

**COMMENT DUE DATE: February 16, 2021**

**Date: January 15, 2021**

**Brent Oldland, HRM 405-522-6008**  
**Nancy Kelly, Policy Specialist, Legal Services – Policy 405-522-6703**  
**Dena Thayer, Programs Administrator, Legal Services - Policy 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 amendment is **permanent**.

**SUBJECT: CHAPTER 2. ADMINISTRATIVE COMPONENTS**

Subchapter 1. Human Resource Management

Part 1. General Provisions

340:2-1-2 through 340:2-1-6 [AMENDED]

340:2-1-8 [AMENDED]

Part 3. Internal Human Resources

340:2-1-26 through 340: 2-1-27 [REVOKED]

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

340: 2-1-30 [REVOKED]

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

Part 4. Alcohol and Drug Testing Applicable to ~~OKDHS Employees and~~  
Oklahoma Human Services Applicants

340:2-1-40 through 340:2-1-41 [AMENDED]

340:2-1-42 through 340:2-1-43 [REVOKED]

340:2-1-44 [AMENDED]

340:2-1-46 [REVOKED]

Part 5. Administrative Procedures

340:2-1-56 [AMENDED]

340:2-1-58 [AMENDED]

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

340:2-1-77 through 340:2-1-80 [AMENDED]

340:2-1-88 [AMENDED]

340:2-1-93 [AMENDED]

Subchapter 15. Risk and Safety Management [REVOKED]

Part 1. Risk Management Program [REVOKED]

340:2-15-1 through 340:2-15-2 [REVOKED]

340:2-15-4 through 340:2-15-5 [REVOKED]

340:2-15-7 [REVOKED]

Part 3. Hazard Communication Program [REVOKED]

340:2-15-25 [REVOKED]

340:2-15-27 [REVOKED]

340:2-15-27.1 [REVOKED]

340:2-15-28 [REVOKED]

Part 5. Alcohol and Drug Testing For Drivers of Commercial Vehicles  
[REVOKED]  
340:2-15-40 through 340:2-15-49 [REVOKED]  
**(Reference WF 21-2C)**

**SUMMARY:**

The proposed amendments to Chapter 2, Subchapter 1, revise Oklahoma Human Services (OKDHS) rules to reflect contemporary usage coincident with the State's 2020 rebranding initiative to OKDHS, replace outdated language, and revoke those rules focused solely on internal agency policies, which by separate action are being updated to reflect the inclusion of the former rules. The proposed revocations to Chapter 2, Subchapter 15, remove information about internal, staff-only processes from Oklahoma Administrative Code (OAC) for relocation to OKDHS Regulations.

**PERMANENT APPROVAL:** Permanent rulemaking is requested.

**LEGAL AUTHORITY:** Director of Human Services; Section 162 of Title 56 of the Oklahoma Statutes (56 O.S. § 162).

## Rule Impact Statement

**To:** Programs administrator  
Legal Services - Policy

**From:** Tommi Ledoux, Deputy Director  
Human Resource Management (HRM)

**Date:** December 18, 2020

**Re:** **TITLE 340. DEPARTMENT OF HUMAN SERVICES**  
**CHAPTER 2. ADMINISTRATIVE COMPONENTS**  
Subchapter 1. Human Resource Management  
Part 1. General Provisions  
340:2-1-2 through 340:2-1-6 [AMENDED]  
340:2-1-8 [AMENDED]  
Part 3. Internal Human Resources  
340:2-1-26 through 340: 2-1-27 [REVOKED]  
340:2-1-28 through 340: 2-1-29 [AMENDED]  
340: 2-1-30 [REVOKED]  
340: 2-1-31 through 340:2-1-32 [AMENDED]  
Part 4. Alcohol and Drug Testing Applicable to ~~OKDHS Employees and~~  
Oklahoma Human Services Applicants  
340:2-1-40 through 340:2-1-41 [AMENDED]  
340:2-1-42 through 340:2-1-43 [REVOKED]  
340:2-1-44 [AMENDED]  
340:2-1-46 [REVOKED]  
Part 5. Administrative Procedures  
340:2-1-56 [AMENDED]  
340:2-1-58 [AMENDED]  
Part 7. Recruitment, Selection, and Placement Policy and Procedures  
340:2-1-77 through 340:2-1-80 [AMENDED]  
340:2-1-88 [AMENDED]  
340:2-1-93 [AMENDED]  
Subchapter 15. Risk and Safety Management [REVOKED]  
Part 1. Risk Management Program [REVOKED]  
340:2-15.1 through 340:2-15-2 [REVOKED]  
340:2-15-4 through 340:2-15-5 [REVOKED]  
340:2-15-7 [REVOKED]  
Part 3. Hazard Communication Program [REVOKED]  
340:2-15-25 [REVOKED]  
340:2-15-27 [REVOKED]  
340:2-15-27.1 [REVOKED]  
340:2-15-28 [REVOKED]  
Part 5. Alcohol and Drug Testing For Drivers Of Commercial Vehicles  
[REVOKED]

340:2-15-40 through 340:2-15-49 [REVOKED]  
(Reference WF 21-2C)

**Contact: Brent Oldland, 405-522-6008**

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

**Purpose.**

The proposed amendments to Chapter 2, Subchapter 1, revise Oklahoma Human Services (OKDHS) rules to reflect contemporary usage coincident with the State's 2020 rebranding initiative to OKDHS, replace outdated language, and revoke those rules focused solely on internal agency policies, which by separate action are being updated to reflect the inclusion of the former rules. The proposed revocations to Chapter 2, Subchapter 15, remove information about internal, staff-only processes from Oklahoma Administrative Code (OAC) for relocation to OKDHS Regulations.

**Strategic Plan Impact.**

The proposed amendments achieve OKDHS goals by continuously improving systems and processes.

**Substantive changes.**

Subchapter 1. Human Resource Management

Part 1. General Provisions

OAC 340:2-1-2 is amended to update the statutory authority of the OKDHS Director.

OAC 340:2-1-3 is amended to replace outdated language.

OAC 340: 2-1-4 is amended to replace outdated language and to reference federal statute.

OAC 340: 2-1-5 is amended to replace outdated language and clarify an employee's entitlement to benefits.

OAC 340:2-1-6 is amended to correct the referenced authority.

OAC 340: 2-1-8

Part 3. Internal Human Resources

OAC 340:2-1-26 and 340:2-1-27 are revoked because OKDHS adopted a commercial application management system to bring new employees into the workforce, and its online capabilities make legacy "pen and paper" processes irrelevant.

OAC 340:2-1-28 is amended to more accurately define and regulate an employee's probationary period.

OAC 340:2-1-29 and 340:2-1-31 are revised to replace outdated language.

OAC 340:2-1-32 is revised to better describe the Salary Administration Plan and OKDHS compensation guidelines.

OAC 340:2-1-30, 340:2-1-42, and 340:2-1-43, are revoked because their incorporation into OKDHS Regulations makes their inclusion in OAC redundant.

Part 4. Alcohol and Drug Testing Applicable to ~~OKDHS Employees and Applicants~~

OAC 340:2-1-40 and 340:2-1-41 are amended to reflect updated rules and language.

OAC 340:2-1-44 is amended to include updated language reducing verbosity.

OAC 340:2-1-46 is revoked as being outdated and unnecessary.

Part 5. Administrative Procedures

OAC 340:2-1-56 is amended to include updated clarifying language.

OAC 340:2-1-58 is amended to expand the circumstances under which an OKDHS office may be temporarily closed and to revoke the previous Instructions to Staff.

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

OAC 340:2-1-77 is amended to add rules for vacancy posting procedures.

OAC 340:2-1-78 through 340:2-1-79 are revised to replace outdated language.

OAC 340-2-1-80, 340-2-1-88, and 340-2-1-93 are revised to include clarifying language.

Subchapter 15. Risk and Safety Management is revoked. Internal OKDHS procedures will hereafter be published in DHS Regulations.

Part 1. Risk Management Program, Part 3. Hazard Communication Program, and Part 5. Alcohol and Drug Testing for Drivers of Commercial Vehicles, are revoked because all internal OKDHS procedures will hereafter be published in OKDHS Regulations.

OAC 340:2-15-1, 340:2-15-2, 340:2-15-4, 340:2-15-5, 340:2-15-7, 340:2-15-25, 340:2-15-27, 40:2-15-27.1, 340:2-15-28, and 340:2-15-40 through 340:2-15-49, are revoked because internal OKDHS procedures will hereafter be published in OKDHS Regulations.

**Reasons.**

The proposed amendments are made to comply with Executive Order 2020-03.

**Repercussions.**

If the proposed amendments are not implemented, OKDHS will not comply with Executive Order 2020-03.

**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 amendments and revocations are OKDHS job applicants and employees. The affected classes of persons will bear no costs associated with implementation of the amendments or 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 job applicants 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 amendments and revocations do not have an economic impact on the affected entities. There are no fee changes associated with the revised rules.
- 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 implementation of the amendments and revocations.
- 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 amendments and revocations do 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 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:** 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 amendments and 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:** Implementation of the proposed amendments and revocations are intended to ensure the safety of OKDHS job applicants and staff.
- 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 amendments and revocations keeps the rules compliant with statutes.

