinate activities with OCA and any law enforcement authority involved in investigating the allegation.

(d) The facility administrator shall collect medical records, other documents and reports which pertain to the alleged incident, written statements and any other documentary evidence and place them in a holding file for investigative use by the appropriate investigative authority.

(e) **Caretaker misconduct in OJA secure facilities.** Every employee in an OJA secure facility shall report allegations of caretaker misconduct to the OJA AG Advocate General for investigation and disposition. The system for investigation and disposition of such investigation shall be developed by the AG Advocate General in cooperation with the Executive Director and shall be approved by the Board of Juvenile Affairs. The Advocate General shall determine whether the allegation involves caretaker misconduct.

(f) **Caretaker misconduct in facilities other than OJA secure facilities.** Every employee of a facility, other than an OJA secure facility, operated by or through contract with OJA shall report allegations of caretaker misconduct in accordance with DHS Rule 340:2-3-33.

(g) **Educational employees.** If the alleged abuse, neglect, or caretaker misconduct involves an employee of a school district which provides contract educational services to OJA, either as a witness or as an accused caretaker, the facility administrator shall notify the principal of the school of the nature of the allegation, and name of the assigned investigator. The principal shall then be responsible for advising the employee accordingly and coordinating with the appropriate investigative authority.

(h) **Protection or medical treatment.** In the event of alleged abuse, neglect, or caretaker misconduct in a facility, the facility administrator or designee shall assure protection of the juvenile and obtain medical attention for the juvenile.

(i) **Failure to report.** Any employee who fails to report abuse, neglect, or caretaker misconduct as required by this Section, is subject to disciplinary action under OJA's personnel rules. If it is determined the employee failed to report as required, the Advocate General of OJA shall make a referral to the appropriate law enforcement agency as provided in Title 10A O.S., § 1-2-101.

(j) **Interference prohibition.** Any employee who interferes with an abuse, neglect, or caretaker misconduct investigation, or attempts to intimidate or harass a witness, victim, or employee accused of alleged abuse, neglect, or caretaker misconduct through force or fear, or by threatening physical or mental harm to a witness, victim or others, is subject to disciplinary action under OJA's personnel policy and could be subject to criminal prosecution.

(k) **Contract termination.** A contractor's contract shall be subject to immediate termination for failure to adhere to this subchapter or knowingly allowing an employee to:

- (1) interfere with an abuse, neglect, or caretaker misconduct investigation;
- (2) interfere or retaliate against any employee for reporting or cooperating in such investigation; or
- (3) deny the assigned investigator immediate and direct access to the contractor's employees, facilities, clients, places, or records of any type.

(l) **Retaliation.** The agency shall ensure protection of both staff and juveniles who report sexual abuse or sexual harassment or for cooperating in sexual abuse or sexual harassment investigations from retaliation.

SUBCHAPTER 7. FINANCE DEPARTMENT

377:3-7-4. OJA financial system

The financial system established and maintained by the Office of Juvenile Affairs shall comply with state statutes and guidelines or requirements established by the Office of Management and Enterprise Services, State Treasurer, State Auditor and Inspector, and federal grantor agencies. Changes to OJA procedures related to financial matters shall be provided to the Finance Subcommittee of the Board of Juvenile Affairs for review, and then subsequently to the full Board of Juveniles/Juvenile Affairs.

SUBCHAPTER 11. RISK MANAGEMENT

PART 1. DRUG POLICY

377:3-11-5. Substance screening

Drug and alcohol testing may be required for employees and job applicants under the following circumstances:

(1) Job applicant or transferred or reassigned employee testing. Every job applicant or transferred or reassigned employee who is conditionally offered employment in the following job families shall be tested if:

(A) the position is in one of the following job families:

- (i) Juvenile Justice Specialist;
(Bii) Youth Guidance Specialist;
(Ciii) Police Officer/Juvenile Security Officer;
(Div) Recreational Therapist;
(Ev) Institutional Safety & Security Coordinator;
(Fvi) Registered Nurse;
(Gvii) Licensed Practical Nurse;
(Hviii) Nursing Manager;
(Iix) Food Service Personnel; and
(Jx) Psychological Clinician.

(B) such person is employed in an administrative or instructional capacity in any charter school site.

(2) For-cause testing. Any employee, at the request of the Executive Director or, if he is unavailable, the Chief of Staff, may be requested or required to undergo drug or alcohol testing at any time it is reasonably believed that an employee may be under the influence of drugs or alcohol, including, but not limited to, the following circumstances:

- (A) Observable phenomena such as:
(i) The physical symptoms or manifestations of being under the influence of a drug or alcohol while at work or on duty; or
(ii) The direct observation of drug or alcohol use while at work or on duty;
(B) A report of drug or alcohol use while at work or on duty;
(C) Information that an employee has tampered with drug or alcohol testing at any time;
(D) Evidence that an employee is involved in the use, possession, sale, solicitation, or transfer of

- drugs while on duty or while on any OJA premises or premises with which OJA has contracted services, or operating any OJA vehicle, machinery, or equipment;
(E) Drugs or alcohol on or about the employee's person or in the employee's vicinity;
(F) Negative performance patterns; or
(G) Excessive or unexplained absenteeism or tardiness.

(3) Post-accident testing. Any employee may be tested when the employee or another person has sustained an injury while at work or that property has been damaged while at work, including damage to equipment. No employee who tests positive for the presence of substances, as set forth in and in violation of 63 O.S., § 465.20, alcohol, illegal drugs and illegally used chemicals, or who refuses to take a drug or alcohol test required by OJA, shall be eligible for Workers' Compensation Benefits.

(4) Post-rehabilitation. Any employee who has had a positive test or has participated in a drug or alcohol dependency treatment program may be tested for a period of up to two (2) years, commencing with the employee's return to work.

(5) Random Testing. The Executive Director may order random drug testing for OJA permanent, temporary or probationary employees who hold a position within the applicable job families as listed/referenced in paragraph one of this rule. The affected employees shall be notified of the effective date and process for testing.

(6) Return from leave, fitness-of-duty, and other periodic testing.

(A) The Executive Director may request or require an employee to undergo drug or alcohol testing as a routine part of a routinely scheduled employee fitness-for-duty medical examination, or in connection with an employee's return to duty from leave of absence.

(B) The Executive Director may schedule periodic drug or alcohol testing for employees occupying a position in 377:3-11-5(1).

SUBCHAPTER 13. OFFICE OF PUBLIC INTEGRITY

PART 1. GENERAL PROVISIONS

377:3-13-6. Certification of Secure Juvenile Detention Facilities, Municipal Juvenile Facilities, and Community Intervention Centers

(a) Certification. The certification of secure detention facilities, municipal juvenile facilities, and community intervention centers by OJA is to ensure maintenance of minimum standards for the care and protection of juveniles detained in these facilities. OJA issues a permanent two-year certificate to operate a secure detention facility, a municipal juvenile facility, or a community intervention center when satisfied the facility

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meets the standards set forth in this subchapter. The certificate is non-transferable.

(b) **Provisional certificate.** OJA shall issue a 90-day provisional certificate to operate a newly established secure juvenile detention facility, municipal juvenile facility, and community intervention center after determining the facility meets the respective requirements to include: physical plant, staffing ratio, and written policies. Prior to the conclusion of the 90 days, OJA shall conduct a full certification assessment of the facility to ensure its operation is in conformity with the requirements of a juvenile detention facility, municipal juvenile facility, or community intervention center. If the facility is in compliance OJA will issue a permanent two-year certificate to operate the facility. If the facility is not in compliance, OJA may issue a second 90-day provisional certificate to operate the facility, as long as the health and safety of juveniles are not substantially at risk. OJA shall conduct a second full certification assessment of the facility prior to the conclusion of the 90 days. Based on the findings of the second certification assessment, OJA will either issue the two-year certificate to operate the appropriate facility or deny the application. Only the OJA executive director may authorize more than two 90-day provisional certificates. Any facility that has been closed, sold, or had a change in operators may not operate as a juvenile detention facility, municipal juvenile facility, or a community intervention center until it has gone through this certification process.

(c) **Revocation of certification.** If a facility is unable or unwilling to comply with requirements or has failed to adequately protect the health and safety of the juveniles, OJA may revoke the facility's permanent two-year certification or its 90-day provisional certification. The OJA executive director must authorize the revocation of the certificate and the facility shall receive notice in writing of the decision and the grounds for such action.

(d) **Monitoring.** The Office of Public Integrity monitors for compliance with the certification requirements and offers technical assistance upon request. Allegations that a facility is not in compliance with certification requirements may necessitate an OPI investigation. The name of the complainant is kept confidential, if possible. OPI shall advise the facility administrator of the outcome of the investigation.

(e) **Development and revision of standards.** The OPI and other OJA staff may propose new or modified certification standards to the ~~Executive~~ Board of Juvenile Affairs. The development and revision of standards ~~is~~ are subject to the rule-making requirements of the Administrative Procedures Act.

PART 7. REQUIREMENTS FOR COMMUNITY INTERVENTION CENTERS (CIC)

377:3-13-81. Structure

(a) To establish a CIC, an interlocal agreement must be entered into between:

- (1) one or more municipalities or
- (2) one or more counties; and
- (~~2~~3) the Office of Juvenile Affairs.

(b) The CIC must meet the conditions, requirements, and rules promulgated by the Office of Juvenile Affairs as provided in 10A O.S., § 2-7-305.

(c) Each CIC provider shall have a local juvenile justice advisory board comprised of representatives from local law enforcement, the judiciary, social service agencies, education, local businesses and local government.

377:3-13-82. General provisions

(a) **Required functions of a CIC.** A CIC shall:

- (1) receive and hold juveniles taken into custody by law enforcement for an alleged violation of a municipal ordinance or state law or who are alleged to be in need of supervision as defined by 10A O.S., § 2-1-103(8), and for whom detention is unavailable or inappropriate;
- (2) be in compliance with all applicable federal, state, and local health, fire, and safety codes;
- (3) enter demographic information into the management information system provided for in 10A O.S., § 2-7-308;
- (4) hold a juvenile for no longer than 24 hours;
- (5) shall maintain records that are sufficient to demonstrate compliance with the Office of Juvenile Affairs requirements for CICs; and
- (6) ensure that when a juvenile is held, all reasonable steps are immediately taken to:
 - (A) immediately notify the juvenile's parent, legal guardian, custodian, attorney, or other adult legally responsible for the juvenile's care;
 - (B) release the juvenile to a parent, guardian, or other responsible adult or hold until a temporary placement can be secured, but in no event for longer than twenty-four hours;
 - (C) release the juvenile to the parent, guardian, custodian, attorney, or responsible adult as soon as practical upon his or her signing a release or written promise to return the juvenile to the court of jurisdiction to answer the charges at a date and time set by the court;
 - (D) ensure that temporary placement is secured if the parent, guardian, legal custodian, attorney or other responsible adult is unable to assume custody of the juvenile;
 - (E) ensure that adequate fresh drinking water is made available to the juvenile;
 - (F) ensure that adequate food is provided to the juvenile not less than three times in a 24-hour period;
 - (G) gather information to determine if the juvenile is in need of immediate medical attention; and
 - (H) ensure the juvenile is provided with any necessary medical care and treatment as provided 10A O.S., § 2-2-101(E).

(b) **Optional functions.** In addition to the required functions a CIC may:

- (1) conduct an initial screening assessment, pursuant to OJA Rule OAC 377:3-13-84;
- (2) conduct an assessment, pursuant to OJA Rule OAC 377:3-13-85; ~~and~~

- (3) fingerprint a juvenile who has allegedly committed an offense which would be a felony if committed by an adult; and
- (4) the community intervention center may receive and hold juveniles for whom detention is appropriate and available pending transportation by law enforcement to a detention facility, provided:
 - (A) custody by law enforcement shall not be relinquished to the community intervention center until detention eligibility and bed availability are determined by the designated detention screener and an order for detention is issued;
 - (B) the purpose for the holding is to address a court order or the execution of a warrant; and
 - (C) juveniles held shall not be considered admitted to the community intervention center.

377:3-13-83. Information gathering/report data

- (a) Information gathered by the CICs include the:
 - (1) number of juveniles admitted;
 - (2) demographic data;
 - (3) intake time distribution;
 - (4) law enforcement officer time;
 - (5) length of juvenile's stay;
 - (6) summary of offenses by types, including:
 - (A) felonies;
 - (i) violent crimes as defined by the Juvenile On-Line Tracking System (JOLTS);
 - (ii) thefts; and
 - (iii) possession of drugs;
 - (B) misdemeanors, including:
 - (i) thefts;
 - (ii) possession of drugs; and
 - (iii) possession of alcohol;
 - (C) status offenses, including:
 - (i) truancy; and
 - (ii) traffic violations.
 - (7) whether the juvenile's case will be heard in:
 - (~~A~~) district court; or
 - (~~B~~) municipal court.
 - (8) summary of discharge which includes to whom the juvenile was released such as, the juvenile's parent, guardian, legal custodian, attorney or other responsible adult; and
 - (9) summary of assessments, including the:
 - (A) number of juveniles receiving an initial screening assessment;
 - (B) number of the juveniles who refused the initial screening assessment;
 - (C) number of juveniles receiving the assessment; and
 - (D) number of juveniles and parents who refused the assessment.

377:3-13-86. Organization, administration, and finance

- (a) The CIC shall maintain written policies and procedures.

- (1) **Organization.** The CIC shall develop a clearly defined statement of its purposes or function. The CIC program director or designee shall file the statement with the Office of Juvenile Affairs, Office of Public Integrity.

(2) **Administration and responsibility of the municipality or county.**

- (A) ~~The Municipality~~ municipality or county shall have responsibility for:
 - (i) providing the physical site and its use by the juveniles and staff;
 - (ii) the center's program and services;
 - (iii) reviewing and approving all CIC policies and policy changes;
 - (iv) maintaining a record of CIC policy;
 - (v) maintaining documentation and records to ensure compliance with applicable federal, state, and local law, including health, fire and safety regulations, and documenting compliance with Fire Marshal's report and the Health Department's Certification;
 - (vi) documenting board and/or council meetings, where applicable, and keeping the documentation on file;
 - (vii) compiling and filing monthly statistical reports with the Office of Juvenile Affairs; and
 - (viii) completing an annual report of the CIC, including the information listed in 377:3-13-83, and submitting the report to OJA, Office of Public Integrity.
- (B) The contract shall be submitted to the OJA Office of Public Integrity.
- (3) **Finances.** The CIC shall maintain complete financial records of income and disbursements.
 - (A) All financial records pertaining to the CIC shall be audited annually by a certified public accountant who has a valid, current permit to practice in the State of Oklahoma or state or tribal auditor, in accordance with the governmental funding source.
 - (B) A copy of the auditor's statements shall be submitted to the Office of Juvenile Affairs annually.

377:3-13-89. Juvenile records

A record shall be developed for every juvenile placed in the CIC. The record must contain:

- (1) demographic information;
- (2) referral source information (Uniform Crime Report, traffic citation, verbal or written court order, or police booking form, etc);
- (3) time of admission/time of departure for the juvenile and the police officer;
- (4) determination if juvenile is in need of immediate medical attention;
- (5) documentation of attempt(s) to contact parent/guardian with time attempts were made;
- (6) if an initial screening assessment is conducted, the completed OJA-3;
- (7) if an assessment is conducted, the:

- (A) documentation of prior review of assessment by parent & juvenile;
 - (B) documentation that the parent and juvenile have been advised that the assessment is voluntary; and
 - (C) written consent of the juvenile and parent.
- (8) documentation that the juvenile has been advised of:
- (A) client rights;
 - (B) rules of conduct; and
 - (C) grievance procedures;
- (9) if placed in room confinement as provided in 377:3-13-4090 (e) and (f), documentation of the:
- (A) reason for confinement;
 - (B) other means of behavior modification used prior to room confinement;
 - (C) time placed in confinement;
 - (D) times the juvenile was visibly monitored with notation of what the juvenile was doing at that time; and
 - (E) time released from confinement.
- (10) inventory log for the juvenile's personal belongings and confiscated materials;
- (11) release of confidential information form (when necessary);
- (12) incident report form (when necessary);
- (13) name of person to whom the juvenile was released; and
- (14) documentation of promise to appear in court.

PART 11. REQUIREMENTS FOR CERTIFICATION OF SECURE JUVENILE FACILITIES

377:3-13-129. General emergency procedures

- (a) Temporary unit closure shall be a programmed response to significant unit/facility disorders and may also be utilized in other types of emergencies;
- (b) Emergency evacuation plans shall be posted in prominent locations on all floors of every building and include the locations of primary and secondary exits;
- (c) ~~A minimum of one seasonal (April-June) tornado drill per fiscal year shall be conducted.~~ Tornado drills shall be conducted each September and March;
- (d) There shall be an established system for immediate emergency notification of secure facility juveniles and employees, as well as emergency responders;
- (e) Power generators and/or alternate emergency power sources shall be inspected weekly and load tested quarterly.

[OAR Docket #16-604; filed 6-21-16]

TITLE 377. OFFICE OF JUVENILE AFFAIRS CHAPTER 25. JUVENILE SERVICES UNIT

[OAR Docket #16-605]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 3. Pre-Court
Part 1. Juvenile Detention
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).

SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:

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EFFECTIVE:

September 11, 2016

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

ANALYSIS:

The rule revision is necessary in order to correct a misspelling for accurate reading.

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, 2016:

SUBCHAPTER 3. PRE-COURT

PART 1. JUVENILE DETENTION

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 ~~occurs~~ occurs 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 et seq. and § 2-7-504.

[OAR Docket #16-605; filed 6-21-16]

**TITLE 380. DEPARTMENT OF LABOR
CHAPTER 80. ALTERNATIVE FUELS
PROGRAM**

[OAR Docket #16-543]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Chapter 80. Alternative Fuels Program [NEW]

AUTHORITY:

Department of Labor; 40 O.S. § 142.1 and 40 O.S. §142.2, Alternative Fuels Technician Certification Act

SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:

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SUPERSEDED EMERGENCY ACTIONS:

Superseded rules:

- Subchapter 1. General Rules for Compressed Natural Gas (CNG) Equipment [NEW]
- 380:80-1-1 [NEW]
- 380:80-1-2 [NEW]
- 380:80-1-3 [NEW]
- 380:80-1-4 [NEW]
- 380:80-1-5 [NEW]
- 380:80-1-6 [NEW]
- 380:80-1-7 [NEW]

- 380:80-1-8 [NEW]
 - 380:80-1-9 [NEW]
 - 380:80-1-10 [NEW]
 - 380:80-1-11 [NEW]
 - Subchapter 3. Dispensing Systems [NEW]
 - 380:80-3-1 [NEW]
 - 380:80-3-2 [NEW]
 - 380:80-3-3 [NEW]
 - 380:80-3-4 [NEW]
 - 380:80-3-5 [NEW]
 - 380:80-3-6 [NEW]
 - 380:80-3-7 [NEW]
 - 380:80-3-8 [NEW]
 - 380:80-3-9 [NEW]
 - Subchapter 5. Alternative Fuels Program [NEW]
 - 380:80-5-1 [NEW]
 - 380:80-5-2 [NEW]
 - 380:80-5-3 [NEW]
 - 380:80-5-4 [NEW]
 - Subchapter 7. Testing, Certification, and Recertification [NEW]
 - 380:80-7-1 [NEW]
 - 380:80-7-2 [NEW]
 - 380:80-7-3 [NEW]
 - 380:80-7-4 [NEW]
 - 380:80-7-5 [NEW]
 - 380:80-7-6 [NEW]
 - 380:80-7-7 [NEW]
 - 380:80-7-8 [NEW]
 - 380:80-7-9 [NEW]
 - 380:80-7-10 [NEW]
 - Subchapter 9. Standards for Alternative Fuels Technicians - Conversion and Compression [NEW]
 - 380:80-9-1 [NEW]
 - 380:80-9-2 [NEW]
 - 380:80-9-3 [NEW]
 - Subchapter 11. Violations [NEW]
 - 380:80-11-1 [NEW]
 - 380:80-11-2 [NEW]
 - 380:80-11-3 [NEW]
 - 380:80-11-4 [NEW]
- Gubernatorial approval:**
June 30, 2015
- Register publication:**
32 Ok Reg 735
- Docket number:**
15-734
- INCORPORATIONS BY REFERENCE:**
- Incorporated standards:**
- National Fire Protection Association, Pamphlet No. 52
 - National Fire Protection Association, Pamphlet No. 58
 - National Electric Code
 - American National Standards Institute NGV1, Requirements for Natural Gas Vehicles Refueling Connection Devices, Requirement 1-90
 - National Institute of Standards and Technology Handbook 44, Specifications, Tolerances, and Other Technical Requirements for Weighing and Measuring Devices
 - National Institute of Standards and Technology Handbook 130, Uniform Laws and Regulations in the Areas of Legal Metrology and Engine Fuel Quality
- Incorporating rules:**
- 380:80-1-2
 - 380:80-1-7
 - 380:80-3-3
 - 380:80-9-2
- Availability:**
8:00 a.m. to 4:30 p.m., Monday through Friday at Oklahoma Department of Labor, 1017 N. Stiles, Ste. 100, Oklahoma City, OK 73105, 405-521-6100
- ANALYSIS:**
- The Oklahoma Department of Labor has adopted permanent rules to supersede emergency rules previously adopted governing the licensing of alternative fuels conversion technicians, alternative fuels compression technicians, alternative fuels conversion companies, and alternative fuels compression companies and the enforcement of standards. The rules previously in effect in OAC 580:55, later adopted as emergency rules at OAC

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380:80, served as the foundation for these adopted permanent rules. The rules also govern inspection of compressed natural gas compression, storage, and dispensing systems. The rules: address the certification requirements applicable to the qualification and certification of alternative fuel vehicle conversion technicians, electric vehicle conversion technicians, and alternative fuel compression technicians; provide for the certification of trainees; provide for the certification of alternative fuel companies; provide for the inspection of alternative fuel fill stations; identify national standards applicable to alternative fuel vehicle conversions; provide definitions; establish program administrative procedures; and provide for program enforcement. Emergency rules were adopted which are effective through September 14, 2016. Additionally, the Department of Labor has been tasked with inspecting compressed natural gas fill stations. These rules are authorized by 40 O.S. § 142.1 and 40 O.S. § 142.2. The intended effect of the rules is to provide a uniform program for testing, licensing, and enforcement related to alternative fuels technicians and companies and to provide clear standards for the inspection of compressed natural gas fill stations.

380:80-1-5 requires submission of a new form, form AF-1, an Alternative Fuels Permit Application, for stationary compressed natural gas installation permits. Form AF-1 is available on the Department of Labor website at www.labor.ok.gov.

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, 2016:

SUBCHAPTER 1. GENERAL RULES FOR COMPRESSED NATURAL GAS (CNG) EQUIPMENT

380:80-1-1. Purpose

The purpose of this chapter is to fulfill the mandate of Title 40 Section 142.2 by establishing rules in accordance with the Alternative Fuels Technician Certification Act.

380:80-1-2. Standards for alternative fuel engine fuel systems

(a) The standards for the design, construction, installation, repair, use, and inspection of alternative fuel engine fuel systems are contained in the National Fire Protection Association's pamphlets No. 52 and 58 and are adopted by reference as part of these rules.

(b) The standards for the installation, modification, repair, or performance of maintenance on motors, controllers, on-board power sources, or the drive systems of vehicles powered by electricity, including vehicles originally equipped as electric vehicles, vehicles converted from gliders, and vehicles converted from internal combustion engine vehicles, are contained in the National Electrical Code (NEC) and are adopted by reference as part of these rules.

(c) Copies of the adopted standards are available for inspection at the Oklahoma Department of Labor, 3017 N. Stiles, Ste. 100, Oklahoma City, OK 73105.

380:80-1-3. Definitions

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

"Alternative fuels" means fuels which result in comparably lower emissions of oxides of nitrogen, volatile organic compounds, carbon monoxide, or particulate matter or any combination thereof and includes CNG, LPG, LNG, methanol, ethanol, reformulated gasoline, biodiesel, and electricity.

"Alternative fuel engine fuel systems" means an object or objects mounted, installed, attached or otherwise placed upon or within a vehicle or vehicle trailer to supply or assist in the supply of an alternative fuel to an internal combustion engine or engines.

"ANSI" means the American National Standards Institute.

"ASME" means the American Society of Mechanical Engineers.

"ASME Code" means the ASME Boiler and Pressure Vessel Code.

"Automatic dispenser" means a CNG dispenser which is operated by a member of the general public and which requires transaction authorization.

"Building" means a structure with walls and a roof resulting in the structure being totally enclosed.

"BTU" means a scientific unit of measurement equal to the quantity of heat required to raise the temperature of one pound of water one degree Fahrenheit at approximately sixty degrees Fahrenheit.

"CNG" See "Compressed natural gas" in this section.

"CNG GGE" means 5.660 pounds of CNG.

"CNG cylinder" means a cylinder or other container designed for use or used as part of a CNG system.

"CNG system" means a system of safety devices, cylinders, piping, fittings, valves, compressors, regulators, gauges, relief devices, vents, installation fixtures, and other CNG equipment intended for use or used in any building or commercial installation, or used in conjunction with a motor vehicle or mobile fuel system fueled by CNG, or any system or facilities designed to be used or used in the compression, sale, storage, transportation for delivery, or distribution of CNG in portable CNG cylinders, not including natural gas facilities, equipment, or pipelines located upstream of the inlet of a compressor devoted entirely to CNG.

"Commercial installation" means any CNG installation located on premises other than a single family dwelling used as a residence, including but not limited to a retail business establishment, school, convalescent home, hospital, retail CNG cylinder filling/exchange operation, service station, forklift refueling facility, or private motor/mobile fuel cylinder filling operation.

"Compressed natural gas" means natural gas which is a mixture of hydrocarbon gases and vapors consisting principally of methane (CH₄) in gaseous form that is compressed and used, stored, sold, transported, or distributed for use by or through a CNG system.

"Compressed natural gas vehicular fuel system" means an object or objects mounted, installed, attached or

otherwise placed upon or within a vehicle or vehicle trailer to supply or assist in the supply of compressed natural gas as a fuel to an internal combustion engine or engines.

"Container" means a pressure vessel, cylinder, or cylinders permanently manifolded together used to store CNG or LNG.

"Cylinder" means a container constructed, inspected, and maintained in accordance with DOT and Transport Canada regulations or ANSI/IAS NGV2, Basic Requirements for Compressed Natural Gas Vehicle (NGV) Fuel Containers

"DOT" means the United States Department of Transportation.

"Fuel supply cylinder" means a cylinder mounted upon a vehicle for storage of CNG as fuel supply to an internal combustion engine.

"Gallon Diesel Equivalent" or "Diesel Gallon Equivalent (DGE)" means an amount of a motor fuel that contains an average lower heating value of one hundred twenty-eight thousand (128,000) BTUs but in no case contains a lower heating value of less than one hundred twenty-four thousand (124,000) BTU's.

"Gallon Gasoline Equivalent" or "Gasoline Gallon Equivalent (GGE)" means an amount of a motor fuel that contains an average lower heating value of one hundred fourteen thousand (114,000) BTU's, but in no case contains a lower heating value of less than one hundred ten thousand (110,000) BTU's.

"Gallon Equivalent" means either a gallon diesel equivalent or a gallon gasoline equivalent.

"Liquefied Natural Gas (LNG)" means natural gas that has been liquefied at -259°F (-126.1°C) and stored in insulated cryogenic tanks for use as an engine fuel.

"LNG DGE" means 6.06 pounds of LNG.

"Location" means a site operated by a CNG licensee at which the licensee carries on an essential element of its CNG activities, but where the activities of the site alone do not qualify the site as an outlet.

"Manifold" means the assembly of piping and fittings used to connect cylinders.

"Mobile fuel container" means a CNG container mounted on a vehicle to store CNG as the fuel supply for uses other than motor fuel.

"Mobile fuel system" means a CNG system which supplies natural gas fuel to an auxiliary engine other than the engine used to propel the vehicle or for other uses on the vehicle.

"Motor vehicle" means every vehicle which is self-propelled and every vehicle which is propelled by electric power obtained from overhead trolley wires, but not operated upon rails; provided, however, the definition of "motor vehicle" herein shall not include implements of husbandry.

"Natural Gas" means compressed natural gas (CNG) or liquefied Natural Gas (LNG) as defined by this regulation.

"NFPA" means The National Fire Protection Association.

"NIST" means The National Institute of Standards and Technology.

"Outlet" means a site operated by a CNG licensee at which the business conducted materially duplicates the operations for which the licensee is initially granted a license.

"Person" means an individual, sole proprietor, partnership, firm, joint venture, association, corporation, or any other business entity, a state agency or institution, county, municipality, school district, or other governmental subdivision, public trust, or licensee.

"Proved" means the act of having verified the accuracy of dispensing equipment used to measure fuel and petroleum products using a "prover".

"Prover" means a calibrated volumetric receiver or mechanical device traceable to NIST standards.

"Representative" means the individual designated by an applicant or licensee as the principal individual in authority who is responsible for actively supervising the licensee's CNG activities.

380:80-1-4. Applicability and severability

(a) The provisions of this chapter apply to pressurized components of a compressed natural gas (CNG) system, and are applicable to both engine fuel systems and compression, storage, and dispensing systems.

(b) If any item, clause, or provision of these rules is for any reason declared invalid, the remainder of the provisions shall remain in full force and effect and shall in no way be affected, impaired, or invalidated.

(c) Nothing in these rules shall be construed as requiring, allowing, or approving the unlicensed practice of engineering or any other professional occupation requiring licensure.

380:80-1-5. Filings required for stationary CNG installations

(a) No CNG container shall be placed into CNG service or an installation operated or used in CNG service until the requirements of this section, as applicable, are met and the facility is in compliance with the rules in this chapter and all applicable statutes, in addition to any applicable requirements of the municipality or the county where an installation is or will be located.

(b) The licensee shall submit the following to the Department of Labor at least 30 days prior to construction:

- (1) Form AF-1;
- (2) a plat drawing from the appropriate appraisal district identifying the facility's property boundaries;
- (3) a site plan of sufficient scale that identifies:
 - (A) the location, types, and sizes of all containers already on site or proposed to be on site;
 - (B) the distances from the containers and material handling equipment to the property lines, buildings, and railroad, pipeline, or roadway rights-of-way; and
 - (C) any known potential hazards.

(4) the Alternative Fuels Installation Certification Fee.

(c) The Department of Labor shall notify the applicant in writing outlining its findings. If the application is administratively denied, the applicant may modify the submission and resubmit it or may request a hearing in accordance with Administrative Procedures Act.

(d) If the Department of Labor finds after a public hearing that the proposed installation complies with the rules in this

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chapter and the statutes of the State of Oklahoma, and does not constitute a danger to the public health, safety, and welfare, the Department of Labor shall issue an interim approval order. The construction of the installation and the setting of the container shall not proceed until the applicant has received written notification of the interim approval order. Any interim approval order shall include a provision that such approval may be suspended or revoked if:

- (1) the applicant has introduced CNG into the system prior to final approval; or
 - (2) a physical inspection of the installation indicates that it is not installed in compliance with the submitted plat drawing for the installation, the rules in this chapter, or the statutes of the State of Oklahoma; or
 - (3) the installation constitutes a danger to the public health, safety, and welfare.
- (e) If a CNG stationary installation, equipment, or appurtenances not specifically covered by the rules in this chapter has been or will be installed, the Department of Labor shall apply and require any reasonable safety provisions to ensure the CNG installation is safe for CNG service. If the affected entity disagrees with the Department of Labor's determination, the entity may request a hearing. The installation shall not be placed in CNG operation until the Department of Labor has determined the installation is safe for CNG service.
- (f) The Department of Labor shall review all applications within 21 business days of receipt of all required information and shall notify the applicant in writing of any deficiencies or whether the installation has been approved.
- (g) Applications shall expire and be renewed as follows:
- (1) When the Department of Labor notifies an applicant of an incomplete CNG Form AF-1, the applicant has 120 calendar days from the date of the notification letter to resubmit the corrected application or the application will expire. After 120 days, a new application shall be filed should the applicant wish to reactivate Department of Labor review of the proposed installation.
 - (2) If the applicant requests an extension of the 120-day time period in writing, postmarked or physically delivered to the Department of Labor before the expiration date, the application may be renewed for up to 90 days as determined by the Department of Labor.
 - (3) If the subject installation is not commenced, with permits pulled, within one year from the date of the Department of Labor's completed review, the applicant shall resubmit the application for the Department of Labor's review.
- (h) The applicant shall notify the Department of Labor in writing when the installation is ready for inspection. If the Department of Labor does not physically inspect the facility within 30 calendar days of receipt of notice that the facility is ready for inspection, the applicant may operate the facility conditionally until the initial complete inspection is made. If any safety rule violations exist at the time of the initial inspection, the applicant may be required to cease CNG operation until the applicant corrects the violations.

(i) If the Department of Labor determines the completed installation varies materially from the application originally accepted, the applicant shall correct the variance and notify the Department of Labor of the correction of the variance or re-submit the application. The Department of Labor's review of such resubmitted application shall comply with the procedure described in this section.

(j) Pressure vessels shall be subject to inspections pursuant to OAC 380:25-3.

380:80-1-6. Design and construction of cylinders, pressure vessels, and vapor recovery receivers

- (a) Fuel supply cylinders shall have a rated service pressure of not less than 3,000 psig at 70 degrees Fahrenheit. Cascade storage cylinders shall have a rated service pressure of not less than 3,600 psig at 70 degrees Fahrenheit.
- (b) Field welding or brazing for the repair or alteration of a cylinder or ASME pressure vessel may only be done by repair companies holding the required Certificate of Authorization from ASME or The National Board of Boiler and Pressure Vessel Inspectors, or in accordance with OAC 380:25-13-3.

380:80-1-7. Vehicle fueling connection

- (a) A vehicle fueling connection shall provide for the reliable and secure connection of the fuel system cylinders to a source of compressed natural gas (CNG).
- (b) The fueling connection shall be suitable for the pressure expected under normal conditions and corrosive conditions which might be encountered.
- (c) The fueling connection shall prevent escape of gas when the connector is not properly engaged or becomes separated.
- (d) The refueling connection on an engine fuel system shall be firmly supported, and shall:
 - (1) receive the fueling connector and accommodate the service pressure of the vehicle fuel system;
 - (2) incorporate a means to prevent the entry of dust, water, and other foreign material. If the means used is capable of sealing system pressure, it shall be capable of being depressurized before removal;
 - (3) have a different fueling connection for each pressure based vehicle fuel system.
- (e) Any vehicle that will be fueled by an automatic dispenser shall be equipped with a fueling connection that complies with ANSI/AGA NGV1, Requirements for Natural Gas Vehicles (NGV) Refueling Connection Devices, Requirement 1-90.

380:80-1-8. Application for an exception

- (a) A person may apply for an exception to the provisions of this chapter by filing a written application for an exception, along with supporting documentation, with the Department of Labor.
- (b) The application shall contain the following:
 - (1) the section number of any applicable rules or codes;

- (2) the type of relief desired, including the exception requested and any information which may assist the Department of Labor in comprehending the requested exception;
 - (3) a concise statement of facts which supports the applicant's request for the exception, such as the reason for the exception, the safety aspects of the exception, and the social and/or economic impact of the exception;
 - (4) for all stationary installations, a description of the acreage and/or address upon which the subject of the exception will be located. The description shall be in writing and shall include:
 - (A) a site drawing;
 - (B) sufficient identification of the site so that determination of property boundaries may be made;
 - (C) a plat from the applicable appraisal district indicating the ownership of the land; and
 - (D) the legal authority under which the applicant, if not the owner, is permitted occupancy.
 - (5) the name, business address, and telephone number of the applicant and of the authorized agent, if any;
 - (6) an original signature, in ink, by the party filing the application or by the authorized representative;
 - (7) a list of the names and addresses of all interested entities as defined in subsection (c) of this section.
- (c) The applicant shall provide notice of the application for an exception as follows:
- (1) The applicant shall send a copy of the written application and supporting documents by certified mail, return receipt requested, to all affected entities as specified in paragraphs (2), (3), and (4) of this subsection on the same date on which the form is filed with or sent to the Department of Labor. The applicant shall include a notice to the affected entities that any objection shall be filed with the Department of Labor within 30 calendar days of the date of postmark. The applicant shall file all return receipts with the Department of Labor as proof of notice.
 - (2) If an exception is requested on a stationary site, the affected entities to whom the applicant shall give notice shall include but not be limited to:
 - (A) persons and businesses owning or occupying property within a radius of 600 feet of the site;
 - (B) the city clerk or fire marshal, if the site is within municipal limits; and
 - (C) the Board of County Commissioners of the county where the site is located, if the site is not within any municipal limits.
 - (3) If an exception is requested on a nonstationary site, affected entities to whom the applicant shall give notice include but are not limited to:
 - (A) the Oklahoma Department of Transportation; and
 - (B) all CNG loading and unloading facilities utilized by the applicant.
 - (4) the Department of Labor may require an applicant to give notice to persons in addition to those listed in paragraphs (2) and (3) of this subsection if doing so will not prejudice the rights of any entity.

- (d) Objections to the requested exception shall be in writing, filed with the Department of Labor within 30 calendar days of the postmark of the application, and shall be based on facts that tend to demonstrate that, as proposed, the exception would have an adverse effect on public health, safety, or welfare. The Department of Labor may decline to consider objections based solely on claims of diminished property or aesthetic values in the area.
- (e) The Department of Labor shall review the application within 21 business days of receipt of the application. If the Department of Labor does not receive any objections from any affected entities as defined in subsection (c) of this section, the Commissioner of Labor may administratively grant the exception if the Commissioner of Labor determines that the installation, as proposed, does not adversely affect the health or safety of the public. The Department of Labor shall notify the applicant in writing after the end of the 30-day objection period and, if approved, the installation shall be commenced, with permits pulled, within one year from the date of approval and installed within two years from the date of approval. The Department of Labor shall also advise the applicant at the end of the objection period as to whether any objections were received and whether the applicant may proceed. If the Commissioner of Labor denies the exception, the Department of Labor shall notify the applicant in writing, outlining the reasons and any specific deficiencies. The applicant may modify the application to correct the deficiencies and resubmit the application or may request a hearing on the matter. To be granted a hearing, the applicant shall file a written request for hearing within 14 calendar days of receiving notice of the administrative denial.
- (f) A hearing shall be held when the Department of Labor receives an objection as set out in subsection (d) of this section from any affected entity, or when the applicant requests one following an administrative denial. The Department of Labor shall mail the notice of hearing to the applicant and all objecting entities by certified mail, return receipt requested, at least 21 calendar days prior to the date of the hearing. Hearings will be held in accordance with the Administrative Procedures Act and this chapter.
- (g) After hearing, exceptions to this chapter may be granted by the Department of Labor if the Department of Labor finds that granting the exception for the installation, as proposed, will not adversely affect the safety of the public.
- (h) A request for an exception shall expire if it is inactive for 90 calendar days after the date of the letter in which the applicant was notified by the Department of Labor of an incomplete request. The applicant may resubmit an exception request.

380:80-1-9. Report of CNG incident/accident

- (a) In case of an incident involving single release of compressed natural gas (CNG) during or following CNG transfer or during container transportation, or an accident at any location where CNG is the cause or is suspected to be the cause, the licensee owning, operating, or servicing the equipment or the installation shall notify the Department of Labor by telephone immediately after the licensee has knowledge of the incident or accident. Any loss of CNG which is less than 1.0% of the

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gross amount delivered, stored, or withdrawn need not be reported. Any individual reporting shall leave his or her name and telephone number where he or she can be reached for further information.

(b) The telephone notification required by this section shall be made to the Department of Labor's main telephone line and shall include the following information:

- (1) date and time of the incident or accident;
- (2) type of structure or equipment involved;
- (3) resident's or operator's name;
- (4) physical location;
- (5) number of injuries and/or fatalities;
- (6) whether fire, explosion, or gas leak has occurred;
and
- (7) whether gas is leaking.

380:80-1-10. Removal from CNG service

(a) If the Department of Labor determines that any compressed natural gas (CNG) cylinder constitutes an immediate danger to the public health, safety, and welfare, the Department of Labor shall require the immediate removal of the CNG by a properly licensed company to the extent necessary to eliminate the danger. If the Department of Labor determines that any CNG appliance, equipment, or system constitutes an immediate danger to the public health, safety, and welfare, the Department of Labor shall require the immediate disconnection by a properly licensed company of such appliance, equipment, or system from the CNG cylinder it services.

(b) If the affected entity disagrees with the placement of a warning tag, or with the Department of Labor's findings in subsection (a) of this section, the entity may request an investigation into the matter. The Department of Labor shall notify such entity of its finding. If the entity disagrees, the entity may request or the Department of Labor on its own motion may call a hearing. Such installation shall be brought into compliance or removed from service until such time as the final decision is rendered. All hearings and deadlines shall comply with the Administrative Procedures Act.

380:80-1-11. Filling unapproved containers prohibited

No licensee shall introduce compressed natural gas (CNG) into any container if he has knowledge or notice that such CNG container or system was not installed in accordance with the statutes of the State of Oklahoma, and with the rules and regulations in effect at the time of installation. Exception: This section does not apply to motor fuel or mobile fuel containers and systems installed on vehicles licensed in states other than Oklahoma, provided, however, that no licensee shall be required to introduce CNG into any container and/or system that the licensee reasonably believes to be unsafe.

SUBCHAPTER 3. DISPENSING SYSTEMS

380:80-3-1. Applicability

This subchapter applies to the design, construction, installation, and operation of cylinders, pressure vessels, compression equipment, and associated equipment used for storage and dispensing of compressed natural gas (CNG) as an engine fuel in fleet and automatic dispensing operations.

380:80-3-2. Dispenser accuracy

Each retail compressed natural gas (CNG) dispenser shall comply with the applicable weights and measures requirements of the Department of Labor, relating to dispensing accuracy.

380:80-3-3. Codes incorporated by reference

In addition to other codes adopted in this chapter, the following codes are incorporated by reference:

- (1) NIST Handbook 44 Specifications, Tolerances, and Other Technical Requirements for Weighing and Measuring Devices
- (2) NIST Handbook 130 Uniform Laws and Regulations in the Areas of Legal Metrology and Engine Fuel Quality

380:80-3-4. Retail dispensing of natural gas

All retail dispensing of natural gas used as a motor vehicle fuel from either fixed equipment or mobile refueling equipment, including vehicles, shall be operated and maintained in accordance with the applicable requirements of the codes adopted by this regulation.

380:80-3-5. Retail motor fuel dispensers inspection and testing

(a) All retail motor fuel dispensers (RMFDs) shall be suitable for their intended use, properly installed accurate and maintained in that condition by their owner/operator.

(b) All RMFDs shall be traceable to an active National Type Evaluation Program Certificate of Conformance prior to installation or use for commercial purposes.

(c) All RMFDs shall be capable of displaying delivered quantity in units of mass or gasoline or diesel gallon equivalents for calibration purposes. All adjustments and calibrations of RMFDs shall be made utilizing mass or gasoline or diesel gallon equivalent measurement standards.

(d) The Department of Labor shall be notified when any new or remanufactured RMFD is placed in service at a new or existing installation.

(e) No owner/operator of any RMFD shall use the RMFD for the measurement of natural gas unless it has been proved in a manner acceptable to the Department of Labor and sealed as correct by a state inspector or person or persons authorized by the Department of Labor.

(f) All RMFDs shall be proved and sealed as correct on an annual basis by either a state inspector or a person or persons authorized by the Department of Labor. Pursuant to these rules and National Institute of Standards and Technology (NIST) Handbook 44, all RMFDs must be accurate to within minus

2%. Any RMFD found to be calibrated at minus 4% or greater shall be sealed until it complies with this regulation.

(g) If any RMFD fails to comply with any of the provisions of this regulation, a state inspector shall seal it in such a manner as to prohibit its use, and it shall remain sealed until it complies with all of the provisions of this regulation.

(h) When an RMFD is brought back into compliance with this regulation, it may only be placed back in service by a state inspector or a person or persons authorized by the Department of Labor.

380:80-3-6. Retail dispensers for compressed natural gas

(a) All CNG kept, offered, exposed for sale, or sold at retail as a vehicle fuel, shall be in units of volume (gallons or gallon equivalents).

(b) Each retail dispenser of CNG shall be labeled as "Compressed Natural Gas."

(c) All retail CNG dispensers shall be labeled with the gallon equivalent conversion factor in terms of pounds. The label shall be permanently and conspicuously displayed on the face of the dispenser and shall have the statement "1 CNG Gasoline Gallon Equivalent (GGE) is equal to 5.660 lbs of CNG".

(d) CNG shall be dispensed into vehicle fuel containers with working pressures of 3,000 PSI (20,684 kPa) or 3,600 PSI (24,821 kPa). The dispenser shall be labeled 3,000 PSI, or 3,600 PSI corresponding to the pressure of the CNG dispensed by each fueling hose.

(e) NFPA labeling requirements also apply. Refer to NFPA 52.

(f) CNG fueling nozzles for use with vehicles less than 10,000 lb (4,500kg) GVWR shall comply with ANSI/AGA/CGA NGV 1.

380:80-3-7. Retail dispensers for liquefied natural gas

(a) For the purposes of this regulation, liquefied natural gas shall be identified by the term "Liquefied Natural Gas" or "LNG."

(b) All LNG kept, offered, exposed for sale or sold at retail as a vehicle fuel shall be in units of volume (gallons or diesel gallon equivalents [DGE's]).

(c) Each retail dispenser of LNG shall be labeled as "Liquefied Natural Gas."

(d) All retail LNG dispensers shall be labeled with the gallon equivalent conversion factor in terms of pounds. The label shall be permanently and conspicuously displayed on the face of the dispenser and shall have the statement "1 LNG Diesel Gallon Equivalent (DGE) is equal to 6.06 lbs of LNG."

(e) LNG automotive fuel shall be labeled with its automotive fuel rating in accordance with 16 CFR Part 306 (e.g. LNG 95% Methane).

(f) NFPA Labeling requirements also apply. Refer to NFPA 52.

380:80-3-8. Product quality

(a) CNG shall meet the requirements of NFPA 52 for product quality and odorization.

(b) CNG and LNG shall have a minimum methane content of not less than 80%.

(c) The BTU content of natural gas gallon equivalents shall meet the following requirements:

(1) A CNG GGE shall contain a lower heating value of not less than 110,000 BTU's.

(2) An LNG DGE shall contain a lower heating value of not less than 124,000 BTU's.

(d) All equipment, including filters and strainers, used to prevent any foreign material, including compressor oil or water, from being dispensed into a vehicle container, shall be periodically serviced and maintained.

(e) Any shipper of natural gas products to be used for retail motor fuel, who ships such product into the state of Oklahoma or ships natural gas products from one point within the state to another point within the state shall make records of such shipments available to the division upon request.

380:80-3-9. Inspection by Department of Labor

The Department of Labor shall have authority to have access to and inspect any equipment, including compression equipment and storage tanks, practices or methods used by or in association with any public access compressed natural gas fueling station or pump.

SUBCHAPTER 5. ALTERNATIVE FUELS PROGRAM

380:80-5-1. Purpose

The purpose of this chapter is to fulfill the mandate of Title 40 Section 142.10 by establishing rules in accordance with the Alternative Fuels Technician Certification Act.

380:80-5-2. Definitions

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

"Administrator" means the Program Administrator and Recording Secretary of the Committee.

"Agency" means the Department of Labor.

"Alternative fuels" means fuels which result in comparably lower emissions of oxides of nitrogen, volatile organic compounds, carbon monoxide, or particulate matter or any combination thereof and includes CNG, LPG, LNG, methanol, ethanol, reformulated gasoline and electricity.

"Alternative fuels compression technician" means any person who installs, services, modifies, repairs or renovates fill stations.

"Alternative fuels equipment technician" means any person who installs, modifies, repairs or renovates equipment used in the conversion of any engines to engines fueled by alternative fuels and includes OEM vehicles either dedicated to

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operate on an alternative fuel or manufactured bi-fueled, i.e., capable of operating on gasoline or an alternative fuel.

"Alternative Fuels Technician Certification Act" means O.S. Title 40, Section 142.1 through 142.16.

"Alternative fuels equipment trainee" means an individual who is employed by an Oklahoma licensed alternative fuels conversion company to assist an alternative fuels equipment technician and learn to properly convert motor vehicles to operate on alternative fuels and to service and maintain such vehicles.

"Capable of operating on an alternative fuel" means any motor vehicle converted or designed to operate on an alternative fuel.

"Charge station" means the physical device that provides a connection from a power source to an electric vehicle as defined by the Electric Power Research Institute, and the Society of Automotive Engineers.

"CNG" means compressed natural gas.

"Committee" means the Committee of Alternative Fuels Technician Examiners.

"Electric vehicle technician" means any person who installs, modifies, repairs, performs maintenance on, motors, controllers, on-board power sources, or the drive systems of vehicles powered by electricity. This includes vehicles originally equipped as electric vehicles, vehicles converted from gliders, and vehicles converted from internal combustion engine vehicles.

"Engine" means the propulsion system of a motor vehicle. Nothing in this definition is meant to cover any stationary engine.

"Fill station" means the property which is directly related to the delivery of compressed natural gas and/or liquefied natural gas into the fuel tank of a motor vehicle propelled by such fuel including the compression equipment and storage vessels for such fuel at the point where the fuel is delivered.

"Glider" means a vehicle built without an engine or fuel system for the purpose of converting it to an electric vehicle.

"Liquefied petroleum gas vehicular fuel systems" means an object or objects mounted, installed, attached or otherwise placed upon or within a vehicle or vehicle trailer to supply or assist in the supply of liquefied petroleum gas as a fuel to an internal combustion engine or engines.

"LNG" means liquefied natural gas.

"LPG" means liquefied petroleum gas otherwise known as propane and/or propane autogas.

"Motor vehicle" means every vehicle which is self-propelled and every vehicle which is propelled by electric power obtained from overhead trolley wires, but not operated upon rails; provided, however, the definition of "motor vehicle" herein shall not include implements of husbandry.

"NFPA" means the National Fire Protection Association.

"OEM" means original equipment manufacturers.

"Person" means individuals, corporations, partnerships, cooperatives, associations and governmental subdivisions.

"Trainee" means an individual who is employed by an Oklahoma licensed company to learn to properly engage in the activities regulated by this Chapter that can engage in any licensed category pursuant to this Chapter while under the direct

supervision of an individual holding the appropriate license in the category of activity being performed.

"Work" means any procedure involved in the physical installation or servicing of all components used in the conversion of motor vehicles to operate on alternative fuels and the servicing of original equipment manufacturers vehicles that operate on alternative fuels, including:

(A) **LPG and CNG components:**

- (i) tubing;
- (ii) fittings;
- (iii) valves;
- (iv) gauges;
- (v) brackets;
- (vi) fuel lines;
- (vii) cylinders;
- (viii) tanks; and
- (ix) electronic or electrical devices.

(B) **Electric vehicle components:**

- (i) traction battery packs or modules;
- (ii) motor controllers;
- (iii) subsystem controllers;
- (iv) inverters;
- (v) drive motors;
- (vi) auxiliary components powered by high voltage; and
- (vii) any high voltage circuits.

"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.

380:80-5-3. Duties and responsibilities of the Committee of Alternative Fuels Technician Examiners

(a) The Committee shall assist and advise the agency on all matters relating to the formulation of rules and standards in accordance with the Alternative Fuels Technician Certification Act.

(b) The Department of Labor or its designee shall administer the examination to applicants for certification as alternative fuels technicians provided that such examination is in accordance with the provisions of the Alternative Fuels Technician Certification Act.

380:80-5-4. Alternative Fuels Technician Certification Revolving Fund

(a) Funds derived from the "Alternative Fuels Technician Certification Act" shall be deposited with the State Treasurer and credited to the "Alternative Fuels Technician Certification Revolving Fund".

(b) The revolving fund shall be a continuing fund not subject to fiscal year limitations and shall be under the control and management of the Agency.

(c) Expenditures from this fund shall be made pursuant to the purposes of the Alternative Fuels Technician Certification Act and shall include, but not be limited to:

- (1) Payment of administrative costs and other operational costs supporting program existence; and,
- (2) Payment of the costs of programs designed to promote public awareness of the alternative fuels industry; and,
- (3) Expenditures for the preparation and printing of regulations, bulletins or other documents and the furnishing of copies of such documents to those persons engaged in the alternative fuels industry or the public.

SUBCHAPTER 7. TESTING, CERTIFICATION, AND RECERTIFICATION

380:80-7-1. Applications for examinations, certification or renewal of certification

- (a) All applications for certification or renewal of certification shall be made in writing to the agency on forms provided, if necessary, by the agency.
- (b) All applications for examination shall be made to a testing facility authorized by the Department of Labor.
- (c) All applications shall be accompanied by the appropriate fee as set forth in OAC 380:80-7-4.

380:80-7-2. Contents of application

The application shall be verified, and shall contain the following information, together with any additional information that the agency may require:

- (1) Name of the applicant;
- (2) Mailing Address;
- (3) Address of all locations that the applicant proposes to engage in the installation or modifications of vehicles using an alternative fuel; and
- (4) The type of service, set forth specifically, which the applicant intends to perform and the type of permit that the applicant seeks to secure, such as LPG, CNG, LNG, EV or other alternative fuel.

380:80-7-3. Certificate required by agency

The mere filing of an application for a certificate does not of itself authorize the engaging in any of the installations or modifications of any equipment listed in the definition of "Work" in OAC 380:80-5-2.

380:80-7-4. Fees

(a) The fee schedule for the Alternative Fuels Technician Certification Act is as follows:

- (1) Alternative fuels technician examination - \$50;
- (2) Alternative fuels technician certificate - \$50;
- (3) Company, partnership, or corporation - \$100;
- (4) Training program certification (one-time) - \$500;
- (5) Alternative fuels installation certification per location - \$1,000;

(6) Certificate renewal (if made within 30 days after expiration):

- (A) Alternative fuels technician certificate - \$50;
 - (B) Company, partnership, or corporation - \$100;
 - (C) Alternative fuels installation certification - \$1,000 per location;
 - (7) Penalty for late certification renewal - \$10.
- (b) Form of payment from non-governmental entities and general public.
- (1) Payment may be only in the form of:
 - (A) Certified funds;
 - (B) Business check;
 - (C) Personal check;
 - (D) Money order;
 - (E) Cashier's check; or
 - (F) Credit or debit card.
 - (2) Unguaranteed checks and 2-party checks shall not be accepted.
 - (3) Payment refunds. All payments received are non-refundable.

380:80-7-5. Processing and handling of applications and examinations

- (a) Applicants for a certificate will first apply for an examination directly to a Department of Labor authorized testing center. Upon passing the appropriate exam, applicants may apply to the Department of Labor for a certificate.
- (b) Examinations shall be administered in the following manner:
 - (1) Questions for an examination shall be selected from appropriate sources deemed applicable by the committee.
 - (2) Questions shall be multiple choice. The format of examination questions shall be varied and include multiple choice and true/false.
 - (3) Prior to being put into the reservoir, the questions shall be reviewed by the committee.
 - (4) For each examination, a total of 75 questions shall be drawn from the reservoir.
 - (5) Applicants testing during a scheduled examination session will not be given identical versions of the examination.
 - (6) Examinations for certification as alternative fuels technician shall be uniform and practical in nature as determined by the committee for alternative fuels technician certification and shall be sufficiently strict to test the qualifications and fitness of the applicants for certification.
 - (7) An oral examination may be administered by prior arrangement.
 - (8) A minimum score of eighty percent (80%) correct shall be a passing grade for all examinations.
 - (9) 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 thirty (30) days.

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(10) All applicants can petition the agency if they feel the agency's grade was incorrect. An applicant may petition the agency if the applicant disagrees with his or her examination grade issued by the agency.

(11) All decisions of the committee are final, subject to the provisions of the Administrative Procedures Act.

(12) Applicants that pass the examination and are notified by the Department of Labor of such must make arrangements for certification within ninety (90) days of such notification.

(13) If such applicant has not been certified within one year of notification under OAC 380:80-7-5(b)(12), the applicant must retest prior to their certification.

(14) The agency shall enforce the provisions of this section.

(c) Applicants for an alternative fuels trainee certificate shall submit an alternative fuels trainee certificate application directly to the Department of Labor.

380:80-7-6. Certificate qualification and transfer or loan of certificate

(a) The Agency issues a certificate as:

(1) An alternative fuels equipment technician to any person who has been certified by the Agency as either having successfully passed the appropriate examination or having a valid license or certificate issued by another governmental entity with licensing or certification requirements similar to those provided in the Alternative Fuels Technician Certification Act. Alternative fuels equipment technician certifications are issued for the following alternative fuels, each with a separate certification:

(A) Compressed natural gas equipment technician;

(B) Liquefied natural gas equipment technician;

(C) Liquefied petroleum gas equipment technician;

(D) Electric vehicle equipment technician;

(E) Hydrogen alternative fuel equipment technician; and

(F) Liquid alternative fuels, not derived from natural gas, equipment technician.

(2) An alternative fuels compression technician to any person who has been certified by the Agency as either having successfully passed the appropriate examination or having a valid license or certificate issued by another governmental entity with licensing or certification requirements similar to those provided in the Alternative Fuels Technician Certification Act.

(A) Level 1 (Operator) Alternative fuels compression technician certifications are issued for the following alternative fuels, each with a separate certification:

(i) Compressed natural gas compression technician;

(ii) Liquefied natural gas compression technician;

(iii) Liquefied petroleum gas compression technician;

(iv) Electric vehicle charge station technician;

(v) Hydrogen compression technician; and

(vi) Liquid alternative fuels, not derived from natural gas, compression technician.

(B) The training and examination requirements for a Level 1 (Operator) certification shall include, but not be limited to, completing a Level 1 operator training course conducted by an approved training facility with an approved training program, passing an approved Level 1 written exam, and passing an approved Level 1 skills test.

(C) Level 1 licensees shall be permitted to perform routine maintenance upon fill stations, per the fill station manufacturer or component manufacturer's routine maintenance guidelines. Level 1 licensees shall also be permitted to conduct routine safety inspections of fill stations per the fill station manufacturer or component manufacturer's safety inspection guidelines.

(D) Level 2 (Mechanic) Alternative fuels compression technician certifications are issued for the following alternative fuels, each with a separate certification:

(i) Compressed natural gas compression technician;

(ii) Liquefied natural gas compression technician;

(iii) Liquefied petroleum gas compression technician;

(iv) Electric vehicle charge station technician;

(v) Hydrogen compression technician; and

(vi) Liquid alternative fuels, not derived from natural gas, compression technician.

(E) The experience, training, and examination requirements for a Level 2 (Mechanic) certification shall include, but not be limited to:

(i) Possessing at least three total years of experience consisting of:

(I) One year of documentable experience with an associate's degree in Natural Gas Compression; or

(II) One year of documentable experience with approved industry certifications as approved by the Committee; or

(III) Three years of documentable experience without the aforementioned education or industry certification. This requires a signed affidavit from current and/or former employer(s) to verify experience.

(ii) Passing an approved Level 2 written exam.

(iii) Passing an approved Level 2 skills test.

(F) Level 2 licensees may perform all duties necessary to install, repair, replace, service, inspect, modify, and/or maintain a fill station. Nothing in these rules shall entitle a licensee to perform work without all licenses required by law.

(b) The agency shall have the authority to determine the validity of a certificate issued by another governmental entity.

(c) The agency shall assess the required certification fee and ascertain that an applicant has also complied with the provisions of the Alternative Fuels Technician Certification Act.

(d) In the case of a company, partnership, or corporation engaged in the business of installing, servicing, repairing, modifying or renovating equipment used in the conversion of engines to engines fueled by alternative fuels, a separate certificate shall be issued by the agency to that individual company, partnership, or corporation. The certificate is for the purpose of recognizing that the company, partnership, or corporation is an authorized alternative fuels business and employs state-certified alternative fuels technicians.

(e) Any violation by a certified alternative fuels equipment or compression technician shall be deemed a violation by the certified company, partnership or corporation employing such certified technician.

(f) The agency shall issue an alternative fuels equipment installation certification to any public entity or private company, partnership or corporation that operates commercial, private or public fleets of vehicles and employs ten (10) or more auto service technicians per location. The certification shall be based on the ability of the applicant to provide their own alternative fuels technician training program, which shall be certified by the committee. This certification applies only to the conversion or service of vehicles owned or operated by such public entity or private company, partnership or corporation.

(g) All alternative fuels technician equipment or compression certificates shall be non-transferable.

(h) It shall be unlawful for any person certified pursuant to the provisions of the Alternative Fuels Technician Certification Act to loan or allow the use of such certificate by any other person.

(i) A certificate which has been expired for more than two (2) years shall not be renewed. A valid certificate may be obtained by successful completion of the appropriate examination and/or certification and other licensure requirements.

380:80-7-7. Alternative fuels trainees

(a) An alternative fuels trainee shall be employed by a licensed Oklahoma alternative fuels conversion company.

(b) A trainee shall work under the direct supervision of a licensed alternative fuels equipment technician.

(c) There shall be no more than two (2) alternative fuels trainees per licensed alternative fuels equipment technician at any licensed Oklahoma alternative fuels conversion company.

(d) An individual that holds a trainee license can engage in any licensed category pursuant to this Chapter while under the direct supervision of an individual holding the appropriate license in the category of activity being performed.

(e) An alternative fuels trainee must submit a trainee application to the Department of Labor within fifteen (15) business days of being hired by a licensed alternative fuels conversion company.

380:80-7-8. Change of address of holder of certificate or registration

Any holder of a certificate or registration issued in accordance with the provisions of the Alternative Fuels Technician Certification Act shall notify the agency in writing of any change in such holders address no later than thirty (30) days of such change.

380:80-7-9. Insurance requirements

A certificate shall not be issued to any applicant unless and until the agency has received proof of insurance as required by this section.

(1) Alternative fuels conversion companies, partnerships, or corporations engaged in the installation, modification, repair, maintenance, or renovation of alternative fuel equipment are required to have on file with the agency proof of certificate holders liability insurance coverage, with limits of not less than one million dollars (\$1,000,000.00) general liability, in full force and effect covering the plant, garage, equipment and motor vehicles used in such business. Proof of self insurance by governmental entities will also be accepted.

(2) Insurance under this section shall be kept and remain in force during the lifetime of the certification issued hereunder. An insurance certificate or certificates showing that the required insurance coverage is in force must be filed with the agency.

(3) Such insurance coverage will not be canceled or terminated unless written notice of such cancellation or termination is given to the agency thirty (30) days prior to cancellation date.

(4) Nothing in this section shall be deemed or construed to require product liability insurance coverage.

(5) If in the event insurance is canceled and the agency is not notified within the thirty (30) day period or not provided with proof of insurance renewal, the agency may revoke or suspend the certificate.

380:80-7-10. Guidelines for certificate renewal

(a) Each licensee's certificate(s) issued under the agency shall expire on the last day of the licensee's birth month each year.

(b) A late fee of Ten Dollars (\$10.00) will be charged thirty (30) days after the last day of the licensee's birth month. At such time re-testing will be required in order to be certified.

(c) The certification(s) of a licensee renewing his or her certification(s) after September 1, 2015 shall expire on the last day of the licensee's next birth month. The certification fee(s) shall be prorated such that the licensee will pay 1/12 of the annual certification fee(s) for each month from September 2015 up to and including the month of the licensee's birth. The licensee's certification(s) will thereafter expire annually on the last day of the licensee's birth month.

(d) At the time of recertification of a company, partnership, or corporation, proof of insurance coverage will be required as part of the process.

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(e) All applications for examination for the renewal of certification shall be made in writing to the agency on forms provided, if necessary, by the agency.

(f) All applications shall be accompanied by the appropriate fee as set forth in section 380:80-7-4.

SUBCHAPTER 9. STANDARDS FOR ALTERNATIVE FUELS TECHNICIANS - CONVERSION AND COMPRESSION

380:80-9-1. Work of alternative fuels technician by non-certified person

(a) From and after September 1, 1991, it shall be unlawful for any person to perform the work or offer, by advertisement or otherwise, to perform the work of an alternative fuels technician until such person is certified as an alternative fuels technician by the agency. All advertisements to perform the work of an alternative fuels conversion company must display the company's license number.

(b) Nothing in this Chapter shall prevent a non-certified person from converting the engine of a farm tractor, as defined in s 1-118 of Title 47 of the Oklahoma Statutes, to an engine fueled by alternative fuels, as long as such farm tractor is not operated on the roads and highways of this state.

(c) Activities directly related to normal, vehicle maintenance and service are exempt from the definition of work. It is not the intent of this section to prevent any individual, corporation, company from servicing, repairing or maintaining general systems not directly related to the alternative fuel delivery system.

(d) Non-certified individuals participating in an agency authorized training program, under the guidance of a state certified instructor, are exempt from the certification requirement during the training period.

380:80-9-2. Standards for equipment installation and inspection

(a) The standards for the equipment installation and inspection of liquefied petroleum gas vehicular fuel systems adopted by NFPA are published in its pamphlet No. 58 and are adopted as the standards for this state.

(b) The standards for the equipment installation and inspection of compressed natural gas and liquid natural gas vehicular fuel systems adopted by NFPA are published in its pamphlet No. 52 and are adopted as the standards for this state.

380:80-9-3. Decals and conversion reporting procedure

(a) After an alternative fuel conversion or modification of equipment is completed for any motor vehicle, the technician shall affix a blue CNG diamond, black propane diamond or green EV diamond, whichever is applicable, according to NFPA pamphlet No. 52.

(b) No certified technician shall install, service, repair or modify any motor vehicle, capable of operating on an alternative fuel that does not have the required decals.

(c) Converted alternative fueled vehicles shall have placed on the vehicle, decals & labels required by NFPA and the following:

(1) The date of installation;

(2) The name of the installing technician; and,

(3) State of Oklahoma Certification number of the alternative fuels equipment technician.

(4) The expiration date of time sensitive parts and components used in the conversion.

(5) Converted vehicle information: year, make, model, and vehicle identification number (VIN).

(d) The following reporting procedure must be performed after each vehicle conversion:

(1) On forms, provided by the Administrator, each vehicle converted shall be reported to the Administrator by the alternative fuels technician. Information deemed necessary by the agency shall be included on the form. These forms must be sent to the Administrator no later than ten (10) days after the completion of the conversion. Photocopying of these forms is permissible.

(2) The penalty for failure to comply with OAC 380:80-9-3(d)(1) shall be determined by the Agency.

SUBCHAPTER 11. VIOLATIONS

380:80-11-1. Alternative Fuels Technician Examiners; complaints, investigations, false or fraudulent representation, suspension or revocation of certificate

(a) The Commissioner of Labor or designee may suspend or revoke any license, certificate or registration for cause upon recommendation of the Committee of Alternative Fuels Technician Examiners and shall comply with the provisions of the Administrative Procedures Act.

(b) The Commissioner of Labor or designee may, upon the motion of the Commissioner or designee, and shall, upon written complaint filed by any person, investigate the business transactions of any certified alternative fuels equipment or compression technician or electric vehicle technician. The results of the investigation may be presented to the Committee and the Committee may recommend suspension or revocation of the license, certificate, or registration.

(c) The Commissioner of Labor or designee shall suspend or revoke any certificate or registration obtained by false or fraudulent representation.

(d) The Commissioner of Labor or designee shall also suspend or revoke any certificate or registration for any of the following reasons:

(1) Making a material misstatement in the application for a certificate or registration, or the renewal of a certificate or registration;

(2) Loaning or illegally using a certificate;

(3) Demonstrating incompetence to act as an alternative fuels equipment or compression technician;

(4) Violating any provisions of the Alternative Fuels Technician Certification Act, or any rule or order prescribed by the agency; or

- (5) Willfully failing to perform normal business obligations without justifiable cause.
- (e) The General Counsel of the Agency may elect to delegate the investigation to a person or persons of his choice.
- (f) Investigations are to be secret until presented to the Committee for recommendations.
- (g) Upon the review of the facts of the investigation, the Committee may determine whether or not to hear a case.
- (h) The Committee and its activities shall comply with the Administrative Procedures Act.
- (i) Any person whose Alternative Fuels Equipment or Compression Technician Certificate has been revoked by the Commissioner of Labor or designee may apply for a new certificate one (1) year from the date of such revocation.

380:80-11-2. Violations; criminal penalties

- (a) Any person convicted of violating any provision of the Alternative Fuels Technician Certification Act shall be guilty of a misdemeanor.
- (b) The continued violation of any provision of the Alternative Fuels Technician Certification Act during each day shall be deemed to be a separate offense.
- (c) Upon conviction thereof the person shall be punished by imprisonment in the county jail not to exceed one (1) year, or by a fine of not more than one thousand dollars (\$1,000.00) or by both such fine and imprisonment for each offense.
- (d) If the Commissioner of Labor or designee makes a determination of a violation, it may request the appropriate district attorney to prosecute such violation and seek an injunction against such practice.

380:80-11-3. Violations to public safety

- (a) Pursuant to the authority of 47 O.S. §12-101 A. 1., 47 O.S. §13-101, it shall be unlawful for any person to operate on any highway:
 - (1) A vehicle that has not been converted according to, or does not meet the standards stated in section 380:80-9-2;
 - (2) An OEM alternative fueled vehicle that fails the manufacturer's standards.
- (b) An alternative fuels technician shall notify the Administrator within three (3) business days of any instance where the driver and/or owner of a vehicle that was found unsafe refused to correct safety issues with a vehicle.

380:80-11-4. Violations; civil penalties; determination of penalty amount; surrender of certificate in lieu of fine

- (a) Any person who has been determined by the Commissioner of Labor or designee to have violated any provision of the Alternative Fuels Technician Certificate Act or any rule or order issued pursuant to the provisions of the Alternative Fuels Technician Certification Act may be liable for a civil penalty of not more than one hundred dollars (\$100.00) for each day that said violation occurs.
- (b) The maximum civil penalty shall not exceed ten thousand dollars (\$10,000) for any related series of violations.

- (c) The amount of the penalty shall be assessed by the Commissioner of Labor or designee pursuant to the provisions of OAC 380:80-11-1, after notice and hearing.
- (d) In determining the amount of the penalty, the Commissioner of Labor or designee shall include, but not be limited to, consideration of the nature, circumstances, and gravity of the violation and, with respect to the person or persons found to have committed the violation, the degree of culpability and any show of good faith in attempting to achieve compliance with the provisions of the Alternative Fuels Technician Certification Act.
- (e) All monies collected from such civil penalties shall be deposited with the State Treasurer of Oklahoma and placed in the Alternative Fuels Technician Certification Revolving Fund.
- (f) Any certificate holder may elect to surrender his certificate in lieu of said fine but shall be forever barred from obtaining a reissuance of said certificate.

[OAR Docket #16-543; filed 6-16-16]

**TITLE 395. OKLAHOMA LAW ENFORCEMENT RETIREMENT SYSTEM
CHAPTER 10. RETIREMENT AND PENSION BENEFIT PROGRAM**

[OAR Docket #16-580]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

395:10-1-9.1. Purchase price payments/transfer of credited service [AMENDED]

AUTHORITY:

Title 47 § 2-300 - 2-315; Oklahoma Law Enforcement Retirement Board

SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:

December 18, 2015

COMMENT PERIOD:

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PUBLIC HEARING:

None requested

ADOPTION:

February 18, 2016

SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:

February 19, 2016

APPROVED BY GOVERNOR'S DECLARATION:

Approved by Governor's declaration on June 9, 2016

FINAL ADOPTION:

June 9, 2016

EFFECTIVE:

September 11, 2016

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATION BY REFERENCE:

n/a

ANALYSIS:

The purpose of these amendments is to get our rules in compliance with IRS regulations.

CONTACT PERSON:

Ginger Sigler, Executive Director, 421 NW 13th Street, Ste 100, Oklahoma City, OK 73103, 405-522-4931.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED

Permanent Final Adoptions

FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 11, 2016:

395:10-1-9.1. Purchase price payments/transfer of credited service

(a) An active member of the System may elect the payment of the actuarial purchase price, repayment of a previous withdrawal or any other purchase or repayment permitted and authorized by the statutes governing the System, to be amortized in monthly installments to the extent allowed by law.

(1) A payment schedule may be established allowing the member to make monthly payments through payroll deductions by the member's employer if the employer agrees to make the deductions and remit payment to the System. Payments remitted by an employer for its employees must be kept separate from employer's regular retirement contributions or any other payments to the System. Such payments do not qualify as "pre-tax" contributions under "employer pick-up" provisions of Section 414(h) of the Internal Revenue Code.

(2) The installment payment schedule provided for in this section must be in monthly increments. The minimum total monthly payment is \$25.00. The member shall be responsible for maintaining the payment schedule. The payment due date will be based on the payroll schedule set by the member's employer. Any installment not paid within sixty (60) days of the due date will result in termination of the installment payment schedule with the member given the option of paying the balance of the actuarial purchase price with interest due through date of payment or receiving partial credit for payments made under the installment schedule as provided for in subsection (4) of this section.

(3) The monthly payment will be determined by amortizing the total amount due for the service to be purchased over the period of the installment schedule using an interest rate equal to the actuarially assumed interest rate adopted by the Board of Trustees for investment earnings for the year in which the payment schedule is commenced.

(4) If the installment payment is terminated for any reason, including termination of employment, death of the member or by cessation of payments, the member or his beneficiary will have the option of paying the remaining balance within the original contract period. In the event the actuarial purchase price is paid prior to the end of the contract period, the amount to be paid shall be the balance of the actuarial purchase price with interest due through the date of payment. If the balance is not paid, the member will receive credit for service prorated for only the actuarial purchase price paid and rounded to the last full month paid for. No refunds will be paid to the member.

(5) Credit for service purchased on an installment schedule will not be added to the member's account until the entire balance is paid, except as provided for in subsection (4) of this section. All payments must be completed in the month prior to the effective retirement date of the

member. If any member or beneficiary elects to pay the balance, during the original contract period provided for in subsection (4) of this section, no benefits will be payable until the completion of the original contract period, or receipt of a signed waiver. In no event will retroactive benefit payments be made, and the effective retirement date will be adjusted to the first day of the month following the completion of payments or receipt of waiver.

(6) Payments may be made directly to the System by the member, or beneficiary of the member who is in an unpaid leave status, in the following circumstances:

(A) if payroll is insufficient to handle the entire payment,

(B) in the event of payroll error where employer fails to withhold the proper amount, or

(C) during the original contract period referred to in subsection (4) of this section.

(7) If the purchase is terminated for any reason, the purchase cannot be made at anytime in the future, following the original contract period referred to in subsection (4) of this section. By failing to complete this purchase, the member or beneficiary forfeits the right to the purchase at any other time.

(b) In lieu of installment payments (for a purchase where installment payments are otherwise allowed by Oklahoma state statutes), an active member may elect to make the payment of the actuarial purchase price, repayment of a previous withdrawal, purchase of previous non-participating service, or any other eligible purchase or repayment permitted and authorized by the statutes governing the System by use of a direct trustee-to-trustee transfer of non-Roth funds from a qualified plan described in Section 401(a) of the Internal Revenue Code of 1986, as amended.

(c) ~~Effective January 1, 2002,~~ In lieu of installment payments (for a purchase where installment payments are otherwise allowed by Oklahoma state statutes), an active member may elect to make the payment of the actuarial purchase price, repayment of a previous withdrawal, purchase of previous non-participating service, or any other eligible purchase or repayment permitted and authorized by the statutes governing OLERS by use of a direct trustee-to-trustee transfer of non-Roth funds from an eligible 457(b) plan and/or a 403(b) tax sheltered annuity program.

(d) Notwithstanding (b) and (c) of this subsection above, purchases may be made by a cash lump sum payment of the actuarial purchase price with interest due through the date of payment, installment payments (where otherwise allowed by Oklahoma state statutes), and/or by trustee-to-trustee transfer of non-Roth funds as described in (b) and (c) above.

(e) OLERS will transfer credited service to another state retirement system upon request of a former member. Upon transfer, the former member will have forfeited all rights in OLERS.

(f) The purchase of service or transfer of credited service shall be completed in the time and manner prescribed by the Board.

[OAR Docket #16-580; filed 6-17-16]

TITLE 429. OKLAHOMA LOTTERY COMMISSION CHAPTER 10. RETAILER PROVISIONS

[OAR Docket #16-682]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

429:10-1-10. [AMENDED]

AUTHORITY

Oklahoma Lottery Commission, 3A O.S., Section 709 and Section 710.

SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:

December 23, 2015

COMMENT PERIOD:

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ADOPTION:

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SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:

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APPROVED BY GOVERNOR'S DECLARATION:

Approved by Governor's Declaration on June 9, 2016

FINAL ADOPTION:

June 9, 2016

EFFECTIVE:

October 9, 2016

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

ANALYSIS:

Rule 429: 10: The rule change will modify the permanent operating rules for the Lottery Commission by amending Section 10, related to settlement and retailer invoicing. Authority is granted by the Oklahoma Statutes, Title 3A, Section 709 and Section 710.

CONTACT PERSON:

Rollo Redburn, Executive Director, Oklahoma Lottery Commission, 3817 N. Santa Fe, Oklahoma City, OK 73118-8508, 405-522-7700, Rollo.Redburn@lottery.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 OCTOBER 9, 2016:

429:10-1-10. Settlement and retailer invoicing

(a) The accounting period for purposes of preparing retailer invoices shall be weekly from Saturday at 12:00 midnight through the following Saturday at 11:59:59 p.m.

(b) All packs of instant tickets activated in an accounting period and for which the prize validation requirements specified in (c) of this Section have occurred, and all sales of online game tickets occurring within the accounting period will be invoiced to the retailer, less any retailer commissions and/or OLC authorized adjustments. The retailer invoice will be available through the OLC lottery sales terminal after 4:00 a.m. on Monday, immediately following the end of the accounting period.

(c) For instant games, retailers may select one of the following three (3) settlement options. Retailers may select a settlement option during the initial contract process and may change the option only on their annual renewal date and only if they advise the OLC of their desire to change the option no later than two (2) weeks prior to their annual renewal date.

(1) Settlement Option 1: all ticket packs activated by the retailer or by the OLC on behalf of the retailer for which eighty percent (80%) of the winning low-tier tickets contained in the pack have been validated by the end of the previous accounting period will be included in the current retailer weekly invoice. Any pack which has been activated for a period of thirty (30) days will be invoiced to the retailer, even if eighty percent (80%) of the pack's winning low-tier tickets have not been validated. In the event a retailer activates concurrently two or more instant game packs from the same game, the first pack activated will be included in the current retailer weekly invoice regardless of how many low-tier tickets have been validated from the first, except in situations where the retailer has two or more selling locations within the same retail business, in which case the first pack activated will be included in the current retailer weekly invoice when the third or subsequent pack of that game is activated, regardless of how many low-tier tickets have been validated from the first pack.

(2) Settlement Option 2: all ticket packs will be settled 21 days after activation, at which time such settled packs will be included on the weekly invoice for the week in which they were settled. In the event a retailer activates concurrently two or more instant game packs from the same game, the first pack activated will be included in the current retailer weekly invoice, except in situations where the retailer has two or more selling locations within the same retail business, in which case the first pack activated will be included in the current retailer weekly invoice when the third or subsequent pack of that game is activated.

(3) Settlement Option 3: all ticket packs will be settled immediately on activation, at which time such settled packs will be included on the weekly invoice for the week in which they were settled.

(d) The retailer invoice will provide a calculation of the proceeds due the OLC. The proceeds will be equal to the retail value of instant game ticket packs, plus the retail value of on-line ticket sales, less applicable sales or cashing commissions, less any winning tickets paid by the retailer during the accounting period, plus or minus any adjustments to the retailer account authorized by OLC.

(e) For purposes of calculating the retailer invoice, free ticket prizes validated by the retailer shall have the same value as the applicable retail value of free ticket(s) provided to the claimant.

[OAR Docket #16-682; filed 7-8-16]

Permanent Final Adoptions

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

[OAR Docket #16-655]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 1. General Provisions

435:20-1-1.1. Definitions [AMENDED]

Subchapter 3. Licensure of Physical Therapist and Assistants

435:20-3-2. Criteria for Disqualification as a Physical Therapist [AMENDED]

435:20-3-3. Criteria for Disqualification as a Physical Therapy Assistant [AMENDED]

Subchapter 5. Regulation of Practice

435:20-5-8. Unprofessional Conduct - Grounds for disciplinary action [AMENDED]

AUTHORITY:

59 O.S. § 887.5.A(1); Oklahoma Board of Medical Licensure and Supervision

SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:

December 3, 2015

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Approved by Governor's declaration on June 9, 2016

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June 9, 2016

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September 12, 2016

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

ANALYSIS:

Pursuant to the law passed under Title 59 O.S. 2011 § 887.13, definitions were added and language revised regarding applicants who have been convicted of a felony.

CONTACT PERSON:

Barbara J. Smith, Executive Secretary, Oklahoma State Board of Medical Licensure and Supervision, 101 NE 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 12, 2016:

SUBCHAPTER 1. GENERAL PROVISIONS

435:20-1-1.1. Definitions

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

"**Alternate Supervising Physical Therapist**" means the physical therapist who temporarily provides direct or general supervision of a physical therapist assistant or applicant for licensure in the absence of the supervising physical therapist and who will be identified in the medical record as the therapist of record.

"**CAPTE**" means the Commission on Accreditation of Physical Therapy Education.

"**Examination/Evaluation**" means a comprehensive visit by the physical therapist, in the presence of the patient, to determine the plan of care, based on the physical therapist's clinical judgments, which are supported by the data gathered during the examination.

"**Foreign-educated physical therapist**" means a physical therapist who graduated from any physical therapy education program outside the United States.

"**General supervision**" means the responsible supervision and control of the practice of the licensed physical therapist assistant by the supervising physical therapist. The supervising therapist is regularly and routinely on-site, and every three months will provide a minimum of one (1) co-treatment of face to face, real time interaction with each physical therapist assistant providing services with his/her patients. These co-treatments will be documented in the medical record and on a supervision log, which is subject to inspection. When not on-site, the supervising therapist is on call and readily available physically or through direct telecommunication for consultation.

"**Group Setting**" means two or more physical therapists providing supervision to physical therapist assistants in the same practice setting or physical facility.

"**Immediate Supervision**" means the supervising physical therapist or physical therapist assistant is on the premises and in attendance when patient care is being delivered.

"**On-site supervision**" or "**Direct supervision**" means the supervising physical therapist is continuously on-site and present in the department or facility where services are provided, is immediately available to the person being supervised and maintains continued involvement in appropriate aspects of each treatment session in which assistive personnel are involved in components of care.

"**Physical Therapist**" means a licensed professional health care worker who is a graduate of a program accredited by the Commission on Accreditation of Physical Therapy Education or approved successor organization, and who provides physical therapy services including evaluation, treatment program design/management/ modification, and supervision of delegated portions of a treatment program.

"**Physical Therapist Assistant**" means a licensed technically educated health care provider who is a graduate of a program accredited by an agency recognized by the Commission on Accreditation of Physical Therapy Education or approved successor organization, and who performs selected physical therapy procedures and related tasks under the direction and supervision of a Physical Therapist.

"**Physical Therapist of Record**" means the physical therapist who assumes the responsibility for the provision and/or supervision of physical therapy services for a patient,

and is held accountable for the coordination, continuation and progression of the plan of care.

"Physical Therapy Aide" means a person on-the-job trained and working under the immediate supervision of a physical therapist or physical therapist assistant who performs designated and supervised routine tasks as outlined in 435:20-7-1.

"Poses a reasonable threat" means the nature of criminal conduct for which the person was convicted involved an act or threat of harm against another and has a bearing on the fitness or ability to serve the public or work with others in the occupation.

"Practice Setting" means the type of service delivery such as acute care, outpatient, inpatient rehabilitation, long term care, home health, educational settings or DDSD.

"Re-examination/Re-evaluation/Assessment" means visits by the physical therapist, in the presence of the patient, to assess the patient's current status, gather additional data, and update the plan of care.

"Substantially relates" means the nature of criminal conduct for which the person was convicted has a direct bearing on the fitness or ability to perform one or more of the duties or responsibilities necessarily related to the occupation.

"Supervision" means the physical therapist is delegating portions of the patient's care to licensed personnel or applicants for licensure but remains accountable for the coordination, continuation and progression of the care of the patient.

"Supervising Physical Therapist" means the physical therapist of record who provides either direct or general supervision for a physical therapist assistant or applicant for licensure and delegates components of patient care to that person.

SUBCHAPTER 3. LICENSURE OF PHYSICAL THERAPISTS AND ASSISTANTS

435:20-3-2. Criteria for disqualification as a physical therapist

No license will be issued to a Physical Therapist who has:

- (1) Provided Physical Therapy treatment other than upon referral of a duly licensed physician or surgeon, dentist, chiropractor or podiatrist.
- (2) Used drugs or alcohol excessively, affecting competence or judgment, unless is able to provide satisfactory evidence of rehabilitation and participation efforts;
- (3) Been convicted of a felony crime that substantially relates to the occupation of physical therapy or poses a reasonable threat to public safety or of a misdemeanor crime involving moral turpitude;
- (4) Been adjudged mentally incompetent unless competency has been legally re-established;
- (5) Conducted himself/herself in a manner considered improper by recognized acceptable standards of moral and ethical conduct.

435:20-3-3. Criteria for disqualification as a physical therapy assistant

No license will be issued to a Physical Therapy Assistant who has:

- (1) Practiced other than under the direction and supervision of a licensed Physical Therapist;
- (2) Used drugs or alcohol excessively, affecting competence or judgment, unless is able to provide satisfactory evidence of rehabilitation and participation efforts;
- (3) Been convicted of a felony crime that substantially relates to the occupation of physical therapy or poses a reasonable threat to public safety or of a misdemeanor crime involving moral turpitude;
- (4) Been adjudged mentally incompetent unless competency has been legally re-established;
- (5) Conducted himself/herself in a manner considered improper by recognized acceptable standards of moral and ethical conduct.

SUBCHAPTER 5. REGULATION OF PRACTICE

435:20-5-8. Unprofessional conduct - Grounds for disciplinary action

(a) The Physical Therapy Advisory Committee may recommend to the Board to revoke or take other disciplinary action against a licensee or deny a license to an applicant for unprofessional conduct.

(b) Acts that constitute unprofessional conduct include, but are not limited to:

- (1) Procuring aiding or abetting a criminal operation.
- (2) Habitual intemperance or the habitual use of habit-forming drugs.
- (3) ~~Conviction~~ Been convicted of a felony crime that substantially relates to the occupation of physical therapy or poses a reasonable threat to public safety or of a misdemeanor crime involving moral turpitude of a felony or of any offense involving moral turpitude.;
- ~~(4) Conviction or confession of a crime involving violation of the laws of this state.~~
- ~~(45)~~ Dishonorable or immoral conduct that is likely to deceive, defraud, or harm the public.
- ~~(56)~~ Aiding or abetting, directly or indirectly, the practice of physical therapy by any person not duly authorized under the laws of this state.
- ~~(67)~~ Engaging in physical conduct with a patient that is sexual in nature, or in any verbal behavior that is seductive or sexually demeaning to a patient.
- ~~(78)~~ Participation in fraud, abuse and/or violation of state or federal laws.
- ~~(89)~~ Any conduct which potentially or actually jeopardizes a patient's life, health or safety.
- ~~(940)~~ Verbally or physically abusing patients.
- ~~(1044)~~ Discriminating in the rendering of patient care.
- ~~(1142)~~ Negligence while in practice of physical therapy or violating the "Standards of Ethics and Professional Conduct" adopted by the Board.

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- (~~1243~~) Habitual intemperance or addicted use of any drug, chemical or substance that could result in behavior that interferes with the practice of physical therapy and the responsibilities of the licensee.
- (~~1344~~) Unauthorized possession or use of illegal or controlled substances or pharmacological agents without lawful authority or prescription by an authorized and licensed independent practitioner of the State of Oklahoma.
- (~~1445~~) Fraudulent billing practices and/or violation of Medicare and Medicaid laws or abusive billing practices.
- (~~1546~~) Improper management of medical records, inaccurate recording, falsifying or altering or failing to complete documentation of patient records.
- (~~1647~~) Falsely manipulating patient's records or forging a prescription for medication/drugs, or presenting a forged prescription.
- (~~1748~~) Aiding, abetting or assisting any other person to violate or circumvent any law, rule or regulation intended to guide the conduct of a physical therapist or physical therapist assistant.
- (~~1849~~) Being judged mentally incompetent by a court of competent jurisdiction.
- (~~1920~~) Failing to timely make application for license renewal.
- (~~2024~~) Falsifying documents submitted to the Physical Therapy Committee or the Oklahoma State Board of Medical Licensure and Supervision.
- (~~2122~~) Obtaining or attempting to obtain a license, certificate or documents of any form as a physical therapist or physical therapist assistant by fraud or deception.
- (~~2223~~) Cheating on or attempting to subvert the national physical therapy examination or skills assessment tests.
- (~~2324~~) Leaving a patient care assignment without properly advising the appropriate personnel.
- (~~2425~~) Violating the confidentiality of information or knowledge concerning a patient.
- (~~26~~) ~~Conviction of, or confession of or plea of no contest to a felony or misdemeanor.~~
- (~~2527~~) While engaged in the care of a patient, engaging in conduct with a patient, patient family member, or significant other that is seductive or sexually demeaning/exploitive in nature.
- (~~2628~~) Failure to report through proper channels the unsafe, unethical or illegal practice of any person who is providing care.
- (~~2729~~) Failure to furnish to the Board, its investigators or representatives, information lawfully requested by the Board.
- (~~2830~~) Failure to cooperate with a lawful investigation conducted by the Board.
- (~~2934~~) Violation of any provision(s) of the Physical Therapy Practice Act or the rules and regulations of the board or of an action, stipulation, agreement or order of the Board.
- (~~3032~~) Failure to report to the Board any adverse action taken against him or her by another licensing jurisdiction (United States or foreign), by any governmental agency, by any law enforcement agency, or by a court for acts or

conduct similar to acts or conduct that would constitute grounds for action as defined in this section.

- (c) A physical therapist or physical therapist assistant who knowingly allows or participates with individual(s) who are in violation of the above will be prohibited from supervising other physical therapy practitioners for so long as the Board deems appropriate, and may themselves be subject to disciplinary action pursuant to their conduct.

[OAR Docket #16-655; filed 6-29-16]

TITLE 435. STATE BOARD OF MEDICAL LICENSURE AND SUPERVISION CHAPTER 25. ATHLETIC TRAINERS AND APPRENTICES

[OAR Docket #16-657]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 1. General Provisions

435:25-1-2. Definitions [AMENDED]

Subchapter 11. Disciplinary Action

435:25-11-1. Grounds for disciplinary action [AMENDED]

AUTHORITY:

59 O.S. § 528.1; Oklahoma Board of Medical Licensure and Supervision

SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:

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March 17, 2016

APPROVED BY GOVERNOR'S DECLARATION:

Approved by Governor's declaration on June 9, 2016

FINAL ADOPTION:

June 9, 2016

EFFECTIVE:

September 12, 2016

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

ANALYSIS:

Pursuant to the law passed under Title 59 O.S. 2011 § 532, definitions were added and language revised regarding applicants who have been convicted of a felony.

CONTACT PERSON:

Barbara J. Smith, Executive Secretary, Oklahoma State Board of Medical Licensure and Supervision, 101 NE 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 12, 2016:**

SUBCHAPTER 1. GENERAL PROVISIONS

435:25-1-2. Definitions

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

"**Athlete**" means a person who engages in physical activity or is physically active.

"**Physical activity**" means activity that consists of athletic, recreational or occupational activities that require physical skills and utilize strength, power, endurance, speed, flexibility, range of motion or agility.

"**Physically active**" means individuals that engage in athletic, recreational or occupational activities that require physical skills and utilize strength, power, endurance, speed, flexibility, range of motion or agility.

"**Poses a reasonable threat**" means the nature of criminal conduct for which the person was convicted involved an act or threat of harm against another and has a bearing on the fitness or ability to serve the public or work with others in the occupation.

"**Substantially relates**" means the nature of criminal conduct for which the person was convicted has a direct bearing on the fitness or ability to perform one or more of the duties or responsibilities necessarily related to the occupation

SUBCHAPTER 11. DISCIPLINARY ACTION

435:25-11-1. Grounds for disciplinary action

The Board may reprimand or place on probation any holder of an Athletic Trainers License or Apprentice Athletic Trainers License or revoke or suspend any license issued to an Athletic Trainer or Apprentice Athletic Trainer who:

- (1) Has been convicted of a felony crime that substantially relates to the occupation of athletic trainers or poses a reasonable threat to the public safety or a misdemeanor involving moral turpitude;
- ~~(2) Has been convicted of a misdemeanor involving moral turpitude;~~
- (23) Habitually uses intoxicating liquor or a habit-forming drug;
- (34) Secured the license by fraud or deceit;
- ~~(45)~~ Has been grossly negligent while in the practice as an athletic trainer or apprentice athletic trainer;
- ~~(56)~~ Has failed to timely make application for renewal;
- ~~(67)~~ Has conducted herself/himself in a manner considered improper by recognized acceptable standards of moral and ethical conduct;
- ~~(78)~~ Violated or conspired to violate the provisions of this Act or Rules and Regulations issued pursuant to the Act.
- ~~(89)~~ Aides or abets, directly or indirectly, the practice of Athletic Training by any person not duly authorized under the Laws of Oklahoma.

[OAR Docket #16-657; filed 6-29-16]

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

[OAR Docket #16-656]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

435:30-1-2. Definitions [AMENDED]

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

AUTHORITY:

59 O.S. § 888.14; Oklahoma Board of Medical Licensure and Supervision

SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:

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June 9, 2016

EFFECTIVE:

September 12, 2016

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

ANALYSIS:

Pursuant to the law passed under Title 59 O.S. 2011 § 88.9, definitions were added and language revised regarding applicants who have been convicted of a felony.

CONTACT PERSON:

Barbara J. Smith, Executive Secretary, Oklahoma State Board of Medical Licensure and Supervision, 101 NE 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 12, 2016:

435:30-1-2. Definitions

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

"**Alternate supervisor**" means an Oklahoma licensed Occupational Therapist who has signed a Form #5, Verification of Supervision, agreeing to provide supervision to the Occupational Therapy Assistant or applicant for licensure in the absence of the supervising Occupational Therapist. The alternate supervisor assumes all duties and responsibilities of the primary supervisor during that absence.

"**Consultation**" means periodic meetings to review and to provide recommendations and resource information regarding methods of implementation of the occupational therapy programs.

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"Direct supervision" means personal supervision and specific delineation of tasks and responsibilities by an Oklahoma licensed occupational therapist who has signed a Form #5, Verification of Supervision, agreeing to supervise the Occupational Therapy Assistant or applicant for licensure. Direct supervision shall include the responsibility for personally reviewing and interpreting the results of any habilitative or rehabilitative procedures conducted by the supervisee. It is the responsibility of the supervising occupational therapist to be onsite during treatment to ensure that the supervisee does not perform duties for which he is not trained.

"General supervision" means responsible supervision and control by an Oklahoma licensed occupational therapist who has signed a Form #5, Verification of Supervision, agreeing to supervise the Occupational Therapy Assistant or applicant for licensure. The supervising occupational therapist provides both initial direction in developing a plan of treatment and periodic inspection of the actual implementation of the plan. Such plan of treatment shall not be altered by the supervised individual without prior consultation with and approval of the supervising occupational therapist. The supervising occupational therapist need not always be physically present or on the premises when the assistant is performing services; however, except in cases of emergency, supervision shall require the availability of the supervising occupational therapist for consultation with and direction of the supervised individual. Supervision is an interactive process, more than a paper review or a co-signature, and requires direct in-person contact.

"In association with" means a formal working relationship in which there is regular consultation.

"Occupational therapist of record" means the occupational therapist who assumes responsibility for the provision and /or supervision of occupational therapy services for a client, and is held accountable for the coordination, continuation and progression of the plan of care.

"Poses a reasonable threat" means the nature of criminal conduct for which the person was convicted involved an act or threat of harm against another and has a bearing on the fitness or ability to serve the public or work with others in the occupation.

"Primary supervisor" means the Oklahoma licensed Occupational Therapist who has signed a Form #5, Verification of Supervision, agreeing to provide supervision to the Occupational Therapy Assistant or applicant for licensure. The Primary Supervisor must have access to the client's plan of care.

"Substantially relates" means the nature of criminal conduct for which the person was convicted has a direct bearing on the fitness or ability to perform one or more of the duties or responsibilities necessarily related to the occupation.

435:30-1-10. Grounds for disciplinary action

(a) The Board may reprimand or place on probation any holder of an Occupational Therapist License or Occupational Therapy Assistant License or revoke or suspend any license issued to an Occupational Therapist or Occupational Therapy Assistant who is found in violation of the Act. Violations include but shall not be limited to the following:

(1) Conviction of a felony crime that substantially relates to the occupation of occupational therapy or poses a reasonable threat to public safety ~~or of any offense involving moral turpitude.~~

(2) ~~Conviction of, or confession of or plea of no contest to a felony or misdemeanor.~~

(23) Dishonorable or immoral conduct that is likely to deceive, defraud, or harm the public.

(34) Aiding, abetting or assisting any other person to violate or circumvent any law, rule or regulation intended to guide the conduct of a occupational therapist or occupational therapy assistant.

(45) Procuring, aiding or abetting a criminal operation.

(56) Participation in fraud, abuse and/or violation of state or federal laws.

(67) Fraudulent billing practices and/or violation of Medicare and Medicaid laws or abusive billing practices.

(78) Improper management of medical records, inaccurate recording, falsifying or altering of patient records.

(89) Falsely manipulating patient's records or forging a prescription for medication/drugs, or presenting a forged prescription.

(94) Habitual intemperance or the habitual use of habit-forming drugs.

(104) Habitual intemperance or addicted use of any drug, chemical or substance that could result in behavior that interferes with the practice of occupational therapy and the responsibilities of the licensee.

(112) Unauthorized possession or use of illegal or controlled substances or pharmacological agents without lawful authority or prescription by an authorized and licensed independent practitioner of the State of Oklahoma.

(124) Engaging in physical conduct with a patient that is sexual in nature, or in any verbal behavior that is seductive or sexually demeaning to a patient.

(134) While engaged in the care of a patient, engaging in conduct with a patient, patient family member, or significant other that is seductive or sexually demeaning/exploitive in nature.

(145) Verbally or physically abusing patients.

(154) Discriminating in the rendering of patient care.

(164) Leaving a patient care assignment without properly advising the appropriate personnel.

(174) Violating the confidentiality of information or knowledge concerning a patient.

(184) Any conduct which potentially or actually jeopardizes a patient's life, health or safety.

(192) Negligence while in practice of occupational therapy or violating the "Standards of Ethics and Professional Conduct" adopted by the Board.

(202) Being judged mentally incompetent by a court of competent jurisdiction.

(212) Failing to timely make application for license renewal.

(222) Falsifying documents submitted to the Occupational Therapy Committee or the Oklahoma State Board of Medical Licensure and Supervision.

(2324) Obtaining or attempting to obtain a license, certificate or documents of any form as ~~a~~ an occupational therapist or occupational therapy assistant by fraud or deception.

(2425) Cheating on or attempting to subvert the national occupational therapy examination or skills assessment tests.

(2526) Failure to report through proper channels the unsafe, unethical or illegal practice of any person who is providing care.

(2627) Failure to furnish to the Board, its investigators or representatives, information lawfully requested by the Board.

(2728) Failure to cooperate with a lawful investigation conducted by the Board.

(2829) Violation of any provision(s) of the Occupational Therapy Practice Act or the rules and regulations of the board or of an action, stipulation, agreement or order of the Board.

(2930) Failure to report to the Board any adverse action taken against him or her by another licensing jurisdiction (United States or foreign), by any governmental agency, by any law enforcement agency, or by a court for acts or conduct similar to acts or conduct that would constitute grounds for action as defined in this section.

(b) An occupational therapist or occupational therapy assistant who knowingly allows or participates with individual(s) who are in violation of the above will be prohibited from supervising other occupational therapy practitioners for so long as the Board deems appropriate, and may themselves be subject to disciplinary action pursuant to their conduct.

(c) All Occupational Therapists and Occupational Therapy Assistants are responsible for maintaining and promoting the ethical practice of occupational therapy. Occupational therapy personnel shall act in the best interest of the patient/client at every level of practice. This Code of Ethics modeled in principal and the spirit of the Code of Ethics of the American Occupational Therapy Association, sets forth principles for the ethical practice of occupational therapy for occupational therapy personnel. This Code of Ethics shall be binding on all Occupational Therapists and Occupational Therapy Assistants.

All Occupational Therapy Personnel shall:

- (1) Demonstrate a concern for the well-being of the recipients of their services. (Beneficence).
- (2) Take reasonable precautions to avoid imposing or inflicting harm upon the recipient of services or to his/her property. (Nonmaleficence).
- (3) Respect the recipient and/or their surrogate(s) as well as the recipient's rights. (Autonomy, privacy, confidentiality).
- (4) Achieve and continually maintain high standards of competence. (Duties)
- (5) Comply with laws and policies guiding the profession of occupational therapy. Justice).
- (6) Provide accurate information about occupational therapy services. (Veracity)

(7) Treat colleagues and other professionals with fairness, discretion and integrity.

[OAR Docket #16-656; filed 6-29-16]

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

[OAR Docket #16-660]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

445:10-1-11. Fees for Forensic Science and Laboratory Services

AUTHORITY:

Medicolegal Board of Investigations; 63 O.S., Section 932

SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:

December 21, 2015

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Approved by Governor's declaration on June 9, 2016

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November 1, 2016

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

AVAILABILITY:

8:00 a.m. to 5:00 p.m., Monday through Friday at Medicolegal Board of Investigations 901 N. Stonewall Oklahoma City, OK 73117 405-239-7141

ANALYSIS:

The proposed rules make the rules consistent with the statutes, increases fees for Physician case review/ Literature review, Physician Conference, Interrogatories, Depositions, and Court Appearances. Additionally, increases fees for Investigator Conferences, Interrogatories, Depositions and Court Appearances. Increases fees for Cremation Permits, Transportation out of State Investigations and Body storage fees. Finally, increases fees for toxicology laboratory services.

CONTACT PERSON:

Amy Elliott, Chief Administrative Officer, Medicolegal Board of Investigations 901 N. Stonewall Oklahoma City, OK 73117 405-239-7141 amy.elliott@ocme.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 NOVEMBER 1, 2016:

445:10-1-11. Fees for Forensic Science and Laboratory Services

As provided in Title 63 O.S., Section 948 and 948.1, the following fees are set for forensic and laboratory services.

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- (1) Any of the listed fees may be waived by the Chief Medical Examiner.
- (2) Schedule of fees for forensic science services are as follows:
- (A) Civil Cases
- (i) Digital photos on CD: \$25.00
- (ii) Microscopic slides - H & E slides: \$10.00 each
- (iii) Digital copies of x-rays: \$15.00 each
- (B) M.D., D.O., Ph.D.
- (i) Case Review/Literature Review: ~~\$250~~\$500.00 per hour to include the first hour or any part thereof. Thereafter, ~~\$125.00~~ per quarter hour.
- (ii) Conference: ~~\$250~~\$400.00 per hour to include the first hour or any part thereof. Thereafter, ~~\$50.00~~\$100.00 per quarter of hour.
- (iii) Interrogatories: ~~\$325~~\$375.00 per hour/minimum one hour.
- (iv) Deposition: ~~\$500~~\$550.00 per hour to include the first hour or any part thereof. Thereafter, ~~\$200~~\$300.00 per hour or any part thereof.
- (v) Court Appearance: \$2000 per day to include expenses/minimum one day.
- (C) Investigators
- (i) Conference: ~~\$150~~\$200.00 per hour to include the first hour or any part thereof. Thereafter, ~~\$25~~\$50.00 per quarter of hour.
- (ii) Interrogatories: ~~\$275~~\$325.00 per hour/minimum one hour.
- (iii) Deposition: ~~\$300~~\$350.00 per hour to include the first hour or any part thereof. Thereafter, ~~\$150~~\$175.00 per hour or any part thereof.
- (iv) Court Appearance: \$1000 per day to include expenses/minimum one day.
- (D) All Requesting Parties
- (i) Cremation permits: ~~\$150.00~~\$200.00
- (ii) Cremation late fee (over 30 days): \$25.00
- (iii) Transport out of state investigations: ~~\$100.00~~\$150.00
- (iv) Body storage fee: ~~\$5.00~~\$50.00 per day after 3 days
- (v) Specimen storage fee: \$100.00 per year
- (vi) Conference room usage fee: \$50 per hour or \$150 per $\frac{1}{2}$ day
- (vii) Copy of CME-1 and Toxicology report: \$10.00
- (viii) Copy of CME-1, Autopsy and Toxicology report: \$20.00
- (ix) Copy of entire case file - certified: \$25.00 per report
- (xi) Copy of entire toxicology file - certified: \$1.00 per page
- ~~(xii) Re-issuance of death certificate: \$5.00~~
- (3) Schedule of fees of toxicology laboratory services.
- (A) Alcohols: ~~\$60.00~~\$75.00
- ~~(B) Alkaline drug screen (GC, GC/MS): \$150.00~~

- ~~(C) Acid/Neutral drug screen (GC, GC/MS): \$125.00~~
- ~~(DB) Immunoassay (78 drug classes): \$90.00~~\$125.00
- ~~(E) Drug Screen by HPLC, LC/MS: \$125.00~~
- ~~(F) Drug confirmation/quantitation (GC, GC/MS, LC/MS): \$150.00~~
- ~~(G) Carbon monoxide (CO Oximeter, PdCl₂): \$50.00~~
- ~~(H) Carbon monoxide (GC quantitation): \$140.00~~
- ~~(I) Cyanide screen (color test): \$45.00~~
- ~~(J) Cyanide quantitation (UV/Vis): \$90.00~~
- ~~(K) Heavy Metals (qualitative): \$90.00~~
- ~~(L) Color tests (acetaminophen, salicylate, etc.): \$47.00~~
- ~~(M) Acetaminophen, Salicylate quantitation (FPIA): \$45.00~~
- ~~(N) Ethylene glycol: \$125.00~~
- ~~(O) Gamma hydroxybutyrate (GC/MS): \$150.00~~
- ~~(P) Flunitrazepam (urine only): \$150.00~~
- ~~(Q) Volatiles (GC): \$100.00~~
- ~~(R) Administrative (packaging/shipping specimens): \$50.00~~
- ~~(C) Alkaline Drug Screen: \$150.00~~
- ~~(i) Qualitative Confirmation by repeat analysis: \$75.00~~
- ~~(D) Acid Neutral Drug Screen: \$150.00~~
- ~~(i) Qualitative Confirmation by repeat analysis: \$75.00~~
- ~~(ii) Drug Quantitative (per drug): \$150.00~~
- ~~(E) Carbon Monoxide: \$100.00~~
- ~~(F) Volatiles: \$150.00~~
- ~~(G) Specimen Storage Fee (per year, up to maximum 5 years): \$100.00~~
- ~~(H) Administrative Services (documentation and handling): \$50.00~~

[OAR Docket #16-660; filed 7-5-16]

TITLE 455. MERIT PROTECTION COMMISSION CHAPTER 10. MERIT SYSTEM OF PERSONNEL ADMINISTRATION RULES

[OAR Docket #16-599]

RULEMAKING ACTION:
PERMANENT final adoption

RULES:

Subchapter 1. General Provisions
455:10-1-1 [AMENDED]
455:10-1-2 [AMENDED]
455:10-1-5 [AMENDED]
Subchapter 3. Jurisdiction, Rights and Processes
455:10-3-2 [AMENDED]
455:10-3-5 [AMENDED]
455:10-3-6 [AMENDED]
455:10-3-14 [AMENDED]
Subchapter 9. Hearing Process
455:10-9-1 [AMENDED]
455:10-9-2 [AMENDED]

455:10-9-3 [AMENDED]
 455:10-9-5 [AMENDED]
 Subchapter 11. Discipline
 455:10-11-15 [AMENDED]
 455:10-11-16 [AMENDED]
 455:10-11-17 [AMENDED]
 Subchapter 13. Discovery
 455:10-13-4 [AMENDED]
 Subchapter 19. Internal Agency Grievance Resolution Procedures
 Part 5. Grievance Provisions
 455:10-19-35 [AMENDED]
 Subchapter 21. Presiding Officials, Representatives, Witnesses and Parties
 455:10-21-6 [AMENDED]

AUTHORITY:

The authority for these rules is Section 840-1.9 of Title 74 of the Oklahoma Statutes. The primary basis is the Oklahoma Personnel Act, Section 840-1.1 *et seq.* of Title 74 of the Oklahoma Statutes; Merit Protection Commission.

SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:

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March 4, 2016

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Approved by Governor's declaration on June 9, 2016

FINAL ADOPTION:

June 9, 2016

EFFECTIVE:

September 11, 2016

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

ANALYSIS:

The proposed rule amendments change references to Office of Personnel Management to Human Capital Management Division of the Office of Management and Enterprise Services to bring the rules in line with changes in Oklahoma law consolidating the Office of Personnel Management into the Office of Management and Enterprise Services, and change references to the related rules in OAC 260 (Office of Management and Enterprise Services) from OAC 530 (Office of Personnel Management), which were revoked effective September 12, 2014. The modifications also define the Merit Protection Commission's on-line filing system and adds references to use of the system and clarifies some language. The amendments also reflect corrections to references to rules and statutes, including references to the Americans With Disabilities Amendments Act.

CONTACT PERSON:

John Carrington, Human Resources Programs Manager, (405) 525-9144, John.Carrington@mpc.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, 2016:

SUBCHAPTER 1. GENERAL PROVISIONS

455:10-1-1. Purpose

The rules in this Chapter are the administrative rules of the Oklahoma Merit Protection Commission (Commission) which

govern appeals and associated processes before the Commission. These rules establish procedures and standards necessary for the Commission to perform its duties and functions. The Commission has adopted the rules in this Chapter. The Administrator of the ~~Office of Personnel Management~~ Human Capital Management Division of the Office of Management and Enterprise Services has adopted the rules which are in OAC ~~530~~260.

