

COMMENT DUE DATE: February 3, 2023

Date: January 3, 2023

Brent Oldland, HRM

Holli Kyker, Programs Administrator

Brandi Smith, Policy Specialist

405-522-6008

405-982-2217

405-693-6542

It is important that you provide your comments regarding the **draft copy** of policy by the comment due date. Comments are directed to *STO.LegalServices.Policy@okdhs.org. The proposed policy is **PERMANENT**.

SUBJECT:

Subchapter 1. Human Resource Management

Part 1. General Provisions

340:2-1-1 through 340:2-1-3 [REVOKED]

Part 3. Internal Human Resources

340:2-1-28 through 340:2-1-29 [REVOKED]

340:2-1-31 through 340:2-1-32 [REVOKED]

340:2-1-34 [REVOKED]

Part 5. Administrative Procedures

340:2-1-59 [NEW]

Part 7. Recruitment, Selection, and Placement Policy and Procedures

340:2-1-76 [REVOKED]

340:2-1-77 through 340:2-1-79 [REVOKED]

340:2-1-80 through 340:2-1-93 [REVOKED]

340:2-1-85 [REVOKED]

340:2-1-87 through 340:2-1-89 [REVOKED]

340:2-1-93 [REVOKED]

(Reference WFs 23-2A and 22-02)

SUMMARY:

The revocations to Chapter 2, Subchapter 1 prevent possible conflicts between Oklahoma Administrative Code (OAC) 260:130 guidance issued by Office of Management and Enterprise Services (OMES), Human Capital Management (HCM) and similar guidance issued by Oklahoma Human Services (OKDHS) rules in OAC 340:2, Subchapter 1 per Section 34.301 of Title 62 of the Oklahoma Statutes (62 O.S. § 34.301) of the Civil Service and Human Capital Modernization Act.

The proposed amendment to Chapter 2, Subchapter 1 issues a rule to implement guidelines in regard to conducting background checks and utilizing OKDHS records to determine an individual's eligibility for employment or continued employment with OKDHS.

Permanent rulemaking approval is requested

LEGAL AUTHORITY:

Director of Human Services; 56 O.S. § 162 and 56 O.S. § 162(C)(1) and (2).



Rule Impact Statement

To: Programs administrator
Legal Services - Policy

From: Tommi Ledoux, Director of Human Resource Management

Date: April 29, 2022

Re: CHAPTER 2. ADMINISTRATIVE COMPONENTS

Subchapter 1. Human Resource Management

Part 1. General Provisions

340:2-1-1 through 340:2-1-3 [REVOKED]

Part 3. Internal Human Resources

340:2-1-28 through 340:2-1-29 [REVOKED]

340:2-1-31 through 340:2-1-32 [REVOKED]

340:2-1-34 [REVOKED]

Part 7. Recruitment, Selection, and Placement Policy and Procedures

340:2-1-76 [REVOKED]

340:2-1-77 through 340:2-1-79 [REVOKED]

340:2-1-80 through 340:2-1-93 [REVOKED]

340:2-1-85 [REVOKED]

340:2-1-87 through 340:2-1-89 [REVOKED]

340:2-1-93 [REVOKED]

(Reference WF 23-2A)

Contact: Brent Oldland, 405-522-6008

A. Brief description of the purpose of the proposed rule:

Purpose.

The revocations to Chapter 2, Subchapter 1 prevent possible conflicts between Oklahoma Administrative Code (OAC) 260:130 guidance issued by Office of Management and Enterprise Services (OMES), Human Capital Management (HCM) and similar guidance issued by Oklahoma Human Services (OKDHS) rules in OAC 340:2, Subchapter 1 per Section 34.301 of Title 62 of the Oklahoma Statutes (62 O.S. § 34.301) of the Civil Service and Human Capital Modernization Act.

Strategic Plan Impact.

The proposed revocations achieve OKDHS goals by creating seamless alignment with OMES regarding policies and procedures per 62 O.S. § 34.301.

Substantive changes.

Subchapter 1. Human Resource Management.

Part 1. General Provisions

OAC 340:2-1-1 through 340:2-1-3 is revoked.

OAC 340:2-1-28 through 340:2-1-29 is revoked.

OAC 340:2-1-31 through 340:2-1-32 is revoked.

OAC 340:2-1-34 is revoked.

OAC 340:2-1-76 through 340:2-1-83 is revoked.

OAC 340:2-1-85 is revoked.

OAC 340:2-1-87 through 340:2-1-89 is revoked.

OAC 340-2-1-93 is revoked.

Reasons.

The changes announced in the Civil Service and Human Capital Modernization Act per 62 O.S. § 34.301 must be clearly promulgated for accurate compliance with a standardized administration program. Having both HCM guidance and OKDHS guidance is duplicative and disadvantages OKDHS staff efforts to determine which written guidance is relevant. Revoking the proposed Sections, and subsequently incorporating necessary HCM guidance in OKDHS regulations while referencing OAC Title 260 sections, prevents confusion and improves visibility of requirements.

Repercussions.

The proposed revocations necessitate an active internal communications strategy to improve outcomes for OKDHS staff efforts to access relevant rules and policy guidance.

Legal authority.

Director of Human Services; 56 O.S. § 162.

Permanent rulemaking approval is requested.

- B. A description of the classes of persons who most likely will be affected by the proposed rule, including classes that will bear the costs of the proposed rule, and any information on cost impacts received by the Agency from any private or public entities:** The classes of persons most likely to be affected by the proposed revocations are current and future OKDHS staff. The affected classes bear no costs associated with the proposed revocations.

- C. A description of the classes of persons who will benefit from the proposed rule:** The classes of persons who will benefit are OKDHS staff.