**K. The date the rule impact statement was prepared and, if modified, the date modified:** Prepared July 8, 2020; modified July 10, 2020, November 19, 2020; and December 18, 2020.

## SUBCHAPTER 1. HUMAN RESOURCE MANAGEMENT

### PART 1. GENERAL PROVISIONS

#### **340:2-1-2. Appointing authority**

Revised ~~7-1-10~~ 9-15-21

~~Section 4 of Article XXV, of the Constitution of the State of Oklahoma provides that the The Director of the Oklahoma Department of Human Services (OKDHS) Director has the power and duty to employ OKDHS personnel of OKDHS. As the OKDHS executive and administrative officer of OKDHS, the Director has final responsibility for all administrative decisions affecting OKDHS personnel actions of OKDHS. Authority to appoint employees in the unclassified service is found in Section 26.17 of Title 56 and Sections 840-5.3 through 5.5 Section 840-5.5 of Title 74 of the Oklahoma Statutes.~~

#### **340:2-1-3. Oklahoma Merit Protection Commission (MPC) System of Personnel Administration (Merit System)**

Revised ~~6-26-03~~ 9-15-21

~~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. [74 O.S. § 840-1.4 per Section 840-1.6A of Title 74 O.S. § 840-1.6A] The of the Oklahoma Statutes. Oklahoma Department of Human Services (OKDHS) appoints and employs persons in the classified service in accordance with the Merit System of Personnel Administration Rules (Merit Rules). ■-4 Merit Rules apply to employees in the classified service. ~~Some and some~~ provisions of the Merit Rules also apply to unclassified and exempt employees. ~~The Oklahoma Commission for Human Services has adopted the personnel policies and procedures found in OAC 340:2-1. ■~~ 2 OKDHS cooperates fully with both OPM 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.~~

#### **340:2-1-4. Political activity**

Revised ~~4-26-99~~ 9-15-21

~~(a) There are two documents which govern the partisan political activities of the employees of the Department of Human Services: the Federal Hatch Political Activities Act, which applies to State and local government employees working in federally aided~~



programs; and the Laws, Rules and Regulations of the Oklahoma Ethics Commission, which apply to all classified employees working under these rules. A state employee may not:

~~(1) The Hatch Act is enforced by the United States Civil Service Commission. The Oklahoma State Laws are enforced by the Ethics Commission. The Department of Human Services is responsible for assuring that its employees conform to the applicable provisions in each of these documents. Where the State or local laws or regulations established more strict prohibitions than are set forth by the Hatch Act on the political activity of State and local employees, these laws or regulations remain in effect. It was not the intent of Congress to preempt or supersede, by amendment, any existing State or local laws or regulations. use his or her position for the purpose of interfering with an election to, or a nomination for, office or affecting the result thereof;~~

~~(2) The provisions of the Ethics Commission contain more strict prohibitions on political activity than does the Hatch Act. Therefore, based on paragraph (1) of this Section, these Personnel Rules take precedence over the Hatch Act and must be adhered to by the employees of this Department. The major provisions of these Rules are summarized in (A) - (E) of this paragraph. wear a campaign item, such as a button, hat, or badge during the hours he or she is officially in work status for the agency;~~

~~(3) wear items, such as a uniform, badge, or anything that identifies him or her as a state employee while engaged in political activity or while campaigning for himself or herself, or any candidate for office;~~

~~(4) disseminate, either directly or indirectly, any political commentary, discussion, or advertisement for non-work purposes during the hours he or she is officially in work status for the agency;~~

~~(5) campaign for, or on behalf of, any candidate or ballot or election question, during the hours the employee is officially in work status for the agency; or~~

~~(6) become a candidate for an elective public office in a partisan election or in which the office has direct or indirect oversight of the agency.~~

~~(A) **Coverage.** The provisions of the Rules and Regulations of the Ethics Commission apply to classified employees in any agency or department of the State Government placed under the merit system of personnel administration by the "Oklahoma Personnel Act." [74 O.S., 4242 and 4245] Classified employees on leave of absence are subject to these restrictions at all times. Classified employees employed only on a part-time and intermittent basis are subject to the restrictions for the entire 24 hours of any day of actual employment. Ignorance of these rules does not excuse violation.~~

~~(B) **Prohibited political activities.** No classified employee may:~~

~~(i) use his or her official authority or influence for the purpose of interfering with an election to or a nomination for office, or affecting the result thereof;~~

~~(ii) wear a campaign button, hat, or badge during the hours that the employee is officially in work status for an agency;~~

~~(iii) become a candidate for an elective public office in a partisan election;~~

~~(iv) directly or indirectly solicit contributions or other funds for a partisan political candidate or party; or~~

~~(v) organize, sell tickets to promote, or actively participate in a fund-raising activity of a candidate in a partisan election or of a political party.~~

~~(C) **Penalty for violation.** Any person who willfully violates any provisions is guilty of a misdemeanor and upon conviction thereof is punished by a fine of not less than \$50.00 nor more than \$1,000.00, or by imprisonment for not longer than six months or by both such fine and imprisonment. Any person who is convicted of a misdemeanor under the provisions of this Section is, for a period of five years, ineligible for appointment to or employment in a position in state service and, if at the time of conviction he or she is an employee of the state, forfeits his or her position.~~

~~(D) **Permitted political activities.** All classified employees retain the right to:~~

~~(i) register and vote in any election;~~

~~(ii) express opinions as an individual privately and publicly on political subjects and candidates;~~

~~(iii) display a political picture, sticker, badge, or button during off-duty hours;~~

~~(iv) participate in the activities of a civic, community, social, labor, or professional organization or of a similar organization;~~

~~(v) be a member of a political party or other political organization and participate in its activities not prohibited by subparagraph (B) of this Section;~~

~~(vi) serve as an officer of a political party at the national, state, or local level;~~

~~(vii) attend a political convention, rally, fund-raising function, or other political gathering;~~

~~(viii) sign a political petition as an individual;~~

~~(ix) make a voluntary financial contribution to a candidate, political party, or organization;~~

~~(x) be politically active in connection with a question such as an amendment to the State Constitution, referendum, approval of a municipal ordinance, or any other question of a similar character;~~

~~(xi) serve as an election judge or clerk, or in a similar position to perform duties as prescribed by state or local law; and~~

~~(xii) otherwise participate fully in public affairs, except as prohibited by law, in a manner which does not materially compromise the neutrality, efficiency, or integrity of his or her administration of state functions.~~

~~(E) **Limitations.** The permitted political activities named in subparagraph (D) of this paragraph do not authorize a classified employee to engage in political activity, while on duty, or while in a uniform that identifies the employee as a state employee. Neither is a classified state employee permitted to engage in political activities in the assigned work areas of a state agency in a manner that conflicts with the efficient performance of agency operations.~~

~~(b) All employees are required to abide by all state and federal laws, rules, and regulations which govern employee ethical conduct in relation to political activity, including, but not limited to, the Oklahoma Ethics Rules, 74 O.S. App. 1 § Rule 1.1 et seq. and the Hatch Act, 5 U.S. C. § 1501 et seq. A state employee cannot directly or indirectly coerce, attempt to coerce, command, or direct any other state employee to pay, lend, or contribute any part of his or her salary or compensation, time, effort, or anything else of value to any party, committee, organization, agency, or person for~~

political purposes. Any person convicted of willfully violating the provisions of Section 360 of Title 21 of the Oklahoma Statutes is guilty of a felony and is punished by the imposition of a fine of not more than \$10,000.00, or by imprisonment for not longer than two years; or by both said fine and imprisonment.

~~(c) A state employee cannot directly or indirectly coerce, attempt to coerce, command, or direct any other state employee to pay, lend, or contribute any part of his or her salary or compensation, time, effort, or anything else of value to any party, committee, organization, agency, or person for political purposes. Any person convicted of willfully violating the provisions of Section 360 of Title 21 of the Oklahoma Statutes is guilty of a felony and is punished by the imposition of a fine of not more than \$10,000.00 or by imprisonment for not longer than two years, or by both said fine and imprisonment. Agency positions that are partially federally funded are also subject to provisions of the Hatch Act, Sections 1501 et. seq. of Chapter 5 of the United States Code. In addition to certain prohibitions listed above in subsection (a), the Hatch Act also prohibits state employees who are in 100 percent federally funded positions from running for election for a partisan office.~~

~~(d) In addition to those prohibitions listed above in subsection (a), the Hatch Act, 5 U.S.C. § 1501 et seq., prohibits state employees who are in 100 percent federally funded positions from running for election for a partisan office. Violations of any provision in this Section may result in disciplinary action including, but not limited to, written reprimand, demotion, or termination.~~

~~(e) Violations of any provision in this Section may result in disciplinary action including, but not limited to, written reprimand, demotion, or termination.~~

### **340:2-1-5. Employee benefits**

Revised ~~9-17-189-15-21~~

(a) **Benefits.** Oklahoma Department of Human Services (~~DHS~~) (OKDHS) employee benefits include:

(1) a core benefit allowance for the employee's mandatory coverage of:

- (A) health insurance;
- (B) dental insurance;
- (C) basic life insurance; and
- (D) disability insurance;

(2) an ~~additional~~ increased benefit allowance for the employee's dependents' health, dental, and ~~basic~~ life insurance coverage;

(3) premium conversion for qualifying insurance benefits, ~~if the employee elects when chosen~~;

(4) reimbursement accounts, when the employee ~~elects~~ chooses, for:

- (A) child care and dependent elder care expenses;
- (B) qualifying medical expenses; or
- (C) both; and

(5) retirement benefits through the Oklahoma Public Employees Retirement System (OPERS) or Pathfinders.