(1) **Authority.** The authority for these rules is Section 840-1.9 of Title 74 of the Oklahoma Statutes. The primary basis is the Oklahoma Personnel Act, Section 840-1.1 *et seq.* of Title 74 of the Oklahoma Statutes; Merit Protection Commission

(2) **Legal cites.** Some of these rules may restate language from statutes. Italic type means the language repeats language from statutes and the specific statutory reference will appear in brackets following the language in italics.

455:10-1-2. Definitions

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

"**Addendum decision**" or "**Addendum order**" means a decision or order to add to a previously issued decision or order.

"**Administrative Law Judge**" means a person appointed by the Executive Director and empowered to preside over prehearing conferences and hearings with power to administer oaths, take testimony, rule on questions of evidence and make final and addendum decisions.

"**Adverse action appeal**" means an appeal by a permanent classified employee appealing a discharge, suspension without pay or involuntary demotion.

"**Affidavit**" means a sworn statement, made voluntarily, and taken before a person with authority to administer an oath or affirmation.

"**Affidavit of service**" means a written statement certifying that a motion, request or other document has been provided to other persons.

"**Allegation**" means the claims of a party.

"**Allege**" means to state, assert or charge; to make an allegation.

"**Alleged violation appeal**" means an appeal in which an allegation is made that a violation of law or rules over which the Commission has jurisdiction has occurred.

"**Appeal**" means, as a verb, the filing of a petition for appeal, or as a noun, the procedure that takes place after a petition for appeal is filed.

"**Appellant**" means a party who files a petition for appeal.

"**Appellee**" means a party against whom an appeal is filed or who is otherwise named or joined as a party.

"**Burden of proof**" means the obligation of a party to establish alleged fact(s) by a preponderance of evidence.

"**Caucus**" means a private meeting between an Alternative Dispute Resolution Program facilitator and a party for the purpose of assisting in the resolution of a dispute.

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"Commission" means the Oklahoma Merit Protection Commission.

"Commissioners" means the members appointed to the Oklahoma Merit Protection Commission.

"Consolidation" means the combining of appeals containing the same or similar issues but filed by 2 or more appellants into a single appeal.

"Continuance" means a postponement of a matter scheduled by the Commission to a date certain.

"Cross-examination" means the questioning of a witness by a party other than the party calling the witness.

"Deny" means to refuse to grant or accept.

"Deposition" means a method where the sworn testimony of a person is taken. The person who answers the questions is said to be deposed.

"Determination of the Executive Director" means a document which states the issues, findings of fact, conclusions of law and disposition of an appeal.

"Direct-examination" means the questioning of a witness by the party calling the witness.

"Discovery" means to obtain relevant facts and information about the appeal from another party or person.

"Dismiss" means to close without further consideration.

"Employee" or **"State employee"** means *an elected or appointed officer or employee of an agency unless otherwise indicated* [74:840-1.3(2)].

"Evidence" means relevant documents or testimony offered to prove or disprove the existence or non-existence of a fact.

"Ex-parte communication" means communications by anyone with a presiding official on the merits of an appeal which could affect its outcome.

"Executive Director" means the appointing authority of the Oklahoma Merit Protection Commission [~~Section 840-1.3 of Title 74 of the Oklahoma Statutes~~ 74:840-1.3(31)].

"Exhibit" means items offered as evidence.

"Expert" means a person knowledgeable in a specialized field, that knowledge being obtained from either education or personal experience.

"Filing" means posting on the on-line filing system, or the receipt of documents by the Commission.

"Final decision" means a determination made by a presiding official after considering the merits, testimony and evidence of an appeal. Final decision also refers to a determination made by the Executive Director to dismiss an appeal.

"Grant" means to give or permit.

"Hearing" means an open, formal proceeding conducted by an Administrative Law Judge, Executive Director or Commissioners to decide an appeal. The proceeding is to provide each party with an opportunity to present evidence in support of their side of the case. The hearing is governed by the Oklahoma Administrative Procedures Act, Sections 309 through 316 of Title 75 of the Oklahoma Statutes.

"Interrogatories" means written questions given to a party or witness. The answers are made in writing under oath.

"Intervenor" means a person or agency permitted to voluntarily enter an appeal as a party.

"Investigative report" means a written account of an investigation to assist the Executive Director in determining whether or not a violation within the Commission's jurisdiction may have occurred.

"Issue" means a disputed point or question on which the parties to an appeal seek a resolution.

"Joinder" means the combining of 2 or more appeals of one appellant.

"Jurisdiction" means the authority of the Commission to complete its duties and responsibilities.

"Jurisdictional limitations" means the statutory restrictions on the scope, time limits, and type of appeals which may be considered by the Commission.

"Merit Rules" or **"Merit Rules for Employment"** means the merit system of personnel administration rules. The merit rules include both the rules in this chapter as adopted by the Merit Protection Commission and the rules in OAC ~~530260~~ as adopted by the Administrator of the ~~Office of Personnel Management~~ Human Capital Management Division.

"Moot" means no longer in dispute because issues have already been decided or when rendered, a decision could not have any practical effect on the existing dispute.

"Motion" means a request for a ruling to be made by a presiding official or the Commissioners.

"Not sustain" means to deny a request; to deny an appeal.

"On-line Filing System" means a secure, paperless, electronic management filing tool utilized by the Commission for the processing of agency transactions designed to enhance agency operation by increasing availability, reliability, transparency and efficiency.

"Order" means a command or directive given by a presiding official, Executive Director or Commissioners.

"Party" means an Appellant, Appellee or Intervenor.

"Payroll claim protest" means a protest in which an employee challenges the decision that an overpayment or underpayment of salary has been made or a protest of the amount of the alleged overpayment or underpayment.

"Petition for Appeal" means the form adopted by the Commission for the filing of an appeal.

"Petition for Reconsideration, Rehearing or Reopening" means a document filed after the final decision on an appeal has been made requesting that the Commissioners rehear, reopen or reconsider the case based on specific grounds as outlined in Section 317 of Title 75 of the Oklahoma Statutes.

"Prehearing conference" means a proceeding conducted by an Administrative Law Judge or Executive Director with the parties to identify the issues, documents, witnesses and motions which will guide the Administrative Law Judge or Executive Director in the conduct of the hearing.

"Preponderance of evidence" means information or evidence which is more convincing or believable than the information or evidence offered in opposition.

"Presiding official" means the Executive Director or a person appointed by the Executive Director to serve the Commission in the capacity of Administrative Law Judge, mediator or other Alternative Dispute Resolution Program arbitrator or facilitator.

"**Prima facie case**" means a case which on its face is presumed to be true and will prevail until contradicted and overcome by other evidence.

"**Protective order**" means a directive issued to protect a party or witness from annoyance, embarrassment, oppression or undue burden or expense.

"**Quash**" means to annul or make void.

"**Relevant**" means directly related to the issue or issues being examined.

"**Remedy**" means corrective action sought by or afforded to a party.

"**Representative**" means the designated agent of record, identified in the petition for appeal or through an entry of appearance or other written means, acting on behalf of a party.

"**Stipulation**" means a voluntary admission of fact.

"**Subpoena**" means an order to appear at a certain time and place to give testimony.

"**Subpoena Duces Tecum**" means an order requiring the production of books, papers and other documents.

"**Summary judgment**" means a request or decision on issues where there is no dispute of material fact.

"**Sustain**" means to grant a request; to grant an appeal.

"**Testimony**" means statements given by a witness under oath or affirmation.

"**Violation**" means a breach of any law or rule over which the Commission has jurisdiction.

455:10-1-5. Review of Commission records

(a) **Generally.** The Commission supports the public's right to know and be informed about their government. This right must be balanced with the rights of individuals to have adequate protection from clearly unwarranted invasions of personal privacy and assaults on their integrity. Records maintained by the Commission may be inspected and copied during normal business hours in accordance with state and federal laws and the rules in this chapter. Any person wishing to inspect, copy or reproduce records under the control of the Commission shall complete the Commission's Request for Access to Records form. Sufficient advanced notice shall be given so the essential functions of the Commission shall not be severely disrupted. Appointments are preferred.

(b) **Confidential records.** Access to confidential records shall be limited to officers and employees of state or federal government acting in their official capacities. The extent of access may be limited as determined to be appropriate by the Executive Director.

(1) The following Commission records shall be confidential:

(A) records which relate to internal personnel investigations, including examination and selection for employment, hiring, appointment, promotion, demotion, discipline or resignation. [51:24A.7(A)(1)].

(B) records received from the federal government or records generated or gathered as a result of federal legislation may be kept confidential to the extent required by law.

(C) records specifically required by law to be kept confidential, including records not discoverable under state law, such as material prepared in anticipation of lawsuit or trial, records protected by a state evidentiary privilege, [51:24A.5(1)(a)], records of what happened during executive session. [51:24A.5(1)(b)].

(D) other records which, if disclosed, would constitute a clearly unwarranted invasion of personal privacy, such as employee evaluations, payroll deductions or employment applications of persons not hired. [51:24A.7(A)(2)].

(E) state employee home addresses, home telephone numbers, and social security numbers, and information related to personal electronic communication devices of current and former state employees shall not be open to public inspection or disclosure without written permission from the current or former state employees or without an order from a court of competent jurisdiction. [74:840-2.11].

(F) see OAC 455:10-7-6 for access to Commission investigative files.

(2) The Executive Director may keep records confidential that are specifically permitted by law to be kept confidential.

(c) **Public records.** All personnel records that are not confidential shall be available for public inspection and copying. Any employee of the state of Oklahoma shall have a right of access to his or her own records on file with the Commission unless a law prohibits it. Public records include, but are not limited to, records of:

(1) employment application of a person who becomes a state official or employee; [51:24A.7(B)(1)]

(2) gross receipts of public funds; [51:24A.7(B)(2)]

(3) dates of employment, title or position; [51:24A.7(B)(3)]

(4) final disciplinary action resulting in loss of pay, suspension, demotion or discharge. [51:24A.7(B)(4)].

(d) **Appeal records.** The records of an active appeal shall be open to inspection only by a party to the appeal or the party's designated representative. The records of an inactive appeal shall be open to inspection in accordance with the Oklahoma Open Records Act and these rules.

(e) **Fees.** The Commission shall charge a reasonable fee for copies of Commission records, including a reasonable search fee to recover the direct costs of document searches if the request is solely for commercial purposes [51:24A.5(3)(a)] or clearly would cause excessive disruption of the Commission's essential functions. [51:24A.5(3)(b)].

SUBCHAPTER 3. JURISDICTION, RIGHTS AND PROCESSES

455:10-3-2. Determining jurisdiction; "file" defined

(a) It is solely the authority of the Commissioners and Executive Director to determine whether or not matters being appealed are subject to the jurisdiction of the Commission. No request for appeal shall be accepted more than 12 months

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after the event causing the appeal, unless otherwise provided for by any statute. Unless otherwise defined in the rules in this chapter, "file" means receipt by the Commission.

(b) The file date of a document is the earliest date the Commission receives the document or the date it is postmarked. If the last day for filing is a Saturday, Sunday or legal holiday as proclaimed by the Governor, the file date shall be extended to the end of the next business day.

(c) The Executive Director is authorized to establish and maintain guidelines for the electronic filing of documents.

455:10-3-5. Discrimination

(a) No person in the state service, whether subject to the provisions of the Merit System or in unclassified service, shall be appointed to, demoted or dismissed from any position in the state service, or in any way favored, harassed or discriminated against with respect to employment because of political or religious opinions or affiliations, race, creed, gender, color, ancestry, national origin or by physical handicap so long as the physical handicap does not make the person unable to do the work for which employed [74:840-2.9].

(b) No agency, department, institution, board or employee shall:

- (1) separate or refuse to employ any person otherwise qualified on account of age, political or religious opinions or affiliations, race, creed, gender, color, ancestry, national origin or by handicap;
- (2) discriminate for the same reasons in regard to tenure, terms or conditions of employment;
- (3) deny promotion or increase in compensation solely for these reasons;
- (4) publish an offer of employment based on such discrimination;
- (5) adopt or enforce any rule or employment policy which so discriminates as to any employee;
- (6) seek such information as to any applicant or employee [this does not preclude information sought in accordance with any other federal or state statute]; or
- (7) discriminate in the selection of personnel for training solely on such basis [74:954].

(c) The Commission may use the guidelines for reviewing discrimination complaints as used by the Equal Employment Opportunity Commission (EEOC) and may review court decisions and federal statutes, to include but not limited to, such statutes as the Americans with Disabilities Act (ADA), as amended by the ADA Amendments Act of 2008 (ADAAA), Age Discrimination in Employment Act (ADEA), Title VII of the Civil Rights Act, as amended and the Civil Rights Act of 1991.

455:10-3-6. Alleged violations of employee's freedom of expression

(a) **General.** For purposes of this section agency means any office, department, commission or institution of the state government [74:840-2.5(B)]. No officer or employee of any state agency shall prohibit or take disciplinary action against

employees of such agency, whether subject to the provisions of the Merit System or in unclassified service, for:

(1) Disclosing public information to correct what the employee reasonably believes evidences a violation of the Oklahoma Constitution or law or a rule promulgated pursuant to law;

(2) Reporting a violation of the Oklahoma Constitution, state or federal law, rule or policy; mismanagement; a gross waste of public funds; an abuse of authority; or a substantial and specific danger to public health or safety;

(3) Discussing the operations and functions of the agency, either specifically or generally, with the Governor, members of the Legislature, the print or electronic media, or other persons in a position to investigate or initiate corrective action;

(4) Taking any of the above actions without giving prior notice to the employee's supervisor or anyone else in the employee's chain of command. [74:840-2.5(B)].

(b) Appeal rights.

(1) Any employee or any former employee aggrieved pursuant to this section may file an appeal with the Commission within 60 calendar days of the alleged disciplinary action [74:840-2.5(G)]. This is a statutory time limit and may not be extended.

(2) The appeal shall contain, as a minimum,:

- (A) the name of the person(s) alleged to have violated this section;
- (B) the disciplinary action taken and when such disciplinary action was taken;
- (C) the public information disclosed, to whom it was disclosed, and when it was disclosed; or,
- (D) the violation of the Oklahoma Constitution, state or federal law, rule or policy, mismanagement, gross waste of public funds, abuse of authority, or substantial and specific danger to public health or safety reported, to whom it was reported, and when it was reported; or,
- (E) the operations and functions of the agency discussed, with whom such discussions were made, and when such discussions took place.

(3) Sufficient evidence or information shall be provided which causes the Executive Director to believe there is a causal connection between the alleged protected activity and the disciplinary action. For purposes of this section, causal connection means such evidence or information which shows that the disciplinary action was taken in relationship to the alleged protected activity.

(c) **Sanctions.** Section 840-2.5(~~GH~~) of Title 74 of the Oklahoma Statutes sets out corrective actions and sanctions which may be taken for violation of this section.

(d) **Freedom of expression posting.** Each state agency, department, institution, board and commission in all branches of state government shall prominently post or publish a copy of Section 840-2.5 of Title 74 of the Oklahoma Statutes in locations where it can reasonably be expected to come to the attention of all employees [74:840-2.5(D)].

455:10-3-14. Appeal record

- (a) **Content.** An appeal record shall include:
 - (1) the petition for appeal, notices and intermediate rulings;
 - (2) evidence considered in making a final decision;
 - (3) a statement of matters officially noticed;
 - (4) questions and offers of proof, objections and rulings thereon;
 - (5) proposed findings and exceptions;
 - (6) any proposed or final orders issued by the Commission; and
 - (7) all other data submitted to a presiding official in connection with his or her consideration of the appeal.
- (b) **Transmission to reviewing court:** Within ~~30~~60 calendar days after proper service of a petition for review or equivalent process upon it, or within such further time as the reviewing court may allow, the Commission shall transmit to the reviewing court a certified copy of the appeal record under review.

SUBCHAPTER 9. HEARING PROCESS

455:10-9-1. Prehearing conference

- (a) **Purpose.** The Executive Director may schedule a prehearing conference on any appeal set for hearing. The conference provides an opportunity for the parties to clarify, isolate and dispose of procedural matters prior to the hearing.
- (b) **Party responsibility.** Each party shall be present, on time and prepared. Failure to do so may result in dismissal of the appeal or other sanctions unless good cause is shown. Prior to the prehearing conference each party shall file with the Commission and provide to each other party and the Administrative Law Judge a copy of:
 - (1) a brief statement of his or her respective case, to include a list of stipulations and requested remedy;
 - (2) a list of any witnesses who have direct knowledge of the facts surrounding the issues of the appeal and who are expected to be called at the hearing. The list shall include a brief statement of the testimony each witness will offer. The list may be amended, with the approval of the Administrative Law Judge, before the hearing date;
 - (3) a list of any documents and exhibits and the original or a copy of each document or exhibit to be offered into evidence at the hearing. The list may be amended, with the approval of the Administrative Law Judge, before the hearing date;
 - (4) a list of any witnesses for whom a subpoena is required. The list shall include each witness's name, address and a brief statement of the testimony to be offered by each witness. Subpoenas shall not be issued by the Commission without this information. The list may be amended, with the approval of the Administrative Law Judge, up to 10 calendar days before the hearing date; and
 - (5) any requirements or requests for discovery. Discovery shall be requested and completed in accordance with OAC 455:10-13-1.

- (c) **Representation.** Each party to the appeal may have a representative to speak and act on his or her behalf.
- (d) **Administrative Law Judge responsibility.** The Administrative Law Judge shall:
 - (1) consider, facilitate and rule on settlement;
 - (2) consider any matters which will aid in the fair and prompt resolution and disposition of the appeal;
 - (3) hear and rule on pending requests or motions;
 - (4) rule on whether or not witnesses have knowledge of the facts at issue;
 - (5) rule on whether or not documents and exhibits are relevant;
 - (6) rule on whether or not discovery requests and other motions and requests are relevant;
 - (7) strike or deny witnesses, documents, exhibits, discovery requests and other requests or motions which are cumulative, not relevant or not material; used as a means of harassment; unduly burdensome or not timely filed.
- (e) **Conference.** The conference shall be informal, structured by the Administrative Law Judge and not open to the public. The Administrative Law Judge shall record the conference by digital recording.
 - (1) **Notice.** Each party shall be notified of the date, time and location at least 7 calendar days prior to the scheduled conference.
 - (2) **Location.** The conference shall be conducted at the Commission offices or any other location determined appropriate.
 - (3) **Witnesses.** Witnesses shall not appear or present evidence at the conference.
 - (4) **Continuance.** A request for continuance shall be filed in accordance with OAC 455:10-3-17 normally no less than 3 calendar days prior to the scheduled conference. A lesser period of time may be permitted for good cause shown. The Administrative Law Judge, or in his or her absence, the Executive Director, shall rule on the request and in no case shall a combination of continuances of the prehearing conference exceed a total of 30 calendar days except for good cause shown.
- (f) **Conclusion.** The Administrative Law Judge shall end the conference when preparation for the hearing is complete, unless sooner terminated as a result of settlement or for other just cause.

455:10-9-2. Hearing

- (a) **Purpose.** The hearing provides each party the opportunity to present witnesses and evidence in support of his or her respective case for decision by an Administrative Law Judge. Hearings shall be conducted in accordance with the Oklahoma Personnel Act, the Administrative Procedures Act and the rules in this chapter.
- (b) **Party responsibility.** Each party shall be present, on time and prepared. Failure to do so may result in dismissal of the appeal or other sanctions unless good cause is shown.
- (c) **Representation.** Each party to the appeal may have a representative to speak and act on his or her behalf.
- (d) **Administrative Law Judge responsibility.** The Administrative Law Judge shall rule on questions of admissibility

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of evidence, competency of witnesses and any other matters or questions of law.

(e) **Process.** The hearing shall be formal, structured by the Administrative Law Judge and open to the public. Parts of a hearing may be ordered closed when evidence of a confidential nature is to be introduced or where to do so would be in the best interests of a party, witness, the public or other affected persons. The Administrative Law Judge shall record the hearing by digital recording and such recording shall constitute the official recording of the hearing.

(1) **Notice.** Each party shall be notified of the date, time and location at least 7 calendar days prior to the scheduled hearing.

(2) **Location.** The hearing shall be held at the Commission offices or any other location determined appropriate. At the prehearing conference any party may request the hearing be changed to a more convenient location. The Administrative Law Judge shall rule on the request and may change the location when to do so is in the best interests of the Commission and parties. The Administrative Law Judge shall be compensated for travel, per diem and other associated costs by the appointing authority if the location is changed at his or her request.

(3) **Witnesses.** Each party may call witnesses who have been approved by the Administrative Law Judge to offer testimony and evidence. The Administrative Law Judge shall administer an oath or affirmation to the witness and may question the witness at any stage of the hearing.

(4) **Continuance.** A request for continuance shall be filed in accordance with OAC 455:10-3-17 normally no less than 3 calendar days prior to the scheduled hearing. A lesser period of time may be permitted for good cause shown. The Administrative Law Judge shall rule on the request and in no case shall a combination of continuances of the hearing exceed a total of 30 calendar days except for good cause shown.

(f) **Burden of proof.** The following burdens of proof shall also apply to appeals heard through the Alternative Dispute Resolution Program as well as the hearing process.

(1) Adverse action appeal. The burden of proof shall be upon the appointing authority who must prove his or her case by a preponderance of the evidence.

(A) Upon a finding that just cause existed for the adverse action and the discipline imposed was just, a presiding official shall affirm the decision of the appointing authority.

(B) Upon a finding that just cause did not exist for the adverse action, a presiding official may order the reinstatement of the employee, with or without back pay and other benefits. A presiding official may also order that documentation of the adverse action be expunged from any and all of the employee's personnel records.

(C) Upon a finding that just cause existed for the adverse action, but did not justify the severity of the discipline imposed, a presiding official may order reduction of the discipline or other corrective action. A presiding official shall, as a minimum, consider the

following circumstances in ordering the reduction of discipline: the seriousness of the conduct as it relates to the employee's duties and responsibilities; the consistency of action taken with respect to similar conduct by other employees of the agency; the previous employment and disciplinary records of the employee; and mitigating circumstances.

(D) A presiding official who orders reinstatement with back pay and other benefits under (B) or (C) above, may consider the deduction of any income the employee may have received for the period of time the employee was not performing his or her duties.

(2) **Alleged violation appeal.** The burden of proof shall be upon the appellant who must prove his or her case by a preponderance of the evidence. Upon a finding that a violation within the Commission's jurisdiction did occur, a presiding official may order the appointing authority to take the necessary corrective action or report the findings to any other appropriate authorities for further action. Corrective action shall be limited to issues submitted for decision, shall be consistent with applicable statutes and rules and shall be limited to action which makes the person harmed by the violation whole as if the violation had not occurred.

(3) **Payroll claim protest.** In payroll claim protests of overpayment, the burden of proof shall be upon the appointing authority who must prove his or her case by a preponderance of the evidence. In payroll claim protests of underpayment, the burden of proof shall be upon the appellant who must prove his or her case by a preponderance of the evidence. The presiding official may determine the amounts paid or not paid in error; determine dates of overpayments or underpayments; determine options available for repayment; affirm the protest of the appellant; affirm the decision of the appointing authority and order corrective action.

(g) **Order of procedure.** The party with the burden of proof shall present his or her case first and the opposing party may respond. A presiding official shall have the authority to alter the order of procedure. This order of procedure also applies to appeals heard through the Alternative Dispute Resolution Program.

(h) **Summary judgment.** The Administrative Law Judge may decide appeals based on summary judgment when there is no dispute as to either material fact or inferences to be drawn from undisputed facts, or if only question of law is involved.

455:10-9-3. Affidavits Methods of Testimony

(a) This section shall not limit the authority of the Commission to compel any witness to appear and offer testimony. Upon written request and approval by the Administrative Law Judge, an affidavit, video conference, electronic communication, and telephone communication may be used when a witness or party is unable to attend or testify because of age, illness, infirmity, imprisonment or other good reason.

(b) This section shall also apply to the taking of affidavits through the Alternative Dispute Resolution Program procedures.

(c) The parties to any action before the Merit Protection Commission are responsible for ensuring that the technology is available to all participants for conducting a video conference.

455:10-9-5. Decisions

The Administrative Law Judge shall file a final decision with the Commission within 10 calendar days after the record is closed. The final decision shall include findings of fact and conclusions of law, written in clear and concise language.

- (1) The Executive Director shall issue the final decision to each party, by personal service or certified mail and by submission on the online filing system, within 5 calendar days after receipt.
- (2) The decision of the Administrative Law Judge shall be final and conclusive except as provided in the Administrative Procedures Act and OAC 455:10-3-20.

SUBCHAPTER 11. DISCIPLINE

455:10-11-15. Suspension without pay

(a) **General.** A permanent classified employee may be suspended without pay for any of the reasons set forth in OAC 455:10-11-14.

(b) **Notice.** The employee shall be provided notice of the proposed suspension without pay, by personal service or certified or registered mail. Pending completion of the notice and response opportunity, an employee may be suspended with pay in accordance with rules adopted by the Administrator of the Office of Personnel Management~~Human Capital Management~~ Division. The notice shall include, as a minimum:

- (1) the statute, rule, policy, practice or procedure regarding work performance or behavior which was violated and cause for the proposed suspension without pay.
- (2) the specific acts or omissions which are cause or reason for the proposed suspension without pay;
- (3) an explanation of the evidence which justifies the proposed suspension without pay, and
- (4) an opportunity, either in writing or orally, to present reasons why the proposed suspension without pay is improper.

(c) **Final action.** Within ten working days after the employee has had opportunity to respond to the proposed suspension without pay, he or she shall be provided written notice of the final action by personal service or certified or registered mail. If the decision made is to proceed with the suspension without pay, the written notice to the employee shall include as a minimum:

- (1) the statute, rule, policy, practice or procedure regarding work performance or behavior which was violated and cause for the suspension without pay;
- (2) grounds for the action;
- (3) a citation or the law or rule under which the action is being taken;
- (4) effective date and inclusive dates of the suspension without pay;

(5) a citation of any other informal or formal discipline which was used in the decision to administer the suspension without pay; and

(6) a statement of the employee's right to file an appeal with the Commission, the 20 calendar day time limit for the Commission's receipt of the appeal and the address of the Commission; and

(7) a copy of the Commission's petition for appeal form.

455:10-11-16. Involuntary demotion

(a) **General.** A permanent classified employee may be involuntarily demoted for any of the reasons set forth in OAC 455:10-11-14.

(b) **Notice.** The employee shall be provided notice of the proposed involuntary demotion, by personal service or certified or registered mail. Pending completion of the notice and response opportunity, an employee may be suspended with pay in accordance with rules adopted by the Administrator of the Office of Personnel Management~~Human Capital Management~~ Division. The notice shall include, as a minimum:

- (1) the statute, rule, policy, practice or procedure regarding work performance or behavior which was violated and cause for the proposed involuntary demotion;
- (2) the specific acts or omissions which are cause or reason for the proposed involuntary demotion;
- (3) an explanation of the evidence which justifies the proposed involuntary demotion, and
- (4) an opportunity, either in writing or orally, to present reasons why the proposed involuntary demotion is improper.

(c) **Final action.** Within ten working days after the employee has had opportunity to respond to the proposed involuntary demotion, he or she shall be provided written notice of the final action by personal service or certified or registered mail. If the decision made is to proceed with the involuntary demotion, the written notice to the employee shall include as a minimum:

- (1) the statute, rule, policy, practice or procedure regarding work performance or behavior which was violated and cause for the involuntary demotion;
- (2) grounds for the action;
- (3) a citation or the law or rule under which the action is being taken;
- (4) effective date of the involuntary demotion and the classification and grade to which demoted;
- (5) a citation of any other informal or formal discipline which was used in the decision to administer the involuntary demotion; and
- (6) a statement of the employee's right to file an appeal with the Commission, the 20 calendar day time limit for the Commission's receipt of the appeal and the address of the Commission; and
- (7) a copy of the Commission's petition for appeal form.

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455:10-11-17. Discharge

(a) **General.** A permanent classified employee may be discharged for any of the reasons set forth in OAC 455:10-11-14.

(b) **Pretermination hearing.** Before any permanent classified employee may be terminated, the employee shall be afforded a pretermination hearing to be held before the appointing authority or his or her designee. A pretermination hearing shall not be required if the employee is being terminated as part of a reduction-in-force as provided for in Title 74 O.S., Section 840-2.27C.

(1) **Purpose.** The purpose of a pretermination hearing is to provide the appointing authority or his or her designee with information from which a determination may be made as to whether or not reasonable grounds exist to believe that the charges against the employee are true and whether or not the grounds support the proposed termination.

(2) **Notice.** Notice of the pretermination hearing shall be provided to the employee by personal service or certified or registered mail at least seven calendar days before the scheduled pretermination hearing. Pending completion of this notice and the pre-termination hearing, an employee may be suspended with pay in accordance with rules adopted by the Administrator of the ~~Office of Personnel Management~~ Human Capital Management Division. The notice shall include, as a minimum:

(A) the statute, rule, policy, practice or procedure of work performance or behavior which was violated and cause for the proposed action;

(B) all grounds for the proposed action;

(C) a summary of evidence or physical evidence to support each of the stated grounds for the proposed action;

(D) a statement of the employee's right to be represented, by an attorney or other person of his or her choice, at the pre-termination hearing; and

(E) date, time and location of the pre-termination hearing.

(3) **Disciplinary certificate.** *The appointing authority shall file in the employee's official personnel file at least seventy-two (72) hours before each pretermination hearing, a certificate to be included in the record stating what disciplinary actions have been taken to comply with progressive discipline prior to the pretermination hearing and proposed termination and further certifying that all mandatory progressive discipline actions as required by statute or rule have been taken before pretermination hearing; provided, said certificate shall not be required where grounds for proposed termination are for commission of a criminal offense and/or acts involving moral turpitude [74:840-6.4(B)(3)].*

(4) **Hearing.** The pretermination hearing need not be a full evidentiary hearing and formal rules of evidence shall not apply. The pretermination hearing shall be recorded in its entirety. The employee shall be provided a copy of the recording, at no cost, if the employee appeals to the Commission and requests a copy. A copy shall be provided as

soon as possible but no later than 14 calendar days after the request is made.

(5) **Legal review.** *Following the pretermination hearing, if recommendation for termination is made, recordings of the pretermination hearing and all evidence in support thereof, shall be reviewed for legal sufficiency by the appointing agency director or his or her designee before termination is final [74:840-6.4(B)(7)].*

(c) **Final action.** Within ten working days after the pretermination hearing the employee shall be provided written notice of the final action, by personal service or certified or registered mail. If the decision is made to proceed with the termination, the notice shall include, as a minimum:

(1) the statute, rule, policy, practice or procedure regarding work performance or behavior which was violated and cause for the termination;

(2) all grounds for the termination;

(3) a citation of the law or rule under which the termination is being taken;

(4) effective date of the termination;

(5) a citation of any other informal or formal discipline which was used in the decision to administer the termination; and

(6) a statement of the employee's right to file an appeal with the Commission, the 20 calendar day time limit for the Commission's receipt of the appeal and the address of the Commission; and

(7) a copy of the Commission's petition for appeal form.

SUBCHAPTER 13. DISCOVERY

455:10-13-4. Discovery orders

At the written request of a party, the Executive Director or presiding official may order discovery if the request includes a statement of the issues in dispute; a proposed plan and schedule for discovery; any proposed limitations; and a statement showing that a reasonable effort to reach agreement with the opposing party on the matters set forth in the request has been made. The request shall include an affidavit of service to all other parties by submission on the on-line filing system. A response may be filed within 10 calendar days after the request is filed with the Commission and shall include an affidavit of service to all other parties by submission on the on-line filing system. The presiding official may rule on discovery requests at the prehearing conference or preparation conference.

SUBCHAPTER 19. INTERNAL AGENCY GRIEVANCE RESOLUTION PROCEDURES

PART 5. GRIEVANCE PROVISIONS

455:10-19-35. Grievance

(a) **General.** The resolution of disputes is advocated within the agency before appeals are filed with the Commission.

(b) **Promotion.** Any employee who feels that he or she has not been treated fairly with regard to a promotional action has the right to file a formal grievance. The Commission will accept an appeal regarding a promotional issue only after such complaint has been reviewed in the formal grievance procedure [74:840-4.15(C)].

(c) **Classification.** *An employee has the right and responsibility to file a classification grievance, as provided by law and rule, when duties performed on a regular and consistent basis do not conform to the class specification [74:840-4.3(B)].*

(1) *Employees shall be classified in accordance with the work they are assigned on a regular and consistent basis as an integral part of their normal work assignment and class specification [74:840-4.3(B)]. Any employee who believes he or she is not classified in accordance with the work assigned on a regular and consistent basis as an integral part of his or her work assignment and job family descriptor, has the right to file a formal grievance.*

(2) An employee is entitled to the compensation assigned to the job family descriptor for which duties were performed on a regular and consistent basis as determined by the ~~Office of Personnel Management~~Human Capital Management Division (HCM) [74:840-4.3(B)]. Any employee who believes he or she is entitled to compensation for having performed duties on a regular and consistent basis which do not conform to the job family descriptor for the position he or she occupies or occupied, has the right to file a formal grievance.

(3) The appointing authority and employee shall attempt to resolve these disputes through the formal grievance procedure.

(4) If the dispute can not be resolved, the resolution decision by the appointing authority shall be to advise the employee to complete an ~~Office of Personnel Management (OPM) Classification or Allocation Dispute Review Request form (OPM-70)~~Human Capital Management Classification Dispute Review Request (HCM-70) pursuant to rules adopted by the Administrator of the ~~Office of Personnel Management~~Human Capital Management Division.

(5) *Agency classification and reclassification decisions shall not be subject to appeal to the Oklahoma Merit Protection Commission. However, the involuntary removal of a permanent employee in permanent status in a job family level to a lower level in the same job family or to another job family level assigned a lower pay band shall be considered a demotion. Such action may be appealed by the employee to the Oklahoma Merit Protection Commission [74:840-4.3(B)]. An employee may allege a violation of law or rule over which the Commission has jurisdiction in the classification and reclassification process pursuant to OAC 455:10-3-3.*

(d) **Discipline.** Any employee who has reason to believe that discipline imposed was not uniform, appropriate or in compliance with the agency progressive discipline policy, has

the right to file a formal grievance. The Commission will accept an appeal regarding a discipline issue (except suspension without pay, involuntary demotion or discharge) only after such complaint has been reviewed in the formal grievance procedure.

(e) **Leave.** Any employee who feels that he or she has not been treated fairly with regard to annual, sick or any other leave accrual, accumulation, use or eligibility (including leave without pay and leave sharing), has the right to file a formal grievance. The Commission will accept an appeal regarding leave issues only after such complaint has been reviewed in the formal grievance procedure.

(f) **Employee service rating system.** Any employee who disagrees with his or her individual service rating has the right to file a formal grievance.

(1) The Commission will accept, for alternative dispute resolution only, a complaint involving disagreement with the individual service rating only after such complaint has been reviewed in the formal grievance procedure.

(2) The Commission will accept an appeal of alleged violation of the Oklahoma Personnel Act or Merit Rules in regard to the employee service rating system only after such complaint has been reviewed in the formal grievance procedure.

(3) Alleged violations of Title 74 O.S., Section 840-2.5 and Section 840-2.9 in regard to the employee service rating system may be appealed directly to the Commission.

(g) **Discrimination.** Complaints of illegal discrimination, including sexual harassment, are subject to the internal agency grievance resolution procedure. The appointing authority may adopt special procedures for addressing and resolving discrimination complaints. Any such procedures shall comply with federal laws and rules, the Oklahoma Personnel Act and the rules in this subchapter.

(h) **Pay movement mechanisms and other compensation issues.** Any employee who feels that a violation of law, rule, policy or practice has occurred with regard to pay movement mechanisms or other compensation issues, has the right to file a formal grievance. The Commission will accept an appeal regarding pay movement mechanisms and other compensation issues only after such complaint has been reviewed in the formal grievance procedure.

SUBCHAPTER 21. PRESIDING OFFICIALS, REPRESENTATIVES, WITNESSES AND PARTIES

455:10-21-6. Intervenors

Any person alleged to have committed a violation over which the Commission has jurisdiction or who may be directly affected by the outcome of an appeal, may request permission to intervene in the appeal. The request shall be made in writing at the earliest possible time and shall include a showing that the outcome of the appeal would directly affect the person making the request.

(1) Intervenors shall be considered parties and shall have the same rights and duties as an original party except that intervenors shall not have an independent right to a

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hearing. An intervenor may only participate on the issues affecting him or her as stated in the order granting intervention.

(2) The Executive Director, because of statutory responsibility, may intervene as a matter of right.

(3) The Administrator of the ~~Office of Personnel Management~~ Human Capital Management Division may personally intervene at the earliest possible time he or she knew, or should have known, that the issues in the appeal would directly affect the authority or responsibility of the ~~Office of Personnel Management~~ Human Capital Management Division of the Office of Management and Enterprise Services.

[OAR Docket #16-599; filed 6-21-16]

TITLE 475. OKLAHOMA STATE BUREAU OF NARCOTICS AND DANGEROUS DRUGS CONTROL CHAPTER 10. REQUIREMENTS FOR REGISTRATION

[OAR Docket #16-552]

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475:10-1-17. Applications for scientific research in Schedule I substances [AMENDED]

AUTHORITY:

The Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control; 63 O.S. §§ 2-301, 2-309H.

SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:

January 12, 2016

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SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

ANALYSIS:

475:10-1-17. Applications for scientific research in Schedule I substances [AMENDED]- changes "shall" to "may" regarding the processing of the application within seven days.

CONTACT PERSON:

Sandra LaVenue, General Counsel, OBND, 419 NE 38th Terrace, Oklahoma City, OK, 405-521-2885, slavenue@obn.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, 2016:

475:10-1-17. Applications for scientific research in Schedule I substances

(a) In the case of an application to conduct scientific research with controlled dangerous substances listed in Schedule I, the Director ~~shall~~ may process the application and protocol and forward a copy of each to an independent expert selected by the Director within seven (7) days after receipt. The independent expert shall promptly advise the Director concerning the qualification of the applicant.

(b) An applicant whose protocol is defective shall be notified by the Director within seven (7) days after receipt of such protocol from the independent expert, and he/she shall be required to correct the existing defects before consideration shall be given to his/her submission.

(c) After the independent expert finds that the applicant is qualified and competent and the protocol meritorious, the Director shall be notified. The Director shall issue a Certificate of Registration within ten (10) days after receipt of this notification unless he/she determines that the application should be denied pursuant to the Uniform Controlled Dangerous Substances Act or OAC 475.

(d) If the independent expert finds that the protocol is not meritorious and/or the applicant is not qualified or competent, said designated authority shall notify the Director. The Director shall notify the applicant of said findings and his/her final decision, after which time the applicant may submit written request to the Director within thirty (30) days for a hearing to show cause why the application should not be denied.

[OAR Docket #16-552; filed 6-16-16]

TITLE 475. OKLAHOMA STATE BUREAU OF NARCOTICS AND DANGEROUS DRUGS CONTROL CHAPTER 35. TRANSFER AND DISPOSAL OF CONTROLLED DANGEROUS DRUGS

[OAR Docket #16-553]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

475:35-1-3. Distribution upon discontinuance or transfer of business [AMENDED]

475:35-1-4. Procedure for disposing of controlled dangerous substances [AMENDED]

AUTHORITY:

The Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control; 63 O.S. §§ 2-301, 2-309H.

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n/a

INCORPORATIONS BY REFERENCE:

n/a

ANALYSIS:

475:35-1-3. Distribution upon discontinuance or transfer of business [AMENDED] updates the reference to the Code of Federal Regulations with the proper section that was recently amended by DEA.

475:35-1-4. Procedure for disposing of controlled dangerous substances [AMENDED] references the Oklahoma Statute and CFR section that deals with the disposal of CDS.

CONTACT PERSON:

Sandra LaVenue, General Counsel, OBND, 419 NE 38th Terrace, Oklahoma City, OK, 405-521-2885, slavenue@obn.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, 2016:

475:35-1-3. Distribution upon discontinuance or transfer of business

(a) Any registrant desiring to discontinue business activities altogether or with respect to controlled dangerous substances (without transferring such business activities to another person) shall return for cancellation of his/her Certificate of Registration. Any controlled dangerous substances in his/her possession may be disposed of in accordance with Title 21 Code of Federal Regulations, ~~§ 1307.21~~ part 1317.

(b) Any registrant desiring to discontinue business activities altogether or with respect to controlled dangerous substances (by transferring such business activities to another person) shall submit in person or by registered or certified mail, return receipt requested, to the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control at least fourteen (14) days in advance of the date of the proposed transfer (unless the Director waives this time limitation in individual instances), the following information:

- (1) The name, address, registration number and authorized business activity of the registrant discontinuing the business (registrant-transferor).
- (2) The name, address, registration number and authorized business activity of the person acquiring the business (registrant-transferee).
- (3) Whether the business activities will be continued at the location registered by the person discontinuing the business or moved to another location (if the latter, the address of the new location should be listed).

(4) Whether the registrant-transferor has a quota to manufacture or procure any controlled dangerous substance listed in Schedule I or II (if so, the basic class or classes of the substance should be indicated).

(5) The date on which the transfer of controlled dangerous substances will occur.

(c) Unless the registrant-transferor is informed by the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, before the date on which the transfer was stated to occur, that the transfer may not occur, the registrant-transferor may distribute (without being registered to distribute) controlled dangerous substances in his/her possession to the registrant-transferee in accordance with the following:

(1) On the date of transfer of the controlled dangerous substances, a complete inventory of all controlled dangerous substances being transferred shall be taken in accordance with 475:25-1-5 through 475:25-1-12. This inventory shall serve as the final inventory of the registrant-transferor and the initial inventory of the registrant-transferee, and a copy of the inventory shall be included in the records of each person. It shall not be necessary to file a copy of the inventory with the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control unless requested by the Director. Transfers of any substances listed in Schedule I or II requires the use of order forms in accordance with Title 21 Code of Federal Regulations, § 1305.

(2) On the date of transfer of the controlled dangerous substances, all records required to be kept by the registrant-transferor with reference to the controlled dangerous substances being transferred, pursuant to this Chapter and Title 21 Code of Federal Regulations, § 1304, shall be transferred to the registrant-transferee. Responsibility for the accuracy of records prior to the date of transfer remains with the transferor, but responsibility for custody and maintenance shall be upon the transferee.

475:35-1-4. Procedure for disposing of controlled dangerous substances

Any registrant in possession of any controlled dangerous substances and desiring or required to dispose of such substances ~~shall obtain appropriate forms from the Oklahoma State Bureau of Investigation Laboratory in Oklahoma City, Oklahoma may do so according to the provisions of the drugs must be inventoried and submitted pursuant to Title 63 Okl.St. Ann. §2-315 and Title 21 of the Code of Federal Regulations, part 1317. Registrants may alternatively request the Regional Director of the Drug Enforcement Administration in the region in which the person is located for authority and instructions to dispose of such substances pursuant to Title 21 Code of Federal Regulations, § 1307.21.~~

[OAR Docket #16-553; filed 6-16-16]

Permanent Final Adoptions

TITLE 475. OKLAHOMA STATE BUREAU OF NARCOTICS AND DANGEROUS DRUGS CONTROL CHAPTER 45. OKLAHOMA CONTROL REPORTING REQUIREMENTS

[OAR Docket #16-554]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

475:45-1-2. Required reporting of certain information [AMENDED]

AUTHORITY:

The Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control; 63 O.S. §§ 2-301, 2-309H.

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INCORPORATIONS BY REFERENCE:

n/a

ANALYSIS:

475:45-1-2. Required reporting of certain information [AMENDED]- adds phone number to list of reported information.

CONTACT PERSON:

Sandra LaVenue, General Counsel, OBND, 419 NE 38th Terrace, Oklahoma City, OK, 405-521-2885, slavenue@obn.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, 2016:

475:45-1-2. Required reporting of certain information

(a) Every pharmacy or dispensing practitioner filling any schedule II, III, IV or V prescriptions must report the following information to a central repository maintained by the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control (OBN). The information must include, but not be limited to, the following:

- (1) Recipient's name;
- (2) Recipient's identification number;
- (3) National Drug Code number of the substance dispensed;
- (4) Date of the dispensation;
- (5) Quantity of the substance dispensed;

- (6) Prescriber's U.S. Drug Enforcement Administration registration number; ~~and~~
 - (7) Dispenser's registration number and location; and
 - (8) Recipient's phone number.
- (b) The term 'recipient' is also intended to include reporting the required information concerning the recipient's agent as defined by 63 O.S. § 2-309B.

[OAR Docket #16-554; filed 6-16-16]

TITLE 505. BOARD OF EXAMINERS IN OPTOMETRY CHAPTER 10. LICENSURE AND REGULATION OF OPTOMETRISTS

[OAR Docket #16-641]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 5. Regulation of Licensees

505:10-5-11. Authorized post-graduate educational work [AMENDED]

AUTHORITY:

Oklahoma Board of Examiners in Optometry; 59 O.S. §§ 583, 604

SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:

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SUPERSEDED EMERGENCY ACTIONS:

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INCORPORATIONS BY REFERENCE:

n/a

ANALYSIS:

The rule amends an existing rule to increase the number of hours of continuing medical education required for relicensure to 25 hours per year, specifies certain topics that must be covered in such education, and limits the number of hours of remote learning. The amendment also updates the list of continuing education providers that are approved by the Board to provide continuing medical education. The amendment simplifies the process of gaining approval for continuing medical education provided by organizations not on the list of approved providers. In addition, the amendment allows those seeking annual relicensure to satisfy the cardiopulmonary resuscitation requirement by providing an American Red Cross card or evidence of equivalent training. 59 O.S. § 604 is related and deals with attendance at educational or post graduate programs.

CONTACT PERSON:

Mary Walker, Administrative Assistant to the Board, 2008 s. Post Road, Suite 200, Midwest City, OK 73103, (405) 733-7836, Mary.Walker@optometry.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, 2016:

SUBCHAPTER 5. REGULATION OF LICENSEES

505:10-5-11. Authorized post-graduate educational work

(a) Every Optometrist must cause to be filed with the Board not later than June 30th of each year, beginning 2017 a certificate proof showing that during the preceding year he/she attended not less than three (3) days of an educational or post-graduate program that had been previously approved by the Board, and totaling eighteen (18) twenty-five (25) hours of continuing medical education (CME) or an affidavit showing that he/she was unavoidably prevented, because of sickness or for some other reason satisfactory to the Board, from attending any such education, educational or post-graduate program. Of the eighteen (18) twenty-five (25) hours required annually, up to three (3) six (6) hours of correspondence remote learning, up to three (3) hours of practice management, a total of at least five (5) hours of therapeutics, and a minimum of one (1) hour shall be judicious prescribing of dangerous drugs and controlled dangerous substances provided by the Oklahoma Association of Optometric Physicians or the Oklahoma Board of Examiners in Optometry or a course provided by a vendor acceptable by the Board, will be accepted.

(b) The Board approves for attendance three day post-graduate educational work the following vendors providing continuing medical education (CME) to meet the requirements of Oklahoma statutes on renewal of license:

- (1) Any three day or more course in an optometry Any Optometry college accredited by the American Optometric Council on Education, or
(2) Any three or more day educational course sponsored by the American Optometric Association, or an affiliate of the American Optometric Association, or
(3) College of Optometrists in Vision Development
(4) Annual convention of the American Optometric Association Southeast Council of Optometry (SECO)
(5) Annual convention of the Oklahoma Association of Optometric Physicians
(6) Session of a regional congress of an Optometric Extension Program Great Western Council of Optometry (GWCO)
(7) State seminar of the graduate Clinic Foundation of the O.E.P. Heart of America Contact Lens Society
(8) Post-graduate course of any Class A college or university teaching optometry American Academy of Optometry (AAO), or any affiliate of the AAO
(9) Annual convention of any of the various State Optometric Associations of the United States
(10) Post-graduate course sponsored by the American Academy of Optometrists
(11) Southwest Council of Optometry
(12) Southwest Contact Lens Society
(13) Heart of America Contact Lens and Primary Care Congress

(c) Any Optometrist desiring approval of any other program continuing medical education (CME) must make a written request for approval to the Secretary Treasurer Office of the Board of Examiners in Optometry at least fifteen (15) days before he/she attends such program CME. The certificate of attendance required by (a) of this Section must be on a form approved by the Board, and must be signed by the presiding officer of the organization conducting or sponsoring the program. The affidavit of non attendance required by (a) of this Section must be verified by at least two (2) adult persons who are related to or associated with the Optometrist submitting the affidavit, and will, in all cases, be subject to final acceptance by the Board.

(d) Simultaneously with the requirement of this rule that every Optometrist file with the Board not later than June 30th of each year a certificate showing that during the preceding year he or she attended the required continuing education, every Optometrist shall not later than June 30, 2003-2017 and each year thereafter file with the Board evidence that he or she has a current cardiopulmonary resuscitation certificate card issued by the American Red Cross, or equivalent training.

[OAR Docket #16-641; filed 6-24-16]

TITLE 510. STATE BOARD OF OSTEOPATHIC EXAMINERS CHAPTER 1. ADMINISTRATIVE OPERATIONS

[OAR Docket #16-596]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

- Subchapter 3. General Course and Method of Operations
510:1-3-7 [AMENDED]
510:1-3-9 [NEW]

AUTHORITY:

Oklahoma Osteopathic Medicine Act, 59 O.S. §§ 620 et. seq.; Oklahoma Board of Osteopathic Examiners

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INCORPORATIONS BY REFERENCE:

n/a

Permanent Final Adoptions

ANALYSIS:

Changes to these rules set de minimus compensation for Board Members at one day per diem rate and permit duties prescribed to one officer to be designated to another Board Member or Staff, promoting greater efficiency.

CONTACT PERSON:

Deborah J. Bruce, Oklahoma Osteopathic Board of Examiners, 4848 N. Lincoln, Suite 100, Oklahoma City, OK 73105, 405-528-8625, dbruce@osboe.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, 2016:

SUBCHAPTER 3. GENERAL COURSE AND METHOD OF OPERATIONS

510:1-3-7. Board compensation

Members of the Board may be compensated at ~~the daily~~ per diem rate for ~~state employees of fifty dollars (\$50.00) per day~~ in addition to the reimbursement for expenses as provided for in the Oklahoma Travel and Reimbursement Act, 74 O.S., Section 500.1 et seq.

510:1-3-9. Officer duties designated

Whenever these rules prescribe a specific duty be performed by a specified Officer, the Board may, in its discretion, designate any other Officer, Board Member or Staff Member to perform such duty.

[OAR Docket #16-596; filed 6-21-16]

TITLE 510. STATE BOARD OF OSTEOPATHIC EXAMINERS CHAPTER 5. PROFESSIONAL STANDARDS

[OAR Docket #16-597]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 3: Dispensing Dangerous Drugs

510:5-3-3 [AMENDED]

510:5-3-4 [AMENDED]

510:5-3-5 [AMENDED]

Subchapter 9. Prescribing for ~~Intractable~~ Chronic Pain [AMENDED]

510:5-9-1 [AMENDED]

AUTHORITY:

Oklahoma Osteopathic Medicine Act, 59 O.S. §§ 620 et. seq.; Oklahoma Board of Osteopathic Examiners

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SUPERSEDED EMERGENCY ACTIONS:

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INCORPORATIONS BY REFERENCE:

n/a

ANALYSIS:

These rules strengthen the Board's rules on prescribing of CDS by adding reporting requirements, record keeping requirements, registration requirements and updating the definition with nationally recognized language.

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, 2016:

SUBCHAPTER 3. DISPENSING DANGEROUS DRUGS

510:5-3-3. Restriction on dispensing dangerous drugs; packaging and labeling

(a) Only a licensed Osteopathic Physician and Surgeon may dispense dangerous drugs to patients and only for the expressed purpose of serving the best interests and promoting the patient welfare.

(b) The dangerous drugs shall be dispensed in an appropriate container to which a label has been affixed. This label shall include the name and office address of the licensed osteopathic physician, date dispensed, name of patient, directions for administration, the prescription number, the trade or generic name of the substance, the quantity and strength, of the drug therein contained. This requirement shall not apply to compound medicines.

(c) A dispenser of a Schedule II, III, IV, or V controlled dangerous substance shall transmit to a central repository designated by the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control for each dispensation, that information required by 63 O.S. Section 2-309(C) if applicable.

510:5-3-4. Record keeping

A licensed osteopathic physician shall keep a suitable book, file, or record of each and every dangerous drug compounded or dispensed by him/her. This book, file, or record shall be kept for a period of not less than five (5) years. This book, file, or record shall be maintained separately from all other records of the registrant and must be open for inspection

and copying by the Board. A record of all purchases of scheduled controlled substances shall also be open for inspection and copying by the Board.

510:5-3-5. Annual Registration

(a) A licensed osteopathic physician desiring to dispense dangerous drugs shall register annually with the Board as a dispenser. Forms for registration shall be provided by the Board. Registration shall be done on or before the first day of July annually. Each such application shall be accompanied by the appropriate fee.

(b) Only an individual holding a valid license in good standing issued by the Oklahoma State Board of Osteopathic Examiners may register as a dispenser.

(c) If dispensing in multiple locations, the physician shall have a separate permit for each location. All such location addresses shall be provided to the Board.

SUBCHAPTER 9. PRESCRIBING FOR INTRACTABLE CHRONIC PAIN

510:5-9-1. Purpose

The purpose of this subchapter is to provide guidelines and requirements for osteopathic physicians who prescribe for chronic, ~~intractable~~ pain. Chronic pain is defined as a state in which pain persists beyond the usual course of an acute disease or healing of an injury.

[OAR Docket #16-597; filed 6-21-16]

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

[OAR Docket #16-598]

RULEMAKING ACTION:
PERMANENT final adoption

- RULES:**
- Subchapter 3. Licensure requirements
 - 510:10-3-1 [AMENDED]
 - 510:10-3-3 [AMENDED]
 - 510:10-3-4 [AMENDED]
 - 510:10-3-8 [AMENDED]
 - 510:10-3-10 [NEW]
 - Subchapter 4. Osteopathic Supervision of ~~Advanced Nurse~~Mid-Level Practitioners
 - 510:10-4-1 [AMENDED]
 - 510:10-4-2 [AMENDED]
 - 510:10-4-3 [AMENDED]
 - Subchapter 7. Fee Schedule
 - 510:10-7-1 [AMENDED]

AUTHORITY:
Oklahoma Osteopathic Medicine Act, 59 O.S. §§ 620 *et. seq.*; Oklahoma Board of Osteopathic Examiners
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n/a
ANALYSIS:

These rules update the Board's rules on licensure of osteopathic physicians and increase the number of mid-level practitioners a physician may supervise. Finally, these rules set fees for specialty licenses.

CONTACT PERSON:
Deborah J. Bruce, Oklahoma Osteopathic Board of Examiners, 4848 N. Lincoln, Suite 100, Oklahoma City, OK 73105, 405-528-8625, dbruce@osboe.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, 2016:

SUBCHAPTER 3. LICENSURE REQUIREMENTS

510:10-3-1. General licensure requirements

(a) **Licensure by Board required.** It is the general requirement in the State of Oklahoma that practitioners of osteopathic medicine and surgery be licensed by the State Board of Osteopathic Examiners.

(b) **Temporary license.** The Osteopathic Medicine Act does ~~not~~ authorize the Board to issue a temporary license for ~~any purpose—certain classes of Resident physicians.~~

(c) **Postgraduate training.** One year of postgraduate training is a requirement for full licensure. This experience must be in the form of a rotating internship or its equivalent, in an accredited internship or residency program acceptable to the Board. To be deemed equivalent to a rotating internship and, acceptable to the Board, a program must provide the following:

- (1) The program must provide the following core experience:
 - (A) One (1) month - General Practice
 - (B) Two (2) months - General Internal Medicine
 - (C) One (1) month - General Surgery
 - (D) One (1) month - Obstetrics/Gynecology
 - (E) One (1) month - Pediatrics
- (2) This core experience must be supplemented by three (3) months of Selectives and three (3) months of Electives, accounting for a total of twelve (12) months. A

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Selective may be defined as any core category or Emergency Medicine. An Elective may be any category of experience chosen by the intern or resident.

(3) If an applicant has completed an ACGME accredited residency training program, ~~and become specialty board eligible or attained specialty board certification,~~ the Board may shall consider this standing as equivalent training.

(d) **Application.** All candidates for examination or licensure must make application on a form furnished by the Board. No application will be approved until fully complete, in every respect, including photograph and fingerprints, with non-refundable fee paid. In addition to the application form, each candidate must also provide the following materials:

~~(1) Two letters of reference from Doctors of Osteopathic Medicine who know the applicant personally. These may be worded in any appropriate manner, but they should specifically state a recommendation for licensure in the State of Oklahoma. Each letter must be notarized.~~

~~(2) Photocopies of all of the items in (A) through (D) of this paragraph must be notarized as true copies of the originals.~~

~~(A) the diploma conferring the Doctor of Osteopathic Medicine or Doctor of Osteopathy degree;~~

~~(B) the postgraduate training certificate for both internship and residency, as applicable;~~

~~(C) certificate of specialty board certification, as applicable;~~

~~(D) the license being used as a basis for reciprocity (which must be by examination), if applicable, or the Certificate of Diplomacy of the National Board of Osteopathic Medical Examiners, and/or USMLE if that is the basis of the application.~~

~~(3) Letters of good standing which state no disciplinary actions were taken against the candidate from:~~

~~(A) all hospitals where the candidate has practiced;~~

~~(B) all osteopathic associations of which the candidate is a member;~~

~~(C) the Dean of the osteopathic college from which the candidate graduated;~~

~~(D) the Director of Medical Education from each place where the candidate is or has been an intern or resident.~~

~~(4) Verification of standing from each state where the candidate has held a license, whether that license is current or inactive and whether or not the candidate has been the subject of any disciplinary action in that state.~~

~~(5) A curriculum vitae which accounts for all of the candidate's time and activity, chronologically, from the time of high medical school graduation to the present.~~

~~(6) A report from the National Practitioner Data Bank, which the candidate must request and which must be received by the Board directly.~~

(e) **Interview.** The Board may require a personal interview.

(f) **Beginning of practice.** Applicants for licensure, either by examination, reciprocity or endorsement, must not begin practice until they are in possession of their license.

510:10-3-3. Licensure by examination

(a) **Examination Requirements.** To be consistent with the expressed public policy of the State of Oklahoma affecting the licensure of osteopathic physicians and surgeons under the provisions of the Osteopathic Medicine Act candidates for licensure must be examined by a vehicle which tests the individual's basic osteopathic knowledge and skill embracing the same philosophy as that in which the candidate was educated. ~~Neither the Flex (Federation Licensing Examination) nor the USMLE (United States Medical Licensure Examination) examines a candidate in Osteopathic Principles. Therefore, neither of these examination, alone, can be a basis for licensure.~~

(b) **Postgraduate training.** An applicant ~~may~~ must take either the State or National examination before completing the required year of postgraduate training, provided that no license will be issued until evidence of the satisfactory completion of that year is filed with the Board.

(c) **State and National examinations; failure of examination.** Any person seeking licensure as an osteopathic physician and surgeon by taking the ~~State or~~ National examination must meet all other requirements.

~~(1) State examination. The State Board of Osteopathic Examiners will use the standardized test furnished by the National Board of Osteopathic Medical Examiners for state board administration. It will be administered, upon the request of a candidate(s), on the schedule of availability published each year by the National Board of Osteopathic Medical Examiners. A candidate shall pass the examination by achieving a Minimum Total Passing Score or above, as calculated by the National Board of Osteopathic Medical Examiners. If a candidate fails the examination, no license can be granted until the examination is passed. The candidate may, based upon the availability of the examination, take the test no more than three (3) times.~~

~~(2) National examination. Candidates may be licensed upon the successful completion of the examination sequence of the National Board of Osteopathic Medical Examiners or the National Board of Medical Examiners. The candidate must submit proof of having achieved a Minimum Total Passing Score or above on tests administered through the National Board of Osteopathic Medical Examiners or the National Board of Medical Examiners.~~

510:10-3-4. Licensure by endorsement

(a) **Reciprocity.** An applicant for licensure by reciprocity, who has been successfully examined by the licensing board of any other state, territory of the United States or the District of Columbia, using an examination sufficient to test the applicant in osteopathic medicine and surgery, and having received scores not less than those required by the Oklahoma State Board of Osteopathic Examiners, and who is licensed in that state, territory of the United States or district of Columbia, and, in addition, presents the required documentation that the applicant has fulfilled all scholastic and other requirements of the Board, may, at the discretion of the Board, be licensed

without further examination. Such applicants may be required to appear before the Board.

(b) **Endorsement of the National Board of Osteopathic Examiners.** An applicant who has successfully completed all three parts of the examination sequence of the National Board of Osteopathic Medical Examiners and, who presents the required documentation of having met all of the scholastic and other requirements of the Board, may, at the discretion of the Board, be licensed without further examination.

(c) **Board discretion.** The Board may refuse to grant a license by reciprocity or endorsement to any applicant who has failed any examination administered by or accepted by the Oklahoma Board of Osteopathic Examiners.

~~(d) **Reciprocity fee.** The fee for reciprocal licensure is \$400.00.~~

510:10-3-8. Annual registration

(a) **Continuing education required.** Annual license renewal requires proof of having attended and received credit for sixteen (16) American Osteopathic Association category 1 hours of Continuing Medical Education (CME) credit. One (1) hour every other year of the required sixteen (16) hours shall be devoted to the subject of the proper prescribing, dispensing, and administering of Controlled Dangerous Substances (CDS) as defined in Title 21, Code of Federal Regulations, Part 1308 or Title 63 of the Oklahoma Statutes.

(1) This one (1) hour program of CME shall be obtained at a seminar approved by the State Board of Osteopathic Examiners.

(2) Certification of attendance shall be provided by the organization sponsoring the program via sign in.

(3) Those osteopathic physicians who are licensed in Oklahoma, but not practicing in this state, or physicians who do not possess the State Bureau of Narcotics and Drug Enforcement Administration authority to handle CDS are exempt from this requirement.

(b) **Fee required.** Those licensed osteopathic physicians who reside or practice in the State of Oklahoma must pay an annual renewal fee of two hundred dollars (\$200.00). Those licensed osteopathic physicians who reside and practice outside the state must pay an annual renewal fee of one hundred thirty dollars (\$130.00). Said fees are set forth in the herein contained fee schedule and may contain a convenience fee. A late penalty may also be charged for those who are not renewed by the first day of July of each year.

510:10-3-10. Change of address

All osteopathic physicians licensed in this state shall notify the Board within fourteen (14) days of any change in either their practice address, home address, and/or electronic mail address. The Board shall also be notified of changes in practice and personal cell phone numbers.

SUBCHAPTER 4. OSTEOPATHIC SUPERVISION OF ~~ADVANCED~~ NURSEMID-LEVEL PRACTITIONERS

510:10-4-1. Purpose

The purpose of this Subchapter is to set forth the requirements for osteopathic physicians to supervise ~~the advanced practice nurse~~ any mid-level medical practitioner with prescriptive authority. ~~pursuant to 59 O.S., Section 567.1 et seq.~~

510:10-4-2. Definitions

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

"Board" means the State Board of Osteopathic Examiners.

"Mid-level practitioners" include physician assistants and advanced practice nurses.

"Proper physician supervision" means the supervising physician should regularly and routinely review the prescriptive practices and patterns of the advanced practice nurse with prescriptive authority. Proper physician supervision of the advanced practice nurse with prescriptive authority is essential.

"Supervision" implies that there is appropriate referral and consultation between the ~~advanced practice nurse~~ mid-level practitioner and the supervising physician.

510:10-4-3. Responsibility of supervising osteopathic physician

To be eligible to serve as a supervising physician for the advanced practice nurse with prescriptive authority, an osteopathic physician shall meet the following criteria:

(1) Have possession of a full and unrestricted Oklahoma license to practice osteopathic medicine; with Drug Enforcement Agency (DEA) and Oklahoma Bureau of Narcotics and Dangerous Drugs Control (OBNDD) permits. ~~for any drug on the formulary as defined in the Oklahoma Nursing Practice Act.~~

~~(2) The supervising physician shall be in full time practice with a minimum of 20 hours per week of direct patient contact.~~

~~(3) The supervising physician shall be trained and fully qualified in the field of the advanced practice nurse's mid-level practitioners specialty.~~

~~(4) No physician shall supervise more than two (2) four (4) full time equivalent advanced practice nurses mid-level practitioners regarding their prescriptive authority at any one time. For purposes of this section each "full time equivalent" advanced practice nurse mid-level practitioner position equals forty (40) hours per week collectively worked by the part-time advanced practice nurses mid-level practitioner being supervised by the physician.~~

~~(5) Notwithstanding the provisions for the supervision of two (2) four (4) full time equivalent advanced practice nurses mid-level practitioners above, no physician shall~~

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supervise more than a total of four (4) ~~advanced practice nurses~~ mid-level practitioners.

(65) The Board may make an exception to any limit set herein upon request by the physician.

SUBCHAPTER 7. FEE SCHEDULE

510:10-7-1. Fees for licensure

(a) The following fees shall apply for licensure as an osteopathic physician and surgeon:

- (1) ~~Fee for Exam~~ License Application Fee \$575.00
- (2) Renewal Fee for license (Physician/Surgeon)
 - (A) In-State Renewal \$225.00
 - (B) Out-of-State Renewal \$150.00
 - (C) Residents and Fully Retired Physicians \$200.00
- (3) Certificate of Grades (Form Letter) \$ 50.00
- (4) Duplicate License (Physician/Surgeon) \$ 50.00
- (5) Late Re-registration Fee \$150.00
- (6) Copies of Records (per page) \$.25 plus \$10.00 re-search fee
- (7) Verification of Licensure \$ 30.00
- (8) Supplemental Report & Research \$ 20.00/ hr
- (9) Registration to Dispense Dangerous Drugs \$ 50.00
- (10) Licensure Data Base
 - (A) Fee for list \$ 50.00
 - (B) Fee for disk \$ 50.00
- (11) Fee for Certification of Files \$ 5.00
- (12) Returned Check Fee \$ 25.00
- (13) ~~Hand Grading Examination \$ 75.00~~ Letter of Good Standing for incorporations \$5.00
- (14) ~~License Application Fee Specialty Licenses~~
 - (A) Temporary Resident License \$100
 - (B) Resident Training License \$120
 - (C) Telemedicine License \$500
 - (D) Spouse of Active Duty Military \$250

(b) Note: Licensure fees may include a convenience fee.

[OAR Docket #16-598; filed 6-21-16]

TITLE 535. OKLAHOMA STATE BOARD OF PHARMACY CHAPTER 10. PHARMACISTS; AND INTERNS, PRECEPTORS AND TRAINING AREAS

[OAR Docket #16-683]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

- Subchapter 1. General provisions
- 535:10-1-1. Purpose [AMENDED]
- Subchapter 3. Pharmacists
- 535:10-3-1.1. Rules of professional conduct [AMENDED]
- 535:10-3-1.2. Violations of professional conduct [AMENDED]
- 535:10-3-4. Uniform pharmacy continuing education [AMENDED]
- Subchapter 5. Interns, preceptors and training areas

- 535:10-5-1.1. Purpose [AMENDED]
- 535:10-5-1.2. Definitions [AMENDED]
- 535:10-5-1.3. Intern experience requirements [AMENDED]
- 535:10-5-2. Intern registration [AMENDED]
- 535:10-5-2.1. Multiple locations of employment, duplicate [AMENDED]
- 535:10-5-3. Intern requirements; licenses [AMENDED]
- 535:10-5-4. Intern practice requirements [AMENDED]
- 535:10-5-5. Intern credit hours; computation [AMENDED]
- 535:10-5-8. Preceptor requirements [AMENDED]
- 535:10-5-9. Training area requirements [AMENDED]
- Subchapter 7. Pharmacist licensure
- 535:10-7-4. General requirements for pharmacist licensure applicants [AMENDED]
- 535:10-7-9. Pharmacist renewal [AMENDED]
- 535:10-7-10. Pharmacist reinstatement [AMENDED]
- Subchapter 9. Pharmaceutical care
- 535:10-9-1. Prospective drug review [REVOKED]
- 535:10-9-1.1. Purpose [NEW]
- 535:10-9-1.2. Prospective drug review [NEW]
- 535:10-9-3. Intern role in pharmaceutical care [AMENDED]
- 535:10-9-4. Purpose [REVOKED]
- 535:10-9-13. Administer [AMENDED]
- Subchapter 11. Pharmacist Administration of Immunizations
- 535:10-11-1. Purpose [AMENDED]
- 535:10-11-2. Definitions [AMENDED]
- 535:10-11-3. D.Ph. administering of immunization requirements [AMENDED]
- 535:10-11-4. Immunization registration [AMENDED]
- 535:10-11-6. Records [AMENDED]

AUTHORITY:

Oklahoma State Board of Pharmacy is the regulatory authority under Title 59 O.S., Sec. 353.7, 353.9, 353.11, 353.16A, 353.18, 353.20, 353.22, 353.24 - 353.26, and 364.

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n/a

ANALYSIS:

The revisions in 535:10-1-1, 535:10-3-1.1, and 535:10-3-1-2 corrects grammar, spelling and tags, standardizes Board references, clarifies practice of medicine restrictions and clarifies arrangements inimical to public health, corrects Act and Oklahoma law reference; adds new federal law reference; adds drug diversion detection and prevention requirements, moves like numbers together, changes physicians to prescribers, corrects misfills, adds auto refilling and corrects numbering.

The revision in 535:10-3-4 corrects grammar and improves clarity of the rule, it reorders related subsections together, it clarifies continuing education committee rules, it standardizes Board references, and it changes continuing education committee approved to posting on Board's website.

The revisions in 535:10-5-1.1, 535:10-5-1.2, 535:10-5-1-3, 535:10-5-2, 535:10-5-2.1 and 535:10-5-3 corrects law and Board references, it updates the pharmacy degree from PharmD to Doctor of (Pharmacy), it adds experiential rotations and removes the pro-practice rotation definition, it changes the words register and certificate to license; and it removes the reference to multiple location duplicates. Changes from pro-practice to experiential, from non-college to non-experiential, as well as standardization of Board

references occur in 535:10-5-4 and 535:10-5-5. The revisions in 535:10-5-8 and 535:10-5-9 remove the "After December 31, 2011" date, and standardize Board references.

Revisions in 535:10-7-4 and 535:10-7-9 standardizes Oklahoma law references. The revision in 535:10-7-9 corrects grammar and punctuation. The revision in 535:10-7-10 removes the references to 535:10-7-4 (c).

Section 535:10-9-1 is overstruck and renumbered to 535:10-9-1.2 to make room to add the purpose statement in the proper order 535:10-9-1.1, while the old purpose statement in 535:10-9-4 is overstruck. Section 535:10-9-3 changes registered to licensed and clearly spells out that an intern shall not certify a prescription nor supervise a technician. The revision in 535:10-9-13 changes prescribing practitioner to prescriber.

The revision in 535:10-11-1, 535:10-11-3, and 535:10-11-6 standardized Oklahoma law reference and adds "licensed" to prescribing practitioner. The revision removes Pharmacist, Prescribing practitioner, and Prescription drug from 535:10-11-2 definitions. The revision in 535:10-11-3 clarifies current certification and training. The revision in 535:10-11-4 changes registrant to applicant and changes registrant (all forms) to permit (all forms). These subchapter 11 changes improve grammar and clarity of the 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, 2016:

SUBCHAPTER 1. GENERAL PROVISIONS

535:10-1-1. Purpose

(a) The rules of this Chapter regulate the practice of pharmacy by adopting and establishing rules of professional conduct appropriate to the establishment and maintenance of a high standard of integrity and dignity in the profession of pharmacy.

(b) The rules of this Chapter assure that all applicants for examination and licensure as pharmacists are of good moral character, graduates of an accredited School or College of Pharmacy approved by the Board, and experienced in the practice of pharmacy. These rules further describe the place and manner in which an applicant may receive experience in the practice of pharmacy prior to registration.

(c) The rules of this Chapter include requirements for examination for issuance and renewal of appropriate certificates of registration to all applicants qualified under the provision of Title 59 O.S., Section 353 et seq.

SUBCHAPTER 3. PHARMACISTS

535:10-3-1.1. Rules of professional conduct

The rules of professional conduct are as follows:

(1) **Compliance with laws.** Business conducted as a pharmacist will at all times be in conformity with all federal, state and municipal laws.

(2) **Substitution.** At no time will a pharmacist substitute or cause to be substituted any drug, medicine,

chemical or pharmaceutical preparation without the authority of the prescriber or purchaser.

(3) **Conduct.** A pharmacist shall conduct himself ~~themselves~~ at all times in a manner which will entitle him ~~them~~ to the respect and confidence of the community in which he ~~practices~~ ~~they~~ ~~practice~~. Evidence of willful untruthfulness in the course of a pharmacist's professional capacity shall presumptively constitute a failure to comply with this standard of professional conduct required of a pharmacist.

(4) **Unprofessional promotion.** A pharmacist will not lend his ~~their~~ support or his ~~their~~ name to the promotion or exploitation of objectionable or unworthy products, nor will he ~~they~~ participate in any advertising or promotional program which would tend to lower the honor and dignity of his ~~their~~ profession.

(5) **Professional fee.** A pharmacist's fee for professional services will be fair and equitable, and commensurate with his ~~their~~ knowledge and skill in the compounding and dispensing of prescriptions, and the rendering of other professional ~~services~~ services.

(6) **Patient Health and Safety and Confidentiality.** The health and safety of patients ~~shall~~ ~~patrons~~ ~~will~~ be a pharmacist's first consideration and the nature of their problems or ailments or any confidence entrusted to him in his professional capacity will not be divulged by ~~the~~ pharmacist except in response to legal requirements or in the best interest of the patron.

(7) **Practice of medicine.** A pharmacist will refrain from any attempt at diagnosis or treatment that might infringe upon the legally constituted right or obligation of any licensed practitioner or mid-level practitioner ~~of the healing arts~~.

(8) ~~Secret arrangements~~ **Arrangements.** Licensees shall ~~A pharmacist will~~ oppose any ~~secret~~ arrangement inimical to public health. Such an arrangement could include, but is not limited to, an arrangement between a licensee pharmacist and a prescriber ~~physician or any practitioner of the healing arts~~ whereby fees are divided or in which private formulas are concerned, ~~since such arrangements are known to be inimical to public health~~.

(9) **Promote profession.** A pharmacist will seek to attract ~~young~~ people of good moral character, good habits and high intellect to the profession and share freely of his knowledge and experiences as a further aid to their instruction.

(10) **Professional services.** A pharmacist will at all times make his ~~their~~ professional services available to the allied professions, state and local government agencies and to the office of civilian defense in any project beneficial to public health and the welfare or defense of our country.

(11) **Governing body.** A pharmacist will recognize the ~~State Board of Pharmacy~~ as the governing body of the practice of pharmacy in the State of Oklahoma and report to it ~~them~~ any violation of pharmacy laws or regulations that may come to his ~~their~~ attention.

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535:10-3-1.2. Violations of professional conduct

Violations of the rules of professional conduct, which may also be called unprofessional conduct, include, but are not limited to, the following:

(1) The act of violating directly, indirectly, through actions of another, assisting in or abetting the violation of, or conspiring to violate, any provision or term of the Oklahoma ~~State Board of Pharmacy Act, (Title 59, O.S. Section 353 et seq.), the Federal Food, Drug, and Cosmetic Act, as amended by the Drug Quality and Security Act of 2013, the Prescription Drug Marketing Act (21 U.S.C., Sec. 331 et seq.), the Robinson-Patman Act (15 U.S.C., Sec. 13 et seq.), and/or federal, state and local laws and rules governing pharmacists or pharmacies.~~

(2) Failure to establish and maintain effective controls against the diversion of prescription drugs into other than legitimate medical, scientific, or industrial channels as provided by federal, state or local laws or rules.

(3) Failure to have and follow a written drug diversion detection and prevention policy and procedure.

~~(34) Making or filing a report or record which a pharmacist or pharmacy knows or should have known to be false, intentionally or negligently failing to file a report or record required by federal, state or local laws or rules, willfully impeding or obstructing such filing, or inducing another person to violate this rule—see. Such reports or records include only those which the pharmacist and/or pharmacy are~~ required to make or file in his capacity as a licensed pharmacist or pharmacy.

~~(45) Practicing pharmacy without reasonable skill and safety by reason of illness, use and/or abuse of drugs, narcotics, chemicals, or any other type of material, or as a result of any mental or physical condition.~~

(6) Abuse of alcohol or habit-forming drugs, or use of an illegal CDS drug, or a positive drug screen for such illegal substance or its metabolite.

~~(57) Knowingly dispensing a prescription drug after the death of a patient.~~

~~(68) Knowingly billing or charging for quantities greater than delivered, or for a brand when a generic or a compounded product is dispensed.~~

~~(79) Submitting fraudulent billing or reports to a third party payor of prescription drugs.~~

~~(810) Refusing to answer reasonable questions or provide information about prescriptions dispensed by the pharmacy when requested by, or for, the patient and which would aid the patient's health in the professional judgment of the pharmacist.~~

~~(911) Not attempting to resolve a possible prescription error; or situation of potential harm to the patient when apparent or should have been apparent to the pharmacist.~~

~~(1012) Not attempting to address the possible addiction or dependency of a patient to a drug dispensed by the pharmacist, if there is reason to believe that the patient may be dependent or addicted.~~

~~(1113) The assertion or inference in a public manner of material claims of professional superiority in the practice of pharmacy that cannot be substantiated.~~

~~(1214) The publication or circulation of false, misleading, or otherwise deceptive statements concerning the practice of pharmacy.~~

~~(1315) Discriminating in any manner between patients or groups of patients for reasons of a particular disease, religion, race, creed, color, sex, age or national origin.~~

~~(1416) Violating patient confidentiality. This does not prevent pharmacies from providing drug therapy information to prescribers physicians for their patients, nor does it prevent the provision of information as required by law.~~

~~(1517) Theft while practicing pharmacy.~~

~~(1618) Knowingly dispensing prescription drug refills after the death of a prescriberphysician. (A limited quantity may be allowed for the patient's health and safety.)~~

~~(1719) Failure to establish and maintain effective controls to prevent prescription errors or misfills mis-fills.~~

~~(1820) The misfilling of a prescription that departs from the standards of care ordinarily exercised by a pharmacist with proof of actual injury not having to be established.~~

~~(1921) Providing fictitious information, fraud or misrepresentation in applying for or procuring a pharmacist license, preceptor certificate or other permit, or in connection with applying for or procuring periodic re-registration or renewal of the same.~~

~~(2022) Attempting to cheat or subverting the pharmacist licensure examination, law examination, preceptor examination or any other examination required by the Board.~~

~~(2123) Allowing a non-pharmacist to perform any of the duties reserved to a pharmacist.~~

~~(22) Use or abuse of an illegal CDS substance or a positive drug screen for such illegal CDS substance or its metabolite.~~

~~(2324) Violation of any voluntary or Board ordered rehabilitation program for the impaired contract, e.g. OPHP contract.~~

~~(2425) Failure of pharmacist or pharmacy manager (pharmacist in charge) to fulfill the responsibilities as set out in 535:15.~~

~~(2526) Dispensing outdated prescription drugs.~~

~~(2627) Failure to cooperate in Board investigations.~~

~~(2728) Failure by the pharmacist to adequately supervise a pharmacy technician or a pharmacy intern; or working or scheduling an intern when there is no supervising pharmacist preceptor present; or working or scheduling a technician when there is no pharmacist supervising.~~

(29) Auto refilling a prescription without the authorization of the patient or the patient's agent.

535:10-3-4. Uniform pharmacy continuing education

(a) **Certification.** At the time of annual renewal of registration each pharmacist must certify that he has ~~they have~~ obtained at least 15 clock hours of continuing education credits ~~obtained~~ through satisfactory completion of an accredited program during the previous calendar year.

(b) **Verification forms.** Verification forms of attendance and/or completion of continuing education programs shall be obtained and maintained by the pharmacist.

(bc) **Records.** Proof of continuing education ~~will~~ ~~is to be~~ maintained by the individual pharmacist for a period of two years from renewal date ~~and submitted~~ ~~(submit to the Board only on request).~~

~~(e) **Verification forms.** Verification forms of attendance and/or completion of continuing education programs shall be obtained and maintained by the pharmacist.~~

(d) **Graduate school.** Pharmacists in pharmacy graduate school will be allowed credit for the required fifteen (15) hours continuing education.

(e) **Military personnel.** Military personnel will not be exempt from the continuing education requirement because of the availability of correspondence courses, etc.

(f) **Job credit.** No credit for continuing education will be granted for anything directly connected with a pharmacist's job.

(g) **Journals.** No credit will be allowed for reading, subscribing to or writing articles for various professional and trade journals.

(h) **Meetings.** ~~Requests for approval of credit~~ ~~Credit~~ for individual meetings will ~~have to be~~ submitted to the Committee on Continuing ~~Education~~ ~~education for credit~~ by the individual pharmacist ~~for review and decision.~~

(i) **Prior approval.** Prior approval of programs of ~~on~~ continuing education shall be obtained by the program sponsor. Each program must be submitted in its entirety, including all materials, in order to be evaluated by the Continuing ~~Education~~ ~~education~~ Committee. Continuing education programs sponsored by various drug companies ~~may~~ ~~will~~ be acceptable, if the programs are continuing education oriented and not promotional or product oriented.

(j) **Approved programs notice.** Programs approved for credit by the Continuing ~~Education~~ ~~education~~ Committee and the Board of ~~Pharmacy~~ will be published ~~on the Board's~~ ~~OPHA's webpage in the Oklahoma Pharmacist~~ as these programs are approved.

(k) **Colleges of pharmacy.** The two State colleges of pharmacy may review the various continuing education programs and make recommendations to the Continuing ~~Education~~ ~~education~~ Committee.

(l) **American Council on Pharmaceutical Education (ACPE).** The ~~Oklahoma~~ Board accepts ACPE approved continuing education (CE) for CE credit.

(m) **Continuing Education Committee.** The Continuing ~~Education~~ ~~education~~ Committee will consist of up to six (6) pharmacist members appointed by the Board for a three (3) year minimum term. The committee will meet quarterly or as needed.

(n) **Live Continuing education recommended.** Pharmacists are encouraged to attain three (3) hours or more of live continuing education (CE) each year as part of the fifteen (15) hours required. Live CE is attained in the presence of other pharmacists with a presenter and the possibility of interaction with a peer group.

535:10-5-1.1. Purpose

(a) The rules of this subchapter define how pharmacy college students or graduates can obtain the experience required of them under the Oklahoma Pharmacy Act, Title 59, O.S. Section 353 et seq. in order to be eligible for licensure as a pharmacist.

(b) These rules allow individuals to work as an intern when they are continuously actively enrolled and participating in a Doctor of PharmD in Pharmacy program to earn the practical experience required for licensure as a pharmacist.

(c) The purpose of an intern license is to allow a registrant to gain the required practical experience, under supervision, to become licensed as a pharmacist.

535:10-5-1.2. Definitions

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

"Currently enrolled" means a student currently enrolled in a college of pharmacy in a Doctor of Pharmacy PharmD program and attending classes or experiential rotations~~pro practice rotation.~~

"Experiential rotations" or "college experiential rotations" means a structured advance practice experiential rotation administered by the faculty of a college of pharmacy.

"Faculty preceptor" means an Oklahoma licensed pharmacist who is an Oklahoma licensed preceptor employed by a college of pharmacy to conduct a experiential rotations~~pro practice rotation.~~

"Foreign pharmacy graduate intern" means a graduate of a foreign college of pharmacy who has verified NABP FPGEC certification and has received an Oklahoma intern certificate from the Board.

"Intern" or "Registered Intern" means a student having completed fifty (50) college hours of credit, with an overall average of not less than "C"; currently enrolled and in good standing attending classes in an accredited college of pharmacy Doctor of PharmD in Pharmacy program currently approved by the Board; or a graduate of an accredited college of pharmacy currently approved by the Board not otherwise eligible for registration as an intern or pharmacist, except as provided in 535:10-7-8 who has received an Oklahoma Intern certificate from the Board.

"Intern duties" means those duties that may be performed by a licensed Intern while working in a licensed training area under the supervision of a preceptor. The licensed Intern may do any of the functions of a Pharmacist for which they have been trained with the exception of supervising technicians or any other exceptions noted in Title 535. All intern duties must be performed in compliance with the rules of 535:10-5 and this Title.

"Intern hours" means the hours a licensed intern must acquire in order to be eligible for licensure as a pharmacist.

"Pro practice" or "college pro practice rotation pro practice" means a structured advance practice rotation administered by the faculty of a college of pharmacy.

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535:10-5-1.3. Intern experience requirements

Each applicant, before sitting for licensure examination for registration as a pharmacist, shall furnish the Board of ~~Pharmacy~~ with documentary evidence that said applicant has completed at least fifteen hundred (1500) hours of pharmacy practice training, under the supervision of a preceptor, in a licensed pharmacy or other professional practice site that has been approved as a training area by a Board of ~~Pharmacy~~. Credit will not be granted for practice experience gained in out-of-state sites not subject to the regulations of a State Board of Pharmacy.

- (1) No credit shall be allowed for experience obtained in Oklahoma unless such experience was obtained in accordance with the regulations Governing Pharmacy Interns, Preceptors and Training Areas.
- (2) To obtain credit in Oklahoma for experience obtained in another state, applicant must arrange with the Board of Pharmacy in the state where the hours were worked to furnish this Board with a letter certifying the hours and dates worked; place of employment and preceptor; and certification that the hours in question are approved by and acceptable to that Board.

535:10-5-2. Intern registration

Interns shall ~~license register~~ with the Board of ~~Pharmacy~~ on an application form supplied by the Board. The intern certificate fee shall be set by the Board.

- (1) Interns shall conspicuously display in their training area the intern ~~license certificate~~ provided by the Board. The intern shall be assumed to be presently practicing as such in the training area, by the Board or its agents, where such certificate is posted.
- (2) An intern, to be practicing as such, must abide by the regulations governing same, whether logging hours for credit or not.

535:10-5-2.1. Multiple locations of employment, duplicate

An intern working in multiple locations regularly or on an emergency relief basis may be issued a duplicate certificate on request.

- ~~(1) A written request indicating the need for such duplicate shall be sent to the Board by the intern.~~
- ~~(2) The duplicate certificate for multiple locations will have "Duplicate - M.L." listed on the certificate.~~

535:10-5-3. Intern requirements; licenses

(a) A ~~licensed registered~~ intern shall be defined as a student having completed fifty (50) college hours of credit, with an overall average of not less than "C", currently enrolled and attending classes and in good standing in an accredited college of pharmacy in a ~~Doctor of PharmD~~ Pharmacy program, or a graduate of an accredited college of pharmacy not otherwise eligible for ~~licensure registration~~ as an intern or pharmacist, except as provided in 535:10-7-8.

- (1) The Board of ~~Pharmacy~~ shall be notified by the Pharmacy Colleges in Oklahoma

(A) when a student is not continuously enrolled in a college of pharmacy in an accredited Pharmacy program; or,

(B) when a pharmacy student is not in good standing - or when a pharmacy student's overall grade point average is less than "C";

(C) Then an intern license or registration is automatically void and the intern shall return such license to the Board.

(2) Such intern may apply for a new intern license when the Board is notified by the college of pharmacy that the applicant is in good standing in a ~~Doctor of PharmD~~ Pharmacy program and actively attending classes provided the provisions of these regulations have not been violated by the intern.

(3) An intern shall notify the Board when requesting the transfer of intern hours to another state of any intent not to return to Oklahoma; or, within ten (10) days of becoming licensed as a pharmacist in another state.

(4) An intern certificate becomes void five (5) years after date of issuance or at such other date as set by the Board.

535:10-5-4. Intern practice requirements

(a) **Supervision requirement.** An intern may practice in an approved training area only under the immediate visual supervision of a preceptor, except as described in 535:10-5-4-(a) (3). See also 535:10-5-2.

- (1) A preceptor may supervise only one intern at a time.
- (2) A ratio of one (1) faculty preceptor with up to two (2) interns will be allowed in a ~~experiential rotations~~ experiential rotations ~~pro-practice rotation~~.
- (3) Non-dispensing ~~experiential rotations~~ experiential rotations ~~pro-practice rotations~~ are to be supervised by a preceptor, but immediate visual supervision is not required.
- (4) An intern may not be on duty in any capacity without a licensed pharmacist preceptor on site and supervising the intern.

(b) **Professional Conduct.** Interns will be held accountable to the rules and violations of professional conduct. The professional conduct rules for interns will be the same as required by 535:10-3-1.1 and 535:10-3-1.2 for pharmacists.

(c) **Employment notification.** All licensed pharmacy interns shall notify the Board of ~~Pharmacy~~, in writing, of the place of their ~~non-experiential employment non-college practice~~ experiential rotations ~~pro-practice~~ within ten (10) days of going to work and/or termination of this practice location. The ~~experiential rotations~~ experiential rotations ~~pro-practice~~ employment location notification will be the responsibility of the college of pharmacy.

535:10-5-5. Intern credit hours; computation

(a) **Intern ~~experiential rotations~~ experiential rotations ~~pro-practice rotation~~ hours.** A pharmacy intern pursuing a ~~Doctor of Pharmacy PharmD~~ Doctor of Pharmacy degree in an accredited college of pharmacy may obtain up to 1,500 intern hours while completing the degree.

(1) ~~Experiential Pro-practice~~ hours will be obtained through a board approved college of pharmacy professional practice program.

(2) Documentation of ~~experiential pro-practice~~ hours shall be provided to the Board by the college of pharmacy on a Board approved form.

(b) **Intern non-experiential or non-college practice hours.** Non-~~experiential college practice employment~~ hours will be a learning experience, earned in a pharmacy that is licensed as a training area, under the supervision of licensed preceptor. The preceptor will send a "Preceptor's Intern Progress Report" to the Board (on a form furnished by the Board) every 240 hours or upon termination of the intern.

(c) **Computation of hours.** Computation of hours for credit for an intern shall be on the basis of forty (40) hours for one (1) calendar week's work. Hours gained in excess of forty (40) hours in one calendar week shall not be credited.

535:10-5-8. Preceptor requirements

A person who has been licensed as a ~~registered~~ pharmacist and engaged in the practice of pharmacy for a period of not less than one (1) year and is currently licensed as an Oklahoma pharmacist is eligible to apply for preceptor exam and certificate, as allowed under this section. The preceptor fee for original examination and certification shall be set by the Board.

(1) Any pharmacist desiring approval as a preceptor must make application to the Board on a form supplied by the Board. The Board will consider the requirements and qualifications listed in this section and in 535:25-3 at a minimum. Preceptors will be issued identifying certificates by the Board, which must be conspicuously posted in the training area where they practice.

(A) All preceptors shall successfully complete an examination, prepared by the Board, relating to this Subchapter and pharmacy law and rules. Said examination shall be made a part of the application for certification as a preceptor.

(B) ~~After December 31, 2011 all preceptors~~ Preceptors are subject to renewal ~~will have to renew their certification~~ at each renewal date of their doctor of pharmacy license for a fee set by the Board.

(2) Preceptors must show themselves to be interested in pharmacy as a profession, and at the same time instruct the intern in all operations of their training area.

(3) Preceptors will supervise only one intern at a time, except as allowed under 535:10-5-4(a).

(4) Preceptor evaluation report(s) shall be submitted by the preceptor at least by the end of each two hundred and forty (240) hours or upon termination of the intern as required under 535:10-5-5(b).

(5) No pharmacist shall be approved or continue as a preceptor, who is under probation or suspension by the Board, or who has been convicted of a felony which was drug related. After practicing two (2) years on probation the pharmacist may request permission from the Board to apply for a new preceptor certificate. A pharmacist will

have to apply for a new preceptor certificate after completion of probation and/or suspension by the Board.

535:10-5-9. Training area requirements

(a) **Pharmacies.** Any pharmacy desiring approval for the training of interns shall make application to the Board ~~of Pharmacy~~ on a form supplied by the Board. The Board will consider the requirements and qualifications listed in 535:25-3 at a minimum. A pharmacy approved as a training area shall conspicuously display its training area certificate in the pharmacy, and be subject to the following provisions:

(1) Such pharmacy shall be subject to inspection by the Board.

(2) Such pharmacy shall agree to furnish the necessary preceptor(s) under whose supervision the intern will be allowed to perform the duties outlined in this Subchapter. The number of interns practicing in a training area is limited to the number of preceptors present and on duty in a training area.

(3) No pharmacy under probation or suspension by the Board shall be approved as a training area. A pharmacy will not be able to continue as a training area under the above conditions. A pharmacy must apply for a new training area certificate and be approved by the Board after completion of probation and/or suspension.

(4) All training areas shall submit reports as required by the Board.

(5) The Board shall set the training area original certification fee.

(6) All training areas shall renew their certification for a fee set by the Board.

(7) ~~After December 31, 2011, all training areas~~ Training Areas are subject to renewal ~~will renew their certification when their~~ the pharmacy license is renewed.

(b) **Unique or specific training areas.** Any Oklahoma college of pharmacy may apply to the Board for approval of a specific or unique training area. This training area shall be subject to Subsection (a) (1), (2), (4) and (5) of this Section.

(c) **Changes.** Changes of pharmacy location, name or ownership shall require a new training area certificate.

SUBCHAPTER 7. PHARMACIST LICENSURE

535:10-7-4. General requirements for pharmacist licensure applicants

(a) All applicants for Oklahoma pharmacist licensure shall meet the statutory requirements in ~~59 O.S. 59-~~Section 353.9, the rules of this Title and subchapter, and the requirements regarding applicants in 535:25.

(b) The Board shall have the right to deny a license to an applicant if it determines that the granting of such a license would not be consistent with public health and safety.

(c) The Board must approve all applicants for Oklahoma pharmacist licensure as required in ~~Title 59 O.S. Section~~ 353.9.

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(d) All applicants may be required to appear before the Board for interview. If interview is required, the applicant must communicate with the Board in a satisfactory manner.

(e) To be eligible for pharmacist licensure all applicants shall successfully pass a Board approved jurisprudence examination and/or any licensure examination required by the Board including but not limited to NAPLEX.

(1) Should an applicant fail the pharmacist licensure and/or the jurisprudence examination(s) twice the Board may require evidence of additional education before further re-examination.

(2) Providing the applicant fails three times, the Board may deny the applicant further examination.

(f) Applicants shall be forthright and open in the provision of information to the Board in the application process. Applicant shall be candid in regards to providing information related to any academic misconduct, malpractice, legal, or disciplinary action. No license shall be issued to an applicant who does not provide the Board with complete, open and honest responses to all requests for information.

(g) All applicants shall complete the licensure process in a diligent and forthright manner.

(1) An application for licensure may be cancelled by the Board for failure to make a legitimate effort to complete the licensure process within 90 days. An applicant(s) licensure process not completed within one year shall be cancelled.

(2) All cancelled applications are null and void and the applicant must begin the entire licensure process again including, but not limited to any applications, fees, and exams required.

535:10-7-9. Pharmacist renewal

(a) Pharmacist renewal applicants shall meet and maintain the requirements listed in the Oklahoma Pharmacy Act and the rules of this Title.

(b) The qualifications and requirements for pharmacist renewal applicants shall be the same as those listed in 535:25 and as follows:

(1) Pharmacist renewal applicants shall possess an Oklahoma pharmacist license.

(2) Pharmacist renewal applicants shall maintain compliance with the rules of professional conduct and not be involved in violations of the rules of professional conduct.

(c) Any person who shall make any false representations in procuring or attempting to procure a renewal, for ~~himself themselves~~ or for another pharmacist, may be deemed ineligible by the Board for any registration or renewal of license, certificate or permit with the Board.

(d) Any willfully false representations for the same purpose(s) may subject the applicant to felony charges of perjury; see Title 59 O.S., Section 353.25 (B).

(e) Applicants for pharmacist renewal shall satisfactorily complete and submit a renewal application on a form supplied by the Board together with the fee by the due date.

(1) Renewal applications received after due date established by the Board shall be subject to the late fee as established in the Board's fee schedule.

(2) Renewal applications received after cancellation by the Board shall be subject to reinstatement fees and requirements.

(f) The Board shall have the right to deny a renewal to any applicant if it determines that the granting of such renewal of license would not be consistent with the public health and safety.

535:10-7-10. Pharmacist reinstatement

(a) A pharmacist reinstatement applicant shall be an individual who possesses a pharmacist certificate of registration that was cancelled at request or for failure to renew.

(1) A pharmacist who possesses a revoked certificate is not eligible for reinstatement.

(2) Cancelled pharmacists' records are kept for a limited time. If a pharmacist's record has been destroyed the applicant is not eligible for reinstatement. In this case the applicant shall follow the requirements in 535:10-7 to obtain pharmacist licensure.

(b) A pharmacist reinstatement applicant shall meet the requirements in the Oklahoma Pharmacy Act, this Title, 535:10-7-4, 535:10-7-9 and this section.

(c) A pharmacist reinstatement applicant shall send a written request to the Board.

(d) Reinstatement applicants shall submit a satisfactorily completed Board approved reinstatement application together with the requirements and fees.

(e) Applicants may be required to appear before the Board for interview as described in 535:10-7-4~~(e)~~(d).

(f) Applicants may be required to take the Board approved law exam as described in 535:10-7-4~~(d)~~(e).

(g) The applicant shall meet any additional requirements that the Board feels are necessary to protect public health.

(h) Reinstatement will be required when the suspension of a non-current pharmacist's certificate ends or when the suspension is placed on probation.

SUBCHAPTER 9. PHARMACEUTICAL CARE

535:10-9-1. Prospective drug review [REVOKED]

~~Prospective drug review shall be performed by the pharmacist in all pharmacies when deemed appropriate in the pharmacist's professional judgement or when required by applicable federal or state laws or rules.~~

~~(1) A pharmacist shall review the patient record and each prescription drug order presented for dispensing for purposes of promoting therapeutic appropriateness by identifying the following:~~

~~(A) overutilization or underutilization;~~

~~(B) therapeutic duplication;~~

~~(C) drug disease contraindications, if disease is known;~~

~~(D) drug drug contraindications;~~

- (E) ~~incorrect drug dosage or duration of drug treatment;~~
 - (F) ~~drug allergy interactions;~~
 - (G) ~~clinical abuse/misuse.~~
- (2) ~~Upon recognizing any of (1) (A)-(G) of this section, the pharmacist shall take appropriate steps to avoid or resolve the problem which shall, if necessary, include consultation with or notification of the prescriber.~~

535:10-9-1.1. Purpose

~~The purpose of this Subchapter is to identify standards for the provisions of those acts or services that are necessary to provide pharmaceutical care.~~

535:10-9-1.2. Prospective drug review

~~Prospective drug review shall be performed by the pharmacist in all pharmacies when deemed appropriate in the pharmacist's professional judgement or when required by applicable federal or state laws or rules.~~

- (1) ~~A pharmacist shall review the patient record and each prescription drug order presented for dispensing for purposes of promoting therapeutic appropriateness by identifying the following:~~
- (A) ~~overutilization or underutilization;~~
 - (B) ~~therapeutic duplication;~~
 - (C) ~~drug-disease contraindications, if disease is known;~~
 - (D) ~~drug-drug contraindications;~~
 - (E) ~~incorrect drug dosage or duration of drug treatment;~~
 - (F) ~~drug-allergy interactions;~~
 - (G) ~~clinical abuse/misuse.~~
- (2) ~~Upon recognizing any of (1) (A)-(G) of this section, the pharmacist shall take appropriate steps to avoid or resolve the problem which shall, if necessary, include consultation with or notification of the prescriber.~~

535:10-9-3. Intern role in pharmaceutical care

- (a) ~~Nothing shall restrict licensed registered interns from performing any and all of the functions in this Subchapter under the supervision of a licensed registered pharmacist unless otherwise stated in the laws and rules (e.g.: 535:15-5-7.2(g) and 535:10-5-1.2).~~
- (b) ~~An intern shall not certify a prescription.~~
- (c) ~~An intern shall not supervise a technician.~~

535:10-9-4. Purpose [REVOKED]

~~The purpose of this Subchapter is to identify standards for the provisions of those acts or services that are necessary to provide pharmaceutical care.~~

535:10-9-13. Administer

- (a) A pharmacist may administer drugs that have been dispensed on orders from a ~~prescriber~~ prescribing practitioner.

- (b) A pharmacist should inform or teach the patient or the patient's caregiver how to administer their drugs.

SUBCHAPTER 11. PHARMACIST ADMINISTRATION OF IMMUNIZATIONS

535:10-11-1. Purpose

- (a) The purpose of this Subchapter is to identify standards for the provisions of those acts or services that are necessary for pharmacists to administer immunizations ordered by a prescribing licensed practitioner.
- (b) The rules in this Subchapter implement a portion of the requirements authorized in ~~Title~~ 59 O.S. Section 353.30.

535:10-11-2. Definitions

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

"Controlled dangerous drug" or "CDS drugs" means those drugs, substances or immediate precursors that require a prescription and are scheduled under federal or state law.

"Healthcare provider" means an individual, licensed as a Doctor of Pharmacy by the Board, who provides healthcare.

"Pharmacist" or "D.Ph." or "Doctor of Pharmacy" means a person registered by the Board of Pharmacy to engage in the practice of pharmacy.

"Prescribing Practitioner" means a licensed practitioner of allopathic or osteopathic medicine in active practice duly authorized or recognized by law to prescribe RX Only dangerous drugs and/or controlled dangerous substances.

"RX Only drug", "Dangerous drug", "Legend drug", or "Prescription drug" means drugs which require a prescription under federal or state law to be administered or dispensed.

535:10-11-3. D.Ph. administering of immunization requirements

- (a) A D.Ph. must have completed an approved training course and received registration for immunizations with the Board as stated in 535:10-11-4 prior to administering immunizations.
- (b) A D.Ph. shall administer immunizations on the order of a prescribing licensed practitioner.
- (c) The Board will maintain a register of those pharmacists who have been approved for immunizations.
- (d) A D.Ph. with immunization registration must maintain ongoing competency through required training, ~~e.g. including~~ at a minimum current CPR certification and current continuing education.

535:10-11-4. Immunization registration

- (a) In order to obtain and maintain eligibility to administer immunizations an applicant must be licensed as a pharmacist registered as a D.Ph. in Oklahoma and have successfully completed an approved training described in 535:10-11-5.

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- (b) Each D.Ph. immunization ~~applicant registrant~~ is subject to the rules regarding applicants in Subchapter 535:25-3.
- (c) Prior to administering immunizations, each D.Ph. shall ~~obtain an immunization permit be registered with the Board as an immunization registrant.~~
- (1) ~~Such Each~~ D.Ph. shall apply ~~obtain an immunization permit to be placed on the immunization register by~~ completing a an application form furnished by the Board and paying the \$25 fee.
- (2) ~~The immunization A permit will be sent to the D.Ph. indicating their immunization registration must be displayed in the pharmacy where the D.Ph. is performing immunizations.~~
- (3) Duplicate immunization permits are available with duplicate application and fee.
- (d) An Oklahoma licensed intern who has successfully completed an approved immunization training program described in 535:10-11-5, while working under an Oklahoma licensed pharmacist preceptor with an immunization registration, shall be exempt from immunization registration. Such intern shall provide proof of such successfully completed immunization training program upon request of the Board.

535:10-11-6. Records

- (a) Records of these immunizations will be kept on file by the pharmacy. The files will include, but not be limited to, the following:
- (1) Patient name (Parent name, if patient is a minor)
 - (2) Address of patient
 - (3) Prescribing licensed practitioner
 - (4) Immunization order
 - (5) Name, Manufacturer, Lot no., Expiration Date
 - (6) Date for continued dose regimen if required
- (b) Such records must be readily available for inspection in the pharmacy.
- (c) Records or reports will be sent to the State Health Department, if required.
- (d) Report of immunization to prescribing licensed practitioner~~physician~~, if requested.

[OAR Docket #16-683; filed 7-8-16]

TITLE 535. OKLAHOMA STATE BOARD OF PHARMACY CHAPTER 10. PHARMACISTS; AND INTERNS, PRECEPTORS AND TRAINING AREAS

[OAR Docket #16-684]

RULEMAKING ACTION: PERMANENT final adoption

- RULES:**
- Subchapter 3. Pharmacists
 - 535:10-3-4. Uniform pharmacy continuing education [AMENDED]
 - Subchapter 5. Interns, Preceptors and Training Areas
 - 535:10-5-1.3. Intern experience requirements [AMENDED]
 - Subchapter 7. Pharmacist licensure
 - 535:10-7-6. Reciprocity licensure applicants [AMENDED]

AUTHORITY:

Oklahoma State Board of Pharmacy is the regulatory authority under Title 59 O.S., Sec. 353.7, 353.9, 353.11, 353.16A, 353.18, 353.20, 353.22, 353.24-353.26, and 364.

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ANALYSIS:

The revision in 535:10-3-4 (a) adds 'January-December' to improve the rule clarity. In 535:10-3-4 (c) the revision adds '(2)' for consistency. In 535:10-3-4 (o) it adds that the Board may specify a topic for three (3) of the 15 hours of continuing education required of pharmacists each year. If such 'specific topic' is required, the Board must provide adequate notice.

In 535:10-5-1-3 (a) (3) - (4) the revision allows the Board to review, approve or disapprove intern hours worked in an ACPE approved school or college of pharmacy program out of state where such state Board of Pharmacy does not track or report college or school of pharmacy earned intern hours.

In 535:10-7-6 (d) the rule that Oklahoma reciprocity is only allowed on an active original license by examination is clarified. This is needed because NABP changed their rule and now allows reciprocity on a variety of license types.

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, 2016:

SUBCHAPTER 3. PHARMACISTS

535:10-3-4. Uniform pharmacy continuing education

(a) **Certification.** At the time of annual renewal of registration each pharmacist must certify that he has obtained at least 15 clock hours of continuing education credits through satisfactory completion of an accredited program during the previous calendar year (January 1 -December 31).

(~~eb~~) **Verification forms.** Verification forms of attendance and/or completion of continuing education programs shall be obtained and maintained by the pharmacist.

(~~bc~~) **Records.** Proof of continuing education ~~is to~~ will be maintained by the individual pharmacist for a period of two (2) years from renewal date (~~submit and submitted~~ submitted to the Board only on request).

- (d) **Graduate school.** Pharmacists in pharmacy graduate school will be allowed credit for the required fifteen (15) hours continuing education.
- (e) **Military personnel.** Military personnel will not be exempt from the continuing education requirement because of the availability of correspondence courses, etc.
- (f) **Job credit.** No credit for continuing education will be granted for anything directly connected with a pharmacist's job.
- (g) **Journals.** No credit will be allowed for reading, subscribing to or writing articles for various professional and trade journals.
- (h) **Meetings.** Requests for approval of credit ~~Credit~~ for individual meetings will ~~have to~~ be submitted to the Committee on Continuing ~~education~~ Education for credit by the individual pharmacist for review and decision.
- (i) **Prior approval.** Prior approval of programs of continuing education shall be obtained by the program sponsor. Each program must be submitted in its entirety, including all materials, in order to be evaluated by the Continuing Education Committee. Continuing education programs sponsored by various drug companies ~~will~~ may be acceptable, if the programs are continuing education oriented and not promotional or product oriented.
- (j) **Approved programs notice.** Programs approved for credit by the Continuing Education Committee and the Board ~~of Pharmacy~~ will be published ~~in~~ on the ~~Oklahoma Pharmacist Board's~~ Oklahoma Pharmacist Board's webpage as these programs are approved.
- (k) **Colleges of pharmacy.** The two State colleges of pharmacy may review the various continuing education programs and make recommendations to the Continuing ~~education~~ Education Committee.
- (l) **American Council on Pharmaceutical Education (ACPE).** The ~~Oklahoma~~ Board accepts ACPE approved continuing education (CE) for CE credit.
- (m) **Continuing Education Committee.** The Continuing ~~education~~ Education Committee will consist of up to six (6) pharmacist members appointed by the Board for a three (3) year minimum term. The committee will meet quarterly or as needed.
- (n) **Live Continuing education recommended.** Pharmacists are encouraged to attain three (3) hours or more of live continuing education (CE) each year as part of the fifteen (15) hours required. Live CE is attained in the presence of other pharmacists with a presenter and the possibility of interaction with a peer group.
- (o) **Specific Continuing Education requirement.** The Board may, at its discretion, require up to three (3) hours of continuing education on a specific topic. Adequate notice shall be provided to registrants of any specific continuing education when required by the Board.

SUBCHAPTER 5. INTERNS, PRECEPTORS AND TRAINING AREAS

535:10-5-1.3. Intern experience requirements

Each applicant, before sitting for licensure examination for registration as a pharmacist, shall furnish the Board ~~of Pharmacy~~ with documentary evidence that said applicant has completed at least fifteen hundred (1500) hours of pharmacy practice training, under the supervision of a preceptor, in a licensed pharmacy or other professional practice site that has been approved as a training area by a Board ~~of Pharmacy~~. Credit will not be granted for practice experience gained in out-of-state sites not subject to the regulations of a State Board of Pharmacy.

- (1) No credit shall be allowed for experience obtained in Oklahoma unless such experience was obtained in accordance with the regulations Governing Pharmacy Interns, Preceptors and Training Areas.
- (2) To obtain credit in Oklahoma for experience obtained in another state, applicant must arrange with the Board of Pharmacy in the state where the hours were worked to furnish this Board with a letter certifying the hours and dates worked; place of employment and preceptor; and certification that the hours in question are approved by and acceptable to that Board.
- (3) In the case where another state Board of Pharmacy does not track or certify hours earned while attending that state's ACPE approved school or college of pharmacy, the applicant may submit the following for review and consideration by the Board:
 - (A) Certification from the ACPE approved school or college of pharmacy of hours earned while attending such school or college.
 - (B) Upon request, a letter from the state Board of Pharmacy confirming that they do not certify intern hours earned while attending that state's ACPE approved school or college of pharmacy.
- (4) The Oklahoma Board will not accept hours that are refused or denied by another state Board of Pharmacy.

