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Scott Crow, Director Oklahoma Department of Corrections		Signature on File	

Workers' Compensation Insurance

The following procedure, in accordance with applicable law and rule, provides for the administration of employment benefits due to a work related injury and establishes the parameters for the return to work or continuing employment of employees with either work or non-work related injuries or impairments. (2-CO-1C-01, 5-ACI-1B-17, 5-ACI-1C-07, 4-ACRS-7D-28, 4-ACRS-7E-03, 4-APPFS-3D-27, 4-APPFS-3E-03)

Workers' compensation rights and benefits are provided to all agency employees whether in the classified (probationary and permanent) or unclassified service (including temporary employees) due to the filing of a valid workers' compensation claim. (5-ACI-1B-17, 4-ACRS-7D-28, 4-APPFS-3D-27)

The agency will pursue available administrative and criminal sanctions in the event an employee files a fraudulent claim.

OMES Risk Management and Safety National are the workers' compensation insurer for agency employees.

Gallagher Bassett is the workers' compensation claims management provider for agency employees.

I. Definitions

A. Work-Related Injury/Illness

An injury or illness is considered to be work-related if an event or exposure in the work environment caused or contributed to the resulting condition or significantly aggravated a pre-existing condition. All work-related injuries/illnesses/exposures are reportable to the Human Resources Benefits unit through the Human Resources Management Specialist (HRMS).

B. Recordable Work-Related Injury/Illness

Recordable work-related injuries must be recorded on the OK Form 300 entitled "Log of Work-Related Injuries and Illnesses," is consistent with the "[2019 Public Sector Guidelines of Occupational Injuries and Illness Record Keeping Report](#)", and will include work-related injuries/illnesses which resulted in:

1. Death;
2. Loss of consciousness;
3. Days away from work;
4. Restricted work activity or job transfer;
5. Medical treatment beyond first aid, including significant work-related injury or illness which was diagnosed by a physician or other licensed health care professional; and/or
6. Work-related cases which involve but may not be limited to: cancer, chronic irreversible disease, a fractured or cracked bone or a punctured eardrum.

C. Occupational Exposures

An occupational exposure occurs during the performance of job duties and may place an employee at risk of infection. Exposure is defined as an injury which breaks the skin (e.g., needle stick or cut with a sharp object), contact of mucous membranes, or contact of skin (especially when the exposed skin is chapped, abraded, or afflicted with dermatitis or the contact is prolonged or involving an extensive area) with blood or other body fluids to which universal precautions apply. When an expose occurs, the following guidelines should be considered prior to referral to medical attention/treatment as outlined in [OP-140125](#) "Bloodborne Pathogen Exposure Control Program":

1. Risk Categories by Fluid Type

a. Fluids Capable of Transmission from Exposure

The following are "at risk" fluids capable of transmission from exposure:

- (1) Blood, semen, vaginal secretions;
- (2) Amniotic fluid, breast milk;
- (3) Pericardial, synovial, pleural, peritoneal fluids; and
- (4) Cerebrospinal fluid.

b. Fluids Not at Risk of Transmission from Exposure (unless visible blood is present):

- (1) Feces, vomitus, urine;
- (2) Saliva, nasal secretions, sputum; and
- (3) Sweat, tears.

D. Initial Workers' Compensation Packet

An employee who is referred to an in-network provider will be provided the initial Workers' compensation packet which will include the "Authorization for Initial Treatment" form, "Authorization for Release of Information" form, "Return to Work Plan Agreement" form ([Attachment G](#), attached), and the "First Script Form for Work Related Injuries ([Attachment H](#), attached) to obtain any prescribed medication within the [Coventry Pharmacy Network](#).

II. Responding to Work Related Injuries

Following an employee's report of injury, the facility/region/unit head will ensure, if required, the employee receives prompt medical attention and a claim is filed with

the Human Resources Benefits unit Workers' Compensation liaison, who will provided a copy to Environmental Health and Safety for investigation.