(b) **Unemployment compensation.** ~~DHS~~ OKDHS employees may qualify for unemployment compensation under certain circumstances. When correspondence related to unemployment compensation is received in a ~~DHS~~ OKDHS office, Human

Resource Management (HRM) is immediately contacted. HRM serves as the official representative for the unemployment compensation process and, a written response from ~~DHS~~ OKDHS must be postmarked, ~~per~~ pursuant to timeframes established by the Oklahoma Employment Security Commission (OESC). When the written response is not submitted timely, OESC determines the eligibility for compensation only from the information provided by the claimant. ~~DHS~~ OKDHS employees, as deemed necessary by HRM, cooperate in the unemployment compensation process to ensure valid benefit determinations.

(c) **Eligibility for ~~DHS~~ OKDHS program benefits.** Benefits through ~~DHS~~ OKDHS programs are available to ~~DHS~~ OKDHS employees as well as legal dependents, who meet all conditions of eligibility for the specific program for which application is made. The application for benefits, the determination of original eligibility and continuing eligibility, and the delivery of services are handled in the same manner as for any other individual, except that an employee cannot certify himself or herself, relatives, or unrelated persons living in the employee's home.

(d) **Other benefits.** Other benefits, including deferred compensation, leave, and paid holidays are provided to employees, ~~per~~ pursuant to the Oklahoma Personnel Act and ~~DHS~~ policy OKDHS rules.

#### **340:2-1-6. Investigation of employees accused of abuse or neglect**

Revised ~~7-1-109-15-21~~

The Oklahoma ~~Department~~ of Human Services (OKDHS) is responsible for receiving and investigating complaints of abuse and neglect. When an OKDHS employee of ~~OKDHS~~ is alleged to have abused or neglected a vulnerable person, special procedures are followed to provide outside accountability and to ~~assure~~ ensure the employee that an unbiased investigation is completed. These procedures are outlined in ~~OAC 340:75-3-6.1(e)~~ Oklahoma Administrative Code 340:75-3-400 and ~~OAC 340:5-1-8(2)~~.

#### **340:2-1-8. Employee ethics and other employment**

Revised ~~7-1-129-15-21~~

(a) **Other Employee ethics and other employment, prohibition against use of position for personal gain, and avoidance of conflicts of interest.** ~~An~~ A state employee is subject to appropriate corrective or disciplinary action if the employee fails to comply with ~~74 O.S. App. I, Rules of the Ethics Commission of Title 74 of the Oklahoma Statutes.~~

(1) Under these provisions, every employee ~~must~~, during office hours, must devote full time, and attention, to Oklahoma ~~Department~~ of Human Services (OKDHS) business. An employee may not use:

(A) office hours for private gain, including activities involved in a business enterprise, such as livestock or crop farming, sale of real estate, or other business ~~which that~~ involves self-employment; nor

(B) paid time, state offices, ~~telephones~~ phones, supplies, and or equipment to further the programs or activities of private, non-profit organizations, even when ~~the objectives of the private organization~~ organization's objectives are compatible with those of OKDHS. Exceptions may occur as authorized by the division director and only for activities in which OKDHS can legitimately expend agency

dollars, ~~for example, such as~~ when OKDHS is a member of an organization or in situations where OKDHS has responsibility as a member of a board or commission by law or by appointment of the executive or legislative branch of government. ■ 1

(2) An employee may accept other employment outside of ~~the employee's~~ his or her OKDHS regular office hours, provided such employment is approved in advance and does not interfere with, or is not in conflict with, the employee's OKDHS work ~~within~~ OKDHS. ■ 2

(3) It is vitally important that an OKDHS employee avoid actual and perceived conflicts of interest in activities, such as employment with a provider who contracts with OKDHS. The employment or other activities of a spouse or other close family member may create the appearance of a conflict of interest and cause members of the general public to question ~~the objectivity of~~ OKDHS decision-making.

(4) An OKDHS employee may not be employed by another state agency or any provider contracting with OKDHS without the prior written approval of the employee's division director. ■ 3

(b) **Related employees.** Placement in a position that results in relatives, members of the same household, or comparably situated persons occupying positions within a division, office, facility, or area where one relative occupies a senior administrative position must be approved in writing by the OKDHS Director or designee. ■ 4 OKDHS may make placements and work assignments of personnel as necessary to eliminate or prevent situations of this nature. OKDHS policy prohibits, unless waived by the OKDHS Director or designee, the employment of any person in a position that results in:

(1) immediate supervision by a relative, a member of the employee's household, or a comparably situated person. Relative is defined as spouse, child, parent, stepparent, parent-in-law, grandchild, grandparent, brother, sister, stepchild, brother-in-law, sister-in-law, son-in-law, daughter-in-law, aunt, uncle, niece, nephew, first cousin, or foster relationship;

(2) ~~as defined in (b)(1) of this Section,~~ placement in a position, as a second level reviewing supervisor, within a relative's line of authority or chain of command; or

(3) two or more relatives reporting to the same immediate supervisor, as defined in (b)(1) of this Section.

(c) **Processing applications for OKDHS benefits or services on behalf of an employee's relative or for persons living in the employee's home.** In performing ~~their~~ official duties, employees are impartial and perform their duties in a manner that maintains impartiality. ■ 5 Employees who engage in improper client relationships, as referenced in this Section, are subject to appropriate corrective or disciplinary action.

(1) An employee may not:

(A) process, certify, or approve an application for benefits, payments, or services for any relative as defined in subsection (b) of this Section, or for any unrelated person living in the employee's household. This includes a relationship to a relative that ~~has been~~ is terminated by death, divorce, or other reasons; nor

(B) act as an authorized representative for clients receiving OKDHS program benefits without the specific written approval of the local administrator after a determination ~~has been~~ is made that no one else is available to serve.

(2) In ~~these~~ offices with limited staff, it may be necessary for an employee to take an application for a person(s) listed in subsection (b) of this Section; ~~The employee however, he or she~~ cannot certify the person(s) for benefits, payments, or services.

■ 6

(d) **Client relationships.** In keeping with the OKDHS mission of ~~OKDHS~~ to serve and protect clients, OKDHS employees assist clients in developing independence and self-sufficiency while recognizing their rights. A client is defined as a program applicant, recipient, patient, ~~resident of an OKDHS facility,~~ and any other person receiving or making application for OKDHS services. ~~Rights of clients~~ Clients' rights include, but are not limited to:

- (1) privacy and the expectation that information obtained by OKDHS employees in the course of their duties is held confidential;
- (2) treatment that conveys dignity, respect, courtesy, fairness, and good faith;
- (3) expectation of high standards of personal conduct from OKDHS employees;
- (4) freedom from discrimination on the basis of race, gender, age, color, creed, national origin, religion, or disability;
- (5) freedom from sexual harassment;
- (6) freedom from coercion to give gifts or services of value; and
- (7) freedom from interference by OKDHS employees with regard to matters of individual belief or faith. ■ 7

#### **INSTRUCTIONS TO STAFF 340:2-1-8**

**Revised ~~7-1-129-15-21~~**

1. ~~Oklahoma Department of Human Services (OKDHS) employees are encouraged to be constructive citizens of their local communities with their private activities conducted on personal time and kept separate from OKDHS working hours. While employed by OKDHS, an employee may not engage in a business enterprise either as an administrator, investor, or operator that is subject directly or indirectly to the OKDHS control, inspection, review, audit, licensing, or enforcement by OKDHS. If, as a member of the board of directors, the employee, or his or her spouse, has a stake in the financial gains or losses in a business enterprise, membership is prohibited.~~
2. **If When an employee wishes to engage in other employment or in a business enterprise or activity or changes secondary employment or other business activity while an OKDHS employee of ~~OKDHS~~, the employee he or she submits, in advance, Form 11AD042E, Request for Approval of Other Employment, to the employee's his or her immediate supervisor and ~~local administrator~~ county or district director.**
3. **If When there is an appearance of a conflict of interest or involvement with another state agency or a private agency contracting with OKDHS, final approval of Form 11AD042E is made by the appropriate senior administrator or division director.**
4. **For purposes of this Section, "a member of the employee's household," or "comparably situated persons," are ~~people~~ those who are in a similar relationship to an employee, such as a relative, but who, due to not being formally married, are not legally related. For instance, a supervisor may not**

supervise his or her child's co-habiting or estranged partner even though the child and partner are not married. Questions regarding interpretation of this Section are submitted in writing to the ~~division director~~, Human Resources Resource Management Division (HRMD) (HRM) director, who makes a determination as to applicability of coverage.