SUBCHAPTER 7. PHARMACIST LICENSURE

535:10-7-6. Reciprocity licensure applicants

- (a) Reciprocity applicants, as defined in 535:10-7-2, shall meet the requirements set forth in 535:10-5, 535:10-7-4, 535:25 and this Subchapter and Title.
- (b) Reciprocity applicants shall have a minimum of one year's experience obtained as an intern and/or as a pharmacist.
- (c) Reciprocity applicants shall submit to the Board a completed "NABP Official Application for Transfer of Pharmaceutical licensure" and the required Oklahoma fee by the deadline set by the Executive Director.
- (d) Oklahoma requires reciprocity applicants to reciprocate from an active original license by examination.

[OAR Docket #16-684; filed 7-8-16]

Permanent Final Adoptions

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

[OAR Docket #16-685]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 3. Pharmacies

535:15-3-15.1. Transmission of prescription orders other than verbal orders [AMENDED]

535:15-3-18. Pharmacy prescription drug purchase records

Subchapter 7. Drug Supplier Permits

535:15-7-3. Drug supplier restriction [AMENDED]

Subchapter 13. Pharmacy Supportive Personnel

535:15-13-6. Duties [AMENDED]

535:15-13-8. Technician annual permit requirement [AMENDED]

AUTHORITY:

Oklahoma State Board of Pharmacy is the regulatory authority under Title 59 O.S., Sec. 353.7, 353.13, 353.13A, 353.16A, 353.17, 353.18, 353.20, 353.22, 353.24 - 353.26, 353.29, 354, and 367.8.

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ANALYSIS:

The revisions in 535:15-3-15.1 (b) adds the word 'and' while striking 'and the identity of the pharmacy intended to receive the transmission' since that requirement was for prescriber not the pharmacy.

The revision in 535:15-3-18 allows pharmacies to maintain non-controlled invoices electronically.

The revisions in 535:15-7-3 (a) remove an unnecessary "or" and in (b) adds the word "not" previously deleted by mistake.

The revision in 535:15-13-6 (b) (8), removes "and" from the end of (8), and inserts it to (9) for clarity.

The revision in 535:15-13-8 (b) adds a technician applicant reporting requirement.

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, 2016:

SUBCHAPTER 3. PHARMACIES

535:15-3-15.1. Transmission of prescription orders other than verbal

(a) All transmitted prescription drug orders, other than verbal, shall be transmitted:

(1) to a pharmacy of the patient's choice with no intervening person or persons altering the prescription order or breaching patient confidentiality;

(2) by an authorized practitioner; or his designated agent when

(A) designated agents are allowed by the practitioner's practice act, and

(B) if transmitting designated agent's identity is included in the order.

(b) Transmitted prescription drug orders shall include the transmitter's phone number for verbal confirmation, and the time and date of transmission, and the identity of the pharmacy intended to receive the transmission;

(c) The pharmacist shall exercise professional judgment regarding the accuracy, validity and authenticity of a prescription drug order transmitted consistent with federal, state and local laws and rules.

(d) All equipment for receipt of prescription drug orders shall be ~~secured~~ maintained so as to ensure against unauthorized access.

(e) Prescriptions may be transferred if all requirements of federal, state and local laws and rules are met.

(f) No agreement between a prescribing practitioner and a pharmacy or device and medical equipment holder shall require that prescription orders be transmitted from the prescribing practitioner to only that pharmacy or device or medical equipment permit holder. ~~No registrant, licensee or permit holder shall agree nor have an agreement with a prescriber that a prescription or order written by the prescriber shall only be transmitted to the registrant, licensee or permit holder.~~

535:15-3-18. Pharmacy prescription drug purchase records

(a) All prescription purchases (e.g. invoices, etc.) and inventory records shall be maintained and be readily retrievable for a period of at least 2 years. Invoices for non-controlled drugs may be maintained electronically.

(b) A pharmacist and/or pharmacy shall exercise careful professional judgment regarding where they purchase the pharmacy's drugs to assure a safe and sanitary drug supply is maintained. Prescription drug purchases may only be made from entities licensed to sell such drugs.

SUBCHAPTER 7. DRUG SUPPLIER PERMITS

535:15-7-3. Drug supplier restriction

(a) Retail pharmacies shall not sell or otherwise supply or provide dangerous substances, prescription drugs, or controlled dangerous substances drugs, PGP or a compounded preparation to a wholesaler, manufacturer, or repackager,

outsourcing pharmacy or logistics provider. Return of a drug to the wholesaler from whom it was purchased is allowed.

(b) This restriction does not apply to packaging services provided to a pharmacy where the ownership of the pharmacy's drug does not change hands.

SUBCHAPTER 13. PHARMACY SUPPORTIVE PERSONNEL

535:15-13-6. Duties

(a) The following tasks may be performed by auxiliary supportive personnel:

- (1) retrieval tasks such as retrieving prescriptions or files as necessary;
- (2) clerical tasks such as data entry, typing labels and maintaining patient profiles;
- (3) secretarial tasks such as telephoning, filing, and typing;
- (4) accounting tasks such as record keeping, maintaining accounts receivables, third party billing and posting;
- (5) inventory control tasks including monitoring, pricing, dating, invoicing, stocking pharmacy, and preparation of purchase orders; and
- (6) help maintain a clean and orderly pharmacy.

(b) The following tasks may be performed by pharmacy technicians:

- (1) count and/or pour medications;
- (2) prepackage (e.g. unit dose) and properly label medications;
- (3) affix the prescription label to the proper container;
- (4) affix auxiliary labels to the container as directed by the pharmacist;
- (5) reconstitution of medications (i.e. liquid antibiotics);
- (6) bulk compounding, including such items as non-sterile topical compounds, sterile bulk solutions for small volume injectables, sterile irrigation solutions and products prepared in relatively large volume for internal or external use. Documentation of a system of in-process and final checks and controls must be developed or approved by the certifying pharmacist and carefully and systematically enforced;
- (7) functions involving reconstitution of single dose units of sterile compounded preparations that are to be administered to a given patient as a unit, and functions involving the addition of one manufacturer's prepared unit (whole or in part) to another manufacturer's prepared unit if the unit is to be administered as one dose to a patient. The pharmacist must establish the procedures for compounding sterile preparations and certify the ingredients, label and finished preparation;
- (8) any duties auxiliary personnel are allowed to perform; and
- (9) assist the pharmacist in the annual CDS inventory. The pharmacist remains responsible for its completeness and accuracy; and.

(10) take verbal authorizations from licensed prescriber or licensed prescriber's authorized agent (when allowed) for refill of non-controlled prescriptions with no changes to strength or directions.

535:15-13-8. Technician annual permit requirement

(a) Each pharmacy technician in Oklahoma shall obtain a permit annually before practicing as such. A pharmacy technician must be employed in a licensed pharmacy located in Oklahoma to be eligible to renew his pharmacy technician permit.

(1) Upon meeting the qualifications listed in 535:15-13-4 and 535:25, applicants shall apply for a pharmacy technician permit on the form provided by the Board. Such application shall be returned accompanied by the fee authorized by the legislature and in the agency fee schedule.

(2) After the pharmacy technician has completed his portion of the application, he must submit it to the pharmacy manager or designated pharmacist who has conducted the technician training for review and signature.

(3) The pharmacy manager or designated pharmacist must first verify the applicant's completion of Phase I of the Board approved pharmacy technician training program. The signature by the pharmacist verifying technician training indicates that there is written training verification in the pharmacy available for Board inspection.

(4) Each pharmacy technician who desires to continue to work as a tech shall annually, on or before the last day of the registrants' birth month, send to the Board the fee authorized by the legislature and in the agency fee schedule, with a completed Board renewal application signed by the supervising pharmacist and the technician. Renewal notice will be sent to the technician's address on file in the Board office either electronically or by mail.

(b) The technician applicant is required to report and the Board shall, at a minimum, consider the following factors in reviewing qualifications of persons who apply for a pharmacy technician permit within the state:

- (1) any arrest, charge, plea of nolo contendere, or conviction, or deferred sentence, for any misdemeanor or felony offense of the applicant under any federal, state, or local laws;
- (2) the furnishing of any false or fraudulent material in any application made to the Board;
- (3) suspension or revocation by federal, state, or local government of any license currently or previously held by the applicant;
- (4) compliance with permitting requirements under previously granted permits, if any;
- (5) any abuse of alcohol or habit-forming drugs or use of an illegal CDS substance or a positive drug screen for such illegal substance or its metabolite; and,
- (6) any other factors or qualifications the Board considers relevant to and consistent with the public health and safety.

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(c) The Board shall have the right to deny a permit to an applicant if it determines that the granting of such a permit would not be consistent with the public health and safety.

[OAR Docket #16-685; filed 7-8-16]

TITLE 535. OKLAHOMA STATE BOARD OF PHARMACY CHAPTER 20. MANUFACTURERS, REPACKAGERS, OUTSOURCING FACILITIES, WHOLESALERS, THIRD-PARTY LOGISTICS PROVIDERS, AND MEDICAL GAS SUPPLIERS AND DISTRIBUTORS

[OAR Docket #16-686]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 3. Manufacturers
535:20-3-1.2. Definitions [AMENDED]
Subchapter 5. Repackagers
535:20-5-2.1. Definitions [AMENDED]
Subchapter 6. Outsourcing Facilities
535:20-6-2. Definitions [AMENDED]
Subchapter 7. Wholesale Distributor Rules
535:20-7-2. Definitions [AMENDED]
535:20-7-3. Wholesale distributor licensing requirement [AMENDED]
535:20-7-5. Minimum qualifications [AMENDED]
Subchapter 8. Third-Party Logistics Providers [AMENDED]
535:20-8-2. Definitions [AMENDED]
Subchapter 9. Medical Gas Suppliers and Distributors
535:20-9-3. Medical gas suppliers [AMENDED]
535:20-9-4. Medical gas distributors [AMENDED]
535:20-9-6. Prohibited conduct [AMENDED]

AUTHORITY:

Oklahoma State Board of Pharmacy is the regulatory authority under Title 59 O.S., Sec. 353.7, 353.13, 353.13A, 353.16A, 353.17, 353.18, 353.20, 353.22, 353.24 - 353.26, 353.29, 354, and 367.8; Title 51 OS 24A et seq.; Title 75 OS, Sec 2-201, 2-208, and 2-210.

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ANALYSIS:

The definition revisions in 535:20-3-1.2, 535:20-5-2.1, 535:20-6-2, 535:20-7-2, and 535:20-8-2 remove the "incorporated by reference", because registrants must comply with these federal laws and rules, there is no need to incorporate by reference. In 535:20-7-2 the revision removes the section symbol following the word "Section".

The revision in section 535:20-7-3 adds "located in Oklahoma" to the requirements that wholesalers be separate from a pharmacy. This requirement is because in Oklahoma when they were located together many years ago, neither had accurate inventory records. This rule is to prevent diversion. However, other states allow wholesalers and pharmacies to be located together. In 535:20-7-5 "have" is changed to "has" and "licensee" is changed to "license".

Many medical gas suppliers and medical gas distributors no longer "fill", in such case they are not required FDA licensure, consequently the revisions in 535:20-9-3 (c) and 535:20-9-4 (c) add the words "if required" and both have cleanup on the language to make the rule more clear. The revision in 535:20-9-3 (h) clarifies a medical gas supplier provides medical gas only on a drug order. The revision in 535:20-9-6 removes the reference to "the Drug Supply Chain Security Act of 2013 and rules promulgated thereunder" since they do not apply to medical gases. The change in 535:20-9-3-(b) adds a subsection tagline to make the section consistent.

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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, 2016:

SUBCHAPTER 3. MANUFACTURERS

535:20-3-1.2. Definitions

The words or terms defined in 59 O.S. Section 353.1 and in 21 U.S.C. § 360eee ~~are incorporated herein by this reference; and these words and terms~~ shall have the same meaning when used in this Subchapter as defined in these statutes, unless the context clearly indicates otherwise.

SUBCHAPTER 5. REPACKAGERS

535:20-5-2.1. Definitions

The ~~definitions—of~~ words or terms defined in 59 O.S. Section 353.1 and 21 U.S.C. § 360eee ~~are incorporated herein and these words and terms~~ shall have the same meaning when used in this Subchapter as defined in these statutes, unless the context clearly indicates otherwise.

SUBCHAPTER 6. OUTSOURCING FACILITIES

535:20-6-2. Definitions

The ~~definitions—of~~ words or terms defined in 59 O.S. Section 353.1 and 21 U.S.C. § 360eee ~~are incorporated herein and these words and terms~~ shall have the same meaning when used in this Subchapter as defined in these statutes, unless the context clearly indicates otherwise.

SUBCHAPTER 7. WHOLESALE DISTRIBUTOR RULES

535:20-7-2. Definitions

The ~~definitions of~~ words or terms defined in 59 O.S. Section § 353.1 and 21 U.S.C. § 360eee ~~are incorporated herein and these words and terms~~ shall have the same meaning when used in this Subchapter as defined in these statutes, unless the context clearly indicates otherwise.

535:20-7-3. Wholesale distributor licensing requirement

- (a) If Oklahoma is the state in which a prescription drug is distributed or is the state from which or into which a prescription drug is distributed by a wholesale distributor, that wholesale distributor may not distribute in or into or out of Oklahoma unless each facility of such wholesale distributor is licensed in Oklahoma. Such license shall be renewed annually by application and payment of renewal fees.
- (b) If Oklahoma is the state into which a prescription drug is shipped by a wholesale distributor, that wholesale distributor shall also be licensed as a wholesale distributor by the state from which that wholesale distributor ships.
- (c) A wholesaler distributor license is only valid for the name, ownership and location listed on the license. Changes of name, ownership or location require a new wholesale distributor license.
- (d) Changes in any information required for licensure must be reported to the Board, in writing, within ten (10) days (e.g. facility manager, designated representative, telephone number, etc.)
- (e) When wholesale distributor operations are conducted at more than one location, each location shall be licensed by the Board.
- (f) A wholesale distributor shall not operate from a place of residence.
- (g) The wholesale distributing facility located in Oklahoma shall be located apart and separate from any retail pharmacy licensed by the Board.
- (h) A wholesale distributor must publicly display all licenses and have readily available the most recent state and/or federal inspection reports.

535:20-7-5. Minimum qualifications

- (a) The Board shall consider, at a minimum, the following factors in determining the eligibility for and renewal of licensure of wholesale distributors:
 - (1) Any findings by a law enforcement or regulatory agency that the applicant or any of its owners ~~have~~has violated or been disciplined by a regulatory agency in any state for violating any federal, state, or local laws;
 - (2) Suspension, revocation or any other sanction against a license ~~licensee~~ currently or previously held by the applicant or any of its owners for violations of state, local, or federal laws;
 - (3) Any finding that the applicant or any of its owners is guilty of or pleaded nolo contendere to violating federal, state, or local laws;
 - (4) The furnishing by the applicant of false or fraudulent material in any application;

- (5) Failure to maintain and/or make available to the Board or to federal, state, or local law enforcement officials those records required to be maintained by wholesale drug distributors;
 - (6) Any licensee who has no record of providing wholesaler distributions during routine inspection may have its subsequent renewal application referred to the Board for review and possible approval or disapproval, and such review may require registrant appearance before the Board; and,
 - (7) Any other factors or qualifications the Board considers relevant to and consistent with the public health and safety.
- (b) A wholesale distributor shall have and follow a diversion detection and prevention plan that includes all prescription drugs.
 - (c) The Board shall have the right to deny a license to an applicant if it determines that the granting of such a license would not be consistent with the public health and safety.

SUBCHAPTER 8. THIRD-PARTY LOGISTICS PROVIDERS

535:20-8-2. Definitions

The ~~definitions of~~ words or terms defined in 59 O.S. Section 353.1 and 21 U.S.C. § 360eee ~~are incorporated herein and these words and terms~~ shall have the same meaning when used in this Subchapter as defined in these statutes, unless the context clearly indicates otherwise.

SUBCHAPTER 9. MEDICAL GAS SUPPLIERS AND DISTRIBUTORS

535:20-9-3. Medical gas suppliers

- (a) **Licensing requirement.** Before conducting interstate and/or intrastate transactions in Oklahoma, a medical gas supplier shall register annually with the Board.
 - (1) A medical gas supplier license is only valid for the name, ownership and location listed on the license. Changes of name, ownership or location shall require a new medical gas supplier license.
 - (2) Changes in any information required for licensure must be reported to the Board within ten (10) days (e.g. manager, contact person, phone, etc.)
 - (3) Each location shall possess a medical gas supplier license. A medical gas supplier license entitles the license holder to store and supply medical gas (prescription drugs) at the licensed location.
 - (4) A medical gas supplier shall not operate from a place of residence.
- (b) **License issuance.** Licenses shall be issued only to those medical gas suppliers who satisfy the provisions of: 59 O.S. Section 353.18 (B)(1)(2) et seq., and the requirements under the Act, this Title and the rules in 535:25 for applicants.

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~~(e) Medical gas supplier applicants and registrants shall be registered with the federal Food and Drug Administration (FDA) and meet the federal requirements to handle medical gas, the Prescription Drug Marketing Act (PDMA, 21 U.S.C., Sec. 331 et seq.); and/or, any other applicable federal, state, or local laws and regulations.~~

(c) **Compliance with federal requirements.** Medical gas supplier applicants and registrants shall meet the federal requirements to handle medical gas, the Prescription Drug Marketing Act (PDMA, 21 U.S.C., Sec. 331 et seq.), and/or any other applicable federal, state, or local laws and regulations. Medical gas supplier applicants and registrants shall be registered with the federal Food and Drug Administration (FDA), if required.

(d) **Minimum required information for licensure.** The minimum required information for medical gas supplier licensure shall be as follows, Medical gas supplier applicants must submit a satisfactorily completed application together with the required fee annually. This application shall include, at least, the following:

- (1) The name, full business address, and telephone number;
- (2) All trade or business names used by the manufacturer applicant;
- (3) Address, telephone numbers, and the names of contact persons for the manufacturing facility;
- (4) The type of ownership or operation (e.g., partnership, corporation, or sole proprietorship);
- (5) The name(s) of the owner and/or operator of the manufacturer applicant; and
- (6) Any other information the Board deems necessary to protect the public health.

(e) **Minimum qualifications.** Medical gas suppliers must conform to the Compressed Medical Gases Guidelines published by the Department of Health and Human Services, Food and Drug Administration.

- (1) Medical gas suppliers must conform to all applicable federal, state or local laws and regulations.
- (2) The minimum qualifications shall be the same as those set forth in 535:25 and this Chapter. The Board shall consider, at a minimum, the following factors in reviewing the qualifications of persons who engage in the supplying of medical gases:
 - (A) Any convictions of the applicant under any federal, state, or local laws relating to drugs, drug samples, manufacture, packager, wholesale or retail drug distribution, or distribution of controlled substances;
 - (B) Any felony convictions of the applicant under federal, state, or local laws;
 - (C) The applicant's past experience in the handling, manufacture, packaging or distribution of drugs, including controlled substances;
 - (D) The furnishing by the applicant of false or fraudulent material in any application made in connection with drug or device handling, manufacturing, packing, or distribution;

(E) Suspension, sanction, or revocation by federal, state, or local government of any license currently or previously held by the applicant for the handling, manufacture, packaging, or distribution of any drugs, including controlled substances; or by any of its owners for violation of state or federal laws regarding drugs or devices;

(F) Compliance with licensing requirements under previously granted licenses, if any;

(G) Compliance with requirements to maintain and/or make available to the ~~State~~ Board or to federal, state, or local law enforcement officials those records required under this section; and,

(H) Any other factors or qualifications the Board considers relevant to and consistent with the public health and safety.

(3) The Board shall have the right to deny a license to an applicant if it determines that the granting of such a license would not be consistent with the public health and safety.

(f) **Personnel.** Personnel employed by medical gas suppliers shall have sufficient education, training, and/or experience to perform assigned functions and comply with federal, state and local licensing requirements.

(g) **Minimum requirements for storage, handling, and records.** Medical gas suppliers must meet minimum requirements for storage and handling, and for the establishment and maintenance of distribution records for medical gases.

(1) The following shall describe the minimum requirements for the storage and handling of medical gas prescription drugs, and for the establishment and maintenance of drug records by medical gas suppliers and their officers, agents, representatives, and employees.

(A) All medical gas suppliers of drugs shall conform to U. S. Food and Drug Administration (FDA) requirements for medical gas prescription drugs.

(B) All medical gas suppliers shall conform to the Act and the rules of this Title.

(C) Each facility at which drugs are stored, warehoused, handled, held, offered, marketed, or displayed shall:

- (i) Be licensed by the Board;
- (ii) Be of suitable size and construction to facilitate cleaning, maintenance, and proper operations;
- (iii) Have storage areas designed to provide adequate lighting, ventilation, temperature, sanitation, humidity, space, equipment and security conditions;
- (iv) Have a quarantine area for storage of drugs that are outdated, damaged, deteriorated, misbranded, or adulterated, or that are in immediate or sealed, secondary containers that have been opened;
- (v) Be maintained in a clean and orderly condition; and,
- (vi) Be free from infestation by insects, rodents, birds, or vermin of any kind.

(2) Medical gases housed by a medical gas supplier shall conform to the Compressed Medical Gases Guidelines published by the Department of Health and Human Services, Food and Drug Administration.

(h) **Prescription requirement.** Medical gas suppliers shall not supply medical gas without a drug order. ~~Drug orders may be issued for institutional or licensed prescriber medical practitioner office use as well as to a patient.~~

(1) An original or copy of a prescription drug order must be kept at the licensed location supplying the medical gas.

(2) A prescription drug order is only valid for one (1) year. Prescription drug orders shall be maintained for five years and be readily retrievable and available at inspection.

(i) **Minimum requirements for storage, handling, and records for medical gas.** The following shall describe the minimum requirements for the storage and handling of medical gas prescription drugs, and for the establishment and maintenance of drug records by medical gas suppliers and their officers, agents, representatives, and employees.

(1) **Security.** Each facility used for medical gases shall be secure from unauthorized entry.

(A) Access from outside the premises shall be kept to a minimum and be well controlled.

(B) The outside perimeter of the premises shall be well-lighted.

(C) Entry into areas where drugs are held shall be limited to authorized personnel.

(D) All medical gas suppliers shall establish and maintain controls and systems that protect against, detect, and document any instances of theft, diversion, or counterfeiting. When appropriate, the security system shall provide protection against theft or diversion that is facilitated or hidden by tampering with computers or electronic records.

(E) All medical gas suppliers shall establish and maintain a suspicious order monitoring program for controlled substances and dangerous drugs with a high likelihood of abuse:

(i) The medical gas supplier must not ship the customer's order if the order is confirmed as suspicious;

(ii) Each medical gas supplier shall notify the Board, within ten (10) days, if an order is confirmed as suspicious; and,

(iii) Medical gas suppliers shall establish guidelines and procedures for identifying dangerous drugs with a high likelihood of abuse and suspicious orders.

(2) **Storage.** All drugs shall be stored at appropriate temperatures and under appropriate conditions in accordance with requirements, if any, in the labeling of such drugs, or with the requirements in the current edition of an official compendium, such as the United States Pharmacopeia / National Formulary (USP/NF).

(A) If no storage requirements are established for a drug, the drug may be held at "controlled" room temperature, as defined in an official compendium,

to help ensure that its identity, strength, quality, and purity are not adversely affected.

(B) Appropriate manual, electromechanical, or electronic temperature and humidity recording equipment, devices, and/or logs shall be utilized to document proper storage of drugs, if required.

(C) The recordkeeping requirement in this Chapter for medical gas suppliers shall be followed for all stored drugs.

(3) **Examination of materials.** Upon receipt, each outside shipping container shall be visually examined for identity and to prevent the acceptance of contaminated drugs or chemicals that are unfit. This examination shall be adequate to reveal container damage that would suggest possible contamination or other damage to the contents.

(A) Each outgoing shipment shall be carefully inspected for identity of the drug products and to ensure that there is no delivery of drugs that have been damaged in storage or held under improper conditions.

(B) The recordkeeping requirement in this Chapter shall be followed for all incoming and outgoing drugs.

(4) **Returned, damaged, and outdated drugs.** Drugs that are outdated, damaged, deteriorated, misbranded, or adulterated shall be quarantined and physically separated from other drugs until they are destroyed.

(A) If the conditions under which a drug has been returned cast doubt on the drug's safety, identity, strength, quality or purity, then the drug shall be destroyed, unless examination, testing, or other investigation proves that the drug meets appropriate standards of safety, identity, quality, strength, and purity. In determining whether the conditions under which a drug has been returned cast doubt on the drug's safety, identity, strength, quality or purity, the medical gas supplier shall consider, among other things:

(i) The conditions under which the drug has been held, stored or shipped before or during its return; and,

(ii) The condition of the drug and its container, carton, or labeling, as a result of storage or shipping.

(B) The recordkeeping requirements for medical gas suppliers in this Chapter shall be followed for all outdated, damaged, deteriorated, misbranded or adulterated drugs.

(5) **Recordkeeping.** Medical gas suppliers shall establish and maintain inventories and records of all transactions regarding the receipt and distribution or other disposition of drugs.

(A) Inventories and records shall be made available for inspection and photocopying by authorized federal, state, or local law enforcement agency officials for a period of two (2) years following disposition of the drugs.

(B) Records described in this section that are kept at the inspection site or that can be immediately retrieved by computer or other electronic means shall

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be readily available for authorized inspection during the retention period. Records kept at a central location apart from the inspection site and not electronically retrievable shall be made available for inspection within two (2) working days of a request by an authorized official of a federal, state, or local law enforcement agency.

(C) Each medical gas supplier should maintain an ongoing list of persons with whom they do business.

(6) **Written policies and procedures.** Medical gas suppliers shall establish, maintain, and adhere to written policies and procedures, which shall be followed for the receipt, security, storage, inventory, and distribution of drugs, including policies and procedures for identifying, recording, and reporting losses or thefts, and for correcting all errors and inaccuracies in inventories.

(A) Medical gas suppliers shall include in their written policies and procedures the following; A procedure to be followed for handling recalls and withdrawals of drugs. Such procedure shall be adequate to deal with recalls and withdrawals due to any:

(i) Action initiated at the request of the Food and Drug Administration (FDA) or other federal, state, or local law enforcement or other government agency, including the Board;

(ii) Voluntary action by the medical gas supplier to remove defective or potentially defective drugs from the market; or

(iii) Action undertaken to promote public health and safety by replacing of existing merchandise with an improved product or new package design.

(B) A procedure to ensure that medical gas suppliers prepare for, protect against, and handle a crisis that affects security or operation of any facility in the event of strike, fire, flood, or other natural disaster, or other situations of local, state or national emergency.

(C) A procedure to ensure that any outdated drugs shall be segregated from other drugs and destroyed.

(i) This procedure shall provide for written documentation of the disposition of outdated drugs.

(ii) This documentation shall be maintained for two (2) years after disposition of the outdated drugs.

(7) **Responsible persons.** Medical gas suppliers shall establish and maintain lists of officers, directors, managers and other persons in charge of drug distribution, storage, and handling, including a description of their duties and a summary of their qualifications.

(8) **Compliance with federal, state and local laws.** Medical gas suppliers shall operate in compliance with applicable federal, state, and local laws and regulations.

(A) Medical gas suppliers shall permit the Board and authorized federal, state, and local law enforcement officials to enter and inspect their premises and

delivery vehicles, and to audit their records and written operating procedures and to confiscate records, to the extent authorized by law and rule.

(B) Medical gas suppliers that deal in controlled substances shall register with the appropriate state controlled substance authority and with the Drug Enforcement Administration (DEA), and shall comply with all applicable state, local and DEA regulation.

(9) **Salvaging and reprocessing.** Medical gas suppliers shall be subject to the provisions of any applicable federal, state or local laws or regulations that relate to drug product salvaging or reprocessing including U.S. 21 CFR Parts 207, 210 and 211.

535:20-9-4. Medical gas distributors

(a) **Licensing requirement.** Before conducting interstate and or intrastate transactions in Oklahoma, a medical gas distributor shall register annually with the Board.

(1) A medical gas distributor license is only valid for the name, ownership and location listed on the license. Changes of name, ownership or location shall require a new medical gas distributor license.

(2) Changes in any information required for licensure must be reported to the Board within ten (10) days (e.g. manager, contact person, phone, etc.)

(3) Each location shall possess a medical gas distributor license. Medical gas distributor license entitles the holder to store and distribute medical gas (prescription drugs) at the licensed location.

(4) A medical gas distributor shall not operate from a place of residence.

(b) **License issuance.** Licenses shall be issued only to those medical gas distributors who satisfy the provisions of: 59, O.S. Section 353.18 (B)(1)(2) et seq., and the requirements under the Act, this Title and the rules in 535:25 for applicants.

~~(e) Medical gas distributor applicants and registrants shall be registered with the federal Food and Drug Administration (FDA) and meet the federal requirements to handle medical gas, the Prescription Drug Marketing Act (PDMA, 21 U.S.C., Sec. 331 et seq.); and/or, any other applicable federal, state, or local laws and regulations.~~

(c) Compliance with federal requirements. Medical gas distributor applicants and registrants shall meet the federal requirements to handle medical gas, the Prescription Drug Marketing Act (PDMA, 21 U.S.C., Sec. 331 et seq.); and/or any other applicable federal, state, or local laws and regulations. Medical gas distributor applicants and registrants shall be registered with the federal Food and Drug Administration (FDA), if required.

(d) **Minimum required information for licensure.** The minimum required information for medical gas distributors licensure shall be as follows, Medical gas distributor applicants must submit a satisfactorily completed application together with the required fee annually. This application shall include, at least, the following:

(1) The name, full business address, and telephone number;

- (2) All trade or business names used by the manufacturer applicant;
 - (3) Address, telephone numbers, and the names of contact persons for the manufacturing facility;
 - (4) The type of ownership or operation (e.g., partnership, corporation, or sole proprietorship);
 - (5) The name(s) of the owner and/or operator of the manufacturer applicant; and
 - (6) Any other information the Board deems necessary to protect the public health.
- (e) **Minimum qualifications.** Medical gas distributors must conform to the Compressed Medical Gases Guidelines published by the Department of Health and Human Services, Food and Drug Administration.
- (1) Medical gas distributors must conform to all applicable federal, state or local laws and regulations.
 - (2) The minimum qualifications shall be the same as those set forth in 535:25 and this Chapter. The Board shall consider, at a minimum, the following factors in reviewing the qualifications of persons who engage in medical gas distribution:
 - (A) Any convictions of the applicant under any federal, state, or local laws relating to drugs, drug samples, manufacture, packager, wholesale or retail drug distribution, or distribution of controlled substances;
 - (B) Any felony convictions of the applicant under federal, state, or local laws;
 - (C) The applicant's past experience in the handling, manufacture, packaging or distribution of drugs, including controlled substances;
 - (D) The furnishing by the applicant of false or fraudulent material in any application made in connection with drug or device handling, manufacturing, packing, or distribution;
 - (E) Suspension, sanction, or revocation by federal, state, or local government of any license currently or previously held by the applicant for the handling, manufacture, packaging, or distribution of any drugs, including controlled substances; or by any of its owners for violation of state or federal laws regarding drugs or devices;
 - (F) Compliance with licensing requirements under previously granted licenses, if any;
 - (G) Compliance with requirements to maintain and/or make available to the Board or to federal, state, or local law enforcement officials those records required under this section; and,
 - (H) Any other factors or qualifications the Board considers relevant to and consistent with the public health and safety.
 - (3) The Board shall have the right to deny a license to an applicant if it determines that the granting of such a license would not be consistent with the public health and safety.
- (f) **Personnel.** Personnel employed by medical gas distributors shall have sufficient education, training, and/or experience to perform assigned functions and comply with federal, state and local licensing requirements.
- (g) **Minimum requirements.** Medical gas distributors must meet minimum requirements for storage and handling, and for the establishment and maintenance of distribution records for medical gases.
- (1) The following shall describe the minimum requirements for the storage and handling of medical gas prescription drugs, and for the establishment and maintenance of drug records by medical gas distributors and their officers, agents, representatives, and employees.
 - (A) All medical gas distributors of drugs shall conform to U. S. Food and Drug Administration (FDA) requirements for medical gas prescription drugs.
 - (B) All medical gas distributors shall conform to the Act and the rules of this Title.
 - (C) Each facility at which drugs are stored, warehoused, handled, held, offered, marketed, or displayed shall:
 - (i) Be licensed by the Board;
 - (ii) Be of suitable size and construction to facilitate cleaning, maintenance, and proper operations;
 - (iii) Have storage areas designed to provide adequate lighting, ventilation, temperature, sanitation, humidity, space, equipment, and security conditions;
 - (iv) Have a quarantine area for storage of drugs that are outdated, damaged, deteriorated, misbranded, or adulterated, or that are in immediate or sealed, secondary containers that have been opened;
 - (v) Be maintained in a clean and orderly condition; and,
 - (vi) Be free from infestation by insects, rodents, birds, or vermin of any kind.
 - (2) Medical gases housed by a medical gas distributor shall conform to the Compressed Medical Gases Guidelines published by the Department of Health and Human Services, Food and Drug Administration.
- (h) **Prescription requirements.** Medical gas distributors shall distribute only to an entity licensed to receive medical gas or upon a prescriber's practitioner's drug order. A pharmacy, dentist, or licensed prescriber's practitioner's practice license verifies their authority to receive Rx Only medical gases.
- (1) An original or copy of a prescription drug order must be kept at the licensed location distributing the medical gas.
 - (2) A prescription drug order is only valid for one (1) year. Prescription drug orders shall be maintained for five years and be readily retrievable and available at inspection.
 - (3) Distributors that sell to licensed medical gas suppliers must keep an updated copy of each supplier's license on file.
- (i) **Minimum requirements for storage, handling and records for medical gas Rx Only drugs.** The following shall describe the minimum requirements for the storage and handling of medical gas prescription drugs, and for the establishment and maintenance of drug records by medical

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gas distributors and their officers, agents, representatives, and employees.

(1) **Security.** Each facility used for medical gases shall be secure from unauthorized entry.

(A) Access from outside the premises shall be kept to a minimum and be well controlled.

(B) The outside perimeter of the premises shall be well-lighted.

(C) Entry into areas where drugs are held shall be limited to authorized personnel.

(D) All medical gas distributors shall establish and maintain controls and systems that protect against, detect, and document any instances of theft, diversion, or counterfeiting. When appropriate, the security system shall provide protection against theft or diversion that is facilitated or hidden by tampering with computers or electronic records.

(E) All medical gas distributors shall establish and maintain a suspicious order monitoring program for controlled substances and dangerous drugs with a high likelihood of abuse:

(i) The medical gas distributor must not ship the customer's order if the order is confirmed as suspicious;

(ii) Each medical gas distributor shall notify the Board, within ten (10) days, if an order is confirmed as suspicious; and,

(iii) Medical gas distributors shall establish guidelines and procedures for identifying dangerous drugs with a high likelihood of abuse and suspicious orders.

(2) **Storage.** All drugs shall be stored at appropriate temperatures and under appropriate conditions in accordance with requirements, if any, in the labeling of such drugs, or with the requirements in the current edition of an official compendium, such as the United States Pharmacopeia / National Formulary (USP/NF).

(A) If no storage requirements are established for a drug, the drug may be held at "controlled" room temperature, as defined in an official compendium, to help ensure that its identity, strength, quality, and purity are not adversely affected.

(B) Appropriate manual, electromechanical, or electronic temperature and humidity recording equipment, devices, and/or logs shall be utilized to document proper storage of drugs, if required.

(C) The recordkeeping requirement in this Chapter for medical gas distributors shall be followed for all stored drugs.

(3) **Examination of materials.** Upon receipt, each outside shipping container shall be visually examined for identity and to prevent the acceptance of contaminated drugs or chemicals that are unfit. This examination shall be adequate to reveal container damage that would suggest possible contamination or other damage to the contents.

(A) Each outgoing shipment shall be carefully inspected for identity of the drug products and to ensure

that there is no delivery of drugs that have been damaged in storage or held under improper conditions.

(B) The recordkeeping requirement in this Chapter shall be followed for all incoming and outgoing drugs.

(4) **Returned, damaged, and outdated drugs.** Drugs that are outdated, damaged, deteriorated, misbranded, or adulterated shall be quarantined and physically separated from other drugs until they are destroyed.

(A) If the conditions under which a drug has been returned cast doubt on the drug's safety, identity, strength, quality or purity, then the drug shall be destroyed, unless examination, testing, or other investigation proves that the drug meets appropriate standards of safety, identity, quality, strength, and purity. In determining whether the conditions under which a drug has been returned cast doubt on the drug's safety, identity, strength, quality or purity, the medical gas distributors shall consider, among other things:

(i) The conditions under which the drug has been held, stored or shipped before or during its return; and,

(ii) The condition of the drug and its container, carton, or labeling, as a result of storage or shipping.

(B) The recordkeeping requirements for medical gas distributors in this Chapter shall be followed for all outdated, damaged, deteriorated, misbranded or adulterated drugs.

(5) **Recordkeeping.** Medical gas distributors shall establish and maintain inventories and records of all transactions regarding the receipt and distribution or other disposition of drugs.

(A) Inventories and records shall be made available for inspection and photocopying by authorized federal, state, or local law enforcement agency officials for a period of two (2) years following disposition of the drugs.

(B) Records described in this section that are kept at the inspection site or that can be immediately retrieved by computer or other electronic means shall be readily available for authorized inspection during the retention period. Records kept at a central location apart from the inspection site and not electronically retrievable shall be made available for inspection within two (2) working days of a request by an authorized official of a federal, state, or local law enforcement agency.

(C) Each medical gas distributor should maintain an ongoing list of persons with whom they do business.

(6) **Written policies and procedures.** Medical gas distributors shall establish, maintain, and adhere to written policies and procedures, which shall be followed for the receipt, security, storage, inventory, and distribution of drugs, including policies and procedures for identifying, recording, and reporting losses or thefts, and for correcting all errors and inaccuracies in inventories.

(A) Medical gas distributors shall include in their written policies and procedures the following; A procedure to be followed for handling recalls and withdrawals of drugs. Such procedure shall be adequate to deal with recalls and withdrawals due to any:

- (i) Action initiated at the request of the Food and Drug Administration (FDA) or other federal, state, or local law enforcement or other government agency, including the Board of Pharmacy;
(ii) Voluntary action by the medical gas distributor to remove defective or potentially defective drugs from the market; or
(iii) Action undertaken to promote public health and safety by replacing of existing merchandise with an improved product or new package design.

(B) A procedure to ensure that medical gas distributors prepare for, protect against, and handle a crisis that affects security or operation of any facility in the event of strike, fire, flood, or other natural disaster, or other situations of local, state or national emergency.

(C) A procedure to ensure that any outdated drugs shall be segregated from other drugs and destroyed.

- (i) This procedure shall provide for written documentation of the disposition of outdated drugs.
(ii) This documentation shall be maintained for two (2) years after disposition of the outdated drugs.

(7) **Responsible persons.** Medical gas distributors shall establish and maintain lists of officers, directors, managers and other persons in charge of drug distribution, storage, and handling, including a description of their duties and a summary of their qualifications.

(8) **Compliance with federal, state and local laws.** Medical gas distributors shall operate in compliance with applicable federal, state, and local laws and regulations.

(A) Medical gas distributors shall permit the Board of Pharmacy and authorized federal, state, and local law enforcement officials to enter and inspect their premises and delivery vehicles, and to audit their records and written operating procedures and to confiscate records, to the extent authorized by law and rule.

(B) Medical gas distributors that deal in controlled substances shall register with the appropriate state controlled substance authority and with the Drug Enforcement Administration (DEA), and shall comply with all applicable state, local and DEA regulation.

(9) **Salvaging and reprocessing.** Medical gas distributors shall be subject to the provisions of any applicable federal, state or local laws or regulations that relate to drug product salvaging or reprocessing including U.S. 21 CFR Parts 207, 210 and 211.

535:20-9-6. Prohibited conduct

(a) The following shall be considered prohibited conduct and be a violation of these rules: Failure to follow all applicable requirements of state and federal statutes and regulations, including, but not limited to, the Drug Supply Chain Security Act of 2013 and rules promulgated thereunder, the Act, 59 O.S. Section 353, et seq. and the Board's rules, OAC 535.

- (1) Engaging in medical gas distributing of drugs
(A) with intent to defraud or deceive, failing to maintain or provide a complete and accurate record, when required;
(B) destroying, altering, concealing, or failing to maintain complete and accurate records for any drug packaging, when required;
(C) knowingly purchasing or receiving drugs from a person, not authorized to distribute drugs, or,
(D) selling, bartering, brokering, or transferring drugs to a person not authorized to purchase drugs, under the jurisdiction in which the person receives the drug(s).
(2) Forging, counterfeiting, or falsely creating any label for a drug(s) or who falsely represents any factual matter contained in any label of a drug(s).
(3) Altering, mutilating, destroying, obliterating, or removing the whole or any part of the labeling of a drug or the commission of any other act with respect to a drug; that results in the drug being misbranded.
(4) supplying, packaging, purchasing, selling, delivering or bringing into the state contraband drug(s), or anyone who illegally possesses any amount of contraband drug(s); or,
(b) Any violation of the rules of registrant conduct in 535:25-9 is prohibited conduct.

[OAR Docket #16-686; filed 7-8-16]

TITLE 535. OKLAHOMA STATE BOARD OF PHARMACY
CHAPTER 25. RULES AFFECTING VARIOUS REGISTRANTS

[OAR Docket #16-687]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

- Subchapter 3. Applicants, Registrants, and Applications [AMENDED]
535:25-3-4. Requirements for applicants or registrants who have had Board action taken against any license, permit or certificate [AMENDED]
535:25-3-5. Multiple licenses / permits [AMENDED]
Subchapter 7. Rules of Registrant Conduct
535:25-7-3. Registrant conduct [AMENDED]

AUTHORITY:

Oklahoma State Board of Pharmacy is the regulatory authority under Title 59 O.S., Sec. 353.7, 353.13, 353.13A, 353.16A, 353.17, 353.18, 353.20, 353.22, 353.24 - 353.26, 353.29, 354, and 367.8; Title 51 OS 24A et seq.; Title 75 OS, Sec 2-201, 2-208, and 2-210.

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n/a

INCORPORATIONS BY REFERENCE:

n/a

ANALYSIS:

The change in 535:25-3-3 (c) improves rule clarity. The revision in 535:25-3-5 (a) changes to pharmacies "located in Oklahoma" shall not be licensed in the same location. The revision in 535:25-7-3 removes "or" so that legally prescribed controlled drug substance (CDS) use is not a violation of this rule.

CONTACT PERSON:

Dr. John A. Foust, Executive Director, Oklahoma State Board of Pharmacy, 2920 N Lincoln Boulevard Suite A, Oklahoma City, OK 73105-4212, Phone number 405 521-3815.

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, 2016:

SUBCHAPTER 3. APPLICANTS, REGISTRANTS, AND APPLICATIONS

535:25-3-4. Requirements for applicants or registrants who have had Board action taken against any license, permit or certificate

(a) If the Board approves an application of an applicant or registrant who has had a previous registration, license, permit, or certificate which was revoked or subject to Board action, the applicant shall be subject to the following terms: any specific requirements placed on the applicant by the Board based on the previous action, or pending action, and applicant's or registrant's current status.

(b) Any subsequent violations by the applicant or registrant shall subject the applicant or registrant to cumulative action based on previous violation on the previous license and the current violation.

(c) Failure of the applicant or registrant to meet any terms or requirements of the Board shall subject the applicant or registrant to Board action ~~based on current failure and previous Board action against an applicant or a registrant license.~~

(d) The Board shall have the right to order any additional terms or conditions that it determines are required to protect the public health and safety.

535:25-3-5. Multiple licenses / permits

(a) **Pharmacy, Manufacturer, Repackager, Wholesaler, Distributor or Third-party logistics provider.** A pharmacy located in Oklahoma shall not be licensed in the same location as a manufacturer, repackager, wholesale distributor or third party logistics provider.

(b) **Pharmacy/Pharmacy.** No more than one pharmacy license will be allowed in one location.

(c) **Wholesaler/Wholesaler.** No more than one wholesale distributor license will be allowed in one location.

(d) **Wholesaler/Repackager.** The licensing of a wholesaler distributor and a repackager in the same location will be allowed.

(e) **Pharmacy/Drug Supplier.** The licensing of a pharmacy license and pharmacy drug supplier permit in the same location will be allowed.

(f) **Pharmacy / Outsourcing Facility.** The licensing of a pharmacy and an outsourcing facility will be allowed when state and federal requirements are met.

(g) **Pharmacy/Sterile compounding.** The licensing of a pharmacy and a sterile compounding pharmacy in the same location will be allowed.

(h) **Intern/Technician.** Applicants may not hold an intern license and a technician permit at the same time.

(i) **Pharmacist/Technician.** Applicants may not hold a pharmacist license and a technician permit at the same time. A pharmacist who has had Board action taken against his pharmacist license for whatever reason and no longer holds a current pharmacist license is not eligible for a technician permit.

SUBCHAPTER 7. RULES OF REGISTRANT CONDUCT

535:25-7-3. Registrant conduct

(a) Registrants shall conduct business in conformity with all federal, state and municipal laws at all times.

(b) Registrants shall conduct themselves at all times in a manner that will entitle them to the respect and confidence of the community in which they practice.

(c) Abuse of alcohol or drugs, use of an illegal ~~or~~ controlled dangerous substance (CDS), or testing positive for such substance or its metabolite is a violation of registrant conduct.

[OAR Docket #16-687; filed 7-8-16]

TITLE 565. OKLAHOMA BOARD OF PRIVATE VOCATIONAL SCHOOLS CHAPTER 1. ADMINISTRATIVE OPERATIONS

[OAR Docket #16-710]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 3. Formal and Informal Procedures

565:1-3-2. Complaints [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 25, 2016

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n/a

INCORPORATIONS BY REFERENCE:

n/a

ANALYSIS:

As a part of the minimum standards to issue a license of State Authorization to a private vocational school under Title 70 O.S. §21-102.1(6) and data collection under Title 70 O.S. §21-102.1(13), the proposed amendments add detail to the process by which a student may submit a complaint to the OBPVS. Details include requiring a school's internal process to be completed prior to the OBPVS submission, allowing the OBPVS to follow-up on a school response, setting a deadline for the school's response, and establishing a deadline for a student to initially submit a complaint to the OBPVS. The deadline for initial complaint submissions is one-year after the conclusion of the school's process, unless there are extenuating circumstances. The one year deadline attempts to ensure that the records or witnesses necessary for the OBPVS to investigate the complaint may reasonably be made available to the Agency.

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 12, 2016:

SUBCHAPTER 3. FORMAL AND INFORMAL PROCEDURES

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 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~~ shall 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~~ personnel, ~~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 ~~other~~ correspondence relating to the complaint, or copies of electronic communications;

(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, if required information is not provided by the complainant, or a matter outside the OBPVS' authority, the complaint may be rejected by the OBPVS.

(c) **School response.** The OBPVS Director may provide ~~either~~ the school with written notice of the complaint and 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 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;
- (6) The signature of the person responding; and
- (7) The date the response is completed.

(d) **Follow-up to a response(s).** Following the OBPVS receipt of a response, the OBPVS may require the complainant or the school to provide additional information or feedback which is to be provided within thirty (30) days or less.

~~(e) Methods of complaint investigation.~~ The Director may assign the complaint to be investigated using 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.~~

~~(ef) Filing period.~~ Complaints shall be subject to the statute of limitations as allowed in the Oklahoma Statutes. A complaint may be filed with the OBPVS following the conclusion of a school's internal grievance procedure. The complaint shall be filed with the OBPVS by no longer than one year, unless there are extenuating circumstances, from when the action that gave rise to the complaint occurred, the student's withdrawal or termination from the school, or the exhaustion of the school's grievance procedure.

[OAR Docket #16-710; filed 7-11-16]

TITLE 565. OKLAHOMA BOARD OF PRIVATE VOCATIONAL SCHOOLS CHAPTER 10. LICENSURE AND REGULATION OF PRIVATE VOCATIONAL SCHOOLS AND REPRESENTATIVES

[OAR Docket #16-711]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 1. General Provisions
565:10-1-2. Definitions [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]
565:10-3-2. Relicensing application completion [NEW]
Subchapter 7. Facilities and Equipment
565:10-7-1. Facilities [AMENDED]
565:10-7-2. Equipment [AMENDED]
Subchapter 9. Surety Bonds
565:10-9-1. Bond requirement and amount [AMENDED]
Subchapter 11. School Operation
565:10-11-1. School personnel [AMENDED]
565:10-11-4. Student records [AMENDED]
565:10-11-7. Admission requirements [AMENDED]
565:10-11-9. Recruitment [AMENDED]
Subchapter 13. Solicitor license
565:10-13-1. Solicitor license [AMENDED]
Subchapter 15. Denial and Appeal
565:10-15-1. Grounds for denial of school license [AMENDED]
Subchapter 23. Seminars or Workshops
565:10-23-1. Items required for licensure of seminars; length of programs [AMENDED]
Subchapter 27. Financial Statements and Financial Stability
565:10-27-1. Financial Statements [AMENDED]
565:10-27-2. Financial stability [AMENDED]
Subchapter 29. Data Collection
565:10-29-1. Data collection [NEW]

AUTHORITY:

The Oklahoma Board of Private Vocational Schools; 70 O.S. 2014, Section 21-102.1(2).

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n/a

ANALYSIS:

Throughout all Subchapters a few minor typographical errors and uses of inconsistent phrasing are corrected as an extension of last year's massive Rule clean-up effort. Doing so aids Rule comprehension and clarity. Two antiquated provisions are deleted from Subchapters 3 and 11. The deletion in 565:10-3-1(1) recognizes that requiring a live signature for an electronic submission is impractical and illogical. The deletion of the existing

565:10-11-7(c) eliminates a provision that could subject a licensed school to a discrimination law suit.

Revisions in 565:10-3-1, a new 565:10-3-2, and a new 565:10-29-1 align the Rules with changes to the Enabling Statute that became effective on August 22, 2014 in the areas of relicensing application completion and data collection. Clearer application completion Rules facilitate school compliance and enable a School to avoid the assessment of a statutory late fee. The data collection language serves to implement the statutory authority to collect data, especially for workforce development efforts.

Both 565:10-7-1(d) and (f) on student health and safety are modified to detail the information necessary to be filed for approval in advance of license issuance or before changing a school's location. In 565:10-11-1(j)(6) a provision is added to require a school representative to watch a recording of a webinar to ensure that the knowledge is not missed due to a failure to attend a scheduled mandatory annual training event.

In a new 565:10-15-1(4) a school becomes accountable for using an unlicensed Solicitor. In 565:10-27-2 a new school applicant has tougher financial standards imposed that would, after two additional years, also apply to existing, licensed schools. Doing so is meant to protect students financially in a compressing market with some school failures occurring. New applicants are also encouraged to create financial projections before following a potential passion and seeking a license for a business that may not be sustainable.

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 12, 2016:

SUBCHAPTER 1. GENERAL PROVISIONS

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).

"Advertising" means any printed, published, recorded, broadcast, electronically transmitted, or publicly presented information that markets or describes the school for any purpose. Advertising may include, but not be limited to, paid media placement, digital-content marketing, social media postings, and press releases to a news outlet(s).

"Solicitor" 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 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, Director, or another employee of the OBPVS to indicate that an Applicant school or Solicitor meets requirements for licensing.

"Authorized Administrative Official" means the highest authority 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.

"Denial" means action taken by the Board or Director to disapprove or deny licensing privileges to a school or Solicitor in accordance with the Board's authority 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 Agreement" means the contractual document whereon a school indicates conditions governing the enrollment of a student in a specific program or individual course(s), and whereon the school and student obligations under the agreement are shown.

"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.

"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 the accrediting body's definition.

~~"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.

~~"Solicitor" 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 school's legal facilities, in a course(s) or a program 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.~~

~~"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.~~

"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.

565:10-1-4. Due date and duration of license

(a) **New school applications.** New applications shall be approved by the OBPVS before a school may operate or advertise its program offerings or 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 OBPVS no later than June 1 of each year. The OBPVS shall send, by mail or electronic means notification, instructions and the application form (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) **Regulatory or Accrediting Agency Actions.** An Applicant or a school shall submit to the OBPVS a copy of each potentially adverse action or determination issued by a regulatory or accrediting agency within ten (10) business days of the Applicant's or school's receipt even if an appeal right(s) exists and has not been exhausted.

~~(e)~~ **Sale of school and nontransferability 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- to document that the Applicant meets all licensure requirements. The process shall be initiated with the OBPVS not less than thirty (30) days prior to the closing of the sale or transfer transaction(s).

SUBCHAPTER 3. REQUIREMENTS FOR LICENSURE AS PRIVATE VOCATIONAL SCHOOL

565:10-3-1. Requirements for licensure as private vocational school

To apply for license in Oklahoma, an Applicant or school shall be in compliance and maintain compliance with Federal, State, or local laws, rules, and ordinances. When a standard(s) differ between the OBPVS and an accrediting agency, the Applicant or school subjects itself to the most stringent of the alternate standards and agrees to maintain compliance with the most stringent standard. A high degree of reliance is placed upon information, data, and statements provided to the OBPVS by an Applicant or a school. The integrity and honesty of an Applicant or a school are fundamental and critical to the process. Application shall be made either on forms provided by the OBPVS or using substantially similar forms processed by the Applicant, and a complete Application shall include, but not be limited to, submission of the following documents:

- (1) A copy of the current school catalog and any related addenda, to be submitted in a printed format to the OBPVS for review. ~~For distance education, the catalog may be~~

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~~made available electronically but shall also have a printing option or contact information for delivery of a printed copy made clearly available. The catalog may be made available to prospective or existing students in a hard-copy or an electronic format, but shall also provide a clear option to have a printed version provided in a timely manner at no charge. The final version of each catalog shall be certified as true and correct in content and policy by an administrative official of the school and submitted to the OBPVS. The catalog and addenda, with numbered pages, shall at least contain the following information at a minimum.~~

- (A) Name and address of the school.
- (B) Effective date of the catalog.
- (C) Names and titles of ~~the controlling~~ owners with ten percent (10%) or more ownership, or if a non-profit, the names of all board members, and the names and titles of all officials of the school.
- (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. Holidays may be disclosed generically using recognized Federal or State Holiday definitions, or may be date-specific.
- (E) School policies and regulations covering leave, absences, missed classes and assignments, makeup work, tardiness, and the causes for school to terminate enrollment of student for such reasons. The school's definition of what constitutes a tardy event shall be included.
- (F) Enrollment prerequisites to the school including, but not limited to, any school requirement of a minimum age or the prior completion of secondary education or its equivalency.
- (G) Course prerequisites for each course offered, and policy of school relative to granting of credit for previous education, training, and/or work experience.
- (~~G~~H) 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.
- (~~H~~I) 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.
- (~~I~~J) 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.

(~~J~~K) School policy and regulations relative to standards of academic progress, this policy will define the grading system, the minimum grades considered satisfactory, conditions for enrollment interruption based on unsatisfactory grades or progress, and a description of the probationary period, if any, allowed, and conditions, if any, for readmission for students dismissed for unsatisfactory progress.

(~~K~~L) School policy and regulations relating to student conduct and conditions for dismissal for unsatisfactory conduct, and the conditions, if any, for readmission.

(M) School policy and regulations for the filing of a grievance by a student.

(N) Within the catalog's accreditation or grievance section(s), the name, address, and telephone number for the student to contact the OBPVS to submit a complaint for a matter not resolved through the school's internal grievance process.

(~~L~~O) Any changes made to the catalog shall be approved in advance by the OBPVS and a copy of the published, final version of the replacement catalog shall be submitted certified as to certified as true and correct in content and policy by an administrative official of the school.

(~~M~~P) A catalog addendum or addenda may be used. If an addendum or addenda ~~is~~ are used, there shall be a statement in the catalog that the catalog is not complete without the addendum.

(~~N~~Q) Each addendum shall show its effective date and the effective date of the catalog to which it is related.

(2) ~~A financial statement~~ Financial Statements which meets the requirements as stated in 565:10-27.

(3) A surety bond or certificate of deposit, which shall meet the requirements in 565:10-9. A Branch ~~branch~~ school ~~locations~~ location(s) shall have its tuition included in the formula to calculate the bond amount and shall be covered under the ~~Main~~ main school bond.

(4) Instructor qualification details to include, at a minimum, an Instructor Qualification Form, with appropriate supporting documentation, a ~~Form~~ form to attest to ~~Felony Convictions~~ felony convictions or association with an entity with a prior adverse school history(ies), and Class ~~class~~ assignment information shall be submitted for each proposed instructor to demonstrate compliance with 565:10-11-1.

(5) A copy of ~~the master~~ each enrollment agreement(s) in compliance with 565:10-11-4.

(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. The requirement for a fire marshal inspection may not be satisfied by a commercial vendor or fire extinguisher inspection.

(7) A copy of each master certificate, diploma, or degree given by the school that, at a minimum, creates field to identify 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~~ facility(ies) 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) Student enrollment and financial projections for the immediate three (03) months then the full twelve (12) months following potential licensing.

~~(11)~~ Payment of the appropriate application fee(s) in accordance with 70 O.S. §21-106

~~(12)~~ Schools located outside Oklahoma, shall be licensed or approved in each state where the courses to be offered to Oklahomans will be provided. Each school shall provide a copy of its non-Oklahoma ~~licenses~~ license(s) or approvals approval(s), if any.

~~(13)~~ An organizational chart extending from the school's essential functions or departments upward to the ultimate owner or highest level of management for a non-profit and identifying all significant levels of ownership or management.

~~(14)~~ A completed form shall be submitted by each owner with ten percent (10%) or more ownership or each board member of a non-profit to attest to felony convictions or association with an entity with a prior adverse school history(ies). For a non-profit with more than twenty (20) board members, the form shall be required to be submitted only by the board officers and each member of a board audit or compliance committee.

(15) 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.

(16) Each Applicant proposing to operate a school to be physically located or headquartered in Oklahoma, whether proposing to provide live or distance education courses, shall successfully pass a pre-licensing, on-site inspection to be conducted by one or more OBPVS Staff members.

565:10-3-2. Relicensing application completion

(a) To be treated as a complete application and to not be subject to a statutory late fee penalty, the original annual renewal application must meet all of the following standards

(1) Be received by the OBPVS on or before the statutory deadline;

(2) Contain an accurate school-completed OBPVS-provided Checklist;

(3) Omit no more than two (02) required documents;

(4) Have no more than two (02) individual documents that are incomplete by nature of an absent signature or absent notarization; and

(5) Be amended within thirty (30) days of the original OBPVS receipt by submission to and OBPVS receipt of the missing item(s) or element(s) without OBPVS prompting.

(b) For purposes of evaluating completeness, each four (04) personnel related forms to attest to felony convictions or association with an entity with a prior adverse school action(s) shall count as a single omitted item.

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 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~~ Substantial remodeling to fifty percent (50%) or more of a schools existing square footage, repairs, or additions to existing buildings shall be delineated by plans and specifications submitted to the OBPVS and approved by the OBPVS in advance of occupancy. If applicable, an updated fire marshal inspection or revised occupancy certificate shall be submitted to the 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 OBPVS school shall be notified of~~ notify the OBPVS of a proposed change of location and submit all required documentation for approval prior to moving ~~changing~~ changing locations. Required documentation shall include and a copy copies of a new lease, if applicable, the new floor plan, and fire department inspection a certificate of occupancy, and updated liability insurance coverage shall be submitted for the new location. Within ten (10) days of issuance, the Fire Marshal's Inspection Report on the new location shall be submitted to the OBPVS. In addition, prior to changing locations, the school shall submit a revised catalog and enrollment agreement, with checklists, other required documents or forms, and the payment of appropriate fee(s) in accordance with 70 O.S. §21-106.

565:10-7-2. Equipment

(a) **Required instructional equipment.** The equipment required for instruction shall be determined by the occupational objectives. The equipment shall be comparable to that found in business establishments offering employment in the occupations for which the instruction is being offered.

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(b) **Amount and condition.** The school shall provide adequate equipment in good working order and with proper safety devices. The school's equipment shall be of sufficient quantity and quality to meet the maximum enrollment of the class and appropriately ~~fulfill~~ fulfill the training objectives of the particular class.

SUBCHAPTER 9. SURETY BONDS

565:10-9-1. Bond requirement and amount

(a) **Bond requirements.** Before the OBPVS issues a license to a school or a Solicitor the school shall have filed an acceptable surety bond using the Bond form supplied by the OBPVS. The bond shall cover the main school and 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.**

(1) For an entirely new ~~Mainmain~~ or ~~Branchbranch~~ School, the ~~initial~~ minimum Bond amount is Five Thousand Dollars (\$5,000.00).

(2) The maximum Bond amount shall be equal to ten percent (10%) of the projected, aggregate tuition plus student fee revenue for the first twelve (12) months following licensure.

(3) At the due date for annual relicensing, the amount of the bond shall be ~~Conditioned conditional upon~~ that the private school will faithfully perform meeting its obligations under the agreements and contracts with its students;

(4) the ~~Each subsequent amounts~~ amount of a school's the required surety bond shall be based on ten percent (10%) of the amount of student payments collected by the school during the reporting year, rounded upwards to the nearest thousand dollars, as long as the school meets the financial stability requirements at 565:10-27-2 and is in compliance with the other minimum standards to operate a school.

(5) ~~with a~~ The maximum bond of ~~amounts shall be~~ Fifty Thousand Dollars (\$50,000.00).

(6) Determination of the required bond amount for each school will be based on the total amount of ~~Mainmain~~ and ~~Branch(es)~~ branch(es) student payments contained in the school's financial statement of the last fiscal year, submitted for relicensing.

(7) If the school does not meet the standards for financial stability in 565:10-27-2, 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 ~~Mainmain~~ School ~~school,~~ or the ~~Mainmain~~ and ~~Branch(es)~~ branch(es) combined, or each separate branch(es).

(c) **Signature of surety.** The Bond shall be issued by a solvent surety company authorized to do business in Oklahoma and shall be made payable to the State of Oklahoma.

SUBCHAPTER 11. SCHOOL OPERATION

565:10-11-1. School personnel

(a) **Submission of training or work experience.** The school's Authorized Administrative Official, Director, 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 for the Authorized Administrative Official, the Director, and each 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 of ten percent (10%) or more, non-profit board members as outlined at 565:10-3-1(14), Authorized Administrative Official, Director, ~~and~~ Solicitors, 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 serves as the on-campus primary contact for the OBPVS during site visits to the school and must be familiar with educational administration and methods, organization of classes, as well as sound 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.

(e) **Instructor qualifications.** Instructors shall meet at least one of the following qualifications at a minimum:

(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,

(2) Have two years minimum full time work experience within the last seven years in the field in which he/she is teaching or,

(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.

(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.

(5) Schools that offer instruction outside of Oklahoma may provide documentation that those instructors meet the requirements of the states where the instruction is offered in lieu of OBPVS instructor qualifications

(f) **Instructor, Authorized Administrative Official, or Director changes and terminations.** The OBPVS shall be notified of any terminations or changes of instructors or the Authorized Administrative Official, or Director within thirty (30) days.

(g) **Authorized Administrative Official.** One person must be designated as the Authorized Administrative 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.

(h) **Additional qualifications of Authorized Administrative Official.** He or she 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 instructor in one or more of the major subjects offered by the school. In lieu of such specific educational qualifications, he or she may possess other qualifications which are approved by the Board as being substantially equivalent.

(i) **Employment status of Authorized Administrative official Official.** The Authorized Administrative Official shall devote a sufficient amount of his or her time to the operations of the school while it is in session.

(j) **Mandatory school workshop.** The OBPVS shall ~~develop~~ and present an annual workshop(s) which emphasize rules relating to relicensing, compliance, daily operation of a school, legislative changes, and emerging issues.

(1) At least one person from each school who will prepare the annual relicensing application or is responsible for the operation of the school shall be required to participate in an annual workshop.

(2) The 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 shall be submitted to the OBPVS not less than 7 working days prior to 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.

(6) Schools that do not properly submit a workshop/webinar registration form with the appropriate fee, ~~or who do not~~ arrange for an appropriate level representative to participate in the workshop, or have a registered person actually attend a workshop or webinar may be fined in accordance with 565:10-19-1(b) and 70 O.S. §21-111, and may be required to view an electronic version of the training, and pass a test about the information presented.

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, to provide the following information:

(1) An Enrollment Agreement for which the student and school shall retain a copy containing, but not limited to, the following information:

- (A) Student 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 including the three day cancellation notice in accordance with 565:10-11-3(b)(2).
- (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 565:10-11-3(b)(2).~~ Page numbers for multipage documents.
- (K) Signature and date of signing by the student or student's guarantor.

(2) Dates the student enrolled, began classes, withdrew or was dismissed, last attended, and 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, or the credential awarded.

(4) ~~All monies owed and/or paid by the student to the school.~~ A financial ledger or other document to detail monies charged by the school, paid or owed by the student, refunded to the student, or paid or owed by a third-party, or refunded to a third-party.

(5) Each refund calculation.

~~(5)~~ Student attendance, which shall be kept daily indicating present or absent.

~~(6)~~ Guidance or other records, including, but not limited to academic, conduct, financial, or placement matters.

~~(7)~~ A transcript shall be maintained permanently. When a school closes, the notice to the OBPVS must include details for the ongoing retention of student transcripts.

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(89) 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.

(910) Written advertising and endorsement records as described in further detail at 565:10-11-6,

(4011) 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.

(c) **Availability of student records.** Student records shall be easily available and readily accessible for use and review by appropriate school officials of the school and authorized representatives of the Board.

(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.

(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 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.

565:10-11-7. Admission requirements

(a) **Publication.** The admission requirements of a private school must be published and administered as written.

(b) **Minimum education or student age requirements.** A school shall establish entrance requirements which shall reasonably ensure that a student entering a program or individual course has the ability to satisfactorily complete the training. 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. Such efforts shall include, but not be limited to, school consideration of physical activity or other occupational requirements of jobs, if any, and the student's ability to pass a certification exam, criminal background check, or drug/alcohol testing or review of convictions.

(e) **Special Admission Cases.** ~~If a student does not meet the entrance requirements, the student may still enroll by signing a notarized statement prepared by the school. The statement~~

~~shall detail why or how the entrance requirements or employment standards were not met. The statement shall also document that the student understands that the disclosed circumstance(s) may prevent completion of the training or being eligible for employment after graduation. This statement shall be made a permanent part of the student's record file. At no time shall more than ten percent (10%) of the students in any course/program be "special cases" students.~~

(dc) **Enrollment tests.** The school may admit only those students who have demonstrated through pre-enrollment tests or counseling 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.

565:10-11-9. 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) Recruitment efforts 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 or Solicitors to ensure ~~that the~~ satisfactory fulfillment 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 representative, Solicitor, recruiter, or other school personnel to encourage a student to leave the educational institution currently being attended. Nor shall any school personnel seek to induce a student to change plans to attend a different school after the student has signed an Enrollment Agreement and paid a registration fee to 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 school shall prohibit 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.

SUBCHAPTER 13. SOLICITOR LICENSE

565:10-13-1. Solicitor license

(a) **Application.** Each Solicitor shall file with the ~~Board~~ OBPVS an application for a representative's license on forms provided by the ~~Board~~ OBPVS, or substantially similar forms. Solicitor applications are to be submitted to the OBPVS by

~~the school~~ each main or branch school that the Solicitor, if licensed, will represent.

(b) **Effective date for selling courses.** The Solicitor shall not 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 possession.

(c) **Fee.** Each Solicitor application shall include payment of the appropriate licensing fee required by 70 O.S. §21-106.

(d) **Surety bond.** The Solicitor shall be covered by the school's surety bond as described in 565:10-9.

(e) **Policies.** Solicitors shall comply with 70 O.S. §21, 101, et seq. and 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 denied when the school or its application meet one or more of the following:

- (1) Failure to comply with standards established in 565:10.
- (2) Failure to submit all licensing application elements within one hundred twenty (120) days from the time of the initial application submission.
- (3) The ~~applicant~~ school has not operated within the requirements of the Oklahoma Statutes or 565:10.
- (4) A school has permitted an unlicensed Solicitor to represent the school to a third person(s).
- (5) The school, its Director or Authorized Administrative Official, or a person having a ten percent (10%) or more ownership ~~or control~~ or a Board member of a non-profit has been disciplined by a licensing or disciplinary authority of a state or a national or regional accrediting ~~body~~ agency 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.

SUBCHAPTER 23. SEMINARS OR WORKSHOPS

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 the entity 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 shall submit the following items for review and consideration by the OBPVS:

- (1) An application to conduct a seminar course(s) on a form(s) provided by the ~~Board~~ OBPVS or substantially similar to ~~Board~~ forms and provide all required attachments to the application.
- (2) A surety bond or certificate of deposit which meets the requirements of 565:10-9.
- (3) A copy of the entity's bulletins or other descriptive material which clearly provides information concerning the entity and the program(s) or individual course(s) to be offered to include, but not be limited to, the purpose and objective of the program(s) or individual course(s), tuition, method to enroll or cancel enrollment and other pertinent information.
- (4) ~~A current~~ Current financial ~~statement~~ Financial Statements in accordance with 565:10-27.
- (5) Evidence that the Director, Authorized Administrative Official, and instructors shall be qualified by reason of education, experience or training and be of good reputation and moral character in accordance with 565:10-11-1.
- (6) Evidence that a suitable facility are engaged for the entire period of instruction.
 - (A) Seminars or Workshops, offered in a fixed location, either owned, leased, or operated by the 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 shall submit plans, blueprints, or line drawings which describe in detail the facility(ies) in which the seminar will operate.
 - (B) Seminars or workshops offered in a non-fixed location, such as hotel/motel conference rooms, convention halls, or other public facilities, shall submit copies of contracts, agreements, or letters of confirmation from the facility(ies), reflecting the address and dates engaged for the period of instruction.
- (7) 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).
- (8) Copies of the proposed enrollment form(s), or ticket(s). Such enrollment form(s), contract(s), or ticket(s) shall include the following information, at a minimum:
 - (A) Title of the program or individual course(s).
 - (B) Total contact hours.
 - (C) Total cost and payment schedules, if applicable.
 - (D) Cancellation penalty or refund policy.

SUBCHAPTER 27. FINANCIAL STATEMENTS AND FINANCIAL STABILITY

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565:10-27-1. Financial Statements

(a) **Type or format of statement.** Each Applicant or school shall submit ~~a financial statement~~statements which ~~has~~have 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 ~~statements~~statements shall be prepared as a "Compilation", "Reviewed" "Review", or "Audited" "Audit" statement depending on the school type, gross tuition level and whether or not an audit is required by another specified entity. A Compilation shall be 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 as described in 565:10-23, and new schools not participating in "Title IV Programs" through the U.S. Department of Education. The Compilation ~~must~~shall 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 shall submit a Review. 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. However, 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 ~~must~~shall include:

(A) A cover letter signed by the CPA or PA on the CPA's or PA's letterhead showing at a minimum, a complete address and contact telephone number.

(B) A Balance Sheet

(C) An Income Statement or Statement of Operations that includes a separate line 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~~Main ~~School~~School and each ~~Branch(es)~~branch(es), if any.

(2) Audit and Reviewed statements shall include the following additional elements:

(A) A Statement of Changes in Shareholders'/Owners' Equity.

(B) A Statement of Cash Flows.

(C) Proper and complete Notes to the Financial Statements.

(D) The Internal Control report that is a part of an Audit.

(b) **Balance Sheet.** All ~~Compilation~~statements ~~Balance Sheets~~ shall report specific, separate line items on the Balance Sheet. ~~Compilation Balance Sheets may, instead,~~or provide in ~~a notarized statement signed by the school owner or an appropriate corporate financial officer, as an attachment, that the balance or amount is zero Dollars (\$0) for each of 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 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. An Applicant shall submit a Financial Statement which reflects their financial position at the time of application.

565:10-27-2. Financial stability

(a) ~~A school~~Applicant shall have and maintain:

(1) ~~a~~A ratio of current assets to current liabilities of not less than 1:1

(2) ~~and the school shall have adequate~~Adequate financial resources to meet its responsibilities and to ensure the continuity of services as demonstrated by:

(A) A positive net worth or net equity on the latest Balance Sheet;

(B) A positive cash or total liquid assets balance on the latest Balance Sheet; and

(C) With cash or total liquid assets sufficient to pay three (03) months of projected expenses without the receipt of any student tuition or fees monies.

(b) If an Applicant does not comply with the financial stability requirements, the Board may require the Applicant to evidence an additional safeguard(s), submit additional periodic financial or other documentation, or meet with the OBPVS or the Board.

(c) Additional documentation may include but not be limited to:

(1) Interim (monthly or quarterly) financial statements that may be internally prepared and signed as true and correct by an appropriate school official

(2) Interim financial statements to be prepared by a CPA

(3) Being required to secure and maintain a bond or certificate of deposit in an amount exceeding the otherwise allowed minimum amount.

(d) Safeguards or circumstances that may mitigate the need for an Applicant to be required to submit periodic financial or other documentation or to meet with the OBPVS or the Board may include, but not be limited to:

(1) An Owner's placement of a voluntary irrevocable letter of credit to meet specifications of the OBPVS

(2) An Owner's personal financial guaranty to meet the obligations of the school

(3) The Applicant being related to a larger entity with a long-standing reputation and substantial financial resources.

(e) Beginning not later than the second annual relicensing following the effective date for rule changes, a licensed school shall have and maintain:

(1) A ratio of current assets to current liabilities of not less than 1:1

(2) Adequate financial resources to meet its responsibilities and to ensure the continuity of services as demonstrated by:

(A) A positive cash or total liquid assets balance on the latest Balance Sheet; and

(B) A positive net worth or net equity on the latest Balance Sheet.

(f) Upon the failure of a school to comply with either of these the financial stability requirements, the Board may require the school bond or certificate of deposit to be increased as provided in 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) shall take financial responsibility for the school and shall furnish adequate financial resources for its operation-, or to document to the OBPVS the placement of another safeguard(s).

SUBCHAPTER 29. DATA COLLECTION

565:10-29-1. Data collection

(a) As part of the OBPVS workforce development efforts, all schools, other than seminar schools or those other schools that offer training for which there is no available Classification of Instructional Programs ("CIP") code, shall be required to submit data to the OBPVS that is outlined by CIP code to accurately reflect fields of study and program completion activity.

(b) The CIP Coding to be used is that published by the National Center for Education Statistics' NCES) Integrated Postsecondary Education Data System (IPEDS) or a Board-approved successor to the Center or System.

(c) Data submission without CIP coding may continue to be required by the Board from seminars or other schools that cannot use CIP coding.

(d) Data to be submitted annually may also include identification by the completion credential awarded such as a Certificate, Diploma, Associate Degree, or Bachelor Degree.

(e) All submitted data should contain appropriate sub-totals and totals.

(f) If required to be shared directly by a school under a proper memorandum(s) of understanding and with appropriate data security measures in place, data for employment following program and school completion may be matched or linked to data maintained by the Oklahoma Employment Security Commission.

(g) The Board may require any school to submit additional or alternate data with no less than a thirty (30) day advance notice.

[OAR Docket #16-711; filed 7-11-16]

**TITLE 575. STATE BOARD OF EXAMINERS OF PSYCHOLOGISTS
CHAPTER 1. ORGANIZATION OF BOARD AND PROCEDURES FOR HANDLING COMPLAINTS**

[OAR Docket #16-568]

RULEMAKING ACTION:
PERMANENT final adoption

RULES:
575:1-1-3 [AMENDED]

AUTHORITY:
Oklahoma State Board of Examiners of Psychologists; 59, O.S., 2001, Section 1352.1(8).

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SUPERSEDED EMERGENCY ACTIONS:
n/a

INCORPORATIONS BY REFERENCE:
n/a

ANALYSIS:
The amendments to these rules will update the procedures for appointing an investigator.

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, 2016:

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) **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

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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. This selection may be by majority vote of the Board or by appointment by the chairperson, ~~or~~ vice chairperson, ~~or~~ executive officer.

(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.

(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 of the date, time, and place of that meeting. 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.

(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.

(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.

(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.

[OAR Docket #16-568; filed 6-16-16]

TITLE 575. STATE BOARD OF EXAMINERS OF PSYCHOLOGISTS CHAPTER 10. LICENSURE OF PSYCHOLOGISTS

[OAR Docket #16-569]

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- 575:10-1-3 [AMENDED]
- 575:10-1-7 [AMENDED]
- 575:10-1-8 [AMENDED]

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n/a

ANALYSIS:

The amendments to 575:10-1-2 Requirements to become licensed as a psychologist will provide foreign applicants an avenue to become licensed in Oklahoma since the Designation Committee of the National Register of Health Service Providers in Psychology and the Association of State and Provincial Psychology Board no longer approves programs. Other changes to this section include clarification of the statute and also adds rules for post-military applicants. Revisions to the Private Practice Under Supervision is to initiate permanent rule changes to strike rule 575:10-1-3(i) which prohibits board members to serve as supervisors. This change was approved by the Governor as an Emergency Rule Change and became effective October 26, 2015. The proposed rule changes to 575:10-1-7 Hiring of psychological technicians will change the limitation on activities of psychological technicians. The revisions allow a psychologist to supervise physically onsite or through telemedicine or direct telecommunications; will change the requirements from requiring a certification as a Board Certified Behavior Analyst (BCBA) to also allow those that have completed the DDS Certification program the ability to provide services to individuals served by the Department of Human Services, Developmental Disabilities Services (DDS). Another change in this section will allow a psychologist to hire up to four psychological technicians. Last, given that the oral examination is no longer required for licensure, a revision to update the language for kinds of educational activities for which credit may be received will strike oral examination committee member as a way for which continuing education may be received.

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, 2016:

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. 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., 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~~ Applicants for licensure shall have completed a doctoral program in psychology that is accredited by the American Psychological Association, (APA) ~~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; unless the doctoral program meets any of the following exceptions:~~

(1) Areas where no accreditation exists. This exception applies to doctoral programs, within the United States, that are in specialty areas of professional psychology that are not accredited by the APA.

(2) New specialty areas of professional psychology. When a new specialty of professional psychology is recognized as being within the accreditation scope of the APA, doctoral programs within that specialty will be afforded a maximum transition period of eight (8) years from the first class of students to the time of accreditation. To be eligible for this exception the program must have a pending application for accreditation with the APA at the time of the applicant's application for licensure.

(3) New doctoral programs in specialty areas currently within the scope of APA accreditation. This exception is available to new doctoral programs developed in APA accredited specialty areas of professional psychology. A doctoral program is only eligible for this exception during a maximum transition period of eight (8) years from the first class of students to the time of accreditation. To be

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eligible for this exception the program must have a pending application for accreditation with the APA at the time of the applicant's application for licensure.

(4) Applicants trained in institutions outside the United States shall have completed a doctoral program in psychology that is accredited by the Canadian Psychological Association or that is deemed the equivalent of a program accredited by the APA by the Board in its sole discretion. The Board shall consider, but is not limited to, determinations made by a foreign credential evaluation service that is a member of the National Association of Credential Evaluation Services or from a recognized foreign credential evaluation service approved by the Board.

(d) All doctoral programs in 575:10-1-2(c) shall 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.

(e) **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.

(f) **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. Applicants trained in institutions outside the United States, besides those accredited by the Canadian Psychological Association, shall submit an evaluation of their doctoral program as described in 575:10-1-2(c)(4). All doctoral programs submitted for review under this subsection will be evaluated by the following criteria: 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.

(g) **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.

(h) **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.

(j†) 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.

(j†) 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.

(k†) 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.

(l†) 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.

(m†) Examination process. The full examination for licensure shall consist of two component examinations:

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(1) **Objective examination.** An objective examination in basic psychology, known as the Examination for Professional Practice in Psychology ("EPPP").

(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.

~~(nñ)~~ **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.

~~(on)~~ **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.

~~(pø)~~ **Re-examination.** If 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.

~~(qp)~~ **Waiver of portion of examination or re-examination.** Failure on 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.

~~(rø)~~ **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).

~~(s)~~ **Post-Military Service Applicants.**

(1) The Board shall consider the equivalent education, training and experience completed by an applicant while the applicant was a member of the United States Armed Forces or Reserves, National Guard of any state, the Military Reserves of any state, or the Naval militias of any state, and apply it in the manner most favorable toward satisfying the qualifications for licensure.

(2) While examining the education, training and experience completed by an applicant while the applicant was a member of the military as described in the preceding paragraph, the Board may consider, but is not limited to, determinations made by institutions of higher education based on the Guide to the Evaluation of Educational Experiences in the Armed Services, published by the American Council on Education.

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 statement, signed by both the applicant and proposed supervisor, must be submitted with the application. 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., 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 shall be notified in writing 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 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 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.~~

(i) **Supervisor's responsibility.** As per 59 O.S., 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.

575:10-1-7. 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 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

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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 under the direction of ~~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 physically onsite or through telemedicine or direct telecommunications ~~available for~~ emergency consultations.

(7) ~~Psychological technicians who hold a master's degree in psychology or behavior analysis and who have achieved and maintain certification as a Board-Certified Behavior Analyst (BCBA) as approved by the Behavior Analyst Certification Board (BACB), 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 BCBA-qualified psychological technician remain in force, and this exemption is limited to services provided for clients of the Developmental Disabilities Services (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.~~

(7) A psychological technician shall be under the direction and supervision of a licensed psychologist who is employed by the same organization/company/private practice in which the psychological technician is employed. Supervision of the psychological technician may not be delegated to another licensed psychologist not approved by the Board, regardless if the psychologist is employed in the same organization/company/private practice as the supervisor.

(A) Every supervisor of a psychological technician shall be responsible for supervising the psychological functions performed by the psychological technician and ensuring that the extent, type, and quality of the

psychological functions performed by the technician are consistent with the supervisor's training and experience, and that the technician complies with the provisions of the code, the Board's regulations, and the standards established by the American Psychological Association.

(B) The supervisor shall inform each client or patient prior to the rendering of services by the psychological technician that the technician is under the direction and supervision of the supervisor as an employee and that the supervisor shall have access to the patient's chart in fulfilling his/her supervision duties.

(C) The supervisor will have personal contact with all clients and patients in order to plan effective and appropriate service and define procedures that the psychological technician will perform.

(D) The psychological technician will only perform specific activities and services consistent with the technician's skills and training as approved by the Board. Technicians without a Master's level degree in the field of mental health will be limited to performing psychological or neuropsychological tests (administration and scoring) defined ahead of time by the supervisor. Technicians with Master level degrees in the field of mental health can perform psychological procedures outside of test administration and scoring that has been previously approved by the Board on record, while under supervision. The supervisor shall be solely responsible for interpretations of psychological assessments. Psychological technicians who have achieved and maintain certification as a Board Certified Behavior Analyst (BCBA) or who have completed the DDS Certification Program are able to provide services to individuals served by the Department of Human Services, Developmental Disabilities Services (DDS).

(E) The supervisor will plan all procedures to be used by the psychological technician and inform the technician of those plans.

(F) The supervisor will make all public announcements of fees and services. In addition to the supervisor, the psychological technician may consult with other professionals as part of the multidisciplinary process in the provision of services.

(G) The supervisor shall be responsible for all psychological services performed by the technician.

(H) The supervisor shall be available to the technician during the time the technician is performing psychological functions. The availability can be in-person, by telephone, or by other appropriate telecommunication technology.

(I) The supervisor shall ensure that the supervisee thoroughly understands the plan in the event of a crisis or emergency.

(J) The supervisor shall provide a minimum of one (1) hour of individual supervision for each 10 hours of billed services to the psychological technician.

(98) 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~~ ~~four~~, ~~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

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~~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 or hourly 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. 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 all continuing professional education hours must be submitted online on the Board's official website by the close of business on December 31. For licenses issued after 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.
- (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 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) **Late fee for late filing.** A psychologist who has not completed and reported the required twenty (20) credits of continuing professional education by December 31, 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. 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 December 31 and/or who has not completed and reported his/her continuing professional education hours by December 31, 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.

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**TITLE 590. OKLAHOMA PUBLIC EMPLOYEES RETIREMENT SYSTEM
CHAPTER 25. DEFERRED COMPENSATION**

[OAR Docket #16-652]

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590:25-9-1. Commencement of benefits [AMENDED]

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The proposed change allows participants to receive a distribution of their funds which have been rolled over into the Deferred Compensation plan without meeting the requirements for a separation of service.

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, 2016:

SUBCHAPTER 9. BENEFITS

590:25-9-1. Commencement of benefits

(a) The payment of amounts deferred under the Plan will become payable:

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- (1) No earlier than thirty (30) days after the Participant separates from service with the State, through termination or retirement; or
 - (2) No later than April 1 of the calendar year after the year the participant attains age 70 1/2 years of age, except as provided in 590:25-9-5.
- (b) Rollover contributions as described in 590:25-9-16 are not subject to the requirements for separation of service and shall be available for distribution within 45 days of acceptance of a properly completed distribution form as prescribed by OPERS.

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TITLE 590. OKLAHOMA PUBLIC EMPLOYEES RETIREMENT SYSTEM CHAPTER 35. DEFERRED SAVINGS INCENTIVE PLAN

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CONTACT PERSON:

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SUBCHAPTER 13. BENEFITS AND DISTRIBUTIONS

590:35-13-1. Commencement

(a) In the event of a Participant's separation from service as a result of Early Retirement, Normal Retirement, death, Disability or Termination of Service, the Participant shall be entitled to receive a distribution of his or her Account under the Trust Fund. In the event that a Participant dies before the entire balance of his or her Account is distributed, Section 590:35-13-5 shall apply.

(b) The Participant may elect, on forms prescribed by ~~the Plan Administrator~~ 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 provided by Code Section 401(a)(9). 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.

(c) Rollover contributions as described in 590:35-7-3 are not subject to the requirements for separation of service and shall be available for distribution within 45 days of acceptance of a properly completed distribution form as prescribed by OPERS.

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Subchapter 1. General Provisions - Applicable to the 401(a) Plan and the 457(b) Plan

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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 [AMENDED]

Part 3. Contributions - Applicable to the 401(a) Plan and the 457(b) Plan

590:40-5-5 [AMENDED]

590:40-5-6 [AMENDED]

590:40-5-7 [AMENDED]

Part 5. Vesting - Applicable to the 401(a) Plan and the 457(b) Plan

590:40-5-15 [AMENDED]

590:40-5-16 [AMENDED]

Subchapter 7. Defined Contribution 401(a) Plan

Part 1. Accounts

590:40-7-1 [AMENDED]

Part 5. Allocations and Vesting

590:40-7-21 [AMENDED]

590:40-7-22 [AMENDED]

Part 7. Investments

590:40-7-25 [AMENDED]

Part 9. Benefits and Distributions

590:40-7-30 [AMENDED]

Part 13. Trust

590:40-7-53 [AMENDED]
Subchapter 9. Defined Contribution 457(b) Plan
Part 1. Election to Defer
590:40-9-1 [AMENDED]
Part 5. Investments
590:40-9-20 [AMENDED]
590:40-9-23 [AMENDED]
Part 7. Benefits
590:40-9-25 [AMENDED]
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Part 1. Eligibility and Participation - Applicable to the 401(a) Plan and the 457(b) Plan

590:40-5-1 [AMENDED]

Part 3. Contributions - Applicable to the 401(a) Plan and the 457(b) Plan

590:40-5-5 [AMENDED]

590:40-5-6 [AMENDED]

590:40-5-7 [AMENDED]

Part 5. Vesting - Applicable to the 401(a) Plan and the 457(b) Plan

590:40-5-15 [AMENDED]

590:40-5-16 [AMENDED]

Subchapter 7. Defined Contribution 401(a) Plan

Part 1. Accounts

590:40-7-1 [AMENDED]

Part 5. Allocations and Vesting

590:40-7-21 [AMENDED]

590:40-7-22 [AMENDED]

Part 7. Investments

590:40-7-25 [AMENDED]

Part 9. Benefits and Distributions

590:40-7-30 [AMENDED]

Part 13. Trust

590:40-7-53 [AMENDED]

Subchapter 9. Defined Contribution 457(b) Plan

Part 1. Election to Defer

590:40-9-1 [AMENDED]

Part 5. Investments

590:40-9-20 [AMENDED]

590:40-9-23 [AMENDED]

Part 7. Benefits

590:40-9-25 [AMENDED]

590:40-9-32 [AMENDED]

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Proposed changes include topics related to the defined contribution system created by Enrolled HB 2630 and Enrolled SB 2120 enacted by the 2014 legislature and amended by HB 1376 enacted by the 2015 legislature. These topics include general provisions applicable to the 401(a) plan and the 457(b) plan, session-only employees, participation dates, continued participation in the System, contribution rates, vesting, forfeiture of non-vested contributions, investment gains and losses, time period for payment of benefits, maximum limits for contributions, investment vehicles, allowed rollover contributions and distribution of rollover contributions.

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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, 2016:

SUBCHAPTER 1. GENERAL PROVISIONS - APPLICABLE TO THE 401(A) PLAN AND THE 457(B) PLAN

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

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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, and who elects to participate in the Defined Contribution System shall be considered an Employee for purposes of this Chapter and eligible for participation in the Defined Contribution System.

(C) Any person employed on or after November 1, 2015, by the Legislative Service Bureau, State Senate or House of Representatives for the full duration of a regular legislative session and who elects to participate in the Defined Contribution System shall be considered an Employee for purposes of this Chapter.

"**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 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~~ first day of the month following the 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. Members who have been declared eligible to participate in the DC System, but subsequently fall below the level of eligibility for a new member, shall continue to participate in the System.
- (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 first day of the month following 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.

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(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.

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~~4.5% 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~~4.5% 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~~4.5% 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~~4.5% contribution rate shall be considered voluntary deferrals, and shall be matched by the Employer up to but not exceeding 7%. Participants may contribute 7% of compensation and it shall be matched by the Employer. Participants may contribute more than 7% of compensation, but any such amount over the ~~7~~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 ~~34.5~~34.5% 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%)~~6% of compensation, but ~~may~~shall be 4%, 5%, 6%, or 7% of compensation if the Participant elects ~~additional voluntary deferrals to contribute 7% of compensation.~~ 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.

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, including any gains or losses on such 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.

(6) For purposes of this subsection, the Participant's first day of employment shall be used to determine the first day of participation.

(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~~ 365 days beginning on the participant's ~~participation date of employment~~ and each ~~anniversary~~ 365 days 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 ~~40 months~~ 300 days 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, including breaks in service, 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-Forfeiture of contributions from Plan; forfeiture.** If a Participant withdraws all vested contributions in the 401(a) plan as a result of Termination of Service terminates 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 ninety (90) days after the Termination of Service. 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 and days 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, including any gains or losses on such contributions. A person employed by the Legislative Service Bureau, State Senate or House of Representatives for the full duration of a regular legislation session shall not have the non-vested portion of his or her Employer contributions forfeited if he or she is rehired by the Legislative Service Bureau, State Senate or House of Representatives by February 1st of the following legislative session.

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%)~~ (4.5%) 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.

PART 5. ALLOCATIONS AND VESTING

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, and the investment gains and losses on those contributions,

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in the Participant's Account that are not vested at the time the Participant terminates participation in the Plan shall be subject to forfeiture in accordance with 590:40-5-16(c).

590:40-7-22. Forfeitures

Matching contributions, and the investment gains and losses on those 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/collective trust fund;
- (5) any combination of the investment options in paragraphs (1) through (4) of this Section.

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)~~ forty-five (45) 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.

(c) **Distribution of rollover contributions.** Rollover contributions as described in 590:40-7-10 are not subject to the requirements for separation of service as described in section (a) and shall be available for distribution within 30 days of acceptance of a properly completed distribution form as prescribed by OPERS.

PART 13. TRUST

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~~ affected 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.

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. The Participant is responsible for monitoring his or her contributions to ensure that he or she does not exceed the applicable limits. Employer matching contributions will be suspended for the remainder of the calendar year once the applicable limits are reached.

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/collective trust fund;
- (5) any combination of the investment options in paragraphs (1) through (4) of this Section.

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 be payable:

- (1) No earlier than ~~thirty (30)~~ forty-five (45) 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 ½ 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.

590:40-9-32. Method of payment

The payment of benefits shall begin no earlier than ~~thirty (30)~~ forty-five (45) 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.

590:40-9-38. Rollovers from other plans

The Plan will accept Participant or Employee 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.

[OAR Docket #16-654; filed 6-29-16]

**TITLE 605. OKLAHOMA REAL ESTATE COMMISSION
CHAPTER 10. REQUIREMENTS, STANDARDS AND PROCEDURES**

[OAR Docket #16-716]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

APPENDIX A. [REVOKED]

APPENDIX A. [NEW]

AUTHORITY:

Title 59, Oklahoma Statutes; Section 858-208; Oklahoma Real Estate Commission

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ADOPTION:

March 9, 2016

SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:

March 9, 2016

APPROVED BY GOVERNOR'S DECLARATION:

Approved by Governor's declaration on June 9, 2016

FINAL ADOPTION:

June 9, 2016

EFFECTIVE:

November 1, 2016

SUPERSEDED EMERGENCY ACTIONS:

N/A

INCORPORATIONS BY REFERENCE:

N/A

ANALYSIS:

APPENDIX A. RESIDENTIAL PROPERTY CONDITION DISCLOSURE STATEMENT FORM - Adding language that will clarify if a propane tank on any affected property is leased or owned.

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, 2016:

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APPENDIX A. RESIDENTIAL PROPERTY DISCLOSURE STATEMENT [REVOKED]

APPENDIX A. RESIDENTIAL PROPERTY CONDITION 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				
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 ___ Leased ___ Owned				
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-11/16)

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 _____ Seller's Initials _____
 Buyer's Initials _____ Seller's Initials _____
 (OREC-11/16)

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LOCATION OF SUBJECT PROPERTY _____		
Property Shared in Common, Easements, Homeowner's Associations and Legal		
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?	Yes	No
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		
47. Are you aware of other defect(s) affecting the property not disclosed above?	Yes	No
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-11/16)

[OAR Docket #16-716; filed 7-11-16]

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

[OAR Docket #16-658]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 23. Oklahoma Higher Learning Access Program
610:25-23-2. Eligibility of participants [AMENDED]

AUTHORITY:

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

SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:

September 24, 2015

COMMENT PERIOD:

October 16, 2015 through November 16, 2015

PUBLIC HEARING:

None

ADOPTION:

December 3, 2015

SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:

December 11, 2015

APPROVED BY GOVERNOR'S DECLARATION:

Approved by Governor's declaration on June 9, 2016

FINAL ADOPTION:

June 9, 2016

EFFECTIVE:

September 11, 2016

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

ANALYSIS:

The proposed revision implements an amendment to the Oklahoma Higher Learning Access Program - Oklahoma's Promise statutes as passed in SB 137 of the 2015 Oklahoma legislative session. The amendment relates to the determination of financial eligibility of students applying for the program in the 8th, 9th or 10th grade. The new statutory language requires the State Regents to review the financial eligibility of the student if the income of the student's parent(s) includes income from either non-taxable military benefits or Social Security benefits due to the death or disability of a parent (Social Security retirement benefits are not included in the review). If the review determines that the total income of the parent(s), excluding non-taxable military benefits and Social Security benefits due to the death or disability of a parent, does not exceed \$50,000, then the student will be eligible to enroll in the program. The change is estimated to have a small fiscal impact on the program, resulting in approximately 25 additional scholarship recipients annually at a cost of about \$110,000.

CONTACT PERSON:

David B. Harting, Assistant General Counsel, Oklahoma State Regents for Higher Education, (405) 225-9289.

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, 2016:

SUBCHAPTER 23. OKLAHOMA HIGHER LEARNING ACCESS PROGRAM

610:25-23-2. Eligibility of participants

Eligibility to participate in the program must be established by both the student and his/her parent(s), custodial parent(s), or guardian(s). Students enrolled in the eighth, ninth or tenth grade at a public or private school and whose parents' income meets the financial need criteria are eligible to apply to become a program participant. Students educated by other means who are between the ages of thirteen (13) and fifteen (15) are eligible to apply to become a program participant. Eligibility requirements to participate in the program include the following:

- (1) The student must be a resident of the state of Oklahoma or be enrolled in a school district located in this state that serves students who reside in both this state and an adjacent state pursuant to a contract as authorized in Section 5-117.1 of Title 70 of the Oklahoma Statutes; and
- (2) The student's parent(s), custodial parent(s), or guardian(s) must establish financial need.

(A) To meet the program's financial need criteria, the income of the student's parent(s) from taxable and nontaxable sources shall not exceed \$50,000 per year at the time the student applies for participation in the program. A student who was adopted while in the permanent custody of the Department of Human Services, in the court-ordered custody of a licensed private nonprofit child-placing agency, or federally recognized Indian tribe, as defined by the federal Indian Child Welfare Act, shall not be subject to the determination of financial qualification at the time the student applies for participation in the program.

(B) Parents of students making application to the program must use one of the following options to establish financial need eligibility:

(i) Documentation of their most recent calendar (tax) year income. Parents of tenth-grade applicants may use the calendar (tax) year income that coincides with the spring semester of the tenth-grade if the application is submitted by the required deadline; or

(ii) Documentation of current yearly income from an officially approved application for free or reduced price school meals or other state or federal means-tested programs as determined by the State Regents. The State Regents may limit use of this option to pilot projects as determined by the State Regents. If requested by the State Regents, parents may be required to provide additional documentation of income.

(iii) The Oklahoma State Regents for Higher Education shall review the determination of financial need eligibility of the student if the income from taxable and nontaxable sources of the student's parent(s) includes income received from nontaxable military benefits or income received from the federal Social Security Administration due to the death or disability of the student's parent(s). If the income from taxable and nontaxable sources of the student's parent(s), excluding

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income received from nontaxable military benefits or income received from the federal Social Security Administration due to the death or disability of the student's parent(s), does not exceed Fifty Thousand Dollars (\$50,000.00) per year, the student shall be determined to have met the financial need eligibility [70 O.S. § 2605(D)(3)]

(C) For students that are subject to court-ordered joint custody arrangements, the OSRHE shall use guidelines consistent with regulations for federal Title IV student financial aid programs to determine which parent(s) shall meet the financial need criteria.

[OAR Docket #16-658; filed 6-30-16]

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

[OAR Docket #16-659]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 31. Oklahoma Tuition Equalization Grant Program

610:25-31-3. Eligibility Requirements [AMENDED]

610:25-31-5. Refunds, ~~and~~ institutional liability and complaint process [AMENDED]

AUTHORITY:

70 O.S. §§2630-2632; 70 O.S. § 3206 (i); Oklahoma State Regents for Higher Education

SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:

September 24, 2015

COMMENT PERIOD:

October 16, 2015 through November 16, 2015

PUBLIC HEARING:

n/a

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Approved by Governor's declaration on June 9, 2016

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June 9, 2016

EFFECTIVE:

September 11, 2016

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

ANALYSIS:

One of the proposed rule revisions is due to an amendment to the Oklahoma Tuition Equalization Grant (OTEG) statutes in Senate Bill 414 of the 2015 Oklahoma legislative session. The amendment was necessary to comply with the United States Department of Education (USDE) "state authorization" regulations that went into effect on July 1, 2015. For a postsecondary institution to be eligible to participate in federal student financial aid programs, the federal regulations require the institution to have certain types of state oversight and approvals. One requirement is that each state must have a process to review and act appropriately upon complaints concerning the institution. To comply with this provision, the rule revision reflects the new statutory language in SB 414 directing OTEG-eligible institutions to adhere to

the complaint process administered by the Oklahoma State Regents for Higher Education.

The second policy revision corrects wording related to the \$50,000 family income limit to be consistent with the existing statutory language.

CONTACT PERSON:

David B. Harting, Assistant General Counsel, Oklahoma State Regents for Higher Education, (405) 225-9289.

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, 2016:

SUBCHAPTER 31. OKLAHOMA TUITION EQUALIZATION GRANT PROGRAM

610:25-31-3. Eligibility Requirements

To be eligible for the Oklahoma Tuition Equalization Grant, an applicant shall:

- (1) Be an Oklahoma resident.
- (2) Have enrolled full-time as an undergraduate at an eligible private or independent institution. For regular fall and spring semesters, full-time enrollment shall be considered a minimum of 12 semester credit hours or its equivalent.⁵
- (3) Meet the family income eligibility level of ~~less~~not more than \$50,000 from both taxable and non-taxable sources for the most recently completed calendar/tax year.
- (4) Pay more tuition than is required at a comparable public institution of higher education.
- (5) Maintain the minimum standard of academic performance as required by the enrolling private or independent institution.

610:25-31-5. Refunds, ~~and~~ institutional liability and complaint process

(a) Institutions will report to the Oklahoma State Regents for Higher Education any awards that the institution is aware are based on inaccurate application data. If funds have been disbursed to a student, and the student reported incorrect data unknown to the institution at the time of eligibility certification, the student is responsible for the return of any funds for which he/she is not eligible to receive. All refunds will be coordinated by the institution for return to the Oklahoma State Regents for Higher Education. The institution will place holds as allowed on other financial aid disbursements, future enrollments, release of transcripts, etc. in an effort to collect refunds if necessary. In the event Oklahoma Tuition Equalization Grant funds are disbursed to a student as a result of erroneous action by the institution, the institution is financially liable for the return of the ineligible funds. An institution's failure to submit refunds for which the institution is liable within a reasonable period of time could result in suspension or termination of the institution's eligibility for participation in the Oklahoma Tuition Equalization Grant program. Thirty days is

considered to be a reasonable period of time. The institution may appeal a finding of institutional liability.

(b) Eligible institutions shall adhere to the complaint process policies and procedures administered by the State Regents. The State Regents shall review and take action, as authorized, on complaints concerning eligible institutions.

[OAR Docket #16-659; filed 6-30-16]

**TITLE 630. SCENIC RIVERS COMMISSION
CHAPTER 3. ELECTION PROCEDURES**

[OAR Docket #16-694]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

- 630:3-1-2. Notice of filing period [AMENDED]
- 630:3-1-4. Notice of election [AMENDED]
- 630:3-1-7. Qualification for voting in election [AMENDED]
- 630:3-1-16. Counting of votes [AMENDED]

AUTHORITY:

Oklahoma Scenic Rivers Act; 82 O.S., §§ 1451 - 1471; Oklahoma Scenic Rivers Commission

SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:

September 11, 2015

COMMENT PERIOD:

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November 17, 2015

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November 17, 2015

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November 25, 2015

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Approved by Governor's declaration on June 9, 2016

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June 9, 2016

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September 11, 2016

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

ANALYSIS:

The amendments will save the OSRC money by reducing the publication frequency while improving actual notice of elections for commissioner-positions by providing for additional, modern, electronic notice. As a result of public comment, one publication in a legal newspaper was retained, along with the electronic notice. Other amendments simplify the election process.

CONTACT PERSON:

Ed Fite, Administrator, Scenic Rivers Commission, P.O. Box 292, Tahlequah, OK 74465-0292, 918-456-3251, ed.fite@osrc.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, 2016:

630:3-1-2. Notice of filing period

(a) The OSRC shall publish notice of the filing period for elected-commissioner candidates as follows:

(1) by publishing once, during the last week in October or the first week in November, in a legal newspaper of the county (i.e., qualified to publish legal notices, see Title 25 O.S. Section 106) general circulation, serving the respective counties affected, at least twice with an interval of seven (7) days during the last week of October and the first two weeks of November, and/or; and

(2) by posting copies of such notice in at least five (5) public places within each county affected by the elections, and electronically by posting on the OSRC website and by email to the last registered address of qualified voters.

(b) The notice of the filing period shall also include information about the voter qualifications and affidavit requirement as described in rule 630:3-1-7 below.

630:3-1-4. Notice of election

If there are two or more candidates for an office, the OSRC shall publish notice of elections once in a legal newspaper of ~~general circulation~~ the county, serving the respective counties affected by the elections, ~~once a week for two consecutive weeks prior to election day and also electronically in the manner described in rule 630:3-1-2 above.~~ The notice shall list the names of the candidates, registration deadline, voting hours, election date, and voting locations. If there is no candidate the Commission may then decide whether and when to conduct a special election.

630:3-1-7. Qualification for voting in election

To qualify to vote in commissioner elections, all registered voters who also wish to vote for a candidate must reside, own real property or own a residential structure within 660 feet of a Scenic River, as specified in Title 82, Section 1461. To qualify, each registered voter must sign an OSRC affidavit for voter-qualifications in person or by mail with the OSRC at least ~~247~~ days before an election commences. Once registered qualified, by submitting a ballot, registered voters certify that they remain eligible to vote on election day and may also update their contact information and email addresses for future notifications.

630:3-1-16. Counting of votes

(a) Ballots shall be collected, counted and delivered to the principal office of the OSRC by the first ~~Friday~~ Wednesday after the election.

(b) In the event of a tie vote for the winner, the Administrator shall notify each candidate of that fact and of the date and time for a recount. Each candidate, or their designee, may be present and observe the recount. If the recount yields a tie, the Administrator will select the winner by lot.

(1) The Administrator shall, in full view of those present, clearly write or print the name of each tied candidate on a separate piece of paper of equal size. The papers shall be folded in half one time so that the written names are not visible and then placed into a container chosen by the Administrator.

(2) The Administrator shall draw, or may designate an OSRC staff member to draw, one paper, and the name

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of the person appearing on the first drawn paper shall be declared the winner.

(c) At the conclusion of the ballot counting, the Administrator shall notify each candidate of the results, including the numbers of ballots cast for each candidate, and post the results at the principal office.

[OAR Docket #16-694; filed 7-8-16]

TITLE 630. SCENIC RIVERS COMMISSION CHAPTER 10. LICENSING AND USE PERMITS

[OAR Docket #16-695]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 1. General Provisions and Licensing

630:10-1-5. Commercial licensing procedures, requirements, and annual use fees [AMENDED]

AUTHORITY:

Scenic Rivers Act; 82 O.S., §§ 1451 - 1471; Oklahoma Scenic Rivers Commission

SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:

September 11, 2015

COMMENT PERIOD:

October 1, 2015 through November 17, 2015

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November 17, 2015

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December 15, 2015

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November 25, 2015

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June 9, 2016

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September 11, 2016

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

ANALYSIS:

This proposed rulemaking action allows OSRC to deny the use of public access areas based on expected adverse impacts. Additionally, there is a requirement that commercial operators shall track and annually report to the OSRC on a per month basis the number of their customers per commercial float area from May through September.

CONTACT PERSON:

Ed Fite, Administrator, Scenic Rivers Commission, P.O. Box 292, Tahlequah, OK 74465-0292, 918-456-3251, ed.fite@osrc.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, 2016:

SUBCHAPTER 1. GENERAL PROVISIONS AND LICENSING

630:10-1-5. Commercial licensing procedures, requirements, and annual use fees

(a) The statutory annual river use license fee per commercially owned and operated flotation device shall be paid at the time of licensing.

(b) The license required on commercial ~~float~~ operations shall be an annual license covering a calendar year. Licenses shall be properly displayed on each flotation device prior to its use on the river.

(c) Applications for new float licenses, ~~not previously held by a commercial float operator~~, may be filed with the OSRC in January of each year. Commercial float operators shall file applications to renew their existing licenses during the month of September each year.

(1) Any commercial float operator that fails to submit a renewal application in September shall only be entitled to renew 85% of the previous number of licenses, and the other 15% shall be released in January of the following year as new licenses. No renewal application shall be accepted after November.

(2) Any commercial float operator that applies to renew his licenses must pay the statutory annual use fees, and pay or complete any outstanding OSRC obligations, by the last working day of December or the application shall be denied and the number of licenses released as new licenses in January.

(3) Any person may apply in January for new commercial flotation device licenses which may be available, up to the number provided in 630:10-1-7. The OSRC shall process the applications, divide the numbers of licenses among the proper applications and issue them in February.

(4) Except for temporary licenses, new licenses shall not be issued unless the number of licenses renewed in the previous year was below the number authorized in 630:10-1-7.

(5) Use of public access areas owned or controlled by the OSRC may be denied by the Administrator based on expected adverse impacts to the public use areas, on historical usage and regulatory compliance considerations and on the user's cooperation with other users.

(d) Application for such licenses shall be made on the form prescribed by the OSRC which shall include:

(1) The name and address of the commercial float operation;

(2) The name and address of the owner or owners thereof;

(3) A description of lands owned or leased, and/or intended for use in the operation, including the launch and retrieval points;

(4) An inventory of usable flotation devices;

(5) A description of how the requirements of paragraph (h) of this section will be met; and

(6) An agreement to abide by all State laws and all OSRC rules and regulations.

(e) Licenses shall be issued in such form as is prescribed by the Administrator, and shall be displayed on the right front

(starboard bow) of flotation devices that have bows, or conspicuously on the outside surface area above the water line of flotation devices without a discernable bow.

(f) Licenses granted by this Chapter shall be transferable only after application to and approval by the Administrator upon a finding that the transfer will not exceed the float area restrictions of the scenic rivers as described in 630:10-1-7.

(g) The number of flotation devices to be licensed for commercial use shall be limited as provided in 630:10-1-7.

(h) All commercial float operators must maintain clean and sanitary facilities, maintain in good working order their flotation devices offered for use, and also:

(1) Provide access to toilet facilities to the floating public.

(2) Provide trash bags and disposal information to all customers.

(3) Conspicuously post on business premises and at launch points warnings against tying flotation devices together, about trespass and safety, to carry trash-bags for their trash, that flotation devices and ice chests are subject to random inspection by River Rangers, that alcoholic spirits (hard liquor such as bourbon, gin, rum, tequila, whiskey, etc.) are prohibited on the Scenic Rivers and in public access areas at all times, and that drunk and disorderly conduct is cause for arrest.

(4) All signs placed along the river corridor shall be informational in nature and shall comply to standards established by the OSRC.

(5) Display on each flotation device used the name of the enterprise and an identification number at least three (3) inches high and two (2) inches wide on both the right and left sides (port and starboard sides), or once if it has no sides.

(6) Provide reasonable assistance in river clean-up and navigational hazard removal in his float area at least once each week during all weeks his flotation devices are operated on the river.

(7) Provide, in each flotation device used, at least one wearable personal flotation device in good and serviceable condition for each person on board so placed as to be readily accessible and of a size suitable to the person who is or will be wearing it.