- D. A description of the probable economic impact of the proposed rule upon the affected classes of persons or political subdivisions, including a listing of all fee changes and, whenever possible, a separate justification for each fee change:** The proposed revocations have no economic impact on the affected classes of persons.
- E. The probable costs and benefits to the Agency and to any other agency of the implementation and enforcement of the proposed rule, the source of revenue to be used for implementation and enforcement of the proposed rule and any anticipated effect on state revenues, including a projected net loss or gain in such revenues if it can be projected by the Agency:** OKDHS includes the cost of printing and distributing the rules, which is estimated to be less than \$20.
- F. A determination whether implementation of the proposed rule will have an impact on any political subdivisions or require their cooperation in implementing or enforcing the rule:** The proposed revocations do not have an economic impact on any political subdivision, nor is the cooperation of any political subdivisions required in implementation or enforcement of the rules.
- G. A determination whether implementation of the proposed rule will have an adverse economic effect on small business as provided by the Oklahoma Small Business Regulatory Flexibility Act:** No adverse effects on small business as provided by the Oklahoma Small Business Regulatory Flexibility Act are anticipated.
- H. An explanation of the measures the Agency has taken to minimize compliance costs and a determination whether there are less costly or nonregulatory methods or less intrusive methods for achieving the purpose of the proposed rule:** There are no compliance costs associated with these proposed revocations.
- I. A determination of the effect of the proposed rule on the public health, safety, and environment and, if the proposed rule is designed to reduce significant risks to the public health, safety, and environment, an explanation of the nature of the risk and to what extent the proposed rule will reduce the risk:** The proposed revocations affect only the administration of OKDHS staff and have no effect on public health, safety, or the environment.
- J. A determination of any detrimental effect on the public health, safety, and environment if the proposed rule is not implemented:** The proposed revocations affect only the administration of OKDHS staff and have no detrimental effect on public health, safety, or the environment if not implemented.
- K. The date the rule impact statement was prepared and, if modified, the date modified:** Prepared April 29, 2022; modified December 15, 2022



Rule Impact Statement

To: Programs administrator
Legal Services - Policy

From: Tommi Ledoux
Director of Human Resource Management

Date: February 7, 2022

Re: **CHAPTER 2. ADMINISTRATIVE COMPONENTS**
Subchapter 1. Human Resource Management
Part 5. Administrative Procedures
340:2-1-59 [NEW]
(Reference WF 22-02)

Contact: Brent Oldland, (405) 522-6008

A. Brief description of the purpose of the proposed rule:

Purpose.

The proposed amendment to Chapter 2 Subchapter 1 issues a rule to implement guidelines in regard to conducting background checks and utilizing Oklahoma Human Services (OKDHS) records to determine an individual's eligibility for employment or continued employment with OKDHS.

Strategic Plan Impact.

This proposed amendment achieves OKDHS goals by continuously improving systems and processes.

Substantive changes.

Subchapter 1. Human Resource Management

Part 5. Administrative Procedures

Oklahoma Administrative Code (OAC) 340:2-1-57 1 is issued pursuant to Section 162 (C)(1) and (2) of Title 56 of the Oklahoma Statutes (56 O.S. §162(C)(1) and (2)) to: (1) utilize OKDHS records of any individual employed with or who may be employed with the following divisions: (A) Child Welfare Services; (B) Developmental

Disabilities Services; (C) Adult and Family Services; (D) Community Living, Aging, and Protective Services; (E) Child Care Services; (F) Office of the Inspector General; or (G) Office of Client Advocacy; and (2) expand the list of records utilized to conduct background checks to include: (A) the Oklahoma State Courts Network and Oklahoma District Court Records; (B) the Restricted Registry maintained by OKDHS; (C) the Department of Corrections files pursuant to the Sex Offender Registration Act and the Violent Offender Registry; (D) all applicable out-of-state child abuse and neglect registries if the potential or current employee has not lived continuously in Oklahoma for the past five years; (E) the community services worker registry maintained by OKDHS; and (F) the Oklahoma State Bureau of Investigation pursuant to fingerprint-based national criminal history record check.

Reasons.

Per 56 O.S. § 162(C)(1) and (2), the OKDHS Director ensures rules and policies are promulgated to conduct a search of OKDHS records of abuse and neglect both prior to and, if necessary, during the employment of any person with OKDHS and whose scope of employment will bring that individual into direct contact with any vulnerable population.

Repercussions.

If the proposed issuance of the rule is not implemented, OKDHS will not comply with statute.

Legal authority.

Director of Human Services; 56 O.S. § 162(C)(1) and (2).

Permanent rulemaking approval is requested.

- B. A description of the classes of persons who most likely will be affected by the proposed rule, including classes that will bear the costs of the proposed rule, and any information on cost impacts received by the Agency from any private or public entities:** The classes of persons most likely to be affected by the proposed amendment are OKDHS clients and employees. The affected classes of persons will bear no costs associated with implementation of the amendment.
- C. A description of the classes of persons who will benefit from the proposed rule:** The classes of persons who will benefit are OKDHS clients and employees.
- D. A description of the probable economic impact of the proposed rule upon the affected classes of persons or political subdivisions, including a listing of all fee changes and, whenever possible, a separate justification for each fee change:** The proposed issuance of the rule does not have an economic impact on the affected entities. There are no fee changes associated with the rule.
- E. The probable costs and benefits to the Agency and to any other agency of the implementation and enforcement of the proposed rule, the source of revenue to be used for implementation and enforcement of the proposed rule and any**

anticipated effect on state revenues, including a projected net loss or gain in such revenues if it can be projected by the Agency: There are no costs associated with the issuance of the rule.