5. ~~Employees of OKDHS~~ employees are expected to:

- (1) respect the privacy of clients and hold in confidence all information obtained in the course of their duties, as required by law and OKDHS ~~policy rules~~ rules;
- (2) make every effort to foster maximum self-determination on the part of clients;
- (3) ensure that all judgments, decisions, and actions are taken in the client's ~~best interest of the client~~;
- (4) treat clients with dignity, respect, courtesy, fairness, and good faith;
- (5) take responsibility for identifying, developing, and fully utilizing knowledge of their respective professions and adhere to professional codes of ethics and conduct that govern that profession;
- (6) ensure that all contacts attempted, or made with a client, or relating to a client's case are recorded in the client case record, including contacts in person, by phone, or by written correspondence;
- (7) maintain high standards of personal conduct in the capacity and identity as an OKDHS employee;
- (8) comply with OKDHS ~~policies~~ rules and procedures governing client abuse, neglect, and mistreatment; and
- (9) recognize the affect their recommendations and professional actions may have on the clients' ~~lives of clients~~, and ensure that personal, social, financial, political, or other inappropriate factors do not influence these actions or recommendations.

6. OKDHS employees are prohibited from:

- (1) discriminating against employees or clients on the basis of race, gender, age, color, creed, national origin, religion, or disability and prohibited from engaging in sexual harassment. Sexual harassment is defined as unwelcome sexual advances or requests for sexual favors or other unwelcome verbal or physical conduct of a sexual nature, which makes sexual favors a condition of employment, employment benefits, approval, or receipt of benefits, or which create a hostile or offensive working or service environment, even though there may be no economic detriment to the employee or client;
- (2) allowing personal problems and conflicts to interfere with professional judgments and effectiveness. Any employee who becomes aware that such personal problems or conflicts may adversely affect the provision of services to a ~~client(s)~~ clients, immediately advises his or her supervisor so appropriate steps can be taken to ensure that client services are unaffected;
- (3) taking any action that violates the legal and civil rights of clients or others who may be affected by their actions;

(4) initiating a discussion with, or lobbying clients on, issues unrelated to the provision of client services while engaged in OKDHS official duties on behalf of OKDHS;

(5) using their his or her position as an OKDHS employee to form a personal relationship with a client;

(6) exploiting the trust and dependency of clients or engaging in any activity that is, or is perceived as, an exploitation of the client relationship.

Prohibited activities include, but are not limited to:

(A) taking clients on overnight visits or trips, unless such overnight outings ~~have been~~ are officially arranged and sanctioned by OKDHS supervisory or administrative staff;

(B) extending or accepting social invitations from clients;

(C) engaging in sexual intimacies with clients;

(D) engaging in, or encouraging clients in illegal activities, including use or possession of illicit drugs or alcohol;

(E) giving or accepting gifts from clients, or exchanging or suggesting the exchange of any goods or services of value, unless specifically authorized by ~~policy~~ rules or appropriate supervisory personnel; and

(F) making home visits or other client contacts on behalf of OKDHS outside ~~normal working of~~ OKDHS business hours, unless specifically authorized by ~~policy~~ his or her job description, rules, or appropriate supervisory personnel.

7. (a) In the event an employee has a personal relationship ~~off-duty~~ with a person off-duty, whose case or OKDHS services are being administered by the immediate office or the program to which the employee he or she is assigned, the employee promptly reports such the relationship to his or her immediate supervisor. The supervisor and ~~higher-level management personnel~~ local administrator determine whether it is appropriate for the employee to continue in that unit or be reassigned elsewhere.

(b) It is the responsibility of the local administrator administrator's or designee designee's responsibility to complete and dispose of the application or to assign a ~~staff person from another office to complete the application to~~ another office.

### PART 3. INTERNAL HUMAN RESOURCES

#### 340:2-1-26. Employment and assignment [REVOKED]

~~Revised 9-17-18~~

~~(a) Selection from Office of Management and Enterprise Services Human Capital Management Division (HCM) eList. A request to fill a position is forwarded to Oklahoma Department of Human Services (DHS), Human Resource Management (HRM). An HCM eList may be used per Oklahoma Administrative Code (OAC) 340:2-1-89(b)(2). HCM supplies names of eligible applicants. The hiring rule is the top 10 eligible applicants or any name tied with the lowest ranking, eligible applicant within the hiring rule per OAC 260:25-9-92, and Section 840-4.13 of Title 74 of the Oklahoma Statutes. DHS may make its selection from the HCM eList within the hiring rule. In selecting new personnel from the HCM eList, DHS may consider any legally available~~



information concerning each applicant, including information on the application, reports of applicant interviews and references, performance evaluations, letters of reference, and background checks. DHS does not discriminate in its employment policies and is an equal opportunity employer.

~~(b) **Availability determination.** Upon receipt of the HCM eList, HRM forwards the HCM eList to the requesting official who contacts applicants on the eList by email or phone to determine if the applicants are available for interviews.~~

~~(1) When an applicant declines an offer of appointment, fails to report for an interview, or fails to report for duty, the circumstances are documented for the HCM eList. An eligible applicant is considered to have declined and may be removed from consideration when he or she:~~

~~(A) is extended an invitation to interview and fails to respond to the inquiry within 72 hours; or~~

~~(B) verbally declines an opportunity to interview and communicates this to a DHS representative.~~

~~(2) Information regarding a selected applicant's availability for appointment is submitted to HRM with other pertinent information regarding the applicant.~~

~~(3) A conditional offer of employment is made to an applicant pending the passing of the required, pre-employment drug screening per OAC 340:2-1-43(b)(1). ■-1~~

~~(4) Appointment to certain DHS positions requires the completion of a favorable background check per OAC 340:2-1-56.~~

~~(c) **Appointment notice.** DHS administers programs throughout the state and staff is assigned per DHS staffing needs. A report providing the HCM position identification number, job family with level and job code, place of assignment, and pay band and salary is provided to the new employee as notice of his or her appointment. ■-1~~

## **INSTRUCTIONS TO STAFF 340:2-1-26 [REVOKED]**

**Revised 9-17-18**

~~1. **The Personnel Action report is transmitted electronically to the Office of Management and Enterprise Services Human Capital Management Division. A copy of the Personnel Action report is emailed or hand-delivered to:**~~

~~(a) **the Oklahoma Department of Human Services Financial Services Payroll Unit;**~~

~~(b) **the Human Resource Management (HRM) Benefits Section;**~~

~~(c) **the employee;**~~

~~(d) **the employee's supervisor to file in the employee's local personnel file; and**~~

~~(e) **HRM for the employee's official personnel file.**~~

## **340:2-1-27. Entering on duty [REVOKED]**

**Revised 9-17-18**

~~(a) **Required documents.** On the employee's enter on duty day (EOD), the supervisor forwards, to Human Resource Management (HRM):~~

~~(1) a signed copy of the employee's Social Security Administration card. The employee's name on all personnel and payroll records must be identical to the name that appears on the employee's Social Security Administration card. When the employee is unable to provide his or her required, original Social Security~~

~~Administration card, he or she must present a receipt of application for the replacement card within three business days of EOD;~~

~~(2) a signed Secretary of State (SOS) Form 100, Loyalty Oath. A new Form 100 is submitted with each appointment following a consecutive, 30-calendar day break in service;~~

~~(3) a signed Form W-4, Employees Withholding Allowance Certificate, or Form W-5, Earned Income Advance Payment Certificate;~~

~~(4) a signed employment application;~~

~~(5) a signed Department of Homeland Security, United States Citizenship and Immigration Services, Form I-9, Employment Eligibility Verification, with the E-Verify employment authorization. Form I-9 is completed by the employee and employing unit on the first day of employment, per the Immigration Reform and Control Act of 1986. When the employee is unable to provide the acceptable original document(s) as listed on Form I-9, the employee must present a receipt for the application for the document(s) within three business days of EOD or the employee is immediately separated from duty. However, an employee working only three days or less, must produce the required original documents for the completion of Form I-9, no later than close of business, on his or her EOD. An employee who presented a receipt for the application of a document must present the required original document within 90-calendar days of EOD or he or she is immediately separated from duty; ■-1~~

~~(6) signed insurance benefits enrollment forms. This does not apply to employees in temporary appointments; and~~

~~(7) a signed employee's acceptance of the conditional job offer agreeing to classified, unclassified, or temporary employment, salary, and a probationary period upon entrance to the classified service. ■-2~~

~~(b) **Missing documents.** Any documentation identified in (a)(1) through (7) of this Section is expected to be provided by the employee on the EOD. Missing documentation is submitted as soon as possible, but no later than required by law. An employee who fails to produce required original documentation within the permissible time frames is immediately separated from duty.~~