(8) The OSRC can better protect the river and deploy its resources with knowledge of how many people are floating the river during various times. Accordingly, each operator shall track and annually report to the Administrator on a per month basis the number of their customers per commercial float area from May through September. These reports are due by December 31 each year on the forms provided by the OSRC.

(i) Non-profit youth organizations may elect to obtain temporary licenses for their flotation devices as commercial flotation devices provided they do not exceed the float area restrictions of the scenic rivers as described in 630:10-1-7.

[OAR Docket #16-695; filed 7-8-16]

**TITLE 630. SCENIC RIVERS COMMISSION
CHAPTER 10. LICENSING AND USE
PERMITS**

[OAR Docket #16-693]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 1. General Provisions and Licensing
630:10-1-6. Suspend or revoke license or permit [AMENDED]
630:10-1-9. Non-commercial fee procedures [AMENDED]

Subchapter 2. Public Access Areas
630:10-2-4. Use of public access areas [AMENDED]

Subchapter 3. Boater Safety [NEW]
630:10-3-1. Life Jackets [NEW]
630:10-3-2. Alcoholic beverages [NEW]

AUTHORITY:

Scenic Rivers Act; 82 O.S., §§ 1451 - 1471; Oklahoma Scenic Rivers Commission

SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:

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SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

ANALYSIS:

This proposed rulemaking action is intended to satisfy the overwhelming public demands that the OSRC act to reduce drunken behavior on the Illinois River. A new Subchapter 3 is to be added in this regard, following a finding by the Commission that drunkenness is a public nuisance, with abatement to occur by limiting the concentration of alcoholic beverages to no greater than one-half of one percent alcohol measured by volume. An additional change would prohibit the possession of "Spirits" as defined by the Oklahoma Alcoholic Beverage Control Act on scenic rivers and public access areas. Finally, there are several amendments intended to clarify rules.

CONTACT PERSON:

Ed Fite, Administrator, Scenic Rivers Commission, P.O. Box 292, Tahlequah, OK 74465-0292, 918-456-3251, ed.fite@osrc.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, 2016:

SUBCHAPTER 1. GENERAL PROVISIONS AND LICENSING

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630:10-1-6. Suspend or revoke license or permit

(a) The OSRC retains the right to suspend or revoke the licenses or permits, in whole or in part, of any commercial float operation after the OSRC makes a finding that:

- (1) The operation has engaged in a pattern of willful violation of OSRC rules and regulations;
- (2) The ecosystem of the river section within which the particular flotation device is authorized to float is, or is in danger of being, harmed by the number of flotation devices authorized and it is necessary for the protection of that section of the river to revoke a certain number of licenses;
- (3) The health and safety of individuals floating on the river is threatened by the number of flotation devices currently licensed to float on a particular section of the river; or
- (4) The commercial operator has failed to comply with licensing requirements of rule 630:10-1-5

(b) Except in case of emergency as provided in the Oklahoma Administrative Procedures Act, the OSRC may make such a finding only after the commercial float operation has been given notice and the opportunity for a hearing.

630:10-1-9. Non-commercial fee procedures

(a) Private, non-commercial flotation devices and persons who use them are subject to such statutory fees that are in effect while they are floating on state-designated scenic rivers.

(b) The Administrator shall develop forms and procedures for the collection and administration of non-commercial fees.

(c) Businesses and commercial float operations ("collectors") may, on behalf of the OSRC, collect non-commercial fees and issue receipts or usage indicators when they are approved by the Administrator and use the current forms and procedures of the OSRC. Collectors shall remit the non-commercial fees they collect to the OSRC using the current forms and procedures. Collectors may retain a percentage of statutory non-commercial fees for administering the non-commercial fee process in the amount that is currently designated by the Commission but not more than 10%.

(d) River Rangers and the Administrator may require anyone using a non-commercial flotation device on or leaving the waters of a scenic river, who does not establish that they are exempt from statutory fees, to either show a receipt for or pay the statutory annual non-commercial fee.

SUBCHAPTER 2. PUBLIC ACCESS AREAS

630:10-2-4. Use of public access areas

(a) No person shall camp in a campsite under the jurisdiction of the OSRC without paying the fee established by this section.

(b) Camping fee receipts shall be retained by campers for the duration of their stay and shall be available for review upon request of the Administrator, a Camp Host or a River Ranger.

(c) Camping fees receipts entitle the named holder to use a campsite for the duration indicated on the receipt under the

conditions set forth in this section. All camping fee receipts are non-transferable.

(d) The daily camping fee covers use of campsites from 5:00 p.m. on the day of payment until 5:00 p.m. on the following day. Occupants shall vacate the campsite by removing their personal property from the campsite prior to 5:00 p.m. on the day they are scheduled to leave.

(e) The following activities are prohibited in all public access areas:

- (1) Excavation or leveling of the ground.
- (2) Hanging a propane or gas operated lantern on any tree or plant.
- (3) Leaving refuse or human waste at a campsite after departure.
- (4) Camping within 25 feet of a water hydrant or within 100 feet of a stream, river or body of water, except where otherwise designated.
- (5) Creating or sustaining unreasonable noise at a campsite as determined by the Administrator or a River Ranger considering the nature and purpose of the actor's conduct, the impact on other users, and other factors which would govern the conduct of a reasonably prudent person under the circumstances.
- (6) Constructing permanent camping facilities or dwellings.
- (7) Camping or parking vehicles outside of campsites and parking areas designated by the Administrator.
- (8) Parking a vehicle in, blocking access to, or occupying any designated campsites without having first paid camping fees for that campsite.
- (9) Using the utility services in a campsite or public access area without having first paid campsite or utility fees.
- (10) Connecting more than one water, electrical or sanitary connection per campsite or connecting to a utility which exceeds its manufactured design or capacity.
- (11) The placing or parking of 2 or more vehicles on any site not designed for more than one vehicle.
- (12) Camping longer than duration of stay noted on the camping receipt or exceeding the time limits set forth in this subchapter without prior written approval from the Administrator.
- (13) Entering or remaining in a public access area for any purpose other than camping or authorized day use activities, except fishing.
- (14) Possession or use of fireworks or firearms in public access areas. The Administrator may authorize fireworks on the 4th of July.
- (15) Fires may only be built in fire pits or cookers established by the Commission.

(f) Day use of public access areas for general recreational activities, such as swimming, picnicking, fishing, and boat launching is permissible without charge only during open hours as defined and posted by the Administrator.

(g) Entering or remaining in a day use area during closed hours is prohibited for any purpose, except for lawful fishing.

(h) Possession of an open container, or consumption, of alcohol (including Spirits, wine, beer and light or 3.2 beer) is prohibited in seven public access areas: Round Hollow, Todd,

US 62 Bridge Access on the Illinois River, US 412 Bridge Access on Flint Creek, Lake Francis Frances Dam Public Access Site, US 59 Illinois River Bridge Crossing Access Area, and Carnes Ford Area.

(i) Commercial operators who use a public access area to launch and retrieve flotation devices shall police the area and its gravel bars for litter after each use.

(j) Violations of OSRC regulations or state law may result in the suspension or revocation of camping authorization or day use privileges. Other penalties prescribed by law may also apply.

SUBCHAPTER 3. BOATER SAFETY

630:10-3-1. Life Jackets

All persons in a flotation device on a Scenic river must possess a U.S. Coast Guard-approved personal flotation device that is appropriately-sized and in good working order. All children 12 years of age and younger must wear their personal flotation device at all times while floating on a Scenic river.

630:10-3-2. Alcoholic beverages

The Scenic Rivers Commission has found that drunk and disorderly conduct on the Scenic rivers and in public access areas is a danger to the public and to the rivers, and is therefore a public nuisance for which the public has demanded abatement.

(1) Possession of any beverage defined as "Spirits" in the Oklahoma Alcoholic Beverage Control Act is prohibited on the Scenic rivers and in public access areas at all times. The Oklahoma Alcoholic Beverage Control Act defines "Spirits" to mean, in part, any beverage other than wine, beer or light beer, which contains more than one-half of one percent (1/2 of 1%) alcohol measured by volume and obtained by distillation, whether or not mixed with other substances in solution and includes those products known as whiskey, brandy, rum, gin, vodka, liqueurs, cordials and fortified wines and similar compounds; but shall not include any alcohol liquid completely denatured (2015 Title 37 O.S. Section 506).

(2) Wine, beer and light beer in the original, non-glass packaging may be possessed and consumed by persons 21 years of age or older while floating on scenic rivers and in the Stunkard, Peavine, Edmondson, New Combs Bridge, No Head and Echota public access areas.

[OAR Docket #16-693; filed 7-8-16]

**TITLE 630. SCENIC RIVERS COMMISSION
CHAPTER 15. PROTECTION OF NATURAL RESOURCES**

[OAR Docket #16-692]

RULEMAKING ACTION:
PERMANENT final adoption

RULES:
630:15-1-7. ~~Glass and Styrofoam~~Certain containers prohibited [AMENDED]
630:15-1-14. Ice chest restrictions [AMENDED]
630:15-1-15. Tying flotation devices prohibited [AMENDED]

AUTHORITY:
Oklahoma Scenic Rivers Act; 82 O.S., §§ 1451 - 1471; Oklahoma Scenic Rivers Commission

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n/a

INCORPORATIONS BY REFERENCE:

n/a

ANALYSIS:

The amendments are mostly clarifying; the ice chest restriction now requires that all ice chests be secured to prevent the spilling of their contents into the scenic rivers.

CONTACT PERSON:

Ed Fite, Administrator, Scenic Rivers Commission, P.O. Box 292, Tahlequah, OK 74465-0292, 918-456-3251, ed.fite@osrc.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, 2016:

630:15-1-7. Glass and StyrofoamCertain containers prohibited

Containers made of glass or Styrofoam (bottles, jars, plates, etc.) and jello-shot containers are not allowed on scenic rivers; except, however, that prescription medicine and the contents of trash containers from river cleanups are exempt.

630:15-1-14. Ice chest restrictions

To prevent littering, no ~~person shall carry~~flotation device shall contain an ice chest that ~~is does not~~ is does not ~~capable of being~~ have a secured lid to prevent spilling its contents or is larger than ~~50 quart~~48-quart capacity on a scenic river.

630:15-1-15. Tying flotation devices prohibited

To minimize environmental damage to the stream and river banks, ~~operators of flotation devices are prohibited from tying~~ no person shall tie or otherwise connecting connect two or

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more flotation devices together on scenic rivers except during rescue and retrieval.

[OAR Docket #16-692; filed 7-8-16]

TITLE 660. DEPARTMENT OF SECURITIES CHAPTER 2. ORGANIZATION AND PROCEDURES OF DEPARTMENT OF SECURITIES

[OAR Docket #16-689]

RULEMAKING ACTION:
PERMANENT final adoption

RULES:
Subchapter 7. Investigations
660:2-7-3. [AMENDED]
Subchapter 9. Individual Proceeding Practices and Procedures
660:2-9-3. [AMENDED]

AUTHORITY:
Administrator, Oklahoma Department of Securities; 71 O.S. §§1-605, 1-608

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n/a

INCORPORATIONS BY REFERENCE:
n/a

ANALYSIS:
The rule amendments impose the duty to supplement subpoena compliance when responses become materially incomplete. The proposed rule amendments also authorize the use of requests for admissions in discovery; impose a duty to supplement discovery when prior responses become materially incomplete or incorrect; impose page limitations on motions and responsive pleadings thereto; and set forth additional sanctions for failures to comply with or cooperate in discovery.

CONTACT PERSON:
Faye Morton, General Counsel, Oklahoma Department of Securities, (405) 280-7727

**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, 2016:**

SUBCHAPTER 7. INVESTIGATIONS

660:2-7-3. Investigative processes

(a) **Authority.** Investigations under the statutes administered by the Administrator shall be conducted by representatives designated and duly authorized for this purpose. Such representatives are authorized to exercise and perform the duties of their office in accordance with the statutes of the state of Oklahoma and the regulations of the Administrator, including administration of oaths and affirmations, in any matter under investigation by the Administrator. Nothing in this section shall prohibit the Administrator or his designee from expanding or restricting the scope of any investigation at any time during an investigation.

(b) **Investigative hearings.** Investigative hearings, as distinguished from hearings in individual proceedings, may be conducted in the course of any investigation undertaken by the Administrator, including inquiries initiated for the purpose of determining whether or not a respondent is complying with an order of the Administrator. Investigative hearings may be held before the Administrator, or his designee, for the purpose of hearing the testimony of witnesses and receiving documents and other data relating to any subject under investigation. Such hearings shall be non-public.

(c) **Subpoena to testify or produce records.** While the Administrator encourages voluntary cooperation in investigations, the Administrator, or his designee, at any stage of any investigation, may issue a subpoena ordering the person named therein to appear before a designated representative at a designated time and place, including the offices of the Department, to provide testimony by deposition, sworn statement or affidavit and/or to produce documentary evidence relating to any matter under investigation. Such testimony shall only be reduced to writing or otherwise recorded in any manner by the person taking the testimony, or under his direction.

(d) **Subpoena to grant access.** The Administrator may issue a subpoena to grant access to, to examine, and to copy documents, books or other records of any person being investigated.

(e) **Service.** Subpoenas shall be served in the manner provided by law.

(f) **Written examination.** The Administrator, or his designee, may issue an order requiring persons to file a report or statement, or answers in writing and under oath to specific questions, relating to any matter under investigation.

(g) **Rights of witness.** Any person under investigation, compelled to furnish information or documentary evidence, shall be advised of the purpose and scope of the investigation, subject to the confidentiality requirements provided by law. Any person required to testify shall be entitled to review a copy of the transcript of his own testimony, if transcribed, at the offices of the Department of Securities. Any person required to submit documentary evidence shall be entitled to retain or, on payment of lawfully prescribed cost, to procure a copy of any document produced by such person. Any party compelled to testify or to produce documentary evidence may be accompanied and advised by counsel, provided that such counsel is duly licensed to practice law by the Supreme Court of Oklahoma. Such counsel may question such person briefly at the

conclusion of the examination to clarify any of the answers such person has given.

(h) **Confidentiality.** Information or documents obtained by the Administrator and subpoenas issued in connection with an investigation shall be kept confidential and shall not be made available to the public, unless expressly ordered by the Administrator, disclosed pursuant to the provisions of Subchapter 9 of this Chapter or as otherwise provided by law.

(i) **Duty to Supplement.** Any person who has responded to a subpoena must supplement its response in a timely manner if the person learns that in some material respect the disclosure or response is incomplete.

SUBCHAPTER 9. INDIVIDUAL PROCEEDING PRACTICES AND PROCEDURES

660:2-9-3. Prehearing proceedings and processes

(a) **Scheduling.** As soon as is practicable after the request for hearing is received, but in no event later than thirty (30) days after the request for hearing is received, the Administrator, or the Hearing Officer, shall enter a scheduling order that is intended to expedite the disposition of the action and insure the fair, orderly and efficient conduct of the proceedings. The parties shall confer in person or by telephone and attempt to prepare a single agreed scheduling order to submit to the Administrator or the Hearing Officer. If the proposed scheduling order is acceptable to the Administrator, or the Hearing Officer, no scheduling conference need be held. If the parties are unable to agree, the Administrator, or the Hearing Officer shall issue an appropriate scheduling order or hold a scheduling conference in person or by telephone. The scheduling order ~~should~~ shall establish at least the following:

- (1) a schedule of discovery;
- (2) any limitations to be placed on discovery;
- (3) a preliminary list identifying all witnesses, documents and exhibits intended to be utilized at the hearing;
- (4) identification of any expert witness intended to be called;
- (5) the date for exchanging the documents and exhibits intended to be utilized at the hearing and the final list identifying all witnesses intended to be called at the hearing; and
- (6) such other matters as may aid in the disposition of the matter.

(b) **Discovery.**

(1) Discovery may be obtained by one or ~~both~~ more of the following methods:

(~~A~~) A party may serve a written request on any other party requiring the party to produce, within fifteen (15) days, for inspection and copying, any documents or tangible items that are in the possession, custody or control of the party and relevant to the subject matter of the individual proceeding and are not privileged. The number of requests to produce or permit inspection shall not exceed thirty (30) in number except by agreement of the party being required to

produce or by order of the Administrator, or Hearing Officer; ~~and/or.~~

(~~B~~) A party may serve on any other party a written request to admit, for purposes of the pending action only, the truth of any matters relating to facts, the application of law to fact, or opinions about either; and the genuineness of any documents described in the request. Copies of documents shall be served with the request to admit unless they have been or are otherwise furnished or made available for inspection and copying. The number of requests to admit for each party shall not exceed thirty (30) in number except by agreement of the party being required to respond or by order of the Administrator, or the Hearing Officer. Each matter upon which an admission is requested shall be separately stated. The matter is admitted unless, within fifteen (15) days after service of the request, or within such shorter or longer time as the Administrator, or the Hearing Officer, may allow, the party to whom the request is directed serves upon the party requesting the admission a written answer or objection addressed to the matter and signed by the party. If a matter is not admitted, the answer must specifically deny it or state in detail why the answering party cannot truthfully admit or deny it. A denial shall fairly meet the substance of the requested admission, and when good faith requires that a party qualify his answer or deny only a part of the matter of which an admission is requested, he shall specify so much of it as is true and qualify or deny the remainder. An answering party may not give lack of information or knowledge as a reason for failure to admit or deny unless he states that he has made reasonable inquiry and that the information known or readily obtainable by him is insufficient to enable him to admit or deny. The grounds for an objection must be stated. A party may not object solely on the ground that the request presents a genuine issue for trial.

(C) A party may take the testimony of a witness by oral deposition at the expense of that party. A party desiring to take the deposition of another party, or an employee thereof, shall serve written notice to the witness, or his counsel. The notice shall state the time and place for taking the deposition and shall be served at least three (3) days before the person is required to appear. A party desiring to take the deposition of a non-party witness shall serve the witness with a subpoena in accordance with 660:2-9-4. A copy of the notice or subpoena shall be served on all other parties to the proceeding by means specified in paragraph (h) below. Unless otherwise agreed by the parties or ordered by the Administrator or Hearing Officer, a deposition under this provision shall not last more than six (6) hours, exclusive of breaks, and shall be taken only between the hours of 8:00 a.m. and 5:00 p.m. on a day other than a Saturday or Sunday and on a day other than a legal holiday.

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- (2) A party who has responded to a request for production or request to admit must supplement or correct its response:
- (A) in a timely manner if the party learns that in some material respect the disclosure or response is incomplete or incorrect, and if the additional or corrective information has not otherwise been made known to the other parties during the discovery process or in writing; or
- (B) as ordered by the Administrator, or the Hearing Officer.
- (c) **Motions in general.**
- (1) Unless otherwise permitted by these rules or by the Administrator, or the Hearing Officer, motions shall:
- (A) be made in writing and shall not exceed twenty (20) pages;
- (B) state concisely the question to be determined and be accompanied by any necessary supporting documentation; and
- (C) be served on all parties.
- (2) A response to a written motion shall be filed within ~~ten (10)~~ fifteen (15) days after receipt of the motion but no later than one day prior to the date and time of the hearing. A response to a written motion shall not exceed twenty (20) pages. A reply to a response to a written motion may be filed within five (5) days after receipt of the response but no later than the date and time of the hearing. A reply to a response to a written motion shall not exceed five (5) pages.
- (3) The Administrator, or the Hearing Officer, may allow oral argument if it appears necessary to the Administrator, or the Hearing Officer, for a fuller understanding of the issues presented.
- (4) The filing or pendency of a motion does not alter or extend any time period prescribed by this Subchapter or by an order of the Administrator, or the Hearing Officer.
- (d) **Motions for summary decision.** A party may move for summary decision as to any substantive issue in the case. The Administrator, or the Hearing Officer, may issue a summary decision if he finds that there is no genuine issue as to any material fact and that the moving party is entitled to prevail as a matter of law.
- (e) **Prehearing conference.**
- (1) Upon the request of a party or when the Administrator, or the Hearing Officer, believes it necessary or appropriate, a prehearing conference shall be held, as close to the time of hearing as is reasonable under the circumstances, to address the following matters:
- (A) simplification of issues;
- (B) the final list of witnesses and exhibits to be utilized at the hearing;
- (C) admissions and stipulations of fact;
- (D) stipulations regarding admission and authenticity of documents;
- (E) requests for official notice;
- (F) discovery disputes;
- (G) pending motions; and
- (H) other matters that will promote the orderly and prompt conduct of the hearing.
- (2) At the conclusion of the prehearing conference, a ruling or order shall be entered reciting the action taken. The order shall control the subsequent course of the action unless modified by a subsequent order. The order shall be modified only to prevent manifest injustice.
- (f) **Failure to participate, appear, comply or participate/cooperate.** A party's failure to participate in good faith in the preparation of a scheduling order or prehearing conference order; failure to comply with a scheduling order or prehearing conference order; failure to comply with a ~~written request for production or to appear to testify in a deposition under 660:2-9-3(b)~~ or cooperate in discovery; or failure to appear at, substantially prepare for, or participate in good faith in, any hearing or conference, may result in any of the following sanctions:
- (1) striking of any pleading in whole or in part;
- (2) ~~a preclusion~~ an order prohibiting a party from supporting or opposing designated claims or defenses, or from introducing designated matters in evidence;
- (3) an order directing that designated facts be taken as established for purposes of the proceeding;
- (4) staying the proceeding;
- (5) default judgment; or
- (6) such other order as the Administrator, or the Hearing Officer, may deem just and appropriate.
- (g) **Post prehearing conference.** If additional exhibits are discovered after the prehearing conference order is issued or after the date final documents and exhibits are exchanged, the party intending to use them shall immediately notify all other parties and furnish copies of the additional exhibits to such parties. If additional witnesses are discovered, all other parties shall be notified immediately and furnished the nature of the testimony along with the names and addresses of the witnesses. These additional exhibits or the testimony of the additional witnesses shall not be admitted at the hearing without the agreement of all parties or without a showing to the Administrator, or the Hearing Officer, that manifest injustice would be created if the exhibit or witness testimony were not permitted.
- (h) **Service and filing of papers.** Service of papers upon a party shall be made by personal delivery, regular first class mail, facsimile transmission or electronic mail. All papers required to be served by a party shall be filed with the Administrator within the applicable time for service. When a Hearing Officer is appointed, a person making a filing with the Administrator shall promptly provide to the Hearing Officer a copy of such filing. Papers filed with the Administrator shall be accompanied by a certificate stating the name of the person or persons served, the date of service, the method of service and the mailing address, facsimile telephone number or electronic mail address to which service was made, if not made in person.
- (i) **Signature and certification.** Every filing of a party represented by counsel shall be signed by at least one counsel of record and shall state that counsel's business address and telephone number. A party who is not represented by counsel

shall sign his individual name and state his address and telephone number on every filing. The signature of counsel or a party shall constitute a certification that:

- (1) the person signing the filing has read the filing;
- (2) to the best of his knowledge, information, and belief, formed after reasonable inquiry, the filing is well grounded in fact and is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law; and the filing is not made for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of adjudication; and
- (3) If a filing is not signed, the Administrator, or the Hearing Officer, shall strike the filing, unless it is signed promptly after the omission is called to the attention of the party making the filing.

(j) **Computation of time.** A paper is filed when it is received by the Administrator. Unless otherwise specifically provided by the Securities Act or this Subchapter, computation of any time period prescribed by this Subchapter, or by an order of the Administrator, or the Hearing Officer, begins with the first day following the act or event that initiates the time period. The last day of the time period so computed is included unless it is a Saturday, Sunday, state holiday, or any other day when the Department's office is not open for public business, in which event the period runs until the end of the next business day. If a notice or other filing is served by mail and the party served is entitled or required to take some action within a prescribed time period after service, the date of mailing is the date of service, and three (3) days shall be added to the prescribed time period.

[OAR Docket #16-689; filed 7-8-16]

**TITLE 660. DEPARTMENT OF SECURITIES
CHAPTER 6. FORMS**

[OAR Docket #16-690]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 5. Forms Used Under the Securities Act
660:6-5-1. [AMENDED]

AUTHORITY:

Administrator, Oklahoma Department of Securities; 71 O.S. §§1-605, 1-608

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n/a

INCORPORATIONS BY REFERENCE:

n/a

ANALYSIS:

The rule amendments update form references, delete a form that is no longer in general use, and provide a form for an exemption notice for offerings conducted pursuant to Regulation A Tier 2 under federal law in light of a recent statutory change.

CONTACT PERSON:

Faye Morton, General Counsel, Oklahoma Department of Securities, (405) 280-7727

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, 2016:

**SUBCHAPTER 5. FORMS USED UNDER THE
SECURITIES ACT**

660:6-5-1. Forms for Registration or Exemption of Securities

(a) The following is a list of forms accepted by the Department in connection with the registration or exemption of securities under the Securities Act:

- (1) U-1 -- Uniform Application to Register Securities
- (2) U-2 -- Uniform Consent to Service of Process
- (3) U-2 A -- Uniform Form of Corporate Resolution
- (4) U-7 -- Small ~~Corporate Offerings~~ Company Offering Registration Form
- (5) NF -- Uniform Investment Company Notice Filing
- (6) ~~USR-1 -- Uniform Sales Report for Issuers~~
- (7) Form D -- Notice of ~~Sale-Exempt Offering~~ of Securities ~~Pursuant to Regulation D~~
- (8) Oklahoma Accredited Investor Exemption Supplemental Information Form
- (8) Oklahoma Notice of Regulation A Tier 2 Offering form (or equivalent uniform form)

(b) **Obtaining forms.**

- (1) Copies of forms listed in (a)(1) through (6) of this Section, can be obtained from The North American Securities Administrators Association, Inc. at 10 G Street Northeast, Suite 710, Washington, D.C. 20002 or on the NASAA web site at <http://www.nasaa.org/>.
- (2) Copies of Form D may be obtained from The Public Reference Branch of the main office of the SEC, 450 5th Street, N.W., Washington, D.C. 20549, from any of the regional or branch offices of the SEC, or on the SEC web site at <http://www.sec.gov/>.
- (3) Copies of the form listed in (a)(8) of this Section can be obtained from the Department.

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(4) The referenced forms are also available from the Department's website at <http://www.securities.ok.gov>.

[OAR Docket #16-690; filed 7-8-16]

TITLE 660. DEPARTMENT OF SECURITIES CHAPTER 11. OKLAHOMA UNIFORM SECURITIES ACT OF 2004

[OAR Docket #16-691]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 5. Broker-Dealers and Agents
Part 3. Licensing Procedures
660:11-5-11. [AMENDED]
Subchapter 11. Exemptions from Securities Registration
Part 7. Federal Covered Securities
660:11-11-61. [AMENDED]
660:11-11-62. [NEW]

AUTHORITY:

Administrator, Oklahoma Department of Securities; 71 O.S. §§1-605, 1-608

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n/a

ANALYSIS:

The rule amendments clarify current regulatory procedure and exemption notice filing requirements in light of recent changes in federal law. The new rule establishes exemption notice requirements in light of recent changes in federal law.

CONTACT PERSON:

Faye Morton, General Counsel, Oklahoma Department of Securities, (405) 280-7727

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, 2016:

SUBCHAPTER 5. BROKER-DEALERS AND AGENTS

PART 3. LICENSING PROCEDURES

660:11-5-11. Initial registration

(a) **Broker-dealer.** Each broker-dealer applying for initial registration pursuant to Section 1-406 of the Securities Act:

(1) who is contemporaneously applying for FINRA membership or who is a FINRA member:

(A) shall file with the CRD:

(i) a completed Form BD, including Schedules A-E; and

(ii) the filing fee specified in Section 1-612 of the Securities Act.

(B) shall file with the Department, within 60 days of becoming registered, a list of the addresses, telephone numbers and resident agents of all nonbranch sales offices located within the state of Oklahoma.

(2) who is not a current FINRA member shall file with the Department:

(A) a completed Form BD, including Schedules A-E;

(B) the filing fee specified in Section 1-612 of the Securities Act;

(C) ~~audited~~—financial statements as required by 660:11-5-45;

(D) documentation of compliance with the minimum capital requirement set forth in Section 1-406.E of the Securities Act and 660:11-5-17;

(E) designation, qualification and registration of a principal as defined in 660:11-5-2 pursuant to (c) of this ~~section~~ Section;

(F) a list of the addresses, telephone numbers and resident agents of all nonbranch sales offices located within the state of Oklahoma;

(G) a copy of the written supervisory procedures of the broker-dealer; and

(H) any additional documentation, supplemental forms and information as the Administrator may deem necessary.

(b) **Broker-dealer agent.**

(1) **Required documents.** Each broker-dealer agent applying for initial registration pursuant to Section 1-406 of the Securities Act shall file:

(A) a completed Form U-4;

(B) the filing fee specified in Section 1-612 of the Securities Act;

(C) proof of successful completion of the applicable examinations specified in 660:11-5-16;

(D) proof of applicant's approved status of registration or licensure in a jurisdiction in which he has an office of employment when such registration is required; and

~~(D)~~ any additional documentation, supplemental forms and information as the Administrator may deem necessary.

(2) **Where to file.** An agent applying for registration with a FINRA member shall file the documentation required by (1)(A) through (C) of this subsection with the CRD and shall file any additional documentation with the Department. Agents applying for registration with a

non-FINRA broker-dealer shall file the required documentation with the Department.

(c) **Broker-dealer principal.**

(1) **Required documents.** Each person applying for initial registration under the Securities Act as a principal of a broker-dealer who is not a member of FINRA shall file with the Department:

- (A) a completed Form U-4;
- (B) a \$50.00 filing fee;
- (C) proof of successful completion of the applicable examinations specified in 660:11-5-16; and
- (D) ~~an executed Applicant/Management Certification for Non-FINRA Principals Form;~~ and
- (E) any additional documentation, supplemental forms and information as the Administrator may deem necessary.

(2) **Effect of registration.** Registration under the Securities Act as a principal of a broker-dealer shall constitute registration as an agent.

(d) **Issuer agent.** Agents of issuers applying for initial registration in the state of Oklahoma pursuant to Section 1-406 of the Securities Act shall file the following with the Department:

- (1) a completed Form U-4;
- (2) the fee specified in Section 1-612 of the Securities Act;
- (3) proof of successful completion of the applicable examinations specified in 660:11-5-16;
- (4) an executed Applicant/Management Certification Form; and
- (5) any additional documentation, supplemental forms and information as the Administrator may deem necessary.

(e) **Requirement for continued registration.** 660:11-5-42, adopted pursuant to ~~Section~~ Sections 1-411.D.13 and 1-605.A.2. of the Securities Act, sets forth the standards of ethical practices for broker-dealers and their agents. Paragraph (22) of said rule requires that each broker-dealer establish, maintain and enforce written procedures that will enable it to supervise properly the activities of each registered agent to assure compliance with applicable securities laws, rules, regulations and statements of policy. Therefore, the initial and continued registration of a broker-dealer that is not a FINRA member is conditioned upon the designation, qualification and registration of a principal who shall be responsible for the supervision of all agents of the broker-dealer who are registered under the Securities Act. A broker-dealer applicant or registrant may apply for registration of more than one person as a principal of said broker-dealer.

SUBCHAPTER 11. EXEMPTIONS FROM SECURITIES REGISTRATION

PART 7. FEDERAL COVERED SECURITIES

660:11-11-61. Regulation D Rule 506 federal covered security notice filing

(a) **Notice requirement.** Issuers offering a security in this state in reliance upon Section 1-301.1 of the Securities Act by reason of compliance with Regulation D, Rule 506, adopted by the ~~United States Securities and Exchange Commission~~ SEC, shall be required to file a notice with the Administrator pursuant to the authority of Section 1 302.C. of the Securities Act if a sale of a security in this state occurs as a result of such offering. Such notice shall be filed no later than fifteen (15) days after the first sale of a security in this state for which a notice is required.

(b) **Terms-Content of notice filing.** ~~The issuer shall file with the Administrator no later than fifteen (15) days after the first sale of a security in this state for which a notice is required under (a) of this section~~ Each required notice shall include the following:

- (1) one copy of the notice of sales on Form D as most recently filed with the SEC, ~~and the Appendix thereto;~~
- (2) ~~a consent to service of process on Form U-2 and (if applicable) Form U-2A; and~~
- (3) the notice filing fee required by Section 1-612.A.19. of the Securities Act.

660:11-11-62. Regulation A Tier 2 federal covered security notice filing

(a) **Notice requirement.** Issuers offering a security in this state in reliance upon Section 1-301.1 of the Securities Act by reason of compliance with Tier 2 of Regulation A, adopted by ~~the SEC~~, shall be required to file a notice with the ~~Administrator~~ Administrator pursuant to the authority of Section 1 302.C. of the Securities Act. Such notice shall be filed prior to the first offer of securities in this state that is subsequent to qualification of the offering statement by the SEC.

(b) **Content of notice.** Each required notice shall include the following:

- (1) a copy of Part I of Federal Form 1-A in conjunction with a completed Oklahoma Notice of Regulation A - Tier 2 Offering form (or equivalent uniform form), or copies of all documents filed with the SEC;
- (2) a consent to service of process (if such is not included in the submitted Notice form); and,
- (3) the notice filing fee required by Section 1-612.A.19. of the Securities Act.

[OAR Docket #16-691; filed 7-8-16]

**TITLE 690. BOARD OF EXAMINERS FOR SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY
CHAPTER 1. ADMINISTRATIVE OPERATIONS**

[OAR Docket #16-678]

RULEMAKING ACTION:
PERMANENT final adoption

Permanent Final Adoptions

RULES:

Subchapter 3. Board Organization and Proceedings
690:1-3-3. Forms [AMENDED]

AUTHORITY:

59 O.S., 2011 § 1613; Board of Examiners for Speech-Language Pathology and Audiology.

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INCORPORATIONS BY REFERENCE:

n/a

ANALYSIS:

The proposed amendment eliminates the second sentence which describes the types of license applications for which the Board must have forms.

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, 2016:

SUBCHAPTER 3. BOARD ORGANIZATION AND PROCEEDINGS

690:1-3-3. Forms

The Board shall have such forms as are required for conduct of Board business. ~~Such forms shall include but are not limited to application for authorization to practice as an independent practitioner, an intern, or an assistant.~~

[OAR Docket #16-678; filed 7-7-16]

TITLE 690. BOARD OF EXAMINERS FOR SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY

CHAPTER 5. RULES OF PRACTICE

[OAR Docket #16-679]

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RULES:

Subchapter 5. Individual Proceedings

690:5-5-1. Notice of proposed hearing [AMENDED]

AUTHORITY:

59 O.S., 2011 § 1613; Board of Examiners for Speech-Language Pathology and Audiology.

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n/a

ANALYSIS:

The proposed amendment adds a missing space to correct a typographical error.

CONTACT PERSON:

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SUBCHAPTER 5. INDIVIDUAL PROCEEDINGS

690:5-5-1. Notice of proposed hearing

Whenever the Board chooses to exercise its statutory authority under Section 1619 of the Speech-Language Pathology and Audiology Licensing Act to conduct a hearing to determine whether suspension or revocation of a license would be ordered or a reprimand issued, ~~the Board~~ the Board shall give at least thirty (30) calendar days written notice of such hearing to the licensee against whom the proceeding is directed. The Notice of the Hearing shall be served on the licensee either personally or by certified or registered mail and shall include the following information:

- (1) the time, place, and nature of the hearing;
- (2) the legal authority and jurisdiction under which the hearing is being conducted;
- (3) the ground or grounds constituting or forming the basis of the charge(s) against the licensee, including reference to the particular section(s) of the statute and/or rule involved.
- (4) information regarding the licensee's right to legal counsel

[OAR Docket #16-679; filed 7-7-16]

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

[OAR Docket #16-680]

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RULES:

- Subchapter 3. Licensure of Speech-Language Pathologists and Audiologists
 - 690:10-3-4. Academic requirement [AMENDED]
 - 690:10-3-5. Supervised clinical practicum requirement [AMENDED]
 - 690:10-3-8. Continuing education (CE) for speech-language pathologists, audiologists, and speech-language pathology assistants [AMENDED]
 - 690:10-3-9. Telepractice [AMENDED]
- Subchapter 5. Licensure of Speech-Language Pathology Clinical Experience Interns completing Post-Graduate Clinical Experience.
 - 690:10-5-4. Application form for clinical experience interns [AMENDED]
 - 690:10-5-8. Direct on-site supervision required [AMENDED]
- Subchapter 7. Licensure of Speech-Language Pathology Assistants and Audiology Assistants.
 - 690:10-7-3. Supervision required [AMENDED]
 - 690:10-7-9. Academic Requirements [AMENDED]
- Subchapter 9. Fees
 - 690:10-9-3. Examination fee [AMENDED]

AUTHORITY:

59 O.S., 2011 § 1613; Board of Examiners for Speech-Language Pathology and Audiology.

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ANALYSIS:

The proposed amendments to sections 10-3-4 and 10-3-5 remove "or audiology" from the list of acceptable degrees for a speech-language pathologist and changes the capitalization of "Clinical Experience" to lowercase.

The continuing education section, 10-3-8, is amended to add new language authorizing certain members of the armed forces to petition for hardship relief from the continuing education requirement; adds new language regarding verification of continuing education; and deletes redundant language regarding audit of continuing education.

The telepractice section, 10-3-9, is amended to update the definition of telepractice; add language requiring out-of-state practitioners to have an Oklahoma license to provide services via telepractice in Oklahoma; and add new language regarding telepractice procedures.

The proposed amendments to Subchapter 5 change the capitalization of "Letter of Agreement" to lowercase and remove "on-site" before the word supervision in 10-5-8.

The proposed amendments to Subchapter 7 change the phrase "assistants and interns" to licensees, and eliminate redundant language regarding the number of semester credit hours for general education and technical content.

Subchapter 9 proposed amendments remove an outdated reference to NTE and clean up language clarifying that the applicant pays the exam fee to the vendor.

CONTACT PERSON:

Amy Hall, Executive Secretary, 3700 N Classen Blvd. Ste. 248, Oklahoma City, OK 73118, 405-524-4955, amy.hall@obespa.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, 2016:

**SUBCHAPTER 3. LICENSURE OF
SPEECH-LANGUAGE PATHOLOGISTS
AND AUDIOLOGISTS**

690:10-3-4. Academic requirement

(a) **Degree requirement.**

(1) Each speech-language pathology applicant shall hold not less than a master's degree, or its equivalent, with a major emphasis in speech-language pathology or ~~audiology~~ from an accredited academic institution offering a graduate program in speech-language pathology.

(2) Each audiology applicant shall hold not less than a post-baccalaureate residential professional doctor of audiology degree (Au.D) from a regionally accredited academic institution, a post-masters distance education professional doctor of audiology degree (Au.D.) from a regionally accredited academic institution, a Doctor of Philosophy degree (Ph.D.) with emphasis in audiology from a regionally accredited academic institution, or its equivalent as determined by the Board.

(b) **Academic transcripts.**

(1) Each speech-language pathology applicant seeking licensure shall submit a bona fide official academic transcript(s) and verification of (Academic Preparation and Practicum Form - Verification for Licensure Application) completion of at least 75 semester credit hours from one or more accredited colleges or universities that reflect a well-integrated program of study dealing with (a) the biological/physical sciences and mathematics, (b) the behavioral and/or social sciences, including normal aspects of human behavior and communication, and the nature, prevention, evaluation, and treatment of speech, language, hearing, and related disorders. Some course work must address issues pertaining to normal and abnormal human development and behavior across the life span and to culturally diverse populations. At least twenty-seven (27) of the 75 semester credit hours must be in Basic Science Course Work. At least thirty-six (36) of the 75 semester credit hours must be in Professional Course Work at the Graduate Level.

(A) **Basic Science Course Work.** Applicants must earn at least twenty-seven (27) credit hours in the basic sciences. At least six (6) semester credit hours must be in the biological/physical sciences and

mathematics. At least six (6) semester hours must be in the behavioral and/social sciences. At least fifteen (15) semester credit hours must be in the basic human communication processes, to include course work in each of the following three areas of speech, language, and hearing: the anatomic and physiologic bases, the physical and psychophysical bases, and the linguistic, psycholinguistic and cultural aspects.

(B) **Professional Course Work.** Applicants must earn at least thirty-six (36) semester credit hours in graduate or professional courses that concern the nature, prevention, evaluation, and treatment of speech, language and hearing disorders. Those thirty-six (36) semester credit hours must encompass courses in speech, language, and hearing that concern disorders primarily affecting children as well as disorders primarily affecting adults.

(2) Specific knowledge must be demonstrated in the following areas:

- (A) articulation
- (B) fluency
- (C) voice and resonance, including respiration and phonation
- (D) receptive and expressive language (phonology, morphology, syntax, semantics, and pragmatics) in speaking, listening, reading, writing, and manual modalities
- (E) hearing, including the impact on speech and language
- (F) swallowing (oral, pharyngeal, esophageal, and related functions, including oral functions for feeding; orofacial myofunction)
- (G) cognitive aspects of communication (attention, memory, sequencing, problem-solving, executive functioning)
- (H) social aspects of communication (including challenging behavior, ineffective social skills, lack of communication opportunities);
- (I) communication modalities (including oral, manual, augmentative, and alternative communication techniques and assistive technologies)

(3) Waiver of transcript. The Board shall waive the transcript requirement and grant a license to any applicant for licensure as a speech-language pathologist who holds the Certificate of Clinical Competence of the American Speech-Language-Hearing Association or its current equivalent, provided that the current requirements for such certification are equivalent to or greater than those for licensure under the Speech-Language Pathology and Audiology Licensing Act, 59 O.S. 1601, et. seq., as amended. Evidence of such certification shall be received by the Board directly from the American Speech-Language-Hearing Association. All fees associated with obtaining such evidence shall be borne by the applicant.

(4) Each audiology applicant seeking licensure shall submit a bona fide official academic transcript(s) and verification of (Academic Preparation and Practicum Form -Verification for Licensure Application) completion of at

least 75 semester credit hours in graduate or professional courses from one or more accredited colleges or universities that reflect a well-integrated program of study dealing with the practice of audiology. Specific knowledge must be demonstrated in the following areas:

- (A) identification, diagnosis, assessment, measurement, testing, appraisal and evaluation related to hearing, vestibular function, equilibrium, balance and fall prevention;
- (B) prevention, treatment, intervention, management and counseling related to hearing, vestibular function, equilibrium, balance and fall prevention, and associated neural systems;
- (C) identification, evaluation and treatment of any abnormal condition related to auditory sensitivity, acuity, tinnitus, function or processing, speech, language or other aberrant behavior resulting from hearing loss;
- (D) designing, and implementing aural habilitation and rehabilitation or other related programs for the amelioration of disorders of hearing, vestibular function, equilibrium, balance, and fall prevention and associated neural systems;
- (E) measurement and interpretation of sensory and motor evoked potentials, electromyography, and other electrodiagnostic tests for purposes of neurophysiologic intraoperative monitoring of central nervous system, spinal cord and cranial nerve function.

(5) Waiver of transcript. The Board shall waive the transcript requirement and grant a license to any applicant for licensure as an audiologist who holds the Certificate of Clinical Competence of the American Speech-Language-Hearing Association or its current equivalent, provided that the current requirements for such certification are equivalent to or greater than those for licensure under the Speech-Language Pathology and Audiology Licensing Act, 59 O.S. 1601, et. seq., as amended. Evidence of such certification shall be received by the Board directly from the American Speech-Language-Hearing Association or its current equivalent. All fees associated with obtaining such evidence shall be borne by the applicant.

690:10-3-5. Supervised clinical practicum requirement

(a) Speech language pathology applicants must submit evidence of satisfactory completion of four hundred (400) clock hours of supervised clinical practicum, of which at least 375 must be in direct client/patient contact and 25 in clinical observation that are provided by the educational institution or by one of its cooperating programs. At least 325 of the 400 clock hours must be completed while the applicant is engaged in graduate study in a program accredited in speech language pathology by the Council on Academic Accreditation in Audiology and Speech-Language Pathology. Each Speech-Language Pathology applicant seeking licensure from a non-accredited program shall submit a bona fide official academic transcript(s) and verification of clinical practicum hours.

(b) With the exception of post-masters professional degree (Au.D) applicants and applicants with a Ph.D. with a major emphasis in audiology, audiology applicants must demonstrate completion of a minimum of (1820) supervised clinical hours in audiology through clinical practicum, clinical rotations, or externships during their professional or graduate doctoral degree program. Audiology applicants with a post-masters distance education professional degree (Au.D.) and applicants with a Ph.D. with a major emphasis in audiology must provide evidence of a minimum of (350) supervised clinical hours obtained in audiology through clinical rotations, or externships during their masters or Ph.D. degree program. In addition, audiology applicants with a post-masters distance education professional degree (Au.D.) or a Ph.D. with a major emphasis in audiology must provide evidence of a completed ~~Clinical Experience~~ clinical experience of no less than nine (9) months of successful full-time, paid clinical experience in audiology, obtained under the supervision of one or more independent practitioners licensed under the Speech-Language Pathology and Audiology Licensing Act, 59 O.S. 1601, et. seq., as amended or of one or more persons whose education and experience are the equivalent of an independent practitioner. The supervisor of clinical experience must be eligible for licensure as an audiologist. This supervision must entail the personal and direct involvement of the supervisor in any and all ways that will permit him to evaluate the applicant's performance in professional clinical employment and must include direct observation. The applicant and his supervisor must list and describe the methods of supervision employed. Specific information should be given regarding the professional activity supervised, the number of supervisory contacts per month, and the length of each supervisory contact. The supervisor shall base his total evaluation on no less than thirty-six (36) supervisory visits. This experience must follow completion of the requirements of 690:10-3-3 and 690:10-3-6. "Full-time" is defined as at least thirty (30) hours per week; the nine (9) months of full time paid experience must be obtained within a period of twenty-four consecutive months. This requirement may also be fulfilled by eighteen (18) months of half time paid experience of at least fifteen (15) hours per week which must be completed within a period of thirty-six (36) consecutive months. All clinical practicum, clinical rotations or externships adduced to satisfy this requirement must have been obtained under the supervision of an individual eligible for licensure as a speech-language pathologist or audiologist under the Speech-Language Pathology and Audiology Licensing Act, 59 O.S. 1601, et. seq., as amended, and this Chapter. The supervisor of clinical practicum, clinical rotations or externships must be eligible for licensure in the professional area (speech-language pathology or audiology) in which the supervision is provided.

690:10-3-8. Continuing education (CE) for speech-language pathologists, audiologists, and speech - language pathology assistants

(a) **Purpose.** The purpose of continuing education requirements for speech-language pathologists and audiologists 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 speech-language pathologists and audiologists are encouraged to fulfill a portion of their Continuing Education requirements in the area of ethics, professional conduct, and related legal issues.

(b) **Clock hours required for license renewal.** A licensee must obtain a minimum of twenty (20) clock hours of acceptable continuing education, including at least three clock hours of professional ethics in a ~~two-year~~ two-year period. The continuing education period begins in January of every odd-numbered year. A speech-language pathologist or audiologist obtaining initial licensure during a ~~two-year~~ two-year period shall have his or her continuing education requirement prorated to 2.5 clock hours per full quarter remaining in that period. If pro-rated hours are less than five clock hours, the requirement for at least three clock hours of ethics does not apply.

(c) **Approval of continuing education activities required.** Continuing education hours may be granted for acceptable educational activities which are approved by the Board, or by a committee appointed by the Board. No hours will be granted for any activities or categories of activities that have not been approved. A provider of educational activities may apply to the Board for pre-approval 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: The participant's name, the presenter's name and credentials, the presentation topic, the program sponsor or agency, the location of the presentation, the dates of presentation, and the total number of clock hours attended. A list of preapproved activities is available on the website or by contacting the board office. Any activity not included on this list will require approval by the Board for credit.

(d) **Exceptions to the requirements.** Exceptions to the pre-approval requirement may be granted at the discretion of the Board for programs presented by recognized sponsors whose programs have been pre-approved by the Board. The university academic semester hour is equivalent to fifteen (15) clock hours, and shall be verified by the presentation of an official academic transcript showing course or audit credits. The licensee is ultimately responsible for providing all information necessary for the Board to make a final determination concerning the acceptability of any requested continuing education hours.

(e) **Fee for approval.** Providers of continuing education programs may be charged a fee for approval of their program. This fee shall be set by the Board.

(f) **Kinds of educational activities for which credit may be received.** Continuing education hours 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

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related to the speech-language pathologist's or audiologist's regular employment.

(g) **Hours allowed.** Continuing education activities, whether received or presented by the speech-language pathologist or audiologist, must be targeted toward a professional audience. In those instances when the speech-language pathologist or audiologist is teaching in programs such as institutes, university or college courses, seminars, workshops, and conferences which have been granted approval by the Board, three (3) clock hours will be given for each one (1) hour that is taught, provided that such teaching is not part of the speech-language pathologists or audiologists regular employment. Publication in a professionally- related format approved by the Board shall be equal to up to twenty (20) clock hours. Completion of select job-required activities such as CPR training, etc. can be counted once in the two-year period for a maximum of 20% of the total required hours. Other activities may be credited as authorized and disseminated separately by the Board.

(h) **Petition for extension.** A speech-language pathologist or audiologist who fails to comply with the required twenty (20) hours of continuing education in the two year continuing education period ending December 31 may, by submitting an individual review fee of fifty (\$50.00), petition the Board for a ninety (90) day extension. Failure to meet this deadline may result in disciplinary action. The petition for extension shall be filed prior to the expiration of the continuing education period.

(i) **Petition for hardship relief.** A speech-language pathologist or audiologist may petition the Board for partial or complete relief of the continuing education requirements upon the showing of incapacitation or serious illness of licensee or licensee's immediate family member, or licensee's absence from the United States for a period of at least eighteen (18) months during the continuing education period, or the licensee is a member of the armed forces on full-time active duty during the continuing education period. The petition for hardship relief should be filed prior to the expiration of the continuing education period, and will be accepted no later than February 1st of the year following the audit period.

(1) Individuals with medical disabilities must provide evidence that documents the inability to work in the professions, such as a letter from a doctor or a Social Security Administration determination letter. Individuals with medical disabilities will be required to sign an affidavit confirming that they are not providing or supervising the provision of clinical services. In addition, individuals with temporary medical disabilities will be required to affirm every two years that they continue to be classified as medically disabled.

(2) Members of the armed forces on full-time active duty will be required to provide a copy of their deployment orders and a signed affidavit stating they will not practice during their deployment. They will be assigned a new 2-year maintenance interval that will start on January 1 of the year following their return. If licensees are deployed for the purpose of providing clinical services or supervising the provision of clinical services, an exemption will be considered on a case-by-case basis.

(j) **Audits of continuing education.** The Board will conduct audits every two years (every even year) of licensee compliance with continuing education requirements.

(1) A minimum of 3% of licensees will be audited.

(2) Those audited will be required to submit a ~~listing of verification of completion for all~~ activity completed within the audited period, ~~including.~~ The verification shall be signed by the course provider and shall include the title of the activity, the course description, the number of contact hours and a contact for verification of participation. An official continuing education transcript from a Board approved provider is acceptable verification. The verification must be submitted within thirty (30) days of receipt of notification of selection for audit. Failure to submit verification as required shall be considered non-compliance with the continuing education requirements, and the licensee shall be subject to the provisions of paragraph four of this subsection.

(3) Licensees will maintain all original documentation of attendance, course agendas and/or other supporting documentation. The Board may request copies of such documentation as is necessary to determine if an activity will be accepted for continuing education credit. The Board will destroy all such copies following the audit.

(4) Licensees found to be non-compliant with the continuing education requirement shall have ninety (90) calendar days from receipt of notification of continuing education deficiency to ~~provide evidence of continuing education hours sufficient to meet this requirement AND must pay a penalty fee equal to half of the licensure renewal fee. This fee is in addition to any fees for late license renewal. Such hours may not be counted toward fulfillment of future continuing education requirements. Failure to provide evidence of continuing education hours within the ninety (90) calendar day period may result in disciplinary action.~~ complete the following:

(A) obtain Continuing Education hours sufficient to meet this requirement;

(B) submit verifications of completion to the Board;

(C) pay a penalty fee equal to half of the licensure renewal fee. This fee is in addition to any fees for late license renewal. Such hours may not be counted toward fulfillment of future Continuing Education requirements. Failure to comply with the provisions of the paragraph within the ninety (90) calendar day period may result in disciplinary action.

690:10-3-9. Telepractice

Use of telepractice.

(a+) Licensees may ~~evaluate and treat patients/provide speech-language pathology and audiology services to clients receiving clinical services~~ provide speech-language pathology and audiology services to clients in Oklahoma by utilizing telepractice. ~~Telepractice is defined as the application of telecommunications technology to deliver professional services at a distance by linking clinician to patient/client or clinician to clinician for assessment, intervention and/or~~

consultation means the use of audio, video, or data communication to provide speech-language pathology and audiology services to clients who are not present at the same site as the licensee when the service is provided.

(b2) Telepractice shall be obtained in real time and in a manner sufficient to ensure patient confidentiality. Except as provided in 59 O.S. § 1604, no practitioner licensed in another state may deliver speech-language pathology and audiology services via telepractice to clients located in Oklahoma, unless licensed in Oklahoma.

(c3) Telepractice is subject to the same standard of practice as if must conform to the same standards of practice required when the person being treated were the client is physically present with the licensee at the same site as the licensee when the service is provided. Telepractice is the responsibility of the licensee and shall not be delegated.

(d4) Licensees and staff involved in telepractice Speech-language pathologists and audiologists providing services via telepractice must be trained in the use of telepractice equipment, and are responsible for ensuring that support persons who assist with service delivery at the site where the client is located are properly trained. The telecommunications technology used for service delivery must meet standards established by professional organizations recognized by the Board, and comply with applicable state and federal laws and regulations.

(e) Telepractice must be an appropriate method of service delivery for the service provided and for the unique needs and abilities of each client.

**SUBCHAPTER 5. LICENSURE OF
SPEECH-LANGUAGE PATHOLOGY CLINICAL
EXPERIENCE INTERNS COMPLETING
POST-GRADUATE CLINICAL EXPERIENCE**

**690:10-5-4. Application form for clinical experience
interns**

Application for authorization to practice as a clinical experience intern under supervision shall be made in the same manner and on the same forms that are used to apply for licensure as a speech-language pathologist and/or audiologist. A notarized ~~Letter of Agreement~~ letter of agreement shall be provided with each application. The ~~Letter of Agreement~~ letter of agreement must be signed by both the applicant and the proposed supervisor, and must be submitted with the application. Said notarized ~~Letter of Agreement~~ letter of agreement shall explicitly indicate that the supervisor agrees to supervise the clinical experience intern's practice of speech-language pathology or audiology and that the supervisor accepts complete and full responsibility for the clinical experience intern's activities and services.

690:10-5-8. Direct on-site supervision required

The applicant must practice in a setting which permits ~~direct, on-site~~ direct supervision by the supervising speech-language pathologist or audiologist. The supervising speech-language pathologist and audiologist must engage in no fewer than thirty-six (36) supervisory activities during the clinical experience. This supervision must include at least eighteen (18) on-site observations of direct client contact at the clinical experience intern's work site (one (1) hour equals one (1) on-site observation; a maximum of six (6) on-site observations may be accrued in one (1) day.) "On-site" is defined as physical presence at the clinical experience intern's work site. At least six (6) observations must be accrued during each third of the clinical experience. These on-site observations must be of the clinical experience intern providing screening, evaluation assessment, habilitation, and rehabilitation. In addition, the supervision must include at least eighteen (18) other monitoring activities. At least six (6) other monitoring activities must be completed during each of the three segments of the clinical experience. These other monitoring activities may be executed by correspondence, review of video tapes and/or audio tapes, evaluation of written reports, phone conferences and/or other telepractice activities with the clinical experience intern, and evaluations by professional colleagues.

**SUBCHAPTER 7. LICENSURE OF
SPEECH-LANGUAGE PATHOLOGY
ASSISTANTS AND AUDIOLOGY ASSISTANTS**

690:10-7-3. Supervision required

(a) The speech-language pathology assistant must be supervised by a speech-language pathologist who has been licensed for two years. Each supervisor shall accept no more than two assistants. Licensure as a clinical experience intern does not count toward the two-year license requirement. Each practitioner licensed in both speech-language pathology and audiology is likewise restricted to two assistants in aggregate. Further, the total number of ~~assistants and interns (licensed under Subchapter 3 of these rules)~~ licensees supervised by a single supervisor shall not exceed two.

(b) Beginning January 2017, the supervising speech-language pathologist must have successfully completed at least six hours of Board approved training in clinical supervision. Three hours must include instruction in the knowledge and skills areas necessary for speech-language pathology assistant's supervisors as identified by the American Speech-Language Hearing Association (ASHA), other organization or entity the Board deems acceptable.

(c) A speech-language pathology assistant shall practice under a minimum of 30% supervision weekly, of which 20% is direct and 10% is indirect for the first 90 workdays. After successful completion of the first 90 workdays, a minimum of 10% of direct supervision is required with 20% indirect supervision. The supervising speech-language pathologist must be available by electronic means at all times when the speech-language pathology assistant is performing clinical activities. The supervision must be documented in the client/patient record

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and on a supervision log. Records of supervision are subject to inspection by the Board.

(1) **Direct supervision:** in-view observation and guidance by a speech-language pathologist while the speech-language pathology assistant is providing an assigned clinical service to a patient. While directly supervising, the speech-language pathologist may not perform any clinical services unrelated to the client/patient receiving services from the speech-language pathology assistant.

(2) **Indirect supervision** means the supervising speech-language pathologist is engaged in supervisory activities other than direct supervision, observation and guidance of the assistant while the assistant is providing an assigned clinical service to a patient. Indirect supervision activities performed by the supervising speech-language pathologist may include but are not limited to demonstration, record review, review and evaluation of audio or videotaped sessions, and interactive television and supervising conferences that may be conducted by telephone, email or live webcam.

(d) The supervising speech-language pathologist is responsible for exercising his or her professional judgment to determine the appropriate level of supervision at or above the required minimum necessary to ensure that each client/patient receives competent services. The supervising speech-language pathologist should consider:

- (1) the individual speech-language pathology assistant's knowledge, experience and competence;
- (2) the treatment setting;
- (3) the client/patient's diagnosis/prognosis; and
- (4) the nature of the assigned clinical service.

(e) For audiology assistants, direct supervision is required when the assistant is performing activities involving direct patient care. Direct supervision requires the supervising audiologist to be present on-site for supervision and guidance of the assistant. Indirect supervision of the audiology assistant is permissible when the audiology assistant is performing duties or activities that do not involve direct patient care. Indirect supervision requires the supervising audiologist to be available for instruction or guidance but does not require the supervising audiologist to be present on-site. The audiology assistant must be supervised by an audiologist who has been fully licensed for two years. Each supervisor shall accept no more than two assistants.

690:10-7-9. Academic Requirements

(a) **Academic requirements for speech-language pathology assistants.**

(1) Each speech-language pathology assistant applicant shall hold not less than an associate's degree, or its equivalent, with a major emphasis in speech-language pathology from an accredited academic institution.

(2) Each speech-language pathology assistant applicant shall submit a bona fide official transcript(s) and verification of academic preparation and clinical experience reflecting a minimum of eighteen (18) semester credit hours in general education, a minimum of twenty

(20) semester credit hours in technical content, a minimum of twenty five (25) hours of observation which precede a minimum of 100 clock hours of supervised clinical experience.

(A) **General education.** ~~Applicants must earn at least eighteen (18) semester credit hours.~~ The general education component typically includes, but is not limited to, course work in oral and written communication, mathematics, computer applications, social sciences and natural sciences.

(B) **Technical content.** ~~Applicants must earn a minimum of twenty (20) semester credit hours in.~~ The technical content component must include, but is not limited to the following areas:

- (i) Normal processes of communication.
- (ii) Overview of communication disorders.
- (iii) Instruction in assistant-level service delivery practices.
- (iv) Instruction in work-place behaviors.
- (v) Cultural and linguistic factors in communication.
- (vi) Observation experiences include direct on-site observation of a fully licensed speech-language pathologist. Additional observation experiences may include on-site, video or digital observation of a fully licensed speech-language pathologist.

(C) **Clinical experience.** Applicants must complete 100 clock hours of clinical experience supervised by a speech-language pathologist. The clinical experience requirement must be completed through an accredited academic institution with a Board approved degree program.

(b) **Academic requirements for audiology assistants.** Each audiology assistant applicant shall hold not less than a high school diploma or its equivalent.

SUBCHAPTER 9. FEES

690:10-9-3. Examination fee

The fee for examination or re-examination ~~by NTE is separate from the license application fee and shall be borne paid by the applicant directly to the exam provider and is separate from the license application fee.~~

[OAR Docket #16-680; filed 7-7-16]

TITLE 690. BOARD OF EXAMINERS FOR SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY CHAPTER 15. RULES OF PRACTICE

[OAR Docket #16-681]

RULEMAKING ACTION:
PERMANENT final adoption

RULES:

690:15-1-4. Ethical proscriptions [AMENDED]

AUTHORITY:

59 O.S., 2011 § 1613; Board of Examiners for Speech-Language Pathology and Audiology.

SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:

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SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

ANALYSIS:

The proposed amendments delete the word telepractice and define "correspondence" to eliminate perceived conflicts between 10-3-9 and this section.

CONTACT PERSON:

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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 11, 2016:

690:15-1-4. Ethical proscriptions

Ethical Proscriptions are formal statements of prohibitions that are derived from the Principles of Ethics.

(1) The following proscriptions are derived from 690:15-1-3(1):

(A) Licensees must not exploit persons in the delivery of professional services, including accepting persons for treatment when benefit cannot reasonably be expected or continuing treatment unnecessarily.

(B) Licensees must not guarantee the results of any therapeutic procedures, directly or by implication. A reasonable statement of prognosis may be made, but caution must be exercised not to mislead persons served professionally to expect results that cannot be predicted from sound evidence.

(C) Licensees must not use persons for teaching or research in a manner that constitutes invasion of privacy or fails to afford informed free choice to participate.

(D) Licensees must not provide clinical services except in a professional relationship. They must not evaluate or treat solely by correspondence or telepractice. Correspondence means a type of practice in

which services are delivered through communication methods that do not involve same-time interactivity between the licensee and the patient, such as regular mail, email, and facsimile. This does not preclude follow-up correspondence with persons previously seen, or providing them with general information of an educational nature.

(E) Licensees must not reveal to unauthorized persons any professional or personal information obtained from the person served professionally, unless required by law or unless necessary to protect the welfare of the person or the community.

(F) Licensees must not discriminate in the delivery of professional services on any basis that is unjustifiable or irrelevant to the need for and potential benefit from such services, such as race, sex religion or condition.

(G) Licensees must not charge for services not rendered.

(H) Licensees shall not violate any provisions of the Speech-Language Pathology and Audiology Licensing Act or Rules.

(2) The following proscriptions are derived from 690:15-1-3(2):

(A) Licensees must neither provide services nor supervision of services for which they have not been properly prepared, nor permit services to be provided by any of their staff who are not properly prepared.

(B) Licensees must not provide clinical services by prescription of anyone who does not hold a license or its equivalent in the appropriate area.

(C) Licensees must not offer clinical services by supportive personnel for whom they do not provide appropriate supervision and assume full responsibility.

(D) Licensees must not require anyone under their supervision to engage in any practice that is a violation of the Code of Ethics.

(3) The following proscriptions are derived from 690:15-1-3(3):

(A) Licensees must not misrepresent their training or competence. Academic degrees, if listed, must be those awarded by a college or university listed in the Education Directory: Higher Education (published by the United States Department of Education).

(B) Licensees' public statements providing information about professional services and products must not contain representations or claims that are false, deceptive or misleading.

(C) Licensees must not use professional or commercial affiliations in any way that would mislead or limit services to persons served professionally.

[OAR Docket #16-681; filed 7-7-16]

TITLE 730. DEPARTMENT OF TRANSPORTATION CHAPTER 1. ADMINISTRATIVE OPERATIONS

[OAR Docket #16-600]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 5. Department of Transportation
730:1-5-1. Powers and Duties of Director [AMENDED]

AUTHORITY:

Oklahoma Transportation Commission; 61 O.S. § 130 and 69 O.S. §§ 101, 301, 303, 304 and 4002

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None held.

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SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

ANALYSIS:

This rule amendment shall increase the Department's authorization for emergency contracts from \$500,000 to \$750,000 to comply with Title 61 O.S. § 130 and as directed by the Transportation Commission.

CONTACT PERSON:

Montie Smith, Policy and Legislation Administrator, Office of the Deputy Director, ODOT, 200 NE 21st Street, Oklahoma City, OK 73105, 405-522-3969, mesmith@odot.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, 2016:**

SUBCHAPTER 5. DEPARTMENT OF TRANSPORTATION

730:1-5-1. Powers and duties of Director

The Director is hereby granted all the powers and the authority necessary for the orderly operation of the Department of Transportation, not in conflict herewith or prohibited by law, including, but not limited to the following:

(1) General duties.

(A) To approve and pay claims for all lawful expenses of the Department.

(B) To act as the claims and request officer for the Transportation Commission and the Department.

(C) To appoint Deputy Directors and Assistant Directors as he may deem necessary, and to delegate to them appropriate authority and responsibility.

(D) To effect changes in the Department's organizational structure and personnel, with any change at the division level and above being subject to approval by the Commission.

(E) To keep the Commission informed on the Department's operations and official actions.

(F) To appoint and employ, supervise, and discharge in accordance with the Oklahoma Personnel Act and the Merit Rules for Employment all such professional, clerical, skilled and semi-skilled help, labor and other employees as may be deemed necessary for the proper and lawful discharge of the duties of the Department.

(G) To establish and maintain training and educational programs.

(H) To keep a journal and to record therein such matters as he may deem necessary or advisable, or which the Commission may direct.

(I) To be the keeper of the official seal of the Commission and the Department.

(J) To make Department budgetary transfers within statutory limitations and Commission authorization.

(K) To cooperate with governing bodies of cities and towns and the boards of county commissioners of the various counties on the basis prescribed by state and federal law, to the end that joint efforts will be coordinated to attain a maximum of transportation development and service.

(L) To execute releases on behalf of the Commission in compromise of claims pursuant to 69 O.S. Section 1002.

(M) To approve claims for returning to local units of government any surplus funds deposited by the local unit of government to match federal or state funds used for federal aid or state aid projects, after completion of the project and final payment has been made.

(N) To act on requests by boards of county commissioners for the transfer of old bridges or sections thereof removed from the state highway system by new construction projects, and to execute agreements setting out the terms of such transfers.

(O) To use consulting engineers' services in the preparation of functional and construction plans where such services are necessary due to special technical nature of contemplated construction or when the Director determines that such consulting services are necessary in the best interest of the Department in order to accommodate a construction program approved by the Transportation Commission. Contracts with consulting engineers will contain a provision binding the consultants' employees and officers to the same rules and regulations as Department employees insofar as conflict of interest is concerned.

The requirements for determining the need for such consulting engineers' services are set forth in OAC 730:30-5-1.

(P) To authorize Department personnel to initiate legal proceedings to take enforcement actions authorized by statute or regulation on behalf of the State and to recover for damages to state property under the care, custody, or control of the Department or to initiate criminal prosecution.

(Q) To, in person or by designee, appear and participate with full authority at settlement conferences as directed by federal or state courts.

(R) To issue more detailed instructions by appropriate orders, policies, or memoranda, not inconsistent with this Title for the general guidance and administration of the Department.

(2) **Contracts and agreements.**

(A) To execute or cause to be executed all contracts and agreements on behalf of the Commission and Department, unless otherwise provided by law.

(B) To issue work orders to commence work on construction contracts.

(C) To approve contract extensions or modifications made necessary by developments arising subsequent to award and execution of construction contracts, except where prior Commission approval is required by law.

(D) To approve and execute change orders and supplemental agreements in a total amount of not to exceed Five Hundred Thousand Dollars (\$500,000.00) on a contract. The Director may further delegate to field division engineers authority to approve and execute change orders and supplemental agreements in a total amount of not to exceed Seventy Five Thousand Dollars (\$75,000.00) on a contract. In no event shall the total amount of such change orders exceed the limits set forth in 61 O.S. § 121. Change orders approved by the Director or field division engineer shall be presented to the Commission at its next regular or special business meeting stating the reasons for the change order and supplemental agreement with such other information as the Commission may require.

(E) To execute and process contractual awards to the individual counties on county sponsored federal aid projects to be constructed by county forces with county and federal funds, subject to applicable regulations of the United States Department of Transportation.

(F) To execute and process contractual awards to railroad companies for railroad crossing protection projects to be constructed on a force account basis by the railroad company with railroad and/or federal funds, subject to the concurrence of the United States Department of Transportation.

(G) To approve or disapprove requests by utility companies and municipalities for permits to attach pipe lines, telephone cables, and other authorized utility lines to bridges on the state highway system, and

to change permit fees in accordance with the schedule of fees provided in OAC 730:30-7-1.

(3) **Federal aid.**

(A) To act for and represent the Department in all official matters involving the United States Department of Transportation or any other agency of the United States government, for the purpose of executing federal aid programs.

(B) To make or withhold commitments, execute contracts and agreements, and to bind the Department by any other action which the Department may lawfully do relating to programmed items or projects previously approved by the Commission; provided, however, that whenever the United States Department of Transportation requires a commitment to program an item in the future, such requirement shall be submitted to the Commission for approval, before any action is taken.

(C) To execute the Federal Highway Administration's revision forms to provide for changes in termini, cost, length, and character of proposed work; provided that such changes in county programs shall be made only in accordance with plans, specifications and estimates officially submitted by the board of county commissioners of the county in which the programmed project is located or as requested by resolution of the board. On federal aid projects such changes shall be made only when the detailed information obtained after the approval of the programmed project shows a necessity to change from those features that were provided in the approved programming item. Significant changes such as cost or length will require prior approval of the Transportation Commission before execution by the Director.

(4) **Emergency contracts.**

(A) To declare the existence of an emergency situation, provided that:

(i) As used in this subparagraph, the term "emergency" shall be limited to conditions resulting from a sudden unexpected happening or unforeseen conditions and wherein the public health or safety is endangered; and

(ii) The Director notifies the Commission of such action within ten (10) days from the date thereof by written notification containing a statement of the reasons therefore, which statement shall be recorded in the official minutes of the next regular meeting of the Commission.

(B) Upon the declaration of an emergency situation as above-defined, the Director shall be authorized to enter into any contract not exceeding ~~Five Hundred Thousand Dollars (\$500,000.00)~~ Seven Hundred and Fifty Thousand Dollars (\$750,000.00) in amount, without complying with those provisions of the Public Competitive Bidding Act of 1974, as amended, for construction or repair of any highway, bridge or other structure or facility under the jurisdiction of the Department for the protection and preservation of the

public health and safety and elimination of the danger thereto.

(C) To accept bids, award, and execute emergency contracts on projects where the Commission has, pursuant to 61 O.S. Section 130, declared that an emergency exists.

(5) **Traffic control.**

(A) To place and maintain traffic signs, markings, and other traffic control devices required under Oklahoma law to make effective the provisions of said law, and to place and maintain such additional traffic control devices as he may deem necessary to regulate traffic in accordance with state law or to guide or warn traffic. To prohibit the installation or order the removal of any signs, signals, or devices not in conformance with the "Manual on Uniform Traffic Control Devices for Streets and Highways" as prepared by the National Joint Committee on Uniform Traffic Control Devices. To maintain an official listing or record of:

- (i) Through highways and stop or yield intersections.
- (ii) Speed zones.
- (iii) One-way roadways.
- (iv) Turn restrictions.
- (v) Additional parking restrictions or prohibitions.
- (vi) Traffic control signals.

(B) To take actions necessary to effectuate the provisions of the traffic laws of the State of Oklahoma and to make temporary or experimental regulations to cover emergencies or special conditions. No experimental regulations shall remain in effect for more than 90 days. Emergency, temporary, and experimental regulations shall have the same force and effect as regulations adopted by the Commission and must be submitted to the Commission at its first regular meeting after the regulation is put into effect.

(6) **Right-of-way.**

(A) To make a determination that the establishment of a right-of-way line is a technical matter, and delegate to the Right-of-Way Division the authority to make such decisions; and further that the Chief, Right-of-Way Division be authorized and empowered to appear in court to justify the necessity of right-of-way takings.

(B) To execute all deeds, releases, and other instruments pertaining to the disposal of surplus real property and to delegate such authority to others.

[OAR Docket #16-600; filed 6-21-16]

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

[OAR Docket #16-646]

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735:10-1-3 [AMENDED]

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n/a

ANALYSIS:

This permanent rule modifies the amount of collateral required to secure public deposits when such funds are collateralized utilizing a combination of securities and instruments. The rule clarifies that the level of collateralization required for instruments is the same whether or not they are combined with securities to secure public deposits.

CONTACT PERSON:

Andrew Messer, Deputy Treasurer for Governmental Affairs, (405) 521-4504 or Andrew.Messer@treasurer.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 OCTOBER 1, 2016:

735:10-1-3. State funds to be secured with collateral securities and/or collateral instruments

All State funds on deposit with financial institutions shall be secured through the pledge of collateral securities and/or by providing collateral instruments to OST. If a financial institution secures State funds on deposit using ~~only~~ collateral securities, the fair market value of the collateral securities pledged must be equal to or in excess of the maintenance percentage. If ~~only~~ collateral instruments are used to secure State funds on deposit, the total amount provided must be equal to or greater than the State funds on deposit in excess of the FDIC-insured limit plus interest due at maturity. ~~Alternatively, if a financial institution pledges and provides both collateral~~

securities and collateral instruments, the total of the fair market value of the securities and the amount of the instruments must be equal to or in excess of the maintenance percentage.

[OAR Docket #16-646; filed 6-27-16]

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

[OAR Docket #16-647]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

735:10-1-13 [AMENDED]

AUTHORITY:

State Treasurer; "Security for Public Deposits Act" 62 O.S. § 72.4

**SUBMISSION OF PROPOSED RULES TO GOVERNOR AND
CABINET SECRETARY:**

January 15, 2016

COMMENT PERIOD:

February 17, 2016 through March 17, 2016

PUBLIC HEARING:

March 22, 2016

ADOPTION:

March 30, 2016

**SUBMISSION OF ADOPTED RULES TO GOVERNOR AND
LEGISLATURE:**

April 1, 2016

APPROVED BY GOVERNOR'S DECLARATION:

Approved by Governor's declaration on June 9, 2016

FINAL ADOPTION:

June 9, 2016

EFFECTIVE:

October 1, 2016

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

ANALYSIS:

This permanent rule allows the State Treasurer to accept letters of credit from any Federal Home Loan Bank as a collateral instrument to secure public entity funds on deposit with a financial institution. The rule, pursuant to the provisions of Title 62 O.S., Section 72.4 of the Oklahoma Statutes, provides clarification that all such letters of credit may be accepted as collateral instruments.

CONTACT PERSON:

Andrew Messer, Deputy Treasurer for Governmental Affairs, (405) 521-4504 or Andrew.Messer@treasurer.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 OCTOBER 1, 2016:**

**735:10-1-13. Acceptance of federal agency letters of
credit to secure deposits**

OST may accept letters of credit (LOC's) from ~~the any~~ Federal Home Loan Bank of Topeka ("~~FHLB of Topeka~~") within the Federal Home Loan Bank System as a collateral instrument to secure State funds on deposit with financial institutions. Each LOC shall be in a form and shall contain such terms as shall be acceptable to the State Treasurer. Such LOC's must

be unconditional, standby letters of credit which designate the OST as the irrevocable and unconditional beneficiary of the LOC. The issuing FHLB of Topeka and the financial institution with State funds on deposit are required to notify OST by certified mail at least 45 days prior to cancellation or the non-renewal of an LOC. To remain qualified as an issuer of an LOC, the obligations of ~~the~~ FHLB of Topeka must be rated and remain rated in the highest rating category of at least one of the nationally recognized rating agencies acceptable to OST. Within 48 hours of discovery of a downgrade by a rating agency, notice must be given to OST by the issuing FHLB of Topeka by certified mail. ~~The~~ An issuing FHLB of Topeka may not provide LOC's for any one financial institution with State funds on deposit which exceed twenty percent (20%) of the issuing FHLB's of Topeka's capital and surplus. In the event of a rating downgrade, or in the event the issuing FHLB exceeds the twenty percent (20%) limitation, OST may require the financial institution with State funds on deposit to substitute conforming collateral for the LOC. The financial institutions which use LOC's to secure state deposits shall be solely responsible for the cost of securing an LOC.

[OAR Docket #16-647; filed 6-27-16]

**TITLE 735. STATE TREASURER
CHAPTER 20. SECURITY FOR LOCAL
ENTITY DEPOSITS**

[OAR Docket #16-648]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

735:20-1-10 [AMENDED]

AUTHORITY:

State Treasurer; "Security for Public Deposits Act" 62 O.S. § 72.4

**SUBMISSION OF PROPOSED RULES TO GOVERNOR AND
CABINET SECRETARY:**

January 15, 2016

COMMENT PERIOD:

February 17, 2016 through March 17, 2016

PUBLIC HEARING:

March 22, 2016

ADOPTION:

March 30, 2016

**SUBMISSION OF ADOPTED RULES TO GOVERNOR AND
LEGISLATURE:**

April 1, 2016

APPROVED BY GOVERNOR'S DECLARATION:

Approved by Governor's declaration on June 9, 2016

FINAL ADOPTION:

June 9, 2016

EFFECTIVE:

October 1, 2016

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

ANALYSIS:

This permanent rule allows public entities to accept letters of credit from any Federal Home Loan Bank as a collateral instrument to secure public entity funds on deposit with a financial institution. The rule, pursuant to the provisions of Title 62 O.S., Section 72.4 of the Oklahoma Statutes, provides clarification that such letters of credit may be accepted as collateral instruments.

Permanent Final Adoptions

CONTACT PERSON:

Andrew Messer, Deputy Treasurer for Governmental Affairs, (405) 521-4504 or Andrew.Messer@treasurer.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 OCTOBER 1, 2016:

735:20-1-10. Acceptance of federal agency letters of credit to secure deposits

Public entities may accept letters of credit (LOC's) from ~~the~~ any Federal Home Loan Bank of ~~Topoka~~ ("FHLB of ~~Topoka~~") within the Federal Home Loan Bank System as a collateral instrument to secure public entity funds on deposit with financial institutions. Each LOC shall be in a form and shall contain such terms as shall be acceptable to OST and the public entity. Such LOC's must be unconditional, standby letters of credit which designate the public entity as the irrevocable and unconditional beneficiary of the LOC. To remain qualified as an issuer of an LOC, the obligations of the issuing FHLB of Topoka must be rated and remain rated in the highest rating category of at least one of the nationally recognized rating agencies acceptable to the public entity. The issuing FHLB of Topoka may not provide LOC's for any one financial institution with public entity funds on deposit which exceed twenty percent (20%) of the issuing FHLB's FHLB of Topoka's capital and surplus. The financial institutions which use LOC's to secure public entity deposits shall be solely responsible for the cost of securing an LOC.

[OAR Docket #16-648; filed 6-27-16]

TITLE 748. OKLAHOMA UNIFORM BUILDING CODE COMMISSION CHAPTER 20. ADOPTED CODES

[OAR Docket #16-645]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

- Subchapter 5. IRC[®]~~2009~~2015
- 748:20-5-1. Adoption of IRC[®]~~2009~~2015 [AMENDED]
- 748:20-5-2. Effect of Adoption [AMENDED]
- 748:20-5-3. IRC[®]~~2009~~2015 Appendices [AMENDED]
- 748:20-5-4. IRC[®]~~2009~~2015 Provisions Adopted and Modified [AMENDED]
- 748:20-5-4.1. Participation in Federal Programs and/or Federally Funded or Financed Projects [NEW]
- 748:20-5-5. IRC[®]~~2009~~2015 Chapter 1 Scope and Administration [AMENDED]
- 748:20-5-5.1. IRC[®] 2015 Chapter 2 Definitions [NEW]
- 748:20-5-6. IRC[®]~~2009~~2015 Chapter 3 Building ~~Plans~~ Planning [AMENDED]
- 748:20-5-7. IRC[®]~~2009~~2015 Chapter 4 Foundations [AMENDED]
- 748:20-5-8. IRC[®]~~2009~~2015 Chapter 5 Floors [AMENDED]
- 748:20-5-9. IRC[®]~~2009~~2015 Chapter 6 Wall Construction [AMENDED]
- 748:20-5-10. IRC[®]~~2009~~2015 Chapter 7 Wall Covering [AMENDED]
- 748:20-5-11. IRC[®]~~2009~~2015 Chapter 8 Roof-Ceiling Construction [AMENDED]

- 748:20-5-11.1. IRC[®] 2015 Chapter 9 Roof Assemblies [NEW]
- 748:20-5-11.2. IRC[®] 2015 Chapter 10 Chimneys and Fireplaces [NEW]
- 748:20-5-12. IRC[®]~~2009~~2015 Chapter 11 Energy Efficiency [AMENDED]
- 748:20-5-13. IRC[®]~~2009~~2015 Chapter 15 Exhaust Systems [AMENDED]
- 748:20-5-13.1. IRC[®] 2015 Chapter 16 Duct Systems [NEW]
- 748:20-5-13.2. IRC[®] 2015 Chapter 19 Special Appliances, Equipment and Systems [NEW]
- 748:20-5-14. IRC[®]~~2009~~2015 Chapter 24 Fuel Gas [AMENDED]
- 748:20-5-15. IRC[®]~~2009~~2015 Chapter 25 Plumbing Administration [AMENDED]
- 748:20-5-16. IRC[®]~~2009~~2015 Chapter 26 General Plumbing Requirements [AMENDED]
- 748:20-5-17. IRC[®]~~2009~~2015 Chapter 27 Plumbing Fixtures [AMENDED]
- 748:20-5-18. IRC 2009 Chapter 28 Water Heaters [REVOKED]
- 748:20-5-19. IRC[®]~~2009~~2015 Chapter 29 Water Supply and Distribution [AMENDED]
- 748:20-5-20. IRC[®]~~2009~~2015 Chapter 30 Sanitary Drainage [AMENDED]
- 748:20-5-21. IRC[®]~~2009~~2015 Chapter 31 Vents [AMENDED]
- 748:20-5-22. IRC[®]~~2009~~2015 Chapter 34 General Requirements (Electrical) [AMENDED]
- 748:20-5-22.1. IRC[®] 2015 Chapter 37 Branch Circuit and Feeder Requirements [NEW]
- 748:20-5-23. IRC 2009 Chapter 40 Devices and Luminaries [REVOKED]
- 748:20-5-24. IRC[®] 2015 Chapter 42 Swimming Pools [NEW]
- 748:20-5-25. Appendix V. Automatic Fire Systems [NEW]
- 748:20-5-26. Appendix W. Energy Efficiency [NEW]
- 748:20-5-27. Appendix X. Swimming Pools, Spas, and Hot Tubs [NEW]
- 748:20-5-28. Appendix Y. Residential Tornado Provisions [NEW]
- Subchapter 9. NEC[®] 2014
- 748:20-9-7. NEC[®] 2014 Chapter 5 Special Occupancies [AMENDED]
- Subchapter 11. IFGC[®] 2015
- 748:20-11-8. IFGC[®] 2015 Chapter 4 Gas Piping Installations [AMENDED]

AUTHORITY:

Oklahoma Uniform Building Code Commission; 59 O.S. §§ 1000.23

SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:

December 17, 2015

COMMENT PERIOD:

January 19, 2016 through February 18, 2016

PUBLIC HEARING:

February 23, 2016

ADOPTION:

February 23, 2016

SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:

March 2, 2016

APPROVED BY GOVERNOR'S DECLARATION:

Approved by Governor's declaration on June 9, 2016

FINAL ADOPTION:

June 9, 2016

EFFECTIVE:

November 1, 2016

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

Incorporated standards:

International Code Council, International Residential Code[®], 2015 Edition
International Code Council, International Fuel Gas Code[®], 2015 Edition
National Fire Protection Association, National Electrical Code[®], 2014 Edition

Incorporating rules:

748:20-5-1. through 748:20-5-17., 784:20-5-18. (Revoked), 748:20-5-19. through 748:20-5-20, 748:20-5-21. (Revoked), 748:20-5-22 through 748:20-5-22.1., 784:20-5-23. (Revoked), 748:20-5-24. through 748:20-5-28., 748:20-9-7., and 748:20-11-8.

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") originally enacted by SB1182, effective June 2, 2009, creating the Oklahoma Uniform Building Code Commission. These permanent rules adopt the International Residential Code® 2015 Edition (IRC®), as the statewide minimum code for residential building construction for one- and two-family dwellings and townhouses in the State of Oklahoma as modified by the OUBCC for implementation in the State of Oklahoma. The purpose for the changes to subchapters 9 and 11 are to correct errors in section heading citing and section heading titles.

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, 2016:

SUBCHAPTER 5. IRC® 2009 2015

748:20-5-1. Adoption of IRC® 2009 2015

(a) The Oklahoma Uniform Building Code Commission (the "OUBCC") hereby adopts the International Residential Code®, 2015 Edition (IRC® 2009 2015) as amended and modified in this Subchapter to be the statewide minimum standards code for residential construction within the State of Oklahoma for one- and two-family dwellings and townhouses pursuant to 59 O.S. § 1000.23.

(b) The OUBCC through formal action expressly chose to adopt the IRC® 2015 as amended and modified in this subchapter, as the statewide minimum code for residential construction in the State of Oklahoma. In like manner, the OUBCC through formal action expressly chose to not adopt the International Residential Code®, 2012 Edition (IRC® 2012) for any purpose.

(c) As part of its 2015 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 appendices 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 appendices by providing reserved (unused) appendices in certain of its model codes as part of its 2015 code cycle. The format reorganization 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 appendices.

(d) This material contains information which is proprietary to and copyrighted by International Code Council, Inc. The acronym "ICC" and the ICC logo are trademarks and service marks of ICC. ALL RIGHTS RESERVED.

748:20-5-2. Effect of Adoption

The International Residential Code (IRC®) 2009 2015, as amended and revised by these rules, are hereby established and adopted as the statewide minimum standards code for residential building construction for one- and two-family

dwellings and townhouses 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.

748:20-5-3. IRC® 2009 2015 Appendices

(a) The OUBCC through formal action has chosen not to adopt appendices A through Y. None of the appendices of the IRC® 2009 2015 have been adopted by the Commission for inclusion in the statewide minimum standards code for residential construction in the State of Oklahoma. Appendices A through Y are informative and provide prescriptive requirements which are not mandatory unless specifically referenced in the adopting ordinance or order by other jurisdictions within the State of Oklahoma in accordance with 59 O.S. § 1000.29.

(b) The Commission OUBCC hereby creates a new appendix V, entitled "Appendix R V Automatic Fire Systems,". Sections R312.2.1 entitled "One- and two-family dwellings automatic fire systems" and "R312.2.1 entitled "Design and installation" have been removed from Chapter Three of the IRC® 2015 and relocated to Appendix V, entitled "Appendix V, Automatic Fire Systems."

(c) The Commission OUBCC hereby creates a new appendix W, entitled "Appendix S W Energy Efficiency,". Section N1101.14 entitled "Certificate" has been removed from Chapter Eleven of the IRC® 2015 and relocated to Appendix W, entitled "Appendix W, Energy Efficiency."

(d) The Commission OUBCC has removed IRC 2009 R313.2 and R313.2.1 from Chapter 3 of the IRC 2009 and relocated those sections to Appendix R Automatic Fire Systems hereby creates a new appendix X, entitled "Appendix X, Swimming Pools, Spas and Hot Tubs." Appendix G has been carried forward from the previous adoption of IRC® 2009 and relocated to Appendix X, entitled "Appendix X, Swimming Pools, Spas and Hot Tubs."

(e) The Commission OUBCC has removed IRC 2009 N1101.9 from Chapter 11 of the IRC 2009 and relocated this section to Appendix S Energy Efficiency hereby creates a new Appendix Y, entitled "Appendix Y, Residential Tornado Provisions."

(f) Appendices A through S are not adopted as the minimum standards for residential construction within the State of Oklahoma. However, other jurisdictions within this State may adopt any or all of said appendices in accordance with 59 O.S. § 1000.29.

748:20-5-4. IRC® 2009 2015 Provisions Adopted and Modified

(a) All chapters and provisions within chapters, including exceptions, of the IRC® 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 construction within the State of Oklahoma for one- and two-family dwellings and townhouses pursuant to 59 O.S. § 1000.23.

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Chapters and provisions within chapters, including exceptions adopted with modifications are specifically addressed in these rules.

(b) The ICC[®] has reserved Appendix Q for possible future use. The OUBCC has not adopted Appendix Q and the appendix is not considered part of the statewide minimum code for residential construction within the State of Oklahoma.

(c) To the extent any references in the IRC[®] 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 IRC[®] 2015 as amended and modified in this sub-chapter and in the IRC[®] 2015 Chapter 44 entitled "Referenced Standards."

748:20-5-4.1. 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 OUBCC to the contrary.

748:20-5-5. IRC[®] 2009/2015 Chapter 1 Scope and Administration

Chapter 1 of the Oklahoma adopted IRC[®] 2009/2015, with 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 ~~2009 International Residential Code~~IRC[®] 2015 as amended and revised by the ~~Commission (IRC 2009)~~OUBCC, as the statewide minimum standards code to be used by all entities for residential building construction in jurisdictions throughout and including the State of Oklahoma. However, the ~~Commission's~~OUBCC's adoption of Chapter 1 "Scope and Administration" of the ~~2009~~IRC[®] 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 construction.

(2) All provisions of the adopted IRC[®] 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 building construction for one- and two-family dwellings and townhouses 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) 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 IRC[®] 2009/2015.

(4) 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 IRC[®] 2009/2015 and the ~~Commission~~OUBCC will strongly oppose any such practice.

748:20-5-5.1. IRC[®] 2015 Chapter 2 Definitions

Chapter 2 of the IRC[®] 2015 is adopted with the following modifications:

(1) BUILDING DRAIN. This definition 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.

(2) [RE] HIGH-EFFICACY LAMPS. This definition has been modified to strike a reference to Chapter 11, Section N1101.6 and add language regarding applicable requirements for energy efficiency. This definition has been modified to read: [RE] HIGH-EFFICACY LAMPS. Compact fluorescent lamps, light emitting diode (L.E.D.) type lamps, T-8 or smaller diameter linear fluorescent lamps, or lamps with a minimum efficacy of:

- (A) 60 lumens per watt for lamps over 40 watts;
- (B) 50 lumens per watt for lamps over 15 watts to 40 watts; and
- (C) 40 lumens per watt for lamps 15 watts or less.

(3) [RE] INSULATED SHEATHING. This definition has been modified to strike a reference to Chapter 11, Section N1101.6. This definition has been modified to read: [RE] INSULATED SHEATHING. An insulating board having a thermal resistance of not less than R-2 of the core material.

(4) NATIONALLY RECOGNIZED TESTING LABORATORY. This definition has been added to define a Nationally Recognized Testing Laboratory. This definition has been added 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.

(5) [RB] ROOF RECOVER. This definition has been modified to strike a reference to Chapter 11, Section N1101.6. This definition has been modified to read: [RB] ROOF RECOVER. The process of installing an additional roof covering over a prepared existing roof covering without removing the existing roof covering.

(6) SAFE ROOM. The definition of a "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 added to read: 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.

(A) 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.

(B) 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 persons or less.

(7) [RE] SKYLIGHT. This definition has been stricken from the code.

(8) [RE] SLEEPING UNIT. This definition has been stricken from the code.

(9) STORM SHELTER. The definition of a "STORM SHELTER" 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. The definition has been added to read: STORM SHELTER. A building, structure, or portions thereof, constructed in accordance with ICC 500[®] and designated for use during a severe wind storm event such as a hurricane or tornado.

(A) Community storm shelter. A storm shelter not defined as a "Residential storm shelter."

(B) Residential storm shelter. A storm shelter serving occupants of dwelling units and having an occupant load not exceeding 16 persons.

(10) [RB] SUNROOM. This definition has been modified to strike a reference to Chapter 11, Section N1101.6. This definition has been modified to read: [RB] SUNROOM. A one-story structure attached to a dwelling with a glazing area in excess of 40 percent of the gross area of the structure's exterior walls and roof.

(11) [RB] THERMAL ISOLATION. This definition has been modified to strike a reference to Chapter 11, Section N1101.6. This definition has been modified to read: [RB] THERMAL ISOLATION. Physical and space conditioning separation from conditioned space(s) consisting of existing or new walls, doors, or windows. The conditioned space(s) shall be controlled as separate zones for heating and cooling or conditioned by separate equipment.

(12) [RE] U-FACTOR THERMAL TRANSMITTANCE. This definition has been modified to strike a reference to Chapter 11, Section N1101.6 and add language for applicable requirements for energy efficiency. This definition has been modified to read: [RE] U-FACTOR THERMAL TRANSMITTANCE. The coefficient of heat transmission (air to air) through a building envelope component or assembly, equal to the time rate of heat flow per unit area and unit temperature difference between the warm side and cool side air films (BTU/h x square feet x Fahrenheit).

(13) VENTILATION. This definition has been modified to strike a reference to Chapter 11, Section N1101.6. This definition has been modified to read: VENTILATION. The natural or mechanical process of supplying conditioned or unconditioned air to, or removing such air from, any space.

(14) WHOLE-HOUSE MECHANICAL VENTILATION SYSTEM. This definition has been modified to strike a reference to Chapter 11, Section N1101.6. This definition has been modified to read: WHOLE-HOUSE MECHANICAL VENTILATION SYSTEM. An exhaust system, supply system or combination thereof that is designed to mechanically exchange indoor air for outdoor

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air where operating continuously or through a programmed intermittent schedule to satisfy the whole-house ventilation rate.

748:20-5-6. IRC[®]20092015 Chapter 3 Building PlansPlanning

Chapter 3 of the IRC[®] 2015 is adopted with the following modifications as follows:

(1) ~~Section R302.1 Table R302.1R302.1(1) Exterior Walls has been modified for minimum fire separation distance to change most of the requirements in the column entitled "Minimum Fire Separation Distance" for walls and projections and to delete certain sub-rows under the column "Exterior Wall Element". Walls have been changed from 5 feet to 3 feet. Projections have been changed from greater than or equal to 2 feet to 5 feet to greater than or equal to 2 feet to 3 feet.~~ The table description with modifications, is listed below:

(A) There are three columns in the table entitled "Exterior Wall Element," "Minimum Fire-Resistance Rated," and "Minimum Fire Separation Distance."

(B) Under the column entitled "Exterior Wall Element" the first row, entitled "Walls - Fire-resistance rated," has been modified to change the requirement in the column "Minimum Fire Separation Distance" from "less than 5 feet" to "less than 3 feet."

(C) Under the column entitled "Exterior Wall Element" the second row, entitled "Walls - Not fire-resistance rated," has been modified to change the requirement in the column "Minimum Fire Separation Distance" from "greater than or equal to 5 feet" to "greater than or equal to 3 feet."

(D) Under the column entitled "Exterior Wall Element" the third row, entitled "Projections - Not allowed," has been stricken from the table.

(E) Under the column entitled "Exterior Wall Element" the fourth row, entitled "Projections - Fire-resistance rated," has been modified to change the requirement in the column "Minimum Fire Separation Distance" from "greater than or equal to 2 feet to less than 5 feet" to "less than 3 feet."

(F) Under the column entitled "Exterior Wall Element" the fifth row, entitled "Projections - Not fire-resistance rated," has been modified to change the requirement in the column "Minimum Fire Separation Distance" from "greater than or equal to 5 feet" to "greater than or equal to 3 feet."

(G) Under the column entitled "Exterior Wall Element" the sixth row, entitled "Openings in walls - Not allowed," has not been modified from the requirements in the existing table.

(H) Under the column entitled "Exterior Wall Element" the seventh row, entitled "Openings in walls - 25 percent maximum of wall area," has been stricken from the code.

(I) Under the column entitled "Exterior Wall Element" the eighth row, entitled "Openings in walls -

Unlimited," has been modified to change the requirement in the column "Minimum Fire Separation Distance" from "5 feet" to "greater than or equal to 3 feet."

(J) Under the column entitled "Exterior Wall Element" the ninth row, entitled "Penetrations - All," has been modified to change the requirement for the second sub-row in the column entitled "Minimum Fire Separation Distance" from "3 feet" to "greater than or equal to 3 feet."

(2) Table R302.1(2) Exterior Walls - Dwellings with Fire Sprinklers. This table has been modified to strike certain sub-rows underneath the column "Exterior Wall Element." The table description with modifications is listed below:

(A) There are three columns in the table entitled "Exterior Wall Element," "Minimum Fire-Resistance Rated," and "Minimum Fire Separation Distance."

(B) There are four rows entitled "Walls," "Projections," "Openings in Walls" and "Penetrations."

(C) The row entitled "Walls" under the column "Exterior Wall Elements" contains two sub-rows entitled "Fire-resistance rated" and "Not fire-resistance rated." No modifications have been made to this row and the associated sub-rows.

(D) The row entitled "Projections" under the column "Exterior Wall Elements" contains three sub-rows entitled "Not allowed," "Fire-resistance rated" and "Not fire-resistance rated." The sub-row entitled "Projections - Not allowed" has been stricken from the table. The remaining sub-rows have not been modified.

(E) The row entitled "Openings in walls" under the column "Exterior Wall Elements" contains two sub-rows entitled "Not allowed" and "Unlimited." No modifications have been made to this row and the associated sub-rows.

(F) The row entitled "Penetrations" under the column "Exterior Wall Elements" does not have any sub-rows and has not been modified.

(3) Section R303.1 Habitable rooms. The first exception to this section has been modified to change the aggregate glazing area when certain conditions are met. This section has been modified to read: R303.1 Habitable rooms. Habitable rooms shall have an aggregate glazing area of not less than 8 percent of the floor area of such rooms. Natural ventilation shall be through windows, skylights, doors, louvers or other approved openings to the outdoor air. Such openings shall be provided with ready access or shall otherwise be readily controllable by the building occupants. The openable area to the outdoors shall not be less than 4 percent of the floor area being ventilated. Exceptions:

(A) The glazed areas need not be openable where the opening is not required by Section R310 and an approved mechanical ventilation system capable of

producing 0.35 air change per hour in the room is installed or a whole-house mechanical ventilation system is installed capable of supplying outdoor ventilation air of 15 cubic feet per minute (cfm) per occupant on the basis of two occupants for the first bedroom and one occupant for each additional bedroom.

(B) The glazed areas need not be installed in rooms where Exception 1 is satisfied and artificial light is provided that is capable of producing an average illumination of 6 footcandles (65 lux) over the area of the room at a height of 30 inches (762 mm) above the floor level.

(C) Use of sunroom and patio covers, as defined in Section R202, shall be permitted for natural ventilation if in excess of 40 percent of the exterior sunroom walls are open, or are enclosed only by insect screening.

(4) Section R311.1 Means of egress. This section has been modified to require garages to comply with the section requirements while allowing the means of egress from the garage to go through an adjacent dwelling. This section has been modified to read: R311.1 Means of egress. Dwellings and garages (attached or detached from the dwelling) shall be provided with a means of egress in accordance with this section. The means of egress shall provide a continuous and unobstructed path of vertical and horizontal egress travel from all portions of the dwelling to the required egress door without traveling through a garage. The means of egress from the garage may travel through the adjacent dwelling. The required egress door shall open directly into a public way or to a yard or court that opens to a public way.

(5) Section R311.2 Egress door. This section has been modified to require garages to comply with the section requirements. This section has been modified to read: R311.2 Egress door. Not less than one egress door shall be provided for each dwelling unit or garage. The egress door shall be side-hinged, and shall provide a clear width of not less than 32 inches (813 mm) where measured between the face of the door and the stop, with the door open 90 degrees (1.57 rad). The clear height of the door opening shall not be less than 78 inches (1981 mm) in height measured from the top of the threshold to the bottom of the stop. Other doors shall not be required to comply with these minimum dimensions. Egress doors shall be readily openable from the inside of the dwelling or garage without the use of a key or special knowledge or effort.

(26) Section ~~R311.7.4.1 Riser Heights~~R311.7.5.1 Risers. This section has been modified and now requires initial measurements to take place at rough in and allows for a to add a third exception that allows the top and bottom riser height variance at the final inspection to vary by 3/4 inch (19 mm). This section ~~shall~~ has been modified to read: R311.7.5.1 Risers. The ~~maximum~~ riser height shall be not more than 7 3/4 inches (196 mm). The riser shall be measured vertically between leading edges of the adjacent treads. The greatest riser height within any flight of stairs shall not exceed the smallest by more than

3/8 inch (9.5 mm) ~~through in~~. Risers shall be vertical or sloped from the underside of the nosing of the tread above at an angle not more than 30 degrees (0.51 rad) from the vertical. Open risers are permitted provided that the openings located more than 30 inches (762 mm), as measured vertically, to the floor or grade below do not permit the passage of a 4-inch-diameter (102 mm) sphere. Exceptions:

(A) The openings between adjacent treads is not limited on spiral stairways.

(B) The riser height of spiral stairways shall be in accordance with Section R311.7.10.1.

(C) ~~The Top~~ top and bottom riser in each flight of stairs may vary by 3/4 inch (19 mm) at final inspection, not to exceed 7 3/4 of an inch (196mm).

(37) Section R313.2 One- and two-family dwellings automatic fire systems. This section, including the exception, has been moved to the newly created Appendix R-V, entitled "Appendix V, Automatic Fire Systems" of the IRC 2009 and is not adopted as a part of the statewide minimum standard code for residential construction within the State of Oklahoma. This section has been renumbered in Appendix V to become V101.1. The section number R313.2 itself, will stay as part of this code for numbering alignment but will not have any requirements attached to it.

(48) Section R313.2.1 Design and installation. This section has been moved to the newly created Appendix R-V, entitled "Appendix V, Automatic Fire Systems" of the IRC 2009 and is not adopted as a part of the statewide minimum standard code for residential construction within the State of Oklahoma. This section has been renumbered in Appendix V to become V101.2. The section number R313.2.1 itself, will stay as part of this code for numbering alignment but will not have any requirements attached to it.

(9) Section R314.2.2 Alterations, repairs and additions. This section has been modified to include minor electrical alterations, repairs and additions in the second exception to the section. This section has been modified to read: R314.2.2 Alterations, repairs and additions. Where alterations, repairs, or additions requiring a permit occur, or where one or more sleeping rooms are added or created in existing dwellings, the individual dwelling unit shall be equipped with smoke alarms located as required for new dwellings. Exceptions:

(A) Work involving the exterior surfaces of dwellings, such as the replacement of roofing or siding, the addition or replacement of windows or doors, or the addition of a porch or deck, are exempt from the requirements of this section.

(B) Installation, alteration, or repairs of electrical, plumbing or mechanical systems are exempt from the requirements of this section.

(5) Section ~~R315.1 Carbon monoxide alarms~~. This section has been modified to include the following exception: ~~If a residence with an attached garage has a sealed door between the residence and the garage; and~~

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~~no fuel burning appliances in the residence, then carbon monoxide detection is not required within the residence.~~

(10) Section R315.2.2 Alterations, repairs and additions. This section has been modified to include minor electrical alterations, repairs and additions in the second exception to the section. This section has been modified to read: R315.2.2 Alterations, repairs and additions. Where alterations, repairs, or additions requiring a permit occur, or where one or more sleeping rooms are added or created in existing dwellings, the individual dwelling unit shall be equipped with carbon monoxide alarms located as required for new dwellings. Exceptions:

(A) Work involving the exterior surfaces of dwellings, such as the replacement of roofing or siding, the addition or replacement of windows or doors, or the addition of a porch or deck, are exempt from the requirements of this section.

(B) Installation, alteration, or repairs of electrical, plumbing or mechanical systems are exempt from the requirements of this section.

~~(611) Section R323.1 General. This section has been modified to provide for more than one standard to be utilized to build include above and below ground storm shelters and safe rooms and to limit the use of the terms storm shelter and safe room. This section has been modified to read: R323.1 General. This section applies to the construction of above or below ground storm shelters and safe rooms when constructed as separate detached buildings or when constructed as safe rooms within buildings rooms within buildings, structures, or portions thereof for the purpose of providing safe refuge from storms that produce high winds, such as tornados and hurricanes. 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 listed in Section R323. In addition to other applicable requirements in this code, storm shelters shall be constructed in accordance with one of the following: ICC/NSSA 500 or FEMA 320 or other equivalent engineered system.~~

(12) R323.2 Definitions. This section has been added to show the following terms were added to Chapter Two of this code. This section shall read: R323.2 Definitions. The following definitions 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.

(13) Section R326.1 General. This section has been modified to remove the requirement for the construction of swimming pools, spas, and hot tubs to comply with the International Swimming Pool and Spa Code[®] and to require compliance with Sections R326.2 through R326.4. This section has been modified to read: R326.1 General.

Residential swimming pools, spas, and hot tubs requiring a permit shall comply with Sections R326.2 through R326.4.

(14) Section R326.2 Enclosure. This section has been added to provide enclosure requirements for residential swimming pools, spas, and hot tubs. This section has been added to read: R326.2 Enclosure. Swimming pools shall be completely enclosed by a fence or barrier not less than 4 feet (1290 mm) in height or a screen enclosure. Openings in the fence or barrier shall not permit the passage of a 4-inch-diameter (102 mm) sphere. Exceptions:

(A) Swimming pools, spas and hot tubs on lots in excess of 2 acres are exempt from the requirements.

(B) A swimming pool with a power safety cover or a spa with a safety cover complying with ASTM F 1346 need not comply with this section.

(15) Section R326.3 Gates. This section has been added to provide gate requirements for residential swimming pools, spas and hot tubs. This section has been added to read: R326.3 Gates. Exterior pedestrian access doors or gates shall be self-closing and have a self-latching device. Doors or gates other than pedestrian access doors or gates shall have a self-latching device. Where the release mechanism of the self-latching device is located less than 54 inches (1372 mm) from the bottom of the door or gate, the release mechanism shall be located on the pool side of the door or gate, 3 inches (76 mm) or more below the top of the door or gate, and the door or gate and barrier shall be without openings greater than 1/2 inch (12.7 mm) within 18 inches (457 mm) of the release mechanism. Exception: Gates equipped with a locking device.

(16) R326.4 Entrapment avoidance. This section has been added to require suction outlets to comply with ANSI/APSP-7. This section has been added to read: R326.4 Entrapment avoidance. Suction outlets shall be designed and installed in accordance with ANSI/APSP-7.

748:20-5-7. IRC[®] 2009/2015 Chapter 4 Foundations

Chapter 4 of the IRC[®] 2015 is adopted with the following modifications as follows:

(1) Section R402.2 Concrete. This section has been modified to include the following an exception for: Interior interior concrete slabs on grade and enclosed garage slabs to the requirement the concrete are not required to be air entrained. This section has been modified to read: R402.2 Concrete. Concrete shall have a minimum specified compressive strength of f_c , as shown in Table R402.2. Concrete subject to moderate or severe weathering as indicated in Table R301.2(1) shall be air entrained as specified in Table R402.2. The maximum weight of fly ash, other pozzolans, silica fume, slag or blended cements that is included in concrete mixtures for garage floor slabs and for exterior porches, carport slabs, and steps that will be exposed to deicing chemicals shall not exceed the percentages of the total weight of the cementitious materials specified in Section 19.3.3.4 of ACI 318. Materials used to produce concrete testing thereof shall comply with the applicable standards listed

in Chapters 19 and 20 of ACI 318 or ACI 332. Exception: Interior concrete slabs on grade and enclosed garage slabs are not required to be air-entrained.

(2) Table R403.1(1) Minimum width and thickness for concrete footings for light-frame construction (inches). This table has been modified to strike footnote "b" from underneath the table. The footnote area at the bottom of the table has been amended to read: a. Interpolation allowed. Extrapolation is not allowed.

(3) Table R403.1(2) Minimum width and thickness for concrete footings for light-frame construction with brick veneer (inches). This table has been modified to strike footnote "b" from underneath the table. The footnote area at the bottom of the table has been amended to read: a. Interpolation allowed. Extrapolation is not allowed.

(4) Table R403.1(3) Minimum width and thickness for concrete footings with cast-in-place concrete or fully grouted masonry wall construction (inches). This table has been modified to strike footnote "b" from underneath the table. The footnote area at the bottom of the table has been amended to read: a. Interpolation allowed. Extrapolation is not allowed.

(5) Figure R403.1(1) Plain concrete footings with masonry and concrete stem walls in SDC A, B, and C. The figure heading has been amended to include a superscript "g" to indicate an associated footnote. The "Notes" area at the bottom of this figure has been modified to add a note "g" to require reinforcement in the footings of structures in SDC A, B, and C. The "Notes" at the bottom of the figure have been amended to read:

- (A) a. See Section 404.3 for sill requirements.
- (B) b. See Section 403.1.6 for sill attachment.
- (C) c. See Section R506.2.3 for vapor barrier requirements.
- (D) d. See Section R403.1. for base.
- (E) e. See Figure R403.1.3 for additional footing requirements for structures in SDC D0, D1, and D2 and townhouses in SDC C.
- (F) f. See Section R408 for under-floor ventilation and access requirements.
- (G) g. Add two number four (4) rebar to all footings. Additionally all cold joints between footings and foundation walls (stem walls) shall be tied together by a number four (4) rebar at every corner and not to exceed 6 feet (1828 mm) o.c. with embedment of 12 inches (304 mm) into each footing and wall.

(26) Section R403.1.6 Foundation anchorage. This section has been modified to specify hand driven cut and concrete nails are not an approved fastener and include the following an exception for: Wood wood sole plates of braced wall panels anchorage under specific criteria at building interiors on monolithic slabs may be anchored using connector(s) with a shear capacity of 2300 pounds and a tensile capacity of 800 pounds over a maximum span of 6 feet. This section has been modified to read:

(A) R403.1.6 Foundation anchorage: Wood sill plates and wood walls supported directly on continuous foundations shall be anchored to the foundation in accordance with this section.

(B) Cold formed steel framing shall be anchored directly to the foundation or fastened to wood sill plates anchored to the foundation. Anchorage of cold-formed steel framing shall be in accordance with this section and Section R505.3.1 or R603.3.1.