A. Report of Injury/Accident (2-CO-1C-05)

1. Any employee who sustains an injury will report the injury to his or her supervisor as soon as possible, and in all instances, prior to the end of the work shift.
 - a. If the site of the accident is other than the employee's regular work location, the employee will also report the injury to the local supervisor or person with responsibility for the activity in which the employee was participating.
 - b. In the event the employee is injured while in travel status, the HRMS assigned to the employee's work location will be responsible for the filing of the claim. Failure to timely report may be cause for denying a workers' compensation claim.
2. Supervisors will immediately notify the affected facility/region/unit–HRMS and the facility/unit head.

In the event of a life or limb-threatening situation, the affected administrator and administrator of Environment Health and Safety (EHS) will be contacted immediately.

3. The employee and all witnesses will document the injury on an "Incident/Staff Report" ([OP-050109](#), [Attachment A](#)) as soon as possible and submit the report to their supervisor or facility/region/unit. Human Resources Management office, who will ensure the "Workers' Compensation Incident Investigation Report" ([DOC 100401A](#)) is completed.
4. The facility/region/unit head of the work location where the accident occurred will report the accident to the EHS unit. The facility/region unit HRMS will document the accident on the OK Form 300 if the accident is deemed recordable.
5. In the event an employee is injured but denies medical treatment, the employee will be required to complete an "Incident/Staff Report" ([OP-050109](#), [Attachment A](#)) and submit the report to their supervisor prior to the end of their assigned shift. The employee will indicate they are denying offered medical treatment.

B. Medical Assistance/Treatment

The facility/region/unit head at the work location where an employee has a need for medical assistance/treatment beyond that of first aid will ensure that prompt medical treatment is authorized.

1. The facility HRMS or supervisory staff will be responsible for providing the employee with the initial workers' compensation packet and directing the employee to the appropriate in-network occupational medicine clinic, urgent care facility, or AM/PM clinic.
2. In the event of a life, limb, or eyesight-threatening situation/injury, the employee may utilize the nearest medical facility, whether or not the facility is part of the provider network.
3. The decision for an employee to see a specialist will be made by the treating physician who will make the referral for a specialist. However, Gallagher Bassett will make these appointments.

C. Filing the Claim

1. The facility/region/unit HRMS at the employee's assigned work location or the site of the accident will receive the "Incident/Staff Report" ([OP-050109](#), [Attachment A](#)) prior to the end of the workday on which the injury/accident was reported.
2. If more than 30 days has elapsed between the accident/injury and reporting of the accident/injury or no medical attention was received in the first 30 days (85A O.S. § 68, §302), the facility/region/unit HRMS will notify the employee that the authenticity of the claim will be questioned and the claim may be denied by Gallagher Bassett. In the event the claim is denied, the employee will be responsible for all medical costs accrued and their state insurance plan may not cover the medical claim.

D. Questioning the Validity of the Claim

The facility/region/unit will question the validity of the claim for reasons including, but not limited to:

1. Information arising out of an investigation or statements made in connection with the claim, such as inconsistencies in an employee's account or conflicting witness statements;
2. An employee's history of prior disputed or questionable claims;
3. Knowledge that the employee engages in off duty activities which may have caused the injury;
4. The employee's known medical history, which may account for the injury;
5. The employee reports an injury immediately following a proposed or completed disciplinary action or other personnel or supervisory action which the employee opposed; or

6. The employee's current activities are inconsistent with the reported physical limitations;
7. Any other information which suggests a questionable injury/illness may have occurred.

The facility/region/unit HRMS will forward [Attachment B](#) entitled "Validity of Claim in Question" (attached) to the Human Resources Benefits unit.

III. Accident Investigation

Upon receipt of a Workers' Compensation claim, the Human Resources Benefits Workers' Compensation liaison will forward a copy of the documents associated with the reported incident to the Environmental Health and Safety unit designee for review and/or assignment for investigation.

Investigations will be conducted in accordance with [OP-100401](#) entitled "Safety Awareness and Training."

IV. Workers' Compensation Benefits

Employee workers' compensation benefits listed in these sections are provided by state statute and may change with legislative changes.