- F. A determination whether implementation of the proposed rule will have an impact on any political subdivisions or require their cooperation in implementing or enforcing the rule:** The proposed issuance of the rule does not have an economic impact on any political subdivision, nor will the cooperation of any political subdivisions be required in implementation or enforcement of the rule.
- G. A determination whether implementation of the proposed rule will have an adverse economic effect on small business as provided by the Oklahoma Small Business Regulatory Flexibility Act:** There are no anticipated adverse effects on small business as provided by the Oklahoma Small Business Regulatory Flexibility Act.
- H. An explanation of the measures the Agency has taken to minimize compliance costs and a determination whether there are less costly or nonregulatory methods or less intrusive methods for achieving the purpose of the proposed rule:** There are no less costly or non-regulatory methods or less intrusive methods for achieving the purpose of the proposed issuance of the rule.
- I. A determination of the effect of the proposed rule on the public health, safety, and environment and, if the proposed rule is designed to reduce significant risks to the public health, safety, and environment, an explanation of the nature of the risk and to what extent the proposed rule will reduce the risk:** Implementation of the proposed issuance of the rule is intended to ensure the safety of OKDHS job applicants, staff, and OKDHS clients?
- J. A determination of any detrimental effect on the public health, safety, and environment if the proposed rule is not implemented:** Implementation of the proposed issuance of the rule keeps OKDHS compliant with statutes.
- K. The date the rule impact statement was prepared and, if modified, the date modified:** Prepared February 2, 2022 **modified** April 28, 2022; December 15, 2022

SUBCHAPTER 1. HUMAN RESOURCES MANAGEMENT DIVISION

PART 1. GENERAL PROVISIONS

340:2-1-1. Purpose [REVOKED]

~~The purpose of this Subchapter is to describe the Oklahoma Department of Human Services (OKDHS) rules governing the appointment of employees including reinstatements, interagency transfers, direct hires, and applicants, as permitted by the Oklahoma Personnel Act.~~

340:2-1-2. Appointing authority [REVOKED]

~~The Oklahoma Human Services (OKDHS) Director has the power and duty to employ OKDHS personnel. As the OKDHS executive and administrative officer, the Director has final responsibility for all administrative decisions affecting OKDHS personnel actions. Authority to appoint employees in the unclassified service is found in Section 26.17 of Title 56 and Section 840-5.5 of Title 74.~~

340:2-1-3. Oklahoma Merit System of Personnel Administration (Merit System) [REVOKED]

~~The Office of Management and Enterprise Services, Human Capital Management Division (HCM) and the Oklahoma Merit Protection Commission (MPC) are charged with the responsibility for the development, implementation, and administration of the Merit System, per Section 840-1.6A of Title of the Oklahoma Statutes. Oklahoma Human Services (OKDHS) appoints and employs persons in the classified service in accordance with the Merit System of Personnel Administration Rules (Merit Rules). Merit Rules apply to employees in the classified service and some provisions apply to unclassified and exempt employees. OKDHS cooperates fully with both HCM and MPC in fulfilling the responsibilities assigned to merit agencies in the administration of the Merit System.~~

INSTRUCTIONS TO STAFF 340:2-1-3 [REVOKED]

Revised 7-1-10

- ~~1. Electronic access to the Merit Rules are provided to all Oklahoma Department of Human Services (OKDHS) employees at the time the employee enters on duty. The Merit Rules are available on the OPM Web site: <http://www.ok.gov.opm>. All employees are expected to review these rules and ensure that their actions as state employees do not violate Merit Rules.~~
- ~~2. OKDHS policies and procedures are located in each OKDHS office or facility and are made available online for employees to review on the OKDHS InfoNet. Employees are expected to review these rules and procedures and ensure that their actions and conduct are in accordance with OKDHS policy.~~

PART 3. INTERNAL HUMAN RESOURCES

340:2-1-28. Probationary period, classified service [REVOKED]

~~Probationary period upon initial appointment. The probationary period is a working, test period during which an employee is required to demonstrate fitness for the job family and level to which appointed. The probationary period for an appointed employee is one year or until the probationary period is waived after the employee has served a minimum of six months. The decision to grant a probationary employee permanent status is based on supervisory documentation, written evaluations, recommendations, or other pertinent information. The probationary period may not be extended beyond one year, but may be adjusted, per Oklahoma Administrative Code 260:25-11-36. When a probationary employee is absent from work in excess of 30 calendar days, the probationary period is adjusted by the number of days he or she is absent. An employee may be discharged at any time during the probationary period.~~

~~(1) The probationary period is a working, test period during which a classified employee is required to demonstrate fitness for the job family and level to which appointed. The decision to grant a probationary employee permanent status is based on supervisory documentation, written evaluations, recommendations, or other pertinent information.~~

~~(2) Any adjustment of the probationary period must be reviewed and approved by the division director or his or her designee. When permanent status is granted, the Office of Management and Enterprise Services (OMES) Human Capital Management (HCM) Division and the employee receive confirmation from Human Resource Management.~~

~~(3) Employee benefits are available to probationary employees.~~

~~(4) A probationary employee's change in shift assignment or a significant change of duties in excess of 30 calendar days requires prior OMES HCM approval.~~

~~(5) A probationary employee of the Oklahoma Department of Human Services (DHS) is not:~~

~~(A) eligible for promotion or demotion;~~

~~(B) eligible to apply for DHS job announcements;~~

~~(C) transferred from the locality where originally appointed;~~

~~(D) changed from part-time to full-time; or~~

~~(E) transferred to a position in another job family.~~

~~(6) a probationary OKDHS employee may apply for a job through the HCM application system. If a job offer is subsequently made, the offer is to a new appointment and the employee is required to:~~

~~(A) resign from the position held at the time of acceptance; and~~

~~(B) begin a new one-year probationary in the new position.~~

INSTRUCTIONS TO STAFF 340:2-1-28 [REVOKED]