## **INSTRUCTIONS TO STAFF 340:2-1-27 [REVOKED]**

**Revised 9-17-18**

~~1. (a) **Authorized unit staff is required to submit Form I-9, Employment Eligibility Verification, and documentation to the Department of Homeland Security through the E-Verify system for the following new hire positions:**~~

~~(1) temporary;~~

~~(2) unclassified;~~

~~(3) probationary; and~~

~~(4) inter-agency transfer of an active state employee.~~

~~(b) **Previous Oklahoma Department of Human Services (DHS) employees, with less than 30-calendar day breaks in service, do not need to be verified through the E-Verify system.**~~

~~(c) **When a receipt for application is used for the initial submission of required document(s) for the Form I-9, the unit staff completing Form I-9, records "receipt" on the document information.**~~

- ~~(1) The original Form I-9 is held in the unit until original document verification is made.~~
  - ~~(2) A copy of Form I-9, and "receipt" documentation is forwarded to Human Resource Management (HRM).~~
  - ~~(3) E-Verify employment authorization cannot be completed until the original document is received.~~
  - ~~(d) When a receipt for application for a document is used for the initial submission of Form I-9, unit staff enters "Pending" into the Human Resources Information System (HRIS). HRM staff verifies the entry.~~
  - ~~(e) Upon verification of the original document unit staff:~~
    - ~~(1) updates HRIS to "yes";~~
    - ~~(2) crosses out "receipt," on any document number, records the information for the original document, and initials and dates the change on Form I-9;~~
    - ~~(3) completes E-Verify employment authorization; and~~
    - ~~(4) forwards the original Form I-9 and documentation copies to HRM.~~
  - ~~(f) The unit maintains a copy of the DHS E-verify response, and Form I-9 with the verifying documentation in a separate local file.~~
- ~~2. The employee's acceptance of the conditional job offer including the notification of a probationary period to be served is completed prior to the employee's enter on duty date. Once the employee enters on duty, the completed form is filed in the employee's personnel file. When an applicant declines the offer, documentation of the conditional job offer is filed with the announcement material.~~

### **340:2-1-28. Probationary period, classified service**

Revised 9-17-189-15-21

**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 (1) year or until the probationary period is waived after the employee has served a minimum of six (6) 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 (1) year, but may be adjusted, per Oklahoma Administrative Code (OAC) 260:25-11-36. When a probationary employee is absent from work in excess of ~~30 calendar~~ 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 DHS 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: ■ 3

- (A) resign from the position held at the time of acceptance; and
- (B) begin a new one-year probationary period 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, 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**

**Revised 9-17-18 9-15-21**

(a) **Types of appointments.** All appointments of employment within the Oklahoma Department of Human Services (DHS) (OKDHS) are made to the classified service or the unclassified service. ■-4 Appointments are made, per the Oklahoma Personnel Act, applicable portions of the Oklahoma Administrative Code (OAC), and DHS 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 ~~DHS~~ OKDHS job announcements and be considered for reinstatement, per ~~DHS policy~~ OKDHS rules and ~~the Oklahoma Administrative Code~~ 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 (HCM) 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 (~~EOD~~), 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.** ~~Per OAC 260:25-11-30(a) and (c), 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 ~~DHS~~ 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 hours 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 a ~~DHS~~ 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 ACA employee benefits issues.

## **INSTRUCTIONS TO STAFF 340:2-1-29 [REVOKED]**

**Revised 9-17-18**

~~1. A conditions of employment letter is completed by the selecting official or designated representative and provided to the applicant selected for the appointment to document the conditions under which an offer of employment is tendered. This must be completed prior to obtaining information for a background check or drug testing.~~

**340:2-1-30. The drug-free workplace [REVOKED]**

~~(a) All Department of Human Services (DHS) employees are required to report to work in an appropriate condition, unimpaired by the effects of illicit substances, including alcohol. The unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance, including alcohol, on Agency premises, or while conducting Agency business, is prohibited. Violations of this policy may result in disciplinary action, up to and including termination, in addition to any legal consequences.~~

~~(b) The term "controlled substance" means any drug listed in the Federal Schedules of Controlled Substances. These are drugs which have a high potential for abuse. Such drugs include but are not limited to heroin, cocaine, phencyclidine (PCP), marijuana, amphetamines, and various derivative compounds of these drugs. Such drugs include legal drugs which are not prescribed for the employee's personal use by a licensed physician.~~

~~(c) DHS has a strong interest in assisting employees with substance abuse problems and makes available an Employee Assistance Program (EAP) to assist employees and their families who may have substance abuse problems. Affected employees who receive positive test results on alcohol and drug tests will be referred to the EAP; however, referrals are not in lieu of discipline.~~

~~(d) Any DHS employee who is convicted of, or who enters a plea of guilty, or nolo contendere (no contest), to any felony charge, drug-related or other, will be discharged.~~

~~(e) Any employee charged with a drug-related offense occurring on Agency property, while conducting Agency business, or while using a state vehicle, and which results in a non-felony conviction, guilty plea, or nolo contendere plea, is subject to disciplinary action and will be required to successfully complete a recognized drug treatment or rehabilitation program as a condition of continued employment.~~

~~(f) Any DHS employee, whether convicted of, or who enters a guilty plea, or a nolo contendere plea, under a criminal drug statute, felony or misdemeanor, for violations occurring on Agency property, while conducting Agency business, or while using a state vehicle, must report such in writing to the appointing authority or designee within five days of conviction or of entering a guilty plea or a nolo contendere plea.~~

~~(1) DHS offices or divisions who have programs funded in whole or in part by a federal program or agency, and who receive a report or other information of a workplace related drug conviction, guilty plea, or nolo contendere plea by an employee of that office or division, must within ten days of receiving the notice from the employee notify the appropriate federal funding agency in writing of the conviction and the disciplinary action taken by the Department.~~

~~(2) A copy of the notification is provided to the Director, DHS, and the Director, Human Resources Management Division, DHS.~~

~~(3) A DHS employee who fails to submit the required notice within five days of conviction or of entering a guilty plea or a nolo contendere plea is subject to discharge.~~

~~(g) DHS provides drug-free workplace training to all employees. New employees receive the training within 12 months of the date of the employee's entry on duty. Local administrators and immediate supervisors ensure that employees receive the training.~~

~~(h) Local administrators and immediate supervisors ensure that all employees under their direction receive a copy of this policy.~~

### **340:2-1-31. Classification plan**

~~Revised 9-17-189-15-21~~

The classification plan is composed of job specifications and job family descriptors (JFDs) (JFD) used by the Oklahoma Department of Human Services (OKDHS) that detail the purpose, duties and responsibilities, knowledge, skills and abilities, and the minimum education or experience required for each job position. Jobs may be grouped together into ~~job family descriptors (JFDs)~~ JFDs that may have multiple levels within the same JFD. The Human Resource Management, ~~Human Management~~ Classification and Compensation unit maintains the job specification and classification plan and the JFDs for each DHS JFD classified and unclassified job title. The unit is also responsible for ~~making~~ makes revisions to existing JFDs or ~~developing~~ 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 Department of Human Services (DHS) OKDHS Compensation Guidelines (DHSCG)(OKDHSCG)**

~~Revised 9-17-189-15-21~~

(a) **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. ~~The salary range established for each job family and level provides a minimum hiring rate and maximum salary rate.~~

(1) **Computation of salary payments.** DHS OKDHS employees are paid ~~on a monthly basis~~ per applicable salary schedules. ~~The pay period extends from the 16th day of each month through the 15th day of the following month.~~

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

(3) ~~Salary increase.~~ **Salary increase.** ~~Salary increases are not automatic, but are granted per SAP and applicable legislation.~~

(4) ~~Equity and salary adjustments.~~ **Equity and salary adjustments.** ~~For classified employees, an equity pay adjustment is a mechanism authorized per appropriate Merit Rules and DHSCG. For employees in the unclassified service, a change in salary is per DHSCG or applicable legislation.~~

~~(b) Performance-based incentive compensation program.~~ **Performance-based incentive compensation program.** ~~A person employed full-time as Child Welfare (CW) specialist I through IV, exclusively working as a CW specialist, may be eligible once per year for the performance-based incentive~~

compensation program authorized by Section 1-9-109 of Title 10A of the Oklahoma Statutes.