(C) Wood sole plates at the exterior walls on monolithic slabs, wood sole plates of braced wall panels at building interiors on monolithic slabs and all wood sill plates shall be anchored to the foundation with minimum 1/2-inch-diameter (12.7 mm) anchor bolts spaced a maximum of 6 feet (1829 mm) on center or approved anchors or anchor straps spaced as required to provide equivalent anchorage to 1/2-inch-diameter (12.7 mm) anchor bolts. Bolts shall extend a minimum of 7 inches (178 mm) into concrete or grouted cells of concrete masonry units. The bolts shall be located in the middle third of the width of the plate. A nut and washer shall be tightened on each anchor bolt. There shall be a minimum of two bolts per plate section with one bolt located not more than 12 inches (305 mm) or less than seven bolt diameters from each end of the plate section. Interior bearing wall sole plates that are not part of a braced wall panel shall be positively anchored with approved fasteners. Hand driven cut or concrete nails are not approved fasteners. Sill plates and sole plates shall be protected against decay and termites where required by Section R317 and R318. Exceptions:

- (i) Walls 24 inches (610 mm) total length or shorter connecting offset braced wall panels shall be anchored to the foundation with a minimum of one anchor bolt located in the center third of the plate section and shall be attached to adjacent braced wall panels at corners as shown in Item 9 of Table R602.3(1).
- (ii) Connection of walls 12 inches (305 mm) total length or shorter connecting offset braced wall panels to the foundation without anchor bolts shall be permitted. The wall shall be attached at corners as shown in Item 9 of Table R602.3(1).
- (iii) Wood sole plates of braced wall panels at building interiors on monolithic slabs may be anchored using connector(s) with a shear capacity of 2300 pounds and a tensile capacity of 800 pounds over a maximum span of 6 feet.

(7) Section R403.1.7.3 Foundation Elevation. This section has been stricken from the code.

(8) Section R403.1.9. Protection of footings. This section has been added to provide protection to footings when trenching work is needed. This section has been added to read: R403.1.9. Protection of footings. Trenching for work including but not limited to plumbing, electrical, storm shelters, and pools shall comply with this section. Trenching installed parallel to footings and walls shall not

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extend into the bearing plane of a footing wall. The upper boundary of the bearing plane is a line that extends downward, at an angle of 45 degrees from horizontal, from the outside bottom edge of the footing wall.

(39) Section R406.2 Concrete and masonry foundation waterproofing. This section has been modified to include an additional option for waterproofing: ~~Bentonite~~. This section has been modified to read:

(A) R406.2 Concrete and masonry foundation waterproofing. In areas where a high water table or other severe soil-water conditions are known to exist, exterior foundation walls that retain earth and enclose interior spaces and floors below grade shall be waterproofed from the higher of (a) the top of the footing or (b) 6 inches (152 mm) below the top of the basement floor, to the finished grade. Walls shall be waterproofed in accordance with one of the following:

- (i) Two-ply hot-mopped felts.
- (ii) Fifty-five-pound (25 kg) roll roofing.
- (iii) Six-mil (0.15 mm) polyvinyl chloride.
- (iv) Six-mil (0.15 mm) polyethylene.
- (v) Forty-mil (1 mm) polymer-modified asphalt.
- (vi) Sixty-mil (1.5 mm) flexible polymer cement.
- (vii) One-eighth-inch (3 mm) cement-based, fiber-reinforced waterproof coating.
- (viii) Sixty-mil (1.5 mm) solvent-free liquid-applied synthetic rubber.
- (ix) Bentonite.

(B) Exception: Organic-solvent-based products such as hydrocarbons, chlorinated hydrocarbons, ketones and esters shall not be used for ICF walls with expanded polystyrene form material. Use of plastic roofing cements, acrylic coatings, latex coatings, mortars, and parings to seal ICF walls is permitted. Cold-setting asphalt or hot asphalt shall conform to Type C of ASTM D 449. Hot asphalt shall be applied at a temperature of less than 200 degrees Fahrenheit (93 degrees Celsius).

(C) All joints in membrane waterproofing shall be lapped and sealed with an adhesive compatible with the membrane.

748:20-5-8. IRC[®]20092015 Chapter 5 Floors

Chapter 5 of the IRC[®] 2015 is adopted with the following modifications as follows:

(1) Section R506.2.1 Fill. This section has been modified to provide fill lift measurements and delete a requirement for the slab and stem wall system to be designed by accepted engineering practice/standards by a design professional. This section has been modified to read: R506.2.1 Fill. Fill material shall be free of vegetation and foreign material. The fill shall be compacted in 8 to 12 inch (203 mm to 305 mm) lifts to ensure uniform support of the slab, and except where approved, the fill depths shall not exceed 48 inches (1220 mm) for clean sand or gravel and 8 inches (203 mm) for earth.

(2) Section R506.2.3 Vapor retarder. This section has been modified to allow for other industry accepted vapor retarders installed according to the manufacturer's specifications. This section has been modified to read: R506.2.3 Vapor retarder. A 6 mil (0.006 inch; 152 micrometers) polyethylene sheeting, other industry accepted vapor retarder products installed per manufacturer specifications or approved vapor retarder with joints lapped not less than 6 inches (152 mm) shall be placed between the concrete floor slab and the base course or the prepared subgrade where no base course exists. The remainder of this section, including exceptions, is adopted without modification. Exception: The vapor retarder is not required for the following:

- (A) Garages, utility buildings and other unheated accessory structures.
- (B) For unheated storage rooms having an area less than 70 square feet (6.5 square meters) and carports.
- (C) Driveways, walks, patios and other flatwork not likely to be enclosed and heated at a later date.
- (D) Where approved by the building official, based on local site conditions.

748:20-5-9. IRC[®]20092015 Chapter 6 Wall Construction

Chapter 6 of the IRC[®] 2015 is adopted with the following modifications as follows:

(1) Table R602.3(1) Fastening schedule. This table has been amended to add a footnote "a" to the table, applicable only to row 16 under the "Wall" section of the table after the words "Top or bottom plate to stud." This footnote has been added to read: a. When 7/16 inch structural sheathing is used with a minimum nailing spacing of 6 inches (152 mm) on the edge and 12 inches (305 mm) in the field, two- 3 inch x 0.131 inch nails are acceptable for end nail conditions for the top and bottom plate to stud connection.

(2) Table R602.3(3) Requirements for wood structural panel wall sheathing used to resist wind pressures with superscript "a, b, and c" to indicate an associated footnote. This table has been amended to add footnote "d" to the table heading to allow for alternative fasteners when certain criteria is met. The footnotes have been modified to read:

- (A) a. Panel strength axis parallel or perpendicular to supports. Three-ply plywood sheathing with studs spaced more than 16 inches on center shall be applied with panel strength axis perpendicular to supports.
- (B) b. Table is based on wind pressures acting toward and away from building surfaces in accordance with Section R301.2. Lateral bracing requirements shall be in accordance with Section R602.10.
- (C) c. Wood structural panels with span ratings of Wall-16 or Wall-24 shall be permitted as an alternate to panels with a 24/0 span rating. Plywood siding rated at 16 o.c. or 24 o.c. shall be permitted as an alternate to panels with a 24/16 span rating. Wall-16 and Plywood siding 16 o.c. shall be used with studs spaced not more than 16 inches on center.

(D) d. The following alternative fasteners will be acceptable with a wind exposure category of C or D. 0.099 inch x 2-1/4 inches at 3 inches o.c. along the edge and 6 inches o.c. in the field. Or 0.113 inch x 2-3/8 inches at 6 inches o.c. along the edge and 12 inches o.c. in the field.

(1) Section R602.4 Interior load bearing walls. This section has been modified to clarify that the section is limited to stud spacing and heights per tables R602.3(5) and R602.3.1. This section has been modified to read: Interior load bearing walls shall be constructed, framed and fire-blocked as specified for exterior walls. Table R602.3(5) shall be used to establish stud spacing of walls up to 10 feet (3048 mm) high, and Table R602.3.1 shall apply to walls over 10 feet (3048 mm) high.

(3) R602.7.5 Supports for headers. This section has been modified to provide an exception that clarifies the section applies only when the building eave height is above 22 feet (6705 mm). The section has been modified to read: R602.7.5 Supports for headers. Headers shall be supported on each end with one or more jack studs or with approved framing anchors in accordance with Table R602.7(1) or R602.7(2). The full-height stud adjacent to each end of the header shall be end nailed to each end of the header with four-16d nails (3.5 inches x 0.135 inch). The minimum number of full-height studs at each end of a header shall be in accordance with Table R602.7.5. Exception: This section only applies for buildings with eave heights above 22 feet (6705 mm).

(4) Section R602.10.5 Minimum length of a braced wall panel. This section has been modified to allow for the portal frame to begin at 12 1/2 feet (3810 mm) from the wall line end for CS-PF method. This section has been modified to read: R602.10.5 Minimum length of a braced wall panel. The minimum length of a braced wall panel shall comply with Table R602.10.5. For methods CS-WSP and CS-SFB, the minimum panel length shall be based on the adjacent clear opening height in accordance with Table R602.10.5 and Figure R602.10.5. Where a panel has an opening on either side of differing heights, the taller opening height shall be used to determine the panel length. For method CS-PF, it is permissible to begin the portal frame at 12 1/2 feet (3810 mm) from the wall line end.

(25) Section ~~R602.10.6~~R602.10.8 Braced wall panel connections. This section has been modified to include the following addition: a fourth requirement to the section for anchoring wood sole plates to the building interiors on monolithic slabs using connectors with specific requirements. This section has been modified to read: R602.10.8 Braced wall panel connections. Braced wall panels shall be connected to the floor framing or foundations as follows:

(A) Where joists are perpendicular to a braced wall panel above or below, a rim joist, band joist or blocking shall be provided along the entire length of the braced wall panel in accordance with Figure R602.10.8(1). Fastening of top and bottom wall

plates to framing, rim joist, band joist and/or blocking shall be in accordance with Table R602.3(1).

(B) Where joists are parallel to a braced wall panel above or below, a rim joist, end joist or other parallel framing member shall be provided directly above and below the braced wall panel in accordance with Figure R602.10.8(2). Where a parallel framing member cannot be located directly above and below the panel, full-depth blocking at 16-inches (406 mm) spacing shall be provided between parallel framing members to each side of the braced wall panel in accordance with figure R602.10.8(2). Fastening of blocking and wall plates shall be in accordance with Table R602.3(1) and Figure R602.10.8(2).

(C) Connections of braced wall panels to concrete or masonry shall be in accordance with Section R403.1.6.

(D) Wood sole plates of braced wall panels at building interiors on monolithic slabs may be anchored using connector(s) with a shear capacity of 2300 pounds and a tensile capacity of 800 pounds over a maximum span of 6 feet (1829 mm).

(6) Section R602.12 Simplified wall bracing. This section has been modified to change wall height, roof eave height, and wind speed conditions. This section has been modified to read: R602.12 Simplified wall bracing. Buildings meeting all of the conditions listed below shall be permitted to be braced in accordance with this section as an alternate to the requirements of Section R602.10. The entire building shall be braced in accordance with this section; the use of other bracing provisions of Section R602.10, except as specified herein, shall not be permitted.

(A) There shall be not more than three stories above the top of a concrete or masonry foundation or basement wall. Permanent wood foundations shall not be permitted.

(B) Floors shall not cantilever more than 24 inches (607 mm) beyond the foundation or bearing wall below.

(C) Wall height shall not be greater than 12 feet (3658 mm)

(D) The building shall have a roof eave-to-ridge height of 20 feet (6096 mm) or less.

(E) Exterior walls shall have gypsum board with a minimum thickness of 1/2 inch (12.7 mm) installed on the interior side fastened in accordance with Table R702.3.5.

(F) The structure shall be located where the ultimate design wind speed is less than or equal to 115 mph (51.4 m/s), and the exposure category is B or C.

(G) The structure shall be located in Seismic Design Category A, B, or C for detached one- and two-family dwellings or Seismic Design Category A or B for townhouses.

(H) Cripple walls shall not be permitted in three-story buildings.

(7) Section R602.12.2 Sheathing materials. This section has been modified to change the minimum thickness

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of wood structural panels. This section has been modified to read: R602.12.2 Sheathing materials. The following sheathing materials installed on the exterior side of exterior walls shall be used to construct a bracing unit as defined in Section R602.12.3. Mixing materials is prohibited.

(A) Wood structural panels with a minimum thickness of 7/16 inch (11.11 mm) fastened in accordance with Table R602.3(3).

(B) Structural fiberboard sheathing with a minimum thickness of 1/2 inch (12.7 mm) fastened in accordance with Table R602.3(1).

748:20-5-10. IRC[®]20092015 Chapter 7 Wall Covering

Chapter 7 of the IRC[®] 2015 is adopted with the following modifications as follows:

(1) Section ~~703.8~~R703.4 Flashing. This section has been modified to clarify that 6-mil polyethylene sheeting is an approved corrosion-resistant flashing in certain circumstances and to clarify flashing above doors are not required where it is unlikely to have rain or other moisture accumulation occur above the door. ~~The first paragraph of this~~This section has been modified to read: R703.4 Flashing. Approved corrosion-resistant flashing shall be applied shingle-fashion in a manner to prevent entry of water into the wall cavity or penetration of water to the building structural framing components. 6-mil polyethylene sheeting is an approved corrosion-resistant flashing when not exposed to UV rays. Self-adhered membranes used as flashing shall comply with AAMA 711. Fluid-applied membranes used as flashings in exterior walls shall comply with AAMA 714. The flashing shall extend to the surface of the exterior wall finish. Approved corrosion-resistant flashings shall be installed at all of the following locations: listed in IRC 2009, Section 703.8 Flashing. The remainder of this section is adopted without modification.

(A) Exterior window and door openings. Flashing at exterior window and door openings shall extend to the surface of the exterior wall finish or to the water-resistive barrier complying with Section R703.2 for subsequent drainage. Mechanically attached flexible flashings shall comply with AAMA 712. Flashing at exterior window and door openings shall be installed in accordance with one or more of the following:

(i) The fenestration manufacturer's installation instructions and flashing instructions, or for applications not addressed in the fenestration manufacturer's instructions in accordance with the flashing manufacturer's instructions. Where flashing instructions or details are not provided, flashing to be installed per 1.2, 1.3, 1.4 or, pan flashing shall be installed at the sill of exterior window and door openings. Pan flashing shall be sealed or sloped in a such a manner as to direct water to the surface of the exterior wall finish or to the water-resistive barrier for subsequent drainage. Openings using pan flashing shall

incorporate flashing or protection at the head and sides.

(ii) In accordance with the flashing design or method of a registered design professional.

(iii) In accordance with other approved methods.

(iv) Flashing above doors are not required where it is unlikely to have rain or other moisture accumulation occur above the door.

(B) At the intersection of chimneys or other masonry construction with frame or stucco walls, with projecting lips on both sides under stucco copings.

(C) Under and at the ends of masonry, wood or metal copings and sills.

(D) Continuously above all projecting wood trim.

(E) Where exterior porches, decks, or stairs attach to a wall or floor assembly of wood-frame construction.

(F) At wall and roof intersections.

(G) At built-in gutters.

(2) Figure R703.8 Typical Masonry Veneer Wall Details. This figure has been modified to add footnotes "f" and "g" to the footnote section and amend the figure heading to include a superscript "f" and "g" to indicate the associated footnotes. This figure's footnotes have been modified to read:

(A) a. See Sections R703.8.5, R703.8.6, and R703.4.

(B) b. See Section R703.2 and R703.8.4.

(C) c. See Section R703.8.4.2 and Table R703.8.4.

(D) d. See Section R703.8.3.

(E) e. Figure R703.8 illustrates typical construction details for a masonry veneer wall. For the actual mandatory requirements of this code, see the indicated sections of text. Other details of masonry veneer wall construction shall be permitted provided the requirements of the indicated sections of text are met.

(F) f. Flashing to be done per Section R703.4, in accordance with a design from a registered design professional or in accordance with other approved methods or standard industry practices.

(G) g. Flashing depicted under sill and above windows are not required with windows that have nailing flanges for their primary attachment. Flange type windows should be counter flashed into the weather resistant barrier or installed per Section R703.4.

(3) Figure R703.8.2.1 Exterior Masonry Veneer Support by Steel Angles. This figure has been modified to add a footnote "a" to the figure heading with a superscript "a" to indicate an associate footnote. Footnote "a" has been added to read: a. Flashing to be done per Section R703.4, in accordance with a design from a registered design professional or in accordance with other approved methods or standard industry practices.

(4) Figure R703.8.2.2 Exterior Masonry Veneer Support by Roof Members. This figure has been modified to add a footnote "a" to the figure heading with a superscript "a" to indicate an associate footnote. Footnote "a"

has been added to read: a. Flashing to be done per Section R703.4, in accordance with a design from a registered design professional or in accordance with other approved methods or standard industry practices.

(5) Section R703.8.3.1 Allowable span. This section has been modified to provide guidance to builders using a typical for Oklahoma lintel. This section has been modified to read: R703.8.3.1 Allowable span. The allowable span shall not exceed the values set forth in Table R703.8.3.1. Additionally a 3 inches x 3 inches x 3/16 inch (76 mm x 76 mm x 4.8 mm) steel angle 6 feet (1829 mm) long may be used to support 3 vertical feet (914 mm) of masonry veneer and a 3 inches x 3 inches x 3/16 inch (76 mm x 76 mm 4.8 mm) steel angle 5 feet (1524 mm) long may be used to support 4 1/4 vertical feet (1295 mm) of masonry veneer.

748:20-5-11. IRC_®20092015 Chapter 8 Roof-Ceiling Construction

Chapter 8 of the IRC_® 2015 is adopted with the following modifications as follows:

(1) Section R801.3 Roof drainage. This section has been stricken from the code.

(2) Section R802.3 Framing details. This section has been modified to change the ridge rafter requirements, provide a definition of a brace, and add an exception to the section. ~~It~~—This section has been modified to read: ~~802.3~~R802.3 Framing details.

(A) Rafters shall be framed to ridge board or to each other with a gusset plate as a tie. Ridge board shall be either at least 1-inch (25 mm) nominal thickness and not less in depth than the cut end of the rafter or at least 2-inches (51 mm) nominal thickness and one size greater than the rafters attached to it.

(B) Where a 1-inch (25 mm) nominal thickness ridge is used, all rafters shall be framed not more than 1.5 inches (38 mm) offset from each other at the ridge board or if no ridge is used they should be framed directly opposite from each other with a gusset plate as a tie. When a nominal 2-inch rafter is used they may be offset with no limitations. At all valleys and hips there shall be a valley or hip rafter not less than 2-inch (51 mm) nominal thickness and not less in depth than the cut end of the rafter. Hip and valley rafters shall be supported at the ridge by a brace to a bearing partition or beam or be designed to carry and distribute the specific load at that point.

(C) Definition of brace includes:

- (i) ~~4.~~~~a.~~A triangular configuration of framing members with a horizontal tie and rafter members,
- (ii) ~~2.~~kingKing post or similar. Where the roof pitch is less than three units vertical in 12 units horizontal (25-percent slope), structural members that support rafters and ceiling joists, such as ridge beams, hips and valleys, shall be designed as beams.

(D) Exception: This exception helps address many situations where due to the design, building bracing

is not achievable. This exception shall read: The use of a "Blind Valley", also known as a "Farmers Valley" or "California Valley" will be allowed. In this type of valley the main roof is framed as usual, it may or may not be sheathed, and the intersecting roof is framed on top of the main roof. The two valley plates or sleeps lie on top of the main roof rafters or sheathing and provide a nailing base for the jack rafters and ridge board of the intersecting roof.

(3) Section R802.3.1 Ceiling joist and rafter connections. This section has been modified to reflect current framing practices. This section has been modified to read: R802.3.1 Ceiling joists and rafter connections.

(A) Ceiling joists and rafters shall be nailed to each other every 4 feet (1219 mm) on center in accordance with Table R802.5.1(9), and the rafter shall be nailed to the top wall plate in accordance with Table R602.3(1). Ceiling joists shall be continuously or securely joined in accordance with Table R802.5.1(9) where they meet over interior partitions and are nailed to adjacent rafters to provide a continuous tie across the building where such joists are parallel to the rafters.

(B) Where ceiling joists are not connected to the rafters at the top wall plate, joists connected higher in the attic shall be installed as rafter ties, or rafter ties shall be installed to provide a continuous tie. Where ceiling joists are not parallel to rafters, the rafter ties shall be installed every 4 feet (1219 mm) on center. Rafter ties shall be not less than 2 inches by 4 inches (51 mm by 102 mm) (nominal), installed in accordance with the connection requirements in Table R802.5.1(9), or connections of equivalent capacities shall be provided. Where ceiling joists or rafter ties are not provided, the ridge formed by these rafters shall be supported by a wall, beam, or girder constructed in accordance with this code.

(C) Collar ties or ridge straps to resist wind uplift shall be connected in the upper third of the attic space in accordance with Table R602.3(1).

(D) Collar ties shall be not less than 1 inch by 4 inches (25 mm by 102 mm) (nominal), spaced not more than 4 feet (1219 mm) on center.

(4) Section R802.5 Allowable rafter spans. This section has been modified to provide guidance for builders framing rafters above the top sill of the wall system and provide an exception to require collar ties to be sized not less than the required size of the rafters they are connected to. This section has been modified to read: R802.5 Allowable rafter spans. Spans for rafters shall be in accordance with Tables R802.5.1(1) through R802.5.1(8). For other grades and species and for other loading conditions, refer to the AWC STJR. The span of each rafter shall be measured along the horizontal projection of the rafter. The tabulated rafter spans in Tables R802.5.1(1) through R802.5.1(8) assume ceiling joists are located at the bottom of the attic space or some other method of resisting the outward push of the rafters on the bearing walls, such

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as rafter ties is provided at that location. Where ceiling joists or rafter ties are located higher in the attic space, the rafter spans in these tables shall be multiplied by the following rafter reduction factors: Where ceiling joists or rafter ties are located at one third the span of the rafter the adjustment factor is 0.67, at one quarter of the span of the rafter the adjustment factor is 0.76, at one fifth of the span of the rafter the adjustment factor is 0.83, at one sixth of the span of the rafter, the adjustment factor is 0.90 and at two fifteenths of the rafter or less, there is no need for adjusting the rafter capacity. Exception: Collar Ties. Installation of collar ties to reduce the span of the rafters is permitted as shown in Figure R802.5.1. Collar ties shall be sized not less than the required size of the rafters they are connected to.

(35) Section R802.5.1 Purlins. This section has been modified to include the following an exception for spacing the braces at not more than 6 feet (1829 mm) when certain conditions are met. The section has been modified to read: R802.5.1 Purlins. Installation of purlins to reduce the span of rafters is permitted as shown in Figure R802.5.1. Purlins shall be sized not less than the required size of the rafters that they support. Purlins shall be continuous and shall be supported by 2-inch by 4-inch (51 mm by 102 mm) braces installed to bearing walls at a slope not less than 45 degrees (0.79 rad) from the horizontal. The braces shall be spaced not more than 4 feet (1219 mm) on center and the unbraced length of the braces shall not exceed 8 feet (2438 mm). Exception: Braces may be spaced not more than 6 feet (1829 mm) on center if: 1. the purlin brace is 2-inch by 6-inch (51 mm by 153 mm), 2. Purlins shall be sized one nominal size larger than the rafter they support, and 3. unbraced length of braces shall not exceed 8 feet (2438 mm).

(6) Section R802.7.1.2 Ceiling joist taper cut. This section has been modified to include an exception to the section requirements for ceiling joists not carrying more than a 25 pound tributary load for limited attic storage. This section has been modified to read: R802.7.1.2 Ceiling joists taper cut. Taper cuts at the ends of the ceiling joists shall not exceed one-fourth the depth of the member in accordance with Figure R802.7.1.2. Exception: For ceiling joists not carrying more than 25 pounds of tributary load (limited attic storage) then taper cut at end of joint may be able to be increased to D/2.

748:20-5-11.1. IRC® 2015 Chapter 9 Roof Assemblies

Chapter 9 of the IRC® 2015 is adopted with the following modifications:

(1) Section R905.2.1 Sheathing requirements. This section has been modified to clarify solidly sheathed decking should be in accordance with Section R803 or to the asphalt shingle manufacturer's installation instructions. This section has been modified to read: R905.2.1 Sheathing requirements. Asphalt shingles shall be fastened to solidly sheathed decks in accordance with

Section R803 or to the asphalt shingles manufacturer's installation instructions.

(2) Section R905.2.8.5 Drip edge. This section has been modified to add an exception to the section when certain criteria is met. This section has been modified to read: R905.2.8.5 Drip edge. A drip edge shall be provided at eaves and rake edges of shingle roofs. Adjacent segments of drip edge shall be overlapped not less than 2 inches (51 mm). Drip edges shall extend not less than 1/4 inch (6.4 mm) below the roof sheathing and extend up back onto the roof deck not less than 2 inches (51 mm). Drip edges shall be mechanically fastened to the roof deck at not less than 12 inches (305 mm) o.c. with fasteners as specified in Section R905.2.5. Underlayment shall be installed over the drip edge along eaves and under the underlayment along rake edges. Exception: If a nominal 1 inch by 2 inch (25 mm by 51 mm) shingle mold is used, attached to the fascia and the starter course of shingles is extended a minimum of 1/4 inch (6.35 mm) and not more than 1 inch (25 mm) then a metal drip edge is not required.

(3) Section R908.3.1.1 Roof re-cover. This section has been modified to list a fourth condition for when a roof re-cover shall not be permitted. This section has been modified to read: R908.3.1.1. Roof re-cover. A roof re-cover shall not be permitted where any of the following conditions occur:

(A) Where the existing roof or roof covering is water soaked or has deteriorated to the point that the existing roof or roof covering is not adequate as a base for additional roofing.

(B) Where the existing roof covering is slate, clay, cement or asbestos-cement tile.

(C) Where the existing roof has two or more applications of any type of roof covering.

(D) Where the existing roof has one or more applications of asphalt shingles additional applications of asphalt shingles shall not be permitted.

748:20-5-11.2. IRC® 2015 Chapter 10 Chimneys and Fireplaces

Chapter 10 of the IRC® 2015 is adopted with the following modification: Section R1005.7 Factory-built chimney offsets. This section has been modified to provide an exception for listed and labeled factory-built chimneys that are part of a fireplace and chimney assembly to be installed according to the manufacturer's installation instructions. This section has been modified to read: R1005.7 Factory-built chimney offsets. Where a factory-built chimney assembly incorporates offsets, no part of the chimney shall be at an angle of more than 30 degrees (0.52 rad) from vertical at any point in the assembly and the chimney assembly shall not include more than four elbows. Exception: Where chimneys are part of a listed and labeled factory-built fireplace they may be installed in accordance with the fireplace and chimney manufacturer's installation instructions.

748:20-5-12. IRC[®] 2009 2015 Chapter 11 Energy Efficiency

Chapter 11 of the IRC[®] 2015 is adopted with the following modifications as follows:

- (1) N1101.1 Scope. This section has been modified to bring it in line with the corresponding section in the 2009 IRC[®] by adding an exception that existed in the 2009 version and by striking the "Note" that appears underneath the section heading regarding which code the sections N1101.2 through N1105 were extracted from. This section has been modified to read: N1101.1 Scope. This chapter regulates the energy efficiency for the design and construction of buildings regulated by this code. Exception: Portions of the building envelope that do not enclose conditioned space.
- (2) Section N1101.2 (R101.3) Intent. This section has been stricken from the code.
- (3) Section N1101.3 (R101.5.1) Compliance materials. This section has been stricken from the code.
- (4) Section N1101.4 (R102.1.1) Above code programs. This section has been modified to bring it in line with the corresponding section in the 2009 IRC[®] by striking a portion of the section heading (R102.1.1), and by striking the language requiring mandatory requirements. This section has been modified to read: N1101.4 Above code programs. The building official or other authority having jurisdiction shall be permitted to deem a national, state, or local energy-efficiency program to exceed the energy efficiency required by this chapter. Buildings approved in writing by such an energy-efficiency program shall be considered in compliance with this chapter.
- (5) Section N1101.5 (R103.2) Information on construction documents. This section has been stricken from the code.
- (6) Section N1101.5.1 (R103.2.1) Thermal envelope depiction. This section has been stricken from the code.
- (7) Section N1101.6 (R202) Defined Terms. This section and all associated terms and definitions have been stricken from the code.
- (8) Section N1101.7 (R301.1) Climate zones. This section has been stricken from the code.
- (9) Section N1101.7.1 (R301.2) Warm humid counties. This section has been modified to bring it in line with the corresponding section in the 2009 IRC[®] by striking a portion of the section heading (R301.2). This section has been modified to read: N1101.7.1 Warm humid counties. Warm humid counties are identified in Table N1101.7 by an asterisk.
- (10) Section N1101.7.2 (R301.3) International climate zones. This section has been stricken from the code.
- (11) Section N1108 (R301.4) Tropical climate zone. This section has been stricken from the code.
- (12) Figure N1101.7 (R301.1) Climate zones. This figure has been modified to bring it in line with the corresponding section in the 2009 IRC[®] by striking a portion of the figure heading, (R301.1). This figure heading has been modified to read: Figure N1101.7 Climate zones.

- (13) Table N1101.7 (R301.1) Climate zones, moisture regimes, and warm-humid designations by state, county and territory. This table has been modified to bring it in line with the corresponding table in the 2009 IRC[®] by striking a portion of the table heading, (R301.1) and by striking all states, counties and territories other than the state and counties of the State of Oklahoma. This table heading has been modified to read: Table N1101.7 Climate zones, moisture regimes, and warm-humid designations by state, county and territory.
- (14) Table N1101.7.2(1) [R302.3.(1)] International climate zone definitions. This table has been stricken from the code.
- (15) Table N1101.7.2(2) [R301.3(2)] International climate zone definitions. This table has been stricken from the code.
- (16) Section N1101.9 (R302.1) Interior design conditions. This section has been stricken from the code.
- (17) Section N1101.10 (R303.1) Identification. This section has been modified to bring it in line with the corresponding section in the 2009 IRC[®] by striking a portion of the section heading (R303.1), and by requiring compliance with the chapter instead of the code. This section has been modified to read: N1101.10 Identification. Materials, systems and equipment shall be identified in a manner that will allow a determination of compliance with the applicable provisions of this chapter.
- (18) Section N1101.10.1 (R303.1.1) Building thermal envelope insulation. This section has been modified to bring it in line with the corresponding section of the 2009 IRC[®] by deleting a portion of the section heading (R303.1.1), and by replacing the words "greater in width" with "or more wide", "insulated siding" with "sprayed polyurethane foam (SPF) insulation", "certification" with "certificate" in the last two sentences, and by adding wording regarding the installed thickness of sprayed polyurethane foam. This section has been modified to read: N1101.10.1 Building thermal envelope insulation. An R-value identification mark shall be applied by the manufacturer to each piece of building thermal envelope insulation 12 inches (305 mm) or more wide. Alternately, the insulation installers shall provide a certification listing the type, manufacturer and R-value of the insulation installed in each element of the building thermal envelope. For blown or sprayed insulation (fiberglass and cellulose), the initial installed thickness, settled thickness, settled R-value, installed density, coverage area and number of bags installed shall be listed on the certification. For sprayed polyurethane foam (SPF) insulation, the installed thickness of the area covered and R-value of installed thickness shall be listed on the certificate. The insulation installer shall sign, date and post the certificate in a conspicuous location on the job site.
- (19) Section N1101.10.1.1 (R303.1.1.1) Blown or sprayed roof/ceiling insulation. This section has been modified to bring it in line with the corresponding section of the 2009 IRC[®] by deleting a portion of the section heading (R303.1.1.1), and by replacing the wording "in

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height" with "high", and "certification" with "certificate." This section has been modified to read: N1101.10.1.1 Blown or sprayed roof/ceiling insulation. The thickness of blown-in or sprayed roof/ceiling insulation (fiberglass or cellulose) shall be written in inches (mm) on markers that are installed at least once for every 300 square feet (28 square meters) throughout the attic space. The markers shall be affixed to the trusses or joists and marked with a minimum initial installed thickness with numbers not less than of 1 inch (25 mm) high. Each marker shall face the attic access opening. Spray polyurethane foam thickness and installed R-value shall be listed on the certificate provided by the insulation installer.

(20) Section N1101.10.2 (R303.1.2) Insulation mark installation. This section has been modified to bring it in line with the corresponding section of the 2009 IRC[®] by deleting a portion of the section heading (R303.1.2). This section has been modified to read: Section N1101.10.2 Insulation mark installation. Insulating materials shall be installed such that the manufacturer's R-value mark is readily observable upon inspection.

(21) Section N1101.10.3 (R303.1.3) Fenestration product rating. This section has been modified to bring it in line with the corresponding section in the 2009 IRC[®] by deleting a portion of the section heading (R303.1.3), and by striking the exception and striking a requirement for visual transmittance. This section has been modified to read:

(A) 1101.10.3 Fenestration product rating. U-factors of fenestration products (windows, doors, and skylights) shall be determined in accordance with NFRC 100 by an accredited, independent laboratory, and labeled and certified by the manufacturer.

(B) Products lacking such a labeled U-factor shall be assigned a default U-factor from Table N1101.10.3(1) or N1101.10.3(2). The solar heat gain coefficient (SHGC) of glazed fenestration products (windows, glazed doors and skylights) shall be determined in accordance with NFRC 200 by an accredited, independent laboratory, and labeled and certified by the manufacturer. Products lacking such a labeled SHGC shall be assigned a default SHGC from Table 1103.10.3(3).

(22) Table N1101.10.3(1) [R303.1.3(1)] Default glazed fenestration U-factors. This table heading has been modified to bring it in line with corresponding section in the 2009 IRC[®] by striking a portion of the table heading [R303.1.3(1)]. This table heading has been modified to read: Table N1101.10.3(1) Default glazed fenestration U-factors.

(23) Table N1101.10.3(2) [R303.1.3(2)] Default door U-factors. This table heading has been modified to bring it in line with corresponding section in the 2009 IRC[®] by striking a portion of the table heading [R303.1.3(2)]. This table heading has been modified to read: Table N1101.10.3(2) Default door U-factors.

(24) Table N1101.10.3(3) [R303.1.3(3)] Default glazed fenestration SHGC and VT. This table heading has been

modified to bring it in line with corresponding section in the 2009 IRC[®] by striking a portion of the table heading [R303.1.3(3)], and by striking all references to VT from the table and heading. This table has been modified to read: N1101.10.3(3). Default glazed fenestration SHGC. The second row of the table, entitled "VT" has been stricken.

(25) Section N1101.10.4 (R303.1.4) Insulation product rating. This section has been modified to bring it in line with corresponding section in the 2009 IRC[®] by striking a portion of the section heading (R303.1.4) and by striking language in reference to clarifying a requirement to the U.S. Federal Trade Commission R-value rule. This section has been modified to read: N1101.10.4 Insulation product rating. The thermal resistance (R-value) of insulation shall be determined in accordance with the CFR Title 16, Part 460 in units of h x square foot x Fahrenheit/BTU at a mean temperature of 75 degrees Fahrenheit (24 degrees Celsius).

(26) Section N1101.10.4.1 (R303.1.4.1) Insulated siding. This section has been stricken from the code.

(27) Section N1101.11 (R303.2) Installation. This section has been modified to bring it in line with the corresponding section in the 2009 IRC[®] by striking a portion of the section heading (R303.2), and by requiring installation of all materials, systems and equipment meet the manufacturer's installation instructions and the provisions of the code. This section has been modified to read: N1101.11 Installation. All materials, systems and equipment shall be installed in accordance with the manufacturer's instructions and the provisions of this code.

(28) Section N1101.11.1 (R303.2.1) Protection of exposed foundation installation. This section has been modified to bring it in line with the corresponding section of the 2009 IRC[®] by deleting a portion of the section heading, (R303.2.1). This section has been modified to read: N1101.11.1 Protection of exposed foundation installation. Insulation applied to the exterior basement walls, crawlspace walls, and the perimeter of slab-on-grade floors shall have a rigid, opaque and weather-resistance protective covering to prevent the degradation of the insulation's thermal performance. The protective covering shall cover the exposed exterior insulation and extend not less than 6 inches (153 mm) below grade.

(29) Section N1101.12 (R303.3) Maintenance information. This section has been stricken from the code.

(30) Section N1101.13 (R401.2) Compliance. This section has been modified to bring it in line with the corresponding section of the 2009 IRC[®] by deleting a portion of the section heading (R401.2) and by deleting all the requirements listed in the 2015 edition for this section and adding the compliance provisions from 2009 edition for this section. This section has been modified to read: N1101.13 Compliance. Compliance shall be demonstrated by either meeting the requirements of the 2009 International Energy Conservation Code[®] or meeting the requirements of this chapter. Climate zones from figure

N1101.7 or Table 1101.7 shall be used in determining the applicable requirements from this chapter.

(31) Section N1101.13.1(R401.2.1) Tropical zone. This section has been stricken from the code.

(32) Section ~~N1101.9~~N1101.14 (R401.3) Certificate (Mandatory). This section has been moved to the newly created Appendix SW, entitled "Appendix W, Energy Efficiency" of the IRC 2009 and is not adopted as a part of the statewide minimum standard code of for residential construction within the State of Oklahoma. This section has been renumbered in Appendix W to become W101.1. The section number N1101.14 itself, will stay as part of the code for numbering alignment but will not have any requirements attached to it.

(33) Section N1102.1 (R402.1) General (Prescriptive). This section, including the exception has been stricken from the code.

(34) Section N1102.1.1 (R402.1.1) Vapor retarder. This section has been stricken from the code.

(35) Section N1102.1.2 (R402.1.2) Insulation and fenestration criteria. This section has been modified to bring it in line with the corresponding section of the 2009 IRC[®] by deleting a portion of the section heading (R402.1.2). This section has been modified to read: N1102.1.2 Insulation and fenestration criteria. The building thermal envelope shall meet the requirements of Table N1102.1.2 based on the climate zone specified in Section N1101.7.

(36) Section N1102.1.3 (R402.1.3) R-value computation. This section has been modified to bring it in line with the corresponding section of the 2009 IRC[®] by deleting a portion of the section heading (R402.1.3), and by striking a requirement for reducing the manufacturer's labeled R-value on insulated siding. This section has been modified to read: N1102.1.3 R- value computation. Insulation material used in layers, such as framing cavity insulation, and insulation sheathing, shall be summed to compute the component R-value. The manufacturer's settled R-value shall be used for blown insulation. Computed R-values shall not include an R-value for other building materials or air films.

(37) Table N1102.1.2 (R402.1.2) Insulation and fenestration requirements by component. This table has been modified to bring it in line with corresponding table in the 2009 IRC[®] by striking a portion of the table heading (R402.1.2), and by striking specific rows and by editing and adding to the footnotes at the end of the table. The table has been modified to read: Table N1102.1.2 Insulation and fenestration requirements by component. At the end of the table heading is a superscript "a" and a superscript "m" to indicate associated footnotes. The table description with modifications, is listed below:

(A) The table has eight rows with eleven columns. The first row is a header with the following header columns: Climate zone, Fenestration U-factor (with a superscript "b" to indicate a footnote), Skylight U-factor (with a superscript "b" to indicate a footnote), Glazed Fenestration SHGC (with the subscript "b" and "e" footnote indications stricken), Ceiling

R-value, Wood Frame Wall R-value, Mass Wall R-value (with a superscript "i" to indicate a footnote), Floor R-value, Basement Wall R-value (with a superscript "c" to indicate a footnote), Slab R-value and depth (with a superscript "d" to indicate a footnote), and Crawl space wall R-value (with a superscript "c" to indicate a footnote).

(B) The second and third rows, entitled "1" and "2" under the first column header "Climate zone" and continuing across all column headings have been stricken from the table.

(C) The fourth row, entitled "3" under the first column header "Climate zone" has been modified in specific column headers listed below:

(i) Under column header "Fenestration U-factor," the requirement has been changed from "0.35" to "0.40" with a "superscript "i" to indicate an associated footnote.

(ii) Under column header "Glazed Fenestration SHGC," the requirement has been changed from "0.25" to "0.35" with superscript letters "e" and "j" added to indicate associated footnotes.

(iii) Under column header "Ceiling R-value," the requirement has been changed from "38" to "30."

(iv) Under column header "Wood frame wall R-value," the requirement has been changed from "20 or 13 + 5h" to "13."

(v) Under the column header "Slab R-Value and Depth" a superscript "l" has been added to indicate an associated footnote.

(D) The fifth row, entitled "4 except Marine" under the first column header "Climate zone" has been modified in specific columns headers listed below:

(i) Under column header "Skylight U-factor," the requirement has been changed from "0.55" to "0.60."

(ii) Under column header "Glazed Fenestration SHGC," the requirement has been changed from "0.40" to "NR."

(iii) Under column header "Ceiling R-value," the requirement has been changed from "49" to "38."

(iv) Under column header "Wood frame Wall R-value," the requirement has been changed from "20 or 13 +5h" to "13."

(v) Under column header "Mass wall R-value" the requirement has been changed from "8/13" to "5/10."

(E) The sixth, seventh, and eighth rows, entitled "5 and Marine 4", "6," and "7 and 8" respectively, under the first column heading "Climate zone" and continuing across all column headings have been stricken from the table.

(F) Footnote "a." has been modified to read: R-values are minimums. U-factors and SHGC are maximums, R-19 batts compressed into nominal 2 x 6 framing cavity such that the R-Value is reduced by

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R-1 or more shall be marked with the compressed R-Value in addition to the full thickness R-value.

(G) Footnote "b." has been modified to read: The fenestration U-factor column excludes skylights. The SHGC column applies to all glazed fenestration.

(H) Footnote "c." has been modified to read: The first R-value applies to continuous insulation, the second to framing cavity insulation; either insulation meets the requirement.

(I) Footnote "d." R-5 shall be added to the required slab edge R-values for heated slabs. Insulation depth shall be the depth of the footing or 2 feet, whichever is less, in zones 1 through 3 for heated slabs.

(J) Footnote "e." There are no SHGC requirements in the Marine Zone.

(K) Footnote "f." Basement wall insulation is not required in warm-humid locations as defined by Figure N1101.7 and Table N1101.7.

(L) Footnote "g." Or insulation sufficient to fill the framing cavity, R-19 minimum.

(M) Footnote "h." has been modified to read: "13 +5" means R-13 cavity insulation plus R-5 insulated sheathing. If structural sheathing covers 25 percent or less of the exterior, R-5 sheathing is not required where structural sheathing is used. If structural sheathing covers more than 25 percent of the exterior, structural sheathing shall be supplemented with insulated sheathing of at least R-2.

(N) Footnote "i." has been modified to read: For impact-rated fenestration complying with Section R301.2.1.2, the maximum U-factor shall be 0.75 in zone 2 and 0.65 in zone 3.

(O) A new footnote "j." has been added to read: For impact-resistant fenestration complying with Section R301.2.1.2 of the 2015 International Residential Code[®], the maximum SHGC shall be 0.40.

(P) The previously labeled footnote "i." has been renamed to "k." and has been modified to read as follows: The second R-value applies when more than half the insulation is on the interior.

(Q) A new footnote "l" has been added to read: If foundation/slab insulation is used and slab ledge exists 1/2 inch insulation in Vertical position is allowed as thermal break between slab edge and foundation wall so that slab can still bear on horizontal ledge.

(R) A new footnote "m" has been added to read: In addition to the requirements in Table N1102.1.2, one of the following improvements are required:

- (i) Fenestration U Factors to be 0.35.
- (ii) Wood Frame Wall R-Value to be R15.
- (iii) Slab R-Value and Depth to be 5.2 feet.
- (iv) Ceiling R-Value to be R38.
- (v) Exception: If duct testing is performed and passed in accordance with N1103.3.2 by either the post-construction test or rough-in test no further upgrade is required from the values in Table N1102.1.2.

(38) Table N1102.1.4 (R402.1.4) Equivalent U-Factors. This table has been modified to bring it in line with corresponding table in the 2009 IRC[®] by striking a portion of the table heading (R402.1.4), and by striking specific rows and by editing the footnotes at the end of the table. The table has been modified to read: Table N1102.1.4 Equivalent U-factors. At the end of the table heading is a superscript "a" to indicate an associated footnote. The table description with modifications, is listed below:

(A) The table has eight rows with nine columns. The first row is a header with the following header columns: Climate zone, Fenestration U-factor, Skylight U-factor, Ceiling U-factor, Frame Wall U-factor, Mass Wall U-factor (with a superscript "b" to indicate an associated footnote), Floor U-factor, Basement Wall U-factor, and "Crawl Space Wall U-factor."

(B) The second and third rows, entitled "1" and "2" under the column heading "Climate Zone" and continuing across all column headings, have been stricken from the code.

(C) The fourth row, entitled "3" under the column heading "Climate Zone" has been modified in the subsequent columns as listed below:

(i) Under column heading "Fenestration U-factor" the requirement has been changed from "0.35" to "0.50."

(ii) Under column heading "Skylight U-factor" the requirement has been changed from "0.55" to "0.65."

(iii) Under column heading "Ceiling U-factor" the requirement has been changed from "0.030" to "0.035."

(iv) Under column heading "Frame Wall U-factor" the requirement has been changed from "0.060" to "0.082."

(v) Under column heading "Mass Wall U-factor" the requirement has been changed from "0.098" to "0.141."

(D) The fifth row, entitled "4 except Marine" under the column heading "Climate Zone" has been modified in the subsequent columns as listed below:

(i) Under column heading "Skylight U-factor" the requirement has been changed from "0.55" to "0.60."

(ii) Under the column heading "Ceiling U-factor" the requirement has been changed from "0.026" to "0.030."

(iii) Under the column heading "Frame Wall U-factor" the requirement has been changed from "0.060" to "0.082."

(iv) Under the column heading "Mass Wall U-factor" the requirement has been changed from "0.098" to "0.141."

(E) The sixth, seventh, and eighth rows, entitled "5 and Marine 4", "6", and "7 and 8" respectively, under column heading "Climate zone" and continuing across all subsequent columns, have been stricken from the table.

(F) Footnote "a" reads as: Nonfenestration U-factors shall be obtained from measurements, calculation or an approved source.

(G) Footnote "b" has been modified to read: When more than half the insulation is on the interior, the mass wall U-factors shall be a maximum of 0.17 in Zone 1, 0.14 in Zone 2, 0.12 in Zone 3, 0.10 in Zone 4 except Marine, and the same as the frame wall U-factor in marine Zone 4 and in Zones 5 through 8.

(H) Footnote "c." has been modified to read: Basement wall U-factor of 0.360 in warm- humid locations as defined by Figure N1101.7 and Table N1101.7.

(39) Section N1102.1.4 (R402.1.4) U-factor alternative. This section has been modified to bring it into alignment with the corresponding section in the 2009 IRC[®] by striking a portion of the section heading (R402.1.4). This section has been modified to read: N1102.1.4 U-factor alternative. An assembly with a U-factor equal to or less than that specified in Table N1102.1.4 shall be permitted as an alternative to the R-value in Table N1102.1.2.

(40) Section N1102.1.5 (R402.1.5) Total UA alternative. This section has been modified to bring it into alignment with the corresponding section in the 2009 IRC[®] by striking a portion of the section heading (R402.1.5). This section has been modified to read: N1102.1.5 Total UA alternative. If the total building thermal envelope UA (sum of U-factor times assembly area) is less than or equal to the total UA resulting from using the U-factors in Table 1102.1.4 (multiplied by the same assembly area as in the proposed building), the building shall be considered in compliance with Table N1102.1.2. The UA calculation shall be done using a method consistent with the ASHRAE Handbook of Fundamentals and shall include the thermal bridging effects of framing materials. The SHGC requirements shall be met in addition to UA compliance.

(41) Section N1102.2 (R402.2) Specific insulation requirements (Prescriptive). This section has been modified to bring it in alignment with the corresponding section in the 2009 IRC[®] by striking portions of the section heading (R402.2) and (Prescriptive), and by striking the language associated with the section, leaving only the section title. This section has been modified to read: N1102.2 Specific insulation requirements.

(42) Section N1102.2.1 (R402.2.1) Ceilings with attic spaces. This section has been modified to bring it into alignment with the corresponding section in the 2009 IRC[®] by striking a portion of the section heading (R402.2.1), and by modifying a reference in the section and striking certain other portions of the section. This section has been modified to read: N1102.2.1 Ceilings with attic spaces. Where Section N1102.1.2 would require R-38 in the ceiling, R-30 shall be deemed to satisfy the requirement for R-38 wherever the full height of uncompressed R-30 insulation extends over the wall top plate at the eaves. Similarly, R-38 shall be deemed to satisfy the requirement for R-49 insulation wherever the full height of uncompressed R-38 insulation extends over the wall top plate at the eaves. This reduction shall not apply to the U-factor alternative

approach in Section R1102.1.4 and the total UA alternative in Section R1102.1.5.

(43) Section N1102.2.2 (R402.2.2) Ceilings without attic spaces. This section has been modified to bring it into alignment with the corresponding section in the 2009 IRC[®] by striking a portion of the section heading (R402.2.2), and by adding clarifying language when the roof/ceiling assembly does not allow sufficient space for the required insulation. This section has been modified to read: N1102.2.2 Ceilings without attic spaces. Where Section N1102.1.2 would require insulation levels above R-30 and the design of the roof/ceiling assembly does not allow sufficient space for the required insulation, the minimum required insulation for such roof/ceiling assemblies shall be R-30. This reduction of insulation from the requirements of Section N1102.1.2 shall be limited to 500 square feet (46 square meters) or 20 percent of the total insulated ceiling area, whichever is less. Where Section N1102.1 would require insulation level R-30 and the design of the roof/ceiling assembly does not allow sufficient space for the required insulation, the minimum required insulation for such roof/ceiling assemblies shall be R-19. This reduction of insulation from the requirements of Section N1102.1 shall be limited to 500 square feet (46 square meters) or 20 percent of the total insulated ceiling area, whichever is less.

(44) Section N1102.2.3 (R402.2.3) Eave baffle. This section has been stricken from the code.

(45) Section N1102.2.4 (R402.2.4) Access hatches and doors. This section has been modified to bring it into alignment with the corresponding section in the 2009 IRC[®] by striking a portion of the section heading (R402.2.4), and deleting the exception to the section. This section has been modified to read: N1102.2.4 Access hatches and doors. Access doors from conditioned spaces to unconditioned spaces such as attics and crawl spaces shall be weatherstripped and insulated to a level equivalent to the insulation on the surrounding surfaces. Access shall be provided to all equipment that prevents damaging or compressing the insulation. A wood-framed or equivalent baffle or retainer is required to be provided when loose-fill insulation is installed, the purpose of which is to prevent the loose-fill insulation from spilling into the living space when the attic is opened, and to provide a permanent means of maintaining the installed R-value of the loose-fill insulation.

(46) Section N1102.2.5 (R402.2.5) Mass walls. This section has been modified to bring it into alignment with the corresponding section in the 2009 IRC[®] by striking a portion of the section heading (R402.2.5), and striking a requirement for other walls having a heat capacity greater than or equal to 6 Btu divided by square feet times Fahrenheit (123 kJ divided by square meters times K). This section has been modified to read: N1102.2.5 Mass walls. Mass walls for the purposes of this chapter shall be considered above-grade walls of concrete block, concrete, insulated concrete form (ICF), masonry cavity, brick (other

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than brick veneer), earth (adobe, compressed earth block, rammed earth) and solid timber/logs.

(47) Section N1102.2.6 (R402.2.6) Steel-frame ceilings, walls, and floors. This section has been modified to bring it into alignment with the corresponding section in the 2009 IRC[®] by striking a portion of the section heading (R402.2.26), and by adding an exception for the reduction continuous insulation requirements in Table N1102.2.6 for climate zones 1 and 2 when certain conditions are met. This section has been modified to read: N1102.2.6 Steel-frame ceilings, walls, and floors. Steel-frame ceilings, walls, and floors shall meet the insulation requirements of Table N1102.2.6 or shall meet the U-factor requirements of Table N1102.1.4. The calculation of the U-factor for a steel-frame envelope assembly shall use a series-parallel path calculation method. Exception: In climate zones 1 and 2, the continuous insulation requirements in the Table N1102.2.6 shall be permitted to be reduced to R-3 for steel frame wall assemblies with studs spaced at 24 inches (610 mm) on center.

(48) Section N1102.2.7 (R402.2.7) Walls with partial structural sheathing. This section has been stricken from the code.

(49) Section N1102.2.8 (R402.2.8) Floors. This section has been modified to bring it into alignment with the corresponding section in the 2009 IRC[®] by striking a portion of the section heading (R402.2.8), and striking an exception to the section. This section has been modified to read: N1102.2.8 Floors. Floor framing cavity insulation shall be installed to maintain permanent contact with the underside of the subfloor decking.

(50) Section N1102.2.9 (R402.2.9) Basement walls. This section has been modified to bring it into alignment with the corresponding section in the 2009 IRC[®] by striking a portion of the section heading (R402.2.9), and by making the requirement applicable to the exterior walls of the basement. This section has been modified to read: N1102.2.9 Basement walls. Exterior walls associated with conditioned basements shall be insulated from the top of the basement wall down to 10 feet (3048 mm) below grade or to the basement floor, whichever is less. Walls associated with unconditioned basements shall meet this requirement unless the floor overhead is insulated in accordance with Sections N1102.1.2 and N1102.2.8.

(51) Table N1102.2.6 (R402.2.6) Steel-frame ceiling, wall and floor insulation (R-value). This table has been modified to bring it into alignment with the corresponding table in the 2009 IRC[®] by striking a portion of the table heading (R402.2.6), and by editing specific rows. The table heading has been modified to read: Table N1102.2.6 Steel-frame ceiling, wall and floor insulation (R-value). The table description with modifications, is listed below:

(A) The table has two columns and 23 rows. The first row contains the column headings: Wood frame

R-value requirement and Cold-formed steel equivalent R-value (with a superscript "a" to indicate an associated footnote. The table is divided into five sub-categories:

(i) Steel Truss ceilings (with a superscript "b" to indicate an associated footnote). Under this sub heading there are three rows for values R-30, R-38, and R49. No modifications have been made to this sub-category.

(ii) Steel Joist Ceilings (with a superscript "b" to indicate an associated footnote). Under this subheading there are two rows for values R-30 and R-38. No modifications have been made to sub-category.

(iii) Steel Frame Wall, 16 inches on center. This subheading has been modified to strike the "16 inches on center" portion of the heading. Under the subheading there are five rows for R-values that have been further modified. See section (B) for those modifications.

(iv) Steel Frame Wall, 24 inches on center. This subheading has been modified to strike the "24 inches on center" portion of the heading and to delete all the requirements in this sub-category.

(v) Steel Joist Floor. Under this subheading there are two rows for R-values R-13 and R-19. Both rows have been modified. See section (C) for those modifications.

(B) Steel Frame Wall modifications. This subsection has five rows that have been modified.

(i) Row "R-13." This row has been modified to strike the associated items under the column entitled "Cold-formed steel equivalents" and replace them with: R-13 + 5 or R-15 +4 or R-21 + 3 or R-0 +10.

(ii) Row "R-13 +3." This row has been stricken from the table.

(iii) Row "R- 20." This row title and the associated items under the column entitled "Cold-formed steel equivalents" have been stricken from the table and replaced with the row title "R-19" and with the associated items under the column entitled "Cold-formed steel equivalents" as R-13 +9 or R-19 +8 or R-25 +7.

(iv) Row "R-20 +5." This row has been stricken from the table.

(v) Row "R-21" This row has been modified to strike the associated items under the column entitled "Cold-formed steel equivalents" and replace them with R-13 +10 or R-19 + 9 or R-25 + 8.

(C) Steel Joist Floor. This subsection has two rows which have been modified as follows:

(i) Row "R-13." The associated items under the column entitled "Cold-formed steel equivalents" have been modified to read: R-19 in 2 x 6, R-19 + R-6 in 2 x 8 or 2 x 10.

- (ii) Row "R-19." The associated items under the column entitled "Cold-formed steel equivalents" have been modified to read: R-19 + R-6 in 2 x 6, or R-19 + R-12 in 2 x 8 or 2 x 10.
- (52) Section N1102.2.10 (R402.2.10) Slab-on-grade floors. This section has been modified to bring it into alignment with the corresponding section of the 2009 IRC[®] by striking a portion of the section heading (R402.2.19). This section has been modified to read: N1102.2.10 Slab-on-grade floors. Slab-on-grade floors with a floor surface less than 12 inches (305 mm) below grade shall be insulated in accordance with Table N1102.1.2. The insulation shall extend downward from the top of the slab on the outside or inside of the foundation wall. Insulation located below grade shall be extended the distance provided in Table N1102.1.2 by any combination of vertical insulation, insulation extending under the slab or insulation extending out from the building. Insulation extending away from the building shall be protected by pavement or by not less than 10 inches (254 mm) of soil. The top edge of the insulation installed between the exterior wall and the edge of the interior slab shall be permitted to be cut at a 45 degree (0.79 rad) angle away from the exterior wall. Slab- edge insulation is not required in jurisdictions designated by the building official as having a very heavy termite infestation.
- (53) Section N1102.2.11 (R402.2.11) Crawl space walls. This section has been modified to bring it into alignment with the corresponding section in the 2009 IRC[®] by striking a portion of the section title (R402.2.11). This section has been modified to read: N1102.2.11 Crawl space walls. As an alternative to insulating floors over crawl spaces, crawl space walls shall be permitted to be insulated when the crawl space is not vented to the outside. Crawl space wall insulation shall be permanently fastened to the wall and extend downward from the floor to the finished grade level and then vertically and/or horizontally for at least an additional 24 inches (610 mm). Exposed earth in unvented crawl space foundations shall be covered with a continuous Class I vapor retarder in accordance with this code. All joints of the vapor retarder shall overlap by 6 inches (153 mm) and be sealed or taped. The edges of the vapor retarder shall extend not less than 6 inches (153 mm) up the stem wall and shall be attached to the stem wall.
- (54) Section N1102.2.12 (R402.2.12) Masonry veneer. This section has been modified to bring it into alignment with the corresponding section in the 2009 IRC[®] by striking a portion of the section title (R402.2.12). This section has been modified to read: N1102.2.12 Masonry veneer. Insulation shall not be required on the horizontal portion of the foundation that supports a masonry veneer.
- (55) Section N1102.2.13 (R402.2.13) Sunroom insulation. This section has been modified to bring it into alignment with the corresponding section in the 2009 IRC[®] by striking and renaming portions of the section title and by striking portions of the section and the exception to the

- section and bringing the two requirements from the exception into the body of the section requirements. This section has been modified to read: N1102.2.13 Thermally isolated sunroom insulation. The minimum ceiling insulation R-values shall be R- 19 in Zones 1 through 4 and R-24 in Zones 5 through 8. The minimum wall R-value shall be R-13 in all zones. New walls separating the sunroom from the conditioned space shall meet the building thermal envelope requirements.
- (56) Section N1102.3 (R402.3) Fenestration (Prescriptive). This section has been modified to bring it into alignment with the corresponding section in the 2009 IRC[®] by striking portions of the section heading (R402.3) and (Prescriptive), and the language requiring compliance with Section N1102 and N1102.3.1 through N1102.4.5. This section has been modified to read: N1102.3. Fenestration.
- (57) Section N1102.3.1 (R402.3.1) U-factor. This section has been modified to bring it into alignment with the corresponding section in the 2009 IRC[®] by striking a portion of the section heading (R402.3.1). This section has been modified to read: N1102.3.1 U-factor. An area-weighted average of fenestration products shall be permitted to satisfy the U-factor requirements.
- (58) Section N1102.3.2 Glazed fenestration SHGC. This section has been modified to bring it into alignment with the corresponding section in the 2009 IRC[®] by striking a portion of the section heading (R402.3.2), and by deleting language that allows dynamic glazing to satisfy the SHGC requirements when it meets specific criteria and by striking the exception to the section. This section has been modified to read: N1102.3.2 Glazed fenestration SHGC. An area-weighted average of fenestration products more than 50-percent glazed shall be permitted to satisfy the solar heat gain coefficient (SHGC) requirements.
- (59) Section N1102.3.3 (R402.3.3) Glazed fenestration exemption. This section has been modified to bring it into alignment with the corresponding section of the 2009 IRC[®] by striking a portion of the section heading (R402.3.3). This section has been modified to read: N1102.3.3 Glazed fenestration exemption. Up to 15 square feet (1.4 square meters) of glazed fenestration per dwelling unit shall be permitted to be exempt from U-factor and SHGC requirements in Section N1102.1.2. This exemption shall not apply to the U-factor alternative approach in N1102.1.4 and the total UA alternative approach in N1102.1.5.
- (60) Section N1102.3.4 (R402.3.4) Opaque door exemption. This section has been modified to bring it into alignment with the corresponding section of the 2009 IRC[®] by striking a portion of the section heading (R402.3.4). This section has been modified to read: N1102.3.4 Opaque door exemption. One side-hinged opaque door assembly up to 24 square feet (2.22 square meters) in area is exempted from the U-factor requirement in Section N1102.1.2. This exemption shall not apply to the U-factor alternative approach in Section N1102.1.4 and the total UA alternative in Section N1102.1.5.

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(61) Section N1102.3.5 (R402.3.5) Sunroom fenestration. This section has been modified to bring it into alignment with the corresponding section of the 2009 IRC[®] by striking and renaming the section heading, and striking the requirement for the sunroom enclosing conditioned space to meet the fenestration requirements of the code, and striking a portion of the exception and moving the remainder of the exception into the code language for the section. This section has been modified to read: N1102.3.5 Thermally isolated sunroom U- factor. For zones 4 through 8, the maximum fenestration U-factor shall be 0.50 and the maximum skylight U-factor shall be 0.75. New windows and doors separating the sunroom from conditioned space shall meet the building thermal envelope requirements.

(62) Section N1102.3.6 Replacement fenestration. This section has been added to the code to add a requirement for replacement fenestration to meet the U-factor and SHGC requirements in Table N1102.2.6. This section has been added to read: N1102.3.6 Replacement fenestration. Where some or all of an existing fenestration unit is replaced with a new fenestration product, including sash and glazing, the replacement fenestration unit shall meet the applicable requirements for U-factor and solar heat gain coefficient (SHGC) in Table N1102.1.2.

(63) Section N1102.4 (R402.4) Air leakage (Mandatory). This section has been modified to bring it into alignment with the corresponding section of the 2009 IRC[®] by striking portions of the section heading (R402.4) and (Mandatory), and by deleting the requirement for the building thermal envelope to be constructed to limit air leakage in accordance with the requirements of Sections R1102.4.1 through R1102.4.4. This section has been modified to read: N1102.4 Air leakage.

(64) Section N1102.4.1 (R402.4.1) Building thermal envelope. This section has been modified to bring it into alignment with the corresponding section of the 2009 IRC[®] by striking a portion of the section heading (R402.4.1), and by striking the requirement for the building thermal envelope to comply with Sections N1102.4.1.1 and N1102.4.1.2 and adding requirements for the building thermal envelope to be durably sealed to limit infiltration and requiring several areas to be caulked, gasketed, weather-stripped or otherwise sealed with an air barrier. This section has been modified to read: N1102.4.1 Building thermal envelope. The building thermal envelope shall be durably sealed to limit infiltration. The sealing methods between dissimilar materials shall allow for differential expansion and contraction. The following shall be caulked, gasketed, weather-stripped or otherwise sealed with an air barrier material, suitable film or solid material.

- (A) All joints seams and penetrations.
- (B) Site-built windows, doors and skylights.
- (C) Openings between window and door assemblies and their respective jambs and framing.
- (D) Utility penetrations.
- (E) Dropped ceilings or chases adjacent to the thermal envelope.

(F) Knee walls.

(G) Walls and ceilings separating the garage from conditioned spaces.

(H) Behind tubs and showers on exterior walls.

(I) Common walls between dwelling units.

(J) Attic access openings.

(K) Rim joists junction.

(L) Other sources of infiltration.

(65) Section N1102.4.1.1 (R402.4.1.1) Installation. This section has been modified to bring it into alignment with the corresponding section in the 2009 IRC[®] by striking and renaming portions of the section heading and striking a requirement for the components of the building thermal envelope as listed in Table N1102.4.1.1 to be installed in accordance with the manufacturer's instructions and the criteria listed in Table N1102.4.1.1 and by adding a requirement for the building envelope air tightness and insulation installation be demonstrated to comply with one of the options given by Sections N1102.4.2.1 or N1102.4.2.2. This section has been modified to read: N1102.4.1.1 Air sealing and insulation. Building envelope air tightness and insulation installation shall be demonstrated to comply with one of the following options given by Sections N1102.4.1.2 or N1102.4.1.3.

(66) Section N1102.4.1.2 (R402.4.1.2) Testing. This section has been modified to bring it into alignment with the corresponding section in the 2009 IRC[®] by striking a portion of the section heading, (R402.4.1.2); adding the word "option" to the section heading; deleting requirements for the building or dwelling unit testing and verification to have an air leakage rate meeting certain criteria; and adding other testing requirements. This section has been modified to read: N1102.4.1.2 Testing option. Tested air leakage rate is less than 7 ACH when tested with a blower door at a pressure of 50 Pascals (0.007 psi). Testing shall occur after rough in and after installation of penetrations of the building envelope including penetrations for utilities, plumbing, electrical, ventilation and combustion appliances. During testing:

(A) Exterior windows and doors, fireplace and stove doors shall be closed, but not sealed;

(B) Dampers shall be closed, but not sealed; including exhaust, intake, makeup air, back draft and flue dampers;

(C) Interior doors shall be open;

(D) Exterior openings for continuous ventilation systems and heat recovery ventilators shall be closed and sealed;

(E) Heating and cooling system(s) shall be turned off;

(F) HVAC ducts shall not be sealed; and

(G) Supply and return registers, shall not be sealed.

(67) Section N1102.4.1.3 Visual Inspection has been added to the code. This section has been added to read: N1102.4.1.3 Visual Inspection. The items listed in Table N1102.4.1.1 applicable to the method of construction, are field verified. Where required by the code official, an approved party independent from the installer of the

insulation or contractor, shall inspect the air barrier and insulation. Where no approved party inspects these items the air barrier components shall be viewed as a part of the frame inspection or insulation inspection by the Authority Having Jurisdiction.

(268) Section N1102.4.2. (R402.4.2) Fireplaces. This section has been modified to bring it into alignment with the corresponding section of the 2009 IRC[®] by striking a portion of the heading (R402.4.2) and requiring new wood-burning fireplaces have outdoor combustion air. This section has been modified to remove the requirement of gasketed doors and will now read: N1102.4.2 Fireplaces. New wood-burning fireplaces shall have outdoor combustion air.

(69) Section N1102.4.3 (R402.4.3) Fenestration air leakage. This section has been modified to bring it into alignment with the corresponding section of the 2009 IRC[®] by deleting a portion of the section heading, (R402.4.3). This section has been modified to read: N1102.4.3 Fenestration air leakage. Windows, skylights and sliding glass doors shall have an air infiltration rate of no more than 0.3 cfm per square foot (1.5 L divided by s divided by square meters), and swinging doors no more than 0.5 cfm per square foot (2.5 L divided by s divided by square meters), when tested according to NFRC 400 or AAMA/WDMA/CSA 101/I.S.2/A440 by an accredited, independent laboratory and listed and labeled by the manufacturer. Exception: Site-built windows, skylights, and doors.

(70) Section N1102.4.4 (R402.4.4) Rooms containing fuel burning appliances. This section has been stricken from the code.

(71) Table N1102.4.1.1 (R402.1.1) Air barrier and insulation installation. This table has been modified to bring it into alignment with the corresponding table in the 2009 IRC[®]. The table contains three columns and eighteen rows as published in the 2015 IRC[®]. The first row contains the column headings: "Component", "Air Barrier Criteria" and "Insulation Installation Criteria." The table description with modifications, is listed below:

(A) In Row 1, the second column, entitled "Air Barrier Criteria" has been modified to strike the words "Air Barrier" and is now entitled "Criteria."

(B) In Row 1, the third column, entitled "Insulation Installation Criteria" has been stricken from the table. All corresponding content in all remaining sixteen rows has been stricken.

(C) The following modifications have been made to Row 2:

(i) In the first column, entitled "Component" the wording "General requirements" has been stricken and replaced with: Air barrier and thermal barrier.

(ii) In the second column, entitled "Criteria" the wording "A continuous air barrier shall be installed in the building envelope. The exterior thermal envelope contains a continuous air barrier. Breaks or joints in the air barrier shall be sealed"

has been stricken and replaced with the following: Exterior thermal envelope insulation for framed walls is installed in substantial contact and continuous alignment with the building envelope air barrier. Breaks or joints in the air barrier are filled or repaired. Air-permeable insulation is not used as a sealing material. Air-permeable insulation is inside of an air barrier.

(D) The following modifications have been made to Row 3:

(i) In the second column entitled, "Criteria," in the first sentence the words "The air", "shall be" and "in the air barrier" have been stricken and the sentence has been modified to read: Air barrier in any dropped ceiling/soffit substantially aligned with insulation and any gaps are sealed.

(ii) The second sentence "Access openings, drop down stairs or knee wall doors to unconditioned attic spaces shall be sealed" has been stricken and replaced with the following: Attic access (except unvented attic), knee wall door, or drop down door stair is sealed.

(E) The following modification has been made to Row 4: In the second column, entitled "Criteria," the wording "The junction of the foundation sill plate shall be sealed. The junction of the top plate and the top of the exterior walls shall be sealed. Knee walls shall be sealed," has been stricken and replaced with the following: "Corners and headers are insulated. Junction of foundation and sill plate is sealed."

(F) The following modifications have been made to Row 5:

(i) In the first column, entitled "Component" the word "skylights" has been stricken. The wording now reads: Windows and doors.

(ii) In the second column, entitled "Criteria," the words "and skylights and framing shall be" have been stricken. The word "are" has been added to the wording. The section has been modified to read: The space between window/door jambs and framing are sealed.

(G) The following modification has been made to Row 6: In the second column entitled, "Criteria" the words "shall" and "the" have been stricken and the wording "are insulated and" has been added. The section has been modified to read: Rim joists are insulated and include an air barrier.

(H) The following modification has been made to Row 7: In the second column entitled, "Criteria" the words "The," "shall be" and "insulation" have been stricken and the words "Insulation is installed to maintain permanent contact with the underside of subfloor decking," "is" and "floor" have been added. The section has been modified to read: Insulation is installed to maintain permanent contact with the underside of subfloor decking. Air barrier is installed at any exposed edge of floor.

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(I) The following modification has been made to Row 8: In the second column entitled, "Criteria" the wording "shall be" has been stricken and the words "Insulation is permanently attached to walls" and "is" have been added. The section has been modified to read: Insulation is permanently attached to walls. Exposed earth in unvented crawl spaces is covered with a Class I vapor retarder with overlapping joints taped.

(J) The following modification has been made to Row 9: In the second column entitled, "Criteria" the wording "shall be" has been stricken. The wording "knee walls" and "are" have been added. The section has been modified to read: Duct shafts, utility penetrations, knee walls and flue shafts opening to exterior or unconditioned space are sealed.

(K) The following modification has been made to Row 10 modifications are as follows: In the second column entitled "Criteria" the wording "Batts in narrow cavities are cut to fit, or narrow cavities are filled by sprayed/blown insulation," has been added. Previously the section was blank. This section has been modified to read: Batts in narrow cavities are cut to fit, or narrow cavities are filled by sprayed/blown insulation.

(L) The following modification has been made to Row 11: In the second column entitled, "Criteria" the wording "shall be" has been stricken and replaced with the wording "is." The section has been modified to read: Air sealing is provided between the garage and conditioned space.

(M) The following modifications have been made to Row 12:

(i) In the second column entitled, "Criteria" the wording "installed in the building thermal envelope shall be" has been stricken and replaced with "are air tight, IC rated and." The first sentence has been modified to read: Recessed light fixtures are airtight, IC rated and sealed to the drywall.

(ii) In the second column entitled, "Criteria" an exception has been added to read: Exception: Fixtures in conditioned space.

(N) The following modification has been made to Row 13: In the second column entitled, "Criteria" the wording "Insulation is placed between outside and pipes. Batt insulation is cut to fit around wiring and plumbing or sprayed/blown insulation extends behind piping and wiring" has been added to the previously blank section. The section has been modified to read: Insulation is placed between outside and pipes. Batt insulation is cut to fit around wiring and plumbing or sprayed/blown insulation extends behind piping and wiring.

(O) The following modification has been made to Row 14: In the second column entitled, "Criteria" the wording "The air barrier installed at exterior walls adjacent to" and "shall separate them from the showers

and tubs" has been stricken. The wording "on exterior walls have insulation and an air barrier separating them from the exterior wall" have been added. The section has been modified to read: Showers and tubs on exterior walls have insulation and an air barrier separating them from the exterior wall.

(P) The following modification has been made to Row 15: In the second column entitled, "Criteria" the wording "The," "shall be installed" and "electrical or communication" has been stricken. The wording "extends," "type" and "are" have been added. The section has been revised to read: Air barrier extends behind boxes or air-sealed boxes are installed.

(Q) The following modifications have been made to Row 16: A new row has been added to the table. The added information is listed below:

(i) In the first row entitled, "Component" the wording "Common Wall" has been added. The section has been added to read: Common Wall.

(ii) In the second row entitled, "Component" the wording "Air barrier is installed in common wall between dwelling units" has been added. The section has been added to read: Air barrier is installed in common wall between dwelling units.

(R) The following modification has been made to Row 17: In the second column entitled, "Criteria" the wording "thermal," "shall be" and "the" has been stricken and the word "are" has been added. The section has been modified to read: HVAC register boots that penetrate building envelope are sealed to subfloor and drywall.

(S) The following modifications have been made to Row 18:

(i) In the first column entitled, "Component" the wording "Concealed sprinklers" has been stricken and replaced with "Fireplaces". The section has been modified to read: Fireplaces.

(ii) In the second column entitled, "Criteria" the wording "when required to be sealed, concealed fire sprinklers shall only be sealed in a manner that is recommended by the manufacture. Caulking or other adhesive sealants shall not be used to fill void between fire sprinkler cover plates and walls or ceilings" has been stricken. The wording "Fireplace walls include an air barrier" has been added. The section has been modified to read: Fireplace walls include an air barrier.

(72) Section N1102.4.5 (R402.4.5) Recessed lighting. This section has been modified to bring it into alignment with the corresponding section in the 2009 IRC[®] by striking a portion of the section heading (R402.4.5), and by changing the air leakage rate requirements for recessed luminaries. This section has been modified to read: N1102.4.5 Recessed lighting. Recessed luminaries installed in the building thermal envelope shall be sealed to limit air leakage between conditioned and unconditioned space. All recessed luminaries shall be IC-rated and labeled as meeting ASTM E 283 when tested at 1.57

psi (75 Pa) pressure differential with no more than 2.0 cfm (0.944 L/s) of air movement from the conditioned space to the ceiling cavity. All recessed luminaries shall be sealed with a gasket or caulk between the housing and the interior wall or ceiling cover.

(73) Section N1102.5 (R402.5) Maximum fenestration U-factor and SHGC (Mandatory). This section has been stricken from the code.

(74) Section N1103.1 (R403.1) Controls (Mandatory). This section has been modified to bring it into alignment with the corresponding section in the 2009 IRC[®] by striking portions of the section heading (R403.1) and (Mandatory), and striking the word "provided" and adding the word "installed." This section has been modified to read: N1103.1 Controls. At least one thermostat shall be installed for each separate heating and cooling system.

(75) Section N1103.1.1 (R403.1.1) Programmable thermostat. This section has been ~~stricken from the code~~ modified to bring it into alignment with the corresponding section of the 2009 IRC[®] by striking a portion of the heading (R403.1.1), and making it a requirement for at least one thermostat to be programmable where the primary heating system is a forced air furnace. This section has been modified to read: N1103.1.1 Programmable thermostat. Where the primary heating system is a forced air furnace, at least one thermostat per dwelling unit shall be capable of controlling the heating and cooling system on a daily schedule to maintain different temperature set points at different times of the day. This thermostat shall include the capability to set back or temporarily operate the system to maintain zone temperature down to 55 degrees Fahrenheit (13 degrees Celsius) or up to 85 degrees Fahrenheit (29 degrees Celsius). The thermostat shall initially be programmed with a heating temperature set point no higher than 70 degrees Fahrenheit (21 degrees Celsius) and a cooling temperature set point no lower than 78 degrees Fahrenheit (26 degrees Celsius).

(76) Section N1103.1.2 (R403.1.2) Heat pump supplementary heat (Mandatory). This section has been modified to bring it into alignment with the corresponding section in the 2009 IRC[®] by striking portions of the section heading (R403.1.2) and (Mandatory). This section has been modified to read: N1103.1.2 Heat pump supplementary heat. Heat pumps having supplementary electric-resistance heat shall have controls that, except during defrost, prevent supplemental heat operation when the heat pump compressor can meet the heating load.

(77) Section N1103.2 (R403.2) Hot water boiler outdoor temperature setback. This section has been stricken from the code.

(78) Section N1103.3 (R403.3) Ducts. This section has been modified to bring it into alignment with the corresponding section of the 2009 IRC[®] by striking a portion of the section heading (R403.3) and by striking the requirement for ducts and air handlers to be in accordance with Sections N1103.3.1 through N1103.3.5. This section has been modified to read: Section N1103.3 Ducts.

(79) Section N1103.3.1 (R403.3.1) Insulation (Prescriptive). This section has been modified to bring it into alignment with the corresponding section of the 2009 IRC[®] by striking portions of the section heading (R403.3.1) and (Prescriptive), and by requiring supply ducts in attics to be insulated to a minimum of R-8 and all other ducts to be insulated to a minimum of R-6. This section has been modified to read: N1103.3.1 Insulation. Supply ducts in attics shall be insulated to a minimum of R-8. All other ducts shall be insulated to a minimum of R-6. Exception: Ducts or portions thereof located completely inside the building thermal envelope.

(80) Section ~~N1103.2.2~~N1103.3.2 (R403.3.2) Sealing (Mandatory). This section has been modified to bring it into alignment with the corresponding section of the 2009 IRC[®] by striking portions of the section heading (R403.3.2) and (Mandatory), and by requiring building cavities used as ducts to be sealed, striking a requirement for joints and seams to comply with the International Mechanical Code[®], requiring duct tightness to be verified by one of two tests: rough-in or post construction, by deleting two exceptions to the section and to include the following exception: Visual inspection may be used instead of the rough-in test and post construction test. This section has been modified to read: N1103.3.2 Sealing. Ducts, air handlers, filter boxes and building cavities used as ducts shall be sealed. Joints and seams shall comply with Section M1601.4. For duct systems with sheet metal plenums, Y's and supply boots, only liquid applied sealants complying with UL 181 BM (Mastic or similar) or equivalent method, shall be used to seal inner liners and start collars to plenum and any other seams in the system. Duct tightness shall be verified by one of the following:

(A) Post-construction test: Leakage to outdoors shall be less than or equal to 8 cfm (3.78 L/s) per 100 square feet (9.29 square meters) of conditioned floor area or a total leakage less than or equal to 12 cfm (5.66 L/s) per 100 square feet (9.29 square meters) of conditioned floor area when tested at a pressure differential of 0.1 inch w.g. (25 Pa) across the entire system, including the manufacturer's air handler end closure. All register boots shall be taped or otherwise sealed during the test.

(B) Rough-in test: Total leakage shall be less than or equal to 6 cfm (2.83 L/s) per 100 square feet (9.29 square meters) of conditioned floor area when tested at a pressure differential of 0.1 inch w.g. (25 Pa) across the roughed in system, including the manufacturer's air handler enclosure. All registered boots shall be taped or otherwise sealed during the test. If the air handler is not installed at the time of the test, total leakage shall be less than or equal to 4 cfm (1.89 L/s) per 100 square feet (9.29 square meters) of conditioned floor space.

(C) Visual verification by the Authority Having Jurisdiction or an approved agency.

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- (D) Exception: Duct tightness test is not required if the air handler and all ducts are located within conditioned space.
- (81) Section N1103.3.2.1 (R403.2.1) Sealed air handler. This section has been stricken from the code.
- (82) Section N1103.3.3 (R403.3.3) Duct testing (Mandatory). This section has been stricken from the code.
- (83) Section N1103.3.4 (R403.3.4) Duct leakage (Mandatory). This section has been stricken from the code.
- (84) Section N1103.3.5 (R403.3.5) Building cavities (Mandatory). This section has been modified to bring it into alignment with the corresponding section in the 2009 IRC[®] by striking portions of the section heading (R403.3.5) and (Mandatory), and by prohibiting building cavities from being used as supply ducts. This section has been modified to read: N1103.3.5 Building cavities. Building framing cavities shall not be used as supply ducts.
- (85) Section N1103.4 (R403.4) Mechanical system piping insulation (Mandatory). This section has been modified to bring it into alignment with the corresponding section in the 2009 IRC[®] by striking portions of the section heading (R403.4) and (Mandatory), and by changing the R-value. This section has been modified to read: N1103.4 Mechanical system piping insulation. Mechanical system piping capable of carrying fluids above 105 degree Fahrenheit (41 degrees Celsius) or below 55 degrees Fahrenheit (13 degrees Celsius) shall be insulated to a minimum of R-2.
- (86) Section N1103.4.1 (R403.4.1) Protection of piping insulation. This section has been stricken from the code.
- (87) Section N1103.5 (R403.5) Service hot water systems. This section has been modified by striking a portion of the section heading (R403.5), amending the section heading to include the word "Circulation," and adding the wording "potable" to the text of the section to further define the system type. This section has been modified to read: N1103.5 Circulation service hot water systems from N1103.5.1 and N1103.5.2. Energy conservation measures for circulation service potable hot water systems shall be in accordance with Sections N1103.5.1 and N1103.5.2.
- (88) Section N1103.5.1 (R403.5.1) Heated water circulation and temperature maintenance systems (Mandatory). This section has been modified to remove a portion of the section heading (R403.5.1). This section has been modified to read: N1103.5.1 Heated water circulation and temperature systems (Mandatory). Heated water circulation systems shall be in accordance with Section R1103.5.1.1. Heat trace temperature maintenance systems shall be in accordance with Section R1103.5.1.2. Automatic controls, temperature sensors and pumps shall be accessible. Manual controls shall be readily accessible.
- (89) Section N1103.5.1.1 (R403.5.1.1) Circulation systems. This section has been modified to remove a portion of the section heading (R403.5.1.1). This section has been modified to read: N1103.5.1.1 Circulation systems.

Heated water circulation systems shall be provided with a circulation pump. The system return pipe shall be a dedicated return pipe or a cold water supply pipe. Gravity and thermo-syphon circulation systems shall be prohibited. Controls for circulating hot water system pumps shall start the pump based on the identification of a demand for hot water within the occupancy. The controls shall automatically turn off the pump when the water in the circulation loop is at the desired temperature and when there is no demand for hot water.

(90) Section N1103.5.1.2 (R403.5.1.2) Heat trace systems. This section has been modified to remove a portion of the section heading (R403.5.1.2). This section has been modified to read: N1103.5.1.2 Heat trace systems. Electric heat trace systems shall comply with IEEE 515.1 or UL 515. Controls for such systems shall automatically adjust the energy input to the heat tracing to maintain the desired water temperature in the piping in accordance with the times when heated water is used in the occupancy.

(91) Section N1103.5.2 (R403.5.2) Demand recirculation systems. This section has been modified to strike a portion of the section heading (R403.5.2). This section has been modified to read: N1103.5.2 Demand recirculation systems. A water distribution system having one or more recirculation pumps that pump water from a heated water supply pipe back to the heated water source through a cold water supply pipe shall be a demand recirculation water system. Pumps shall have controls that comply with both of the following:

(A) The control shall start the pump upon receiving a signal from the action of a user of a fixture or appliance, sensing the presence of a user of a fixture or sensing the flow of hot or tempered water to a fixture fitting or appliance.

(B) The control shall limit the temperature of the water entering the cold water piping to 104 degrees Fahrenheit (40 degrees Celsius).

(92) Section N1103.5.3 (R403.5.3) Hot water pipe insulation (Prescriptive). This section has been modified to strike a portion of the header (R403.5.3), and by changing the size of piping required to have insulation from 3/4 inch to 1 inch. This section has been modified to read: N1103.5.3 Hot water pipe insulation (Prescriptive). Insulation for hot water pipe with a minimum thermal resistance (R-value) of R-3 shall be applied to the following:

(A) Piping 1 inch (25 mm) and larger in nominal diameter.

(B) Piping serving more than one dwelling unit.

(C) Piping located outside the conditioned space.

(D) Piping from the water heater to the distribution manifold.

(E) Piping located under a floor slab.

(F) Buried in piping.

(G) Supply and return piping in recirculation systems other than demand recirculation systems.

(93) Section N1103.5.4 (R403.5.4) Drain water heat recovery units. This section has been stricken from the code.

(94) Section N1103.6 (R403.6) Mechanical ventilation (Mandatory). This section has been modified to bring it into alignment with the corresponding section in the 2009 IRC[®] by striking portions of the section heading (R403.6) and (Mandatory), and by requiring outdoor air intakes and exhausts to have automatic or gravity dampers that close when the ventilation system is not operating. This section has been modified to read: N1103.6 Mechanical ventilation. Outdoor air intakes shall have automatic or gravity dampers that close when the ventilation system is not operating.

(95) Section N1103.6.1 (R403.6.1) Whole-house mechanical ventilation system fan efficacy. This section has been stricken from the code.

(96) Section N1103.7 (R403.7) Equipment sizing and efficiency rating (Mandatory). This section has been modified by bring it into alignment with the corresponding section in the 2009 IRC[®] by striking portions of the section heading (R403.7) and (Mandatory), and by requiring the heating and cooling equipment to be sized according to Section M1401.3. This section has been modified to read: N1103.7 Equipment sizing and efficiency rating. Heating and cooling equipment shall be sized as specified in M1401.3.

(97) Table N1103.6.1 (R403.6.1) Mechanical ventilation system fan efficacy. This table has been stricken from the code.

(98) Section N1103.8 (R403.8) Systems serving multiple dwelling units (Mandatory). This section has been stricken from the code.

(99) Section N1103.9 (R403.9) Snow melt system controls (Mandatory). This section has been modified to bring it into alignment with the corresponding section in the 2009 IRC[®] by striking portions of the section heading (R403.9) and (Mandatory). This section has been modified to read: N1103.9 Snow melt system controls. Snow- and ice-melting systems, supplied through energy service to the building shall include automatic controls capable of shutting off the system when the pavement temperature is above 50 degrees Fahrenheit (10 degrees Celsius), and no precipitation is falling and an automatic or manual control that will allow the shutoff when the outdoor temperature is above 40 degrees Fahrenheit (5 degrees Celsius).

(100) Section N1103.10 (R403.10) Pools and permanent spa energy consumption (Mandatory). This section has been modified to bring it into alignment with the corresponding section of the 2009 IRC[®] by striking portions of the section heading (R403.10) and (Mandatory), and by modifying the heading and the requirements in the section so the section is applicable only for pools. This section has been modified to read: N1103.10 Pools. Pools shall be provided with energy conservation measures in accordance with Sections N1103.10.2 through N1103.10.4.

(101) Section N1103.10.1 (R403.10.1) Residential pools and permanent residential spas. This section has been stricken from the code.

(102) Section N1103.10.2 (R403.10.2) Heaters. This section has been modified to bring it into alignment with

the corresponding section in the 2009 IRC[®] by striking a portion of the section heading (R403.10.2), modifying the Section heading to include the word "Pool" and modifying the section to require all pool heaters to be equipped with a readily accessible on- off switch without adjusting the thermostat settings and prohibiting all pool heaters fired by natural gas or LPG to have continuously burning pilot lights. This section has been modified to read: N1103.10.2 Pool heaters. All pool heaters shall be equipped with a readily accessible on-off switch to allow shutting off the heater without adjusting the thermostat setting. Pool heaters fired by natural gas or LPG shall not have continuously burning pilot lights.

(103) Section N1103.10.3 (R403.10.3) Time switches. This section has been modified to bring it into alignment with the corresponding section in the 2009 IRC[®] by striking a portion of the section heading (R403.10.3), and requiring time switches on all pool heaters and pumps that can automatically turn off the heater or pump. This section has been modified to read: N1103.10.3 Time switches. Time switches that can automatically turn off and on heaters and pumps according to a preset schedule shall be installed on swimming pool heaters and pumps. Exceptions:

(A) Where public health standards require 24-hour pump operation.

(B) Where pumps are required to operate solar- and waste-heat-recovery pool heating systems.

~~(104)~~ Section N1103.8.3N1103.10.4 (R403.10.4) Pool covers. This section has been modified to bring it into alignment with the corresponding section in the 2009 IRC[®] by striking a portion of the section heading (R403.10.4), striking the exception to the section, and remove removing the requirement for heated pools to have a vapor retardant pool cover on or at the water surface. This section will now has been modified to read: N1103.10.4 Pool covers. Pools heated to more than 90 degrees Fahrenheit (32 degrees Celsius) shall have a pool cover with a minimum insulation value of R-12.

(105) Section N1103.11 (R403.11) Portable spas (Mandatory). This section has been stricken from the code.

(106) Section N1103.12 (R403.12) Residential pools and permanent residential spas. This section has been stricken from the code.

(107) Section N1104 (R404) Electrical power and lighting systems (Mandatory). This section has been modified to bring it into alignment with the corresponding section in the 2009 IRC[®] by striking portions of the section heading. This section has been revised to read: N1104 Lighting Systems.

~~(108)~~ Section N1104.1 (R404.1) Lighting equipment (Mandatory). This section has been modified to bring it into alignment with the corresponding section in the 2009 IRC[®] by striking a portion of the section heading (R404.1) and to include the wording "luminaries" in place of "lighting fixtures" in the code language following exception: Can or recessed lights are exempt from this

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~~section of the code. This section has been modified to read: N1104.1 Lighting equipment. Not less than 75 percent of the lamps in permanently installed luminaires shall be high-efficacy lamps or not less than 75 percent of the permanently installed luminaires shall contain only high-efficacy lamps. Exception: Low-voltage lighting.~~

~~(109) Section N1104.1.1 (R401.1) Lighting equipment (Mandatory). This section has been stricken from the code.~~

~~(110) Section N1105 (R405) Simulated performance alternative (performance). This section, including all subsections and tables, has been stricken from the code.~~

~~(111) Section N1106 (R406) Energy rating index compliance alternative. This section, including all subsections and tables, has been stricken from the code.~~

~~(112) Section N1107 (R501) Existing Buildings - General. This section, including all subsections, has been stricken from the code.~~

~~(113) Section N1108 (R502) Additions. This section, including all subsections, has been stricken from the code.~~

~~(114) Section N1109 (R503) Alterations. This section, including all subsections, has been stricken from the code.~~

~~(115) Section N1110 (R504) Repairs. This section, including all subsections, has been stricken from the code.~~

~~(116) Section N1111 (R505) Change of occupancy or use. This section, including all subsections, has been stricken from the code.~~

748:20-5-13. IRC®20092015 Chapter 15 Exhaust Systems

Chapter 15 is adopted with the following modifications as follows:

(1) Section M1502.3 Duct termination. This section has been modified to ~~add~~ a requirement that exhaust ducts ~~not terminate within 3 feet of condensing units~~ ~~has been added~~ a minimum of 12 inches (305 mm) above the ground or any obstruction. This section has been modified to read: M1502.3 Duct termination. Exhaust ducts shall terminate on the outside of the building. Exhaust duct terminations shall be in accordance with the dryer manufacturer's installation instructions. If the manufacturer's instructions do not specify a termination location, the exhaust duct shall terminate not less than 3 feet (914 mm) in any direction from the openings into buildings not less than 12 inches from finished ground level or other obstruction. Exhaust duct terminations shall be equipped with a backdraft damper. Additionally, exhaust shall not terminate within 3 feet (914 mm) of condensing units and a minimum 12 inches (305 mm) from the ground or any obstruction. Screens shall not be installed at the duct termination.

(2) M1502.4.2 Duct installation. This section has been modified to prohibit ducts from being joined with any screws or similar fasteners that protrude into the inside of the duct and to change the length of support intervals from 12 feet to 4 feet. This section has been modified to read: M1502.4.2 Duct installation. Exhaust ducts shall be supported at 4 feet (1219 mm) intervals and secured in place.

The insert end of the duct shall extend into the adjoining duct or fitting in the direction of airflow. Ducts shall not be joined with screws or similar fasteners that protrude into the inside of the duct.

748:20-5-13.1. IRC® 2015 Chapter 16 Duct Systems

Chapter 16 of the 2015 IRC® is adopted with the following modifications:

(1) Table M1601.1.1 Duct construction minimum sheet metal thickness for single dwelling units has been stricken from the code and replaced with a newly created table with the same table heading. The newly created table contains three columns and three rows and a footnote. The description of the newly created table is listed below:

(A) Row 1: Contains the three column headings as follows:

(i) Column 1 heading is entitled "Duct Size"

(ii) Column 2 heading is entitled "Galvanized" with two sub-columns; the first sub-column is entitled "Minimum Thickness (inches)" and the second sub-column is entitled "Equivalent Galvanized Gage No."

(iii) Column 3 heading is "Approximate Aluminum B and S Gage."

(B) Row 2: Under the first column entitled "Duct Size" are four sub-rows with corresponding dashes or figures that match to each sub-row in the second (including sub-columns) and third columns. Those sub-rows and figures are as follows:

(i) Sub-row 1 in column 1 lists "Round ducts and enclosed" and in column 2 entitled, "Galvanized," (sub-column "Minimum Thickness (inches) and sub-column "Equivalent Galvanized Gage No." and in column 3 entitled "Approximate Aluminum B and S Gage" a "dash" is listed instead of a figure.

(ii) Sub-row 2 in column 1 lists "Rectangular ducts" and in column 2, entitled "Galvanized" (sub-column "Minimum Thickness (inches)" and sub-column "Equivalent Galvanized Gage No." and in column 3, entitled "Approximate Aluminum B and S Gage" a "dash" is listed instead of a figure.

(iii) Sub-row 3 in column 1 lists "14 inches or less" and in column 2, entitled "Galvanized," sub-column "Minimum Thickness (inches)" lists the figure "0.013", sub-column "Equivalent Galvanized Gage No." lists the figure "30," and column 3 entitled "Approximate Aluminum B and S Gage" lists the figure "26."

(iv) Sub-row 4 in column 1 lists "Over 14 inches" and in column 2, sub-column "Minimum Thickness (inches)" lists the figure "0.16", sub-column "Equivalent Galvanized Gage No." lists the figure "28" and column 3 entitled "Approximate Aluminum B and S Gage" lists the figure "24."

(C) Row 3: Under the first column entitled "Duct Size" are three sub-rows with corresponding dashes or figures that match to each sub-row in the second column and the third column. Those sub-rows and figures are as follows:

(i) Sub-row 1 in column 1 lists "Exposed rectangular ducts" and in column 2, entitled, "Galvanized," (sub-column "Minimum Thickness (inches) and sub-column "Equivalent Galvanized Gage No." and in column 3 entitled "Approximate Aluminum B and S Gage" a "dash" is listed instead of a figure.

(ii) Sub-row 2 in column 1 lists "14 inches or less" and in column 2, sub-column "Minimum Thickness (inches)" lists the figure "0.016", sub-column "Equivalent Galvanized Gage No." lists the figure "28" and column 3 entitled "Approximate Aluminum B and S Gage" lists the figure "24."

(iii) Sub-row 3 in column 1 lists "Over 14 inches" and has a superscript "a" to indicate an associated footnote. In column 2, sub-column "Minimum Thickness (inches)" lists the figure "0.19", sub-column "Equivalent Galvanized Gage No." lists the figure "26" and column 3 entitled "Approximate Aluminum B and S Gage" lists the figure "22."

(D) Between the end of the table and Footnote "a" is the wording "For SI: 1 inch is equal to 25.4 mm."

(E) Footnote "a" has been added to read: a. Ductwork that exceeds 20 inches by dimension or exceeds a pressure of 1 inch water gage (250 pa) shall be constructed in accordance with SMACNA HVAC Duct Construction Standards Metal and Flexible.

(2) Section M1601.4.1 Joints, seams, and connections. This section has been modified to add a fourth exception for duct systems with sheet metal plenums, Y's and supply boots with liquid applied sealants. This section has been modified to read: M1601.4.1 Joints, seams and connections.

(A) Longitudinal and transverse joints, seams and connections in metallic and nonmetallic ducts shall be constructed as specified in SMACNA HVAC Duct Construction Standards-Metal and Flexible and NAIMA Fibrous Glass Duct Construction Standards. Joints, longitudinal and transverse seams, and connection in ductwork shall be securely fastened and sealed with welds, gaskets, mastics (adhesive), mastic-plus- embedded-fabric systems, liquid sealants or tapes. Tapes and mastics used to seal fibrous glass ductwork shall be listed and labeled in accordance with UL 181A and shall be marked "181A-P" for pressure-sensitive tape, "181 A-M" for mastic or "181 A-H" for heat sensitive tape.

(B) Tapes and mastics used to seal metallic and flexible air ducts and flexible air connectors shall comply with UL 181B and shall be marked "181 B-FX" for pressure- sensitive tape or "181 BM" for

mastic. Duct connections to flanges of air distribution system equipment shall be sealed and mechanically fastened. Mechanical fasteners for use with flexible nonmetallic air ducts shall comply with UL 181B and shall be marked 181B-C. Crimps joints for round metallic ducts shall have a contact lap of not less than 1 inch (25 mm) and shall be mechanically fastened by means of not less than three sheet- metal screws or rivets equally spaced around the joint.

(C) Closure systems used to seal all ductwork shall be installed in accordance with the manufacturers' instructions.

(D) Exceptions:

(i) Spray polyurethane foam shall be permitted to be applied without additional joint seals.

(ii) Where a duct connection is made that is partially inaccessible, three screws or rivets shall be equally spaced on the exposed portion of the joint so as to prevent a hinge effect.

(iii) For ducts having a static pressure classification of less than 2 inches of water column (500 Pa), additional closure systems shall not be required for continuously welded joints and seams and locking-type joints and seams of other than the snap- lock and button-lock types.

(iv) For duct systems with sheet metal plenums, Y's and supply boots, only liquid applied sealants complying with UL 181 BM (Mastic or similar) or equivalent method, shall be used to seal inner liners and start collars to plenum and any other seams in system.

748:20-5-13.2. IRC® 2015 Chapter 19 Special Appliances, Equipment and Systems

Chapter 19 of the IRC® 2015 is adopted with the following modification. Section M1903.1.1 Electrical requirements has been added to the code. This section has been added to read: M1903.1.1 Electrical requirements. In addition to the requirements of M1903.1, interconnection and all associated wiring shall be installed in accordance with NFPA 70, NEC®, 2014, Article 692 Fuel Cell Systems.

748:20-5-14. IRC®20092015 Chapter 24 Fuel Gas

Chapter 24 is of the IRC® 2015 adopted with the following modifications modificationas follows: Section G2415.12 Minimum burial depth. This section has been modified to require all underground piping systems to be installed a minimum of 18 inches below grade. This section has been revised to read: G2415.12 Minimum burial depth. Underground piping systems shall be installed a minimum depth of 18 inches (457.5 mm) below grade, except as provided for in Section G2415.12.1.

(4) Section G2406.3 (303.6) Outdoor locations. This section has been modified to require protection for outdoor appliances be approved. This section has been modified to read: Appliances installed in outdoor locations shall be either listed for outdoor installation or provided with

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approved protection from outdoor environmental factors that influence the operability, durability and safety of the appliance.

(2) ~~Tables G2413.4(3), G2413.4(4). These tables have been stricken from the code.~~

(3) ~~Section G2414.5.2 Copper tubing. This section has been modified to read: Copper tubing shall be prohibited for natural gas installations, but shall be allowed for liquefied petroleum gas installations.~~

(4) ~~The International Code Council Emergency Amendment dated September 27, 2010 has been adopted. This amendment replaces in their entirety Sections 406.7 of the IFGC and G2417.7 of the IRC 2009.~~

748:20-5-15. IRC_@20092015 Chapter 25 Plumbing Administration

Chapter 25 of the IRC @ 2015 is adopted with the following modifications as follows:

(1) P2503.4 Building sewer ~~test~~testing. This section has been modified to ~~note~~clarify that the building sewer test is only necessary when the local authority having jurisdiction requires the testing to be done and to change the building sewer test height requirement from a 10-foot high test to a 5-foot high test. This section has been modified to read: P2503.4 Building sewer testing.

(A) When required by local authority having jurisdiction, the building sewer shall be tested by insertion of a test plug at the point of connection with the public sewer, ~~and~~ filling the building sewer with water and pressurizing the sewer testing with to not less than ~~10 foot~~5-foot (30481024 mm) head of water. The test pressure shall not decrease during a period of not less than and be able to maintain such pressure for 15 minutes. The building sewer shall be water tight at all points.

(B) A forced sewer test shall consist of pressuring the piping to a pressure of not less than 5 psi (34.5 kPa) greater than the pump rating and maintaining such pressure for not less than 15 minutes. The forced sewer shall be water tight at all points.

(2) P2503.6 Shower liner test. This section has been modified to require this test at plumbing final. This section has been modified to read: Where shower floors and receptors are made water tight by the application of materials required by Section P2709.2, the completed liner installation shall be tested at plumbing final. 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 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 deep measured at the threshold. The water shall be retained for a test period of not less than 15 minutes and there shall be no evidence of leakage.

(3) P2503.7 Water-supply system testing. This section has been modified to delete the word "plastic" and replace it with the terms "PVC" and "CPVC." This section

~~shall~~has been modified to read: P2503.7 Water-supply system testing. Upon completion of the water-supply system or a section of it, the system or portion completed shall be tested and proved tight under a water pressure of not less than the working pressure of the system or, for piping systems other than PVC or CPVC, by an air test of not less than 50 psi (345 kPa). This pressure shall be held for not less than 15 minutes. The water used for tests shall be obtained from a potable water source.

748:20-5-16. IRC_@20092015 Chapter 26 General Plumbing Requirements

Chapter 26 of the IRC @ 2015 is adopted with the following modifications as follows:

(1) Section P2603.4 Pipes through foundation walls. This section has been modified to add a requirement for the relieving arch or pipe sleeve to comply with the materials and standards listed in Table 3002.1(2). This section has been modified to read: P2603.4 Pipes through foundation walls. A pipe that passes through a foundation wall shall be provided with a relieving arch, or a pipe sleeve shall be built into the foundation wall. The relieving arch or pipe sleeve shall conform to one of the materials and standards listed in Table P3002.1(2). The sleeve shall be two pipe sizes greater than the pipe passing through the wall.

(2) ~~P2603.6.1~~P2603.5.1 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: P2603.5.1 Sewer depth. Building sewers that connect to private sewage disposal systems shall be ~~a minimum of~~not less than 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~~not less than 12 inches (305 mm) below grade.

748:20-5-17. IRC_@20092015 Chapter 27 Plumbing Fixtures

Chapter 27 of the IRC @ 2015 is adopted with the following modifications as follows:

(1) Section P2704.1 General. This section has been modified to allow installation of slip joints ~~anywhere~~ between the fixture ~~and trap outlet~~ to within 18 inches downstream of the trap outlet seal. ~~¶~~This section has been modified to read: P2704.1 General. Slip joints shall be made with an approved elastomeric gasket and shall be installed from the fixture to within 18 inches (457 mm) downstream of the 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.

(2) Section P2709.2 Lining required. This section has been modified ~~and it has been noted that~~ to clarify it is only

effective where required and to change the distance the lining material must extend from 2 inches to 3 inches (51 mm to 76 mm). The first paragraph of this section has been modified to read: P2709.2 Lining required.

(A) Where required, the adjoining walls and floor framing enclosed on-site built-up shower receptors shall be lined with one of the following materials; ~~listed in IRC 2009, Section P2709.2 Lining required. The remainder of this section is adopted without modification.~~

- (i) Sheet lead.
- (ii) Sheet copper.
- (iii) Plastic liner material complies with ASTM D 4068 or ASTM D 4551.
- (iv) Hot mopping in accordance with Section P2709.2.3.
- (v) Sheet-applied load-bearing, bonded waterproof membranes that comply with ANSI A118.10.

(B) The lining material shall extend not less than 3 inches (76 mm) beyond or around the rough jambs and not less than 3 inches (76 mm) above finished thresholds. Sheet-applied load bearing, bonded waterproof membranes shall be applied in accordance with the manufacturer's installation instructions.

(3) Section P2715.1 Laundry tray waste outlet. This section has been modified ~~and to replace the word "tub" has been replaced with the word "tray" in the section heading and section language.~~ This section has been modified to read: P2715.1 Laundry tray waste outlet. Each compartment of a laundry tray shall be provided with a waste outlet not less than 1 1/2 inches (38 mm) in diameter and a strainer or crossbar to restrict the clear opening of the waste outlet.

748:20-5-18. IRC 2009 Chapter 28 Water Heaters [REVOKED]

Chapter 28 is adopted with modifications as follows:

(1) ~~Section P2801.5 Required pan. This section has been modified to specify that a pan is required for tank type water heaters or hot water storage tanks only. This section has been modified to read: Where tank type water heaters or hot water storage tanks are installed in locations where leakage of the tanks or connections will cause damage, the tank or water heater shall be installed in a galvanized steel pan having a material thickness of not less than 0.0236 inch (0.6010 mm) (No 24 gage), or other pans approved for such use. Listed pans shall comply with CSA LC3.~~

(2) ~~Section P2803.1 Relief valves required. This section has been modified to specify the relief valve requirements and specifications in this section are for tank type appliances and equipment only. The first paragraph of this section has been modified to read: Tank type appliances and equipment used for heating water or storing hot water shall be protected utilizing the options listed in IRC 2009, Section P2803.1. The remainder of this section is adopted without modification.~~

748:20-5-19. IRC ~~2009~~2015 Chapter 29 Water Supply and Distribution

Chapter 29 of the IRC [®] 2015 is adopted with the following modifications as follows:

(1) Section P2902.5.3 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: P2902.5.3 Lawn irrigation systems. The potable water supply to lawn irrigation systems shall be protected against backflow by an atmospheric type ~~atmospheric~~ vacuum breaker, a ~~pressure type~~ pressure vacuum breaker assembly, a spill resistant backflow preventer ~~resistance vacuum breaker~~ or a reduced pressure principle backflow prevention assembly. ~~A valve~~ Valves 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 ~~prevention assembly.~~

(2) ~~Section P2903.8.6 Hose bibb bleed. This section has been modified to specify it is only pertinent when the authority having jurisdiction requires it. This section has been modified to read: Where authority having jurisdiction requires a readily accessible air bleed shall be installed in hose bibb supplies at the manifold or at the hose bibb exit point.~~

(3) ~~Section P2903.9.1 Service valve. This section has been modified to strike the provision for drainage such as a bleed orifice or installation of a separate drain valve. This section shall now read: Each dwelling unit shall be provided with an accessible main shutoff valve near the entrance of the water service. The valve shall be of a full open type having nominal restriction to flow. Additionally, the water service shall be valved at the curb or property line in accordance with local requirements.~~

(4) ~~Section P2903.10 Hose bibb. This section has been modified to strike the requirement for a stop and waste type valve and the exception. This section has been modified to read: P2903.10 Hose bibb. Hose bibs subject to freezing, including the "frost-proof" type, shall be equipped with an accessible valve inside the building so that they can be controlled and/or drained during cold periods.~~

(5) ~~Section P2904.1 General. This section has been modified to read: Where installed, residential fire sprinkler systems, or portions thereof, shall be in accordance with NFPA 13D.~~

(6) ~~Sections Section P2904.1.1 — Section P2904.8.2 Dwelling Unit Fire Sprinkler System Provisions and Certain Tables Stricken Required sprinkler locations. This section has been modified to clarify sprinklers shall only be installed to protect all areas of a townhouse dwelling unit. This section has been modified to read: Sections Section P2904.1.1 through Section P2904.8.2 and tables P2904.6.2(1) through P2904.6.2(9) have been stricken from the code Required sprinkler locations. Sprinklers shall be installed to protect all areas of a townhouse dwelling unit.~~

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(74) Section ~~P2905.4~~P2906.4 Water service pipe. This section has been modified to require piping materials not third-party certified for water distribution, to terminate at least 30 inches outside of the exterior wall. It has also been modified to strike the requirement of the termination to be before the full open valve located at the entrance to the structure. This section has been modified to read: P2906.4 Water service pipe. Water service pipe shall conform to NSF 61 and shall conform to one of the standards ~~listed~~indicated in Table ~~P2905.4~~P2906.4. Water service pipe or tubing, installed underground and outside of the structure, shall have a minimum working pressure rating of not less than 160 pounds per square inch at 73 degrees Fahrenheit (1103 kPa at 23 degrees Celsius). Where the water pressure exceeds 160 pounds per square inch, (1103 kPa), piping material shall have a rated working pressure equal to or greater than the highest available pressure. Water service piping materials not third-party certified for water distribution shall terminate at least 30 inches outside the exterior wall. Ductile iron water service piping shall be cement mortar lined in accordance with AWWA ~~C104~~C104/A21.4.

(8) Table ~~P2905.4~~ Water service pipe. This table has been modified. ~~Asbestos cement pipe has been stricken from the code.~~

748:20-5-20. IRC_@20092015 Chapter 30 Sanitary Drainage

Chapter 30 of the IRC_@ 2015 is adopted with the following modifications as follows:

(1) Section P3003.2 Prohibited joints. This section has been modified to include ~~the following an exception: for "Saddle-type" fittings may be used to connect the building sewer to a public sewer.~~ This section has been modified to read: P3003.2 Prohibited joints. Running threads and bands shall not be used in the drainage system. Drainage and vent piping shall not be drilled, tapped, burned, or welded. The following types of joints and connections shall be prohibited:

- (A) Cement or concrete.
- (B) Mastic or hot-pour bituminous joints.
- (C) Joints made with fittings not approved for the specific installation.
- (D) Joints between different diameter pipes made with elastomeric rolling O-rings.
- (E) Solvent-cement joints between different types of plastic pipe.
- (F) Saddle-type fittings. Exception: Where approved by the jurisdiction, saddle-type fittings shall be permitted to connect the building sewer to a public sewer.