A. Title 85A Benefits

1. Medical Expenses (85A O.S. § 51)
 - a. An eligible employee will be provided with reasonable and necessary medical care and hospitalization in accordance with the law.
 - b. Benefits include fees for medical, surgical, nursing, and hospital services, medicines, crutches, and prosthetic devices, as well as documented travel expenses, to include meals, lodging, mileage and transportation outside the employee's city of residence. However, employees seeking such travel reimbursement must keep accurate records and receipts and submit these records when filing for reimbursement to Gallagher Bassett.
 - c. Workers' Compensation Benefits

Workers' Compensation may result in leave usage. Ref. Merit Rule 260:25-15-49. The Oklahoma Department of Corrections (ODOC) Workers' Compensation liaison or designee will assist with any questions.

- d. Injured employees will be covered for only those medical expenses authorized by Gallagher Bassett and the services will only be provided by a member of the Gallagher Bassett network.
- e. Upon the employee's return to work, all continuing workers' compensation medical will be covered by OMES Risk Management and Safety National; however, time utilized for these appointments or court appearances will be personal time or leave through an approved leave program in accordance with [OP-110355](#) entitled "Procedures for Employee Attendance and Leave."

2. Compensation

a. Temporary Total Disability (TTD)

- (1) Compensation will not be paid for the first three consecutive calendar days an employee is absent from work and will commence on the fourth calendar day of absence. An employee may use their own leave for the first three consecutive calendar days of absence for compensation.
- (2) Payments for TTD are equal to 70 percent of the average weekly wage not to exceed the weekly amount determined by the workers' compensation act (85A O.S. § 45).
- (3) Employees may elect to supplement TTD payments with amounts of available sick or annual leave to receive full wages during their absence. (85A O.S. § 45) Available sick and annual leave includes any donated in accordance with the State Leave Sharing Program. Employees are required to complete a "Work Related Injury/Illness Leave Election Form" ([Attachment C](#), attached) and return it to the Human Resources Benefits unit in order to exercise a leave supplement option.
- (4) In the event of an injury occurring "in the line of duty" in accordance with [OP-110355](#) entitled "Procedures for Employee Attendance and Leave" the agency director may advance the employee up to 45 days of additional sick leave provided all available sick leave has been used (57 O.S. § 528.1).
- (5) Employees will receive partial paychecks for leave supplements on supplemental payroll.

- (6) An employee using paid leave to supplement TTD payments is considered to be on leave without pay status [Merit Rule 260:25-15-10(e)].
- (7) Any person receiving TTD payments will promptly report in writing to the agency the Human Resources Benefits unit and Gallagher Bassett any change in a material fact, the amount of income being received, or any change in employment status occurring during the period of receipt of such TTD payments.

b. Temporary Partial Disability

As in the case of employees who return to work at fewer than 40 hours per week, payments are available to employees who return to work at a wage less than that which they were earning prior to the injury (85A O.S. § 45).

c. Permanent Disability

Determination of disability is the responsibility of the Workers' Compensation Court (85A O.S. § 45).

- (1) Permanent total disability (85A O.S. § 45) benefit payments are provided for employees who are incapacitated because of accidental on-the-job injury or occupational disease and unable to earn any wages in any employment.
- (2) Permanent partial impairment (85A O.S. § 45) payments are provided to reimburse an employee for any impairment which is permanent in nature but which is not totally disabling.

3. Death Benefits (85A O.S. § 47)

Death benefits are available to dependents of an employee who dies as a result of an occupational illness or injury.

Payments may be made in a variety of ways, depending on marital status and number of dependents. Gallagher Bassett will serve as point of contact regarding payment of death benefits.

4. Rehabilitation (85A O.S. § 45)

Payment for physical or vocational rehabilitation services may be provided by workers' compensation insurance to employees unable to return to their original occupations.