~~(1) **Incentive compensation.**— The incentive compensation is a lump sum performance incentive of one and one-half percent of the established annual base salary of the eligible employee. The lump sum incentive compensation does not increase the base salary of the employee.~~

~~(2) **Requirements.**— To be eligible for the incentive compensation, the employee must meet the criteria included in (A) or (B) of this paragraph.~~

~~(A) Master-level employees must:~~

~~(i) have an overall rating of exceeds standards on the most recently completed performance evaluation;~~

~~(ii) have a master's degree from an institution accredited by a generally accepted accrediting body and accepted for transfer credit by the Oklahoma Regents for Higher Education, in:~~

~~(I) social work;~~

~~(II) human relations;~~

~~(III) psychology;~~

~~(IV) sociology;~~

~~(V) guidance and counseling;~~

~~(VI) juvenile justice; or~~

~~(VII) child development;~~

~~(iii) have completed all required DHS sponsored field training per OAC 340:75-1-231 and 340:75-1-232; and~~

~~(iv) be assigned to the same office for 12 consecutive months on the day of the employee's annual performance review.~~

~~(B) Employees in offices who meet the DHS Child and Family Services Review (CFSR) standards must:~~

~~(i) have an overall rating of at least meets standards on the most recently completed Performance Evaluation;~~

~~(ii) have completed all required DHS sponsored field training per OAC 340:75-1-231 and 340:75-1-232; and~~

~~(iii) be assigned to the same office for 12 consecutive months on the date of the CFSR per OAC 340:75-18-10.~~

~~(I) The office must meet or exceed all current federal standards for outcomes in safety, permanency, and well-being by children and families.~~

~~(II) The CFSR is completed yearly by DHS utilizing current CFSR national standards as adopted by the Administration for Children and Family Services of the United States Department of Health and Human Services pursuant to Sections 1355.31 through 1355.37 of Title 45 of the Code of Federal Regulations, as amended.~~

#### **PART 4. ALCOHOL AND DRUG TESTING POLICY APPLICABLE TO OKDHS EMPLOYEES AND OKLAHOMA HUMAN SERVICES APPLICANTS**

**340:2-1-40. Purpose**

Revised 9-15-21



The rules in this Part: ~~■-1~~

(1) establish an Oklahoma Department of Human Services (OKDHS) alcohol and drug testing program for:

(A) testing all persons to whom a conditional offer of employment is made;

(B) reasonable suspicion testing for all OKDHS employees; and

(C) random testing for persons employed by OKDHS as direct care specialists, the job family which provides direct care to children or individuals with developmental disabilities; and

(2) are in compliance with Standards for Workplace Drug and Alcohol Testing Act contained in Chapter 15 of Title 40 of the Oklahoma Statutes. The purpose of this policy Section is to inform applicants on Oklahoma Human Services expectations regarding drugs or alcohol in the workplace.

### **INSTRUCTIONS TO STAFF 340:2-1-40 [REVOKED]**

**1. Refer to OAC 340:2-15-40 through 340:2-15-49 for rules regarding alcohol and drug testing for drivers of commercial motor vehicles.**

### **340:2-1-41. Prohibition Drug and Alcohol Free Workplace alcohol free workplace**

Revised 9-15-21

(a) **Purpose.** The Oklahoma Department of Human Services (OKDHS) prohibits all employees from:

(1) providing OKDHS services while under the influence of alcohol or illegal drugs;

(2) possessing or using alcohol or illegal drugs in the workplace, while on duty, or on-call; and

(3) using any non-prescribed controlled substances in the workplace, while on duty, off duty, or on-call. is a drug- and alcohol-free workplace. All OKDHS employees are prohibited from unlawfully manufacturing, distributing, dispensing, possessing, using, or being under the influence of a controlled substance or alcohol during scheduled work hours; while operating a state vehicle; on state property; or at his or her workplace.

(b) **Definitions.** The following words and terms when used in this Part shall have the following meaning unless the context clearly indicates otherwise:

(1) **"Alcohol"** means and includes hydrated oxide of ethyl, ethyl alcohol, ethanol, or spirits of wine, per Section 1-103 of Title 37A of the Oklahoma Statutes.

(2) **"Applicant"** means any person making application for initial hire, reinstatement, or transfer from a state agency for any position within OKDHS.

(3) **"Conditional offer of employment"** means an offer made to an applicant for employment with OKDHS, conditioned upon successful completion of a drug test prior to the start of employment.

(4) **"Controlled substance"** means substances listed in Section 812 Schedule I through V of Title 21 of the United States Code, and as further defined by applicable federal and state regulations. Controlled substances include, but are not limited to, marijuana, including marijuana consumed or possessed with a medical marijuana license; cocaine; opiates; phencyclidine (PCP); and amphetamines.

(5) **"Drug"** means any controlled substance approved for hair or urine testing by the Oklahoma State Department of Health, including amphetamines, cannabinoids,

cocaine, PCP, hallucinogens, methaqualone, opiates, barbiturates, benzodiazepines, synthetic narcotics, designer drugs, or a metabolite of any of these substances.

### **340:2-1-42. Definitions [REVOKED]**

Revised 7-1-12

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

**"Alcohol"** means and includes hydrated oxide of ethyl, ethyl alcohol, ethanol or spirits of wine pursuant to 37A O.S. § 1-103

**"Alcohol test"** means a breath or saliva test administered for the purpose of determining the presence or absence of alcohol or its metabolites in a person's bodily tissue, fluids, or products. Testing of Oklahoma Department of Human Services (OKDHS) employees is conducted and evaluated by qualified persons and facilities licensed by the Oklahoma State Department of Health (OSDH) in accordance with Standards for Workplace Drug and Alcohol Testing Act. [40 O.S. §§ 551 through 563.

**"Applicant"** means any person making application for initial hire, reinstatement, or transfer from a state agency for any position within OKDHS, or for transfer, demotion, promotion, or reinstatement into the position of direct care specialist. OKDHS, upon a conditional offer of employment, requires the applicant to undergo drug testing.

**"Conditional offer of employment"** means an offer made to an applicant for employment with OKDHS, conditioned upon successful completion of a drug test prior to the start of employment.

**"Confirmation test"** means an alcohol or drug test, conducted in accordance with Drug and Alcohol Testing Rules, as amended, of OSDH, per OAC 310:638, to substantiate the results of a prior alcohol or drug test. For urine or hair, the test is performed on the same sample or a split sample.

**"Direct care staff"** means any employee, whether permanent, classified, unclassified, probationary, or temporary, in the job family of direct care specialist.

**"Drug"** means any controlled substance approved for hair or urine testing by Oklahoma State Department of Health OSDH (OSDH), including amphetamines, cannabinoids, cocaine, phencyclidine (PCP), hallucinogens, methaqualone, opiates, barbiturates, benzodiazepines, synthetic narcotics, designer drugs, or a metabolite of any of these substances.

**"Drug test"** means a hair or urine test administered for the purpose of determining the presence or absence of a drug or its metabolites in a person's bodily tissue, fluids, or products. Testing conforms to the Drug and Alcohol Testing Rules, as amended, adopted by OSDH, per OAC 310:638. The testing of OKDHS employees is conducted and evaluated by qualified persons and facilities licensed by OSDH in accordance with Standards for Workplace Drug and Alcohol Testing Act. [40 O.S. § 551 through 563] ■

4

**"Employee"** means anyone employed by OKDHS, whether permanent, classified, unclassified, probationary, or temporary.

**"For-cause testing"** means that OKDHS may request or require an employee to undergo drug or alcohol testing at any time it reasonably believes that the employee may be under the influence of drugs or alcohol, including but not limited to:

(A) drugs or alcohol on or about the employee's person or in the employee's vicinity;

- ~~(B) conduct on the employee's part that suggests impairment or influence of drugs or alcohol;~~
- ~~(C) a report of drug or alcohol use while at work or on duty;~~
- ~~(D) information that an employee has tampered with drug or alcohol testing at any time;~~
- ~~(E) negative performance patterns; or~~
- ~~(F) excessive or unexplained absenteeism or tardiness. ■ 2~~

~~"Post-accident testing" means OKDHS may require an employee to undergo drug or alcohol testing if the employee or another person has sustained an injury while at work or property or equipment owned by the state has been damaged. For purposes of workers' compensation, no employee who tests positive for the presence of substances defined and consumed pursuant to Section 465.20 of Title 63 of the Oklahoma Statutes, alcohol, illegal drugs, or illegally used chemicals, or refuses to take a drug or alcohol test required by the employer, shall be eligible for such compensation.~~

~~"Random testing" means an objective mechanism for selecting direct care employees for alcohol and drug testing that results in an equal probability any employee from a group of direct care employees will be selected.~~

~~"Review officer" means a person, qualified by the Oklahoma State Board of Health, who is responsible for receiving results from a testing facility which have been generated by an employer's drug or alcohol testing program, and who has knowledge and training to interpret and evaluate an individual's test results together with the individual's medical history and any other relevant information.~~

## **INSTRUCTIONS TO STAFF 340:2-1-42 [REVOKED]**

### **Revised 7-1-12**

- ~~1. Refer to OAC 340:2-15-40 through 340:2-15-49 for rules regarding alcohol and drug testing for drivers of commercial motor vehicles.~~
- ~~2. Form 11PE094E, For Cause Checklist, is provided to assist observing supervisors in documenting reasonable belief that the employee may be under the influence of drugs or alcohol.~~

## **340:2-1-43. Implementation of alcohol and drug testing of OKDHS employees and applicants [REVOKED]**

~~(a) **Notice of communication.** The local administrator or designee ensures a copy of the rules in Part 4 of this Subchapter, OAC 340:2-1-40 through 340:2-1-46, are:~~

- ~~(1) conspicuously posted in all Oklahoma Department of Human Services (OKDHS) working units;~~
- ~~(2) provided to all employees;~~
- ~~(3) provided to employees 30 days prior to the initial implementation or implementation of changes; and~~
- ~~(4) provided to each applicant upon the applicant's receipt of a conditional offer of employment.~~