Revised 9-17-18

~~1. It is critical that the immediate supervisor and the reviewing supervisor develop the accountabilities, including tasks, performance standards, and behaviors expected for successful performance in the assigned job family and level. The performance evaluation is opened within the employee's first 30-duty days. The~~

~~immediate supervisor must close out the performance evaluation no later than 30-calendar days prior to completion of the probationary period.~~

- ~~2. When an employee is discharged during a probationary period, the appropriate senior administrator chief officer, deputy director, regional director, area director, or designee is responsible for notifying the employee and other relevant offices. The discharge notice is sent by certified mail to the employee's last known address or delivered by personal service and a copy of the notice is filed in the employee's personnel record.~~
- ~~3. Before extending a job offer to an applicant from another state agency, the selecting official verifies his or her current job family and level, pay band, salary, and status with Human Resource Management.~~

340:2-1-29. Appointments [REVOKED]

~~(a) **Types of appointments.** All appointments of employment within Oklahoma Human Services (OKDHS) are made to the classified service or the unclassified service. Appointments are made, per the Oklahoma Personnel Act, applicable portions of the Oklahoma Administrative Code (OAC), and OKDHS policy.~~

~~(1) **Classified service.** Classified service refers to employees and positions subject to the Oklahoma Merit System of Personnel Administration (Merit System).~~

~~(2) **Unclassified service.** Unclassified service refers to employees and positions not subject to the Merit System, except in very limited circumstances. Employment in the unclassified service is considered employment at will.~~

~~(b) **Reinstatement.** A former state employee who had permanent status in the classified service may be eligible to apply in response to OKDHS job announcements and be considered for reinstatement, per OKDHS rules and OAC. To determine an applicant's reinstatement eligibility, Human Resource Management (HRM) obtains verification from the Office of Management and Enterprise Services Human Capital Management Division at the time of application.~~

~~(1) A permanent employee who leaves classified service is eligible for reinstatement, per OAC 260:25-9-102.~~

~~(2) Prior to enter on duty, the reinstated employee must acknowledge that serving a probationary period is a condition of the job offer.~~

~~(c) **Direct hire authority for hard to fill appointments.** Appointments in the classified service made under the direct hire authority for hard to fill positions serve a probationary period even when a probationary period was served for a previous appointment with any Oklahoma state merit agency, per OAC 260:25-11-30(a) and (c).~~

~~(d) **Temporary appointments.** When OKDHS requires the service of employees on a temporary basis, a person may be appointed into the unclassified service without regard to other provisions governing appointments. No person is appointed under this provision for more than a total of 999 hours in a 12-month period from the date of initial hire with any or all state agencies. Temporary appointments do not confer any privileges or rights of appeal, position, transfer, or reinstatement. Nor do any temporary appointments confer any other rights to any classified position under the Merit System. Local administrators and supervisors are responsible for ensuring that temporary employees do not average 30 or more hours per week without approval, per the Affordable Care and Patient Protection Act (ACA), and do not work more than 999 hours within a 12-month period~~

from the date of initial hire, per Section 840-5.5 of Title 74 of the Oklahoma Statutes. Temporary employees exceeding these limits may become benefits eligible.

~~(e) **Dual appointments.** When an OKDHS employee seeks additional employment with another state agency, he or she must receive approval from the HRM director, who is responsible for addressing and resolving potential Fair Labor Standards Act or AGA employee benefits issues.~~

340:2-1-31. Classification plan [REVOKED]

~~The classification plan is composed of job specifications and job family descriptors (JFD) used by the Oklahoma Human Services that detail the purpose, duties and responsibilities, knowledge, skills, and required for abilities, and the minimum education or experience required for each job position. Jobs may be grouped together into JFDs that may have multiple levels within the same JFD. The Human Resource Management, Classification and Compensation unit maintains the job specification and classification plan for each JFD classified and unclassified job title. The unit also makes revisions to existing JFDs or develops descriptions for new JFDs or other classifications. The Office of Management and Enterprise Services, Human Capital Management Division has the final approval for revisions or creations of classified JFDs.~~

340:2-1-32. Salary Administration Plan and Oklahoma Human Services OKDHS Compensation Guidelines (OKDHSCG) [REVOKED]

~~**Salary Administration Plan (SAP).** The SAP is based on the standard that employees performing similar work receive similar pay and that variation in the requirements is reflected equitably in the pay band.~~

~~(1) **Computation of salary payments.** OKDHS employees are paid per applicable salary schedules.~~

~~(2) **Salary.** The salary for positions in the classified service is the salary identified in the SAP, except as provided in Oklahoma Administrative Code (OAC) 260:25-7-1 through 260:25-7-27. The salary for positions in the unclassified service is normally a comparable salary. Requests to establish salary above the established hiring rate may be processed per the special entrance rate or salary exception request process as described in the OKDHSCG. The salary of a new employee is effective on the employee's first working day.~~

340:2-1-34. Employment verifications and references [REVOKED]

~~(a) **Employment verification inquiries.** Oklahoma Department of Human Services (DHS) responses to employment verification inquiries, such as credit references, work status inquiries, and employment references on employees or former employees are made either by Financial Services (FS) or Human Resource Management (HRM), except as noted in (b) of this Section.~~

~~(1) FS or HRM provides only the employee's or former employee's correct name, dates of employment, and the current or last job family descriptor and level held.~~

~~(2) an employee's or former employee's address, Social Security number, or other information is not provided.~~

~~(3) Only salary confirmation information is provided.~~

~~(4) additional information may be released only upon receipt of a written authorization from the employee or former employee.~~

~~(b) **References.** Professional references cannot impart any confidential information and must be void of personal opinion and content of a defamatory, retaliatory, or discriminatory nature.~~

~~(1) **Internal requests.** Supervisors and managers must respond to reference requests initiated within DHS. The response is in writing either by memo or email.~~