B. Title 74 Benefits- Retirement, Leave Accrual, Longevity

1. Retirement (74 O.S. § 913.A.8)

An employee will receive participating service credit for any period of TTD during which the employee remained employed by the agency, provided the employee:

- a. Notifies the Oklahoma Public Employees Retirement System (OPERS) in writing not later than four months after returning to work, terminating employment, or termination of TTD (whichever is earlier) that the employee wants to receive such credit; and
- b. Pays the contributions for the period of absence in accordance with statute and the retirement system's rules for payment.
- c. An employee participating in the Pathfinder Retirement will be unable to make up lost contributions.

2. Leave Accrual/Longevity

- a. No period of leave without pay pursuant to 74 O.S. § 840-2.21 will affect an employee's annual leave accrual rate or longevity date [Merit Rule 260:25-15-10(c)(1)(G)].
- b. Periods of leave without pay which continue past two years after the start of leave without pay will be treated as regular leave without pay for leave accrual and longevity purposes.
- c. If the employee's anniversary date falls within a period of leave without pay for less than 30 days, no longevity payment will be made until the employee returns to full pay status. If the period of leave without pay is more than 30 days, no longevity payment will be made until the employee returns to work [74 O.S. § 840-2.18(l)].

3. Benefits - Leave Without Pay, Insurance

All rights and benefits derived from 74 O.S. § 840-2.21 and Merit Rule 260:25-15-49 will end one year after the start of leave without pay and immediately if the claim for workers' compensation is denied or canceled within the one year period [74 O.S. § 840-2.21 and Merit Rule 260:25-15-49(c)].

- a. Leave Without Pay

- (1) All employees absent from work pursuant to a workers' compensation claim will be placed on leave without pay and moved to supplemental payroll. Employees may elect to use any applicable time or leave program to cover the first three consecutive calendar days of absence by completing a "Work Related Injury/Illness Leave Election Form" ([Attachment C](#), attached) (refer to Section II. A. 2. a. item (3) of this procedure for leave elections to supplement TTD payments).
- (2) For the purposes of determining the one year limit, one year equals 12 continuous months; however, any time an employee returns to work for less than 30 days will not be considered an end to a continuous absence.
- (3) The Human Resources Benefits unit will complete an HCM-14 when an employee begins or ends a period of workers' compensation leave without pay. The initiating HCM-14 will reflect in the comment section, "Workers' compensation leave without pay in accordance with 74 O.S. § 840-2.21 and Merit Rule 260:25-15-49(f) begins on (date)." The final HCM-14 prepared by Human Resources Benefits - Safety unit will indicate, "Workers' compensation leave without pay ends on (date)."
- (4) Entries on the time/leave sheet for leave without pay will be completed by the -Human Resources Benefits unit in accordance with the provisions of [OP-110120](#) entitled "Procedures for Time/Leave Sheets and Payroll Processing."
- (5) The first 12 weeks (480 hours) of leave without pay taken by an employee with at least one year of service with the state and who has worked a minimum of 1250 hours during the preceding 12 month period, will be designated as family and medical leave (FMLA).

b. Insurance

The Human Resources Benefits unit will provide the Employees Benefits Department (EBD) with the employee's applicable benefit allowance(s), at the same rate provided while in pay status for up to 12 months so that statutorily required insurance coverage can be maintained. Employees remain responsible for any supplemental insurance and/or dependent insurance amounts not covered by their benefit allowance.

V. Benefits Administration

A. Notice to Employees [Merit Rule 260:25-15-49(e)]

The Human Resources Benefits unit will ensure that all workers' compensation claims benefits are administered in accordance with this procedure.

1. Initial Contact With Employee

Upon notification that a claim has been filed, the Human Resources Benefits unit will provide the employee with copies of the following via certified mail: [Merit Rule 260:25-15-49(e)]

- a. Merit Rule 260:25-15-49;
- b. 74 O.S. § 840-2.21;
- c. This procedure (OP-110345) to include the "Work Related Injury/Illness Leave Election Form" ([Attachment C](#), attached) and "First Preference Form"([Attachment D](#), attached);
- d. An HCM-4B Form and OPERS 515-172-12 "Notice and Application for Temporary Disability Purchase" form; and
- e. A letter explaining the employee's benefits and responsibilities.