~~(b) **Determination of persons subject to alcohol and drug testing.** Persons subject to alcohol and drug testing are included in (1) through (3). ■ 1~~

- ~~(1) All applicants who are made conditional offers of employment are required to take a pre-employment drug test.~~

- ~~(A) When a conditional offer of employment is made, the applicant is given forms to take to the drug testing site for completion. The forms are:~~
- ~~(i) Form 11AD003E, Request for Alcohol and Drug Testing. The applicant presents a photo identification (ID) at the testing site for ID purposes; ■-2 and~~
  - ~~(ii) the contracted drug testing provider's form. ■-3~~
- ~~(B) A confirmed positive test result, or a refusal to be tested, is a basis for refusal to hire.~~
- ~~(2) All employees of OKDHS are subject to reasonable suspicion drug and alcohol testing.~~
- ~~(3) Employees of OKDHS employed as direct care specialists are subject to random alcohol and drug testing.~~
- ~~(c) **Types of testing.** The situations in which alcohol and drug testing occur are identified in (1) through (3) of this subsection.~~
- ~~(1) **Pre-employment or pre-placement.**~~
- ~~(A) All candidates conditionally offered initial hire, and all direct care candidates conditionally offered transfer, promotion, demotion, reinstatement, or placement into positions as direct care specialists are tested for drugs.~~
  - ~~(B) The provisions of subparagraph (A) do not apply to candidates for temporary positions who have been employed by OKDHS within the previous 120 days, persons employed for less than 200 hours per year unless employed in a direct care position, and Low Income Home Energy Assistance Program (LIHEAP) temporary employees.~~
- ~~(2) **Random testing.** Random alcohol and drug testing is administered at a minimum annual rate of 50 per cent of direct care specialists. Tests are unannounced and are conducted throughout the calendar year. The Developmental Disabilities Services Division and the Children and Family Services Division provide to the contracted testing provider a regularly updated list of the names, Social Security numbers, and work locations for all direct care specialists.~~
- ~~(3) **Reasonable suspicion.** Any employee may be tested upon documented grounds for reasonable suspicion in accordance with this policy.~~
- ~~(A) A request for reasonable suspicion testing of a person must be submitted in writing to the local administrator, stating the indications upon which reasonable suspicion is based. The basis for reasonable suspicion testing is the employee:~~
    - ~~(i) exhibits the physical symptoms or manifestations of being under the influence of alcohol or drugs; and~~
    - ~~(ii) must be observed by two persons who have completed specialized training provided by OKDHS in recognizing physical symptoms or manifestations of being under the influence of alcohol or drugs. Such specialized training is deemed to include an OKDHS on-line training course on OKDHS drug and alcohol policy approved for all employees. One of the persons making the observation must be a supervisor. ■-4~~
  - ~~(B) Upon approval by the local administrator, the employee is required to submit to alcohol or drug testing.~~
- ~~(d) **Arrangements for testing.** The local administrator or designee is responsible for ensuring employees and applicants in their facilities who are subject to testing are tested in accordance with this policy. ■-5~~

~~(e) **On duty testing.**—Alcohol and drug testing of an employee occurs during or immediately after the employee's work period. An employee is considered on duty during this time.~~

~~(f) **Testing procedures.**—Testing for alcohol and drugs is a two step process.~~

~~(1) For alcohol, a breath or saliva test is performed as the first step. If positive for alcohol, a confirmation test is performed as the second step.~~

~~(2) Hair or urine is used for the initial and the confirmation test for all drugs. Specimens are collected at the test site, and positive test results are reviewed by the medical review officer.~~

#### **INSTRUCTIONS TO STAFF 340:2-1-43 [REVOKED]**

~~1. Refer to OAC 340:2-15-40 through 340:2-15-49 for rules regarding alcohol and drug testing for drivers of commercial motor vehicles.~~

~~2. Form 11AD003E, Request for Alcohol and Drug Testing, is filed in each new employee's personnel file.~~

~~3. Forms for testing.~~

~~(1) The contracted drug testing provider's form, Forensic Drug Testing Custody and Control Form, is:~~

~~(A) supplied to the local office by the Support Services Division Risk and Safety Management Unit; and~~

~~(B) completed by and remains with the testing provider. When copy 4 of the Forensic Drug Testing Custody and Control Form is returned to the local office, it is filed in the employee's local personnel file.~~

~~(2) The local office provides to Risk and Safety Management Unit by e-mail or phone the name, Social Security number, and test date of the person to be tested.~~

~~(3) Any information the local office receives from the testing provider about the conditional employee's drug test must be retained in a separate file.~~

~~4. Supervisors may use Form 11PE094E, Reasonable Suspicion Checklist, in documenting reasonable suspicion.~~

~~5. The local administrator is responsible for arranging transportation of the employee to the collection site for a reasonable suspicion test.~~

#### **340:2-1-44. Disciplinary action Alcohol and drug testing**

Revised 9-15-21

~~(a) **Disciplinary action for illegal drug involvement or usage.**—Discharge proceedings are initiated for an Oklahoma Department of Human Services (OKDHS) employee: ~~■~~ 4 All Oklahoma Human Services (OKDHS) applicants for employment are subject to testing for alcohol or drug use. OKDHS may require an applicant to submit and pass a drug screening as a conditional offer of employment.~~

~~(1) with a confirmed positive result for a drug test not resulting from legitimate medical use of prescribed medication. No employee may be discharged as a result of a positive test result unless confirmed by a second test using gas chromatography, gas chromatography-mass spectroscopy, or an equivalent scientifically accepted method of equal or greater accuracy, approved by Drug and Alcohol Testing Rules [OAC 310:638-1-1—310:638-7-11]; or~~

~~(2) who enters a guilty or nolo contendere plea for, or who is found guilty of the on or off duty sale, distribution, possession, or the manufacture of illegal drugs.~~

~~(b) **Disciplinary action for positive alcohol test results.** ■ 2 OKDHS follows progressive discipline for employees with positive alcohol test results. ■ 3 However, aggravating circumstances, such as the concurrent violation of other OKDHS policies or serious injuries or fatalities due to or contributed to by the use of alcohol, can result in more serious disciplinary action, including discharge. OKDHS may utilize any testing facility as licensed by the State Board of Health, per Section 557 of Title 40 of the Oklahoma Statutes (O.S. 40 § 557). Refusal to undergo testing as a condition of employment or a positive test result may result in a rescission of the employment offer.~~

~~(1) An employee's first incident of having an alcohol level from .02 to .039 results in a written reprimand.~~

~~(2) An employee's first incident of having an alcohol level from .04 to .079 results in a five day involuntary suspension without pay.~~

~~(3) Discharge proceedings are initiated for any incident when an employee is tested for alcohol and has an alcohol level of .08 or higher.~~

~~(4) Discharge proceedings are initiated for an employee's second positive test for alcohol within 24 consecutive calendar months of the first positive test result, regardless of the alcohol levels for either incident.~~

~~(c) **Refusal to submit.** Discharge proceedings are initiated for any employee who refuses to submit to an alcohol or drug test. A small number of applicants fall under United States Department of Transportation (U.S. DOT) regulations for alcohol and drug testing, specifically Controlled Substance Testing, per Section 391.81 et seq. of Title 49 of the Code of Federal Regulations (49 C.F.R. §§ 391.81 et seq.), Procedures for Transportation Workplace Drug Testing Programs (49 C.F.R. §§ 40.1 et seq.), and other applicable federal statutes and regulations. Applicants are tested according to the U.S. Department of Transportation regulations.~~

~~(d) **Permanent, classified employees who are discharged or suspended without pay.** Permanent, classified employees who are discharged, demoted, or suspended without pay as a result of a positive test for alcohol or drugs may appeal the discharge or suspension to the Oklahoma Merit Protection Commission pursuant to the Oklahoma Personnel Act and the Oklahoma Merit Rules for Employment.~~

#### **INSTRUCTIONS TO STAFF 340:2-1-44 [REVOKED]**

~~1. Refer to OAC 340:2-15-40 through 340:2-15-49 for rules regarding alcohol and drug testing for drivers of commercial motor vehicles.~~

~~2. The Department of Human Services (OKDHS) makes available an Employee Assistance Program to assist employees with substance abuse problems. A referral to the Employee Assistance Program is not in lieu of, but is separate from, corrective discipline.~~

~~3. (a) The disciplinary process outlined in OKDHS:2-1-11 and OKDHS:2-1-12 is followed in the case of an employee with a confirmed positive result for alcohol or drugs.~~

~~(b) An eligible employee may grieve a disciplinary action through the OKDHS grievance process, per OKDHS: 2-1-150 through 2-1-169.~~

### **340:2-1-46. Confidentiality Records [REVOKED]**

Issued 11-2-00

~~(a) All alcohol and drug tests and all information relating to tests, such as memoranda, reports, statements, and interviews, are confidential. All alcohol and drug testing documentation is maintained in secure files, marked confidential, and kept separate from other personnel files.~~

~~(b) The review officer explains the results of a positive alcohol and drug test to employees and applicants in a private, confidential setting. Employees and applicants are also entitled to explain a positive alcohol or drug test to the review officer in a private, confidential setting.~~

~~(c) Upon written request, affected employees are provided with copies of all information and records related to their testing.~~

## **PART 5. ADMINISTRATIVE PROCEDURES**

### **340:2-1-56. Criminal history background checks**

Revised 9-15-2009-15-21

Criminal history background checks are completed for all employees appointed to, or transferring to, positions that are sensitive or critical in nature or to positions that work directly with children. ■-1-3

(1) Personnel handling restricted data are considered, for purposes of this Section, to be in a sensitive position. Criminal history background checks are completed on designated positions. Applicants for positions requiring criminal history background checks are advised that, if selected for the position, a criminal history check is required.