(2) Section P3003.9.2 Solvent cementing. This section has been modified to delete the exception that allows for primer to not be used under certain conditions. This section has been modified to read: P3003.9.2 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 B 137.3 or CSA B181.2 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 installed above or below ground.

(23) Section P3008.1 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 and by deleting the exception. ~~This section has been modified to read: P3008.1 Sewage backflow.~~ Where the flood level rims of plumbing fixtures are 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, branch of the building drain or horizontal branch servicing such fixtures.

748:20-5-21. IRC 2009 Chapter 31 Vents [REVOKED]

~~Chapter 31 is adopted with modifications as follows: Section P3103.4 Prohibited used. This section has been modified and the exception has been deleted. It has been modified to read: Vent terminals shall not be used as a flag pole or to support flag poles, TV aerials, or similar items.~~

748:20-5-22. IRC_@ 20092015 Chapter 34 General Requirements (Electrical)

Chapter 34 of the IRC_@ 2015 is adopted with the following modifications as follows:

(1) Section E3402.2 Penetrations of fire-resistance-rated assemblies. This section has been modified to correct the reference section cited from R317.3 to ~~R302.4.1~~R302.4 (300.21). ~~The section has been modified to read: E3042.2 Penetrations of fire-resistance-rated assemblies.~~ Electrical installations in hollow spaces, vertical shafts and ventilation or air-handling ducts shall be made so that the possible spread of fire products of combustion will not be substantially increased. Electrical penetrations through fire-resistance-rated walls, partitions, floors or ceilings shall be protected by approved methods to maintain the fire-resistance-rating of the element penetrated. Penetrations of fire-resistance-rated walls shall be limited as specified in Section ~~R302.4.1~~R302.4 (300.21).

(2) Section E3403.3 Listing and labeling. This section has been modified to add a requirement to comply with the 2014 Edition of the National Electrical Code® (NEC® 2014), NFPA 70®. ~~The section has been modified to read: E3403.3 Listing and labeling.~~ Electrical materials, components, devices, fixtures and equipment shall be listed for the application, in accordance with NFPA 70®, shall bear the label of an approved agency and shall be installed, and used, or both, in accordance with the manufacturer's installation instructions [110.3(B)].

(3) Section 3404.7 Integrity of Electrical Equipment. ~~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: E3404.7 Integrity of electrical equipment. 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 or abrasives, and corrosive residues. There shall not be any damaged parts that might adversely affect safe operation or mechanical strength of the equipment such as parts that are broken; bent; cut; deteriorated by corrosion, chemical action, or overheating. Foreign debris shall be removed from equipment. 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 (NRTL), 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. [110.12(B)]

748:20-5-22.1. IRC 2015 Chapter 37 Branch Circuit and Feeder Requirements

Chapter 37 of the IRC[®] 2015 is adopted with the following modification: Section E3702.3 Fifteen- and 20-ampere branch circuits, has been modified to provide adequate loads per circuit. This section has been modified to read: E3702.3 Fifteen- and 20-ampere branch circuits. A 15- or 20-ampere branch circuit shall be permitted to supply lighting units, or other utilization equipment, or a combination of both. The rating of any one cord-and-plug connected utilization equipment not fastened in place shall not exceed 80 percent of the branch-circuit ampere rating. The total rating of utilization equipment fastened in place, other than luminaries, shall not exceed 50 percent of the branch-circuit ampere rating where lighting units, cord-and-plug connected utilization equipment is not fastened in place, or both, are also supplied. 20-ampere general-purpose branch circuits shall supply a maximum of 10 outlets. 15-ampere general-purpose branch circuits shall supply a maximum of 8 outlets. [210.23(A)(1) and (2)]

748:20-5-23. IRC 2009 Chapter 40 Devices and Luminaries [REVOKED]

Chapter 40 is adopted with modifications as follows: Section E4002.14 Tamper resistant receptacles. This section has been modified to include the following exceptions: Receptacles in the following locations shall not be required to be tamper resistant:

- (1) Receptacles located more than 5 1/2 feet (1.7m) above the floor.
- (2) Receptacles that are part of a luminaire or appliance.
- (3) A single receptacle or a duplex receptacle for two appliances located within dedicated space for each appliance that, in normal use, is not easily moved from one place to another and that is cord and plug connected.
- (4) Non-grounding receptacles used for replacement.

748:20-5-24. IRC 2015[®] Chapter 42 Swimming Pools

Chapter 42 of the IRC[®] 2015 is adopted with the following modification: Section 4206.4.1 Maximum voltage has been modified to limit the operation of luminaries in swimming pools to the low-voltage contact limits defined in Section E4202.1. This section has been modified to read: E4206.4.1 Luminaries shall not operate above the low-voltage contact limit as defined in E4202.1. [680.23(A)(4)].

748:20-5-25. Appendix V, Automatic Fire Systems

This appendix has been newly created and entitled "Automatic Fire Sprinkler Systems." The provisions contained in this appendix are not mandatory unless specifically referenced in the adopting ordinance or order.

(1) Section V101 General. This section heading has been added to clarify the sections of text applicable to installing residential fire sprinkler systems in one- and two-family dwellings. This section heading has been added to read: V101 General.

(2) Section V101.1 One- and two-family dwellings automatic fire sprinkler systems. This section formerly numbered Section R313.2 has been moved into appendix V, entitled "Automatic Fire Sprinkler Systems" and specifies the provisions of this appendix shall apply to one- and two-family dwellings. It has been added to read: V101.1 One- and two-family dwellings automatic fire sprinkler systems. An automatic residential fire sprinkler system shall be installed in one- and two-family dwellings. Exception: An automatic residential fire sprinkler system shall not be required for additions or alterations to existing buildings that are not already provided with an automatic residential sprinkler system.

(3) Section V101.2 Design and installation. This section, formerly numbered Section R313.2.1 has been moved into Appendix V, entitled "Automatic Fire Sprinkler Systems" and specifies the design and installation of automatic residential fire sprinkler systems shall comply with the provisions of this appendix and NFPA 13D. This section has been added to read: V101.2 Design and installation. Automatic residential fire sprinkler systems shall be designed and installed in accordance with the provisions of this appendix and NFPA 13D.

748:20-5-26. Appendix W, Energy Efficiency

This appendix has been newly created and entitled "Energy Efficiency." The provisions contained in this appendix are not mandatory unless specifically referenced in the adopting ordinance or order.

(1) W101 General. This section has been added to clarify the scope for this appendix. This section has been added to read: W101 General. This section has been added to specify the provisions of this appendix shall apply exclusively to the requirements for a Certificate listing energy efficiency components included in a residential dwelling unit.

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(2) W101.1 Certificate. This section, formerly numbered N1101.14 has been moved into appendix W, entitled "Energy Efficiency." This section has been added to read: W101.1 Certificate. A permanent certificate shall be completed by the builder or registered design professional and posted on a wall in the space where the furnace is located, a utility room or an approved location inside the building. Where located on an electrical panel, the certificate shall not cover or obstruct the visibility of the circuit directory label, service disconnect label, or other required labels. The certificate shall list the predominate R-values of insulation installed in or on the ceiling/roof, walls, foundation (slab, basement wall, crawl space wall/or floor) and ducts outside conditioned spaces; U-factors for fenestration and the solar heat gain coefficient (SHGC) of fenestration, and the results from any required duct system and building envelope air leakage testing done on the building. Where there is more than one value for each component, the certificate shall list the value covering the largest area. The certificate shall list the types and efficiencies of heating, cooling and service water heating equipment. Where a gas-fired unvented room heater, electric furnace, or baseboard electric heater is installed in the residence, the certificate shall list "gas-fired unvented room heater," "electric furnace" or "baseboard electric heater," as appropriate. An efficiency shall not be listed for gas-fired unvented room heaters, electric furnaces or electric baseboard heaters.

748:20-5-27. Appendix X, Swimming Pools, Spas, and Hot Tubs

(a) This appendix has been newly created and entitled "Swimming Pools, Spas, and Hot Tubs." The provisions contained in this appendix are not mandatory unless specifically referenced in the adopting ordinance or order.

(b) X101 Swimming Pools, Spas and Hot Tubs. This section header has been added to clarify the sections of text that apply to the general requirements for swimming pools, spas and hot tubs. This section has been added to read: X101 Swimming Pools, Spas and Hot Tubs.

(1) Section X101.1 General. This section has been added to clarify the design and construction of swimming pools, spas, and hot tubs installed in or on the lot of a one- or two- family dwelling. This section has been added to read: X101.1 General. The provisions of this appendix shall control the design and construction of swimming pools, spas and hot tubs installed in or on the lot of a one- or two- family dwelling.

(2) Section X101.2 Pools in flood hazard areas. This section has been added to require all pools located in flood hazard areas comply with section X101.2.1 or X101.2.2. This section has been added to read: X101.2 Pools in flood hazard areas. Pools that are located in flood hazard areas established by Table R301.2(1), including above-ground pools, on-ground pools, and in-ground pools that involve placement of fill, shall comply with Sections X101.2.1 or X101.2.2. Exception: Pools located in riverine flood hazard areas which are outside of designated floodways.

(3) Section X101.2.1. Pools located in designated floodways. This section has been added to require documentation to demonstrate the pool construction will not increase the design flood elevation at any point in the jurisdiction for all pools located in designated floodways. This section has been added to read: X101.2.1 Pools located in designated floodways. Where pools are located in designated floodways, documentation shall be submitted to the building official, which demonstrates that the construction of the pool will not increase the design flood elevation at any point within the jurisdiction.

(4) Section X101.2.2. Pools located where floodways have not been designated. This section has been added to require the applicant to provide a floodway analysis to demonstrate that the proposed pool will minimally increase the design flood elevation at any point within the jurisdiction, when the pool will be located where design flood elevations are specified by floodways. This section has been modified to read: X101.2.2 Pools located where floodways have not been designated. Where pools are located where design flood elevations are specified but floodways which have not been designated, the applicant shall provide a floodway analysis that demonstrates that the proposed pool will not increase the design flood elevation more than 1 foot (305 mm) at any point within the jurisdiction.

(c) X102 Definitions. This section heading has been added to clarify the section of text that applies to the definitions. This header has been added to read: X102 Definitions.

(1) Section X102.1 General. This section has been added to define specific terms to be utilized in this appendix as set forth in Chapter 2. This section has been modified to read: X102.1 General. For the purposes of these requirements, the terms used shall be defined as follows and as set forth in Chapter 2.

(2) ABOVE-GROUND/ON-GROUND POOL. See "Swimming pool."

(3) BARRIER. A fence, wall, building wall or combination thereof which completely surrounds the swimming pool and obstructs access to the swimming pool.

(4) HOT TUB. See "Swimming pool."

(5) IN-GROUND POOL. See "Swimming pool."

(6) RESIDENTIAL. That which is situated on the premises of a detached one- or two-family dwelling or a one-family townhouse not more than three stories in height.

(7) SPA, NONPORTABLE. See "Swimming pool."

(8) SPA, PORTABLE. A nonpermanent structure intended for recreational bathing, in which all controls, water-heating and water-circulating equipment are an integral part of the product.

(9) SWIMMING POOL. Any structure intended for swimming or recreational bathing that contains water over 24 inches (610 mm) deep. This includes in-ground, above-ground, and on-ground swimming pools, hot tubs and spas.

(10) SWIMMING POOL, INDOOR. A swimming pool which is totally contained within a structure and

surrounded on all four sides by the walls of the enclosing structure.

(11) SWIMMING POOL, OUTDOOR. Any swimming pool which is not an indoor pool.

(d) X103 Swimming Pools. This section header has been added to clarify the sections of text that apply specifically to in-ground, above-ground and on-ground swimming pools. This heading has been added to read: Section X103 Swimming Pools.

(1) Section X103.1. In-ground pools. This section has been added to list the specifications to which all in-ground pools shall be designed and constructed. This section has been added to read: X103.1 In-ground pools. In-ground pools shall be designed and constructed in conformance with ANSI/NSPI-5 as listed in Section X108.

(2) Section X103.2 Above-ground and on-ground pools. This section has been added to list the specifications to which all above-ground and on-ground pools shall be designed and constructed. This section has been added to read: X103.2 Above-ground and on-ground pools. Above-ground and on-ground pools shall be designed and constructed in conformance with ANSI/NSPI-4 as listed in Section X108.

(3) Section X103.3 Pools in flood hazard areas. This section has been added to specify the specifications to which all pools located in flood hazard areas shall be designed and constructed to. This section has been added to read: X103.3 Pools in flood hazard areas. In flood hazard areas established by Table R301.2(1), pools in costal high hazard areas shall be designed and constructed in conformance with ASCE 24.

(e) X104 Spas and Hot Tubs. This section header has been added to clarify the section of this appendix that apply specifically to spas and hot tubs. This section heading has been added to read: X104 Spas and Hot Tubs.

(1) Section X104.1 Permanently installed spas and hot tubs. This section has been added to specify the requirements for the design and construction of permanently installed spas and hot tubs. This section has been added to read: X104.1 Permanently installed spas and hot tubs. Permanently installed spas and hot tubs shall be designed and constructed in conformance with ANSI/NSPI-3 as listed in Section X108.

(2) Section X104.2 Portable spas and hot tubs. This section has been added to specify the requirements for the design and construction of portable spas and hot tubs. This section has been added to read: X104.2 Portable spas and hot tubs. Portable spas and hot tubs shall be designed and constructed in conformance with ANSI/NSPI-6 as listed in Section X108.

(f) X105 Barrier Requirements. This section header has been added to clarify the sections of this appendix that apply specifically to barrier requirements. This section has been added to read: X105 Barrier Requirements.

(1) Section X105.1 Application. This section has been added to list the provisions that shall control the design

of barriers for residential swimming pools, spas and hot tubs. This section has been added to read: X105.1 Application. The provisions of this chapter shall control the design of barriers for residential swimming pools, spas and hot tubs. These design controls are intended to provide protection against potential drownings and near drownings by restricting access to swimming pools, spas and hot tubs.

(2) Section X105.2 Outdoor swimming pool. This section has been added to provide the specifications to which all outdoor pools, spas and hot tub barriers shall meet. This section has been added to read: X105.2 Outdoor swimming pool. An outdoor swimming pool, including an in-ground, above-ground, or on-ground pool, hot tub or spa shall comply with one of the following:

(A) The top of the barrier shall be at least 48 inches (1219 mm) above grade measured on the side of the barrier which faces away from the swimming pool. The maximum vertical clearance between grade and the bottom of the barrier shall be 2 inches (51 mm) measured on the side of the barrier which faces away from the swimming pool. Where the top of the pool structure is above grade, such as an above-ground pool, the barrier may be at ground level or mounted on top of the pool structure. Where the barrier is mounted on top of the pool structure, the maximum vertical clearance between the top of the pool structure and the bottom of the barrier shall be 4 inches (102 mm).

(B) Openings in the barrier shall not allow passage of a 4-inch-diameter sphere.

(C) Solid barriers which do not have openings, such as a masonry or stone wall, shall not contain indentations or protrusions except for normal construction tolerances and tooled masonry joints.

(D) Where the barrier is composed of horizontal and vertical fence members and the distance between the tops of the horizontal members is less than 45 inches (1143 mm), the horizontal members shall be located on the swimming pool side of the fence. Spacing between vertical fence members shall not exceed 1 3/4 inches (44 mm) in width. Where there are decorative cutouts within vertical members, spacing within the cutouts shall not exceed 1 3/4 inches (44 mm) in width.

(E) Where the barrier is composed of horizontal and vertical fence members and the distance between the tops of the horizontal members is 45 inches (1143 mm) or more, spacing between the vertical fence members shall not exceed 4 inches (102 mm). Where there are decorative cutouts within vertical members, spacing within the cutouts shall not exceed 1 3/4 inches (44 mm) in width.

(F) Maximum mesh size for chain link fences shall be 2 1/4 inches (57 mm) square unless the fence has slats fastened at the top or bottom which reduce the openings to not more than 1 3/4 inches (44 mm).

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- (G) Where the barrier is composed of diagonal members, such as lattice fence, the maximum opening formed by the diagonal members shall not be more than 1 3/4 inches (44 mm).
- (H) Access gates shall comply with the requirements of Section X105.2 Items A through G, and shall be equipped to accommodate a locking device. Pedestrian access gates shall open outward away from the pool and shall be self-closing and have a self-latching device. Gates other than pedestrian access gates shall have a self-latching device. Where the release mechanism of the self-latching device is located less than 54 inches (1372 mm) from the bottom of the gate, the release mechanism and openings shall comply with the following:
- (i) The release mechanism shall be located on the pool side of the gate at least 3 inches (76 mm) below the top of the gate; and
 - (ii) The gate and barrier shall have no opening larger than 1/2 inch (12.7 mm) within 18 inches (457 mm) of the release mechanism.
- (I) Where a wall of a dwelling serves as part of the barrier, one of the following conditions shall be met:
- (i) The pool shall be equipped with a powered safety cover in compliance with ASTM F 1346; or
 - (ii) Doors with direct access to the pool through that wall shall be equipped with an alarm which produces an audible and visual warning when the door and/or its screen, if present, are opened. The alarms shall be listed and labeled in accordance with UL 2017. The deactivation switch(es) shall be located at least 54 inches (1372 mm) above the threshold of the door; or
 - (iii) Other means of protection, such as self-closing doors with self-latching devices, which are approved by the governing body, shall be acceptable as long as the degree of protection afforded is not less than the protection afforded by Item G.i or G.ii as described above.
- (J) Where an above-ground pool structure is used as a barrier or where the barrier is mounted on top of the pool structure, and the means of access is a ladder or steps:
- (i) The ladder or steps shall be capable of being secured, locked or removed to prevent access; or
 - (ii) The ladder or steps shall be surrounded by a barrier which meets the requirements of Section X105.2, Items A through I. When the ladder or steps are secured, locked or removed, any opening created shall not allow the passage of a 4-inch (102 mm) sphere.
- (3) Section X105.3 Indoor swimming pool. This section has been added to require a wall surrounding an indoor pool to comply with Section X105.2, Item I. This section has been added to read: X105.3 Indoor swimming pool. Wall surrounding an indoor swimming pool shall comply with Section X105.2, Item I.
- (4) Section X105.4 Prohibited locations. This section has been added to clarify that barriers shall be located to prohibit permanent structures, equipment or similar object to be utilized to climb over the pool barrier. This section has been added to read: X105.4 Prohibited locations. Barriers shall be located to prohibit permanent structures, equipment or similar objects from being used to climb over the pool barrier.
- (5) Section X105.5 Barrier exceptions. This section has been added to clarify the exception to the barrier requirements. This section has been added to read: X105.5 Barrier exceptions. Spas or hot tubs with a safety cover which complies with ASTM F 1345, as listed in Section X107, shall be exempt from the barrier provisions of this appendix.
- (g) X106 Entrapment Protection for Swimming Pool and Spa Suction Outlets. This section heading has been added to clarify the section of text that addresses entrapment protection. This section heading has been added to read: X106 Entrapment Protection for Swimming Pool and Spa Suction Outlets.
- (h) Section X106.1 General. This section has been added to clarify how suction outlets shall be designed and installed. This section has been added to read: X106.1 General. Suction outlets shall be designed and installed in accordance with ANSI/APSP-7.
- (i) X107 Abbreviations. This section heading has been added to clarify the section of the text that addresses abbreviations in the appendix. The section heading has been added to read: X107 Abbreviations.
- (1) ANSI - American National Standards Institute, 11 West 42nd Street, New York, NY 10036
 - (2) APSP - Association of Pool and Spa Professionals
 - (3) NSPI - National Spa and Pool Institute, 2111 Eisenhower Ave, Alexandria, VA 22314
 - (4) ASCE - American Society of Civil Engineers, 1801 Alexander Bell Drive, Reston, VA 98411-0700
 - (5) ASTM - ASTM International, 1000 Barr Harbor Drive, West Conshohocken, PA 19428
 - (6) UL - Underwriters Laboratories, Inc., 333 Pfingsten Rd., Northbrook, IL 60062-2096
- (j) X108 Standards. This section header has been added to clarify portions of this appendix that addresses the standards and location of the referenced standards utilized in the appendix. This section heading has been added to read: X108 Standards.
- (1) ANSI/NSPI-3-99 Standard for Permanently Installed Residential Spas, Section X104.1
 - (2) ANSI/NSPI-4-99 Standard for Above-ground/On-ground Residential Swimming Pools, Section X103.2
 - (3) ANSI/NSPI-5-2003 Standard for Residential In-ground Swimming pools, Section X103.1
 - (4) ANSI/NSPI-6-99 Standard for Residential Portable Spas, Section X104.2
 - (5) ANSI/APSP-7-06 Standard for Suction Entrapment avoidance in Swimming Pools, Wading Pools, Spas, Hot Tubs and Catch Basins, Section X106.1
 - (6) ASCE/SEI-24-05 Flood Resistant Design and Construction, Section X103.3

(7) ASTM F-1346-91 (2003) Performance Specification for Safety Covers and Labeling Requirements for All Covers for Swimming Pools, Spas and Hot Tubs Sections X105.2, X105.5

(8) UL 2017-2000 Standard for General-purpose Signaling Devices and Systems - with Revisions through June 2004, Section X105.1

748:20-5-28. Appendix Y, Residential Tornado Provisions

(a) This appendix has been newly created and entitled "Residential Tornado Provisions." The provisions contained in this appendix are not mandatory unless specifically referenced in the adopting ordinance or order.

(b) Y101 Scope. This section heading has been added to specify the sections of this appendix that deal with the Scope of the appendix. This section header has been added to read: Y101. Scope.

(1) Section Y101.1 General. This section has been added to clarify the provisions shall be applicable for new construction. This section has been added to read: Y101.1 General. These provisions shall be applicable for new construction where residential tornado provisions are required. This appendix provides prescriptive based requirements for construction of a residential structure meeting or exceeding a 135 mph wind event corresponding to an EF-2 tornado rating. The single most important objective in protecting a structure against high wind is achieving a continuous load path from the roof to the foundation. Based on the findings of studies and failures associated with various construction types, a group of 11 building practices (each associated with a different aspect of the structure) are summarized in this section.

(2) Section Y101.2 Application. This section has been added to clarify the administrative provisions of this appendix are applicable in the administrative and building planning and construction requirements in Chapters 1 through 10 of this code. The section has been added to read: Section Y101.2 Application. In addition to the general administration requirements of Chapter 1, the administrative provisions of this appendix shall also apply to the building planning and construction requirements of Chapters 1 through 10.

(3) Section Y101.3 Wind design criteria. This section has been added to clarify that if Section R301.2.1 is modified, the buildings and portions thereof shall be constructed in accordance with the code and the ultimate wind speed design of 135 mph. This section has been added to read: Y101.3 Wind design criteria. Modifying section R301.2.1 buildings and portions thereof shall be constructed in accordance with the wind provisions of this code using the ultimate design wind speed 135 mph.

(4) Section Y101.4 Lumber sheathing. This section has been added to address the permitted forms of lumber sheathing. This section has been added to read: Y101.4 Lumber sheathing. Only OSB or plywood sheathing is permitted. Dimensional lumber sheathing may not be used. Allowable spans and attachment for lumber used

as roof or exterior wall sheathing shall conform to the following:

(A) Section Y101.4.1 Sixteen Inch Framing. For rafter, stud, or beam spacing of 16 inches, the minimum nominal sheathing panel thickness will be 7/16 inch, the minimum wood structural panel span rating 24/16, to be nailed with 8d ring shank (0.131 inch x 2.5 inch) or 10d (0.148 inch x 3 inch) nails on 4 inches on center along the edges and 6 inches on center in the field.

(B) Y101.4.2 Section Twenty-four Inch Framing. For rafter, stud or beam spacing of 24 inches, the minimum nominal sheathing panel thickness will be 23/32 inch, the minimum wood structural panel span rating 24/16 to be nailed with 8d ring shank (0.131 inch x 2.5 inch) or 10d (0.148 inch x 3 inch) nails on 4 inches on center along the edges and 4 inches on center in the field.

(5) Section Y101.5 Ceiling joist and rafter connections. This section has been added to require ceiling joists and rafters to be nailed to each other in a manner to achieve a connection that can transfer a 500 pound force in both compression and tension across the connections. This section has been added to read: Y101.5 Ceiling joist and rafter connections. In addition to the provisions of Chapter 8, ceiling joists and rafters shall be nailed to each other in a manner to achieve a connection that can transfer a 500 pound force in both compression and tension across the connection.

(6) Section Y101.6 Rafter uplift resistance. This section has been added to require individual rafters to be attached to supporting wall assemblies by connections capable of resisting uplift forces of 500 pounds. This section has been added to read: Y101.6 Rafter uplift resistance. Individual rafters shall be attached to supporting wall assemblies by connections capable of resisting uplift forces of 500 pounds.

(7) Section Y101.7 Gable end walls. This section has been added to clarify connections and sheathing for gable end walls. This section has been added to read: Y101.7 Gable end walls. Gable end walls will be sheathed per Y101.4 and will have connections to both a.) supporting wall assemblies and b.) roof framing by connections capable of resisting uplift forces of 500 pounds in both compression and tension across the connection.

(8) Section Y101.8 Exterior wall bracing. This section has been added to clarify sheathing methods to be utilized to brace exterior walls and prohibit intermittent bracing on exterior walls. This section has been added to read: Y101.8 Exterior wall bracing. Only continuous sheathing methods per R602.10.4.2 may be used to brace exterior walls. Frame garage doors using the sheathed portal frame method CS-PF. Lumber sheathing and attachment per Y101.4. Any form of intermittent bracing is not allowed on an exterior wall. Intermittent bracing may only be used for interior braced wall lines.

(9) Section Y101.9 Multi story construction. This section has been added to require nailing upper and lower

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story wall sheathing to a common rim board. This section has been added to read: Y101.9 Multi story construction. Nail upper and lower story wall sheathing to common rim board in order to maintain continuity between stories.

(10) Section Y101.10 Wood floor above crawl space construction. This section has been added to require extending structural wood sheathing to lap the sill plate. This section has been added to read: Y101.10 Wood floor above crawl space construction. Extend structural wood sheathing to lap the sill plate. Nail to sill plate at 4 inches on center along the edges. Nail to rim board if present with 8d ring shank (0.131 inch x 2.5 inch) or 10d (0.148 inch x 3 inch) nails at 4 inches on center along both the top and bottom edges of the rim board.

SUBCHAPTER 9. NEC® 2014

748:20-9-7. NEC® 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)~~506.7 (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: ~~506.6 (A)~~506.7 (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 inspection shall be performed by qualified persons.

SUBCHAPTER 11. IFGC® 2015

748:20-11-8. IFGC® 2015 Chapter 4 Gas Piping Installations

Chapter 4 of the IFGC® 2015 is adopted with the following modification: Section 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 depth. 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~~. 404.12.1 Exception: Where a minimum depth of cover cannot be provided, the pipe shall be installed in conduit or bridged (shielded).

[OAR Docket #16-645; filed 6-27-16]

TITLE 765. OKLAHOMA USED MOTOR VEHICLE AND PARTS COMMISSION CHAPTER 4. TERM OF LICENSES

[OAR Docket #16-544]

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RULES:

765:4-1-1 [NEW]

765:4-1-2 [NEW]

765:4-1-3 [NEW]

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Oklahoma Used Motor Vehicle and Parts Commission

47 O.S. Section 582(E)

75 O.S. Section 250

75 O.S. Section 302

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n/a

ANALYSIS:

Without the enactment of these rules, there would be no procedures for implementing the two year licenses, resulting in an abdication of the responsibilities assigned to this Commission in SB592.

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, 2016:

765:4-1-1. Purpose

The rules of this Chapter have been adopted for the purpose of complying with the provisions of the Administrative Procedures Act, 75 O. S. Section 250 et.seq., 47 O.S. Section 582 (E) and 47 O. S. Section 583 B 3.

765:4-1-2. Licensing periods

All licenses issued pursuant to the provisions of 47 O. S. Section 581 et. seq. and 47 O. S. Section 591.1 et. seq., except licenses for crushers, after January 1, 2016, shall be for a two (2) year licensing period, which shall begin on January 1st of each even numbered year and shall expire on the 31st day of December of the following odd numbered year.

765:4-1-3. Bonds

All bonds required for licensing shall expire on the 31st day of December of the odd numbered year after the issuance of the bond, except as provided hereinafter. Upon proof that the cost of the required bond for the entire license period exceeds Two Thousand Dollars (\$2,000.00), an applicant or licensee may request that the Commission allow the applicant or licensee to submit a one (1) year bond which expires December 31st of the year of the issuance of the license and a separate bond for the second license year. In the event that the licensee fails to submit a bond for the second license year, the license shall expire and be revoked coterminously with the expiration of the bond.

[OAR Docket #16-544; filed 6-16-16]

**TITLE 765. OKLAHOMA USED MOTOR VEHICLE AND PARTS COMMISSION
CHAPTER 10. USED MOTOR VEHICLE DEALERS**

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RULES:

Subchapter 1. Licensing Qualifications, Procedures and Fees

765:10-1-7 [AMENDED]

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Oklahoma Used Motor Vehicle and Parts Commission
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75 O.S. Section 250
75 O.S. Section 302

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n/a

ANALYSIS:

Without the enactment of these rules, there would be no procedures for implementing the two year licenses, resulting in an abdication of the responsibilities assigned to this Commission in SB592.

CONTACT PERSON:

John W. Maile, Executive Director, Used Motor Vehicle and Parts Commission, 2401 N.W. 23rd Street, Suite 57, Oklahoma City, OK 73107, 405-521-3600, John.W.Maile@umvpc.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, 2016:

SUBCHAPTER 1. LICENSING QUALIFICATIONS, PROCEDURES AND FEES

765:10-1-7. Renewal of license

All bonds and licenses issued under the provisions of the Commission's ~~enabling legislation~~ statutory authority shall expire on the 31st day of December of the odd numbered year, following the date of issue and shall be nontransferable. All applications for renewal should be submitted by the 1st day of November of each odd numbered year, and licenses shall be issued by January 10th of the following year. If application has not been made for renewal of license, such license shall

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expire on December 31st, and it shall be illegal for any person to represent himself and act as a dealer thereafter.

[OAR Docket #16-545; filed 6-16-16]

TITLE 765. OKLAHOMA USED MOTOR VEHICLE AND PARTS COMMISSION CHAPTER 15. USED MOTOR VEHICLE SALESPERSONS

[OAR Docket #16-546]

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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, 2016:

SUBCHAPTER 1. LICENSING QUALIFICATIONS, PROCEDURES AND FEES

765:15-1-6. Renewal of license

All licenses shall expire on the 31st day of December, of the odd numbered year following the date of issue and shall be nontransferable.

[OAR Docket #16-546; filed 6-16-16]

TITLE 765. OKLAHOMA USED MOTOR VEHICLE AND PARTS COMMISSION CHAPTER 25. AUTOMOTIVE DISMANTLER AND PARTS RECYCLERS

[OAR Docket #16-547]

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CONTACT PERSON:
John W. Maile, Executive Director, Used Motor Vehicle and Parts Commission, 2401 N.W. 23rd Street, Suite 57, Oklahoma City, OK 73107, 405-521-3600, John.W.Maile@umvpc.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, 2016:

SUBCHAPTER 1. LICENSING
QUALIFICATIONS, PROCEDURES AND FEES

765:25-1-6. Renewal of license

- (a) Term. Every license issued to an automotive dismantler and parts recycler hereunder shall be valid until December 31st of the odd numbered year following the issuance of the license only for the calendar year in which it is issued and shall be renewed on or before January 1st of each even numbered year.
(b) Sales tax number. All applications for renewal of license shall include the sales tax number issued to the applicant by the Oklahoma Tax Commission.
(c) DEQ permit. All applications for renewal of license shall include the authorization or permit number from the Department of Environmental Quality.
(d) Renewal period. Except as may otherwise be determined by the Commission licensees who do not renew on or before January 1st of each even numbered year shall be required to meet all of the standards and requirements applicable to an original application for license in effect at that time, regardless of whether the standards and requirements when the applicant first licensed were more or less restrictive than current standards.
(e) Date for submission. A properly executed application for renewal of license, accompanied by the appropriate fee or fees, on forms supplied by the Commission, shall be submitted by December 1st of each odd numbered year. All licenses shall expire on December 31st of each odd numbered year.
(f) Requirements. Effective on and after November 1, 1987, for a renewal application, the Commission in considering the continued eligibility of any licensee whose original license was issued on or after November 1, 1986, shall base its determinations on the following factors:
(1) whether the licensee has maintained substantial compliance with 47 O.S. Section 591.1 et.seq.
(A) Substantial compliance with 47 O.S. Section 591.2, paragraph 1, shall be determined from data supplied by the applicant in a sworn statement on a form supplied by the Commission that reports the number of vehicles acquired since approval of the prior license that have been or are being:
(i) dismantled for the purpose of selling the parts thereof,
(ii) held for resale as is, and
(iii) rebuilt for resale as roadworthy vehicles.
(B) From the information supplied for this item, the Commission shall determine whether the licensee's business is principally that of acquiring vehicles

for the purpose of dismantling and selling the parts thereof.

(C) Substantial compliance with 47 O.S. Section 591.4, paragraph B shall be determined from any objections that may have been supplied by surrounding neighbors related to public or private nuisance complaints, and if requested by the Commission, evidence that the screening and/or fencing requirements are being met.

(2) whether the licensee has maintained substantial compliance with the regulations of this chapter.

[OAR Docket #16-547; filed 6-16-16]

TITLE 765. OKLAHOMA USED MOTOR VEHICLE AND PARTS COMMISSION
CHAPTER 35. MANUFACTURED HOME DEALERS

[OAR Docket #16-548]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 3. Licensing Qualifications, Procedures and Fees
765:35-3-6 [AMENDED]

AUTHORITY:

Oklahoma Used Motor Vehicle and Parts Commission
47 O.S. Section 582(E)(1)
75 O.S. Section 583 B.3.
75 O.S. Section 302 et.seq

SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:

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15-772

INCORPORATIONS BY REFERENCE:

n/a

ANALYSIS:

Without the enactment of these rules, there would be no procedures for implementing the two year licenses, resulting in an abdication of the responsibilities assigned to this Commission in SB592.

Permanent Final Adoptions

CONTACT PERSON:

John W. Maile, Executive Director, Used Motor Vehicle and Parts Commission, 2401 N.W. 23rd Street, Suite 57, Oklahoma City, OK 73107, 405-521-3600, John.W.Maile@umvpc.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, 2016:

SUBCHAPTER 3. LICENSING QUALIFICATIONS, PROCEDURES AND FEES

765:35-3-6. Renewal of license

All bonds and licenses issued under the provisions of the Commission's enabling legislation shall expire on the 31st day of December of each odd numbered year, following the date of issue and shall be nontransferable. All applications for renewal should be submitted by the 1st day of November of each odd numbered year, and licenses shall be issued by January 10th of each even numbered year. If application has not been made for renewal of license, such license shall expire on December 31st of the odd numbered year, and it shall be illegal for any person to represent himself and act as a dealer thereafter.

[OAR Docket #16-548; filed 6-16-16]

TITLE 765. OKLAHOMA USED MOTOR VEHICLE AND PARTS COMMISSION CHAPTER 36. MANUFACTURED HOME MANUFACTURERS

[OAR Docket #16-549]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 3. Licensing Qualifications, Procedures and Fees
765:36-3-6 [AMENDED]

AUTHORITY:

Oklahoma Used Motor Vehicle and Parts Commission
47 O.S. Section 582(E)(1)
75 O.S. Section 583 B.3.
75 O.S. Section 302 et.seq

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15-773

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n/a

ANALYSIS:

Without the enactment of these rules, there would be no procedures for implementing the two year licenses, resulting in an abdication of the responsibilities assigned to this Commission in SB592.

CONTACT PERSON:

John W. Maile, Executive Director, Used Motor Vehicle and Parts Commission, 2401 N.W. 23rd Street, Suite 57, Oklahoma City, OK 73107, 405-521-3600, John.W.Maile@umvpc.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, 2016:

SUBCHAPTER 3. LICENSING QUALIFICATIONS, PROCEDURES AND FEES

765:36-3-6. Renewal of license

All bonds and licenses issued under the provisions of the Commission's enabling legislation shall expire on the 31st day of December of the odd numbered year, following the date of issue and shall be nontransferable. All applications for renewal should be submitted by the 1st day of November of each odd numbered year, and licenses shall be issued by January 10th of the following year. If application has not been made for renewal of license, such license shall expire on December 31st, and it shall be illegal for any person to represent itself and act as a manufacturer thereafter.

[OAR Docket #16-549; filed 6-16-16]

TITLE 765. OKLAHOMA USED MOTOR VEHICLE AND PARTS COMMISSION CHAPTER 37. MANUFACTURED HOME INSTALLERS

[OAR Docket #16-550]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 3. Licensing Qualifications, Procedures and Fees
765:37-3-6 [AMENDED]

AUTHORITY:

Oklahoma Used Motor Vehicle and Parts Commission
47 O.S. Section 582(E)(1)

75 O.S. Section 583 B.3.
 75 O.S. Section 302 et.seq
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 n/a

ANALYSIS:
 Without the enactment of these rules, there would be no procedures for implementing the two year licenses, resulting in an abdication of the responsibilities assigned to this Commission in SB592.
CONTACT PERSON:
 John W. Maile, Executive Director, Used Motor Vehicle and Parts Commission, 2401 N.W. 23rd Street, Suite 57, Oklahoma City, OK 73107, 405-521-3600, John.W.Maile@umvpc.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, 2016:

SUBCHAPTER 3. LICENSING QUALIFICATIONS, PROCEDURES AND FEES

765:37-3-6. Renewal of license

All licenses issued under the provisions of the Commission's statutory authority ~~enabling legislation~~ shall expire on the 31st day of December of the odd numbered year, following the date of issue and shall be nontransferable. All applications for renewal should be submitted by the 1st day of November of each odd numbered year, and licenses shall be issued by the following January 10th. If application has not been made for renewal of license, such license shall expire on December 31st of the odd numbered year, and it shall be illegal for any person to represent itself and act as an installer thereafter.

[OAR Docket #16-550; filed 6-16-16]

TITLE 765. OKLAHOMA USED MOTOR VEHICLE AND PARTS COMMISSION CHAPTER 38. MANUFACTURED HOME SALESPERSONS

[OAR Docket #16-551]

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RULES:
 Subchapter 1. Licensing Qualifications, Procedures and Fees
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 Oklahoma Used Motor Vehicle and Parts Commission
 47 O.S. Section 582(E)(1)
 75 O.S. Section 583 B.3.
 75 O.S. Section 302 et.seq
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INCORPORATIONS BY REFERENCE:
 n/a

ANALYSIS:
 Without the enactment of these rules, there would be no procedures for implementing the two year licenses, resulting in an abdication of the responsibilities assigned to this Commission in SB592.
CONTACT PERSON:
 John W. Maile, Executive Director, Used Motor Vehicle and Parts Commission, 2401 N.W. 23rd Street, Suite 57, Oklahoma City, OK 73107, 405-521-3600, John.W.Maile@umvpc.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, 2016:

SUBCHAPTER 1. LICENSING QUALIFICATIONS, PROCEDURES AND FEES

Permanent Final Adoptions

765:38-1-5. Renewal of license

All licenses shall expire on the 31st day of December, of the odd numbered year following the date of issue and shall be nontransferable.

[OAR Docket #16-551; filed 6-16-16]

TITLE 777. STATEWIDE VIRTUAL CHARTER SCHOOL BOARD CHAPTER 1. ADMINISTRATIVE OPERATIONS

[OAR Docket #16-622]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 1. General Provisions

777:1-1-4. Organization [AMENDED]

777:1-1-6. Records requests [AMENDED]

777:1-1-7. Procedures for declaratory rulings [AMENDED]

777:1-1-8. Petitions for adoption, amendment, or repeal of a rule [AMENDED]

777:1-1-9. Individual proceedings [AMENDED]

AUTHORITY:

Oklahoma Charter Schools Act; 70 O.S., §§3-145.1, §§3-132 through 3-137, §3-145.3, and §3-145.4; Statewide Virtual Charter School Board

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September 11, 2016

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

ANALYSIS:

777:1-1-4: is being amended to remove language requiring the State Department of Education to provide staff support for the Board. Subject to the availability of funding, the proposed rule change would permit the Board to fund its staff. Additionally, the proposed rule removes language that requires the Board's principal office at the Oliver Hodge Education Building. Elimination of this language would permit the Board to move its principal office if necessary.

777:1-1-6 is being amended to remove language regarding open-records requests. This language is unnecessary in lieu of the Oklahoma Open-Records Act. Amendments to this section also eliminate language requiring the Board's principal office be located at the Oliver Hodge Education Building.

777: 1-1-7, 777:1-1-8, and 777:1-1-9 are being amended to remove language that requires all outside submissions and filings be received by the Board's Secretary. The current rule may delay the processes of the Board unnecessarily if its secretary were unavailable. The new proposed rule permits the Board itself to receive outside filings and submissions.

777:1-1-9 is being amended to address hearings conducted by the Board. The proposed rule change would grant the Chairman of the Board or a hearing examiner authority to issue subpoenas. The subpoenas would be authenticated

by the Executive Director's Signature. Further revisions correct a mistake in the rules that refers to the State Department of Education rather than the Statewide Virtual Charter School Board taking judicial notice of facts within the specialized knowledge of the Board. Additional amendments to this subchapter corrects the timeline for requesting the Board to rehear, reopen, or reconsidering hearings to within 10 days of entry of an order, consistent with § 317 of the Administrative Procedures Act. The last proposed revision to this subchapter corrects a mistaken reference to the State Department of Education rather than the Statewide Virtual Charter School Board.

CONTACT PERSON:

Dr. Rebecca Wilkinson, Executive Director, Statewide Virtual Charter School Board, 2500 N. Lincoln Blvd., Suite 4-37, Oklahoma City, OK 73105, 405-522-0717, Rebecca.Wilkinson@svcsb.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, 2016:

SUBCHAPTER 1. GENERAL PROVISIONS

777:1-1-4. Organization

(a) **Objectives.** As the sole entity authorized to sponsor statewide virtual charter school programs in this state in accordance with the provisions of the Oklahoma Charter Schools Act, the Statewide Virtual Charter School Board shall be charged with establishing any rules, policies, and procedures necessary to regulate operation of statewide virtual charter schools and to ensure that free appropriate public education and related services are provided to statewide virtual charter school students enrolled in statewide virtual charter schools in a manner that is safe, consistent, effective, and appropriate.

(b) **Staff.** ~~The State Department of Education shall provide staff support to the Statewide Virtual Charter School Board until December 31, 2014. Thereafter, subject~~ Subject to the availability of funding, the Statewide Virtual Charter School Board may maintain such staff as is authorized by law and as necessary to fulfill the duties set forth by Oklahoma statutes and regulations.

(c) **Principal office.** ~~The principal office of the Statewide Virtual Charter School Board shall be the Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma, 73105.~~

(d) **Hours of operation.** The official hours of operation of the principal office of the Statewide Virtual Charter School Board shall be the same as the hours of operation of the State Department of Education, and shall exclude Saturdays, Sundays, and legal holidays.

777:1-1-6. Records requests

(a) **Official records.** ~~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 Statewide Virtual Charter School Board and not otherwise exempt from public disclosure pursuant to the provisions of state and/or federal law shall be made~~

~~available promptly for public inspection, copying, or mechanical reproduction upon reasonable notice to the records custodian of the office of the Secretary of the Statewide Virtual Charter School Board during regular business hours in accordance with the provisions of the Open Records Act at 51 O.S. § 24A.1 et seq. and the procedures set forth below.~~

~~(b) **Records subject to disclosure.** Any document which comes within the definition of a "record" set forth in the Open Records Act at 51 O.S. § 24A.3 and is not required to be kept confidential by Oklahoma law or federal law will be available for inspection and/or copying during regular business hours, except state holidays, at the location where the records are housed, which is generally the Oliver Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City.~~

~~(ea) **Custodian of records.** The Statewide Virtual Charter School Board may designate a records custodian. In absence of a records custodian designated by the Statewide Virtual Charter School Board, the records custodian of the Statewide Virtual Charter School Board shall be deemed to be the Secretary of the Statewide Virtual Charter School Board.~~

~~(eb) **Procedure for records requests.** Any individual or group seeking access to public records maintained by the Statewide Virtual Charter School Board (the "Requester") shall submit a request to the Statewide Virtual Charter School Board records custodian, by fax, email, regular mail or in person. In order to provide prompt, reasonable access to records, to ensure that records requests are accurately communicated to the records custodian, and to enable the records custodian to accurately process the request, the Statewide Virtual Charter School Board recommends that all records requests be submitted in writing. In addition, all records requests must comply with all of the following provisions:~~

- (1) All records requests must include:
 - (A) Identification of the individual and/or entity making the request;
 - (B) If the Requester is an entity rather than an individual, a name of a contact authorized to communicate with the records custodian on behalf of the Requester;
 - (C) Sufficient contact information at which the Requester may be contacted by the records custodian to comply with the records request procedures set forth in this Section;
 - (D) A description of the records requested with sufficient detail necessary to enable the records custodian to reasonably identify whether records responsive to the request exist;
 - (E) Whether the Requester seeks copies of any or all of the records requested and if so, whether the Requester seeks certified copies of any or all of the records requested; and
 - (F) If the Requester claims the public interest exemption from search fees in accordance with the provisions of (fd) of this Section, all information necessary for the records custodian to determine the applicability of the exemption.
- (2) An Open Records Act request form is provided on the website of the Board or the OSDE and the form may be

submitted by email, fax, or regular mail via the addresses stated on the form. The form may also be obtained by writing to the Secretary of the Statewide Virtual Charter School Board, Oliver Hodge Education Building, 2500 N. Lincoln Blvd., Oklahoma City, OK 73105 at its principal office.

(3) Requests submitted to the Statewide Virtual Charter School Board will not be deemed to have been received unless and until the request has been identified as a request properly filed in accordance with the provisions of the Oklahoma Open Records Act at 51 O.S. § 24A.1 et seq. and the procedures set forth in this Section.

(4) Within a prompt and reasonable time of the date of receipt of the request, the records custodian shall review the request, seek any additional information from the Requester necessary to clarify the request, and shall ascertain whether any records responsive to the request exist.

(5) In addition, the records custodian shall promptly notify the Requester of the following:

(A) Whether the request complies with the provisions of this Section and the provisions of the Open Records Act;

(B) Whether records responsive to the request exist, and if so, instruct the Requester to confirm the record custodian's interpretation of the request;

(C) If records responsive to the request exist and require an additional search of data necessary to identify and/or locate individual records of persons, whether the search will incur any fees and costs pursuant to (fd) of this Section and if so, an estimate of search fees;

(D) If the Requester asks to be provided copies of the requested records in lieu of or in addition to inspection, an estimate of the costs of copying the records requested as necessary to deliver the responsive records to the Requester;

(E) That processing of the request will not begin until any applicable records search fees and costs of copying have been received by the agency; and

(F) In the event the actual costs of copying and/or certification of records exceed the estimate provided and the amount of payment actually received from the Requester, that payment of any balance due from the Requester may be required prior to delivery of the requested records.

(6) All records requests will be deemed to have been received and processing of the request will begin when one of the following conditions is met:

(A) If payment of search fees or copying costs is required, upon receipt of

(i) The fees and costs due; and

(ii) Receipt of any additional information necessary from the Requester to clarify and/or process the request; or

(B) If payment of search fees or copying costs is not required, upon receipt by the records custodian of:

(i) The Requester's confirmation of the request required by (5)(B) of this subsection; and

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- (ii) Receipt of any additional information necessary from the Requester to clarify and/or process the request.
 - (7) Any request not confirmed by receipt of the requisite search fee within thirty (30) calendar days of the written notification set forth in (5) of this subsection shall be deemed to be abandoned, unless, within the time stated, the Requester can show cause why the confirmation should be delayed or postponed.
 - (8) If the Requester fails to furnish additional information reasonably necessary to identify the records sought or otherwise enable agency personnel to accurately process the request, any further processing of the request may be suspended by the records custodian. A request that remains suspended for a period of forty-five (45) calendar days or more shall be deemed abandoned.
- (e) Processing and response times.** The agency will provide prompt, reasonable access to records in accordance with the requirements of 51 O.S. § 25A.5. The period of time considered prompt and reasonable is dependent upon a number of variable factors including, but not limited to:
- (1) The scope and complexity of the request;
 - (2) Whether the workload of the agency or agencies necessary to respond to the request permits a response to the request without excessive disruption of essential services of the agency/agencies;
 - (3) Whether the records request includes:
 - (A) A sufficiently detailed description of the request by the requester necessary for the agency to ascertain the existence of records responsive to the request;
 - (B) Records or portions of records deemed confidential by state and/or federal law which must be removed or redacted in order to permit inspection of the records.
 - (4) Whether the Requester has requested copies of the records requested in addition to or in lieu of inspection of the records and if so, whether the Requester paid applicable fees and/or costs set forth in (d)(5) and (f) of this Section;
 - (5) Whether additional steps by the agency must be taken in order to ensure that inspection, copying, and/or response to the records can be provided without jeopardizing the integrity and organization of the records; and
 - (6) Whether student data is included within the scope of its request, and if so:
 - (A) Time necessary to de-identify and/or aggregate student data in accordance with the requirements of State and federal laws pertaining to confidentiality of records; or
 - (B) Time necessary to obtain any necessary approval of the State Board of Education in accordance with the requirements of the Student Data Accessibility, Transparency and Accountability Act of 2013 at 70 O.S. § 3-168 and accompanying regulations.
- (f) Fees for record searches and copies of records.** Fees and costs associated with record searches and providing copies

of records shall be determined in accordance with the following procedures:

- (1) **Fees to recover reasonable and direct costs of record searches.** Requests for individual records of persons that are either solely for commercial purposes or requests that cause an excessive disruption of the essential functions of the agency are subject to fees for recovery of the reasonable, direct costs of record searches. However, requesters shall be exempted from search fees when the release of the requested records is in the public interest, including, but not limited to, release of records in response to requests from:
 - (A) News media;
 - (B) Scholars;
 - (C) Authors; and
 - (D) Taxpayers seeking to determine whether those entrusted with the affairs of the government are honestly, faithfully, and competently performing their duties as public servants.
- (2) **Fees to recover reasonable and direct costs of record copies.** Requests for records are subject to fees for recovery of the reasonable, direct costs of copying records and/or certification of each individual copy of a record.
 - (A) For purposes of this paragraph, "copying" of a record may include costs of:
 - (i) Mechanical reproduction of a paper ("hard copy") record; or
 - (ii) Conversion of a record into an electronic format (e.g., pdf).
 - (B) In no instance shall the fees per page fee for copying and/or certification of individual copies of documents exceed the amount set forth in 51 O.S. § 25A.5(3).
 - (C) The Board is authorized to periodically review and adjust the rates that will be charged for providing copies of records in accordance with the law. Those rates will include costs for record copies, document searches and transcript rates. The rates will be posted at ~~the Oliver Hodge Building~~ principal office of the Statewide Virtual Charter School Board and filed with the county clerk as required by law.
 - (D) All fees and/or costs shall be paid by the requester prior to delivery of the response to the request. All fees must be paid by check or money order. No cash will be accepted.

777:1-1-7. Procedures for declaratory rulings

- (a) **Definitions.** The following words and terms, when used in this Section, shall have the following meaning:
 - (1) **"Declaratory ruling"** shall mean an informal declaration as to the applicability of a rule or order in an individual case for the purpose of providing a petitioner with a definitive response to a question about an ambiguity in the law as necessary to allow a petitioner to ascertain legal obligations and comply accordingly.
- (b) **Petitions for declaratory ruling.** Any person affected by a rule adopted by the Statewide Virtual Charter School Board set forth in this Title or an order issued by the Board

may petition for a declaratory ruling as to the applicability of a specific rule or order in a specified set of circumstances involving petitioner. Petitions for a declaratory ruling shall be submitted in accordance with the following procedures:

- (1) The petition must be in writing and submitted to the ~~Secretary of the~~ Statewide Virtual Charter School Board;
- (2) The petition shall specifically identify the rule in question by citation to the Oklahoma Administrative Code;
- (3) The petition shall pose the specific issue(s) to be answered by the Statewide Virtual Charter School Board;
- (4) The petition shall state clearly and with specificity all factual and legal grounds in support of petitioner's interpretation of the rule or order and shall include:
 - (A) An allegation of all facts upon which the declaratory ruling is based; and
 - (B) Copies of all documentation cited by petitioner in support of petitioner's claim attached to the petition;
- (5) The petition shall be signed by the petitioner or an authorized representative of the petitioner; and
- (6) The petition shall state the name, address, telephone number, and email address of the petitioner or an authorized representative of petitioner at which all notices required by this Section shall be served.

(c) **Review of a petition for declaratory ruling.** Upon receipt by the ~~Secretary Board~~, the petition will be stamped to show the date of submission, and the ~~Secretary Board~~ shall promptly notify the petitioner, the agency's legal counsel, and any other interested parties of the date of the board meeting at which the petition has been set for initial review by the Board. The date set for initial review shall be at least ten (10) calendar days from the date of receipt of the petition by the ~~Secretary Board~~.

(d) **Initial review of petition.** Upon preliminary review of the petition, the Board may take one of the following actions:

- (1) The Board may consider the merits of the petition and issue a ruling at the meeting;
- (2) The Board may dismiss the petition on one or more of the following grounds:
 - (A) The petition was not filed in accordance with the requirements of this Section; or
 - (B) The request for a declaratory ruling stated in the petition is more appropriately handled through the agency rulemaking process in accordance with the provisions of the Administrative Procedures Act; or
- (3) The Board may order a hearing on the matter and specify a date at which petitioner, counsel for the agency and any other individuals or entities deemed interested parties by the Board may present oral argument on the issues raised in the petition. The Board shall prescribe the amount of time allotted for oral argument.

(e) **Declaratory ruling.** At the conclusion of the presentation of the matter, the Board may render a decision on the petition or continue the meeting for further deliberation at a later date. Upon rendering a decision, a written decision memorializing the Board's decision shall be issued and signed by the Chairman of the Board, and a copy of the decision shall

be mailed to Petitioner via certified mail within ten (10) calendar days of the date the decision is rendered.

(f) **Judicial review.** A declaratory ruling or refusal to issue such ruling, shall be subject to judicial review in the manner provided for review of decisions in individual proceedings set forth in the Oklahoma Administrative Procedures Act at 75 O.S. §§ 317-323.

777:1-1-8. Petitions for adoption, amendment, or repeal of a rule

(a) **Definitions.** The following words and terms, when used in this Section, shall have the following meaning:

- (1) **"Rule"** shall have the meaning set forth in the Administrative Procedures Act at 75 O.S. § 250.3.
- (2) **"Rulemaking"** shall have the meaning set forth in the Administrative Procedures Act at 75 O.S. § 250.3.
- (3) **"Submission of a petition"** shall mean receipt of a petition by the ~~Secretary Board~~ in accordance with the requirements of (b) of this Section.

(b) **Petitions.** Any person may initiate an informal proceeding for the purpose of requesting the Board to promulgate, amend, or repeal a rule in this Title. An informal proceeding to request rulemaking in accordance with the provisions of this Section shall be initiated by filing a petition in accordance with all of the following requirements:

- (1) Petitions shall be submitted in writing and filed with the ~~Secretary of the~~ Statewide Virtual Charter School Board. The petition shall meet all of the following requirements:
 - (A) The petition shall state a description of the alleged necessity or basis for the requested change;
 - (B) The petition shall describe any potential conflicts with any existing statute or regulation that would result from the proposed rulemaking action requested;
 - (C) The petition shall include citations to all statutory provisions, if any, which provide authority for the Board to promulgate, amend, or repeal the rule;
 - (D) The petition shall be signed by the petitioner or an authorized representative of the petitioner; and
 - (E) The petition shall state the name, address, telephone number, and email address of the petitioner or an authorized representative of petitioner.

(2) Upon receipt by the ~~Secretary Board~~, the petition will be stamped to show the date of submission, and the ~~Secretary Board~~ shall review the petition for compliance with all of the provisions of this Section. If the petition complies with all provisions of (b) of this Section, the ~~Secretary Board~~ may set the petition for consideration by the Board at the next regular meeting of the Board, or at a subsequent meeting if the petition is not received until after the agenda for the next meeting has already been set.

(c) **Review and consideration of petitions.** Petitions for adoption, amendment, or repeal of a rule in accordance with the provisions of this Section shall be considered by the Board in accordance with the following provisions:

- (1) If the Board approves further consideration of the proposed change, the decision shall be reflected in the

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meeting minutes of the Board. Within five (5) business days of the date of the meeting, written notification will be mailed to petitioner that such proposal will be formally considered for adoption, amendment, or repeal, provided that the process for rule adoption, amendment, or repeal shall be conducted in accordance with the requirements of the Administrative Procedures Act.

(2) In the event the Board determines that the proposal or request should not receive further consideration, the decision shall be reflected in the minutes of the Board. Within five (5) business days of the date of the meeting, written notification of the denial of the petition will be mailed to petitioner.

(3) In the event the Board fails to decide whether or not to take action on the petition within thirty (30) days of the date of submission of the petition, the petition shall be deemed to have been denied in accordance with the provisions of 75 O.S. § 305.

777:1-1-9. Individual proceedings

(a) **Definitions.** The following words and terms, when used in this subchapter, shall have the following meaning:

(1) **"Board"** shall mean the Statewide Virtual Charter School Board.

(2) **"Individual proceeding"** shall have the meaning set forth in the Administrative Procedures Act at 75 O.S. § 250.3.

(b) **Computation of time.** Any period of time prescribed pursuant to the provision of this rule shall be computed in accordance with the provisions of the Administrative Procedures Act at 70 O.S. § 250.8.

(c) **Petitions.** An individual proceeding shall be initiated by filing a petition with the ~~Secretary of the~~ Statewide Virtual Charter School Board. The petition shall meet all of the following requirements:

(1) The Petition must include:

(A) A statement of the legal authority and jurisdiction under which the petitioner seeks to initiate the proceeding and the hearing is to be held;

(B) A reference to each particular statute and/or rule involved;

(C) A short and plain statement of the allegations asserted; and

(D) A statement or description of the request for the relief petitioner seeks from the Board.

(2) The Petition must clearly identify the petitioner(s) and be signed by the petitioner or counsel for the petitioner.

(d) **Informal disposition.** Nothing in this Section shall prevent informal disposition of a petition from being made by stipulation, agreed settlement, consent order, or default, unless otherwise precluded by law. In the event of an informal disposition of a petition, written notice signed by each party or counsel representatives shall be delivered to the ~~Secretary of the~~ Statewide Virtual Charter School Board prior to the time of the scheduled hearing.

(e) **Right to counsel.** All parties to an individual proceeding shall have the right to representation by legal counsel in

accordance with the provisions of 75 O.S. § 310. The Board may be represented by its own counsel, or, if deemed necessary by the Chairperson of the Board, a request may be made of the Attorney General to provide counsel to the Board to rule on questions of admissibility of evidence, competency of witnesses, and any other questions of law. In the event that counsel is not requested from the Attorney General, the Chairperson of the Board or a hearing officer appointed by the Board will rule on the evidence, competency of the witnesses and other questions of law.

(f) **Entry of appearance.** All parties or attorneys representing parties in an individual proceeding shall file an entry of appearance. The entry of appearance shall constitute the address of record for the party at which all documents in the individual proceedings will be served. The entry of appearance shall meet all of the following requirements:

(1) The case caption of the individual proceeding;

(2) The name and signature of the party or parties entering an appearance in the individual proceeding;

(3) The mailing address, telephone, fax number and e-mail address of the party or parties entering an appearance in the individual proceeding or, if represented by counsel:

(A) The name and signature of the attorney or attorneys entering an appearance in the individual proceeding on behalf of the party or parties;

(B) The name of the law firm of the attorney(s), if any; and

(C) The Oklahoma Bar Association number of the attorney(s).

(g) **Motions.** All requests for action in an individual proceeding before the Board shall be made in the form of a motion. Motions shall be filed with the ~~Secretary of the~~ Board, and shall comply with all of the following requirements:

(1) The motion must clearly and specifically state:

(A) The facts upon which the request is based;

(B) All legal grounds in support of the request; and

(C) The action or relief sought.

(2) The motion must be signed by the movant or counsel for the movant;

(3) The motion must include the name and contact information of record of the movant or counsel for the movant;

(4) The motion must be signed by the movant or counsel for the movant;

(5) The motion must be timely served upon all parties to the proceeding and shall include a certificate of service that complies with the provisions of (h)(3) of this Section.

(h) **Service.** Methods of service and proof of service of any notice, pleading, order, or other document required by this Section shall comply with the following provisions:

(1) **Methods of service.** Service of any notice, pleading, or order required by this Section shall be made by one of the following methods:

(A) By personal delivery, served by a person licensed to make service of process in civil cases;

(B) By certified mail with delivery shown by return receipt. Service by certified mail shall be effective on

the date of receipt or, if refused, on the date refusal by the Respondent. Acceptance or refusal by any officer of a business or an authorized agent for a business shall constitute acceptance or refusal by the party addressed;

(C) By publication if it is shown that service cannot be made by any other means despite the exercise of due diligence; or

(D) Any other method authorized by 12 O.S. § 2005(B).

(2) **Proof of service.** Proof of service of any petition to initiate an individual proceeding shall be filed with the ~~Secretary of the State Board of Education~~ Statewide Virtual Charter School Board Acknowledgment in writing of the document by the recipient, or appearance by the recipient at a hearing without objection to service, shall be considered proof of service.

(3) **Certificates of service.** All documents filed with the ~~Secretary of the State~~ Statewide Virtual Charter School Board in a pending individual proceeding and all documents requiring service in accordance with the provisions of this Section shall include a Certificate of Service that meets all of the following requirements:

(A) The Certificate of Service shall state "I hereby certify that on this ____ day of _____, _____, a copy of the foregoing document was mailed, postage prepaid, to:" and shall identify the name and address of all parties to whom the document was served.

(B) The Certificate of Service shall be signed by the party or counsel for the party charged with service of the document.

(i) **Formal hearing procedures.** A hearing on a petition shall be conducted by the Chairman of the Board or the hearing officer in accordance with 75 O.S. § 310 and the following procedures:

(1) **Initial hearing.** When a petition is filed, the ~~Secretary Board~~ shall promptly set the petition for an initial hearing. Notice of the hearing shall comply with the requirements of 75 O.S. § 309. At the hearing, the Board may choose to consider evidence and arguments in support of or in opposition to the petition, the Board may set the matter for further hearing.

(2) **Appointment of a hearing officer.** The Chairman of the Board shall preside over any hearing conducted in an individual proceeding in accordance with the provisions of this Section. Alternatively, the Board, at its discretion, may utilize a hearing officer to conduct the hearing. If utilized, the hearing officer shall be appointed by the Chairperson of the Board upon a vote of the majority of the members of the Board.

(3) **Continuances.** Any party to the proceeding may request a continuance of the scheduled hearing in accordance with the following provisions;

(A) A party may request to continue a hearing scheduled in an individual proceeding by filing a motion for continuance with the ~~Secretary of the~~ Board. The motion for continuance shall meet all of the following requirements:

(i) The motion shall comply with all of the requirements of (g) of this Section;

(ii) The motion shall be filed at least five (5) business days prior to the scheduled hearing date, provided that this time requirement may be waived by the Board or hearing officer for good cause shown by the movant.

(B) The Board may continue a scheduled hearing by submitting written notification to all parties via certified mail, return receipt requested, or by electronic mail at least five (5) business days prior to the date of the scheduled hearing, provided that the time requirement may be waived by the Board or the hearing officer for good cause shown by the Board or counsel for the Board.

(C) If a motion for continuance is unopposed and the Board finds good cause for granting the motion, counsel for the Board shall prepare and sign a continuance order. The continuance order shall be filed with the ~~Secretary of the~~ Board and served in accordance with the requirements of (h) of this Section.

(D) If a motion for continuance is opposed, the non-moving party shall file a motion opposing the continuance stating all factual and legal grounds for denial of the motion. The Board or the hearing officer shall issue an order concerning the motion as soon as possible prior to the hearing. The order shall be filed with the ~~Secretary of the~~ Board, and copies of the order served in accordance with the provisions of (h) of this Section and by email if possible.

(4) **Discovery and subpoenas.** The Board or the hearing officer may require parties to an individual proceeding to attend discovery when necessary and appropriate for prompt adjudication of an individual proceeding conducted in accordance with the provisions of this Section. Discovery shall be conducted in accordance with 75 O.S. § 315 and the following provisions:

(A) **Depositions.** The parties, upon notice may take depositions of witnesses in the same manner prescribed for depositions in civil actions in the district courts of the State of Oklahoma. The depositions may be admitted into evidence by the Board or the hearing officer in the same manner as other evidence. Costs of depositions shall be borne by the deposing party.

(B) **Subpoenas.** Subpoenas for the attendance of a witness or for production of evidence may be issued in accordance with the following provisions:

(i) **Issuance of a subpoena.** The Chairman of the Board or the hearing examiner may direct the ~~Secretary of the~~ Board to issue a subpoena upon the motion of a party. The signature of the ~~Secretary~~ Executive Director shall be sufficient authentication for issuance of any subpoena. A motion for issuance of a subpoena shall comply with the provisions of (h) of this Section and shall be filed with sufficient time to permit service of the subpoena at least five (5) business days prior to the hearing at which the attendance of the witness or

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ten (10) business days prior to the date production of records is required.

(ii) **Service of a subpoena.** Subpoenas shall be served in any manner prescribed for service of a subpoena in a civil action in the district courts of the State of Oklahoma.

(iii) **Objections to and compliance with subpoenas.** Any party to the proceeding may move to quash a subpoena or subpoenas duces tecum issued in accordance with the provisions of this Section, provided that, prior to quashing a subpoena or subpoenas duces tecum the agency shall give notice to all parties. A subpoena or subpoenas duces tecum may not be quashed if any party objects.

(iv) **Enforcement of subpoenas.** Upon the failure of any person to obey a subpoena, or upon the refusal of any witness to be sworn or make an affirmation or to answer a question put to her or him in the course of any individual proceeding, the Board shall consider the issue of enforcement of the subpoena as soon as convenient. By resolution, the Board may direct initiation of appropriate judicial proceedings necessary to enforce the subpoena. Meanwhile, the hearing or other matters shall proceed, so far as is possible, but the Board or the hearing officer, at its discretion at any time may order a stay or continuance of the proceedings for such time as may be necessary to secure a final ruling in the compliance proceedings.

(v) **Costs of issuance and service of subpoenas.** The costs covering the issuance and service of subpoenas and all witness fees incurred on behalf of a party to the proceedings, other than the Board, shall be borne by the party on whose behalf they are incurred, provided that the Board in its final order may tax such costs to another party if justice so requires.

(j) **Disqualification of a Board member or hearing officer.** A Board member or hearing officer shall withdraw from any individual proceeding in which he or she cannot accord a fair and impartial hearing or consideration. Any party may request the disqualification on the ground of his or her inability to give a fair and impartial hearing by filing an affidavit promptly upon discovery of the alleged disqualification, stating with particularity the grounds upon which it is claimed that a fair and impartial hearing cannot be accorded. The issue shall be determined promptly by the Board, or if it affects a member of the Board, by the remaining members thereof, if a quorum. Upon the entry of an order of disqualification affecting a hearing officer, the Board shall either assign a replacement hearing officer, or conduct the hearing itself. Upon the entry of an order of disqualification affecting a Board member, the Governor immediately shall appoint a member pro tempore to sit in place of the disqualified member in that proceeding.

(k) **Presentation and consideration of evidence.** Presentation and consideration of evidence shall be conducted in accordance with the following procedures:

(1) **Witness and exhibit lists.** The parties to the hearing shall exchange witness and exhibit lists no later than five (5) business days prior to the hearing.

(2) **Admissibility and consideration of evidence.** The Board or hearing examiner may determine the order in which evidence shall be received and presented. Admission and consideration of evidence in an individual proceeding conducted in accordance with the provisions of this Section shall be conducted in accordance with the Administrative Procedures Act at 75 O.S. §§ 309 through 326 and the following provisions:

(A) **Official notice.** The Board or hearing officer may take notice of judicially cognizable facts or of generally recognized technical or scientific facts within the specialized knowledge of the ~~State Department of Education~~ Statewide Virtual Charter School Board. The Board or hearing officer shall give notice to all parties, prior to, or at the hearing, of any facts of which it proposes to take official notice. Any party or her/his attorney may request that official notice be taken of any fact qualified for such notice by the statutes of this state. If such official notice is taken, it shall be stated in the record, and all parties shall have opportunity to contest and give evidence in rebuttal or derogation of the official notice.

(B) **Exclusion of witnesses.** A party may request the exclusion of witnesses to the extent and for the purposes stated in 12 O.S. § 2615. Exclusion of a witness shall not be considered a violation of the Oklahoma Open Meeting Act.

(C) **Testimony of witnesses.** All testimony of witnesses presented by parties shall be made under oath or affirmation. A party may conduct cross-examination of witnesses called by other parties. Witnesses may also be questioned by the Board or the hearing officer.

(D) **Objections to evidence.** Objections to evidence may be made and shall be included in the record of the proceedings.

(E) **Documentary evidence and authentication.** Documentary evidence may be received in the form of copies or excerpts. Parties may challenge the authenticity of any copies. Any part of the evidence may be received in written form, when a hearing will be expedited and the interests of the parties will not be prejudiced.

(l) **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 or the hearing officer;
- (3) Closing arguments by legal counsel of both parties; and
- (4) Submission of case to the Board or the hearing officer for decision.

(m) **Dismissal of an action.** Upon a hearing, if the petitioner fails to show a prima facie case for lack of sufficient evidence, the Board may dismiss the petition upon grounds of failure to prove sufficient facts in support of the petition or upon the recommendation of the hearing examiner on the same grounds.

(n) **Deliberations and decisions.** Deliberations by the Board or the hearing officer in an individual proceeding may be held in executive session pursuant to the provisions of the Open Meeting Act set forth at 25 O.S. § 307.

(o) **Decision.** Decisions shall be issued in accordance with the following procedures:

(1) After hearing all evidence, and all witnesses, the Board or, if applicable, the hearing officer, shall render a decision on the petition.

(2) The decision shall be announced at the conclusion of the hearing and notification of that decision shall be by certified or registered mail, restricted delivery with return receipt requested to the petitioner.

(3) If the petitioner fails to appear at the scheduled hearing without prior notification within the time frame to request a stay or continuance set forth in (i) of this Section and without a demonstration of good cause, or fails to prove the allegations by clear and convincing evidence, the petition shall be dismissed.

(p) **Findings of fact and conclusions of law.** After the decision is announced, but before issuance of the final order, if the Board has not heard the case or read the record of the individual proceeding, the Board or hearing officer shall provide the parties with an opportunity to prepare and submit proposed findings of fact and conclusions of law in accordance with the provisions of 75 O.S. § 311. After the parties have been given notice and an opportunity to file exceptions, present briefs and oral arguments to the proposed findings of fact and conclusions of law, the Board may take action to accept, reject, or modify the proposed Findings and Conclusions of the hearing officer. The Board shall render findings of fact and conclusions of law. All findings of fact made by the Board shall be based exclusively on the evidence presented during the course of the hearing or previously filed briefs, (made a part of the record), of the testimony of witnesses taken under oath.

(q) **Final order.** As the final determination of the matter, the final order shall constitute the final agency order and shall comply with the requirements set forth at 75 O.S. § 312. If no motion for rehearing, reopening or reconsideration of the order is filed in accordance with (t) of this Section, the final agency order shall represent exhaustion of all administrative remedies. All final orders in an individual proceeding shall be in writing and made a part of the record. Final orders are to be issued and signed by the Chairperson of the Board or the hearing officer for transmission to the parties by the ~~Secretary of the~~ Board. Within five (5) business days of the date of issuance of the final order, parties shall be notified of a final order either personally or by certified mail, return receipt requested. Upon request, a copy of the order shall be delivered or mailed to each party and the party's attorney of record, if any.

(r) **Communication with parties.** Unless required for the disposition of ex parte matters authorized by law, the Chairperson and the members of the Board, the hearing officer, or the

employees or the agents of the Board shall not communicate, directly or indirectly, in connection with any issue of fact, with any person or party, nor, in connection with any issue of law, with any party or his or her representative except upon notice and opportunity for all parties to participate. The Chairperson and members of the Board or their employees may communicate with one another and have the aid and advice of one or more personal assistants. Advice may also be secured from the Attorney General's office.

(s) **Record of hearing.** The record of the hearing shall be set forth in such form and detail as the Chairperson or the Board may direct.

(1) In accordance with the requirements of 75 O.S. § 309, the record shall include:

(A) All pleadings, motions, and intermediate rulings;

(B) Evidence received or considered during the individual proceeding;

(C) A statement of matters officially noticed;

(D) Questions and offers of proof, objections, and rulings thereon;

(E) Proposed findings and exceptions;

(F) Any decision, opinion, or report by the Board or a hearing officer presiding at the hearing; and

(G) All other evidence or data submitted to the Board or hearing officer in connection with their consideration of the case.

(2) The ~~Secretary~~Board shall ensure that all proceedings, except for executive sessions, are electronically recorded. The recording shall be made and maintained in accordance with the requirements of 75 O.S. § 309, and a copy shall be provided to any party to the proceeding upon request. The Board may, but is not required to direct the recording of a proceeding to be fully transcribed and have a copy of the transcript placed on file in the ~~Secretary's~~Board's office. Parties to the proceeding may have the proceedings transcribed by a court reporter at their own expense.

(t) **Rehearing, reopening or reconsideration of an order.** The ruling shall become final unless, within ten (10) calendar days of ~~receipt of the notice~~entry of the order of declaratory ruling, the petitioner files a written request for a reconsideration of the petition with the ~~Secretary of the~~ Board stating all grounds upon which the petitioner seeks reconsideration of the Board's ruling. A petition for rehearing, reopening, or reconsideration of an agency order issued pursuant to the provisions of this Section shall comply with the following procedures:

(1) A petition for rehearing, reopening or reconsideration of a final order must be filed with ~~the Secretary of the~~ Board within ten (10) days from the entry of the order. It must be signed by the party or his or her attorney, and must set forth with particularity the statutory grounds upon which it is based. However, a petition based upon fraud practiced by the prevailing party or upon procurement of the orders by perjured testimony or fictitious evidence may be filed at any time. All petitions for rehearing, reopening, or reconsideration will be considered and ruled upon as

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soon as the convenient conduct of the Board's business will permit.

(2) A petition for a rehearing, reopening, or reconsideration shall set forth the grounds for the request. The grounds for such a petition shall be either:

- (A) Newly discovered or newly available evidence, relevant to the issues;
- (B) Need for additional evidence adequately to develop the facts essential to proper decision;
- (C) Probable error committed by the Agency in the proceeding or in its decision such as would be grounds for reversal on judicial review of the order;
- (D) Need for further consideration of the issues and the evidence in the public interest; or
- (E) A showing that issues not previously considered ought to be examined in order to properly dispose of the matter. The grounds justifying the rehearing shall be set forth by the Statewide Virtual Charter School Board which grants the order, or in the petition of the individual making the request for the hearing.

(3) It is the burden of the party requesting a rehearing to notify the opposing party of the appeal.

(4) Upon receipt of a written request for reconsideration in accordance with this subsection, the request shall be set on the agenda for consideration by the Statewide Virtual Charter School Board at the next available regular meeting or at a subsequent regular or special meeting. Rehearing, reopening, or reconsideration of the matter may be heard by the State Board of Education, Statewide Virtual Charter School Board or may be referred to a hearing officer. The hearing must be confined to those grounds on which the recourse was granted.

(u) **Judicial review.** Any person or party aggrieved or adversely affected by a final order in an individual proceeding is entitled to certain judicial review in accordance with the provisions of the Oklahoma Administrative Procedures Act, and the procedures set forth therein shall govern appeals.

[OAR Docket #16-622; filed 6-23-16]

TITLE 777. STATEWIDE VIRTUAL CHARTER SCHOOL BOARD CHAPTER 10. STATEWIDE VIRTUAL CHARTER SCHOOLS

[OAR Docket #16-623]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 3. Statewide Virtual Charter School Sponsorship

777:10-3-3. Applications to sponsor statewide virtual charter schools; renewal and termination of contracts for sponsorship statewide virtual charter schools [AMENDED]

777:10-3-5. Full-time virtual charter schools-succession of contractual rights and reversion of property to Statewide Virtual Charter School Board [AMENDED]

AUTHORITY:

Oklahoma Charter Schools Act; 70 O.S., §§3-145.1, §§3-132 through 3-137, §§3-145.3, and §§3-145.4; Statewide Virtual Charter School Board

SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:

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February 25, 2016

APPROVED BY GOVERNOR'S DECLARATION:

Approved by Governor's declaration on June 9, 2016

FINAL ADOPTION:

June 9, 2016

EFFECTIVE:

September 11, 2016

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

ANALYSIS:

777:10-3-3 is being amended to address the application and filing requirements for virtual charter schools seeking sponsorship of the Board. These revisions provide notice of the Board's expectations to virtual charter schools seeking Board sponsorship. A third proposed revision to this subchapter eliminates language requiring the forwarding of new applications to the State Department of Education Director of School Choice for review and adds language that establishes a review panel that recommends new applicants to the Board. Revisions to this chapter further requires the Board to submit written notification regarding denial of new applicants as required by 70 O.S. Supp. 2011, § 3-134(E). Additionally, the proposed amendments remove language that requires all outside submissions and filings be received by the Board's Secretary. The new proposed rule permits the Board itself to receive outside filings and submissions. The proposed rule change provides efficiency for the review, acceptance, and denial of new applicants seeking the Board's sponsorship.

777:10-3-5 is being amended to address the requirements and expectations for renewal of sponsorship contracts with the Board. The proposed revisions add language which addresses the filing and formatting requirements of applications seeking renewal contracts with the Board. The revisions also include the necessary information an applicant must include in a renewal application. The proposed rule change also adds language stating that performance reports and site visits will be required and considered in the Board's evaluation of a renewal request. The proposed revisions also address the action of the Board upon denial of a renewal application as required by 70 O.S. Supp. 2011, § 3-134(E).

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, 2016:

SUBCHAPTER 3. STATEWIDE VIRTUAL CHARTER SCHOOL SPONSORSHIP

777:10-3-3. Applications to sponsor statewide virtual charter schools; renewal and termination of contracts for sponsorship of statewide virtual charter schools

(a) **Sponsorship application cycle and timelines.** To ensure that timely processing, review, and consideration of applications for sponsorship occurs within the time periods specified by 70 O.S. § 3-134, and to ensure that the application process is completed with sufficient time for new schools to comply with all statutory reporting requirements for the beginning of the next school year, (e.g., statutory state finance reporting deadlines for state aid purposes) the Statewide Virtual Charter School Board shall establish a schedule for each year's application cycle for charter school sponsorship requests. No later than September 1 of each school year, the Board shall approve a timeline for the application cycle for the following school year that sets forth deadlines for each of the following events:

- (1) Completion of charter school training required by 70 O.S. § 3-134(A);
- (2) Submission of a letter of intent to submit an application;
- (3) Submission of a full application for statewide virtual charter school sponsorship;
- (4) Public presentation of application/proposal for sponsorship;
- (5) Review of application and recommendation by State Department of Education staff;
- (6) Statewide Virtual Charter School Board decision on application for sponsorship;
- (7) Submission of an amended application;
- (8) Board decision on amended application; and
- (9) Negotiation and execution of a contract for sponsorship;

(b) **Sponsorship application requirements.** In addition to meeting the requirements of 70 O.S. § 3-134, new applications to the Statewide Virtual Charter School Board for sponsorship of a statewide virtual charter school must include the following information in the sponsorship proposal:

- (1) For initial consideration for sponsorship, every applicant shall submit a set of policies and procedures governing administration and operation of the proposed statewide virtual charter school. The policies and procedures governing administration and operation of the proposed statewide virtual charter school shall be incorporated into the terms of the contract of the virtual charter school, and shall include, but are not limited to, all of the following subject areas:

- (A) Each of the following provisions required by 70 O.S. § 3-135:
 - (i) A description of the charter school program offered by the school which complies with the purposes outlined in 70 O.S. § 3-136;
 - (ii) Student admission policies and procedures;
 - (iii) Management and administration of the charter school;

- (iv) Requirements and procedures for program and financial audits;
 - (v) All of the requirements set forth in 70 O.S. § 3-136, including, but not limited to, compliance with all regulations of the State Department of Education pertaining to health, safety, civil rights and insurance and financial reporting and auditing requirements;
 - (vi) Assumption of liability by the charter school;
 - (vii) Employment rights and personnel policies of the school required to be included in employee contracts pursuant to 70 O.S. § 3-135(B);
- (B) Duties and responsibilities of the charter school governing body;
 - (C) Student grade placement, promotion, retention, and graduation requirements;
 - (D) Use and maintenance of charter school property and facilities, including:
 - (i) Virtual provider technology, course delivery and technical support;
 - (ii) Facility safety and emergency and crisis management;
 - (iii) School calendar, school instructional hours, school holidays, dismissals and closures; and
 - (E) Any other topics deemed necessary by the Statewide Virtual Charter School Board to assess the applicant's capability to administer and operate the charter school in compliance with all applicable provisions of federal and state laws and regulations to which charter schools are required to comply.

(2) Each applicant shall:

- (A) Articulate the vision and purpose of the school;
- (B) Articulate the mission of the school, specifying how the school will embrace and accomplish its vision and purpose;
- (C) Describe the elements of the school program that support the school's mission;
- (D) Describe how the school will ensure education access and equity for all eligible students;
- (E) Describe how the governing body and governing documents ensure that a functioning organization with competent governance will be sustained, including:
 - (i) lines of authority;
 - (ii) leadership roles and responsibilities;
 - (iii) governing by-laws;
 - (iv) meeting schedules for governing body;
 - (v) a list of advisory bodies;
 - (vi) external organizations applicable to school management;
 - (vii) make-up of governing body, including proof of Oklahoma residency for a majority of Board members.
 - (viii) start up plan;
 - (ix) recruitment, hiring and personnel policies, professional and staff development and training,

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technology capacity, system accessibility, student records and data management, student recruitment policies and procedures, admission and enrollment policies and procedures (including minimum and maximum enrollment for each contract year and proposed school calendar and sample daily schedule), promotion and graduation policies and procedures, attendance policies and procedures, student conduct and discipline plan, school safety and emergency response plan, parent and family education and engagement plan; and

(x) school effectiveness measurement criteria;
(F) Describe how the governing body will ensure a sound and stable financial condition for the school, including:

(i) description of the roles and responsibilities of the treasurer and financial officers, and how each has demonstrated experience in school finance or the equivalent thereof.

(ii) financial policies, including financial controls.

(iii) financial plan for the first five years of operation.

(iv) start-up and five-year budgets and cash flow projections.

(v) anticipated fundraising plan, if applicable, and

(vi) insurance coverage/plan;

(G) Describe how the governing body will ensure the delivery of a high-quality education program that meets academic performance for growth, proficiency, and college career readiness, including:

(i) grade levels served

(ii) plan for program delivery and program evaluation;

(iii) curriculum and instructional model, including learning environment, curriculum overview, curriculum materials, instructional strategies, equipment and technology requirements, alignment with Oklahoma academic standards.

(iv) student assessment, including plan to measure and report student progress, and benchmarks for student learning.

(v) plan for support structures (e.g. online tutoring, home mentors, and technical support services in place 24x7) in addition to teacher support.

(vi) plan for support of diverse learners, (students at-risk for poor learning outcomes, academically behind learners, and other students identified through testing and assessments as being in need of targeted remediation, intervention, and/or support);

(vii) co-curricular and extracurricular activities; and

(H) Include a concise plan that details expected school growth and how the school will evolve to meet the needs of school growth.

(23) Each applicant shall provide documentation of its school's ability to meet each of the following requirements specific to the virtual delivery of education services:

(A) That each statewide virtual charter school is adequately prepared to deliver services to all enrolled students on the school's first day of operation and for all required instructional hours for every school year through a stable virtual platform;

(B) That each statewide virtual charter school has consistent procedures in place governing admission, transfers, enrollment, and withdrawal of students;

(C) That each statewide virtual charter school has consistent procedures in place governing admission, child find responsibilities, evaluation, and re-evaluation of students with disabilities, as well as applicable procedural safeguards and policies and procedures to ensure provision of free appropriate online and other educational and related services, supplementary aids and services, modifications, accommodations, supports for personnel, and other technical supports provided in the least restrictive environment to students with disabilities and/or other special needs in compliance with applicable federal and state laws and regulations, including:

(i) Students who require or may require individualized education programs pursuant to the Individuals with Disabilities Education Act (IDEA); and

(ii) Students who require or may require accommodations, regular or special education and related aids, or other services under a plan developed in accordance with the requirements of Section 504 of the Rehabilitation Act of 1973 and Title II of the Americans with Disabilities Act;

(D) That each statewide virtual charter school has consistent procedures in place governing the admission, identification, evaluation, re-evaluation, parental notification, and provision of educational programs and services in compliance with applicable federal and state laws and regulations to students with special needs or unique abilities, including, but not limited to:

(i) Students who are English Language Learners/Limited English Proficient and who require services as necessary to overcome language barriers and ensure that they can participate meaningfully in the district's education programs; and

(ii) Students who meet the definition of "gifted and talented children" set forth in 70 O.S. § 1210.301;

(E) That each statewide virtual charter school complies with state and federal law in protection and handling of student records and data, including, but not limited to, protocols for secure storage and transmission of student data;

(F) That each statewide virtual charter school has consistent procedures and technology in place necessary to monitor and report student attendance,

student participation in online school activities, and any necessary instruction in accordance with the requirements of state law;

(G) That each statewide virtual charter school has fair and consistent procedures in place to implement necessary and appropriate practices to promote student discipline that include sufficient due process protections for students facing accusations of conduct which may result in suspension and/or expulsion of a student;

(H) That each statewide virtual charter school has consistent procedures and technology in place to ensure delivery of services and that each virtual charter school provider has an adequate plan in place for communicating emergency procedures to students in the event of technical failures of equipment and/or loss of connectivity as a result of weather conditions;

(I) That each statewide virtual charter school has consistent procedures and technology in place to ensure consistent and adequate communication with parents/guardians of students and provide student progress and academic reports to parents/guardians of students; and

(J) That each statewide virtual charter school has provided a full description and explanation of the grade levels in which the provider intends to provide instruction and, for each charter school that offers secondary level coursework for grades nine (9) through twelve (12), whether the charter school will offer coursework as necessary to comply with the graduation requirements of 70 O.S. § 11-103.6 and accompanying regulations.

(34) Each applicant shall provide a written plan for compliance with all state and federal financial recording and reporting requirements for state and federal funds that are applicable to public school districts, including, but not limited to compliance with:

(A) The School District Transparency Act at 70 O.S. § 5-135.4 et seq.;

(B) The Oklahoma Public School Audit Law at 70 O.S. §22-101 et seq.;

(C) Annual itemized expenditure budget and request for appropriated funds and estimate of revenues required by 70 O.S. § 5-128.1; and

(D) Statutes and regulations pertaining to the Oklahoma Cost Accounting System (OCAS).

(45) Each application shall include a contact name, mailing address of record, phone number, and email address of the governing body at which all written notices required by 70 O.S. § 3-134 shall be served. In the event that a change in contact information occurs during the application process, the ~~Secretary of the Board~~ governing body shall provide the ~~Secretary of the Board~~ with updated contact information in writing within five (5) business days of the date that the change occurs.

(c) **Filing, review, approval, and denial of charter school applications for sponsorship.** All applications for sponsorship shall be submitted by the governing body of the

prospective charter school to the Statewide Virtual Charter School Board by filing ~~three (3)~~ an original and sixteen (16) copies of the application with the ~~Secretary of the Statewide Virtual Charter School Board~~. Upon receipt of an application for sponsorship, the ~~Secretary Board~~ shall stamp the application to record the date of receipt, and shall promptly submit written confirmation of the receipt of the application to the contact name and address of record of the governing body listed on the application. ~~In addition, the Secretary shall forward a copy to the State Department of Education Executive Director of School Choice for review and recommendation in accordance with the deadlines established pursuant to (a) of this Section.~~

(1) Application format.

(A) The text and attachments shall use standard one-inch margins, be clearly paginated, and use a readable font not smaller in type than 11 point;

(B) A cover page shall be labeled *Application for Initial Authorization* and include the following information:

(i) Name of proposed school;

(ii) Address of proposed school;

(iii) Contact information: name, title, phone, email address; and

(iv) Application submission date;

(C) A cover letter not to exceed two pages shall provide a brief overview of the proposed school;

(D) A clearly labeled table of contents shall be included setting forth all major sections, appendices, and page numbers;

(E) Tables, graphs, and other data provided in the application shall be clearly presented and explained and shall be relevant to the text;

(F) The application shall include a signed and notarized statement from the Head of the School and the governing body members, as applicable, showing their agreement to fully comply as an Oklahoma public charter school with all state and federal laws and regulations and specifically the Oklahoma Open Meeting and Open Records Acts; and

(G) The application shall include documentation of applicant's completion of charter school training.

(2) **Initial review and recommendation.** Prior to consideration of the application by the Statewide Virtual Charter School Board, a review panel may be formed by the Executive Director for the purpose of developing a recommendation on the application to the Board for consideration. The panel, chaired by the Executive Director, may include representatives with expertise in the area of accreditation, education services, technology, school finance, federal programs, education law, curriculum, instruction, special education, and student information.

(43) **Application review and criteria.** In reviewing an application for sponsorship of a statewide virtual charter school, the Statewide Virtual Charter School Board shall determine whether the applicant's proposal for sponsorship complies with the provisions of 70 O.S. § 3-134 and other applicable provisions of the Oklahoma Charter Schools Act. In addition, the Board may consider any

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other factors demonstrating the applicant's capacity to successfully comply with the goals set forth in its mission statement and applicable state, federal, tribal and/or local statutes and regulations. Such factors may include, but are not limited to the following:

(A) Whether the applicant can demonstrate previous experience in operation of one or more virtual charter schools;

(i) If the applicant cannot demonstrate previous experience in operation of one or more virtual charter schools, whether applicant has sufficient resources in place to ensure compliance with applicable state, federal, tribal and/or local statutes and regulations;

(ii) If the applicant can demonstrate previous experience in operation of a virtual charter school, whether applicant has a history of non-compliance with applicable state, federal, tribal and/or local statutes and regulations either in the State of Oklahoma or in other jurisdictions;

(B) Whether the applicant has provided evidence demonstrating financial stability;

(C) Whether the criteria designed to measure the effectiveness of the charter school proposed by the applicant is reasonably calculated to provide accurate benchmarks for evaluation of teacher effectiveness and student learning; and

(D) Whether the charter school has adequate human resources, facilities, systems, and structures in place as necessary to evaluate the needs of and provide services to students with disabilities, English Language Learners, and gifted and talented students.

(24) Acceptance or denial of sponsorship applications. The Statewide Virtual Charter School Board shall review and consider the application in accordance with the timeline established pursuant to (a) of this Section, provided that a final decision on the application shall be made no later than ninety (90) calendar days from the date of receipt of the application by ~~the Secretary of the Statewide Virtual Charter School Board. The Secretary of the Board shall promptly submit written notification of the decision of the Board, including reasons for rejection of the application, if applicable, to the applicant via certified mail, return receipt requested, to the contact and address of record of the governing body designated on the application.~~

(35) Reconsideration of sponsorship applications. In the event of a denial of an application for sponsorship, the applicant may submit a revised application for reconsideration in accordance with the following procedures:

(A) The revised application for reconsideration shall be filed with the ~~Secretary of the Board~~ within thirty (30) calendar days after the date of receiving notification of the rejection. The revised application shall meet all of the application requirements set forth in ~~(b) and (c)(1)~~ of this Section. In the event that delivery of written notification required by (2) of this subsection is refused by the applicant or returned as

undeliverable due to the applicant's failure to update the contact of record in accordance with the requirements of (b)(4) of this Section, the date of receipt of notification of the rejection shall be considered the date of the meeting at which the Board took action on the proposed application.

(B) Within five (5) business days of the date of receipt of the application for reconsideration, the ~~Secretary Board~~ shall ~~set~~ promptly set the application for consideration at a meeting of the Board and submit notification of the date, time, and place of the meeting to the applicant to the contact of record. The meeting to consider the application shall occur within thirty (30) days of the date of receipt of the application.

(C) The Statewide Virtual Charter School Board shall take action to accept or reject the revised application within thirty (30) days of its receipt by the ~~Secretary of the Board~~.

(46) Appeal of denial of sponsorship applications. ~~In the event that the governing body of the charter school elects to appeal the decision of the Board to deny the application for sponsorship in accordance with the provisions of 70 O.S. § 3-145.3, a notice of intent to appeal the decision shall be filed with the Secretary of the Statewide Virtual Charter School Board within thirty (30) days of the date of decision made by the Board. In addition, the~~ The procedures for filing appeals to the State Board of Education shall be governed by 70 O.S. § 3-145.3 and the policies and rules adopted by the State Board of Education, with a copy of the appeal mailed to the Statewide Virtual Charter School Board.

(d) **Requirements of the sponsorship contract.** Contracts for sponsorship between the Statewide Virtual Charter School Board and the governing body of a statewide virtual charter school shall include terms that meet all of the following requirements:

(1) The contract shall incorporate the provisions of the charter of the school in accordance with the requirements of 70 O.S. § 3-135, and the charter shall comply with the provisions of 70 O.S. § 3-136;

(2) The contract shall contain terms addressing all of the requirements set forth in 70 O.S. § 3-135;

(3) The contract shall contain terms setting forth measurable goals and objectives for student performance;

(4) The contract shall contain terms specifying standards for fiscal accounting and management that ensure the compliance of the charter school with all applicable provisions of state and federal statutes and regulations pertaining to requests for appropriations and recording and reporting receipt and expenditures of public funds, including, but not limited to:

(A) Terms providing that the charter school shall conduct annual financial audits in accordance with the requirements of the Oklahoma Public School Audit Law;

(B) Terms providing that the charter school shall comply with all State Department of Education

deadlines necessary for budgeting, calculation of appropriations and/or disbursements of state aid and/or federal aid;

(C) Terms providing that the charter school shall comply with all deadlines for recording and reporting of state aid revenue and expenditures;

(D) Terms providing that the charter school shall comply with all requirements of the Oklahoma Cost Accounting System (OCAS); and

(E) Terms providing that the charter school shall comply with all provisions of the School District Transparency Act at 70 O.S. § 5-135.4 et seq.

(5) The policies and procedures governing administration and operation of the statewide virtual charter school shall be incorporated into the terms of the contract;

(6) The term of the initial contract shall be effective for ~~no longer than~~ five (5) years from the first day of operation in accordance with the provisions of 70 O.S. § 3-137;

(7) The term of the contract shall designate at least one contact name and address of record of the governing body of the charter school to which all notices required by the terms of the contract and/or this Section shall be served, including the name, title, mailing address, email address, and phone number of all individual(s) authorized to receive service of notices required by this Section and pursuant to the terms of the contract; and

(8) The contract shall contain any other terms necessary to ensure compliance with applicable provisions of state and/or federal law.

(e) **Renewals of contracts for sponsorship of statewide virtual charter schools.** Renewal of a contract with a statewide virtual charter school sponsored by the Statewide Virtual Charter School Board shall be conducted in accordance with the requirements of the Oklahoma Charter Schools Act.

(1) **Requests for renewal of contract for sponsorship.** Requests for renewal of the contract for sponsorship shall be submitted by the governing body of the charter school in accordance with the following procedures:

(A) At least one (1) year prior to expiration of the initial contract term, but no earlier than eighteen (18) months prior to the date of expiration of the contract; the governing body of the charter school may submit a proposal for renewal of the contract to the Statewide Virtual Charter School Board by filing an original and three (3) seven (7) copies of the proposal with the ~~Secretary of the Board~~.

(B) ~~Within ten (10) calendar days of the date of receipt of the request for informal hearing, the~~ The Secretary Board shall schedule the request for renewal as an ~~action~~ item on the agenda for the next regular meeting of the Board, or at a subsequent meeting if the proposal for renewal is not received until after the agenda for the next meeting has already been set. The ~~Secretary Board~~ shall timely submit written notice of the date, time, and location of the meeting at which the proposal for renewal will be considered and/or heard by regular mail to the governing body of the charter school at the address of record set forth

in the sponsorship contract. In addition, the ~~Secretary Board~~ may send a courtesy copy of the notice by facsimile, and/or email. If the Board will act on the proposal for renewal at a subsequent meeting of the Board, similar notice of such meeting shall be sent to the governing body of the charter school.

(C) The Board shall review the proposal for renewal and take action on the request for renewal no later than eight (8) months prior to the date of expiration of the contract.

(D) The Board may base its decision to deny the charter school governing body's request for renewal upon any of the grounds for nonrenewal or termination set forth in 70 O.S. § 3-137 and/or (f)(1) of this Section.

(2) **Format for renewal application.** The renewal application shall include:

(A) Text and attachments using standard one-inch margins, clearly paginated, and using a readable font not smaller in type than 11 point;

(B) A cover page labeled *Application for Reauthorization*, including the following information:

- (i) Name of school;
- (ii) Address of school;
- (iii) Contact information: name, title, phone, email address;
- (iv) Date application approved by governing body; and
- (v) Application submission date;

(C) A cover letter no more than two pages in length providing a brief overview of the accomplishments over the term of the current contract;

(D) A clearly labeled table of contents setting forth all major sections, appendices, and page numbers;

(E) Clearly labeled attachments provided in the appendix;

(F) Clearly labeled tables, graphs, and other data provided in this application in addition to an explanation of their relevance to the text;

(G) A signed and notarized statement from the Head of the School and the governing body members, as applicable, showing their agreement to fully comply, as an Oklahoma public charter school with all state and federal laws and regulations, and specifically the Oklahoma Open Meeting and Open Records Acts; and

(H) A single page entitled *Introduction to the School* containing the following list of information:

- (i) Name of school;
- (ii) Location of School;
- (iii) Year Opened;
- (iv) Year Renewed, if applicable;
- (v) Maximum enrollment;
- (vi) Current enrollment;
- (vii) Grade span;
- (viii) Most recent report card grade;
- (ix) Attendance rate;
- (x) Graduation rate;

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- (xi) Dropout rate;
- (xii) Mobility rate; and
- (xiii) Percentage of at-risk students enrolled.

(3) Information in renewal request. Each applicant shall:

(A) Articulate the mission of the school, specifying how the school embraces and accomplishes its vision or purpose;

(B) Describe the elements of the school program that support the school's mission;

(C) Describe how the school ensures education access and equity for all eligible students;

(D) Describe how the governing body and governing documents ensure that a functioning organization with competent governance will be sustained.

(E) Describe how the governing body ensures a sound and stable financial condition for the school.

(i) description of the roles and responsibilities of the treasurer and financial officers,

(ii) financial reporting,

(iii) financial plan for operation,

(iv) annual audits,

(v) anticipated fundraising plan, if applicable, and

(vi) insurance coverage/plan.;

(F) Describe how the governing body ensures the delivery of a high-quality education program that meets academic performance for growth, proficiency, and college career readiness.

(G) Include a concise plan that details the school's plans for the next charter term to modify and augment the school's programs to ensure high-quality educational services and student success.

(4) Performance report and site visit. The sponsor of the school will issue a school performance report in accordance with State statute. The school shall have forty-five (45) days to respond to the performance report and submit any corrections or clarifications for the report. In evaluating a school's renewal request, the Board may consider the performance report, results of a site visit, and evidence provided in the school's presentation to the Board.

(25) Notice of intent of non-renewal of contract for sponsorship. Notwithstanding the provisions of (1) of this subsection, the Statewide Virtual Charter School Board may elect to not renew a contract for sponsorship in accordance with the following procedures:

(A) No later than eight (8) months prior to the date of expiration of the contract. The Statewide Virtual Charter School Board shall submit written notice of its intent of non-renewal via certified mail, return receipt requested to the governing body of the charter school at the address of record set forth in the contract. The notice shall include:

(i) A statement of any and all factual and legal grounds upon which the Board's intent to non-renew the contract is based;

(ii) A statement of the date, time, and location of the meeting at which the Board intends to take

action on the proposed non-renewal, which shall be held no earlier than thirty (30) calendar days from the date of the notice of intent to non-renew the contract is sent to the charter school.

(B) The Board may base its decision to non-renew the contract for sponsorship upon any of the grounds for nonrenewal or termination set forth in 70 O.S. § 3-137 and/or (f)(1) of this Section.

~~(C) In the event that the governing body of the charter school elects to appeal the decision of the Board to not renew the contract for sponsorship in accordance with the provisions of 70 O.S. § 3-145.3, a notice of intent to appeal the decision shall be filed with the Secretary of the Statewide Virtual Charter School Board within thirty (30) days of the date of decision made by the Board. In addition, the~~
The procedures for filing appeals to the State Board of Education shall be governed by 70 O.S. § 3-145.3 and the policies and rules adopted by the State Board of Education, with a copy of the appeal mailed to the Statewide Virtual Charter School Board.

(f) Terminations of contracts for sponsorship of statewide virtual charter schools. The Statewide Virtual Charter School Board may terminate the contract with a statewide virtual charter school in accordance with the following procedures:

(1) **Grounds for termination of a contract for sponsorship:** At any time during the term of the contract, the Statewide Virtual Charter School Board may terminate the contract on one or more of the following grounds:

(A) Failure to meet the requirements for student performance set forth in the terms of the contract;

(B) Failure to meet the standards of fiscal management set forth in the terms of the contract;

(C) Violations of applicable state, federal, tribal, or local laws, statutes, and/or regulations;

(D) Other good cause as established by the Board, which may include, but shall not be limited to:

(i) Failure by the governing body of the charter school, its charter school administrators, charter school personnel, and/or charter school contractors to meet reporting deadlines necessary for compliance with state or federal statutes or regulations;

(ii) Failure by the governing body of the charter school, its charter school administrators, charter school personnel, and/or charter school contractors to accurately report student enrollment counts;

(iii) Failure by the governing body of the charter school, its charter school administrators, charter school personnel, and/or charter school contractors to accurately report and/or classify student accountability data;

(iv) Identification and/or designation of the charter school by the State Board of Education as consistently in need of improvement in accordance with subsection (g)(6) of Section 1003 of Title I of

the Elementary and Secondary Education Act of 1965 (ESEA), pursuant to 70 O.S. § 1210.544;

(v) Any material breach of the terms set forth in the contract for sponsorship; and

(vi) Any action or failure to act by the governing body of the charter school, its charter school administrators, charter school personnel, and/or charter school contractors that presents or results in an immediate and serious danger to the health, safety, and welfare of its students.

(2) **Notice of intent to terminate contract.** At least ninety (90) calendar days prior to termination of a contract for sponsorship of a statewide virtual charter school, the Statewide Virtual Charter School Board shall submit written notice of its intent to terminate the contract via certified mail, return receipt requested to the governing board of the charter school at the address of record set forth in the contract. The notice shall include:

(A) A statement of any and all factual and legal grounds upon which the Board's intent to terminate the contract is based;

(B) A statement of the date, time, and location of the meeting at which the Board intends to take final action on the proposed termination, which shall be held no earlier than forty-five (45) calendar days from the date the notice of intent to terminate is mailed to the charter school; and

(C) A statement that the governing board of the school may request an informal hearing before the Board to present evidence in opposition to the proposed termination by delivering a written request to the ~~Secretary of the Board~~ within fourteen (14) calendar days of receipt of notice of the intent to terminate the contract that includes:

(i) A response to the factual and legal grounds for termination set forth in the notice; and

(ii) A summary of evidence that the school intends to submit in support of its response.

(D) Within ten (10) calendar days of the date of receipt of the request for informal hearing, the ~~Secretary Board~~ shall schedule an informal hearing and submit written notice of the date, time, and location of the hearing by regular mail to the charter school's address of record set forth in the sponsorship contract. The ~~Secretary Board~~ may send a courtesy copy of the notice by facsimile, and/or email.

(3) **Informal hearing on termination.** In the event that an informal hearing is requested pursuant to the provisions of (2)(C) of this subsection, the ~~Secretary of the Board~~ shall promptly schedule an informal hearing at which the statewide virtual charter school may present argument and/or evidence in opposition to the proposed termination. The Board shall prescribe the time allotted for oral argument and presentation of evidence. Upon completion of the hearing, the Board may consider the merits of the argument and presentation of evidence and take action on the proposed termination, or it may schedule action on the proposed termination for a subsequent board

meeting to provide the board with further opportunity for deliberation.

(4) **Appeals of termination.** ~~In the event that the governing body of the charter school elects to appeal the decision of the Board to terminate the contract for sponsorship in accordance with the provisions of 70 O.S. § 3-145.3, a notice of intent to appeal the decision shall be filed with the Secretary of the Statewide Virtual Charter School Board within thirty (30) days of the date of decision made by the Board. In addition the~~The procedures for filing appeals to the State Board of Education shall be governed by 70 O.S. § 3-145.3 and the policies and rules adopted by the State Board of Education, with acopy of the appeal mailed to the Statewide Virtual Charter School Board.

(g) **Negotiation and execution of contracts for sponsorship.** To facilitate and/or expedite negotiations for new contracts for sponsorship, the Statewide Virtual Charter School Board may adopt a model contract for sponsorship of a statewide virtual charter school for use by the Board and potential statewide virtual charter schools sponsored by the Board. Adoption of a model contract shall not prohibit the Board from further negotiation of contract terms or addition of terms to the contract for sponsorship prior to execution of the contract so long as such terms are in compliance with applicable state, federal, local, and/or tribal law and the provisions of this Section.

(h) **Execution of the contract.** The final contract for sponsorship shall not be executed until approved by the Statewide Virtual Charter School Board at a regular or special meeting. The Board may delegate authority to the Chairman to execute the approved contract for sponsorship on behalf of the Board.

777:10-3-5. Full-time virtual charter schools - succession of contractual rights and reversion of property to Statewide Virtual Charter School Board

(a) **Reversion of real and personal property to Statewide Virtual Charter School Board.** Pursuant to 70 O.S. § 3-136(F), upon the date of expiration or termination of a contract for sponsorship for a statewide virtual charter school, or in the event of a failure of a statewide virtual charter school to continue operations, all real and personal property acquired by the charter school shall be disposed of as set forth in the contract for sponsorship and in accordance with the following provisions:

(1) All unencumbered state aid, local, or federal funds, and all real property and personal property for which state, local or federal funds have been used all or in part to procure the property, shall be retained by the Statewide Virtual Charter School Board as the sponsor.

(2) All funds and property subject to the provisions of this subsection shall be deemed to revert to the Board as of the Termination Date. For purposes of this Section the Termination Date shall be either:

(A) The effective date of expiration or termination of the contract for sponsorship; or

(B) In the event a statewide virtual charter school fails to continue operation prior to expiration or termination of the contract, the date upon which the last

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day of courses were provided to students enrolled in the charter school.

(3) No later than ninety (90) calendar days prior to the date of expiration of the sponsorship contract, the statewide virtual charter school shall provide the ~~Secretary of the~~ Statewide Virtual Charter School Board with executed copies of all of the following documents:

(A) A detailed list of all real and/or personal property and other assets procured by the charter school during the term of the contract that includes identification of all sources of funds used to procure the property. All items procured all or in part with state, local or federal funds shall be clearly identified;

(B) Title documents, deeds, and/or leases for all real or personal property or other assets procured all or in part with state or federal funds;

(C) Copies of all executory contracts to which the charter school or its governing body is a party; and

(D) All documentation relating to debt, liabilities, encumbrances, or other obligations incurred by the charter school and/or the governing body of the charter school during the term of the sponsorship contract.

(4) The Statewide Virtual Charter School Board shall have forty-five (45) days after the date of delivery of all of the documents set forth in (3) of this subsection to request any additional documentation from the charter school the Board deems necessary to determine the assets and liabilities of the statewide virtual charter school.

(5) No later than forty-five (45) days after the Termination Date, the charter school shall complete and provide the Statewide Virtual Charter School Board with a final audit of the charter school that complies with the annual audit requirements of the Oklahoma Public School Audit Law at 70 O.S. § 22-101 et seq and accompanying regulations.

(6) No later than sixty (60) calendar days after the Termination Date, the charter school shall deliver all records pertaining to operation of the charter school and its students to the ~~Secretary of the~~ Statewide Virtual Charter School Board or to the State Department of Education.

(7) All personal property of the charter school reverting to the Statewide Virtual Charter School Board in accordance with the provisions of 70 O.S. 3-136 and this Section shall be delivered to the ~~Secretary of the~~ Board no later than sixty (60) calendar days after the Termination Date in the manner and to the location(s) directed by the Board.

(8) The Chairman of the Statewide Virtual Charter School Board is authorized to execute conveyances and documents on behalf of the Board as necessary to fulfill the requirements of this subsection.

(b) **School district contracts for sponsorship of full-time virtual charter schools.** In accordance with the provisions of 70 O.S. 3-145.5, the following provisions shall apply to school district contracts for sponsorship of charter schools who provide full-time virtual education:

(1) **Contracts for sponsorship of a full-time virtual charter school.** Beginning July 1, 2014, no school district shall:

(A) Offer full-time virtual education to any student whose legal residence, as determined in accordance with the provisions of 70 O.S. § 1-113, is located outside of the boundaries of the school district; or

(B) Enter a contract to provide full-time virtual education to any student whose legal residence, as determined in accordance with the provisions of 70 O.S. § 1-113, is located outside of the boundaries of the school district.

(2) **Succession of contracts for school district sponsorship of a virtual charter school executed prior to January 1, 2014.** Beginning July 1, 2014, the Statewide Virtual Charter School Board shall succeed to the contractual sponsorship rights of any school district that executed a contract for sponsorship of a charter school prior to January 1, 2014. Contract succession shall be conducted in accordance with all of the following procedures:

(A) No later than July 1, 2014, the charter school shall provide the ~~Secretary of the~~ Statewide Virtual Charter School Board with all of the following documents:

(i) All of the documentation set forth in (a)(3) through (a)(4) of this Section; and

(ii) Copies of all reports, documents, and statements required by the Oklahoma Public School Audit Law, for all previous fiscal years of the charter school's operation; including, but not limited to, auditor's opinions and related financial statements of the charter school; and

(iii) Copies of the charter school's annual estimate of needs, and income and expenditure data required by 70 O.S. §§ 5-135 and 5-135.2 for all previous fiscal years of the charter school's operation.