2. Leave Election/Supplement to TTD

a. Employee Responsibility

The employee is responsible for completing the "Work Related Injury/Illness Leave Election Form" ([Attachment C](#), attached) and returning it to the - Human Resources Benefits unit.

Employees will be placed on leave without pay without supplement until the employee makes an election to supplement TTD with available leave. The leave election form must be completed and returned to the Human Resources Benefits unit within 30 calendar days of the receipt of the certified packet. All chosen leave elections received after the 30 calendar day period will be applied only to the time period that follows its receipt by the ODOC Human Resources Benefits unit.

b. Supervisor Responsibility

If the employee misses work due to a work related injury/illness, the supervisor will ensure the employee's time

sheet is completed accurately, up to the time the work related injury/illness caused the need for leave. The supervisor is responsible for submitting the time sheet to the field HRMS staff within two working days of the notification of the need for leave.

c. Field HRMS Staff Responsibilities

The field HRMS staff will forward the monthly time sheet completed as submitted by the supervisor to the Human Resources Benefits unit (HRBU), along with any documents requested by the HRBU.

d. Human Resources Benefits unit Responsibility

The Human Resources Benefits unit will complete the appropriate entries on the time sheet and process the supplement (partial paycheck), in accordance with the employee's election(s) made and available leave balances. The audited time sheet will then be forwarded to the Human Resources Payroll unit for supplemental payroll processing.

3. Insurance Premium Payments

The Human Resources Benefits unit will notify employees of the amount(s), method of payment, dates due, and mailing address for any insurance premium payments required of the employee to maintain benefits coverage.

4. Retirement Service Credit Purchase

The employee is responsible for pursuing any desired purchase of retirement service credit from OPERS (as outlined in Section II. B. item 1. of this procedure) within four months of returning to work status.

VI. Return to Work

The agency will make a reasonable effort to return injured or impaired employees to work. (2-CO-1C-09-1, 5-ACI-1C-07, 4-ACRS-7E-03, 4-APPFS-3E-03) Employees who refuse any reasonable accommodation are not entitled to receive any additional offers of accommodation.

A. Medical Statement

No employee may return to work from a workers' compensation injury without a medical release from the treating physician.

1. This release must indicate whether it is a full release with no restrictions or a release with restrictions. A release with restrictions must indicate whether the restrictions are temporary or permanent. In the event the release is with temporary restrictions, an updated medical statement will be required, at a minimum, every 30 days.
2. Any employee who requests an accommodation must provide a medical statement indicating the physical or mental restrictions that are the reason for accommodation and the approximate period of time the accommodation is medically required.
3. The supervisor and facility head will determine whether stated physical or mental restrictions limit or prohibit the employee's ability to perform essential job functions.

B. Agreement to Restrictions

The facility/region/unit HRMS will complete a "Return to Work Plan Agreement" form ([Attachment G](#), attached) and attach the medical report from the authorized treatment provider which lists all physical and mental restrictions. The completed attachment must be signed and dated by both the employee and supervisor prior to permitting an employee to return to work with physical or mental restrictions. A copy of the signed/dated [Attachment G](#) (with the treatment provider report attached) will be forwarded to the Human Resources Benefits unit.

No employee will be assigned or permitted to perform any job duties that violate the restrictions. Employees who disregard restrictions will be subject to discipline.

C. Notice of Return to Work or Status Change

The facility/region/unit HRMS will notify the Human Resources Benefits unit immediately when an employee returns to work from a work related injury or when the employee changes to a status other than workers' compensation leave, such as sick leave, annual leave or separation from the agency, by submitting the "Return to Work Plan Agreement" ([Attachment G](#), attached).

1. **First Preference Placement**
The right to a first preference placement in an alternate position will expire one year from the date of the start of leave without pay [Merit Rule 260:25-15-49(c) and (j)(2)].