~~(2) **External requests.** Managers and supervisors do not respond to verbal requests for references. A release for information signed by the employee must be received.~~

~~(c) **Personal references.** Employees or former employees frequently ask administrators, managers, supervisors, or co-workers for personal references. Individuals providing references are cautioned they may be liable and subject to discipline for providing incorrect, inappropriate, or exaggerated references or information.~~

INSTRUCTIONS TO STAFF 340:2-1-34 [REVOKED]

Revised 09-17-18

~~1. **Sample phone response to an inquiry is limited to:** "Thank you for calling the Oklahoma Department of Human Services (DHS). I am pleased to confirm that Mr. or Mrs. (employee name) was an employee of DHS from (date) to (date) as a (position title) at (position location). We are unable to release additional information without a signed release from the person."~~

~~2. **Examples of prohibited information in a reference include:**~~

~~(1) knowingly false information or information attacking a person's reputation;~~

~~(2) personal information, such as sexual orientation or medical history;~~

~~(3) age, ethnic background, Americans with Disabilities Act, or other statutorily protected information;~~

~~(4) negative information intended to retaliate;~~

~~(5) misleading information about a person who poses a risk of harm; and~~

~~(6) misrepresentation by not disclosing the employee received corrective discipline for violence in the workplace.~~

~~3. **Do not provide professional reference by phone. Requests are responded with:** "We are unable to release information without a signed authorization document from the person."~~

~~(1) The request for reference must be in writing and identify the source of the request. A release may be provided to the requester's organization to obtain proper authorization from the applicant or employee in question. Mailed, emailed or faxed copies of requests are accepted.~~

~~(2) The release is provided upon request from the business or company seeking a professional reference and is not to be given directly to the employee.~~

~~(3) If the unit receiving the request has a pre-signed release from the employee on file, no further authorization is needed.~~

~~(4) Former or current employees may revoke a previously executed release in writing, to the location where the signed release was furnished. Revocation of a previously executed release can only be made in writing to~~

~~the location where the signed release was furnished. Current and former employees wanting to revoke a previously executed release verbally are instructed to submit the request in writing to the location where the signed release was furnished.~~

~~(5) A copy of any information released is retained in the local personnel file for a minimum of two years.~~

~~4. The local human resources liaison assists the manager by checking personnel records prior to responding to the reference to confirm that the reason for leaving DHS was either voluntary or involuntary.~~

~~5. DHS or state letterhead is not used for a personal reference request.~~

PART 5. ADMINISTRATIVE PROCEDURES

340:2-1-59. Conducting background checks and utilizing Oklahoma Human Services (OKDHS) records of abuse, neglect, and exploitation for OKDHS investigations.

ISSUED 04-28-22

(a) Authorization.

(1) Per Section 162 of Title 56 of the Oklahoma Statutes (56 O.S. §162(C)(1) and Section 162 of Title 56 of the Oklahoma Statutes (56 O.S. §162(C)(2), the Director has determined an individual seeking any position of employment or who is currently employed by Oklahoma Human Services (OKDHS) may be subjected to a background check. Any results of a background check are considered when determining an individual's pending or continued employment with OKDHS.

(2) Per 56 O.S. § 162(C)(2), the Director has determined a search of OKDHS records, as defined in subsection (d), may be conducted on any individual employed with or who may be potentially employed with the following programs:

(A) Child Welfare Services (CWS);

(B) Developmental Disabilities Services (DDS);

(C) Adult and Family Services;

(D) Community Living, Aging, and Protective Services (CAP);

(E) Child Care Services;

(F) Office of the Inspector General (OIG); or

(G) Office of Client Advocacy.

(b) Definitions. The following words and terms, when used in this Subchapter, have the following meanings, unless the context clearly indicates otherwise:

(1) "Background check" means searching available public record databases for purposes of assessing whether to initiate or continue an individual's employment with OKDHS.

(2) "Investigation" means reviews of both potential and current employees for any acts that are in violation of a statute, rule, or policy related to a vulnerable population or acts that could be associated with criminal activity or potentially disqualify an individual from becoming an OKDHS employee or continuing employment with OKDHS.

(3) "Record" or "records" means any OKDHS record, whether or not containing confidential information, related to a determination by OKDHS, whether substantiated

or unsubstantiated, that an employee or potential employee subjected any member of a vulnerable population to abuse, neglect, or exploitation.

(4) "Vulnerable population" means any individual or group, whether comprised of children or adults, that OKDHS is responsible for protecting, ensuring the welfare of, guarding, or investigating allegations of abuse, neglect, or exploitation.

(c) **Background checks.** A background check includes, but is not limited to, searching and reviewing:

(1) the Oklahoma State Courts Network and Oklahoma District Court records;

(2) the Restricted Registry maintained by OKDHS;

(3) the Department of Corrections files pursuant to the Sex Offender Registration Act and the Violent Offender Registry;

(4) all applicable out-of-state child abuse and neglect registries if the potential or current employee has not lived continuously in Oklahoma for the past five years;

(5) the Community Services Worker Registry maintained by OKDHS; and

(6) a fingerprint-based national criminal history record check.

(d) **Access to, review of, and utilization of OKDHS records.**

(1) Any record is to be accessed and used solely for the purpose of:

(A) assisting in the investigative efforts of the OKDHS OIG;

(B) assessing whether an employee is authorized or permitted to work or interact with a vulnerable population in the course and scope of their employment; or

(C) determining whether an individual begins or, for purposes of disciplinary action, continues employment with OKDHS.

(2) Subject to an assessment of relevancy, any records involving the potential or current employee, including records associated with members of the potential or current employee's household or immediate family, may be accessed, reviewed, and utilized pursuant to this Section.

(3) Any and all records, including any work product and other documentation created in the course and scope of an individual's employment with OKDHS, may be accessed, reviewed, and utilized pursuant to this Section.