(B) The terms of succession to the contract for sponsorship by the Statewide Virtual Charter School Board shall be as follows:

(i) The Statewide Virtual Charter School Board shall not succeed to any terms of a contract for sponsorship executed between a charter school and a school district that violates or conflicts with the Oklahoma Charter Schools Act and/or any state or federal laws and regulations applicable to charter schools, charter school sponsors, or the Statewide Virtual Charter School Board. In the event that any such statute or regulation goes into effect during the term of the contract, the conflicting contractual term shall be deemed superseded by law and deemed null and void.

(ii) Any debt, obligations, encumbrances, and/or liabilities incurred by the charter school in violation of the provisions of Art. 10 § 26 of the Oklahoma Constitution shall be deemed null and void, and shall not be assumed by the Statewide Virtual Charter School Board.

- (iii) The Statewide Virtual Charter School Board may require the statewide virtual charter school to execute an addendum to the contract for sponsorship for the purpose of clarifying terms not otherwise addressed in the existing contract as necessary to comply with the Oklahoma Charter Schools Act or any other provision of state or federal law applicable to charter schools.
- (C) The Statewide Virtual Charter School Board shall not distribute any state aid funds to a statewide virtual charter school pursuant to the provisions of this subsection until all of the following conditions have been met:
 - (i) All appropriate conveyances and other documents necessary to effect the transfer of any property associated with the contract have been finally executed by the parties and copies of the finally executed documents have been filed with the ~~Secretary of the~~ Statewide Virtual Charter School Board;
 - (ii) All property, equipment, supplies, records, and assets required to be transferred to the Statewide Virtual Charter School Board in accordance with the provisions of 70 O.S. § 3-145.5(B) has been delivered in the manner and to the location(s) directed by the Board;
 - (iii) The charter school is in compliance with all applicable state and federal regulations pertaining to charter schools; and
 - (iv) All other requirements of this paragraph have been met.
- (D) The Statewide Virtual Charter School Board shall not distribute midyear allocation funds to a statewide virtual charter school that is a party to a contract for sponsorship assumed by the Statewide Virtual Charter School pursuant to the provisions of this subsection until:
 - (i) The statewide virtual charter school has conducted a final audit of the charter school for fiscal year 2014 that complies with the Oklahoma Public School Audit Law at 70 O.S. § 22-101 et seq and accompanying regulations;
 - (ii) Copies of the auditor's opinions, related financial statements, and any other documentation pertaining to the audit have been provided to the Statewide Virtual Charter School Board; and
 - (iii) The charter school has presented the audit at a meeting of the Statewide Virtual Charter School Board.
- (E) Succession to the contractual rights and responsibilities of sponsorship by the Statewide Virtual Charter School Board shall not qualify the charter school to apply for funds from the Charter School Incentive Fund established pursuant to the provisions of 70 O.S. § 3-144, nor shall the first year of operation under the sponsorship of the Board be considered the charter school's first year of operation.

- (F) The Chairman of the Statewide Virtual Charter School Board is authorized to execute conveyances and documents on behalf of the Board as necessary to fulfill the requirements of this subsection.
- (c) **Termination or nonrenewal for good cause.** Failure by any charter school to comply with the provisions of this Section shall constitute good cause for:
 - (1) Termination or nonrenewal of a contract for sponsorship with the Statewide Virtual Charter School Board; and/or
 - (2) Denial of any application for sponsorship subsequently submitted by the charter school and/or authorized representatives of the charter school, including, but not limited to, the governing body of a charter school.

[OAR Docket #16-623; filed 6-23-16]

**TITLE 780. OKLAHOMA DEPARTMENT OF CAREER AND TECHNOLOGY EDUCATION
CHAPTER 10. ADMINISTRATION AND SUPERVISION**

[OAR Docket #16-583]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 3. State Technical Assistance, Supervision, and Services

780:10-3-3 [AMENDED]

780:10-3-7 [REVOKED]

780:10-3-8 [REVOKED]

780:10-3-12 [REVOKED]

Subchapter 5. Finance

780:10-5-4 [AMENDED]

Subchapter 7. Local Programs, Career Majors or Instructional Positions:
Application; Student Accounting; Evaluation

780:10-7-3 [AMENDED]

780:10-7-3.1 [REVOKED]

780:10-7-3.2 [NEW]

Subchapter 9. Service Contracts and Equipment Guidelines

780:10-9-1 [AMENDED]

780:10-9-2 [AMENDED]

AUTHORITY:

Oklahoma State Board of Career and Technology Education; 70 O.S. 2011, § 14-103, § 14-104, § 14-112, as amended.

SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:

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Approved by Governor's declaration on June 9, 2016

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June 9, 2016

EFFECTIVE:

September 11, 2016

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

Permanent Final Adoptions

ANALYSIS:

The rule provides updated information regarding instructional delivery options and the procedures related to the sale and distribution of these options. The ODCTE has reorganized and realigned and these division names are no longer correct terms. Updated language has been proposed to correct how Skills Centers are funded by the Agency. These amendments clarify agency processes for accrediting technology centers across the state of Oklahoma, and provide for institutional and program standards. Establishes the rules for equipment purchased or reimbursed by the agency for educational programs including the tagging, tracking and disposal of said equipment.

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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, 2016:

SUBCHAPTER 3. STATE TECHNICAL ASSISTANCE, SUPERVISION, AND SERVICES

780:10-3-3. Instructional materials development and dissemination

(a) **Purpose.** ~~The Curriculum and Instructional Materials Center (CIMC) and the Testing Division shall develop, warehouse, and disseminate instructional materials.~~

(b) **In-state sales.** ~~The Department curriculum and instructional materials shall be made available for purchase in state upon request according to the prices designated in the CIMC catalog or online catalog. All prices are subject to change without notice.~~

(c) **Out-of-state sales.** ~~The Department will review the Out of State Pricing Policy annually and establish a pricing structure for selling the instructional materials developed by the agency.~~

(d) **Ordering.** ~~Orders for CIMC materials shall be made using the catalog order form, by telephone, fax, or Internet. All orders for Testing Division products will be filled following standard CIMC ordering procedures.~~

(1) Mail orders.

(A) **Inclusion of item number and title in orders.** ~~When using the order form in the CIMC catalog, both the item number and the title shall be included to avoid processing errors.~~

(B) **Payment.** ~~All school and other institutional orders shall be accompanied by an official purchase order number, credit card number, or personal check.~~

(2) Telephone orders.

(A) **Placing an Order.** ~~Telephone orders may be placed by calling the Curriculum Customer Service Division of the Oklahoma Department of Career and Technology Education.~~

(B) **Order confirmation.** ~~An authorized purchase order or credit card number shall be available when the order is placed.~~

(3) **Fax orders.** ~~All fax orders shall contain items to be purchased and a purchase order or credit card number.~~

(4) **Internet orders.** ~~All orders taken from the CIMC home page Internet catalog should be mailed, e-mailed, or faxed to Curriculum Customer Service.~~

(e) **Shipping charges.** ~~Shipping charges shall be included in the invoice statement for all materials.~~

(f) Payments.

(1) **Invoices and payments.** ~~All orders with an authorized purchase order number shall be invoiced within five (5) working days after the materials have been shipped. Payment of materials shall be upon receipt of invoice.~~

(2) **Individual and for-profit company purchases.** ~~Individual and for-profit company purchases shall be shipped upon receipt of a check, credit card, or money order for the amount of purchase plus sales tax (only if Oklahoma customer) plus shipping.~~

(3) **Acceptable currency.** ~~Checks shall be drawn upon a United States bank and payable in United States currency.~~

(4) **Credit card purchases.** ~~Any purchase can be shipped upon authorization of the following credit cards: VISA, MasterCard, and Discover.~~

(5) **International orders.** ~~All orders received from out of the continental United States shall be shipped upon receipt of a valid credit card number or United States money order for the amount of purchase plus 20 percent for shipping.~~

(6) **Online Curriculum.** ~~Payment for curriculum delivered through the CTLN or other online partners will be in accordance with the published payment policies of CIMC.~~

(7) **Online testing.** ~~Access to the department's online testing system will be free to in-state CareerTech educators. Access to this system will be available to all other users at established rates upon receipt of an official purchase order number, credit card number, or personal check.~~

(g) Authorization to return materials.

(1) **In-state return.** ~~In-state customers shall request authorization to return materials. Upon approval, the materials shall be returned prepaid, in resalable condition, within 90 days from the invoice statement date.~~

(2) **Out-of-state return.** ~~Out of state customers shall request authorization to return materials. Upon approval the materials shall be returned prepaid, in resalable condition, within 30 days from the invoice statement date.~~

(3) **Stipulations for full credit.** ~~The following stipulations apply to all in-state and out-of-state returns:~~

(A) **Authorization.** ~~After authorized returned goods are received, full credit will be issued for current editions of materials that are unmarked and in resalable condition. Items returned to the CIMC that are not in resalable condition, are not within the approved return period, or are not authorized for return will be returned to the purchaser without credit.~~

- (B) **Shipping costs.** Original shipping costs must be paid by purchaser on all returns unless there was an error by CIMC customer service or warehouse.
 - (C) **Shipping guidelines.** After receiving authorization, the materials should be shipped to Oklahoma Department of Career and Technology Education, Instructional Materials Warehouse, 1201 North Western, Stillwater, Oklahoma 74074.
 - (D) **Invoice number.** The invoice number on which the materials were billed should be included with the returned materials.
 - (E) **Restocking fee.** Materials returned outside the stipulations for full credit and authorization will be assessed a 15% restocking fee.
 - (F) **Refund policy.** Effective immediately, the refund policy of MAVCC and CIMC will be as follows: After 120 days of invoice date, a refund check will be issued unless a backorder is pending. A copy of appropriate backup should be attached to the refund check to document the customer account and amount.
- (h) **Damaged materials.**
- (1) **Credit.** For credit to be authorized, Curriculum Customer Service shall receive notification of damaged materials within five days of receipt of materials. Credit for goods in defective condition will be 100 percent of invoice price or free replacement.
 - (2) **Damage incurred in transit.** If materials were damaged in shipment, claims must be filed against the carrier. The CIMC is not responsible for damage incurred in transit.
- (a) **Purpose.** The Curriculum and Instructional Materials Center (CIMC) and the CareerTech Testing Center shall develop and distribute instructional materials and assessments in print and digital formats.
- (b) **Product pricing.** Prices for assessments, study guides, print products and online courses shall be determined using pricing formulas established or adopted by the CIMC. Prices will be the same for both Oklahoma and non-Oklahoma customers, with the exception of assessments. Assessments shall be provided free of charge to Oklahoma CareerTech students. The End User License Agreement describes bulk seat purchases of CIMC online courses (ctYOUiverse).
- (c) **Order processing.** Orders for assessments, study guides, print products and online courses shall be made by using the online catalog or by transmitting a completed order form by email or fax, or by contacting the designated CIMC customer service staff by phone.
- (1) **Required order information.** Orders shall include the following basic information in order to be processed, regardless of order method:
 - (A) Product ID#
 - (B) Title/Description
 - (C) Quantity ordered
 - (D) Item price
 - (E) Additional information may be required to process/deliver orders for web-based products (i.e. assessments online courses).

- (2) **Shipping charges.** Shipping charges shall apply to all products that are not web-based. Domestic shipping charges are 10% for orders up to \$200 and 8% for orders over \$200. International shipping charges are 20% of the value of products ordered. The minimum shipping charge is \$9.00.
 - (3) **Sales tax.** Sales tax shall be charges on all products sold for personal use and to non-governmental entities.
 - (4) **Payments.** Payment for products shall be made at the time of purchase. Acceptable methods of payment are purchase order, check, and credit card (VISA, MasterCard, or Discover). Checks for orders must be made payable to CIMC. Payment for international orders must be remitted in U.S. dollars drawn on a U.S. bank or world money order.
 - (5) **Returns, restocking fee and refunds.** Unless otherwise specified below, all returns must be preauthorized by contacting CIMC Customer Service at (800) 654-4502. No returns will be authorized after 30 days from the date of invoice (90 days for Oklahoma customers). Unless a backorder is pending, refunds on authorized returns will be issued within 120 days of the original date of invoice.
 - (A) **Printed materials.** Print material must be returned in its original form and in salable condition. A restocking fee of 20% of the returned product value will be applied to all returns. All returns must include the packing slip and/or invoice number.
 - (B) **Multimedia products.** Multimedia products (videos, DVDs, software) cannot be returned.
 - (C) **Online courses.** The End User License Agreement describes the refund policy that applies to CIMC online courses (ctYOUiverse).
 - (D) **Assessments.** Assessments may not be returned for refund; however, testing credits will be issued for unneeded/unused assessments. All testing credits expire on June 30th of the academic year issued.
 - (6) **Shipping address.** Returned materials must be shipped to the following address: CIMC/Instructional Materials Warehouse, Oklahoma Department of Career & Technology Education, 1201 N. Western Road, Stillwater, OK 74075-2723.
- (d) **Defective or damaged materials.**
- (1) **Defective materials.** The CIMC must receive notification of print materials shipped in defective condition within five (5) days of customer's receipt of the materials. Credit for materials in defective condition shall be 100% of invoice price or free product replacement, as appropriate.
 - (2) **Damage In-Transit.** The CIMC is not responsible for damage to CIMC products incurred in transit. In such event, the customer must follow the carrier's claims process.

780:10-3-7. Research [REVOKED]

- (a) **Responsibilities.** The Department shall be responsible for departmental research operations and for contracting research.

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- (b) **Abstracts.** Each administrator of a funded project shall furnish to the Department three copies of an abstract of the project within 30 calendar days of approval of the contract.
- (c) **Federal form.** Abstracts shall be on an approved federal form, which may be obtained from the Department.
- (d) **Final reports.** Each administrator of a funded project shall furnish three copies of the final report and/or product resulting from the project within 30 days of the ending date of the project.
- (e) **Coordinator's responsibilities.** The Department Coordinator shall be responsible for submission of abstracts, reports, and products to comply with reporting requirements.

780:10-3-8. Planning [REVOKED]

- (a) **Development of state plans.** The Department shall be responsible for developing annual and long range state plans for the direction of career and technology education in the state of Oklahoma.
- (b) **Applications.** The Department will be responsible for disseminating and collecting local applications for comprehensive school programs, career majors and/or instructional positions.
- (c) **Review of new requests.** The Department shall have the responsibility to review all new programs, career majors, and/or instructional position requests for comprehensive schools and career major, instructional position and course requests for technology centers and make recommendations regarding approval or nonapproval of state funding based on statewide and local job demand data and local need.
- (d) **Special projects.** The Department shall coordinate and develop special projects as assigned by the State Director.

780:10-3-12. Systems design and computer services [REVOKED]

- (a) **Responsibilities.** The Systems Design and Computer Services Division (SDCS) and Educational Technology Resources (ETR) shall be responsible for the following:
 - (1) Design, develop, secure, and implement information and communications technology (ICT) systems.
 - (2) Design, maintain, secure, and support the network infrastructure.
 - (3) Ensure the availability of the Department's ICT resources in a 24/7 format.
 - (4) Deliver software training, technical assistance, and help desk services.
 - (5) Procure, administer, and be accountable for Department owned, leased, and/or rented ICT assets (hardware and software) and administer lease and/or license agreements.
 - (6) Design, develop, and deliver e learning services and other digital content.
 - (7) Provide videoconferencing, video production, broadcast, and on site conference/workshop services.
 - (8) Maintain the agency's technology systems in compliance with the state's Information Security policy.
 - (9) Protect confidential records stored or transmitted using the agency's technology systems.

(10) Ensure accessibility of the agency's information technology resources.

- (b) **Information security.** The Systems Design and Computer Services Division (SDCS) shall have responsibility to develop and ensure that the agency's implementation of the State of Oklahoma Information Security Policy, Procedures, and Guidelines is compliant as issued by the Office of State Finance. SDCS shall have authority to engage with appropriate state and federal authorities to address and resolve any unauthorized breach of information security.
- (c) **Confidential records.** The System Design and Computer Services Division (SDCS) shall have responsibility to maintain and ensure the security of all confidential records as defined in Section 780:1-19-1 that are stored and transmitted on the agency's technology systems. SDCS is required to ensure access to confidential records stored on the agency's technology systems is limited to employees acting in their official capacities only.
- (d) **Information Technology (IT) Accessibility.** The Systems Design and Computer Services Division (SDCS) shall have responsibility to ensure the agency's technology systems, websites, IT purchasing, and IT reporting are compliant with the State of Oklahoma Information Technology Accessibility Standards as issued by the Office of State Finance to adhere to HB 2197 (2004) signed by the governor.

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 *CareerTech* 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 *CareerTech* programs shall receive the program assistance monies annually. These monies shall be used to support the additional costs of the *CareerTech* program limited to the purchase of equipment, instructional delivery and supplies, and staff development.
 - (3) **Equipment matching funds.** New *CareerTech* 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) **CareerTech teacher contracts.** CareerTech 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 CareerTech 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 Plus.** Reimbursement for approved Tech-Connect 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 fund 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

780:10-7-3. Institutional Standard; Standards; accreditation; review

(a) **Minimum Quality standards.**

(1) **Establishment; funding.** As appropriate, ~~minimum quality~~ standards shall be established by the State Board for postsecondary and secondary CareerTech institutions, programs, career majors, and/or courses, and/or services. These standards shall be comprehensive, reflecting state and federal mandates as they relate to quality CareerTech education. Funding approval is contingent upon meeting ~~minimum~~ quality standards or making satisfactory progress toward meeting those standards.

(2) **Standards.** Standards shall include the following:

(A) ~~STANDARD I Instructional Planning and Organization Leadership and Administration~~

(B) ~~STANDARD II Instructional Materials Utilization Instruction and Training~~

(C) ~~STANDARD III- Qualified Instructional Personnel Support Services~~

(D) ~~STANDARD IV Enrollment and Student Teacher Ratio Measurement and Analysis~~

(E) ~~STANDARD V- Equipment and Supplies Personnel~~

(F) ~~STANDARD VI- Instructional Facilities Operations~~

(G) ~~STANDARD VII- Safety Training and Practices System Impact~~

(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, 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

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the quality of *CareerTech* education. Any such revisions will be taken to the State Board for approval.

(4) **Dissemination.** The standards will be disseminated to *CareerTech* 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, as amended, 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 *CareerTech* institutions, programs, courses, and/or career majors and/or services 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 aid (FSA) 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 as the authority for the approval/accreditation of all public postsecondary vocational education offered at *CareerTech* institutions and programs, courses and career majors in the state of Oklahoma that are not offered for college credit or under jurisdiction of the Oklahoma State Regents for Higher Education, including the approval of public postsecondary vocational education offered via distance 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 Accreditation Guidelines.** This publication shall be made available to interested parties from the Accreditation Division of the Department.

(A) **Self-Study, Onsite Visit, and Monitoring.** Accreditation status is reviewed through monitoring annually. Every five years, a technology center must complete a self-assessment application and examiners must conduct an onsite visit. State agency staff shall visit the institution, as applicable, following the onsite visit review to ensure that the technology center's corrective action plan(s) are being followed. In addition, ODCTE staff will conduct a monitoring visit during year 3 of the accreditation cycle.

(B) **Publication and Reevaluation.** The accreditation status of the education institution must be publicized in an official notification. Technology centers must be reevaluated at least every five years.

(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 "Probationary Accreditation Status" continues to be in noncompliance of the corrective action plan(s) as approved by the State Board.

(e) **Secondary evaluation.** Substandard secondary *CareerTech* 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 *CareerTech* 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, as amended, 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 [REVOKED]

~~(a) **Standards.**~~

~~(1) **Establishment; funding.** As appropriate, standards shall be established by the State Board for continuous school improvement, postsecondary and secondary CareerTech programs, career majors and/or courses. These standards shall be comprehensive, reflecting state and federal mandates as they relate to quality CareerTech 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 CareerTech 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 CareerTech education. Any such revisions will be taken to the State Board for approval.~~

~~(4) **Dissemination.** The standards will be disseminated to CareerTech 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.** Technology Centers and/or programs, 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 school in writing whether the status report was approved or disapproved.~~

~~(7) **Technical assistance.** The Department staff will provide technical assistance to help CareerTech 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~~

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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 *CareerTech* 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.

780:10-7-3.2. Program standards; accreditation; review

(a) Quality standards.

(1) **Establishment; funding.** As appropriate, quality standards shall be established by the State Board for postsecondary and secondary *CareerTech* programs, career majors, courses, and/or services at technology centers related to distance education and competency-based education/direct assessment. These standards shall be comprehensive, reflecting state and federal mandates as they relate to quality *CareerTech* education. Funding approval is contingent upon meeting quality standards or making satisfactory progress toward meeting those standards.

(2) **Standards.** Standards shall include the following:

- (A) STANDARD I Program Integrity
- (B) STANDARD II Resources and Technology
- (C) STANDARD III Learning Development, Instruction, and Safety
- (D) STANDARD IV Skill Attainment, Assessment, and Reporting
- (E) STANDARD V Student Support and Services
- (F) STANDARD VI Marketing and Recruitment
- (G) STANDARD VII Student Engagement and Satisfaction
- (H) STANDARD VIII Program Effectiveness and Improvement

(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 *CareerTech* education. Any such revisions will be taken to the State Board for approval.

(4) **Dissemination.** The standards will be disseminated to *CareerTech* personnel throughout the state. Evaluation results will be considered in the processes of planning and funding programs.

(b) Postsecondary accreditation.

(1) **Approval/accreditation agency.** For the purpose of determining eligibility for federal student aid (FSA)

programs administered by the U.S. Department of Education, the Oklahoma State Board of Career and Technology Education is recognized as the authority for the approval of public postsecondary vocational education offered at *CareerTech* institutions in the state of Oklahoma that are not under jurisdiction of the Oklahoma State Regents for Higher Education, including the approval of public postsecondary vocational education offered via distance 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 Guidelines**. This publication shall be made available to interested parties from the Department.

(3) **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, as amended, 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.

(4) **Monitoring.** Programs, courses or career majors not meeting quality 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 appropriate agency personnel for review. Appropriate agency personnel will notify the school in writing whether the status report was approved or disapproved.

(c) **Secondary evaluation.** Substandard secondary *CareerTech* education programs or career majors shall be formally evaluated, utilizing quality standards, as adopted by the State Board.

(d) **Review of substandard programs or career majors.**

(1) **Probationary status.** A *CareerTech* 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 appropriate agency staff 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 appropriate agency personnel.

(i) **Written notification; appeal.** The appropriate agency personnel 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 appropriate agency personnel 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 appropriate agency personnel will make a presentation of recommended program closures, if any, in comprehensive schools for State Board approval at the designated board meeting. The appropriate agency personnel will make a presentation of recommended career major closures, if any, in technology centers for State Board approval at the designated board meeting.

(e) **Evaluation of recipients receiving federal funds.** Programs or career majors of eligible recipients receiving federal funds under P. L. 109-270, as amended, shall be evaluated annually. Such contracts and agreements shall be in accordance with state and federal laws.

SUBCHAPTER 9. SERVICE CONTRACTS AND EQUIPMENT GUIDELINES

780:10-9-1. Contracted services, boards, and commissions

(a) **Agreements and contracts.** The Department may enter into agreements and contracts with other agencies and entities as may be necessary or feasible for the furtherance of career and technology education. Such contracts and agreements shall be in accordance with state and federal laws and internal agency rules and procedures.

(b) **Housing and other support.** The Department may, through contractual arrangements, provide housing and support services to other entities whose primary purpose is delivery of career and technology education ~~(such as MAVCC Multi State Academic and Vocational Curriculum Consortium).~~

780:10-9-2. Equipment

(a) **Tangible assets** ~~State-owned~~ **(equipment).**

(1) **State-owned equipment.** An item shall be classified as an equipment inventory item or fixed asset if it has a useful life of one year or more with an acquisition cost of \$2500 or more and is a complete and independent item which does not lose its identity or become a component part of another item. [74 O.S., Section 110.1(D)].

(2) **State-owned telecom and electronic information technology.** To meet the requirements specified in Title 62, §34.12, Subsection 6, the fixed asset system will be used to track applications to "include but are not limited to the use of mainframe computers, minicomputers, or microcomputers, word processing equipment, office automation systems, Internet, eGovernment, broadband, Wi-Fi or wireless networking, radio, including the interoperable radio communications system for state agencies, or Global Positioning Systems (GPS)' costing \$500 or more.

(3) **Donated or purchased equipment.** Equipment donated to or purchased by the Department through reimbursement shall be considered the property of the Department.

(4) **Special funding.** Equipment purchased through special funding, which require that the equipment be used in specific programs, shall be placed in those programs and shall be subject to appropriate state and federal laws, rules and regulations.

(5) **Maintenance.** The receiving institution shall be responsible for maintaining equipment supplied by the Department.

(6) **Closing program.** The Program Administrator of the training program shall notify the Department inventory personnel, in writing, when a program or class is to be terminated or completed.

(b) **Loaning of equipment.** Equipment purchased for use by the Business and Industry Development Division may be loaned to other eligible training sites. The equipment shall be subject to any restrictions and is subject to recall on notice by the Department when needed for industrial training.

(1) The local education authority (LEA) agrees to maintain all equipment covered under loan in the same condition when received from the ODCTE.

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- (2) It is understood that all equipment is to be insured and maintained in operating condition at the expense of the local education agency (LEA) and that equipment lost or stolen will be replaced at the expense of the local education agency (LEA).
- (3) The ODCTE reserves the right to withdraw this equipment at any time after giving a notification of five (5) workdays.
- (4) All equipment will be picked up at the close of the training program unless the equipment is used in another Business and Industry training program.
- (5) Business and Industry Services equipment is only to be used for approved training ~~only~~. Use for other reasons is against state statutes and shall be cause for immediate removal of the equipment from the training site.
- (c) **Identification.**
- (1) **Department Purchased.** ~~All equipment~~ Equipment as defined in 780:10-9-2(a)(1) and (2) purchased by the Department with a value of \$500 or more shall be affixed with an appropriate tag.
- (2) **Department Reimbursement.**
- (A) ~~All equipment~~ Equipment as defined in 780:10-9-2(a)(1) purchased by local education agencies (LEA) and reimbursed by the Department with state funds for Business and Industry Development Programs, with a value of \$1000 or more shall be affixed with an appropriate Department asset tag. The equipment will be subject to a five day recall by the Business and Industry Development Division.
- (B) Equipment as defined in 780:10-9-2(a)(1) purchased by local education agencies (LEA) and reimbursed by the Department for non-Business and Industry Development Programs with state funds and having a value of \$2500 or more shall be affixed with an appropriate Department asset tag.
- (C) Equipment as defined in 780:10-9-2(a)(1) purchased by local education agencies (LEA) and reimbursed by the Department based on grant awards, may or may not be added to the Department assets. The grant criteria, and funding will determine if the asset will shall be tagged by (LEA) and maintained in accordance with grant requirements.
- (3) **Inventory records.** The Department shall maintain inventory records on all tagged equipment. Identification tags will be assigned by the Department and sent to the local education agency or to the appropriate Department personnel to be affixed to the equipment.
- (d) **Accountability.**
- (1) **Tagged equipment.** Equipment to be inventoried annually will be mailed to Superintendent or their designee, by the Department, with a request to update the list and return within 60 days unless a physical inventory is conducted by Department inventory personnel.
- (2) **Adjustments.** The Department, after review of requests, will make necessary adjustments to the inventory.
- (e) **Disposal.** Schools requesting items to be removed due to lost, stolen, salvage, or surplus must submit an inventory

adjustment form for approval. Department personnel will inspect and/or make recommendations on the request.

(f) **Transfer of Ownership.** In no case shall an equipment transfer be made without advanced approval from Department inventory personnel. The ownership of state-owned equipment may be transferred upon approval of the Division Manager, appropriate Senior Staff, and Oklahoma Management and Enterprise Services (OMES), to the local education agency (LEA) in possession of equipment unless said equipment is essential for operation of industry specific or new industry training programs. Department inventory personnel will provide requests to accept and notification of transfers.

(g) **Guidelines.** Equipment procedures and guidelines, and the inventory adjustment forms can be found on the Department Website and will be utilized to enforce these rules.

[OAR Docket #16-583; filed 6-17-16]

TITLE 780. OKLAHOMA DEPARTMENT OF CAREER AND TECHNOLOGY EDUCATION CHAPTER 15. TECHNOLOGY CENTERS

[OAR Docket #16-584]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 3. Technology Centers Education

780:15-3-1 [AMENDED]

780:15-3-2 [AMENDED]

780:15-3-3 [AMENDED]

780:15-3-4 [AMENDED]

780:15-3-5 [AMENDED]

780:15-3-6 [AMENDED]

780:15-3-7 [AMENDED]

AUTHORITY:

Oklahoma State Board of Career and Technology Education; 70 O.S. 2011, § 14-103, § 14-104, as amended.

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APPROVED BY GOVERNOR'S DECLARATION:

Approved by Governor's declaration on June 9, 2016

FINAL ADOPTION:

June 9, 2016

EFFECTIVE:

September 11, 2016

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

ANALYSIS:

The Oklahoma Department of Career and Technology Education (ODCTE) has reorganized and realigned the technology center services division is no longer an appropriate term. To comply with a statutory change, proposed language eliminates the requirement for a local education plan to be prepared. This proposed rule consists of adding "programs(s)" to the words "career major(s)" where referenced in this section. The instructional framework is

the new method for technology centers to identify what areas of instruction they are providing to their students. A Non-renewable Provisional Technology Center Administrator's Credential will be issued to candidates who meet the criteria. They will have five years from the date of issuance to complete their requirements to move to a standard credential. The proposed rule would also add Non-renewable to the heading of the Provisional Technology Center Administrator Credential. The proposed rule would allow applicants to complete college coursework; ODCTE approved professional development hours or a combination of both to meet the requirements to advance to a standard credential. The current rule requires applicants to complete an approved ODCTE administrator development program. The completion of an approved ODCTE administrator development program is being removed from the rules as a requirement to advance to a standard credential.

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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, 2016:

SUBCHAPTER 3. TECHNOLOGY CENTERS EDUCATION

780:15-3-1. Rationale; corporation status; taxing authority

(a) **Clientele.** The concept of technology centers, embraces career and technology education for all who can benefit. Specifically, the Carl D. Perkins Vocational Education Act of 1984 (PL98-524) and subsequent amendments thereto provide training for high school students; persons who have completed or left high school; persons employed but who need training or retraining to achieve stability or advancement in employment; and for persons who are academically or socioeconomically disadvantaged or who have physical or mental disabilities. Enrollment in a technology center or to specific career majors shall not be contingent upon any single measure but upon a combination of factors including but not limited to achievement levels, aptitude, interest, work history, and ability to benefit in terms of employment.

(b) **Establishment.** Technology center districts may be established through criteria and procedures established by the State Board and shall be operated in accordance with the rules and regulations of the State Board [70 O.S. ~~1988~~ 2011, §14-104 and Section 9B, Article X, Oklahoma Constitution, as amended].

(c) **Official name-technology centers.** *Its official name shall be designated by the State Board of Career and Technology Education, in which name it may sue and be sued, and be capable of contracting and being contracted with, and holding real and personal estate* [70 O.S. ~~1988~~, §14-108(B)]. The State Board shall authorize local area school districts to utilize unofficial names for marketing purposes. The State Board recognizes the term Technology Center. Any exceptions must be approved by the State Board.

(d) **Corporation status.** *A technology center district shall be a body corporate and shall possess the usual powers of a corporation for public purposes* [70 O.S. ~~1988~~, §14-108(B)].

(e) **Operational mill levy.** Constitutional authorization has been granted to vote up to five mills on the dollar valuation of the taxable property in a technology center district for operational purposes. If approved by the majority of the voting electors, it needs to be voted only once, unless there is a need to increase or decrease a millage levy currently under five mills. If the existing millage levy is less than five mills, and it is necessary to increase the millage, the question to be voted should be on the increased millage only and not on the total millage, and should be so specified on the voting ballot.

(f) **Building fund levy.** Authorization has been granted to vote up to five mills on the dollar valuation of the taxable property in a technology center district for building purposes pursuant to the provisions of 70 O.S. ~~Supp. 2011~~, Section 1-118.1 and Article X, Section 10, of the Oklahoma Constitution.

(g) **Local incentive levy.** Authorization has been granted to vote up to five mills local incentive levy on the dollar valuation of the taxable property in a technology center district. This levy may be used for operational or capital needs purposes. This levy, when approved, shall be made each fiscal year thereafter until repealed by a majority of the electors of the technology center district voting on the question at an election called for that purpose. If the existing millage levy is less than five mills, and it is necessary to increase the millage, the question to be voted should be on the increased millage only and not on the total millage, and should be so specified on the voting ballot.

(h) **Capital outlay bonds.** Authorization has been granted to vote for capital improvements (such as land, buildings, and equipment) that are financed by the issuance of the technology center district's general obligation bonds. Bonds so voted upon and approved by a majority of the votes cast, once issued, shall not cause the technology center district to become indebted in an amount, including existing indebtedness, in the aggregate exceeding five percent of the valuation of the taxable property in the technology center district.

780:15-3-2. Establishment/Sustainment of a technology center district; sites and buildings

(a) **Establishment.** A technology center district shall be established in accordance with the steps outlined in this section.

(b) **State Board study of proposed technology center district.**

(1) **Proposed district study.** The State Board, upon request of the public school(s) within a proposed district, board of county commissioners, or citizens within a proposed district, shall make a study of the proposed district in regard to the following factors:

- (A) Size;
- (B) Total population;
- (C) Assessed valuation;
- (D) Current school enrollments;
- (E) Estimated secondary school enrollments;

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- (F) Estimated full-time adult enrollments;
- (G) Other information pertinent to determining the feasibility of a technology center district.
- (2) **Costs.** The study shall also include building and equipment costs, as well as estimated annual operating costs.
- (3) **Sharing of study information.** The information compiled as a result of the study shall be shared with the local schools and/or county commissioners and other interested persons within the proposed technology center district.
- (c) **State Board determination of technology center feasibility.**
 - (1) **Decision by State Board.** After a study of the proposed technology center district has been completed and reviewed by the interested and affected schools and/or county commissioners, a decision will be reached as to the course of action to be taken. The State Board shall finally determine if the proposed technology center district meets the criteria and requirements prescribed, if there is a need for the district, and if the operation of the district can be adequately funded.
 - (2) **Valuation of district; waivers.** A proposed technology center district shall have a minimum valuation of \$100,000,000 after homestead exemptions. In situations involving low valuations and/or sparsely populated areas where this requirement is not feasible, the State Board, upon presentation of sufficient justification, may give special permission to waive the minimum criteria.
- (d) **Presentation of resolutions.**
 - (1) **Resolutions signees.** If the State Board determines the proposed technology center district is feasible and needed, resolutions shall be presented to the State Board signed by:
 - (A) Local boards of education of districts desiring to become a part of a technology center district,
 - (B) A majority of the membership of a board of county commissioners, or
 - (C) A combination of (A) and (B) of this subsection where there exists a county and school districts outside that county desiring to become a part of the same technology center district.
 - (2) **Cooperation.** The State Board shall work with the area in order to establish a district that is feasible and will fit into its state plan.
 - (3) **Established school districts.** The State Board shall protect the attendance area of established technology centers and not approve any part of an existing technology center district for inclusion into a new area district unless that area cannot be served adequately by the existing technology center (Deannexation proceedings may have to be followed first.)
- (e) **Technology center district formation election.**
 - (1) **Call for election.** The State Board shall call an election in each district submitting a resolution, or in each district within a county submitting the resolution, if a technology center district is found to be feasible and needed.
 - (2) **Election.** An election will be held in each independent and elementary school district, and/or entire county, having territory that would be included in the proposed technology center district, for the purpose of permitting electors of the district to vote on the question of whether the territory comprising the independent or elementary school district, and/or entire county, shall be included in the proposed technology center district.
 - (f) **Elections relative to the creation of new technology center district (general rules).** The rules of this subsection shall be used for conducting elections relative to the creation of a technology center district, electing the initial board of education, voting the initial operating levy, and for annexation of an independent or elementary school district to an existing technology center district.
 - (1) **Election date.** The State Board with advice and counsel of local boards of independent and elementary school districts and/or county commissioners shall designate the date on which an election shall be conducted.
 - (2) **Responsibilities of county election board; State Board.** The State Board shall cooperate with the county election board designated to conduct the election. The county election board shall receive notice from the State Board and shall conduct the elections in the school district at the time specified by the State Board. The State Board shall prepare the publication notice and submit it to at least one newspaper of general circulation in each county officially calling the election, stating the purpose of the election and listing the polling places in the county. The State Board shall assume the cost of such publication.
 - (3) **Forms.** All forms to be used in technology center district elections will be provided by the County Election Board.
 - (4) **Hours.** The polls for election shall be open from 7 a.m. until 7 p.m.
 - (5) **Certification of results.** The county election boards shall, when appropriate, certify to the local school boards the results of an election. The county election boards shall certify to the State Board, also, the results of any election pertaining to the creation of a new technology center district, the initial board of education election, and the initial operating levy election.
 - (6) **Costs of elections.** When holding the election for the creation of a technology center district, the election of the original board of education, and the election for the first operation levy, the cost for these elections will be borne by the State Board.
 - (7) **Annexation election costs.** Annexation election costs of individual independent and elementary school districts will be borne by the State Board.
 - (g) **Formation election results determination.**
 - (1) **Election results.** Results of the election for the formation of a technology center district shall be submitted to the State Board and each school district involved. If the results of the election satisfy the criteria for the formation of a technology center district, the State Board may declare the district formed.

(2) **Election results from resolutions from school districts.**

(A) **Inclusion in the proposed district.** The territory comprising an independent or elementary school district shall be included in the proposed technology center district if a majority of the electors who voted cast ballots in favor of the question.

(B) **Establishment after an unfavorable vote.** Notwithstanding an unfavorable vote in an independent or elementary school district(s), a technology center district may be established and the territory comprising other independent and elementary school districts in which the votes have been favorable may be included in the technology center district, if criteria prescribed by the State Board can be met.

(i) **Study of election results.** The State Board shall study the results of the elections to determine if a sufficient number of the school districts voted in favor of becoming a part of a technology center district. If the area is deemed sufficient, the State Board shall form the district.

(ii) **Valuation; reconsideration of districts.** If the valuation of the area that voted in favor of the proposition is not sufficient to form the district, the State Board shall continue to work with the proposed area; and if the school districts that were opposed to becoming a part of the technology center district wish to vote again on the proposition, they may do so by presenting another resolution to the State Board.

(C) **District establishment suspension; second election.** If the criteria cannot be met because of unfavorable votes in one or more independent or elementary school districts, the State Board may hold establishment of the proposed technology center district in suspension for a period not to exceed one year, and in the meantime may, but no sooner than after ninety (90) days, at the request of the local board of education where the election failed, call another election on the same question.

(3) **Election results from resolutions by a majority of a board of commissioners.**

(A) **Voters.** The majority of the votes cast in the county shall determine whether the territory of the county becomes a part of a technology center district. The electors residing in any portion of a county that is already a part of an existing technology center district shall not be allowed to participate in this election.

(B) **Electors in adjoining county.** A local school district that has its main buildings within the county calling the election but has electors residing in an adjoining county should pass a resolution for that part and present it to the State Board, which shall call an election as provided in these rules and regulations.

(C) **Addition of adjoining county electors to the technology center district.** If the majority of the voting electors in the county vote to establish a technology center district, then that part of the local

district located in the adjoining county shall become part of the new district, provided a majority of those voting cast ballots in the affirmative, and they shall be entitled to the rights and privileges and be subject to the assessments as are all other patrons in the district.

(D) **Second election.** If the election fails, the State Board may call another election in the county at the request of the county commissioners after a period of three months or 90 days has elapsed since the previous election.

(4) **Declaration; number designation.** Whenever there has been a compliance with these rules and regulations, the State Board may issue an order declaring the technology center district to be established and designating its number.

(5) **Validation period.** Results of school districts and/or counties that voted to become a part of a technology center district shall be held valid for a period of 12 months, or one year, to allow time for the passage of an operational mill levy election.

(6) **State Board approval of sites and additional campuses.** The State Board shall approve the location of a site for an official campus of a technology center district. If the campus employs a minimum of five full-time instructors who are teaching career majors that have been approved by the Department, then it may be recognized as an official campus and will be eligible for funding under a formula approved by the State Board. Branch campuses may be established by the technology center board of education to serve special needs or remote areas of the district. In the event the local board elects to pursue an additional campus at a site other than the existing pre-approved campus, prior approval must be granted by the State Board. Factors that will be used in determining approval will include, but not be limited to, student travel time to the nearest available technology center campus, district valuation, student enumeration, and local industry needs.

(h) **Zoning of the new technology center district.**

(1) **Advisement.** When the State Board forms a technology center district, it shall then divide the district into board districts with the advice and counsel of the local school districts.

(2) **Five board districts.** After consultation with the local school officials, the State Board will divide each technology center district into five numbered board districts of approximately equal population.

(i) **Election of members to the board of education of the new technology center district.**

(1) **Call to elect members.** When a technology center district is established, the State Board shall call, and the appropriate county election board(s) shall conduct an election to choose a board of education, which shall consist of five (5) members except as hereinafter provided, elected by all of the school district electors of the technology center district.

(2) **Composition of board.** Candidates for board district offices of the board shall be residents of the board

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district. Electors shall vote on all candidates in board elections.

(3) **Terms.** The newly elected board members will serve initial terms as follows:

- (A) Office Number 1, Board District 1: One year
- (B) Office Number 2, Board District 2: Two years
- (C) Office Number 3, Board District 3: Three years
- (D) Office Number 4, Board District 4: Four years
- (E) Office Number 5, Board District 5: Five years

(4) **Cycle of elections; terms.** At the first regular school election, as prescribed by the state statutes, after the technology center district has become operative for one year, an election shall be held to fill the office that expires in one year. The terms of other offices shall expire in the sequence noted in the schedule above. After the initial terms of offices expire, each school board member shall be elected for a five-year term.

(5) **Notification and declaration of intent.** Each candidate shall file a written notification and declaration of intent to be a candidate for the board district in which he/she resides or as a candidate-at-large. The notification and declaration of intent shall be filed with the county election board within the time prescribed by the election board.

(6) **Seven-member board.** In the event the total area of five or more counties is involved, a seven (7) member board of education may be elected to serve the technology center district.

(7) **Seven-member terms.** When there are seven board members, they shall be elected in the same manner as board of education members of other technology center districts. The terms of office of members shall be staggered so that the term of office of only one member shall expire each year. Offices shall be numbered one through seven.

(8) **Relations with State Board.** Representatives of the State Board shall meet with the elected board and administer the oath of office, which shall be the same as for boards of independent school districts. The State Board shall provide guidance, direction, and technical assistance to the newly elected board members.

(j) **Operational tax levy election for a new technology center.**

(1) **Call for election.** As soon as practical, and when it can legally do so, after members of the board of education of a technology center district are first elected following the establishment of the district, the board of education shall call an election to vote on an operational tax levy for the district.

(2) **Educational plan.** The elected board of the technology center district shall make a study utilizing the services of the State Board and all other agencies that may be at its disposal to determine an educational plan for the district.

(3) **Tax levy.** No technology center district shall begin operations until the electors have approved a tax levy as provided by Section 9B, Article 10, Oklahoma Constitution and 70 O.S.2001, § 14-108, as amended, and the

county excise board has approved an "Estimate of Needs" for the district or in compliance with the 1996 School District Budget Act in 70 O.S. Supplement 1996, §5-150, et.seq., as amended.

(4) **Second election.** If an election for an operational levy is held and the proposed levy fails to receive a majority of the votes cast, a second election will be held within 180 days after the original election for the purpose of voting again on an operational levy. A second election must be requested by the technology center board and approved by the State Board.

(5) **Dissolution of district; board.** The State Board has the authority to disband a newly formed technology center district, release the board of education of its obligations, and release all public school districts from any obligation in the new technology center district when an operational levy is rejected by the voters a second time. Disbanding or dissolving a newly created technology center district will be done only after consultation with the local school districts involved.

(6) **School planning.** After passage of a successful operational levy, the technology center board shall employ professional help, engage the services of an architect to plan buildings, and take such action as necessary to establish the technology center.

(k) **Selection of the technology center superintendent.**

(1) **Choice of superintendent.** Following passage of a successful operational tax levy, the local board of education shall employ a technology center district superintendent.

(2) **Duties; qualifications.** The duties and minimum qualifications of technology center superintendents shall be as follows:

(A) **Duties.** The technology center superintendent shall be the principal administrative officer of the technology center. ~~He/she~~They shall be responsible for the organization, curriculum development, evaluation, and improvement of instruction. The technology center superintendent shall maintain close contact with the employment services, advisory committees, potential employers, and all agencies and institutions relative to employment needs and job opportunities in order that career and technology education instruction may be closely coordinated with current needs and anticipated employment opportunities. ~~He/she~~They shall evaluate instruction continuously and bring about changes and improvements that will ensure that students will obtain the skills and knowledge for which instruction is being provided. The technology center superintendent shall be responsible for assigning appropriate administrative personnel to evaluate the technology center's certified faculty and determining that such persons have a technology center administrator's credential. The technology center superintendent shall be responsible for maintaining a system of complete and accurate records and shall make such financial, statistical, and descriptive reports as may be required by the State Board.

(B) **Qualifications.** First, the technology center superintendent shall have a superintendent's certificate as defined by the State Department of Education. Second, the technology center superintendent shall have had at least five years of experience as a Career Tech teacher, supervisor, or administrator. Third, the technology center superintendent shall hold a valid Oklahoma *CareerTech* teaching certificate. Fourth, the technology center superintendent shall have a Technology Center Administrator's Credential.

(3) ~~**Issuance of Credential by the Technology Center Services Division.**~~ The Technology Center Services Division of the Oklahoma Department of Career and Technology Education shall be responsible for the issuance of the technology center administrator's credential.

(4) **Technology Center Administrator's Credential.** Other school administrators who are responsible for supervision and administration of Department-approved career ~~major(s)/program(s)~~ and for the evaluation of certified faculty under the provisions of the Education Improvement Act of 1985 shall also be required to have a standard or a provisional Technology Center Administrator's Credential as provided for above in 780:15-3-2(k)(2) & (3) of the rules and regulations governing technology centers.

(A) **Standard technology center administrator's credential.** A person who has superintendent's certificate or a secondary principal's certificate and at least five years of experience as a CareerTech teacher, supervisor, or administrator of Oklahoma Department of Career & Technology Education (ODCTE) approved programs and/or career major(s)/programs(s) and has a valid Oklahoma CareerTech teaching certificate shall be issued a standard technology center administrator's credential.

(B) **Provisional technology center administrator's credential, five year, Non-Renewable.** Applicant shall have a superintendent's or secondary principal's certificate as defined by the Oklahoma State Department of Education. In addition, the applicant must meet at least one of the following experience requirements.

- (i) Three (3) years of experience as a Career and Technology Education teacher of an approved ODCTE career major(s)/programs(s) **or**
- (ii) Three (3) years of experience as an administrator supervising and evaluating teachers of an approved ODCTE career major(s)/programs(s) **or**
- (iii) Three (3) years of experience in an Oklahoma technology center **and** a letter of endorsement from the current technology center superintendent **or**
- (iv) Three (3) years of experience at the Oklahoma Department of Career and Technology Education **and** a letter of endorsement from the current ODCTE State Director.
- (v) Once the above criteria is met, the candidate shall be issued a non-renewable provisional

technology center administrator's credential and be given **five years** from the date of issuance to complete the following:

(vi) Nine (9) college semester hours and/or 135 ODCTE approved professional development clock hours from the following coursework areas below:

- (I) History and Philosophy of Career and Technology Education;
- (II) Technology Center Finance;
- (III) ~~Curriculum for Career and Technology Education Curriculum;~~ and
- (IV) Career and Technology Education Program Planning and Development ~~and Evaluation.~~ A combination of college semester hours and professional development hours can be utilized to fulfill the requirements. One college semester hour will equal 15 professional development clock hours.

~~(vii) Completion of the appropriate ODCTE administrator development program(s) identified when the provisional technology center administrator credential is issued.~~

(5) **Requirements for first-year technology center superintendents.** The State Board of Career and Technology Education reaffirms its commitment to provide support and services to new technology center superintendents in Oklahoma. To assist first-year technology center superintendents in the state in providing their respective districts with maximum leadership, effective management, and strong educational programs, the following professional development requirements shall be met by each technology center superintendent employed for the first time in the state of Oklahoma as a technology center superintendent:

- (A) Meet qualifications for the Provisional or Standard School Superintendent Certificate.
- (B) Meet qualifications for the Provisional or Standard Technology Center Administrator's Credential.
- (C) Attend professional development workshops or training seminars equal to eleven days (66 hours) of training:
 - (i) 1 day: Attend a meeting of the State Board of Career and Technology Education and a board meeting at a technology center where the first-year technology center superintendent is not currently employed.
 - (ii) 2 days: Attend the Annual CareerTech Summer Conference.
 - (iii) 2 days: Attend the Annual Technology Center Superintendents June Workshop.
 - (iv) 6 days: Attend professional development workshops or training in the following general areas:
 - (I) Superintendent/Board of Education Relationships
 - (II) Legal Issues/School Law/Open Meeting Laws
 - (III) Staff Relationships/Due Process

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- (IV) Community and Industry Relationships
- (V) Technology Center Finance
- (VI) Plant Management/School Facilities
- (VII) Setting School District Site Goals/Strategic Planning/Planning and Implementing Continuous Improvement Strategies for Schools
- (VIII) Individuals with Disabilities Act (IDEA)

(v) If a first-year technology center superintendent can provide evidence that within eighteen months prior to being employed as a technology center superintendent, that ~~he/she has~~ they have completed one of the training requirements listed above in (iv), the ~~Technology Center Services Division~~ Department will review ~~his/her the~~ documentation and determine if credit should be given for training previously completed.

(D) ~~After July 1, 2009, the Technology Center Services Division of the~~ The Department will provide and/or coordinate, approve and document professional development workshops and/or training seminars for first-year technology center superintendents. If content and method of delivery is approved by the ~~Department~~ Technology Center Services Division prior to a first-year technology center superintendent participating in training, a first-year technology center superintendent may complete some of the training requirements by IETV, on-line training, webinars, or similar methods of delivery. The ~~Department~~ Technology Center Services Division will issue a certificate to each new superintendent who has successfully completed the training requirements for first-year technology center superintendents. A copy of this certificate will be provided to the Oklahoma State Department of Education. To maintain certificate validity for second-year technology center superintendents, the ~~Department~~ Technology Center Services Division will provide to first-year technology center superintendents and the Oklahoma State Department of Education a report showing training completed by first-year technology center superintendents. The Department ~~Technology Center Services Division~~ will continue to consult with the Oklahoma State Department of Education regarding emerging issues that in the future may need to be integrated into first-year technology center superintendent training.

(1) **Other actions necessary to establish a new technology center.**

- (1) **Funding for buildings and equipment.** The elected board may submit a building fund levy proposal or a capital outlay bond proposal to finance new buildings and equipment after a study has been made and professional help has been employed.
- (2) **Election guidelines.** The building fund levy election or capital outlay bond election shall be conducted in

accordance with the prescribed election rules and regulations.

(m) **Approval of capital improvement projects.** After local board approval, all plans and specifications for technology center buildings, additions, including parking lots and modifications designed for *CareerTech* instruction and/or services shall be reviewed by and approved by appropriate staff of the Oklahoma Department of Career and Technology Education ~~and shall be approved by the Technology Center Services Division of the Oklahoma Department of Career and Technology Education.~~ In addition all capital improvement projects must comply with local building codes and be reviewed by the local and/or state fire marshal and the State Department of Education. The State Board must grant prior approval of all plans and specifications for technology center school buildings, additions, and modifications to school buildings that are designed to provide for the offering of *CareerTech* education and services when the cost of the building project is to be paid with state appropriated funds, which includes projects funded with monies from the Educational Lottery Trust Fund, or both local levies and state appropriated funds. (70 O.S. ~~2004~~, Section 14-108, as amended.)

(n) **Ownership of instructional equipment.** Instructional equipment purchased or reimbursed with state and/or federal funds will remain the property of the State Board except equipment purchased with equipment grants. When instruction can no longer be justified, the State Board may remove the equipment and transfer it to another technology center, skills center, or place it in the Department service center.

(o) **Insurance and equipment maintenance.** The technology center district shall be responsible for insurance and maintenance and repair of state-owned equipment while it is being utilized in instruction conducted by the district.

(p) **Architect involvement.** Technology center buildings that are to be remodeled, repaired, or constructed shall have an architect engaged in the planning of such building as provided in 59 O.S. ~~Supp.~~ 2008, §46.3.

(q) **Accommodations for individuals with disabilities.** It shall be the responsibility of the board of education of a technology center district to follow the provisions of the Uniform Federal Accessibility Standards or the Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities when constructing new facilities or altering existing structures.

780:15-3-3. Elections in existing technology center districts

(a) **Election of five-year term board member.** A regular election shall be held in each technology center district as may be prescribed by law, at which time the technology center district electors shall elect a member of the board of education to succeed the outgoing member for a term of five years and, if necessary, elect a member of the board to fill any vacancy that occurred since the previous election.

(b) **Board vacancies.** Vacancies for members of the board of education of every technology center district shall be filled by appointment by the board. Persons appointed to fill vacancies in the first half of the term of office for the board position

shall serve only until the next succeeding election, at which time the office which they hold shall be placed on the ballot for the balance of the unexpired term. Vacancies filled by appointment following the delivery of the resolution calling for regular elections to the secretary of the county election board shall be filled until the regular elections the following year. Persons elected to fill unexpired terms shall begin those terms at the next regular meeting of the board of education following the election. If the board of education does not fill the vacancy by appointment within sixty (60) days of the date the board declared the seat vacant, the board of education shall call a special election to fill the vacancy for the unexpired term.

(c) **Notification and declaration of candidacy.** Candidates for election as members of the board of education of an existing technology center district shall file a notification and declaration of candidacy with the county election board at the time specified by law.

(d) **Run-off election.** If no candidate receives more than 50 percent of the votes cast in the election, an election between the two candidates with the highest number of votes shall be conducted in accordance with 26 O.S.2004, §13A-103, as amended.

(e) **County election board.** All technology center elections shall be conducted by the county election board in accordance with 26 O.S.2004, §13A-101 et seq., as amended.

(f) **Notification of results.** The county election board shall notify the State Board and local school district boards of the results of the initial election of board members. Thereafter, the county election board shall notify the existing area school board of education of the election results.

(g) **Organization of the school board.** The school board of a technology center district shall be organized in accordance with 70 O.S.2004, §5-119, as amended, and the Rules for Career and Technology Education, Title 780 Oklahoma Administrative Code.

(h) **Responsibilities of the board.** The board of education of a technology center district shall have powers, duties, and obligations in accordance with 70 O.S.2004, §5-117, as amended. The board will perform all functions necessary for the administration of a technology center district in Oklahoma as specified in the Oklahoma School Code, and in addition thereto, those powers necessarily implied but not delegated by law to any other agency or official.

(i) **Education and training requirements.** Technology Center Board members are required to complete training requirements specified in Sections 5-110 and 5-110.1 of Title 70 of the Oklahoma Statutes. The Department is authorized to provide new, incumbent, and continuing education workshop and training so technology center board members and the State Board of Career and Technology Education members have the opportunity to complete the training that is required by statute. The training may be conducted and/or coordinated by the Department or by an outside entity that has been approved by the Department and has contracted with the Department and/or agreed to provide the training. The Department shall maintain the records that document training completed by technology center board members and State Board of Career and Technology Education members. The Department shall provide each

technology center school district board of education member and State Board of Career and Technology Education member with a training status report at least twice a year. If resources are available, the ~~Department Technology Center Services Division~~ may post training status reports on a web page that is accessible only to appropriate individuals.

(j) **Workshops and training seminars.** The ~~Technology Center Services Division of the Department~~ will provide and/or coordinate, approve and document professional development workshops and/or training seminars for technology center board members and State Board of Career and Technology Education ~~Board~~ members. If content and method of delivery is approved by the ~~Department Technology Center Services Division~~ prior to a board member participating in training, a board member may complete some of the training requirements by participating in IETV, on-line training, webinars or similar methods of delivery.

780:15-3-4. Financial management procedures for technology centers

(a) **Annual "Estimate of Needs."** The board of education of a technology center district shall comply with the ~~1996 School District Budget Act in 70 O.S. Supplement 1996, §5-150, et seq.~~ as amended, or file an "Estimate of Needs" annually with the county excise board of the county in which the technology center site of the district is located or is to be located. If the district has, or is to have, more than one technology center site, the "Estimate of Needs" shall be filed with and approved by the county excise board designated by the technology center board of education.

(b) **Preliminary "Estimate of Needs."** Only when an election is called to increase or decrease the levy shall a preliminary "Estimate of Needs" be published. The date of publication must be at least ten days before the election. Such elections may be called by the board of education whenever it determines it to be in the best interest of the district to do so.

(c) **Response to levy petition.**

(1) **Operating levy.** It shall be mandatory for the board of education to call an election upon receiving a petition relative to the operating levy millage bearing the signatures of a majority of the qualified technology center electors of the district. The petition shall be filed with the clerk of the board of education. The election shall be held at the next annual election as prescribed by law.

(2) **Incentive levy.** It shall be mandatory for the board of education to call an election to decrease the local incentive levy upon receiving a petition from the electors of the technology center district. Such petition shall be signed by at least fifty (50) percent of the number of technology center district electors who voted in the last school board election in the technology center district. The election shall be held at the next annual election as prescribed by law.

(d) **Preparation of the budget.** The "Estimate of Needs," or budget, shall be prepared, published, and filed at the same times specified for independent school districts, and shall include such financial statements, estimates, and information as may be prescribed by the State Board.

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(e) **Duties of county assessor; distribution of tax monies.** After approving the "Estimate of Needs," the county excise board shall certify the required levies to the county assessor of each county having property within the boundaries of the area district. The county assessor shall include the levies on the tax rolls for collection by the county treasurer. The taxes collected by the county treasurer shall be apportioned and remitted to the treasurer of the technology center district in the same manner as that provided by law for tax collections accruing to the benefit of independent school districts.

(f) **Alternate system of accounting.** All technology center districts are authorized to use the alternate system of accounting set forth in 70 O.S. ~~Supp.—1990~~, §5-135.

(g) **Guidelines.** As a general rule all technology centers will adhere to the **State Board of Education Policies and Procedures for Implementation of the Oklahoma Cost Accounting System (OCAS) and School Finance** in the areas that are not covered by the technology center rules and regulations.

(h) **Classification of funds, cash accounts, expenditures and receipts.**

(1) **Coding of revenue.** All technology center districts are required to maintain an ongoing record of income that will ensure a complete and accurate income report as required by the Department. All income will be identified in separate categories for local, state, and federal funds. ~~Effective July 1, 1993, for FY 1994, all~~ All technology center districts ~~are will~~ be required to use the Oklahoma cost accounting system for coding revenue.

(2) **Coding of expenditures.** All technology center districts ~~are will~~ be required to use the Oklahoma cost accounting system for coding expenditures.

(3) **Final expenditure report.** All technology center districts are required to file a completed "Cost Per Instruction and Services Report" using guidelines furnished by the Department on or before October 1 of each year.

(i) **Management of and Responsibilities for the Activity Fund (70 O.S. ~~Supp.—1990~~, §5-129).** All technology center districts shall adhere to the State Board of Education's Policies and Procedures for Implementation of the Oklahoma Cost Accounting System (OCAS) and School Finance section entitled "School Activity Fund."

(j) **Factors in determining the allocation formula for technology centers.**

(1) **Formula allocation plan.** The State Board will approve allocation of funds to Technology Centers.

(2) **Finance of operations.** The State Board shall provide state funds to technology centers based on a formula developed by the Oklahoma Department of Career and Technology Education.

(3) **Formula factors.** Factors considered in determining the formula may include enrollment, number of Department-approved instructional staff employed by the technology center to teach career majors, local funding resources, incentive for maximum local support and allowable general fund balance.

(4) **Annual approval of Career Majors.** Career Majors to be offered at the technology centers shall be approved each year in order:

(A) That high school credit may be given to the students enrolled and

(B) To ensure that accreditation factors are in proper form.

(5) **Annual approval of Instructional Staff.** Instructional staff employed by the technology centers to teach career majors shall be approved by the Department each year.

(k) **Audit resolution process.**

(1) **Independent audits.** The Department shall be responsible for ensuring that audits are performed by independent auditors in a timely manner and are in accordance with OMB Circular A-133 and the Single Audit Act. The Department will review and categorize any audit exceptions, comments or findings.

(A) **Notification of findings.** The Department shall notify the technology center of the findings and will request a letter of commitment of corrective action for procedural finding(s) and finding(s) involving questioned costs.

(B) **Assurance of settlement.** In the case of a legal requirement, the technology center shall supply written documentation that the issue has been settled.

(C) **Response to letter of commitment.** If the commitment from the technology center is satisfactory as determined by the Department, the school will be notified of the decision.

(D) **Return of funds.** If the commitment is determined to be unsatisfactory, the Department may request the return of funds connected with the questioned cost(s) or the questioned procedure(s).

(E) **Disallowed costs.** If the finding involves disallowed costs, the Department will request the refund of funds for the questioned costs.

(2) **Agency oversight audits.** The ~~Department~~ Department's Internal Audit staff will perform audits of technology centers. The Department will review and categorize any audit exceptions, comments or findings.

(A) **Notification of findings.** The Department shall notify the technology center of the findings and will request a letter of commitment of corrective action for procedural finding(s) and finding(s) involving questioned costs.

(B) **Assurance of settlement.** In the case of a legal requirement, the technology center shall supply written documentation that the issue has been settled.

(C) **Response to letter of commitment.** If the commitment from the technology center is satisfactory as determined by the Department, the school will be notified of the decision.

(D) **Return of funds.** If the commitment is determined to be unsatisfactory, the Department may request the return of funds connected with the questioned cost(s) or the questioned procedure(s).

(E) **Disallowed costs.** If the finding involves disallowed costs, the Department will request the refund of funds for the questioned costs.

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. In addition, between~~Between August~~July 1 and December 13~~4~~ 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:

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- (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 or 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.

(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. Annexations for territory deannexed from a technology center district shall not become effective until the deannexation shall have been effective.

(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.

(d) **School consolidation.**

(1) **Nondiscrimination study.** When consolidation of school districts is being considered, the Oklahoma 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.

780:15-3-6. Technology center students

(a) **Student eligibility.**

(1) **High school students.** For students currently enrolled in high school, the technology center is an extension of the student's high school and shall be subject to the regulations thereof. The student's home high school shall transcript the units of instruction earned by high school students attending the technology center. High school students who successfully complete their career plans of study shall be awarded a competency/completion certificate by the technology center. The technology center is a separate entity in that it also serves adult students.

(2) **Enrollment procedures.** High school students shall meet the enrollment criteria established by the technology center for the specific career major plan of study in which they wish to enroll, regardless of lawful immigration status. All high school students shall be enrolled through a cooperative effort of the sending comprehensive high school and the technology center, except in cases where the student's parent or guardian has provided sufficient evidence that he/she is participating in a home-schooled education plan in accordance with 70 O.S.2001, §10-105, as amended.

(3) **Approval to withdraw and withdrawal procedures.** Students from a sending comprehensive school who wish to withdraw from a technology center must have

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approval of both the technology center and the comprehensive school. Specific procedures for withdrawal are established cooperatively by the technology center and the sending comprehensive school.

(4) **Student discipline.** High school students' discipline and control shall be a cooperative effort between the comprehensive school and the technology center. Each institution shall enforce rules and regulations in accordance with their board-approved policies. Both institutions shall recognize the students' rights to "due process."

(A) **Qualified Students with Disabilities under IDEA.** Discipline for students with disabilities who have an IEP shall be in accordance with current federal and state legislation and rule of law.

(B) **Qualified Students with Disabilities under Section 504/ADA.** Qualified students with disabilities under Section 504 of the Rehabilitation Act of 1973 as amended or the Americans with Disabilities Act of 1990 as amended who are disabled by drug addiction or alcoholism may be disciplined to the same extent as other students. However, a student who is disabled by some other condition in addition to drug addiction or alcoholism must be evaluated and afforded due process prior to disciplinary action that would constitute a significant change in placement. Denial of access, and/or a significant change in placement, should not occur when there is a definable relationship between the misconduct and the disability. The student's 504/ADA team should meet and make this determination. There is no requirement in Section 504 or the ADA for the continuation of educational services following the expulsion of a student for behavior unrelated to the student's disability.

(5) **Certified coursework.** Units of coursework earned by a student in a technology center in Oklahoma shall be certified by the technology center to the sending school in which the student is regularly enrolled. These units of coursework shall be counted toward meeting local and state requirements for graduation. The technology center is considered to be an extension of the sending school curriculum and shall be subject to the regulations thereof.

(6) **Hours of attendance.** High school students may attend a technology center up to one-half day pursuing a high school diploma or ~~GED~~high school equivalency and up to one-half day completing a CareerTech Career Major in the technology center. The students are counted as attending a full day at the sending school.

(7) **Secondary Students.** Career Majors in the technology centers may be offered to secondary students. Students who are on an Individualized Education Program may attend a technology center up to four years.

(8) **Postsecondary/adult students.** The technology center functions as a separate postsecondary-level educational institution for adult students who are beyond the age of compulsory school attendance and/or are not enrolled in high school. Postsecondary/adult students may attend courses at the technology center which may be held

any time during the day or night on or off campus. Postsecondary/adult students are subject to the policies and procedures established for adult students by the technology center and shall be afforded all benefits and services for which they qualify, regardless of lawful immigration status. Units of coursework completed at a technology center by a postsecondary/adult student are transcribed by the technology center as postsecondary level credit. Postsecondary/adult students who successfully complete their plan of study shall be awarded a competency/completion certification by the technology center. Units of instruction and/or credits earned by postsecondary/adult students may also be applied toward a college degree, in accordance with the cooperative agreements and cooperative alliance agreements developed by each technology center with a higher education institution.

(9) **Residency.** Students that meet the residency requirements of 70 O.S.~~Supp.~~—2002, Section 1-113, as amended, shall have the same opportunity to access technology center courses, regardless of lawful immigration status, as any other in-district student. These students may enroll in an appropriate Career Major following the same admission and enrollment procedures as other students.

(10) **Cooperative Alliances Between Higher Education Institutions and Technology Centers.**

(A) **Purpose.** The purpose of Cooperative Alliances is to expand student access to Oklahoma's educational opportunities with resource-sharing partnerships between institutions of the State System and CareerTech technology centers for the benefit of Oklahoma citizens, business, industry, and students. Cooperative Alliances are student-centered partnerships organized to encourage and facilitate progress toward college graduation and designed to ensure that students obtain the technical and academic skills that will allow them to succeed in today's dynamic knowledge-based, technology-driven global economy.

(B) **Formation and Operation.** Cooperative Alliances may be formed and operated between Oklahoma technology center school district(s), and public colleges or universities that offer the Associate in Applied Science (AAS) degree.

~~(i) Cooperative Alliances are formed with Oklahoma public colleges or universities that offer the Associate in Applied Science (AAS) as Cooperative Agreement Programs (CAP) with an Oklahoma public technology center. Students enrolled in CAPs are treated as members of the higher education community. These students benefit from college support services including academic advising and counseling, convenient admission and enrollment processes, financial aid, career advisement and job placement assistance.~~

(B) **Definitions.** ~~The following words and terms, when used in the Chapter, shall have the following meaning, unless the context clearly indicates otherwise:~~

(i) "Associate in Applied Science (AAS) degree" is typically a credential requiring two years of full-time equivalent college work (at least 60 credit hours) that emphasizes a technical or occupational specialty and is designed to lead the student directly to employment. Unlike the Associate in Arts (AA) or Associate in Science (AS) degrees, the AAS is not designed to transfer all courses to a Bachelor of Arts (BA) or Bachelor of Science (BS); however, the courses may transfer to a technical baccalaureate degree program.

(ii) "Cooperative Agreement Program (CAP)" is a formal, academic program offered by institutions in the Oklahoma State System for Higher Education that includes approved courses taught by a CareerTech technology center and leads to an Associate in Applied Science (AAS) degree or a college-level certificate in a technical or occupational field.

(iii) "Cooperative Alliance" is an agreement between one or more institutions in the Oklahoma State System for Higher Education and one technology center as a joint vision of a collaborative partnership designed to benefit students and enhance the technical workforce in that part of Oklahoma. A Cooperative Alliance is voluntary and agreed upon by all partners and their governing boards. The State Regents for Higher Education and the State Board of Career and Technology Education review and approve the agreement for each Cooperative Alliance. The approved Cooperative Alliance agreement remains in force until the governing boards of the Cooperative Alliance partners dissolve the agreement.

(iv) "Institution" refers to any college or university of the Oklahoma State System of Higher Education listed in the State Regents' Governance policy (1.7) and that offers AAS degrees.

(v) "Partners" are institutions and technology centers that enter into a Cooperative Alliance agreement. The agreement delineates the roles of each partner in providing the academic program and support services to the students enrolled in CAPs.

(vi) "Technology center" refers to a center established by criteria and procedures for the establishment prescribed for governance of technology center school districts by the State Board of Career and Technology Education as provided by Section 9B, Article X, Oklahoma Constitution, and such districts so established shall be operated in accordance with rules of the State Board of Career and Technology Education, except as otherwise provided in this title.

(C) **Principles and Goals.** The driving principle of the Cooperative Alliance is to build a student-centered, rather than institution-centered approach to the

us of CAPs. The four goals of the Cooperative Alliance are:

- (i) To enroll more high school students in college;
- (ii) To encourage more adults to continue their education or begin college;
- (iii) To expand access to postsecondary (college and career/technical) education; and
- (iv) to efficiently use federal, state and local resources.

(I) The mission of the Cooperative Alliance is to offer AAS degrees and college-level certificates that benefit students, employers, and the public.

(II) By fulfilling the mission, the Cooperative Alliance significantly impacts the economy and quality of life in the areas served by the partners.

(D) **Conceptual Basis.**

(i) The Cooperative Alliance is student-centered, focusing on an integrated learning experience for each student which has as its goal the completion of the AAS degree or college-level certificate program.

(ii) The Cooperative Alliance offers AAS degrees and college-level certificate programs that focus on technical knowledge and skills in addition to general academic knowledge and skills that are useful in the workplace and for a higher quality of life and lifelong learning.

(iii) A higher education institution partner will maintain an official college transcript for each student who enrolls in an approved course taught at the technology center and who chooses to take the course for college credit as part of a CAP.

(iv) All higher education partners and technology centers will participate in a statewide transfer equivalency matrix of technical courses maintained by State Regents for all approved courses in CAPs.

(v) The Cooperative Alliance will focus on student success, including the completion of the AAS degree or college-level certificate program.

(vi) Each student at the technology center admitted to a higher education institution is a member of the collegiate community and receives services including academic advising, admission and enrollment, financial aid, career advisement, and job placement assistance. The provision of these services will be coordinated among partners in the Cooperative Alliance to insure consistency and to minimize duplication.

(vii) The Cooperative Alliance provides for student assessment consistent with State Regents' Assessment policy (3.19) and accreditation standards.

(viii) The Cooperative Alliance provides for tracking of students in a seamless manner from

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first time enrollment through graduation and initial employment, or transfer within the Oklahoma State System for Higher Education.

(E) Scope.

(i) The Cooperative Alliance agreement supersedes all CAPs approved under the previous State Regents' Guidelines for Approval of Cooperative Agreements between Technology Centers and Colleges (3.6). All prior approved CAP's will be grandfathered under this agreement.

(ii) Through the Cooperative Alliance, the higher education institutions will offer AAS degrees and college level certificate programs in disciplines in cooperation with technology centers where effectiveness and efficiency can be enhanced and where a student centered, competency based approach can be maintained.

(iii) Consistent with the State Regents' Electronically Delivered and Traditional Off Campus Courses and Programs policy, CAPs offered at technology centers are meeting the educational needs of the community.

(iv) With the approval of the Cooperative Alliance partners, CAPs may be added to the agreement. If the partners cannot agree, the Chancellor for State System and the State Director for CareerTech will arbitrate.

(v) The Cooperative Alliance partners will jointly plan and implement appropriate faculty and staff development activities to benefit the CAPs.

(vi) The Cooperative Alliance partners will jointly plan and implement a sharing of physical and human resources to support the Alliance, its programs, and related activities.

(F) Curriculum. The Cooperative Alliance partners will offer high quality, AAS degree and college level certificate programs as CAPs, conferred by a higher education institution, that comply with applicable policies of the State Regents, CareerTech, and the local governing boards and that meet the certification and training standards of business and industry.

(i) All CAPs in place when the Cooperative Alliance agreement is approved are included and will be listed.

(ii) All continuing and future CAPs included in the Cooperative Alliance shall be subject to the State Regents' Academic Program Approval and Academic Program Review policies. The Criteria for Evaluation (3.4.6) include centrality to the mission, curriculum, academic standards, faculty, support resources, demand for the program, and complement to existing programs, unnecessary duplication, cost, and review.

(iii) An advisory committee composed of faculty, staff, employers, and practitioners assists in

developing curriculum content, in keeping the curriculum current, and in maintaining contact with the occupational community.

(G) Quality Assurance. Faculty.

(i) All technology center faculty teaching CAP courses must adhere to established higher education institutional adjunct faculty qualifications appropriate to faculty teaching in occupational and technical fields. Credentials must be a degree at the level at which the faculty member is teaching, e.g., at the Certificate level, the faculty must have a certificate in that field; at the Associate Degree level, the faculty must have an Associate Degree. The appropriate academic dean reviews all faculty credentials, and recommends all faculty for approval. Once approved, technology center faculty in approved CAPs becomes listed as adjunct instructors for the higher education institution. Any exception to the foregoing must be approved by the appropriate designee for Academic Affairs at the higher education institution.

(ii) An annual faculty assessment, including student evaluation of instruction, will be conducted in accordance with established guidelines and procedures of the higher education institution.

(iii) All adjunct faculty must meet established institutional college adjunct faculty minimum employment standards associated with the academic program/division under which the CAP courses will be offered. Faculty credentials must meet these standards and be approved for adjunct status prior to approval of courses for college credit in the CAP.

(H) Program Quality.

(i) Assessment criteria are reviewed and approved by the higher education institution faculty on a course by course basis when the curriculum is approved. Assessments are reviewed annually.

(ii) An industry recognized certification relevant to the focus of the overall program content can be used as an additional assessment for the student and program relating to quality and rigor.

(iii) A specific full time or dean designated faculty liaison with at least a minimal level of content expertise provides annual review and alignment of courses offered for credit in the CAP. Faculty liaisons are members of the program advisory committee.

(iv) All CAPs will be included in the annual institutional program assessment activities.

(v) To maintain quality of courses, the higher education institution will designate an appropriate individual to work as liaison between the technology centers and the higher education institution. The liaison will have a presence at the technology centers, will attend advisory committee meetings,

counsel students, work with adjunct faculty, and keep the lines of communication open.

(vi) When the higher education institution does not employ full-time faculty in an Associate in Applied Science degree which is not taught at the institution, but is active at the technology center, the institution will thoroughly assess the need for it to offer such a program, especially if the program is available at another state system institution. If determined to better meet the needs of the institution's service area if offered through the institution, the institution will designate a full-time faculty member with a minimal level of content expertise to oversee the program. If no internal faculty expertise is available, the institution will engage the expertise of faculty at a higher education institution that employs full-time faculty with expertise in the content area to ensure program quality and the designated faculty liaison as referenced in 3.6.4.D.2.c, will oversee the program, utilizing the outside expertise on a regular basis.

(vii) The higher education institution may look to established national accreditations and course-specific certifications standards for quality control. For example, programs accredited by CAAHP, FAA or computer industry certifications through CompTIA, Microsoft, ORACLE and CISCO, provide guidelines and competencies to ensure quality content.

(J) Advisory Committees.

(i) Advisory committees will be representative of industry appropriate to the program, and ensure relevant curricula for job readiness.

(ii) Full-time institutional faculty will serve on advisory committees, in addition to the technology center faculty.

(iii) Recommendations for additions, changes, and/or deletions to credit offerings for CAPs which are only offered at the technology center will be based upon recommendations from the advisory committee, faculty liaisons, and accreditation or certification changes. These recommendations are reviewed and approved by the higher education institution's internal curriculum review process and then provided to the OSRHE for final approval.

(J) Continuous Improvement.

(i) Each Cooperative Alliance program will be reviewed in accordance with the higher education institution's annual internal assessment program.

(ii) The results of the annual internal assessment will be used to ensure the continuous improvement of program/course content.

(K) Criteria for admissions.

(i) College admission requirements approved by the State Regents (see State Regents' Institutional Admission and Retention policy) and Academic Procedures Handbook) for admission to the

higher education institutions are listed in the institution's catalog and shall apply to recent high school graduates and adults.

(ii) High school juniors and seniors are admissible as concurrent students to an Oklahoma State System of Higher Education college or university that offers AAS degrees and college-level certificate programs and enroll in only technical courses at the technology center as approved by the State Regents.

(iii) High school students also must provide a letter of support from the high school counselor and written permission from a parent or legal guardian.

(iv) High school students concurrently enrolled in college courses, including all courses in the CAP, may continue concurrent enrollment in subsequent semesters if they earn a college cumulative GPA of 2.0 or above on a 4.0 scale (see State Regents' Institutional Admission and Retention policy).

(L) Student Support Services.

(i) The higher education institutions and technology centers will provide integrated and comprehensive academic advising and support services to students enrolled as part of the Cooperative Alliance to insure effectiveness without duplication or redundancy of effort.

(ii) Counselors and faculty at the higher education institution and the technology center may use the ACT PLAN score and ACT PLAN sub-scores (and other available test scores, such as the ACT, SAT, TABE, ACT Compass, Accuplacer), the student's previous academic record, recommendations from high school administrators/counselors/teachers, high school Plan of Study, and personal knowledge of the student to advise the student.

(iii) High school students must be advised of the State Regents' Institutional Admission and Retention policy (3.9.6.I.1) regarding the workload requirement of enrolling in a total number of credit hours combining college courses, including all courses in the CAP, and high school courses.

(M) Financial. The primary cost of instruction for technical courses in the CAPs taught at the technology center by the center's faculty will be borne by the technology center. The primary cost of instruction for courses offered by the higher education institution in the CAPs, taught at the technology center or the institution by the institution's faculty, shall be borne by the higher education institution.

(N) Cost to Students.

(i) High school students, who are admitted to a higher education institution and enrolled in an approved CAP technical or occupational course

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offered at the technology center, shall not pay college tuition. However, there may be college fees charged that are applicable to all students.

(ii) ~~Adult students, who are admitted to a higher education institution and enrolled in an approved CAP technical or occupational course offered at the technology center, shall pay to the technology center only the program tuition established by the center. Adult students shall not pay college tuition. However, there may be college fees charged that are applicable to all students.~~

(iii) ~~College courses, such as general education, may be offered at the technology center by a higher education institution. The direct costs of instruction for these courses are borne by the higher education institution and the enrolled student will be charged the applicable college tuition and fees, payable to the institution.~~

~~(O) **Marketing and Outreach.**~~

~~(i) The marketing goals of the Cooperative Alliance are to create an awareness and to promote the advantages to potential students and to the community, including high school teachers, faculty, staff, administrators, governmental agencies, and employers.~~

~~(ii) All publications and advertisements will identify which higher education institution is awarding the credit. Additionally, all publications and advertisements must adhere to the consumer protection requirements listed in the State Regents' Institutional Accreditation policy (3.1.7) that prohibit higher education institutions or technology centers from making misleading, deceptive, and/or inaccurate statements in brochures, Web sites, catalogs, and/or other publications. Failure to comply with this requirement may result in the nullification of the Cooperative Alliance and all CAPs under that Cooperative Alliance.~~

~~(P) **Institutional Reporting.** An annual summary report on the performance of the Cooperative Alliance during the previous fiscal year is required, including information on enrollment, retention and graduation, assessment reports, financial arrangements, marketing endeavors, cost, and other notable accomplishments and challenges. This report shall be jointly prepared and submitted to the respective local governing boards.~~

~~(Q) **Procedures.** An Oklahoma State System institution seeking approval for a CAP with a technology center upon approval by the governing board shall have the president submit the CAP to the Chancellor for State Regents' consideration. The president will be informed of the recommendation prior to its formal submission.~~

~~(R) **Reporting.** The State Regents' staff will provide periodic reports to the State Regents summarizing the status of Cooperative Alliances and CAPs.~~

~~Such reports shall contain information about effectiveness and efficiency of the Cooperative Alliances individually and as a model for offering academic programs. Reporting to the institutions and technology centers will be conducted during regularly scheduled workshops.~~

~~(b) **Tuition.**~~

~~(1) **Resident high school students.** High school students who are residents of the technology center district attend on a tuition-free basis, regardless of lawful immigration status.~~

~~(2) **Tuition charge.** Technology centers are authorized to charge tuition to postsecondary students. Amounts charged by a technology center district for tuition are subject to the approval of the State Board.~~

~~(3) **Out of District Tuition.** Technology center districts shall charge a tuition to any secondary student who does not reside in the technology center district. The fee for tuition shall be not less than twice the amount of the local cost of providing instruction and services for the student. The State Board may waive this requirement in situations where the technology center district has shown evidence that such requirement will be detrimental to the mission of the local technology center district. Reciprocity agreements to benefit in-district students may be made between technology centers and approved by the Oklahoma Department of Career and Technology Education.~~

~~(c) **Transportation.**~~

~~(1) **Responsibility.** The technology center is responsible for providing transportation of daytime secondary students to and from in-district, sending schools for those students who are enrolled in a three-period block of instruction. Transportation for students requesting alternative schedules shall be determined by an agreement between the comprehensive school and the technology center.~~

~~(2) **Operation under Oklahoma school laws.** All technology centers owning or leasing and operating school buses that transport students to and from points being served by the technology center shall operate under the current school laws of Oklahoma.~~

~~(3) **Adult transportation.** Upon approval of the technology center board of education, postsecondary students enrolled in a technology center may be transported, as space is available, on established bus routes and related auxiliary activities.~~

~~(d) **Student accounting.** Student Accounting information shall be submitted to the Information Management Division as outlined in OAC 780:10-7-2.~~

780:15-3-7. Special provisions

(a) **Sex discrimination.** It shall be the responsibility of the board of education of the technology center district to review and conform to all regulations that prohibit sex discrimination. *No person in the United States shall on the basis of sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program*

or activity receiving federal financial assistance [Public Law 92-318, Title IX, Sec. 901 (A)]. Any reference to discriminatory language or practices relative to race, creed, or national origin should be deleted.

(b) **Basic education.** No technology center district shall be required to provide any training or instruction that is independent of career and/or technology education. However, foundational, academic and contextual academic education should be provided to persons in order to bring them up to a level at which they may successfully complete the course or Career Major in which they are enrolled.

(c) **Education and Services in other districts.** No technology center district shall offer *CareerTech* education and/or services to any entities inside another technology center district without prior approval of that district. If there is a Reciprocity Agreement between technology center districts, the provisions of the Reciprocity Agreement shall be followed. Territory not presently a part of any technology center district may be served by a technology center district in accordance with the policy and procedures approved by the State Board.

(d) **Live Work Policy.** The live work policy adopted by the State Board of Career and Technology Education in February 2004 shall be incorporated into all technology center policies and procedures. Live work is work performed by students in a laboratory, classroom, shop, or in a field setting under written contract and under the direction of the instructor. The process by which all live work projects will be approved should be outlined in the live work policy. Live work projects should be chosen on the basis of merit in relation to the instructional objectives as well as the determined value of the project to allow students to achieve a desired level of competency. Superintendents, Deputy Superintendents, Assistant Superintendents and local board members shall be ineligible from utilizing live work services. These projects are not to replace other learning activities, nor to compete with other organizations within the district, but are to complement them. These projects will allow students to experience situations not easily duplicated in a lab or classroom, and at little or no cost to the school. Documentation for each live work project will be maintained by the technology center and will contain pre-numbered live work tickets, authorization signatures, signature of the project owner, estimated amount, amount paid or deposited, scope of the work, estimated completion date, and record of all materials and parts purchased. Live work accounts shall be paid in full upon the completion of the project. The list of live work projects may be reviewed at any time by the ODCTE audit/review staff or others as designated by the State Director of Career and Technology Education. All records of live work projects will be maintained by the technology center for at least three (3) fiscal years following the most recent technology center financial audit. The following policy should be incorporated into all technology center policies and procedures. The policies developed by the technology centers will become items for review during all standard accreditation visits or audit/reviews conducted by the Oklahoma Department of Career and Technology Education.

(e) **Technology Center Code of Ethics Guidelines.** Each technology center will ensure that its district policies and

procedures comply with the guidelines for the Technology Center Code of Ethics approved by the State Board of Career and Technology Education in April 2004. Technology center district boards may add any other provisions to these guidelines with discretion. Policies and procedures shall be developed by each technology center board for reporting and resolving alleged violations. The policies developed by the technology centers will become items for review during all standard accreditation visits or audit/reviews conducted by the Oklahoma Department of Career and Technology Education. The guidelines for the Technology Center Code of Ethics are:

(A) **Focus on the success of students and clients as the fundamental value upon which all decisions are made.** Provide a safe, supportive environment to include up-to-date facilities, equipment, instructional materials, and methods, as well as other appropriate student services to enhance the educational experience and enable all students to achieve their full potential for success. Ensure that all instructors are appropriately qualified to provide a high level of instruction to enable students to obtain realistic training and education for successful career and workplace readiness.

(B) **Acknowledge that the System is accountable to the taxpayers and patrons of the local district and the State of Oklahoma.** The district will compile and make available an annual report or profile that identifies the standards by which the district measures success. A copy of this report will also be published on the district website. The annual report or profile may measure standards such as teacher qualifications, revenue, expenditures, cost per student, economic impact of education and services, completion rates, sending school service rate, placement of completers, percentage of completers who attain an industry-recognized state or national licensure or certification, etc.

(C) **Understand that the role of the board of education is to set policy and direction for the school district, and the role of the administration and staff is to implement the policies of the board in a fair and consistent manner.** The district will maintain and enforce an up-to-date manual of Policies and Procedures. The district will utilize a strategic planning process that will include, at a minimum, the following components: core values and beliefs, vision statement, mission statement, and strategic goals. Adoption of policies not in conformity with the administrator's recommendations or beliefs is not just cause for refusal by the administration to support and implement those policies. Administration must be impartial in the execution of the school policies and the enforcement of rules and regulations. It is a breach of ethics to give preferential consideration to any individual or group because of special status or position in the school system or the community.

(D) **Not use position or influence for any personal gain; and will avoid actions that create a**

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conflict of interest and strive to avoid actions that might appear to create a conflict of interest. The term "conflict of interest" describes any circumstance that could cast doubt on a person's ability to act with total objectivity with regard to the district's interest. Conflicts of interest are prohibited. It is improper for a board member or school administrator to profit financially from interest in any business which publishes, sells, manufactures, or in any way deals in goods or services which are, or may be expected to be, purchased by the school system they serve. It is a breach of public trust for a board member or administrator to use confidential information concerning schools affairs (such as the knowledge of the selection of specific school sites) for personal profit or to divulge such information to others who might profit. Although it is impossible to list all potential conflict of interest situations, the following examples represent situations where a conflict of interest could arise: A direct or indirect financial interest in any business or organization that is a district vendor or competitor, if the employee or board of education member can influence decisions with respect to the district's business. Use of any district asset for the employee's personal business advantage (examples of such assets include not only equipment, tools, and supplies, but also valuable ideas, technical data, and other confidential information). Relationships, including business, financial, personal, and family may give rise to conflicts of interest or the appearance of a conflict. Employees should carefully evaluate relationships as they relate to district business to avoid conflict or the appearance of a conflict.

(E) **Fulfill professional responsibilities with honesty and integrity.** The Board of Education, superintendent, administration, faculty, and staff will fulfill their duties and responsibilities with honesty and integrity and improve their professional effectiveness through continuing professional development. Board members will be diligent and well informed of issues surrounding Board decisions and regularly attend Board meetings.

(F) **Support the Constitutions of the State of Oklahoma and the United States of America and obey all federal, state, and local laws.** Board members will uphold the Oath of Office. Professional development will be held annually for board members, superintendent, administration, faculty, and staff to learn about new laws.

(G) **Encourage effective communication between the Board, the students, the staff, and all elements of the community.** A communication plan will be developed to address internal and external audiences.

(H) **Improve professional effectiveness through continuing professional development.** In addition

to meeting the minimum requirements for continuing education mandated by state law, board members, administration and staff have a professional obligation to attend conferences, seminars, and other learning activities that hold promise of contributing to their professional growth and development.

(f) **Rules; regulations.** In the absence or omission of specific rules and regulations pertaining to the technology center districts, the state statutes and the rules and regulations governing independent school districts will prevail.

(g) **Review of the Rules for Career and Technology Education.** The **Rules for Career and Technology Education** approved by the State Board should be reviewed in connection with developing *CareerTech* courses, Career Majors and services.

(h) **Technology Centers That Work.** The ~~Technology Center Services Division~~Department will coordinate the Technology Centers That Work initiative to help technology centers embed college-and career-readiness academic standards into instruction and produce graduates who can succeed in post-secondary studies and careers in high-demand, high-skill, high-wage fields. The ~~Department Technology Center Services Division~~ will coordinate with the Southern Regional Educational Board and other entities to organize professional development sessions on topics such as numeracy, literacy and using data for continuous school improvement.

(i) **Comprehensive Local Education Plan.** ~~As a part of the requirements for receiving accreditation and funding from the Oklahoma Department of Career and Technology Education, each technology center board of education shall adopt a Comprehensive Local Education Plan once every six (6) years as provided in 70 O.S. Supp. 2006 §3-104.2, as amended. The Comprehensive Local Education Plan that is developed once every six (6) years will be submitted to the appropriate Technology Center Services Coordinator at the Department. The six year Comprehensive Local Education Plan and the annual updates will be available at the technology center for review annually by the State Department of Education Regional Accreditation Officers as provided for in 70 O.S. Supp. 2001 §3-154, as amended. The plan at minimum shall contain the following:~~

(1) ~~A strategic plan shall include stated goals that clearly delineate education expectations. Input from teachers and parents will be solicited and one public hearing will be held prior to the technology center board approving the strategic plan as provided for in 70 O.S. Supp. 2002 §5-117.4, as amended. The strategic plan shall be monitored annually and updated as necessary.~~

(2) ~~A four year (4) capital improvement plan as provided for in 70 O.S. Supp. 2007 §18-153, as amended. The capital improvement plan shall be monitored annually and updated as necessary.~~

[OAR Docket #16-584; filed 6-17-16]

**TITLE 780. OKLAHOMA DEPARTMENT OF CAREER AND TECHNOLOGY EDUCATION
CHAPTER 20. PROGRAMS AND SERVICES**

[OAR Docket #16-585]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 3. Secondary, Full-Time and Short-Term Adult CareerTech Programs

780:20-3-2 [AMENDED]

780:20-3-4 [AMENDED]

AUTHORITY:

Oklahoma State Board of Career and Technology Education; 70 O.S. 2011, § 14-103, 70 O.S. 2011, § 14-104, 70 O.S. Section 14-108.2, as amended.

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n/a

ANALYSIS:

The rule provides specifications for programs pertaining to program operations. The rule will comply with language in House Bill 1423 and Senate Bill 50 (2014). The rule provides updated certification requirements for teachers who may teach these courses.

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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, 2016:

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 CareerTech programs and facilities without regard to race, color, national origin, sex, or disability.

(1) **Agricultural Education.** Enrollment in Agricultural Education programs are designed for ~~is limited to~~

~~junior high and high school students (grades 8 through 12) grades eight through twelve, in programs operated and shall be provided by comprehensive schools school districts. Technology Centers center school districts shall be are prohibited from operating Agricultural Education programs or FFA chapters in any location. Secondary students Each student enrolled in an agricultural education program shall participate in must have a supervised agricultural experience project. For each Each ODCTE funded agricultural education program which is funded by the Oklahoma Department of Career and Technology Education, the local school district shall provide shall be provided transportation services, by the local school district, for the agricultural education program and /FFA (FFA is an integral part of the agricultural education program) program related duties and activities. (FFA is an integral part of the agricultural education program.)~~

(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 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) **CareerTech 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) **Science Technology Engineering and Mathematics (STEM).** Science Technology Engineering and mathematics programs are designed to prepare students grades 6-12 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.

(6) **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

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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 CareerTech 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.** CareerTech 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 CareerTech instruction class periods and one planning period for a six-period day, and six CareerTech 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 of Marketing Education, 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/Tech-Connect 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 Marketing 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 related course, 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 CareerTech 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 CareerTech 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) **Full-time programs in comprehensive schools.** A full-time program in comprehensive school shall consist of ~~one or two block periods of instruction~~ five instructional class periods (five credits) and one planning period for a six-period day or six instructional class periods (six credits) and one planning period for a seven-period day that is offered to students in grades 7 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 or DECA student organization—organizations and normal school supervisory duties.

(ii) **Full-time programs in technology centers.** A full-time program in technology centers shall consist of two three-hour block periods of instruction for students in grades 10 through 12 and adults and should have an occupational outcome that includes a work-based site learning component. Any exceptions must be approved in writing by the of Business, Marketing and Information Technology Education state program administrator.

(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.

(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 extra curricular 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.

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- (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) **Science, Technology, Engineering and Mathematics.**
- (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/grades 9-12):** The following technology engineering courses are designed for 9-10/12 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; Tech Connect Diversified Programs.
- (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.
- (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) **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 teacher-coordinator shall be enrolled in a capstone course or Marketing Education cooperative learning course. 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) **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 a 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) Science, Technology, Engineering and Mathematics.

(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. The

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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) **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.** CareerTech 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 CareerTech 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 CareerTech teacher applicant meets CareerTech 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 CareerTech teachers must have the CareerTech certification application approved by the program administrator in the appropriate occupational division.

(2) **Occupational division renewal of certification.** All CareerTech teachers must complete the specific occupational division's requirements for CareerTech

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.**

(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: Appropriate math and/or science meeting State Department of Education's grade level requirements, Technology Engineering, or Trade and Industrial.

(8) **Tech Connect.** Required Certifications: Trade & Industrial with NoCTI certification specific to area being taught.—with demonstration of competencies through appropriate mechanism or Technology Engineering with demonstration of competencies through appropriate mechanism.

(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 preservice professional development activities as required by the appropriate divisions. All secondary and full-time adult CareerTech instructors and staff shall participate in professional inservice as required by the appropriate divisions, including summer conference and mid-year activities.

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**TITLE 780. OKLAHOMA DEPARTMENT OF CAREER AND TECHNOLOGY EDUCATION
CHAPTER 25. BUSINESS AND INDUSTRY SERVICES**

[OAR Docket #16-586]

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The ODCTE has reorganized and realigned and the division name is outdated. The amendment clarifies some administrative changes and eliminated the outdated language.

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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, 2016:

SUBCHAPTER 5. BUSINESS AND INDUSTRY DEVELOPMENT

780:25-5-1. New or expanding industries

(a) **Programs and services.** Training for Industry Programs (TIP) has the responsibility of working with the appropriate delivery agency to provide new job slot training for new or expanding business and industry. This training is provided to targeted business and industry in selected manufacturing, processing, and national or regional offices of business and industry that are creating new employment opportunities or others that have significant economic impact on Oklahoma's economy. These companies are traditionally considered exporters of goods and/or services and importers of capital.

(b) **Development of training agreements.**

(1) **Statement of Understanding.** A "Statement of Understanding" shall define the specific responsibilities of each party involved in a training program, including the company, the community, the technology center, and the appropriate Training for Industry Department staff.

(2) **Training agreements.** Training agreements will be developed jointly, using a training needs analysis, by company representatives, local technology center personnel, and Training for Industry Programs Department staff.

(3) **Changes.** Any changes in training agreements will be subject to approval by Training for Industry Programs Department staff.

(c) **Availability of funds.** State support for TIP training is based upon the availability of funds and administered by the Business and Industry Development Division Department staff in accordance with TIP guidelines and procedures.

(d) **Equipment.** Equipment used for training shall be furnished by the local technology center or the Department (either from the Equipment Pool inventory or transferred from another technology center). In the case of highly specialized equipment, the company will be requested to loan or lease this equipment to Training for Industry Programs for the purposes

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of training. The local education authority (LEA) is responsible for routine and preventative maintenance on all state owned equipment, used in training. The LEA will be responsible for replacing equipment that is salvaged due to lack of maintenance, abuse of equipment, or natural disaster. The LEA is responsible for replacing equipment that is lost or stolen.

(e) **Utilities.** In programs operated in a technology center, costs of the utilities will be borne by the technology center. Costs of utilities for a program operated in a company's facilities will be borne by the company. If a training program is operated out of a temporary facility, utility (water, gas, electricity, local phone service-allowable long distance) expenses will be a coordinated effort of the community and ~~Training for Industry Programs~~ Department staff.

(f) **Training materials and expendable supplies.**

(1) **Purchaser.** Training materials and expendable supplies will be provided at the expense of Training for Industry Programs. Materials used by trainees in the process of their training will be retained and disposed of by the Department.

(2) **Resulting products.** Products produced during the training program will be the property of the Department and will be picked up by or returned to the Equipment Pool or ~~Training for Industry Programs~~ Department staff via accepted Department inventory practices.

(g) **Training aids.** Training aids, such as technical manuals, ~~videotapes, and slide/tape~~ DVD's and power point presentations will be developed for training programs when determined by the needs analysis, and only when the lead time schedule allows for the completion in time to be used during the training defined by the Statement of Understanding. Training aids will be developed at the expense of Training for Industry Programs in cooperation with the company.

(h) **Instructors.** Instructors shall be secured locally, whenever possible.

(i) **Consultants.** When deemed necessary by Training for Industry Programs, consultants may be used to assist in the development and delivery of training programs per staff recommendation/ approval.

(j) **Reimbursements.** All reimbursements for the delivery/performance of training, as specified in a Statement of Understanding, will be made to the local technology center. All reimbursements shall be submitted in accordance with established TIP guidelines and procedures.

(k) **Reporting procedures.** Program and enrollment information shall be submitted to the Information Management Division of the Oklahoma Department of Career and Technology Education as outlined in 780:10-7-2.

indicate the appropriate type of class or appropriate codes assigned by the Oklahoma Department of Career and Technology Education.

(2) **Reporting procedures.** Program and enrollment information shall be submitted to the Information Management Division of the Oklahoma Department of Career and Technology Education as outlined in 780:10-7-2.

(b) **Program funding.** State funds shall be available to support training and programs designed for and delivered to adult students to prepare them for success in the workplace.

(1) **Funding mechanism.** State funds to support Business and Industry Training programs shall be provided through the technology center funding formula.

(2) **Program definition.** For funding purposes, a Business and Industry Training program is considered to be 1,050 clock hours of training. The number of programs calculated in the Funding Formula is determined by dividing the total clock hours of training by 1,050.

(3) **Availability of funds.** State support for Business and Industry Training in the funding formula is based on the availability of funds and program approval by ~~the Technology Center Services Division~~ of the Oklahoma Department of Career and Technology Education.

(4) **Program intent.** Formula funding for Business and Industry Training will be limited to those programs that are designed for and intended to meet the employability needs of adults. (An adult is defined as a person at least 16 years of age.)

(5) **Ineligible programs.** Student and other services that are part of the quality foundation services shall not be reported for program funding. Such services include, but are not limited to: counseling, assessment, basic skills enhancement, financial aid administration, job development, and the administration or coordination of Business and Industry Services. Training programs that do not qualify for formula funding are specified in the Oklahoma Department of Career and Technology Education's reporting guidelines.

(A) Professional development for technology center personnel, or technology center Boards of Education;

(B) Political or community fund-raising activities;

(C) Religious organization meetings or functions;

(D) Receptions, meal functions or style shows;

(E) Commercial exhibits, fairs or promotional activities;

(F) Open houses or student organization meetings;

(G) Industry, public school, or organizational staff meetings, conventions, or team meetings;

(H) Driver training, DUI school, non-occupationally specific driver improvement or defensive driving programs;

(I) Job search, career exploration, employment skills, career development and career search;

(J) Training programs designed specifically for the incarcerated; and

(K) Hunter safety, boat safety; concealed weapons training, and recreational activities/training.

SUBCHAPTER 11. BUSINESS AND INDUSTRY SERVICES PROGRAMS

780:25-11-1. Business and Industry Training programs

(a) **Program and student accounting.**

(1) **Program reports.** Business and Industry Training programs for which enrollments are submitted must

(6) **Technology center operations.** Business and Industry Training programs will comply with the procedures for operation of technology center as outlined in Chapter 15 of this title.

(c) **Audit criteria.**

(1) **Accountability.** To demonstrate accountability for formula funds supporting Business and Industry Services programs requires the collection of complete and accurate data on these programs. Documentation of reported data as required in (2) of this unit is clearly the responsibility of the local technology center and is not submitted to the Oklahoma Department of Career and Technology Education as a matter of record. The electronic data reporting process does not provide for the submission of reports signed by the authorized local administrator; therefore, the following paragraph will have an implied and binding effect on each report submitted, just as if the signed statement appeared on each report submitted: I, the authorized administrator, do testify that the program here identified meets all state guidelines and documentation exists to support the eligibility of the program for funding.

(2) **Documentation.** Technology centers shall maintain records specified in the Technology Center Instructions for Providing Enrollment and Program Data booklet that is updated annually.

~~(d) **Out-of-District Tuition.** Technology Center districts shall charge twice the in-district tuition rate to any adult student who does not reside in a technology center district. The Oklahoma Department of Career and Technology Education may waive this requirement in situations where the local technology center district has shown evidence that such requirement may be detrimental to the mission of the local technology center district.~~

[OAR Docket #16-586; filed 6-17-16]

**TITLE 780. OKLAHOMA DEPARTMENT OF CAREER AND TECHNOLOGY EDUCATION
CHAPTER 35. LIFELONG LEARNING**

[OAR Docket #16-587]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

- 780:35-1-1. General Provisions [AMENDED]
- 780:35-1-2. Adult basic education [AMENDED]
- 780:35-1-3. ~~General educational development (GED)~~ High School Equivalency (HSE) testing program [AMENDED]

AUTHORITY:

Oklahoma State Board of Career and Technology Education; 70 O.S. 2011, § 14-103, 70 O.S. 2011, § 14-104, as amended.

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INCORPORATIONS BY REFERENCE:

n/a

ANALYSIS:

The rules help support the operation of the Oklahoma Adult Basic Education Program (ABE) that is administered by the Oklahoma Department of Career and Technology Education (ODCTE)

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, 2016:

780:35-1-1. General Provisions

(a) **Purpose.** The rules of this subchapter have been adopted for the purpose of establishing standards, guidelines, allocation of funds, development of projects and applications, and the implementation of Adult Education and Literacy, Workplace Literacy, English Literacy, and Integrated English Literacy/Civics. These projects provide educational programs to educationally disadvantaged adults and community needs.

(b) **Definitions.** The following words and terms, when used in this Subchapter, shall have the following meaning unless the context clearly indicates otherwise:

(1) **"Act"** means the Adult Education and Family Literacy Act, Title II of the Workforce Investment Act of 1998 (P.L. 105-330). Under the Workforce Innovation and Opportunity Act (WIOA).

(2) **"Adult"** means an individual who has attained 16 years of age or who is beyond the age of compulsory school attendance under State law who is not enrolled in secondary school; who lacks sufficient mastery of basic educational skills to enable him/her to function effectively in society or who does not have a secondary school diploma or its recognized equivalent and who has not achieved an equivalent level of education; and whose lack of mastery of basic skills results in an inability to speak, read, or write the English language.

(3) **"Adult education"** means services or instruction below the college level for educationally disadvantaged adults.

(4) **"Adult education program"** means a local education agency, postsecondary institution, community-based organization, corrections education agency or faith-based organization responsible for locally administering the Adult Education and Family Literacy Act grant.

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(5) **"Community-based organization" (CBO)** means a private nonprofit organization which is representative of a community or significant segments of a community and which provides education, vocational education or rehabilitation, job training, or internship services and programs and includes neighborhood groups and organizations, community action agencies, community development corporations, union related organizations, employer-related organizations, tribal governments, and organizations serving Native Alaskans and Indians. The term 'private industry council' means the private industry council established under section 102 of the Job Training Partnership Act.

(6) **"Cooperative"** means that the board of education of two or more school districts may enter into cooperative agreements and maintain joint programs including but not limited to, courses of instruction for handicapped children, courses of instruction in music and other subjects, practical instruction for trades and vocations, practical instruction in driver training courses, and health programs including visual care by persons legally licensed for such purpose, without favoritism as to either profession.

(7) **"Disadvantaged Adult"** means an adult who demonstrates basic skills equivalent to or below that of students at the fifth grade level.

(8) **"General Educational Development" (GED) "High School Equivalency" (HSE)** means a high school equivalency credential (GED, HiSet, TASC). The Oklahoma Department of Career and Technology Education is the appointed entity in the State of Oklahoma, responsible for oversight and regulation of the High School Equivalency (HSE) program for high school equivalency examinations for adult populations. Effective July 1, 2015 the HISET, GED and TASC, High School Equivalency Examinations are authorized by the Oklahoma Department of Career and Technology Education to provide high school equivalency examinations that meet state requirements.

(9) **"Local educational agency" (LEA)** means a public board of education or other public authority legally constituted within elementary or secondary schools in a city, county, township, school district, or other political subdivision of a state, or such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools, except that, if there is a separate board of other legally constituted local authority having administrative control and direction of adult education in public schools therein, such term means such other board or authority.

(10) **"State educational agency" (SEA)** means the ~~Oklahoma State Department of Education~~ Oklahoma Department of Career and Technology Education.

programs, including priority programs for educationally disadvantaged adults (including first those adults with less than a 5th-grade achievement level, and second, those adults with a 6th-8th grade achievement level), adults with limited English speaking ability, adults with disabilities, institutionalized adults and ~~GED~~ High School Equivalency preparation.

(b) Adult education programs governed by the Act shall make every effort to provide free classes to students. Adult education programs may charge necessary and reasonable fees for consumable materials and work-based classes. Adult education programs that wish to implement fees must develop a fee policy that has been approved by the adult learning center's local governing board. The fee policy must be reasonable and may not restrict access to services.

(c) The Act permits local adult education programs to generate income. The purpose of income is not to make a profit, but rather to expand services. Income and donations received must be reinvested in the adult education program. Any income must be accounted for in records and reported to the state Lifelong Learning office for National Reporting System Financial Reports.

(d) Adult education programs governed by the Act must follow the state adult education Assessment Policy per federal guidelines.

(e) Adult education programs governed by the Act must follow the state adult education Student Goal Setting Policy per federal guidelines.

(f) For each year covered by the plan, the fiscal effort per student from nonfederal sources available for expenditure by the state for adult education, during the second preceding fiscal year must not be less than the fiscal effort per student from nonfederal sources during the third preceding fiscal year in order to meet the maintenance of effort requirement.

(g) Teachers of adult education located in the adult learning centers funded by the state under the Act, shall have a valid Oklahoma Teacher's Certificate. Directors of adult education located in the adult learning centers shall have a valid Oklahoma Teacher's Certificate or a graduate degree.

(h) For fiscal control, the obligation basis of accounting is used; expenditures will be supported by copies of paid claims and invoices and will be audited following accepted auditing procedures.

(i) Federal funds for adult education programs operating under a grant extension will be allocated according to local program data, program performance, and participation in state and national initiatives. Seventy percent of federal funds will be allocated according to the number of students with a pre-assessment and 12 hours of instruction as reported in National Reporting System (NRS) data. Twenty percent of federal funds will be allocated according to whether federal and state indicators of performance were met. Ten percent of funds will be allocated for participation in state and national initiatives. Allocations for the current fiscal year will be based on National Reporting System data from the second preceding fiscal year.

(j) State funds for adult education programs operating under a grant extension will be allocated according to program data. Fifty percent of state funds will be divided evenly among all programs to establish a funding base. The remaining fifty

780:35-1-2. Adult basic education

(a) Programs, services and activities funded in accordance with uses specified in sections 203 and 231 of the Act are designed to expand or improve the quality of adult education

percent of state funds will be allocated according to the number of students enrolled. Allocations for the current fiscal year will be based on National Reporting System data from the second preceding fiscal year.

(k) The State Education Agency (SEA) and the adult education programs participating in the plan shall enter into cooperative arrangements, when feasible and appropriate, with such entities as other state agencies, community based organizations, community action agencies, career technology schools, churches, businesses, etc. in order to carry out the general purpose of the Act.

(l) The adult education programs will expend 95% of the funding for adult education activities and 5% will be used for administrative costs, however if the administrative cost limits would be insufficient for adequate planning and administration of the program, the state agency may negotiate with the local grant recipient in order to determine an adequate level of funds to be used for non-instructional purposes. Negotiated administrative cost limits are indicated in the Adult Education and Literacy State Plan/State Plan Amendments.

(m) The SEA will provide direct and equitable access to and will review grant proposal applications during an open grant competition. The adult education program will demonstrate that the twelve considerations outlined in Section 231 of the Act are being met in order to be considered for a grant award. The adult education program must assure that the services are coordinated with and are not duplicative services under other Federal, State and local programs. The comments of the adult education program and responses thereto shall be attached to the application when it is forwarded to the state.

(n) Federal funds for new grantees shall be allocated on the basis of an application, budget, and proposed number of students to be served. State funds will be matched on the ratio specified by the Adult Education Act regulations in existence for the current fiscal program year.

(o) The SEA will evaluate grant recipients based on the federal requirements for program evaluation.

(p) Adult education programs will follow all requirements set forth in the SEA Adult Education State Plan and State Plan Amendments.