Provided all procedural guidelines are met, the agency will place employees in appropriate vacant positions on a first come, first served basis. Eligible employees are not required to interview for such placement and such placement is not subject to review by the local appointing authority. The posting of job vacancies and the scheduling

of interviews will not prevent eligible employees from appropriate placement. Such job postings and interviews will be cancelled.

Nothing in this procedure prohibits a qualified employee from applying for positions which constitute a promotion through the normal process as outlined in [OP-110235](#) entitled "Hiring and Promotional Procedures." Despite termination of first preference placement rights, an employee may remain eligible to apply for an alternate position under the Americans with Disabilities Act.

2. Employee Eligibility

The employee will be eligible for first preference placement under the following conditions:

- a. The employee is released to return to work by the treating physician, pursuant to a valid workers' compensation claim, with restrictions that preclude a return to the original position (performance of essential job functions) with or without reasonable accommodation;
- b. The agency has a vacant, funded position for which there is an approved HCM-92;
- c. The employee is medically able to perform the essential duties of the vacant position, with or without reasonable accommodation;
- d. The employee meets the minimum qualifications of the position as certified by the Division of Human Capital Management, Office of Management and Enterprise Services;
- e. The position does not constitute a promotion to the employee; and
- f. The employee is within one year after the start of leave without pay, or date of injury in the event the employee never started a period of leave without pay.

3. Employee Responsibility

In order to exercise first preference rights, the employee must notify the Human Resources Benefits unit of any position that the employee is interested in that does not constitute a promotion, and provide the Human Resources Benefits unit with:

- a. Medical documentation that the employee is able to return to work and has restrictions/limitations that prevent the employee from returning to the original position (performing essential job functions) with or without reasonable accommodation; and
- b. A completed "First Preference Form" ([Attachment D](#), attached).

If placement occurs and the employee does not sign a "waiver," medical statements from the treatment provider must be provided every three months until expiration of the right to return to the original position.

4. Human Resources Benefits Unit Responsibility

Following receipt of the above referenced documents, the Human Resources Benefits unit will:

- a. Notify the affected sending and receiving facilities/regions units when placements are to occur and whether the employee still has the right to return to the original position;
- b. In the event a placement is made prior to the end of one year after the start of leave without pay, provide the employee with a "Waiver of Right to Return to the Original Position" form ([Attachment F](#), attached). If the employee and the facility/region/unit head for the original position do not sign the waiver, the employee will be returned to the original position, if medically able, within two years after the start of leave without pay;
- c. Coordinate with affected HRMS(s) the notification to the employee of the placement, the date of return to work, and the completion of the HCM-14; and
- d. Provide the employee and affected facility/region/unit(s) notification when first preference rights expire or end, and when the right to return to the original position ends.

D. Return to Original Position

The following section applies to injured or impaired employees regardless of whether the injury or impairment was work-related or non-work related.

1. Without Reasonable Accommodation

Employees who are released to return to work with no physical or mental restrictions or with restrictions that do not limit their ability to perform the essential job functions of their positions will be immediately returned to their original positions.

2. With Reasonable Accommodation (2-CO-1C-09-1, 5-ACI-1C-07, 4-ACRS-7E-03, 4-APP-3E-03)
 - a. When physical or mental restrictions limit an employee's ability to perform essential job functions, the facility/region/unit will provide a reasonable accommodation that will enable the employee to continue to perform the essential functions of the original position. Accommodations include, but are not limited to: modifications to the way in which work is accomplished, the work schedule, or appropriate use of available leave programs regarding correctional security officers.
 - b. Reasonable accommodation for restrictions unrelated to a workers' compensation claim will be requested using "Employee Request for Reasonable Accommodation" ([OP-110346, Attachment A](#)) and processed in accordance with [OP-110346](#) entitled "Reasonable Accommodations in Employment."