(4) Records relating to any complaint about the potential or current employee's actions or inaction may be accessed, reviewed, and utilized pursuant to this Section.

(5) The relevancy of records is considered on a case-by-case basis and is jointly determined by both Human Resource Management (HRM) and the program responsible for maintaining the record with consultation, as needed, involving OIG and OKDHS Legal Services (LS).

(6) Relevant acts contained in any record include, but are not limited to:

(A) being the alleged perpetrator of abuse, neglect, or exploitation involving a vulnerable population, including complaints of failing to supervise or protect;

(B) failing to cooperate in an investigation conducted by OKDHS or other law enforcement agencies;

(C) failing to follow laws, rules, and regulations that pertain to the conduct of an investigation related to a vulnerable population; or

(D) failing to report suspected abuse, neglect, or exploitation of a vulnerable population.

(7) Dissemination of the records outside of the program responsible for maintaining the records is limited to only the individuals who are directly involved in conducting the

investigation or background check, including any consultation with LS. Records do not need to be redacted for purposes of the investigation or background checks, but are, to the extent possible, labeled as confidential when disseminated outside of the program responsible for maintaining the records. Records are not saved in any personnel file and all copies sent to HRM for purposes of the employment investigation or background check are securely destroyed, per OKDHS:2-21-57.

(e) **Records remain confidential pursuant to applicable law.** The use of any records pursuant to this Section does not invalidate or in any way compromise other legal protection or regulation of those records including, but not limited to, the confidentiality of records involving CWS, CAP, or DDS.

PART 7. RECRUITMENT, SELECTION, AND PLACEMENT

340:2-1-76. Appointments and changes in employee classification not subject to vacancy posting provisions [REVOKED]

~~The local administrator submits a request to Human Resource Management (HRM) to announce personnel vacancies. Appointments and changes in employee job family descriptor (JFD) and level or position not subject to the vacancy notice posting provisions are:~~

- ~~(1) temporary appointments;~~
- ~~(2) detail to special duty or other temporary assignments that do not affect an employee's base JFD and level or classification;~~
- ~~(3) intra-agency lateral transfer of a permanent employee from one position to another position in the same JFD and level or another JFD in the same pay band;~~
- ~~(4) voluntary and involuntary demotion to a vacant position;~~
- ~~(5) direct reclassification made when a new JFD is adopted that better describes an incumbent's job;~~
- ~~(6) position reallocation;~~
- ~~(7) career progression promotions;~~
- ~~(8) positions limited to the prescribed length of time of the course of training or extension study;~~
- ~~(9) positions where the Oklahoma Department of Human Services (DHS) has elected to establish separate policies or to test pilot rules within specific organizational units, and where such policies are publicized prior to implementation;~~
- ~~(10) positions converted from the classified to the unclassified service, or from the unclassified to the classified service by appointment, reinstatement, or position reallocation of an incumbent per Merit System of Personnel Administration Rules (Merit Rules) and DHS policy;~~
- ~~(11) transfer of an employee, position, or both, from one work organization to another; and~~
- ~~(12) positions in the unclassified service. The DHS Director or designee may waive the vacancy posting provisions of this policy for positions in the unclassified service.~~

340:2-1-77. Vacancy posting procedures [REVOKED]

~~(a) **Classified service vacancy announcements.** All vacant positions in the classified service are posted per the rules in this Section prior to the filling of such vacancies except as provided in Oklahoma Administrative Code (OAC) 340:2-1-76.~~

~~(b) **Unclassified service vacancy announcements.** Announcements in the unclassified service may be posted for application. The Oklahoma Human Services (OKDHS) Director or designee may waive the vacancy posting provisions of this rule for positions in the unclassified service. The process outlined in this Section may be used or, at the discretion of the appointing authority, applications may be solicited through other recruiting methods.~~

~~(c) **Notification of cancellation.** A vacancy posting may be canceled at any time. When the cancellation occurs, Human Resource Management notifies all applicants.~~

340:2-1-78. Method of application [REVOKED]

~~(a) **Classified employment application.** Persons seeking initial appointment in the classified service must apply online. Applicants must meet the minimum education and experience qualifications for the positions and, if required, complete a supplemental questionnaire.~~

~~(b) **Permanent, classified or former permanent classified employees eligible for reinstatement.** Persons seeking interagency and reinstatement appointments must apply online. Applicants must meet the minimum education and experience qualifications for the position.~~

~~(c) **Unclassified service.** The Oklahoma Human Services may post positions in the unclassified service. When an unclassified position is posted, persons seeking an unclassified appointment must apply online.~~

340:2-1-79. Eligibility to compete for classified service positions [REVOKED]

~~(a) Eligible applicants must possess the required minimum education and experience for the job family descriptor (JFD) and level and any announced selective qualifications within 30-calendar days of the closing date of an announcement.~~

~~(b) When the vacancy posting indicates Oklahoma Human Services (OKDHS) employees only, then an applicant must be:~~

~~(1) current permanent, classified OKDHS employee;~~

~~(2) current unclassified, OKDHS employee with reinstatement eligibility to the classified service; or~~

~~(3) former permanent, classified OKDHS employee with reinstatement eligibility to the classified service.~~

~~(c) When the vacancy posting indicates all sources (eList), a public announcement is made that allows any person to be recruited and compete.~~

~~(d) When the vacancy posting is for a JFD approved by the Office of Management and Enterprise Services Human Capital Management Division (HGM) under the Model Project agreement, indicating all sources, then any applicant meeting the education and experience requirements may apply online.~~

~~(e) When the vacancy posting indicates all sources, after complying with Oklahoma Administrative Code 340:2-1-84(b), the selecting official may consider applicants from an HGM eList.~~

340:2-1-80. Eligibility to compete for positions in the unclassified service [REVOKED]