(q) Adult education programs will meet the state performance measures of pre-/post-assessing 60% of their students and increasing the average number of student contact hours each fiscal year.

(r) Adult education programs will use an SEA-approved management information system to document student enrollment, goals, attendance, educational gains, and other information as required by the National Reporting System (NRS). Programs will update data monthly.

780:35-1-3. ~~General educational development (GED) High School Equivalency (HSE) testing program~~

(a) The Lifelong Learning ~~Section~~Division of the ~~State Department of Education~~Oklahoma Department of Career and Technology Education has responsibility for directing the GEDHSE Testing Program in Oklahoma and for issuing

high school diplomas to those who successfully complete the GEDHSE Tests.

(b) An applicant shall be 18 years of age or older, except beginning August 1, 1995, persons having attained the age of 16, but who are not yet 18, must be permitted to take the GEDHSE Tests provided the applicant meets the residency requirements and submits along with the application to take the GEDHSE Tests, a notarized joint written agreement between the school administrator of the school district in which the applicant resides, and the parent, guardian, or custodian, stating that it has been determined that such action is in the best interest of the child and community.

(c) An applicant shall be a resident of the State of Oklahoma.

(d) The GEDHSE Tests shall be administered by one of the many local GEDHSE Testing Centers in Oklahoma approved by the GEDHSE Testing Service, Washington, D.C.

(e) To become eligible to take the GEDHSE Tests, an application must be made to the Lifelong Learning ~~Section~~ Division of the ~~State Department of Education~~ Oklahoma Department of Career and Technology Education online or through an approved local GEDHSE Testing Center. A fee will be charged by the local testing center at the time the tests are taken.

(f) The ~~State Department of Education~~Oklahoma Department of Career and Technology Education will contract with an independent scoring service approved by the GEDHSE Testing Service for the scoring of GEDHSE Tests. The local GEDHSE Testing Centers shall send the test answer sheets to the contracted scoring service for scoring.

(g) An applicant shall make the minimum score required for passing the GEDHSE Tests, as established by the GEDHSE Testing Service.

~~(h) A high school diploma shall be awarded by the State Department of Education to those who make a passing score on the GED Tests. This credential certifies that the holder has shown evidence of general educational development equivalent to a high school education, as revealed by scores made on the GED Tests.~~

~~(i) The Lifelong Learning Section will collect a \$10 fee for processing the initial application for GED Testing and the original GED Diploma. This fee is in addition to the fees required by the GED Testing Service for first time test takers and the scoring fee. Payment will be in the form of a school or institution check.~~

~~(j) The Lifelong Learning Section will collect a fee of \$5 to score and process the writing test; a fee of \$5 to score and process one or more of the science, social studies, reading, or math tests; and a fee of \$10 to score and process a combination of the writing test plus one or more of the other four tests.~~

~~(k) The Lifelong Learning Section will require a fee of \$20 for a duplicate GED Diploma with transcript and a fee of \$10 for an official GED transcript.~~

~~(h) Only scores from the 2002 GEDHSE Tests will count toward earning a GEDHSE Diploma from January 1, 2002, forward.~~

~~(m) The Lifelong Learning Section will collect a \$25 fee from the local GED Testing Center for processing a form repeat error. The local GED Testing Center may not collect this~~

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~~fee from the test taker for whom the error occurred since this is an administrative error.~~

~~(n) Beginning September 1, 2012, GED Testing Centers in Oklahoma may begin offering a computer based GED test.~~

~~(o) The Lifelong Learning Section will collect a four dollar (\$4) administration fee for each computer based delivered content area test. This fee is in addition to the computer based delivery fee for each content area test required by the GED Testing Service.~~

~~(p) By January 1, 2014, every GED Testing Center in Oklahoma shall have fully implemented a computer based testing program.~~

[OAR Docket #16-587; filed 6-17-16]

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

[OAR Docket #16-649]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

- Subchapter 1. General Provisions
- 785:45-1-2. Definitions [AMENDED]
- Subchapter 3. Antidegradation Requirements
- 785:45-3-2. Applications of antidegradation policy [AMENDED]
- Subchapter 5. Surface Water Quality Standards
- Part 3. Beneficial Uses and Criteria to Protect Uses
- 785:45-5-10. Public and private water supplies [AMENDED]
- 785:45-5-12. Fish and wildlife propagation [AMENDED]
- Part 5. Special Provisions
- 785:45-5-25. Implementation Policies for the Antidegradation Policy Statement [AMENDED]
- Appendix A. Designated Beneficial Uses of Surface Waters [REVOKED]
- Appendix A. Designated Beneficial Uses for Surface Waters [NEW]
- Appendix A.1. Designated Beneficial Uses of Surface Waters Water Quality Management Basin 1, Middle Arkansas River [REVOKED]
- Appendix A.1. Designated Beneficial Uses of Surface Waters Water Quality Management Basin 1, Middle Arkansas River [NEW]
- Appendix A.2. Designated Beneficial Uses of Surface Waters Water Quality Management Basin 2, Lower Arkansas River Basin [REVOKED]
- Appendix A.2. Designated Beneficial Uses of Surface Waters Water Quality Management Basin 2, Lower Arkansas River Basin [NEW]
- Appendix A.3. Designated Beneficial Uses of Surface Waters Water Quality Management Basin 3, Upper Red River Basin [REVOKED]
- Appendix A.3. Designated Beneficial Uses of Surface Waters Water Quality Management Basin 3, Upper Red River Basin [NEW]
- Appendix A.4. Designated Beneficial Uses of Surface Waters Water Quality Management Basin 4, Lower Red River [REVOKED]
- Appendix A.4. Designated Beneficial Uses of Surface Waters Water Quality Management Basin 4, Lower Red River [NEW]
- Appendix A.5. Designated Beneficial Uses of Surface Waters Water Quality Management Basin 5, Canadian River [REVOKED]
- Appendix A.5. Designated Beneficial Uses of Surface Waters Water Quality Management Basin 5, Canadian River [NEW]
- Appendix A.6. Designated Beneficial Uses of Surface Waters Water Quality Management Basin 6, Upper Arkansas River [REVOKED]
- Appendix A.6. Designated Beneficial Uses of Surface Waters Water Quality Management Basin 6, Upper Arkansas River [NEW]
- Appendix A.7. Designated Beneficial Uses of Surface Waters Water Quality Management Basin 7, Panhandle Region [REVOKED]
- Appendix A.7. Designated Beneficial Uses of Surface Waters Water Quality Management Basin 7, Panhandle Region [NEW]

Appendix B. Areas with Waters of Recreational and/or Ecological Significance [REVOKED]

Appendix B. Areas with Waters of Recreational and/or Ecological Significance [NEW]

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.

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n/a

ANALYSIS:

Several amendments have been adopted to add new language associated with the creation of a new antidegradation classification, known as Sensitive Water Supply-Reuse (SWS-R). The amendments include adding a definition for SWS-R and modifying the definition of "Existing Point Source Discharge" in OAC 785:45-1-2. To account for SWS-R as a part of Oklahoma's antidegradation policy, the term "SWS-R" is added to OAC 785:45-3-2(c); OAC 785:45-5-10(7); OAC 785:45-5-25(a)(2) and (6); OAC 785:45, Appendix A part (c)(2); and Appendix E, part G. Additionally, a new subsection (8) of OAC 785:45-5-25(c) was created to describe the SWS-R classification. This rulemaking does not reclassify any waterbody as an SWS-R. The intended effect of this language is to create a new antidegradation classification.

Appendix A, "The Designated Beneficial Uses of Surface Waters", is being revoked and reenacted with deletions, modifications and additions of new uses and other waterbody specific information. These changes include amending the introductory material in paragraph (d) Remarks, and to remove remark (2) and renumber the remaining remarks. In Table A.1 (Middle Arkansas River Basin), the limitation "HQW" is added to Saline Creek and Little Saline Creek. For the Arkansas River from the mouth of the Verdigris River to Keystone Dam, the recreation use is changed to "PBCR", and the remark (2) is removed. In Table A.6 (Upper Arkansas River Basin), Hefner Lake and its designated and existing uses are added, and an additional "waterbody ID number" is added to Great Salt Plains Reservoir. The intended effect of these changes to Appendix A is to update waterbody information, uses, and antidegradation classifications.

Appendix B, "Areas with Waters of Recreational and/or Ecological Significance", is being revoked and reenacted with deletions, modifications and additions of new areas/waters. Modifications to Table 1 include the deletion of certain areas that no longer exist or were incorrectly named, the addition of several new wildlife management areas and state parks including the water quality management segment, and the modification of certain names. Modifications to Table 2 include revisions to some existing descriptive language of "protected area/water and the addition of new "protected area/water", including the Verdigris, Illinois, and Elk Rivers. Additionally, a new column is added to Table 2 to clarify endangered or threatened species that are protected in the area/water. The intended effect of this language is to update areas and waters protected under the Appendix B antidegradation classification.

Appendix G, "Numerical Criteria to Protect Beneficial Uses", is being revoked and reenacted with modifications to introductory material and Tables 2 and 3. Changes in the introduction include the addition of frequency and duration language to paragraph (a) and the deletion of subsection (3) in paragraph (b). Also, these amendments are proposed to: 1) speciate arsenic 3 and trivalent and hexavalent chromium; 2) delete parameters MBAS and 2-4-5-TP silvex and associated criteria; and, 3) revise numeric criteria for certain parameters contained under the "Fish and Wildlife Propagation" headings for Table 2. "Numerical Criteria to Protect Beneficial Uses and All Subcategories Thereof". The changes also add new footnotes under Table 2 to describe alternative applications of the frequency and duration components of certain criteria, as generalized in the Appendix G introduction. Additionally, new conversion factors are added to Table 3. Conversion Factors for Total to Dissolved Fractions. The intended effect of these amendments is to update aquatic life criteria in order to fully protect the Fish and Wildlife Propagation beneficial use and to be consistent with criteria currently recommended by the United States Environmental Protection Agency.

Appendix E, "Requirements For Development of Site-Specific Criteria For Certain Parameters", is being revoked and reenacted with revisions to some of the calculated site specific criteria options for certain dischargers. These include the City of Broken Bow (zinc), the City of Blackwell (cadmium), the City of Idabel (nickel and zinc), and City of Poteau (zinc). The circumstance which created the need for this amendment was revisions to aquatic life criteria in Appendix G, Table 2, as described in the preceding paragraph. The intended effect of this amendment is to provide updated calculated information for the implementation of the various options related to site-specific criteria for these municipalities.

CONTACT PERSON:

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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 OKLAHOMA WATER RESOURCES BOARD, 3800 NORTH CLASSEN BOULEVARD, OKLAHOMA CITY, OKLAHOMA, 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:

The newly adopted rules revise several parts of Oklahoma's Water Quality Standards. Revised or new aquatic life criteria were adopted for a variety of contaminants, with revisions occurring in both Appendix G, "Numerical Criteria to Protect Beneficial Uses", and for site specific criteria in Appendix E, "Requirements For Development of Site-Specific Criteria For Certain Parameters". Several revisions and additions were made to both Appendix A, "The Designated Beneficial Uses of Surface Waters", and Appendix B, "Areas with Waters of Recreational and/or Ecological Significance". Finally, a new antidegradation classification, known as Sensitive Water Supply-Reuse (SWS-R), was adopted.

[OAR Docket #16-649; filed 6-28-16]

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

[OAR Docket #16-650]

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PERMANENT final adoption

RULES:

- Subchapter 1. General Provisions
- 785:46-1-2. Definitions [AMENDED]
- Subchapter 13. Implementation of Antidegradation Policy
- 785:46-13-1. Applicability and scope [AMENDED]

785:46-13-4. Tier 2 protection; maintenance and protection of High Quality Waters, ~~and~~ Sensitive Water Supplies, ~~and~~ Sensitive Water Supply-Reuse waterbodies [AMENDED]

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Oklahoma Water Resources Board; 82 O.S., §§ 1085.30 and 1085.30a; 27A O.S., § 1-3-101; and 82 O.S., § 1085.2.

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SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

ANALYSIS:

Several amendments are proposed to add new language associated with the creation of a new antidegradation classification, known as Sensitive Water Supply-Reuse (SWS-R). The amendments proposed include modifying various parts of Chapter 46, including adding a definition for SWS-R and modifying the definition of "Increased Load" in OAC 785:46-1-2. To account for SWS-R as a part of Oklahoma's antidegradation policy, the terms "Sensitive Water Supply-Reuse" or "SWS-R" are added to OAC 785:46-13-1(a)(2) and (e), and the OAC 785:46-13-4 title, as well as subsections (c) and (d). Additionally, to reserve a place for future rulemaking for SWS-R, a new subsection (e) is added to OAC 785:46-13-4. The intended effect of this language is to create a new antidegradation classification.

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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, 2016:

SUBCHAPTER 1. GENERAL PROVISIONS

785:46-1-2. Definitions

In addition to definitions of terms found in OAC 785:45-1-2, which are incorporated herein by reference, the following words, terms and notations, when used in this Chapter, shall have the following meanings unless the context clearly indicates otherwise:

"7T2" means the seven-day maximum temperature likely to occur with a 50% probability each year. The 7T2 is calculated using a moving average of seven consecutive days for each year in a given record. These seven day receiving stream temperature values are ranked in descending order. An order number, m, is calculated based on the number of years of

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record, n , with a recurrence interval of 2 years, as $m = (n+1)/2$. The m^{th} highest average temperature is the $7T_2$.

"**A**" means mean annual average flow.

"**ACR**" means acute to chronic ratio.

"**Acute to chronic ratio**" means LC50/NOEC. The NOEC is the highest concentration at which no effect on test organisms is observed over a relatively long period. Quarterly biomonitoring over the life of the permit is sufficient to determine the ACR if the NOEC and LC50 may be determined. If the ACR is unknown, a default value of 10 may be used for implementation purposes.

"**Background**" means the ambient condition upstream or upgradient from a facility, practice or activity which has not been affected by that facility, practice or activity.

"**Beneficial use limitation**" means a more stringent restriction than that required to protect the beneficial use. A prohibition on new point sources is an example of a beneficial use limitation.

"**Board**" means Oklahoma Water Resources Board.

"**BOD**" means biochemical oxygen demand.

"**C**" means maximum concentration on the mixing zone boundary.

"**C₉₅**" means the 95th percentile maximum likelihood concentration.

"**C_b**" means background concentration.

"**C_e**" means effluent concentration.

"**cfs**" means cubic feet per second.

"**C_{mean}**" means the geometric mean of all effluent concentrations analyzed for the toxicant.

"**C_t**" means the appropriate criterion listed in OAC 785:45.

"**CBOD**" means carbonaceous biochemical oxygen demand.

"**Coefficient of variation**" means standard deviation divided by the mean.

"**Continuing Planning Process (CPP)**" means the most recent edition of the document produced annually by the Oklahoma Department of Environmental Quality which describes water quality programs implemented within the State.

"**Continuing toxicity**" means a tendency to be toxic.

"**Control**" means test organisms exposed to 0% effluent as part of the whole effluent toxicity testing procedure.

"**Cooling water reservoir**" means a privately owned reservoir used in the process of cooling water for industrial purposes.

"**CPP**" means the Continuing Planning Process document.

"**CV**" means coefficient of variation.

"**D**" means diameter of the discharge pipe in feet.

"**df**" means dilution factor.

"**Dilution capacity**" means a measure of the ability of the receiving stream to dilute effluent, defined as the ratio of the regulatory effluent flow to the regulatory receiving stream flow.

"**Dilution factor**" means a measure of the minimum dilution that occurs on the mixing zone boundary.

"**Discharge to a lake**" means a discharge within the lake's normal pool elevation as listed in the Oklahoma Water Atlas,

Oklahoma Water Resources Board Publication 135, May 1990, excluding discharges to lock and dam reservoirs.

"**Discharge to a stream**" means (1) any discharge outside the normal pool elevation of a lake as such elevation is listed in the Oklahoma Water Atlas, Oklahoma Water Resources Board Publication 135, May 1990, and (2) any discharge to a lock and dam reservoir, such as Webbers Falls Reservoir and Robert S. Kerr Reservoir.

"**DO**" means dissolved oxygen.

"**Drainage area**" means the area above the discharge drained by the receiving stream.

"**Event mean concentration**" means the flow-weighted average for a given storm event. The flow-weighted average is represented as the sum of the loads calculated for a series of storm samples divided by the sum of the discharges calculated for each of the storm samples.

"**EPA**" means the United States Environmental Protection Agency.

"**HQW**" means high quality waters as defined in OAC 785:45-3-2(b).

"**Implementation Plan**" means a Water Quality Standards Implementation Plan developed and promulgated by a state environmental agency as required by 27A O.S. § 1-1-202.

"**Increased load**" means the mass of pollutant discharged which is greater than the permitted mass loadings and concentrations, as appropriate, in the discharge permit effective when the SWS, SWS-R, HQW, or ORW beneficial use limitation was assigned.

"**Lake mixing zone**" means a volume extending one hundred feet from the source for implementation purposes, unless otherwise specified in OAC 785:45.

"**LC50**" means the lethal concentration as defined in OAC 785:45-1-2.

"**LMFO**" means licensed managed feeding operation as defined in 2 O.S. 9-202.

"**Mean annual average flow**" means the annual mean flow found in "Statistical Summaries", USGS publication no. 87-4205, or most recent version thereof, or other annual mean flow as approved by the Oklahoma Water Resources Board or the permitting authority.

"**Monthly average level**" means the concentration of a toxicant in the permit which may not be exceeded by the observed effluent concentration averaged over a calendar month.

"**Naturally occurring condition**" means any condition affecting water quality which is not caused by human influence, including, but not limited to, soils, geology, hydrology, climate, wildlife, and water flow with specific consideration given to seasonal and other natural variations.

"**NLW**" means nutrient-limited watershed as defined in OAC 785:45-1-2.

"**NOEC**" means no observed effect concentration.

"**NPDES**" means National Pollutant Discharge Elimination System.

"**Normal pool elevation**" means the elevations listed in the "Oklahoma Water Atlas", Oklahoma Water Resources Board publication no. 135, or most recent version thereof.

"**ORW**" means Outstanding Resource Waters as defined in OAC 785:45-3-2(a).

"**Outfall**" means a point source which contains all the effluent being discharged to the receiving water.

"**OWQS**" means Oklahoma Water Quality Standards.

"**Permitting authority**" means state environmental agency as defined or provided in Title 27A of the Oklahoma Statutes having jurisdiction as provided by law.

"**Persistent toxicity**" means toxicity due to effluent constituents which are not subject to decay, degradation, transformation, volatilization, hydrolysis, or photolysis.

"**Q***" means dilution capacity.

"**Q_e**" means the regulatory effluent flow.

"**Q_{el}**" means long term average effluent flow.

"**Q_{es}**" means short term average effluent flow.

"**Q_u**" means the regulatory receiving stream flow.

"**Regulatory mixing zone**" means the volume of receiving water described in 785:45-5-26.

"**Reasonable potential factor**" means the 95th percentile maximum likelihood estimator for a lognormal distribution.

"**SS**" means sample standard as defined in OAC 785:45-1-2.

"**Storm event**" means precipitation, after a minimum of 72 hours has elapsed since cessation of previous precipitation, in the watershed of a stream segment that produces a 30 percent rise in stream flow over the average flow of the preceding 72 hours resulting from surface run-off.

"**SWS**" means Sensitive Public and Private Water Supplies.

"**SWS-R**" means waterbodies classified as sensitive public and private water supplies that may be augmented with reclaimed municipal water for the purpose of indirect potable reuse.

"**T**" means maximum temperature difference at the edge of the mixing zone boundary.

"**T_a**" means regulatory ambient temperature.

"**T_c**" means the temperature criterion.

"**T_f**" means the 95th percentile maximum observed effluent temperature.

"**TDS**" means total dissolved solids at 180C.

"**TMDL**" means total maximum daily load.

"**Total maximum daily load**" means the sum of individual wasteload allocations for point sources, safety reserves, and loads from nonpoint source and natural backgrounds.

"**Trophic State Index**" means a numerical quantification of lake productivity. The Trophic State Index shall be determined by $TSI = 9.81 \times \ln(\text{chlorophyll-a}) + 30.6$.

"**TSI**" means Trophic State Index.

"**TSS**" means total suspended solids.

"**USGS**" means United States Geological Survey.

"**W**" means canal width in feet.

"**YMS**" means yearly mean standard as defined in OAC 785:45-1-2.

785:46-13-1. Applicability and scope

(a) The rules in this Subchapter provide a framework for implementing the antidegradation policy stated in OAC 785:45-3-2 for all waters of the state. This policy and framework includes three tiers, or levels, of protection.

(b) The three tiers of protection are as follows:

(1) Tier 1. Attainment or maintenance of an existing or designated beneficial use.

(2) Tier 2. Maintenance or protection of High Quality Waters, ~~and Sensitive Public and Private Water Supply waters,~~ and Sensitive Water Supply-Reuse waterbodies.

(3) Tier 3. No degradation of water quality allowed in Outstanding Resource Waters.

(c) In addition to the three tiers of protection, this Subchapter provides rules to implement the protection of waters in areas listed in Appendix B of OAC 785:45. Although Appendix B areas are not mentioned in OAC 785:45-3-2, the framework for protection of Appendix B areas is similar to the implementation framework for the antidegradation policy.

(d) In circumstances where more than one beneficial use limitation exists for a waterbody, the most protective limitation shall apply. For example, all antidegradation policy implementation rules applicable to Tier 1 waterbodies shall be applicable also to Tier 2 and Tier 3 waterbodies or areas, and implementation rules applicable to Tier 2 waterbodies shall be applicable also to Tier 3 waterbodies.

(e) Publicly owned treatment works may use design flow, mass loadings or concentration, as appropriate, to calculate compliance with the increased loading requirements of this section if those flows, loadings or concentrations were approved by the Oklahoma Department of Environmental Quality as a portion of Oklahoma's Water Quality Management Plan prior to the application of the ORW, HQW, ~~or SWS,~~ or SWS-R limitation.

785:46-13-4. Tier 2 protection; maintenance and protection of High Quality Waters, ~~and Sensitive Water Supplies,~~ and Sensitive Water Supply-Reuse waterbodies

(a) **General rules for High Quality Waters.** New point source discharges of any pollutant after June 11, 1989, and increased load or concentration of any specified pollutant from any point source discharge existing as of June 11, 1989, shall be prohibited in any waterbody or watershed designated in Appendix A of OAC 785:45 with the limitation "HQW". Any discharge of any pollutant to a waterbody designated "HQW" which would, if it occurred, lower existing water quality shall be prohibited. Provided however, new point source discharges or increased load or concentration of any specified pollutant from a discharge existing as of June 11, 1989, may be approved by the permitting authority in circumstances where the discharger demonstrates to the satisfaction of the permitting authority that such new discharge or increased load or concentration would result in maintaining or improving the level of water quality which exceeds that necessary to support recreation and propagation of fishes, shellfishes, and wildlife in the receiving water.

SUBCHAPTER 13. IMPLEMENTATION OF ANTIDEGRADATION POLICY

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(b) **General rules for Sensitive Public and Private Water Supplies.** New point source discharges of any pollutant after June 11, 1989, and increased load of any specified pollutant from any point source discharge existing as of June 11, 1989, shall be prohibited in any waterbody or watershed designated in Appendix A of OAC 785:45 with the limitation "SWS". Any discharge of any pollutant to a waterbody designated "SWS" which would, if it occurred, lower existing water quality shall be prohibited. Provided however, new point source discharges or increased load of any specified pollutant from a discharge existing as of June 11, 1989, may be approved by the permitting authority in circumstances where the discharger demonstrates to the satisfaction of the permitting authority that such new discharge or increased load will result in maintaining or improving the water quality in both the direct receiving water, if designated SWS, and any downstream waterbodies designated SWS.

(c) **Stormwater discharges.** Regardless of subsections (a) and (b) of this Section, point source discharges of stormwater to waterbodies and watersheds designated "HQW", "SWS-R" and "SWS" may be approved by the permitting authority.

(d) **Nonpoint source discharges or runoff.** Best management practices for control of nonpoint source discharges or runoff should be implemented in watersheds of waterbodies designated "HQW", "SWS-R" or "SWS" in Appendix A of OAC 785:45.

(e) RESERVED FOR IMPLEMENTATION PROVISION RELATED TO 785:45-5-25(c)(8)

[OAR Docket #16-650; filed 6-28-16]

TITLE 785. OKLAHOMA WATER RESOURCES BOARD CHAPTER 50. FINANCIAL ASSISTANCE

[OAR Docket #16-651]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

- 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]
- 785:50-7-7. Disbursement of funds [AMENDED]
- Subchapter 8. Rural Economic Action Plan (REAP) Grant Program Requirements and Procedures
- 785:50-8-2. Definitions [AMENDED]
- 785:50-8-3. Application review and disposition [AMENDED]
- 785:50-8-4. Applicable law; deadline for applications; eligible project costs [AMENDED]
- 785:50-8-5. REAP grant priority point system [AMENDED]
- 785:50-8-6. Disbursement of funds [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]
- 785:50-9-27. Types of assistance [AMENDED]

- 785:50-9-30. Planning documents [AMENDED]
- 785:50-9-33. Application for financial assistance [AMENDED]
- 785:50-9-35. Loan closing [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]

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:

November 6, 2015

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APPROVED BY GOVERNOR'S DECLARATION:

Approved by Governor's declaration on June 9, 2016

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June 9, 2016

EFFECTIVE:

September 11, 2016

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

ANALYSIS:

Sections 785:50-3-1, 785:50-7-5, 785:50-7-7, 785:50-8-2, 785:50-8-3, 785:50-8-4, 785:50-8-5, 785:50-8-6, 785:50-9-9, 785:50-9-35 and 785:50-9-60 are amended to improve rule clarity and correct spelling and grammatical errors.

Section 785:50-7-5 updates the number of grant priority points awarded based on an applicant's rate structure. The intended effect is to make the structure comparable to other Oklahoma agency grant guidelines.

Sections 785:50-7-5 and 785:50-8-5 changes the standard interest rate that is used for ranking calculations. The intended effect is to reflect current standard interest rates.

Section 785:50-8-3 clarifies what is required for a Rural Economic Action Plan Grant (REAP) application; changes the date when documents are due to remedy a deficient REAP grant application; and includes conservative measures as an additional consideration for REAP grant approval criteria. The intended effect of these amendments is to increase efficiency in approving REAP grants and grant fund disbursement and include Water for 2060 characteristics in the application process.

Section 785:50-8-4 includes a clause allowing for submittal of applications late due to a circumstance outside of the applicants control and to include additional language to clarify REAP grant applications for engineer or architecture fees. The intended effect is to clarify the process for potential applicants and to give every opportunity to potential REAP grant applicants as possible.

Section 785:50-8-5 clarifies the point system for REAP grant applicants that have received a REAP grant previously. The intended effect is to make the REAP grant processes easier to understand.

Sections 785:50-9-9, 785:50-9-23, 785:50-9-24, 785:50-9-27 and 785:50-9-30 delete the definition of Act and correct the definition of Clean Water Act. The intended effect is to make the rules cohesive and remove redundant language.

Sections 785:50-9-23 and 785:50-9-33 adjust language to expand the eligible costs and projects allowed under the Clean Water Act. The intended effect is to update the language according to the Clean Water Act.

Section 785:50-9-23 corrects language to be consistent with all rules in the Oklahoma Water Resources Board and Oklahoma Statutes. The intended effect is to clarify the rules and make them consistent with applicable statutes and other rules.

Sections 785:50-9-33 and 785:50-9-35 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 785:50-9-45 adds appropriate federal laws and re-letters the remaining section. The intended effect is to update the language according to the United States Environmental Protection Agency guidelines.

Section 785:50-9-60 changes words and acronyms to be consistent with the National Environmental Policy Act (NEPA). The intended effect is to clarify language and accurately reflect what is in NEPA.

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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, 2016:

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 ~~or~~ develop sewage treatment facilities of the state for all useful and lawful purposes, any system necessary to improve ~~or~~ develop sewage *treatment, collection or distribution capabilities, stormwater 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~~ ~~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

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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 \$50.00 or greater, the applicant shall be given 10 points.

(II) If the cost per 5000 gallons is \$45.00 to \$49.99, the applicant shall be given 9 points.

(III) If the cost per 5000 gallons is \$40.00 to \$44.99, the applicant shall be given 8 points.

(IV) If the cost per 5000 gallons is \$35.00 to \$39.99, the applicant shall be given 7 points.

(V) If the cost per 5000 gallons is \$30.00 to \$34.99, the applicant shall be given 6 points.

(VI) If the cost per 5000 gallons is \$25.00 to \$29.99, the applicant shall be given 5 points.

(VII) If the cost per 5000 gallons is \$23.00 to \$24.99, the applicant shall be given 4 points.

(VIII) If the cost per 5000 gallons is \$21.00 to \$22.99, the applicant shall be given 3 points.

(IX) If the cost per 5000 gallons is \$19.00 to \$20.99, the applicant shall be given 2 points.

(X) If the cost per 5000 gallons is \$18.00 to \$18.99, the applicant shall be given 1 point.

(XI) If the cost per 5000 gallons is less than \$18.00, the applicant shall be given 0 points.

(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 \$56.00 or greater, the applicant shall be given 10 points.

(II) If the cost per 5000 gallons is \$53.00 to \$55.99, the applicant shall be given 9 points.

(III) If the cost per 5000 gallons is \$49.00 to \$52.99, the applicant shall be given 8 points.

(IV) If the cost per 5000 gallons \$45.00 to \$48.99, the applicant shall be given 7 points.

(V) If the cost per 5000 gallons is \$41.00 to \$44.99, the applicant shall be given 6 points.

(VI) If the cost per 5000 is \$37.00 to \$40.99, the applicant shall be given 5 points.

(VII) If the cost per 5000 gallons is \$34.00 to \$36.99, the applicant shall be given 4 points.

(VIII) If the cost per 5000 gallons is \$32.00 to \$33.99, the applicant shall be given 3 points.

(IX) If the cost per 5000 gallons is \$31.00 to \$31.99, the applicant shall be given 2 points.

(X) If the cost per 5000 gallons is \$30.00 to \$30.99, the applicant shall be given 1 point.

(XI) If the cost per 5000 gallons is less than \$30.00, the applicant shall be given 0 points.

(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 \$34.00 or greater, the applicant shall be given 10 points.

(II) If the cost of connection per month is \$32.00 to \$33.99, the applicant shall be given 9 points.

(III) If the cost of connection per month is \$30.00 to \$31.99, the applicant shall be given 8 points.

(IV) If the cost of connection per month is \$28.00 to \$29.99, the applicant shall be given 7 points.

(V) If the cost of connection per month is \$26.00 to \$27.99, the applicant shall be given 6 points.

(VI) If the cost of connection per month is \$24.00 to \$25.99, the applicant shall be given 5 points.

(VII) If the cost of connection per month is \$22.00 to \$23.99, the applicant shall be given 4 points.

(VIII) If the cost of connection per month is \$20.00 to \$21.99, the applicant shall be given 3 points.

(IX) If the cost of connection per month is \$18.00 to \$19.99, the applicant shall be given 2 points.

(X) If the cost of connection per month is \$16.00 to \$17.99, the applicant shall be given 1 point.

(XI) If the cost of connection per month is less than \$16.00, the applicant shall be given 0 points.

~~(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.

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- (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 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 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 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 ~~5.10%~~ for 25 years is assumed. The cost per customer per month is calculated using the following formula: FP equals the product of AR multiplied by ~~(0.0710 - 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) ~~0.0710 - 0.1102~~ = Annual rate factor for a 25 year loan at ~~5.10%~~.
- (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) \$50,001 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 ~~funded 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 a ~~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

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(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.

785:50-7-7. Disbursement of funds

(a) **Conditions for disbursement.**

(1) After an application for financial assistance under the program authorized by Sections 1085.31 through 1085.49 of Title 82 of the Oklahoma Statutes has been approved by the Board, the following conditions and requirements shall be met prior to the release and disbursement of any assistance funds:

(A) Unless otherwise provided and approved by the Board, applicant must submit to the Board all plans, specifications and engineering reports for the

project for staff approval- all of which shall be complete and in sufficient detail as would be required for submission of the project to a contractor for bidding or contracting the project.

(B) 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.

(C) If not previously provided, applicant shall provide Board with a written and verified statement setting forth ~~forty~~

(i) the amount of funds necessary for release and disbursement at closing which funds are needed for initial commencement of the project;

(ii) and, information reflecting the reasonable availability of and/or a commitment from all other revenue or funding sources needed to finance and complete the project.

(2) At the time of and upon compliance with the requirements in (1) of this subsection, the Board may release, advance and disburse financial assistance funds to the applicant for the approved project.

(b) **Disbursement of assistance funds.**

(1) Unless otherwise provided and approved by the Board, the total amount of financial assistance funds authorized for loan or grant under the program authorized by Sections 1085.31 through 1085.49 of Title 82 of the Oklahoma Statutes to the applicant shall not be released and disbursed to applicant in a total lump sum but instead shall be disbursed to applicant in partial amounts at agreed upon intervals and stages of construction, all as provided within the financial assistance agreement.

(2) In conjunction with the rule, the Board may require applicant to submit to the Board prior to any release or disbursement of funds such invoices, receipts, contracts, verifications, evidence of expenditure or encumbrance, construction status and progress reports or other information as the Board may require.

(3) Unless otherwise provided and approved by the Board, the Board shall not approve the release nor disbursement of more than ninety-five percent (95%) of the total loan funds authorized for loan until such time as the project has been completed, inspected by the project engineer and the Board, and accepted by the applicant. Furthermore, unless otherwise provided and approved by the Board, the Board shall not release nor disburse more than ninety-five percent (95%) of the total loan funds authorized for engineering services until the project engineer has prepared and submitted three sets of as built project plans (if different from original plans) to the applicant and one set to the Board.

(c) **Disbursement of grant funds.**

(1) Notwithstanding and in addition to the provisions set out in (a) of this Section, the following specific provisions ~~provision~~ shall apply in all instances of the

disbursement of grant (financial assistance) funds under the Water and Sewer Financial Assistance Program.

(2) Upon approval of a grant application, the Board shall furnish to the applicant a letter notice of grant approval and Board commitment. The notice and commitment shall advise the applicant that the grant application has been formally and officially approved by the Board and that the grant funds approved shall be made available to the applicant by the Board for such purposes and upon such other terms and conditions as the Board may require.

(3) Within ninety (90) days following the date of the letter notice of approval, the applicant shall file with the Board an acceptable bid for completion of the proposed project. Where determined necessary and appropriate, the Board or its staff may permit additional time to file such a bid; provided, notwithstanding any approval of additional time, if such a bid is not filed within one (1) year following the date of Board approval of the application, then the Board's approval shall expire and no funds shall be released; provided, however, if an acceptable bid for completion has not been filed due to circumstances that lay outside the applicant's control, the applicant may request, and the Board may approve or deny, a one- time extension of time not to exceed six months to file an acceptable bid. Provided further, in the event of such expiration the applicant may file a new application which shall be subject to due consideration on its own merit.

(4) For purposes of final disbursement of funds to the applicant, the grant amount initially approved may be lowered by the Board based on actual project costs.

(5) As the Board may determine and direct, grant funds may be disbursed to the applicant in installments or in lump sum, and may be disbursed prior to, during or upon completion of the project, all as deemed appropriate under the project circumstances presented. However, prior to the disbursement of any grant funds to the applicant, the applicant must:

(A) Submit to the Board such evidence as the Board may require to establish that the emergency continues to exist; and

(B) Establish, in such manner as is acceptable to the Board or its staff, a special and separate federally insured fund or account (within applicant's accounting system) in and through which the grant proceeds shall be administered and accounted for by the applicant.

(6) In all instances, the Board reserves the right to impose additional reasonable and necessary conditions or requirements for the disbursement of grant funds, all as may be deemed appropriate by the Board under the circumstances of the project for which grant assistance is made available.

(d) **Disbursement of contract funding.**

(1) Upon approval of an application for contract funding under the Water and Sewer Financial Assistance Program, the Board shall furnish to the applicant a letter containing notice of application approval and a draft contract.

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(2) The contract shall contain, among others, the following provisions:

- (A) A description of the project;
- (B) The requirement that the applicant comply with applicable competitive bidding provisions in the acquisition of materials and services used for the project;
- (C) The requirement that proper invoices be submitted monthly to the Board as funds are expended;
- (D) The requirement that all books and records of applicant containing information pertaining to the project be available for inspection and audit.

(3) The funding contemplated by approval of the application and execution of the contract shall be paid to applicant upon submittal and acceptance of invoices for the work performed.

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" means ~~means~~ 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 shall not be a qualified entity.

785:50-8-3. Application review and disposition

(a) **General procedures.** The general procedure to be followed in the financial assistance application, review and consideration process for financial assistance under the REAP grant program shall be as follows:

(1) **Pre-application conference.**

(A) While not specifically required, all potential applicants are encouraged to initially contact the Board for purposes of making arrangements for participating in a pre-application conference between Board staff, applicant (or representative), applicant's legal, financial and engineering advisors and such other persons whose attendance and participation may be deemed appropriate and beneficial.

(B) At the pre-application conference, preliminary matters respecting the applicant, the proposed project and the application for assistance may be generally discussed in an effort to familiarize all concerned parties with the financial assistance program and applicable application requirements and procedures.

(2) **Application.**

(A) Applicant shall initiate application review and consideration by submission to the Board of applicant's application for financial assistance. An application may be submitted directly by the qualified entity or, at the qualified entity's discretion, may be submitted by a COG for the benefit or on behalf of a qualified entity. A COG may assist a qualified entity in filling out or filing an application, but a COG may not exercise any power of review, approval or disapproval over an application. All applications filed with any COG shall be submitted by the COG to the Board. If an application submitted by a COG is approved, the money shall be disbursed directly to the qualified entity.

(B) In all instances, applications must be written and in a form which meets the requirements of Subchapter 5.

(C) All applications must have the verification form signed and notarized by the applicant representative, and must have a signature of an attorney representing applicant.

(3) **Preliminary review.** Upon receipt of the application by the Board, the submitted application shall be given preliminary review by Board staff for an initial determination of project eligibility, applicant eligibility and for completeness and accuracy of all required and necessary information. If Board staff find an application to be materially incomplete or inaccurate, the staff shall notify the applicant by letter stating the deficiency. An applicant shall file all documentation and information

required by Board staff within ~~3090~~ days after the date of the letter describing the deficiency, or else the application shall lapse and be deemed denied by operation of these rules. In the latter case, the file will be inactivated; an applicant may file a request to activate the file and consider the application, but such request shall be treated as a new application on its own merits.

(4) **Final review.** Subsequent to preliminary review and based upon the determination of eligibility and adequacy of information submitted, the application shall thereafter be reviewed by Board staff in accordance with this Subchapter for recommendation to the Board.

(5) **Submittal to Board.** Upon completion of staff review, the submitted application (with staff recommendations, if any) shall be placed upon the Board's agenda for the next regular (or special) Board meeting and shall be thereby submitted to the Board for action as described in (e) below.

(b) **General approval standards and criteria.** In the review and consideration of applications for financial assistance under the REAP grant program, the Board shall follow the priority point system set forth in 785:50-8-5. The Board shall also give consideration to the following general and non-exclusive criteria for application approval:

(1) **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.

(2) **Eligibility.** The applicant must be a qualified entity (or a COG applying on behalf of a qualified entity) and the proposed project must be for a qualified purpose as defined in 785:50-3-1 or 785:50-8-2.

(3) **Local need, support and priority.** The project must be found to be needed in the area to be served and must be found to be sufficient, as proposed, to serve such needs. The Board shall additionally consider the project's relative benefit and priority in relation to the needs of other proposed projects and applicants. The Board shall also consider the extent and degree of local support, interest and commitment in and to the proposed project.

(4) **Availability of other assistance.** The Board shall consider the feasibility and availability of alternative sources of revenue which could be obtained and utilized by applicant for project financing.

(5) **Economic feasibility.** The Board shall consider the overall apparent economic viability and feasibility of the project as a whole.

(6) **Project feasibility.** The Board shall consider from the engineering data submitted and otherwise available whether the proposed project appears to be feasible, and must determine as a prerequisite to application approval and funding that the project is cost effective.

(7) **Statewide needs and public interest.** The Board shall give consideration to the relationship between the proposed project and the overall water resource development needs within the State of Oklahoma as well as to

whether the proposed project, if constructed, will serve the public interest and welfare.

(8) **REAP grant amount; availability of funds.** In sizing a REAP grant, the Board shall take into consideration the current and anticipated availability of REAP program funds.

(9) **Conservation Measures.** The Board shall consider whether or not the applicant has taken all reasonable measures to limit waste and conserve water.

(c) **Criteria applicability.**

(1) The general criteria set forth in (b) and (d) of this Section are intended to constitute and shall constitute general guidelines and standards for application review and consideration by the Board.

(2) Such criteria shall not be deemed exclusive.

(3) In all instances, each individual application and project must be reviewed and considered on its own individual merits.

(4) The criteria and standards set forth in (b) and (d) of this Section shall accordingly be interpreted and applied so as to allow sufficient flexibility in the ultimate exercise of Board's judgment and discretion.

(d) **Criteria for denying an application.** The Board may deny an application for a REAP grant for any of the following reasons:

(1) The applicant or the entity which stands to receive the benefit of the grant assistance is not an eligible entity.

(2) Any other reason based upon applicable law or the Board's judgment and discretion.

(e) **Board action.**

(1) After reviewing and considering the submitted application, the Board may proceed to take one of the following alternative forms of Board action on the application:

(A) The Board may approve and grant the application as submitted, in whole or in part, and thereby authorize such further action as may be necessary to effectuate the disbursement of funds.

(B) The Board may retain the application under advisement for further consideration or continue hearing on same for later ruling and disposition, and, the Board may withhold ruling on the application pending further hearing and/or submission to the Board of such further or additional information as the Board may require for application consideration purposes.

(C) The Board may reject and deny the application, in whole or in part, based upon any criteria described in (d) of this Section which may be applicable.

(D) The Board may approve and grant the application, in whole or in part, such approval being conditioned and contingent upon the existence of adequate and available ~~loan and/or~~ grant funds or conditioned and contingent upon receipt and approval by Board staff of any outstanding and necessary material, information, documents, verifications or other authorization.

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(2) Upon approval of an application, the Board may authorize the execution of all necessary grant documents and instruments by the Chairman of the Board, or other designated Board member, and may accordingly authorize and provide for disbursements and may authorize such further or additional action as may be necessary to complete and implement the approved transaction.

785:50-8-4. Applicable law; deadline for applications; eligible project costs

(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. However, if the deadline cannot be met due to circumstances beyond the applicant's control, the application may be accepted by the Board through the last business day of September with written proof of said circumstances. Any application not properly completed and filed shall not be considered for or funded from funds that may become available during that fiscal year. Furthermore, 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, 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. Provided, however, that in order for these costs to be eligible for award, applicants shall provide documentation that all construction funding is available. If construction funding is not available the request for these costs will be placed in a "pending" status until such time as the construction funding is available. If, however, an Engineering Report is a requirement of a Consent Order, an applicant under Consent Order may be awarded a grant to cover the engineering costs without construction funding being available.

(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 ~~pointseests~~ points. 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 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 than for any jurisdiction with a greater population; 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 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 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 ~~5+0%~~ 5% for 25 years is assumed. The cost per customer per month is calculated using the following formula: $FP = AR \frac{(0.07100 - 1 + 0.05)^{25}}{0.05}$, 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) ~~0.0710~~ 0.0710 = Annual rate factor for a 25 year loan at ~~5+0%~~ 5%.

(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.

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- (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 ~~arose~~ arose 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.
- ~~(viii)~~ If the AR is \$60,000 to \$79,999, the applicant shall be given 2 points.
- ~~(ix)~~ If the AR is \$40,000 to \$59,999, the applicant shall be given 3 points.
- ~~(x)~~ If the AR is \$20,000 to \$39,999, the applicant shall be given 5 points.
- ~~(xi)~~ 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 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, provided points shall not be deducted from any such REAP grant which was funded 10 or more years prior to the date of Board action on the pending application, and has been subject to Board audit:

(i) If the qualified entity has 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 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 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 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 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 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 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%.

785:50-8-6. Disbursement of funds

(a) **Action following Board approval and prior to disbursement of funding.**

(1) **Notification of approval.** Upon approval of a REAP grant application, the Board shall furnish to the applicant a written notice of grant approval. The notice shall advise the applicant that the grant application has been formally and officially approved by the Board and that the grant funds approved shall be made available to the applicant by the Board for such purposes and upon such other terms and conditions as the Board may require.

(2) **Bid filing.** Within ninety (90) days following the date of the written notice of approval, the applicant shall file with the Board an acceptable bid for completion of the proposed project. Where determined necessary and appropriate, the Board or its staff may permit additional time to file such a bid; provided, notwithstanding any approval of additional time, if such a bid is not filed within one (1) year following the date of Board approval of the application, then the Board's approval shall expire and no funds shall be released provided however, if an acceptable bid for completion has not been filed due to circumstances that lay outside the applicant's control, the applicant may request, and the Board may approve or deny, a one-time extension of time not to exceed six months to file an acceptable bid. Provided further, in the event of such expiration the applicant may file a new application which shall be subject to due consideration on its own merits.

(3) **Additional conditions prior to disbursement of grant funds.**

(A) Applicant shall establish, in such manner as is acceptable to the Board or its staff, a special and

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separate federally insured fund or account (within applicant's accounting system) in and through which the grant proceeds shall be administered and accounted for by the applicant.

(B) Unless otherwise provided and approved by the Board, applicant shall submit to the Board all plans, specifications and engineering reports, for the project for staff approval, all of which shall be complete and in sufficient detail as would be required for submission of the project to a contractor for bidding or contracting the project. If not previously provided, applicant shall provide Board with a written and verified statement setting forth:

- (i) the amount of funds necessary for release and disbursement at closing which funds are needed for initial commencement of the project, and
- (ii) information reflecting the reasonable availability of and/or a commitment from all other revenue or funding sources needed to finance and complete the project.

(C) Applicant and Board, and all other necessary parties, shall have executed all necessary and incidental instruments and documents, including but not limited to a grant agreement.

(4) **Board action on request for increase in approved amount.** If prior to disbursement of the grant monies to the applicant, the project bids exceed the engineer's estimates or it otherwise develops that the REAP grant amount approved by the Board, when combined with any other sources of funding, will be insufficient to complete the approved project, then the applicant may file a written request:

- (A) to amend the scope of the approved project in a manner consistent with (a)(5) of this Section; or
- (B) decline funding and withdraw its application for the current fiscal year and request that the Board reconsider the application with an increased REAP grant amount during the following fiscal year. The request for an increased REAP grant amount shall be treated as a new application on its own merits; provided, the original application shall not be counted for purposes of the previous grant assistance portion of the priority point determination.

(5) **Board action on request for change in scope of approved project.** If prior to disbursement of the grant monies to the applicant, it develops that the applicant wishes to change the scope of the project from that approved by the Board, then the applicant may file a written request for approval of such a change. If the Board staff determines that the change is reasonable and in all material aspects within the scope of the project description approved by the Board, then the staff shall be authorized to approve such requested change. If the Board staff determines that the change is not in all material respects within the scope of the project description approved by the Board, then such a request shall be presented to the Board for action. Provided, however, the Board shall not approve

a change in scope of project if the change, if considered as part of the original application, would have resulted in a lower priority point determination on the application.

(b) **Disbursement of funding to applicant; action following disbursement.**

(1) **Disbursement contingent on completion of conditions; reduction from approved amount.** At the time and upon compliance by the applicant with the applicable requirements in (a) of this Section, the Board may disburse the approved amount of REAP grant funds to the applicant for the approved project.

(2) **Disbursement in whole or part; timing.** As the Board may direct, grant funds may be disbursed to the applicant in installments or in lump sum, and may be disbursed prior to, during or upon completion of the project, all as deemed appropriate by the Board under the project circumstances presented.

(3) **Post-disbursement requests for increases in funding amount.** If after disbursement of the grant monies to the applicant it develops that the applicant needs more money for the project than the REAP grant amount disbursed by the Board, then any request for additional REAP grant money shall follow the rules in this Subchapter governing, and shall be treated as, a new application on its own merits.

(4) **Post-disbursement requests for changes in scope of approved project.** If after disbursement of the grant monies to the applicant it develops that the applicant wishes to ~~change~~ change the scope of the project from that approved by the board, then the applicant may file a written request for approval of such a change. If the applicant successfully demonstrates reasonably unforeseeable or extraordinary circumstances that in the Board's judgment and sound discretion represent a better utilization of REAP grant funds by the applicant to serve the public interest and welfare, then the Board shall approve the change in project scope. If the applicant does not make such a demonstration, then the Board shall deny the request and the applicant shall either proceed with the project as approved or abandon the project and return the grant monies to the Board within thirty days after the date of the Board's action.

(5) **Post-disbursement action regarding unexpended funding.** If following completion of the project it develops that the applicant needed less money for the project than disbursed by the Board, the applicant shall return the unexpended amount to the Board.

(6) **Additional requirements.** The Board may impose additional reasonable and necessary conditions or requirements for the disbursement to the applicant or expenditure by the applicant of REAP grant funds, all as may be deemed appropriate by the Board.

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.

~~"Act" means The Federal Clean Water Act, as amended.~~

"Applicant" means any municipality, as defined, that submits a preapplication/application for financial assistance in accordance ~~accordance~~ 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 Clean Water 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.

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"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 Clean Water 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 Clean Water 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;

(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;

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- (9) Category VII - Nonpoint source activities;
 - (10) Category X - 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 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, 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 but not limited to:

- (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 may be 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 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 activities, based on the relative impact of the project in achieving the water quality objectives of the Clean Water 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, storm water management program, water audit 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 or Nutrient Limited Watershed;

(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

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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, 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 reallocation 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 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 must specify that the applicant intends to apply for financial assistance from the Clean Water SRF. The Board will evaluate the Programmatic Application. 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 and Watershed Management activities.** Requests received for nonpoint source and watershed management 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 stormwater and Brownfield activities which are included on the priority list and a list of activities eligible for assistance under Section 319 of the Clean Water 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,
- (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 Clean Water 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 Clean Water 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.

785:50-9-27. Types of assistance

The Fund may be used for the following purposes:

(1) To make loans on the condition that:

- (A) Such loans are 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 or otherwise approved by the Environmental Protection Agency.~~
- (B) Principal and interest payments will commence not later than one year after project completion and all loans will be fully amortized consistent with the Clean Water Act~~federal Water Quality Act of 1987 or otherwise as approved by the Environmental Protection Agency.~~
- (C) The recipient of a loan will establish a dedicated source of revenue for repayment of loans.

(2) To buy or refinance the debt obligation of eligible applicants within the State at or below market rates, when such debt obligations were incurred and construction started after March 7, 1985, for the sole purpose of funding projects that meet the following requirements:

- (A) The applicant is the approved designated management agency.
- (B) The project is consistent with the water quality management plan.
- (C) The project must be listed on the State priority list.
- (D) The project has complied with requirements of these regulations and has been approved by the Board.
- (E) The project must have approved plans and specifications and construction permit issued by the Department.

(3) For the reasonable costs of administering the fund and conducting activities under Title VI of the Clean Water Act, not to exceed 4% of the federal capitalization grant awards.

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785:50-9-30. Planning documents

The purpose of the planning document is to present the findings of the engineer or other qualified professional as approved by the Board in a precise fashion with enough attention given to detail so as to allow adequate review of the project by the owner and applicable regulatory agencies. The plan will allow the review of the alternatives from the viewpoints of function, operation, economics, reliability, safety, efficiency, cost-effectiveness and environmental compatibility. A planning document must be submitted to the Board. The document shall contain but not be limited to the following information:

- (1) Identification of the planning area boundaries and characteristics, the existing problems and needs related to wastewater management, and the projected needs and problems through the design life of the project.
- (2) Cost-effective analysis of feasible wastewater treatment or conveyance alternatives capable of meeting State and federal water quality and public health requirements. The cost effective analysis shall detail all monetary costs including but not limited to the present worth or equivalent annual value of all capital costs and operation.
- (3) All basic information necessary for the design of the sewage system and/or treatment works.
- (4) Adequate evaluation of the environmental impacts of alternatives in accordance with Part 7 of this subchapter (relating to Environmental Review and Determination) to support the cost effectiveness analysis together with a resolution passed by the applicant which accepts the planning documents and provides a commitment to build the proposed project.
- (5) A demonstration that the project is consistent with the State's approved Water Quality Management Plan established by Section 208 of the Clean Water Act.
- (6) The applicant shall submit a statement of the project engineer's most current estimate of project cost itemized as to major facilities or items including land and right-of-way costs, fees of engineers, brownfield assessment fees, all legal fees, fees of registered financial advisors and/or consultants, contingencies and interest during construction.

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 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) Design Documents. The applicant shall submit final plans and specifications and the permit to construct

~~(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) Other or additional engineering data and information, if deemed necessary by the Board staff.~~

~~(2) 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) Evidence that the applicant has obtained all required permits and financing to build the project.~~

~~(4) Information requested by the Board regarding loan closing documents.~~

~~(5) 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) Copies of all legal, financial, engineering and inspection contracts that will be paid in whole or in part from the loan proceeds.~~

~~(7) 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.~~

~~(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.~~

~~(3) Other or additional engineering data and information, if deemed necessary by the Board staff.~~

~~(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.~~

~~(5) Evidence that the applicant has obtained all required permits and financing to build the project.~~

(6) Information requested by the Board regarding loan closing documents.

(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.

(8) Copies of all legal, financial, engineering and inspection contracts that will be paid in whole or in part from the loan proceeds.

(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 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.

(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.

(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 Board's 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:

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- (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 ~~Clean Water State 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 ~~and~~ 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.

785:50-9-45. 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
 - (~~E~~) Endangered Species Act 16 U.S.C. 1531, et seq.
 - (~~F~~) Executive Order 12898, Environmental Justice
 - (~~G~~) Executive Order 11988, Floodplain Management
 - (~~H~~) Executive Order 11990, Protection of Wetlands
 - (~~I~~) Farmland Protection Policy Act, 7 U.S.C. 4201 et seq.
 - (~~J~~) Fish and Wildlife Coordination Act, PL 85-624, as amended
 - (K) Migratory Bird Act
 - (~~L~~) National Historic Preservation Act of 1966, PL 89-665, as amended
 - (M) Protection and Enhancement of the Cultural Environment
 - (~~N~~) Safe Drinking Water Act, section 1424(e), PL 92-523, as amended
 - (~~O~~) Wild and Scenic Rivers Act, PL 90-542, as amended
 - (~~P~~) Magnuson-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 Contractors' 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

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assessment (EA); 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 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) The ~~Board 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 inter-agency 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) 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) 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 will be based upon a prepared EA by the staff supported by an EID prepared by the applicant in conformance with 785:50-9-61(2)(A). Upon review of the EID, the staff will issue either a FONSI or a public notice that the preparation of an EIS ~~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 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 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;

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- (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 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, or revoke a FONSI and issue a public notice that the preparation of an EIS will be required, or
- (iv) issue a supplement to a ROD, or revoke an ROD 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 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.
- (B) Projects that consist of design and planning fees only.

[OAR Docket #16-651; filed 6-28-16]

TITLE 810. OKLAHOMA WORKERS' COMPENSATION COMMISSION CHAPTER 1. GENERAL INFORMATION

[OAR Docket #16-712]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

810:1-1-3 [AMENDED]

AUTHORITY:

Workers' Compensation Commission; 85A O.S. §§ 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:

The rule amendment requires Commission approval for the appointment of an Executive Director of the Workers' Compensation Commission.

CONTACT PERSON:

Lindsey Christopher, Commission Counsel, 405-522-0057, lindsey.christopher@wcc.ok.gov

(c) **Duties.** It is the Commission's responsibility to apply the law as set out in the AWCA. The Commission has adjudicative, administrative and regulatory functions. Those functions include providing fair and timely procedures for the resolution of workers' compensation disputes; monitoring claims and benefit payments to injured workers, processing settlements and requests for changes in physicians; ensuring that employers maintain required insurance coverage; processing and approving applications of employers to act as self-insurers; processing and approving applications related to independent physicians, mediators and case managers; developing and maintaining a workers' compensation fee schedule; providing legal information and assistance to interested persons who have questions concerning the Oklahoma workers' compensation law; and participating in programs to explain the law and functions of the Commission to the general public.

(d) **Main offices of Commission.** The main offices of the Commission are located at: Denver Davison Building, 1915 North Stiles Avenue, Oklahoma City, Oklahoma 73105.

[OAR Docket #16-712; filed 7-11-16]

TITLE 810. OKLAHOMA WORKERS' COMPENSATION COMMISSION CHAPTER 10. PRACTICE AND PROCEDURE

[OAR Docket #16-713]

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 12, 2016:

810:1-1-3. General description of the Oklahoma Workers' Compensation Commission

(a) **History.** The Oklahoma Workers' Compensation Commission was created pursuant to legislation enacted in 2013 and is responsible for administration of the Administrative Workers' Compensation Act, 85A O.S. § 1, et seq., except as otherwise provided by law.

(b) **Composition.** The Commission is comprised of three members who are appointed by the Governor and confirmed by the Senate for staggered terms. The initial appointments are for two (2), four (4) and six (6) years respectively, as determined by the Governor. Subsequent terms are for six (6) years. One of the initial appointments must be from a list of three (3) nominees selected by the Speaker of the Oklahoma House of Representatives. The Chair of the Commission is appointed by the Governor from among the Commission members. The Chair organizes, directs and develops administrative work, employs administrative staff within budgetary limitations, and performs other duties authorized by law or prescribed by the Commission. The Chair appoints an administrator who is the administrative officer of the Commission and manages the activities of its employees and performs other duties prescribed by the Chair or Commission. The title of the administrative officer shall be Executive Director. The Commission may appoint as many Administrative Law Judges and other personnel as necessary within budgetary limitations to effectuate the AWCA.

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

- Subchapter 1. General Provisions
- 810:10-1-5 [AMENDED]
- Subchapter 5. Hearings Conducted by Administrative Law Judges and Commissioners
- Part 1. Commencement of Claims and Review of Qualified Employer Benefit Determinations
- 810:10-5-7 [AMENDED]
- Part 3. Subsequent Pleadings
- 810:10-5-15 [AMENDED]
- 810:10-5-16 [AMENDED]
- Part 5. Prehearing Proceedings
- 810:10-5-31 [AMENDED]
- Part 7. Initial and Subsequent Proceedings
- 810:10-5-45 [AMENDED]
- Part 9. Post Order Relief
- 810:10-5-66 [AMENDED]
- 810:10-5-68 [AMENDED]

AUTHORITY:

Workers' Compensation Commission; 85A O.S. §§ 1 et seq.

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SUPERSEDED EMERGENCY ACTIONS:

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INCORPORATIONS BY REFERENCE:

n/a

ANALYSIS:

The rule amendments incorporate new forms and procedures related to responsive pleadings in retaliation and discrimination claims; establish a reasonable fee for a claimant's failure to appear for a scheduled medical examination in accordance with 85A O.S. 50(H)(12); amend time allowances for the preparation of transcripts and the filing of written arguments in appeals to the Commission en banc; and establish procedures for the certification of awards issued by the Commission.

CONTACT PERSON:

Lindsey Christopher, Commission Counsel, 405-522-0057, lindsey.christopher@wcc.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 12, 2016:

SUBCHAPTER 1. GENERAL PROVISIONS

810:10-1-5. Commencing temporary total disability compensation and medical benefits

(a) Upon receipt of notice or of knowledge that an employee has been injured, the employer has an obligation under the AWCA to provide that employee with reasonable and necessary medical treatment for the injury, and to pay temporary total disability compensation if the employee is unable to perform the employee's job, or any alternative work offered by the employer, for more than three (3) calendar days. No order from the Commission directing the employer to provide these benefits is required.

(b) The first installment of temporary total disability compensation is due on the fifteenth day after the employer has notice of the injury. By that date, all temporary total disability compensation then accrued shall be paid to the employee, and weekly installment payments shall be made thereafter, unless the employer controverts the employee's right to compensation as provided in 85A O.S. § 86 by timely filing a Commission prescribed CC-Form-2A Employer's Intent to Controvert Claim form with the Commission. To be timely, the employer must file the ~~Employer's Intent to Controvert Claim~~ CC-Form-2A within fifteen (15) days after notice of the injury, or by such later date as fixed by the Commission, in its discretion, upon the employer's ~~written request for a filing extension~~ filing of a CC-Form-2A-Extension Employer's Application and Authorization for Extension of Time to File CC-Form-2A form with the Commission. The request must be postmarked within the fifteen-day period after the employer has notice of the injury. The employer shall send a copy of the ~~Employer's Intent to Controvert Claim~~ CC-Form-2A to the employee and so certify on the form when filed. The employee may request a hearing before an Administrative Law Judge

of the Commission no sooner than ten (10) days after filing a claim for compensation with the Commission as provided in 810:10-5-2.

SUBCHAPTER 5. HEARINGS CONDUCTED BY ADMINISTRATIVE LAW JUDGES AND COMMISSIONERS

PART 1. COMMENCEMENT OF CLAIMS AND REVIEW OF QUALIFIED EMPLOYER BENEFIT DETERMINATIONS

810:10-5-7. Claim for discrimination or retaliation

(a) A claim for discrimination or retaliation as prescribed by 85A O.S. § 7 shall be commenced by filing an executed Commission prescribed CC-Form-3C Claim for Discrimination or Retaliation with the Commission. The CC-Form-3C shall be filed in the underlying workers' compensation claim filed pursuant to the Workers' Compensation Act and shall use that same Commission file number.

(b) The CC-Form-3C filed with the Commission shall be served on the ~~respondent employer~~ and shall have a certificate of service setting forth the manner of such service as required by 810:10-1-7. The employer may respond to the CC-Form-3C by timely filing an executed Commission prescribed CC-Form-10C Employer's Response to Claim for Workers' Compensation Discrimination or Retaliation pursuant to 810:10-5-15.

(c) A CC-Form-9 must be filed to request a hearing. Upon filing the CC-Form-9, the claimant or the claimant's attorney, if any, shall mail a copy thereof to the respondent.

PART 3. SUBSEQUENT PLEADINGS

810:10-5-15. Response to initial pleading; notice of contested issues

(a) An employer or its insurance carrier may respond to any issue related to a claim and liability therefor, including a claim for compensation, a claim for discrimination or retaliation, a claim for payment of health care or rehabilitation expenses, or a claim against the Multiple Injury Trust Fund for combined disabilities, by timely filing a CC-Form-10 Answer and Notice of Contested Issues, CC-Form-10C, or an MFDR Form 10M, pursuant to 810:10-5-16 or 810:15-15-3, as appropriate.

(b) A general denial or failure to timely file a CC-Form-10, CC-Form-10C, or MFDR Form 10M shall be taken as admitting all allegations in the claim form except jurisdictional issues; and

- (1) the extent, if any, of the claimant's disability, for a CC-Form-3 or CC-Form-3B claim; or
- (2) the amount due, if any, for a death claim.

(c) Unless excused by the Commission for good cause shown, denials and affirmative defenses shall be asserted on the CC-Form-10, CC-Form-10C, or MFDR Form 10M, or

shall be waived. No reply to the CC-Form-10, CC-Form-10C, or MFDR Form 10M is required.

810:10-5-16. Request for administrative hearing and pretrial stipulations

(a) Any party may request an administrative hearing before the Commission on any issue by filing a CC-Form-9 Request for Hearing. As provided in 85A O.S. § 71(B)(2), the request for hearing shall clearly set forth the specific issues of fact or law in controversy and the contentions of the party applying for the hearing.

(b) When a CC-Form-9 is filed on the issues of permanent partial disability or permanent total disability, the claimant shall deliver a medical report to the opposing party. The name of the physician and the date of the report shall be noted on the CC-Form-9. No CC-Form-9 may be filed less than ten (10) days from the date the claimant has filed a claim for compensation as provided in 810:10-5-2 or 810:10-5-3.

(c) Objections to termination of temporary compensation made pursuant to 85A O.S. § 45(A)(2), and requests for temporary compensation or medical treatment, shall be set by the Commission on the assigned Administrative Law Judge's prehearing conference docket for expedited hearing, prior to being docketed for an administrative hearing, unless otherwise directed by the assigned judge. At the time of the prehearing conference, all parties, to the best of their ability, shall advise the Commission and all parties of the number of witnesses expected to be called at the administrative hearing.

(d) The procedure to request an administrative hearing for the termination of temporary compensation is governed by 810:10-1-6.

(e) In all cases, the employer or insurance carrier shall file a CC-Form-10 Answer and Notice of Contested Issues, CC-Form-10C, or MFDR Form 10M no later than thirty (30) days after the filing of the CC-Form-9. The CC-Form-10, CC-Form-10C, or MFDR Form 10M may be amended at any time, not later than twenty (20) days before the date of the administrative hearing.

(f) ~~Both the~~The CC-Form-9, ~~and the~~ CC-Form-10, CC-Form-10C, ~~or~~ and MFDR Form 10M, shall list the names of all witnesses, including any expert witnesses, which the party intends to call at the time of the administrative hearing. Absent waiver by the opposing party, failure without good cause to comply with this Subsection may, in the discretion of the hearing officer or the Commission, result in a witness not listed being prohibited from testifying, or in the exclusion of the evidence if submitted at the administrative hearing.

(g) Except as otherwise provided in Subsection (h) of this Section, no later than twenty (20) days before the date of the administrative hearing, all parties shall exchange all documentary evidence, exhibits and a complete list of witnesses with all opposing parties.

(h) As provided in 85A O.S. § 72(C), any party proposing to introduce a medical report or testimony of a physician at the hearing on a controverted claim, shall furnish a copy of the written report of the physician's findings and opinions to the opposing party and to the Commission no later than seven (7) days before the date of the hearing. If no written report is

available to a party, that party shall notify the opposing party and the Commission in writing of the name and address of the physician proposed to be used as a witness and the substance of the physician's testimony no later than seven (7) days before the date of the administrative hearing. Cross-examination of the physician is governed by 85A O.S. § 72(C)(2)(b).

(i) The time periods specified in Subsections (g) and (h) of this Section may be waived by agreement of the parties.

(j) Absent waiver by the opposing party, failure without good cause to comply with Subsections (g) or (h) of this Section, may, in the discretion of the hearing officer or the Commission, result in exclusion of the evidence if submitted at the administrative hearing.

PART 5. PREHEARING PROCEEDINGS

810:10-5-31. Discovery

(a) **Generally.** Discovery in administrative proceedings before the Commission is governed by this Section.

(b) **Authority of the Administrative Law Judge.** Any party may commence with discovery methods such as depositions, issuance of subpoenas and requests for production, prior to or after invoking the jurisdiction of the Administrative Law Judge. Discovery disputes may be resolved by filing a CC-Form-13 requesting a prehearing conference. The Administrative Law Judge, upon the judge's own motion or on the motion of either party, may permit or perform such discovery or other appropriate action as the judge decides is appropriate in the circumstances, taking into account the needs of the parties to the proceeding and other affected persons and the desirability of making the proceeding fair, expeditious, and cost-effective. If discovery is permitted or performed, the Administrative Law Judge may order a party to the proceeding to comply with the judge's discovery-related orders, issue subpoenas for the attendance of a witness and for the production of records and other evidence at a discovery proceeding, including a deposition, and take action against a noncomplying party as appropriate and consistent with 85A O.S. § 73(B) and 85A O.S. § 83(B).

(c) **Protective orders.** The Commission may issue a protective order to prevent the disclosure of privileged information, confidential information, trade secrets, and other information protected from disclosure to the extent a court could if the controversy were the subject of a civil action in this state, including any orders with respect to subpoenas and attendance of a witness as may be appropriate for the protection of persons, including an order quashing a subpoena, excusing attendance of witnesses, or limiting documents to be produced.

(d) **Subpoenas; costs; fees; service.** When a witness is required to appear or to produce documentary evidence, a subpoena shall be issued by an attorney authorized to practice law in Oklahoma or under the seal of the Clerk of the Commission. The party requesting the subpoena under the seal of the Commission shall fill it in before issuance. The subpoena may be served by certified mail with return receipt requested or it may be hand delivered. The party requesting the subpoena shall bear the cost of serving it. Except as otherwise provided by law

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or this Title for physician testimony, fees of a nonparty witness who is subpoenaed to appear before the Commission shall be the same as those allowed to witnesses appearing before the district courts of this state. Party witnesses are not entitled to witness fees.

(e) **Completion of discovery by the employer or insurance carrier in contested claims.** Pursuant to 85A O.S. § 111, if the compensability of a claim is contested, the employer or insurance carrier shall complete and secure a medical evaluation of the claimant within sixty (60) days of the filing of a claim for compensation pursuant to 810:10-5-2.

(f) **Filing Discovery.** No depositions, interrogatories, interrogatory answers, requests for production of documents and things, requests for admissions, or responses thereto, shall be filed with the Commission, except as ordered by the assigned Administrative Law Judge.

PART 7. INITIAL AND SUBSEQUENT PROCEEDINGS

810:10-5-45. Submission to medical examination; appointment of medical or vocational expert; travel expenses

(a) **Submission to medical examination.** Upon reasonable advance notice from the employer or insurance carrier, the employee must submit to a medical examination by a physician selected by the employer or insurance carrier. If the claimant refuses to submit to the examination, the employer or insurance carrier may file a CC-Form-13 requesting the claimant's compensation and right to prosecute any proceeding under the AWCA be suspended during the period of refusal as provided in 85A O.S. § 50(E). The claimant must show cause at the hearing why the request of the employer or insurance carrier should not be granted. If the claimant's failure to appear for the scheduled examination was without good cause, the Commission shall order the claimant to reimburse the respondent for payment of the physician's charge for the missed examination, but not in excess of Two Hundred Dollars (\$200.00).

(b) **Appointment of medical or vocational expert.** Appointment of an independent medical examiner is governed by 810:15-9-4. Appointment of a medical case manager is governed by 810:15-11-4. Appointment of a vocational rehabilitation provider is governed by 810:20-1-4.

(c) **Travel expenses.** The employer or insurance carrier shall reimburse the employee for the actual mileage in excess of twenty (20) miles round-trip to and from the claimant's home to the location of a medical service provider for all reasonable and necessary medical treatment, for vocational rehabilitation or retraining, for an evaluation by an independent medical examiner and for any evaluation, including an evaluation for vocational rehabilitation or vocational retraining, made at the respondent's request, but in no event in excess of six hundred (600) miles round-trip. Mileage and necessary lodging expenses are limited to the provisions of the State Travel Reimbursement Act, 74 O.S. §§ 500.1, et. seq. Meals will be reimbursed at the rate of Fifteen Dollars (\$15.00) per meal per four hours of travel status, not to exceed three meals per day.

PART 9. POST ORDER RELIEF

810:10-5-66. Appeal of Commission Administrative Law Judge order

(a) **Request for Review.** Any party aggrieved by a judgment or award of an Administrative Law Judge, which party for purposes of this Section shall be known as the "appellant", may appeal the order to the Commission en banc by filing an original and two (2) copies of a Request for Review with the Commission within ten (10) days of when the order was issued as reflected by the file-stamped date on the order. The Request for Review shall:

- (1) be in writing;
- (2) include a copy of the order being appealed;
- (3) clearly and concisely rebut each issue in the Administrative Law Judge's order that the appellant wants reviewed, and state the relief sought. General allegations of error do not suffice. Allegations of error concerning matters not included in a timely filed Request for Review shall be deemed waived;
- (4) be served on all other parties of record, which for purposes of this Section shall be known as the "respondents";
- (5) have a certificate of service setting forth the manner of such service as required by 810:10-1-7;
- (6) be accompanied by a designation of record filed by the appealing party and a copy submitted to the Commission reporter and all parties in the case concurrently with or before filing a Request for Review in all actions which are appealed to the Commission en banc. The cost of preparing the transcript shall be advanced immediately by the designating party. The transcript shall be prepared and sent to all parties to the appeal within thirty (30) days from the date the designation of record is filed; and
- (7) be accompanied by a non-refundable filing fee in the sum of One Hundred Seventy-five Dollars (\$175.00) pursuant to 85A O.S. § 78(B).

(b) **Timeliness of filings.** The timeliness of the filing of a Request for Review is governed by 810:10-1-13. Untimely Requests for Review do not invoke the jurisdiction of the Commission en banc and will not be reviewed by the Commission en banc.

(c) **Oral argument.** Oral argument before the Commission en banc shall be limited to ten (10) minutes per side, unless the time is enlarged by leave of the Commission en banc. Any party failing to appear when the appeal is called for oral argument shall be deemed to have waived the right to argue the case and the appeal shall be considered as submitted on the record.

(d) **Written argument.** In any case pending on a Request for Review, the parties of record shall submit written arguments, including a statement of facts and legal authority for their respective positions, as an aid to the Commission en banc. The written argument shall not exceed five (5) pages in length, and shall be double spaced and prepared in at least ten point font size on 8 ½" x 11" paper with one inch margins. No appendix or other documents shall be attached to the written argument. The appellant has ~~twenty (20) forty-five days (45) days after the filing of the Request for Review~~ designated of

record within which to file an original and four (4) copies of the written argument with the Commission, with a copy served on all opposing parties. The opposing parties shall have ten (10) days within which to submit a response. When submitted, the original and four (4) copies of the response shall be filed with the Commission and a copy served on the appellant.

(e) **Dismissal for failure to file.** An appeal may be dismissed with prejudice by the Commission's Presiding Appellate Officer when appellant has failed to timely file the written argument and has failed to timely respond to the Commission's order to file the required written argument.

(f) **Default judgment for failure to file.** Default judgment may be entered by the Commission's Presiding Appellate Officer against the opposing parties when opposing parties have failed to timely file the written response and have failed to timely respond to the Commission's order to file the required written argument.

(g) **Description of appeal proceeding.**

(1) In appeals pursuant to this Section, the Commission en banc may:

- (A) modify the decision of the Administrative Law Judge;
- (B) reverse the decision of the Administrative Law Judge and render a new decision;
- (C) reverse the decision of the Administrative Law Judge and remand the matter to the Administrative Law Judge with instructions or for a new administrative hearing; or
- (D) affirm the decision of the Administrative Law Judge.

(2) The Commission en banc may reverse or modify the decision of an Administrative Law Judge only if it determines that the decision was against the clear weight of the evidence or was contrary to law. Any judgment of the Commission en banc which reverses a decision of the Administrative Law Judge shall contain specific findings relating to the reversal.

(3) All proceedings of the Commission en banc shall be recorded by a court reporter, if requested by a party. Any party requesting a transcript of the proceedings shall bear the costs associated with its preparation. During the pendency of an appeal to the Commission en banc, the Administrative Law Judge shall retain jurisdiction over any issue not affected by the eventual ruling of the appellate body.

(h) **Appeal to Supreme Court.** An order of the Commission en banc may be appealed to the Oklahoma Supreme Court, as provided in 85A O.S. § 78, within twenty (20) days of being sent to the parties as reflected by the file-stamped date on the order.

810:10-5-68. Enforcement of compensation judgment or award

(a) **Enforcement.** A final compensation judgment or award issued by the Commission or an Administrative Law Judge which has not been complied with by the employer or insurance carrier may be enforced as provided in 85A O.S. § 79.

(b) **Certification of Awards.** An application for an order directing certification to district court of any workers' compensation award may be heard after notice to the respondent and insurance carrier has been given at least ten (10) days before the scheduled trial thereon. At such trial the respondent and insurance carrier shall be afforded an opportunity to show good cause why the application should not be granted.

[OAR Docket #16-713; filed 7-11-16]

**TITLE 810. OKLAHOMA WORKERS' COMPENSATION COMMISSION
CHAPTER 15. MEDICAL SERVICES**

[OAR Docket #16-714]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

- Subchapter 1. General Provisions
810:15-1-2 [AMENDED]
- Subchapter 3. Workers' Compensation Fee Schedule
810:15-3-2 [AMENDED]
- 810:15-3-3 [NEW]
- Subchapter 5. Pharmaceutical Benefits
810:15-5-3 [AMENDED]
- Subchapter 7. Treatment Guidelines
810:15-7-2 [NEW]
- Subchapter 9. Independent Medical Examiners
810:15-9-5 [AMENDED]

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n/a

INCORPORATIONS BY REFERENCE:

n/a

ANALYSIS:

The rule amendments modify procedures and standards governing medical matters over which the Commission has responsibility under the Administrative Workers Compensation Act, 85A O.S. §§ 1 et seq. The rules amend the 2012 Workers' Compensation Fee Schedule to provide for the reimbursement for Advanced Practice Registered Nurses, address reimbursement for drug screen testing, and modify the allowable advance payment for physician depositions.

CONTACT PERSON:

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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED

Permanent Final Adoptions

FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 12, 2016:

SUBCHAPTER 1. GENERAL PROVISIONS

810:15-1-2. Definitions

In addition to the terms defined in 85A O.S., § 2, the following words and terms, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise:

"AWCA" means the Administrative Workers' Compensation Act, 85A O.S., §§ 1, et seq.

"Brand name drug" means a drug marketed under a proprietary, trademark-protected name.

"Case manager" means a person who is a registered nurse with a current, active unencumbered license from the Oklahoma Board of Nursing, or possesses one or more of the of the following certifications:

- (A) Certified Disability Management Specialist (CDMS);
- (B) Certified Case Manager (CCM);
- (C) Certified Rehabilitation Registered Nurse (CRRN);
- (D) Case Manager - Certified (CMC);
- (E) Certified Occupational Health Nurse (COHN); or
- (F) Certified Occupational Health Nurse Specialist (COHN-S).

"Certified workplace medical plan" means an organization that is certified by the Oklahoma State Department of Health to provide management of quality treatment to injured employees for injuries and diseases compensable pursuant to the workers' compensation laws of the State of Oklahoma.

"Claimant" means a person who claims benefits for an alleged work injury, occupational disease or illness, or death pursuant to the provisions of the AWCA.

"Closed formulary" means all available Food and Drug Administration (FDA) approved prescription and nonprescription drugs prescribed and dispensed for outpatient use, excluding:

- (A) drugs identified with a status of "N" in the current edition of the Official Disability Guidelines Treatment in Workers' Comp (ODG)/Appendix A, ODG Workers' Compensation Drug Formulary, and any updates thereto;
- (B) any compound drug;
- (C) any investigational or experimental drug for which there is early, developing scientific or clinical evidence demonstrating the potential efficacy of the treatment, but which is not yet broadly accepted as the prevailing standard of care; and
- (D) drugs that are not preferred, exceed or are not addressed by the ODG in effect on the date of treatment.

"Commission" means the Oklahoma Workers' Compensation Commission, a designee, or an administrative law

judge to whom the Commission has delegated responsibility as authorized by 85A O.S., § 21(D).

"Compounding" means the preparation, mixing, assembling, packaging, or labeling of a drug or device:

- (A) as a result of a practitioner's prescription drug order based on the practitioner-patient-pharmacist relationship in the course of professional practice;
- (B) for administration to a patient by a practitioner as the result of a practitioner's initiative based on the practitioner-patient-pharmacist relationship in the course of professional practice;
- (C) in anticipation of a prescription drug order based on a routine, regularly observed prescribing pattern; or
- (D) for or as an incident to research teaching or chemical analysis and not for selling or dispensing except as may otherwise be allowed by law.

"Evaluation and management" means medical services including office visits, examinations, referrals and similar services as set forth in the 2012 fee schedule.

"Generic" or **"Generically equivalent"** means a drug that, when compared to the prescribed drug, is pharmaceutically equivalent and therapeutically equivalent.

"Independent medical examiner" means a licensed physician authorized to serve as a Commission appointed medical examiner as provided in the AWCA.

"Insurance carrier" means any stock company, mutual company, or reciprocal or interinsurance exchange authorized to write or carry on the business of workers' compensation insurance in this state, and includes an individual own risk employer or group self-insurance association duly authorized by the Commission to self fund its workers' compensation obligations.

"Maximum allowable reimbursement" or **"MAR"** means the maximum amount payable to a health care provider in the absence of a contractual fee arrangement that is consistent with 85A O.S., § 50(H)(5).

"Medical emergency" means the sudden onset of a medical condition manifested by acute symptoms of sufficient severity, including severe pain that in the absence of immediate medical attention could reasonably be expected to result in:

- (A) placing the patient's health or bodily functions in serious jeopardy; or
- (B) serious dysfunction of any body organ or part.

"Medical interlocutory order" or **"MIO"** means a medical interlocutory order provided a prescribing doctor or pharmacy in instances where preauthorization denials of a previously prescribed and dispensed drug(s) excluded from the closed formulary poses an unreasonable risk of a medical emergency.

"Nonprescription drug" means a non-narcotic drug that may be sold without a prescription and that is labeled and packaged in compliance with state or federal law. This may also be referred to as over-the-counter medication.

"Official Disability Guidelines" or **"ODG"** means the current edition of the Official Disability Guidelines and the ODG Treatment in Workers' Comp, excluding the return to work pathways, published by the Work Loss Data Institute.

"Pharmaceutically equivalent" means drug products that have identical amounts of the same active chemical ingredients in the same dosage form and that meet the identical compendia or other applicable standards of strength, quality, and purity according to the United States Pharmacopoeia or another nationally recognized compendium.

"Preauthorization" means prospective approval obtained from the employer or insurance carrier by the requestor or injured employee before providing pharmaceutical services for which preauthorization is required. For purposes of this chapter, "preauthorization" relates to prospective evaluation of only the medical necessity and reasonableness of healthcare to be prescribed or provided to an injured employee.

"Prescribing doctor" means a physician or dentist who prescribes prescription drugs or over-the-counter medications in accordance with the physician's or dentist's license and state and federal laws and rules. For purposes of this Chapter, "prescribing doctor" includes an advanced practice nurse or physician assistant to whom a physician has delegated the authority to carry out or sign prescription drug orders, as and to the extent authorized by Oklahoma law, who prescribes prescription drugs or over-the-counter medication under the physician's supervision and in accordance with the health care practitioner's license and state and federal laws and rules.

"Prescription" means an order for a prescription or non-prescription drug to be dispensed.

"Prescription drug" means:

- (A) a substance for which federal or state law requires a prescription before the substance may be legally dispensed to the public;
- (B) a drug that under federal law is required, before being dispensed or delivered, to be labeled with the statement: "Caution: federal law prohibits dispensing without prescription"; "Rx only"; or another legend that complies with federal law; or
- (C) a drug that is required by federal or state statute or regulation to be dispensed on prescription or that is restricted to use by a prescribing doctor only.

"Requestor" means the health care provider or designated representative, including office staff or a referral health care provider/health care facility that requests preauthorization.

"Retrospective review" means the process of reviewing the medical necessity and reasonableness of health care that has been provided to an injured employee.

"Statement of medical necessity" means a written statement from the prescribing doctor to establish the need for treatments or services, or prescriptions, including the need for a brand name drug where applicable. A statement of medical necessity shall include:

- (A) the injured employee's full name;
- (B) date of injury;
- (C) the last four digits of the injured employee's social security number;
- (D) diagnosis code(s);
- (E) whether the drug has previously been prescribed and dispensed, if known, and whether the

inability to obtain the drug poses an unreasonable risk of a medical emergency; and

(F) how the prescription treats the diagnosis, promotes recovery, or enhances the ability of the injured employee to return to or retain employment.

"Substitution" means the dispensing of a drug or a brand of drug other than the drug or brand of drug ordered or prescribed.

"Therapeutically equivalent" means pharmaceutically equivalent drug products that, if administered in the same amounts, will provide the same therapeutic effect, identical in duration and intensity.

"Work-related injury" means a single event injury, cumulative trauma injury, or occupational disease or illness that arises out of and in the course of employment as provided in the AWCA.

"Workers' compensation fee schedule" means a state mandated schedule of maximum allowable reimbursement levels for health care providers, including hospitals, ambulatory surgical centers, and inpatient rehabilitation facilities, rendering reasonable and necessary health care services and supplies to an injured employee for a compensable injury pursuant to the Oklahoma workers' compensation laws.

SUBCHAPTER 3. WORKERS' COMPENSATION FEE SCHEDULE

810:15-3-2. Applicability of 2012 workers' compensation fee schedule

(a) The Oklahoma workers' compensation fee schedule developed and adopted by the Workers' Compensation Court Administrator effective January 1, 2012 for health care services and supplies rendered on and after that date to an injured employee for a compensable work-related injury (the "2012 fee schedule"), shall remain in full force and effect, unless and until superseded by a fee schedule that is adopted by the Commission and approved by the Oklahoma Legislature, in accordance with 85A O.S., § 50(H), or as otherwise provided by law. Specific provisions contained in the AWCA as implemented in this Chapter take precedence over any conflicting provision adopted by or utilized in the 2012 fee schedule with respect to injuries occurring on and after February 1, 2014. [See also 810:15-5-3 (relating to the Commission's adoption of a closed formulary) and 810:15-7-2 (relating to urine drug screening guidelines)].

(b) The 2012 fee schedule may be viewed at the Commission's main offices and is available on the Commission's website at <http://www.wcc.ok.gov>.

810:15-3-3. Allowable reimbursement for advanced practice registered nurses

A certified advanced practice registered nurse shall be allowed eighty-five percent (85%) of the fee schedule allowance for Evaluation and Management services and other services

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performed within the advanced practice registered nurse's license and certification, subject to the conditions and procedures set forth in General Ground Rule 13 of the 2012 fee schedule.

SUBCHAPTER 5. PHARMACEUTICAL BENEFITS

810:15-5-3. Requirements for use of closed formulary

(a) **Applicability.** The closed formulary adopted pursuant to 810:15-5-2 applies to all drugs that are prescribed and dispensed for outpatient use for claims with a date of injury on or after February 1, 2014.

(b) **Preauthorization for claims subject to the Commission's closed formulary.** Preauthorization is only required for drugs that are excluded from the closed formulary, as defined in this Chapter.

(c) **Preauthorization request.** The preauthorization request must include the prescribing doctor's drug regimen plan of care, and the anticipated dosage or range of dosages for the drugs. Failure to request preauthorization entitles an insurance carrier or employer to deny payment for the drug in question. If the insurance carrier or employer fails to respond to a preauthorization request within three (3) days, the request shall be deemed approved.

(d) **Preauthorization of intrathecal drug delivery systems.**

(1) An intrathecal drug delivery system requires preauthorization and the preauthorization request must include the prescribing doctor's drug regimen plan of care, and the anticipated dosage or range of dosages for the administration of pain medication.

(2) Refills of an intrathecal drug delivery system with drugs excluded from the closed formulary, which are billed using Healthcare Common Procedure Coding System (HCPCS) Level II J codes, require preauthorization on an annual basis. Preauthorization for these refills is also required whenever:

(A) the medications, dosage or range of dosages, or the drug regime proposed by the prescribing doctor differs from the medications, dosage or range of dosages, or drug regime previously preauthorized by that prescribing doctor; or

(B) there is a change in prescribing doctor.

(e) **Treatment guidelines.** Except as provided by this Subsection, the prescribing of drugs shall be in accordance with 810:15-7-1 relating to treatment guidelines. Prescription and nonprescription drugs included in the Commission's closed formulary may be prescribed and dispensed without preauthorization.

(f) **Appeals process for drugs excluded from the closed formulary**

(1) For situations in which the prescribing doctor determines and documents that a drug excluded from the closed formulary is medically necessary to treat an injured employee's compensable injury and has prescribed the drug, the prescribing doctor, other requestor, or injured

employee must request approval of the drug by requesting preauthorization from the insurance carrier, or pursuant to the preauthorization requirements of a certified workplace medical plan, if the claim is subject to the plan.

(2) If preauthorization is requested by an injured employee or a requestor other than the prescribing doctor, and the injured employee or other requestor requests a statement of medical necessity, the prescribing doctor shall provide a statement of medical necessity as set forth in Subsection (e) of 810:15-5-1 to facilitate the preauthorization submission.

(3) If preauthorization for a drug excluded from the closed formulary is denied, the requestor may request a hearing before an administrative law judge of the Commission by filing a CC-Form-9 as provided in 810:10-5-16.

(4) In the event of an unreasonable risk of a medical emergency, an interlocutory order may be obtained in accordance with 810:15-5-4.

SUBCHAPTER 7. TREATMENT GUIDELINES

810:15-7-2. Controlled substance monitoring and drugs of abuse testing for chronic pain management

One presumptive drug test is allowable at each individual office visit for chronic pain management. Definitive drug testing following a suspected abnormality on the presumptive drug test is permissible for not more than forty (40) individual definitive drug tests every twelve (12 months).

SUBCHAPTER 9. INDEPENDENT MEDICAL EXAMINERS

810:15-9-5. Fees and costs

(a) Fees for services performed by a Commission appointed independent medical examiner shall be paid according to the following schedule:

(1) Diagnostic tests relevant to the questions or issues in dispute shall be paid by the employer or insurance carrier in accordance with the Oklahoma workers' compensation fee schedule; provided, diagnostic tests repeated sooner than six (6) months from the date of the test are not authorized for payment unless agreed to by the parties or ordered by the Commission for good cause shown.

(2) The review of records and information, including any treating physician evaluation and/or medical reports submitted by the parties, the performance of any necessary examinations, and the preparation of a written report as prescribed by Commission rules, shall be billed at the physician's usual and customary rate, not to exceed Three Hundred Dollars (\$300.00) per hour or any portion thereof, not to exceed a maximum reimbursement of One Thousand Six Hundred Dollars (\$1,600.00) per case. The Commission may permit exception to this provision, for

good cause shown. Subject to reimbursement if appropriate, these costs shall be billed to, and initially paid by, the respondent.

(3) Reimbursement for medical testimony given in person or by deposition shall be paid by the employer or insurance carrier in accordance with the independent medical examiner's usual and customary charges, not to exceed Four Hundred Dollars (\$400.00) per hour or any portion thereof, plus an allowance of One Hundred Dollars (\$100.00) for 15 minute increments thereafter. Preparation time shall be reimbursed at the examiner's usual and customary charge, not to exceed Four Hundred Dollars (\$400.00). A Four Hundred Dollar (\$400.00) charge is allowable whenever a deposition or scheduled testimony is canceled by any party within three working days before the scheduled start of the deposition or scheduled testimony. The party canceling the deposition or scheduled testimony is responsible for the incurred cost. No physician may receive more than Four Hundred Dollars (\$400.00) in advance in order to schedule a deposition. The advance payment shall be applied against amounts owed for testimony fees.

(4) Amounts owed to the independent medical examiner for services are payable upon submission of the examiner's written report.

(5) The independent medical examiner may charge and receive up to Two Hundred Dollars (\$200.00), to be paid initially by the employer or insurance carrier in the event the employee fails to appear for any scheduled examination, or if the examination is canceled by the employee or the respondent within forty-eight (48) hours of the scheduled time. The employer or insurance carrier shall be reimbursed by the employee if the failure to appear or the cancellation by the employee was without good cause. The independent medical examiner may not assess a cancellation charge for appointments canceled by the examiner.

(b) Failure to timely pay a Commission appointed independent medical examiner for services rendered pursuant to Commission order may result in the imposition of assessments or sanctions at the discretion of the administrative law judge or Commission, including a fine for contempt as provided in 85A O.S., § 73(B). Disputes regarding payment for services rendered by a Commission appointed independent medical examiner that cannot be resolved by the examiner and the parties themselves, may be addressed by filing a request for hearing before an administrative law judge of the Commission as provided in 810:10-5-16, or by mediation, as appropriate.

[OAR Docket #16-714; filed 7-11-16]

**TITLE 810. OKLAHOMA WORKERS' COMPENSATION COMMISSION
CHAPTER 25. WORKERS' COMPENSATION INSURANCE AND SELF INSURANCE**

[OAR Docket #16-715]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

- Subchapter 1. General Provisions
- 810:25-1-2. Definitions [AMENDED]
- Subchapter 9. Individual Own Risk Employer Permit
- 810:25-9-1. Application for Individual Own Risk Employer Permit [AMENDED]
- 810:25-9-7. Claims administration [AMENDED]
- 810:25-9-11. Governmental entities [AMENDED]
- Subchapter 11. Group Self-Insurance Association Permit
- 810:25-11-2. Additional application requirements [AMENDED]
- 810:25-11-3. Approval of new members of the association [AMENDED]

AUTHORITY:

Workers' Compensation Commission; 85A O.S. §§ 1 et seq.

SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:

December 22, 2015

COMMENT PERIOD:

January 15, 2016 through February 16, 2016

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ADOPTION:

March 23, 2016

SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:

March 29, 2016

APPROVED BY GOVERNOR'S DECLARATION:

Approved by Governor's declaration on June 9, 2016

FINAL ADOPTION:

June 9, 2016

EFFECTIVE:

September 12, 2016

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

ANALYSIS:

The rule amendments modify procedures and standards for proof of coverage requirements; regulation of individual own risk employers, group self-insurance associations and third-party administrators for workers' compensation purposes; and enforcement of workers' compensation insurance requirements, as authorized in the Administrative Workers' Compensation Act.

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 12, 2016:

SUBCHAPTER 1. GENERAL PROVISIONS

810:25-1-2. Definitions

In addition to the terms defined in 85A O.S., § 2, the following words and terms, when used in this Chapter, shall have

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the following meaning, unless the context clearly indicates otherwise:

"Administrator" means the person designated by the supervisory board of members of a group self-insurance association to oversee the financial affairs of the association, accept service of process on behalf of the association, act for and bind the association and members in all transactions either relating to or arising out of the operation of the association.

"Advisory loss costs" means the National Council on Compensation Insurance's projections of future claims costs and loss adjustment expenses by classification code.

"Aggregate excess insurance" means an insurance product that limits a group self-insurance association's annual aggregate liability to an agreed upon amount.

"Association" or **"Group Self-Insurance Association"** means a duly qualified group self-insurance association authorized by the Commission to self fund its workers' compensation obligations.

"AWCA" means the Administrative Workers' Compensation Act, 85A O.S., §§ 1, et seq.

"Board" or **"Members' Supervisory Board"** means the supervisory board of members of an association.

"Cancellation short rate penalty" means a penalty imposed on the member for cancelling its policy before the expiration date of the policy.

"Certified audit" means a financial audit performed by a certified public accountant, accompanied by the auditor's opinion regarding the audit.

"Claims reserves" means workers' compensation claim losses expected to be paid in the future, but does not include IBNR.

"Commission" means the Oklahoma Workers' Compensation Commission, a designee, or an administrative law judge to whom the Commission has delegated responsibility as authorized by 85A O.S., § 21(D).

"Common interest" means employers engaged in the same industry or members of an Oklahoma trade association that has been in business for at least five (5) years.

"Expense constant" means a flat charge included in a workers' compensation policy to cover the costs of issuing and servicing the policy.

"Experience modifier" means a modification to premium based on the claims history of the policyholder.

"IBNR" means incurred but not reported reserves. It includes a reserve for claims that have been incurred, but not yet reported to the individual own risk employer or group self-insurance association, as applicable, and reserves for adverse loss development on known claims.

"Incurred loss" means the total of the paid indemnity and medical losses plus claims reserves, reported by accident year.

"Incurred loss" means the total of the paid indemnity and medical losses plus claims reserves, reported by accident year.

"Joint and several liability" means mutual and individual responsibility of members for the liabilities of the association.

"Loss portfolio transfer" means the transfer of the liabilities of the association to an insurance carrier for an agreed upon premium.

"Member" means an individual member of an association.

"NCCI" means the National Council on Compensation Insurance, a national source for information on workers' compensation insurance, tools and services, and the provider of advisory ratemaking and statistical services in Oklahoma.

"Partnership" means a type of unincorporated business organization in which two or more individuals own the business and are equally liable for its debts.

"Pro forma financial statement" means a hypothetical financial statement showing revenues and expenses that may be recognized in the upcoming fiscal year.

"Proof of coverage" means the statutory filings of workers' compensation policy information to the NCCI.

"Scopes Manual" is a catalog of four-digit workers' compensation codes based on the nature of business and estimated risk to its workers.

"Self insured retention" means the individual own risk employer's or group self-insurance association's retained amount of risk under a specific excess insurance policy, before the liability is transferred to an insurance carrier.

"Sole proprietor" means an individual who is sole owner of a business that is neither a partnership nor an incorporated or limited liability company.

"Solvency" means a member whose assets are greater than its liabilities and who is capable of meeting its financial obligations to the association.

"Specific excess insurance" means an insurance product that limits the liability of an individual own risk employer or group self-insurance association specific occurrence liability to an agreed upon amount.

"Standard premium" means experience modified workers' compensation premium that has not been discounted.

"Statutory limits" means an insurance carrier's amount of liability under a specific excess insurance policy, capped at the maximum amount allowed by statute.

"TPA" or **"Third-Party Administrator"** means any person defined in 36 O.S., § 1442 of the Third-Party Administrator Act as an "administrator".

"Unearned premium" means the share of the members' premiums applicable to the unexpired portion of the policy terms.

SUBCHAPTER 9. INDIVIDUAL OWN RISK EMPLOYER PERMIT

810:25-9-1. Application for Individual Own Risk Employer Permit

(a) To request a permit to self fund its workers' compensation obligations as authorized in 85A O.S., § 38(A)(3), an employer shall:

- (1) Submit a signed and completed Application for Individual Own Risk Employer Permit on a form prescribed by the Commission, together with all required supporting documentation and attachments completed in their entirety, at least sixty (60) days before the desired effective date of the permit, to the following address: Oklahoma

Workers' Compensation Commission, Attention: INSURANCE DIVISION, 1915 North Stiles Avenue, Oklahoma City, Oklahoma 73105. The application shall be signed under penalty of perjury by an authorized representative of the employer. Illegible, incomplete or unsigned applications will not be considered and shall be returned. A copy of the application form may be obtained from the Commission at the address set forth in this Paragraph, or from the Commission's website;

(2) Pay to the Commission a nonrefundable application fee of One Thousand Dollars (\$1,000.00) with the Application for Individual Own Risk Employer Permit;

(3) ~~Submit its current audited financial statement or financial statement signed by two (2) company executives for the two (2) previous years, including balance sheet, statement of income statements, statement of cash flows and notes, and its financial statement for the previous year. If audited financial statements are unavailable, submit its financial statement for the two previous fiscal years signed by two (2) company executives, including balance sheet, statement of income, statement of cash flows and notes.~~ Renewal applicants may request waiver of the requirement for financial statements;

(4) Submit the employer's most recent available interim financial statements, including balance sheet and statement of income; and

(5) Provide such additional records and information germane to the application as may be required by the Commission.

(b) The application shall be reviewed by the Commission's Insurance Division. If the application is determined to be sufficient, the Division will issue a permit licensing the applicant to carry its own risk without compensation insurance, for a period of one year. If the application is determined to be deficient, the Division will notify the applicant thereof, stating the reasons for the deficiency. If the deficiency cannot be resolved within the stated time frame from the Division, the application will be denied.

(c) An applicant may withdraw its pending Application for Individual Own Risk Employer Permit at any time. Once withdrawn, no further action regarding the application will be taken by the Commission and the Commission's file on the application request will be considered closed.

(d) The Commission's Insurance Division may extend or amend an existing permit, in its discretion, if necessary for the completion of a renewal application or a change in facts of the permit.

810:25-9-7. Claims administration

An individual own risk employer must use a third-party administrator licensed by the Commission, or an in-house benefits administrator approved by the Commission, to adjust its workers' compensation claims. The in-house benefits administrator must hold a current and unrestricted workers' compensation adjuster license for the State of Oklahoma. An out-of-state employer may request waiver of the license requirement for an in-house benefit administrator.

810:25-9-11. Governmental entities

(a) Governmental entities may carry their own risk without insurance as provided in 85A O.S. § 107. They must apply using the same application form as private employers, and submit the same required documents, with the exception of interim financial statements. Governmental entities will be exempted from posting a security deposit if they make an appropriation into a segregated workers' compensation fund. The amount of the appropriation must be at least the entity's average ~~amount of workers' compensation losses paid during the preceding three (3) years~~ yearly workers' compensation losses paid for three (3) calendar or fiscal years immediately preceding the application date.

(b) Certain public trust employers will be required to post a security deposit in lieu of an appropriation. The Commission will make this determination at the time of application review.

SUBCHAPTER 11. GROUP SELF-INSURANCE ASSOCIATION PERMIT

810:25-11-2. Additional application requirements

The Application for a new Group Self-Insurance Association Permit provided for in 810:25-11-1 shall be submitted at least sixty (60) days before the desired effective date, bound in a hardcover notebook, and accompanied by all of the following:

(1) A One Thousand Dollar (\$1,000.00) nonrefundable application fee, made payable to the Commission;

(2) A sample of the members' indemnity agreement and power of attorney, as required by 810:25-11-15, binding the association and each member thereof, jointly and severally, to comply with the provisions of the AWCA;

(3) An executed copy of the application of each employer for membership in the association. The application must be on a form approved by the Commission, ~~include an indemnity agreement and power of attorney executed by the employer, a joint and several liability agreement executed by the employer, and a current balance sheet;~~ and include the following:

(A) An indemnity agreement and power of attorney executed by the employer;

(B) A joint and several liability agreement executed by the employer;

(C) The employer's current audited financial statement for the two previous fiscal years, including a balance sheet, statement of income, statement of cash flows, and notes;

(D) If audited financial statements are not available, the employer should provide the employer's financial statement for the two previous years signed by two (2) company executives, including a balance sheet, statement of income, statement of cash flows and notes; and

(E) A balance sheet and income statement for the current fiscal year.

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- (4) A pro forma financial statement of the association, showing the estimated revenues and expenses for the first fiscal year of the association;
- (5) A statement of the collective net worth of the members of the association;
- (6) The estimated standard and discounted premium each association member will pay during the first fiscal year of the association;
- (7) A listing of the type, amount and eligibility requirements of discounts available for the association members;
- (8) Projected expenses for the association for the first fiscal year, in dollar amount and a percentage of the standard premium to be generated;
- (9) Specific and aggregate excess insurance binders for the first fiscal year;
- (10) Underwriting guidelines that will be used by the association;
- (11) A copy of the association's bylaws and any other governing instruments of the proposed association;
- (12) A designation of the initial members' supervisory board and of the administrator of the association, including properly executed biographical affidavits for each;
- (13) The name and contact information of the association's TPA, including a copy of the contract between the association and the TPA;
- (14) A copy of all fidelity bonds and errors and omissions policies secured by the association, its administrator, its TPA, and other organizations providing services;
- (15) Copies of all marketing materials to be utilized by the association;
- (16) If the TPA does not provide safety, marketing, underwriting, or accounting services, the name or names of the organization or organizations who will, and a copy of the contract between the association and these organizations;
- (17) A designation of the association's auditing and actuarial firms; and
- (18) A list of workers' compensation rates to be charged to its members, broken down by classification code. The rates should be calculated in accordance with 810:25-11-8.

810:25-11-3. Approval of new members of the association

(a) A new membership may not become effective without Commission approval. All applications for membership, in

a form approved by the Commission, shall be filed with the Commission. ~~The application shall include evidence of the execution of the indemnity agreement, power of attorney, and joint and several liability agreement, as required by 810:25-11-15, with signed approval of the applicant by the association, and shall be accompanied by a current balance sheet and income statement of the association and the applicant. The Commission shall approve new members upon finding that the applicant is solvent, that the applicant has the financial ability to meet its obligations as a member, and proof that the applicant is in compliance with the legal requirements specified in this subchapter.~~ New member applicants must be reported to the Commission and NCCI no later than thirty (30) days after the effective date of each new member applicant. The date the application is received by the Commission will be the received date for purposes of this deadline. The Commission will review the application for completeness.

(b) The application for membership shall include the following:

- (1) An indemnity agreement and power of attorney executed by the applicant, as required by 810:25-11-15;
- (2) A joint and several liability agreement executed by the applicant, as required by 810:25-11-15;
- (3) Signed approval of the applicant by the association;
- (4) A balance sheet and income statement for the new applicant's current fiscal year; and
- (5) The estimated standard and discounted premium the applicant will pay during the period between the application effective date and the association's renewal.

(c) The application will be reviewed by the Commission's Insurance Division. If the application is determined to be sufficient, the application will be approved with the effective date as applied for. The application may be approved if the Commission has satisfactory proof of:

- (1) The solvency of the applicant;
- (2) The financial ability of the applicant to meet its obligations as a member; and
- (3) A common interest with other members of the association, as defined in 810:25-1-2.

[OAR Docket #16-715; filed 7-11-16]

Executive Orders

As required by 75 O.S., Sections 255 and 256, Executive Orders issued by the Governor of Oklahoma are published in both the *Oklahoma Register* and the *Oklahoma Administrative Code*. Executive Orders are codified in Title 1 of the *Oklahoma Administrative Code*.

Pursuant to 75 O.S., Section 256(B)(3), "Executive Orders of previous gubernatorial administrations shall terminate ninety (90) calendar days following the inauguration of the next Governor unless otherwise terminated or continued during that time by Executive Order."

TITLE 1. EXECUTIVE ORDERS

1:2015-46A.

AMENDED EXECUTIVE ORDER 2015-46

I, Mary Fallin, Governor of the State of Oklahoma, pursuant to the power and authority vested in me by Sections 1 and 2 of Article VI of the Oklahoma Constitution and by Subsection D of Section 840-2.14 of Title 74 of the Oklahoma Statutes, hereby order, in conjunction with the directives contained in Executive Order 2015-06:

1. Effective December 1, 2015, the Chief Administrative Officer of every "state agency" shall provide to his or her respective Cabinet Secretary (as established by Executive Order 2015-07) written documentation of a ten percent (10%) reduction in non-mission-critical agency expenses for the remainder of FY 2016 and the entirety of FY 2017. Such documentation shall include an explanation of how the dollars saved from said reduction will be reallocated to other needs within the agency.
2. Effective immediately, a moratorium be placed on non-essential out-of-state travel for all employees and officers of agencies that is paid for, in whole or in part, by the State of Oklahoma. This moratorium shall apply to all travel expenses not already incurred as of the date of this Order. Essential travel is expressly limited to travel that is: necessary to maintain professional accreditation that is otherwise unavailable within Oklahoma; critical to the performance of core agency functions; or required by the federal government or necessary to secure or maintain federal funding.
3. Effective December 1, 2015, advance written notification must be given for any proposed: agency, State, and public employee or officer membership(s) in any private or public organization; non-essential out-of-state travel for agency employees and officers that is wholly paid for by an entity other than the State; and non-emergency purchase(s) that exceed \$10,000.00 (collectively, "proposed expense").

- a. Notification shall contain: 1) a brief description of the proposed expense, including its cost, the reason for its necessity, and the costs (if any) that could attach to the State if the request is denied; and 2) any deadlines for receiving approval.
- b. Notification shall be submitted to the agency's Cabinet Secretary by the agency's Chief Administrative Officer.
- c. If the Cabinet Secretary denies a proposed expense or fails to provide the agency with an approval by the

requested deadline, the agency may submit the notification as established in subsection (a), above, to me or my designee at the Office of the Governor for consideration.

- d. Written approval as provided in subsections (b) or (c), above, must be obtained prior to incurring any legal obligation to pay a proposed expense.

Copies of this Executive Order shall be distributed to all Cabinet Secretaries and to the Chief Administrative Officers of all State agencies for immediate implementation.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Oklahoma to be affixed at Oklahoma City, Oklahoma, this 10th day of August, 2016.

BY THE GOVERNOR OF THE
STATE OF OKLAHOMA

Mary Fallin

ATTEST:
Chris Bengé
Secretary of State

[OAR Docket #16-733; filed 8-10-16]

1:2016-29.

EXECUTIVE ORDER 2016-29

I, Mary Fallin, Governor of the State of Oklahoma, hereby direct the appropriate steps be taken to fly all American and Oklahoma flags on State property at half-staff from 8:00 a.m. to 5:00 p.m. on Wednesday, August 3, 2016, to honor Judge Donald "Don" L. Deason, who passed away on Thursday, July 28, 2016.

Judge Deason received his undergraduate degree and his juris doctorate from the University of Oklahoma. In 1979, he began a long career with the Oklahoma County District Attorney's office. In 1999, he was appointed as a Special District Judge in Oklahoma County. In 2005, Governor Henry appointed Judge Deason as the District Court Judge for Oklahoma County, Seventh Judicial District, Office 3. Most recently, he served as the presiding judge for the state's multi-county grand jury, and the Presiding District Court Judge for

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Oklahoma and Canadian Counties. His leadership, service, and dedication to the State of Oklahoma will be missed.

This Executive Order shall be forwarded to the Department of Capital Assets Management who shall cause the provisions of this Order to be implemented by all appropriate agencies of State government.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Oklahoma to be affixed at Oklahoma City, Oklahoma, this 2nd day of August, 2016.

BY THE GOVERNOR OF THE
STATE OF OKLAHOMA

Mary Fallin

ATTEST:
Chris Bengé
Secretary of State

[OAR Docket #16-722; filed 8-2-16]

1:2016-30.

EXECUTIVE ORDER 2016-30

I, Mary Fallin, Governor of the State of Oklahoma, hereby direct that appropriate steps be taken to fly all American and Oklahoma flags on State property at half-staff from 5:00 p.m. on Friday, August 5, 2016, until 8:00 a.m. on Monday, August 8, 2016, to honor former Senator E. Melvin Porter, who passed away on Tuesday, July 26, 2016.

E. Melvin Porter served in the United States Army before attending Tennessee State University. After completing his bachelor's degree he attended Vanderbilt University Law School. In 1961, he was elected to serve as the President of the Oklahoma City National Association for the Advancement of Colored People. He would go on to serve District 48 in the Oklahoma State Senate from 1964 to 1986. His most notable work in the Senate was the introduction of the Oklahoma Anti-Discrimination Act. His dedication to the betterment of the State of Oklahoma will not be forgotten.

This Executive Order shall be forwarded to the Department of Capital Assets Management, who shall cause the provisions of this Order to be implemented by all appropriate agencies of State government.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Oklahoma to be affixed at Oklahoma City, Oklahoma, this 2nd day of August, 2016.

BY THE GOVERNOR OF THE
STATE OF OKLAHOMA

Mary Fallin

ATTEST:
Chris Bengé
Secretary of State

[OAR Docket #16-723; filed 8-2-16]