E. Return to an Alternate Position (Other Than First Preference)

When an employee is unable to perform the essential functions of the original position, with or without reasonable accommodation, the following accommodations will be made in accordance with this section:

1. Assignment of Temporary Duties/Temporary Restrictions
 - a. Light Duty
 - (1) The goal of the light duty assignment is to permit employees to return to work as soon as possible following injury and resume the essential job functions of their original positions when restrictions expire.
 - (2) Light duty assignments and/or reasonable accommodations will be made available in every case possible, as a coordinated effort by the facility, Human Resources Benefits unit and the ODOC General Counsel. Light duty assignments will require the employee to complete ([Attachment G](#) entitled "Return to Work Plan Agreement" (attached). Reasonable accommodations will require the employee to complete an "Employee Request for Reasonable Accommodation" ([OP-110346, Attachment A](#)).
 - (3) For periods of temporary restrictions, employees will be provided any assignment of medically appropriate duties at their facility/region/unit for a period less than 180 days in any 12 month period (Merit Rule 260:25-11-

110). The employee will continue to occupy, and be compensated for, the original position.

b. Light Duty for Correctional Security Officers

- (1) The essential job functions of a correctional officer include the ability to rotate through all posts and shifts, the ability to work any assigned shift or day of the week, and the ability to work additional shifts as required. Permanent reasonable accommodation does not include a limit on the type of post, shift or additional shifts that can be worked.
- (2) Correctional officers may be assigned to work light duty. The officer will be required to dress appropriately for the position to which he/she is assigned. Uniforms may be worn if the assignment is a security post.

c. Permanent Placement/Permanent Restrictions

Employees with permanent restrictions which prohibit the performance of the essential job functions of their positions will be given the option of reassignment under [OP-110346](#) entitled "Reasonable Accommodations in Employment."

To ensure all possible options are considered, the employee is responsible for submitting a current, thorough internal HCM-4B to determine qualifications.

VII. Failure to Return to Work

A. Discipline [Merit Rule 260:25-15-49(j)(1)]

An employee may be disciplined if:

1. A medical report indicates that the employee is able to do the essential duties of the original position or an alternate position (for which the employee is qualified); and
2. The employee fails to return to work within seven days after the facility/region/unit mails a notice to return to work to the employee's last known address or delivers a notice to the employee.

B. Termination [74 O.S. § 840-2.21D, Merit Rule 260:25-15-49(j)(2) and (3)]

1. An employee who does not return to work in either the original or an alternate position within two years after the start of leave without pay may be terminated under the authority of 74 O.S. § 840-2.21.

2. Termination of a permanent classified employee is subject to the pre-termination hearing requirements of 74 O.S. § 840-6.4. [Merit Rule 260:25-15-49(j)(2)].
3. Any letter of termination that uses 74 O.S. § 840-2.21 as authority to terminate must contain the following notification of the right of reinstatement [Merit Rule 260:25-15-49(j)(2)]:

“A classified employee shall be eligible for reinstatement to either classified or unclassified employment with any state agency for 12 months after the date of separation. An unclassified employee shall be eligible for reinstatement to unclassified employment with any state agency for 12 months after the date of separation. This does not reduce eligibility under other general reinstatement or reemployment laws or rules, such as 260:25-9-102.”

VIII. Prohibited Activity

A. Off Duty Activity

Employees who are off work due to a workers' compensation injury will refrain from engaging in any off duty employment or activity that would interfere with recovery or violate any treatment provider's instructions.

B. Fraud

1. Employees will not engage in any fraudulent acts. Workers' compensation fraud is the altering, falsifying, forging, counterfeiting, or otherwise changing any material, statement, form, document, contract, application, certificate, or other writing with the intent to defraud, deceive, or mislead another.
2. Information or tips regarding fraudulent claims must be reported to the facility/region/unit head and to the Human Resources Benefits unit.

IX. Record Keeping

A. Workers' Compensation Files

Facilities/regions/units and the Human Resources Benefits unit will maintain electronic copies of all workers' compensation claims and related materials. Facility workers' compensation claim information will be kept separate from the personnel file and maintained for a period of two years following the exhaustion of all legal remedies (Oklahoma Dept. of Libraries General Records Disposition Schedule 2-57, 3-27). After two years following the exhaustion of all legal remedies, records will be disposed of in accordance with [OP-020202](#) entitled “Management of Office Records.”