- ~~(a) If the vacancy posting indicates Oklahoma Human Services (OKDHS) employees only, applicants must be current, temporary, or former employees of OKDHS.~~
- ~~(b) If the vacancy posting does not indicate OKDHS employees only, any person may be recruited and compete.~~

340:2-1-81. Issuing eLists [REVOKED]

- ~~(a) Human Resource Management (HRM) prepares the list of applicants for the announced position. Applicants are screened to determine eligibility.~~
- ~~(b) When the position is in the classified service and announced as a classified position, applicants may be considered from all sources. The local administrator may request that HRM issue an Office of Management and Enterprise Services Human Capital Management (HCM) Division eList for the announced job family descriptor and level, and authorized announced alternate hiring level, as applicable. The selecting official:
 - ~~(1) must use the internal list of applicants; and~~
 - ~~(2) may use the regular HCM eList that includes the:
 - ~~(A) Priority Reemployment eList; and~~
 - ~~(B) Free List, Optional Program for Hiring Applicants with Disabilities.~~~~~~

340:2-1-82. Job-related selection criteria [REVOKED]

- ~~(a) At the time a decision is made to fill a position, the supervisor of the position is responsible for reviewing and determining job-related selection criteria based on the duties of the position. These job-related selection criteria are used to develop interview questions and any other selection procedures, such as skill assessments, simulations, or case studies. Human Resource Management is available to assist with development of interview questions.~~
- ~~(b) The selecting official is normally in the program's upper organizational structure for the position being filled.~~
- ~~(c) The selecting official must consider (1) through (3) of this subsection when selecting applicants for interview and making the selection decision. Job-related information is:
 - ~~(1) the application for employment;~~
 - ~~(2) the employee's most recent performance evaluation, when available. Selection advisory committees may review earlier performance evaluations only when done consistently for all applicants; and~~
 - ~~(3) work histories, if when available, job-related references, and other job-related documents may be considered when done consistently for all applicants.~~~~
- ~~(d) The selecting official is responsible for validating an applicant's work experience and education history, and determining if the applicant meets the minimum qualifications for the position.~~
- ~~(e) A felony conviction, by itself, is not sufficient cause to prevent an applicant from being considered for employment with the State of Oklahoma. The underlying crime and its circumstances; however, may be taken into account when determining whether it is appropriate to make a conditional offer of employment. per the Governor's Executive Order 2016-03. Before making a conditional job offer to an applicant with a felony conviction, written approval in the form of a memo or email must be obtained from the~~

senior administrator or the executive officer to whom the senior administrator reports. This approval is included in the official personnel file.

INSTRUCTIONS TO STAFF 340:2-1-82 [REVOKED]

Revised 9-17-18

- ~~1. Local administrators or persons higher in the organizational structure in a given program area may serve as selecting officials.~~
- ~~2. To verify the applicant's credentials for employment and personal references, the selecting official may utilize Form 11PE006E, Form Letter to Employment Reference, and Form 11PE007E, Form Letter to Personal Reference, and send a written request on Oklahoma Department of Human Services (OKDHS) letterhead or make direct contact by telephone.
 - ~~(1) When an employer or reference requires authorization to release information about an applicant, the selecting official provides the reference a copy of the signature page from the employment application.~~
 - ~~(2) The selecting official may designate a staff member to conduct credentials verification and reference checks.~~
 - ~~(3) The selecting official documents any attempts to obtain references and employment verifications when contacts do not cooperate or fail to respond.~~~~
- ~~3. The selecting official ensures all information used to aid in determination of the selection process is justified and documented.
 - ~~(1) When a bachelor's degree is the minimum requirement for a position, the selecting official must review a copy of the transcript or a signed registrar's letter affirming the degree was awarded.~~
 - ~~(2) Job-related factors, such as results of an interview, credentials, work history, skills assessments, and references may be considered.~~
 - ~~(3) A value is assigned to each factor used in the selection process. The interview factor is no less than one-third, but no more than one-half of the overall assessment.~~~~
- ~~4. When the selecting official considers an applicant with a felony conviction the hiring decision must include consideration of the position's duties, the nature of the criminal offense, and the date of conviction. Some positions have employment bans due to the nature of the criminal infraction. Other positions may prohibit employment due to prior findings related to abuse, neglect, or exploitation, for example, the Nursing Home Care Act, Section 1-1950.1 of Title 63 of the Oklahoma Statutes.~~

340:2-1-83. Selection advisory committee for classified positions [REVOKED]

~~(a) A committee is established by the selecting official or designee to provide assistance in the consideration, interview, and selection process of applicants for any classified supervisory, managerial, or Fair Labor Standards Act (FLSA) exempt position. Upon request, the requirement for a committee may be waived. A waiver request, including justification, must be submitted to the Human Resource Management director for consideration. When there is only one applicant, a committee is not required. The selecting official is responsible for ensuring the interview time, date, and location are timely conveyed to applicants selected for interviews.~~

- ~~(b) Initial interview committees must have at least three members, one of whom must be from a program unrelated to of the vacant position.~~
- ~~(c) The selecting official does not serve as a member of any initial committee.~~
- ~~(d) A selection advisory committee is not required for entry-level and nonsupervisory positions. When a local administrator elects to use a committee for such positions, there is no minimum member requirement and the requirement for one member to be from an unrelated program is waived. The selecting official may delegate responsibility for conducting interviews or include individual staff members in the interview process for entry-level and nonsupervisory positions as an alternative to use of a committee.~~
- ~~(e) A selection advisory committee may be utilized when filling an unclassified position, although it is not a requirement.~~
- ~~(f) Oklahoma Department of Human Services (DHS) employees must complete an approved training course related to job interviews and the selection process prior to serving on a selection advisory committee.~~
- ~~(g) A former DHS employee or a community partner may be asked to serve on a selection advisory committee. These individuals are not required to complete an approved training course related to job interviews and the selection process, but cannot chair the committee.~~