B. Department of Labor Reporting

1. The facility/region/unit HRMS will maintain a record of all occupational illness and injury by calendar year using the Department of Labor's (DOL) OK Form 300 entitled "Log Work-Related Injuries and Illnesses."
2. The facility/region/unit HRMS will ensure completion and annual posting requirements of the OK Form300A entitled "Summary of Work-Related Injuries and Illnesses" are met and a copy of the previous calendar year's summary, OK Form 300A, will be posted from February 1 through April 30. The OK Form 300 and OK Form 300A will be forwarded to the administrator of EHS or designee for review and approval prior to forwarding the forms to the HRMS for distribution to the DOL.
3. The administrator of EHS unit or designee will complete all reports required by the DOL in the event a workers' compensation injury/illness/exposure results in the death of one or more employees or the hospitalization of five or more employees. The report is made to the DOL. The form is available on the ODOL website ([https://www.ok.gov/odol/Workplace Safety & Health/Public Safety & Health](https://www.ok.gov/odol/Workplace_Safety_&_Health/Public_Safety_&_Health)) This report must be made within eight hours of the occurrence.
4. The HRMS will complete the OK Form 301 entitled "Injury and Illness Report" within seven calendar days after notification of the report of accident/injury and maintain the reports for the agency.

X. References

Policy Statement P-110100 entitled "Uniform Personnel Standards"

OP-020202 entitled "Management of Office Records"

OP-050109 entitled "Reporting of Incidents"

OP-100401 entitled "Safety Awareness and Training"

OP-110120 entitled "Procedures for Time/Leave Sheets and Payroll Processing"

OP-110235 entitled "Hiring and Promotional Procedures"

OP-110346 entitled "Reasonable Accommodations in Employment"

OP-110355 entitled "Procedures for Employee Attendance and Leave"

OP-140125 entitled "Bloodborne Pathogen Exposure Control Program"

85 O.S. 2e, 13, 14, 16, 17.A.1, 22.1, 22.1.A, 22.3, 22.4, 22.8, 24.2

85A O.S. § 45, 47, 51, 68, 302

74 O.S. § 840-2,18 (H) and 2.21, § 913.A.8

57 O.S. § 528.1 and 2

Americans with Disabilities Act

Merit Rule 260:25-15-49

Merit Rule 260:25-15-47

Merit Rule 260:25-15-10(c)

Merit Rule 260:25-5-11(b)

Consolidated General Records Disposition Schedule (CGRDS) 2-57 and 3-27

Oklahoma Department of Labor Pre-notification and Recordkeeping Booklet

www.okdol.state.ok.us

XI. Action

The chief administrators/administrators, division/unit heads, Human Resources Benefits unit and Environmental Health and Safety unit are responsible for compliance with this procedure.

The chief financial officer is responsible for the annual review and revisions.

Any exceptions to this procedure will require prior written approval from the agency director.

This procedure is effective as indicated.

Replaced: OP-110345 entitled "Workers' Compensation Insurance and Accommodations for Injured/Impaired Employees" dated April 11, 2018

Distribution: Policy and Operations Manual
Agency Website

<u>Referenced Forms</u>	<u>Title</u>	<u>Location</u>
DOC 100401A	“Workers’ Compensation Incident Investigation Report”	OP-100401

<u>Attachments</u>	<u>Title</u>	<u>Location</u>
Attachment A	“Oklahoma Department of Corrections Memo to Treatment Provider”	Attached
Attachment B	“Validity of Claim in Question”	Attached
Attachment C	“Work Related Injury/Illness Leave Election Form”	Attached
Attachment D	“First Preference Form”	Attached
Attachment F	“Waiver of Right to Return to Original Position”	Attached
Attachment G	“Return-to-Work Plan Agreement”	Attached
Attachment A	“Incident/Staff Report”	OP-050109
Attachment A	“Employee Request for Reasonable Accommodation”	OP-110346