INSTRUCTIONS TO STAFF 340:2-1-83 [REVOKED]

Revised 9-17-18

- ~~1. The procedures for the selection advisory committee are described in (1) through (6) of this Instruction.~~
 - ~~(1) The selecting official may delegate to the committee review of all applicant materials, and the decision as to which applicants are to be interviewed. The committee members participate in all applicant interviews before a selection recommendation is made.~~
 - ~~(2) The selecting official may appoints one committee member from a program outside of the position being filled.~~
 - ~~(A) When, due to location or organizational structure, it is an inefficient or ineffective use of Oklahoma Department of Human Services (DHS) resources to appoint a committee member from another program, the selecting official:
 - ~~(i) first documents his or her efforts to obtain a committee member from outside the program; and~~
 - ~~(ii) then chooses a committee member outside of the program area of the position being filled.~~~~
 - ~~(B) The selecting official may utilize a person outside of DHS as a committee member.~~
 - ~~(3) The initial committee, after considering all applicants and interviews, recommends and provides job-related information regarding the applicants' qualifications to the selecting official. Any subsequent committees also provide a list of recommendations and job-related information regarding the applicants' qualifications to the selecting official.~~
 - ~~(4) The selecting official must review the list of applicants, with the local administrator before submitting it to Human Resource Management (HRM) HRM. The committee recommendations are not binding on the selecting official.~~

~~(5) When the selecting official does not select one of the applicants recommended by the committee, then a decision not to accept the committee recommendations is documented in writing by the selecting official and reviewed with the local administrator or the selecting official's immediate supervisor. The written documentation is maintained in the local announcement folder.~~

~~(6) The selecting official or local administrator provides the name, job family descriptor, level, and work location of each committee member on the selection report submitted to HRM.~~

340:2-1-85. Final selection [REVOKED]

~~(a) The selecting official may fill the position, cancel the announcement, or reannounce the position. The local administrator is responsible for obtaining reviews or approvals from higher management levels, ensuring compliance with the Oklahoma Department of Human Services (DHS) rules and Merit System of Personnel Administration rules governing the selection process and forwarding the completed list of applicants immediately to Human Resource Management upon the employee's acceptance of a conditional job offer.~~

~~(b) The selecting official is responsible for ensuring the salary approved for the selection is in compliance with Oklahoma Administrative Code 340:2-1-87.~~

~~(c) The selecting official ensures internal applicants and any applicants contacted from the eList are notified of the final selection decision.~~

INSTRUCTIONS TO STAFF 340:2-1-85 [REVOKED]

Revised 9-17-18

~~1. (a) Interagency transfers and reinstatements. When the selection results in an interagency transfer or reinstatement, the local administrator of the gaining unit contacts Human Resource Management to confirm starting salary before making a conditional job offer.~~

~~(b) Reinstatements. Written notice of probationary status is required for the reinstated employee prior to entering on duty when a probationary period is utilized.~~

340:2-1-87. Compensation [REVOKED]

~~All vacancy posting selection decisions are subject to the compensation provisions listed in the Agency Compensation Guidelines. Positions in the classified service are subject to the provisions of Merit System of Personnel Administration Rules.~~

340:2-1-88. Alternate hiring levels [REVOKED]

~~(a) Alternate hiring levels are authorized by the Office of Management and Enterprise Services Human Capital Management Division into a job family where there are basic, entry, for full performance jobs, or where Oklahoma Human Services (OKDHS) experiences recruiting difficulties for a specific job family descriptor and level.~~

~~(b) Hiring at the alternate hiring level may be a result of a position reallocation decision, vacancy announcement, or actions exempt from the announcement process. Position reallocation alternate hiring level is authorized if the position incumbent is ineligible for~~

~~reclassification due to qualifications, status, examination, or if the employee is in a trainee status and has not completed a prescribed training program and is performing duties below the full performance level.~~

~~(c) Employees hired at an alternate hiring level may progress to the next level upon completion of probation, if applicable, and meeting minimum education, experience, and licensure requirements.~~

340:2-1-89. Office of Management and Enterprise Services Human Capital Management Division eList - classified service [REVOKED]

~~(a) **General provisions.** This Section provides basic information regarding Office of Management and Enterprise Services Human Capital Management Division (HCM) eLists. For assistance, consult Merit System of Personnel Administration rules (Merit Rules) Oklahoma Administrative Code 260:25-9 or contact Human Resource Management (HRM).~~

~~(b) **Required procedures for HCM eLists.**~~

~~(1) Applicants for competitive and non-competitive positions apply using the State of Oklahoma online application for employment through the HCM website.~~

~~(2) Interviews may be conducted at the discretion of the selecting official from the HCM eList.~~

~~(3) Interview notification letters sent by email are sent at least four calendar days prior to the interview date. The applicant's response to the invitation to interview must be received within 72 hours from the date of the email.~~

~~(c) **Submission of HCM eList and support documentation to HRM.**~~

~~(1) The selecting official returns the properly coded HCM eList to HRM for finalization of the personnel transaction.~~

~~(2) If no applicant is selected from the HCM eList, the HCM eList must be returned to HRM, prior to the void date.~~

~~(d) **Review of returned HCM eList.**~~

~~(1) HRM retains the file copy of the HCM eList.~~

~~(2) HCM audits the eLists for compliance with Merit Rules after the selected candidate enters on duty. HCM has authority to void any appointment not compliant with Merit Rules.~~

340:2-1-93. Applicants previously discharged from employment [REVOKED]

~~Before making a job offer to any previously discharged state employee, written approval must be obtained from the hiring senior administrator or the executive officer to whom the senior administrator reports. This approval is included in the official personnel file.~~