(2) Divisions are responsible for designation of positions that require criminal history background checks. Divisions must consistently obtain criminal histories on any person selected to fill a position requiring criminal history background checks.

(3) Criminal history background checks are obtained prior to employment and include a search of the Oklahoma Department of Corrections files maintained, pursuant to per the Sex Offenders Registration Act, [10 O.S. § per Section 404.1] of Title 56 of the Oklahoma Statutes (O.S. 56 § 462(C)(1) 404.1) and 56 O.S. § 162(C)(1).

(4) Criminal history background checks are required only on the applicant who is recommended for the position.

(5) Criminal history background checks are also obtained on any Oklahoma Department of Human Services (OKDHS) employee selected for transfer to a position that requires a criminal history check.

(6) Criminal history background checks are considered restricted information and are protected accordingly. The results of these investigations are maintained at the local office in a separate file and are not made a part of the local or Human Resources Resource Management personnel files. The criminal history background check is maintained for the duration of the employee's employment ~~of the person~~ and for one year from the date of the report for employees who separate from OKDHS.

(7) Certain OKDHS volunteers and health care providers are required to have criminal history background checks.

**340:2-1-58. Reduced services and temporary office or facility closures**

Revised ~~9-17-18~~ 9-15-21

(a) **Reduction of services due to hazardous weather conditions.** Based on authorization received from the appropriate authority, the Oklahoma Department of Human Services (~~DHS~~) (OKDHS) may temporarily close or reduce services during hazardous weather conditions, per Oklahoma Administrative Code 260:25-15-70 and 260:25-15-71, as well as clarification from the Office of Management and Enterprise Services Human Capital Management Division (HCM) Memorandum 16-01.

(1) ~~DHS~~ OKDHS is responsible for maintaining its essential functions regardless of weather conditions. ■-4

(2) Services provided by ~~DHS~~ OKDHS hot lines, institutions, shelters, and other residential care facilities are not reduced during hazardous weather conditions.

(3) The Commissioner of Public Safety is the appropriate authority for agencies and offices within the seven-county region of the Oklahoma City metropolitan area, which consists of Canadian, Cleveland, Lincoln, Logan, McClain, Oklahoma, and Pottawatomie Counties.

(4) The ~~DHS~~ OKDHS Director or designee is the appropriate authority for ~~DHS~~ OKDHS offices outside the seven-county region of the Oklahoma City metropolitan area.

(b) **Temporary office closings due to imminent peril or other unsafe working conditions.**

(1) A ~~DHS~~ OKDHS office may be temporarily closed because of an imminent peril threatening public health, safety, or welfare. ■-2

(2) All or a portion of a ~~DHS~~ 24-hour facility may be closed because of an imminent peril threatening the health, safety, or welfare of residents. Residents are relocated to other facilities as appropriate. ■-2 An OKDHS office may be temporarily closed because of staff's inability to perform the essential functions of their jobs.

(3) The OKDHS Director or designee is the appropriate authority for OKDHS temporary office closures.

**INSTRUCTIONS TO STAFF 340:2-1-58 [REVOKED]**

Revised ~~9-17-18~~

~~1. Refer to Oklahoma Department of Human Services DHS:2-1-33.1 for procedures and employee responsibilities when services are reduced due to hazardous weather conditions. Also refer to Oklahoma Administrative Code 260:25-15-70 and 260:25-15-71.~~

~~2. (a) Examples of reasons for temporarily closing an office, institution, or residential care facility are:~~

~~(1) toxic fumes in buildings;~~

~~(2) life-threatening damage to building structures;~~

~~(3) emergency operations that would be disrupted by the presence of the usual work force; or~~

~~(4) conditions posing a significant threat to the safety of clients, residents, or the work force.~~



~~(b) Refer to DHS:2-1-33.1 for procedures and employee responsibilities when offices or facilities are temporarily closed. Also refer to Merit Rules, OAC 260:25-15-70 and 260:25-15-71.~~

## PART 7. RECRUITMENT, SELECTION, AND PLACEMENT POLICY AND PROCEDURES

### **340:2-1-77. Vacancy posting procedures**

~~Revised 9-17-18 9-15-21~~

~~(a) **Vacancy posting decision** 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) 260:25-9-110 Direct Hire Authority. ■-4~~

~~(b) **Classified** Unclassified service vacancy announcements. ■-2 An adequate applicant pool means having 10 or more qualified applicants on an open competitive announcement. An adequate applicant pool means having 10 or more qualified applicants on an open competitive announcement. 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) **Unclassified service vacancy announcements** Notification of cancellation. Announcements in the unclassified service are posted for application. 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. ■-2 A vacancy posting may be canceled at any time. When the cancellation occurs, HRM Human Resource Management notifies all applicants.~~

~~(d) **Notification of cancellation.** A vacancy posting may be canceled at any time by the Oklahoma Department of Human Services Director, Human Resource Management (HRM), senior administrator, deputy director, regional director, or local administrator. Notice of cancellation is provided to HRM. When the cancellation occurs before the list of applicants is issued to the local administrator, HRM notifies all applicants of the cancellation. When the cancellation occurs after the list of applicants is issued to the local administrator, he or she notifies all applicants.~~

~~(e) **Vacancy posting extension of application period.** When a decision is made to extend the posting period beyond the initial request, a new announcement number is not required. The requesting official coordinates the extension of the announcement with HRM. All requests to extend the announcement period are made to HRM while the announcement is open.~~

~~(f) **Reposting an announcement.** To repost an announcement, a new request is made to HRM. ■-3~~

### **INSTRUCTIONS TO STAFF 340:2-1-77 [REVOKED]**

**Revised 9-17-18**

- ~~1. Refer to Oklahoma Department of Human Services (DHS):2-1-96 for additional information regarding filling vacancies. Human Resource Management (HRM) maintains an announcement file for each position announced. The local administrator or the selecting official also maintains a local file for each position announced for that unit. The announcement file must be retained for two years. When legal action involving the announcement is commenced, these documents must be retained for two years after the exhaustion of all legal remedies.~~
- ~~2. Each vacancy posting is listed on the Office of Management and Enterprise Services Human Capital Management (HCM) website. Each vacancy posting must include:
  - ~~(1) the vacancy announcement number;~~
  - ~~(2) the specific unit location;~~
  - ~~(3) the time limits for filing an application;~~
  - ~~(4) the official HCM job family descriptor (JFD) and code, whether the position is classified or unclassified, and if the position may be filled at an alternate hiring level;~~
  - ~~(5) the salary and pay differential, when applicable;~~
  - ~~(6) a brief description of the position's essential and marginal functions and;~~
  - ~~(7) any required or preferred job-related, non-discriminatory special factor(s) or consideration(s) that may be taken into consideration in making the selection decision.
    - ~~(A) Examples of required special factors or considerations are when:
      - ~~(i) a probationary or trial period is required;~~
      - ~~(ii) extensive travel is required;~~
      - ~~(iii) the position requires 24-hour on-call duty; and~~
      - ~~(iv) selective qualifications are specified for the position. Selective qualifications for the position are approved by HCM when an E-list is utilized. HRM has approval authority when an eList is not used.~~~~
    - ~~(B) Examples of preferred special factors or considerations are:
      - ~~(i) program experience for professional, supervisory, or administrative positions in a specific program area;~~
      - ~~(ii) education, experience, or certifications necessary for compliance with federal or state regulations; or~~
      - ~~(iii) accreditation standards; and~~~~~~
  - ~~(8) a statement regarding eligibility for consideration, such as if recruiting is restricted to DHS employees or external applicants may be considered;~~~~
- ~~3. When a position was previously posted for announcement and not filled and contained an HCM-approved selective qualification, any changes in selective qualification must be approved by HCM prior to reposting the vacant position.~~

### **340:2-1-78. Method of application**

Revised ~~9-17-189-15-21~~

- (a) Classified employment application.** Persons seeking initial appointment in the classified service must apply online except as provided in Oklahoma Administrative

Code (OAC) 260:25-9-110 ~~Direct Hire Authority~~. Applicants must meet the minimum education and experience qualifications for the positions and, if required, complete a supplemental questionnaire. ■-4

(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. ■-4

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

## **INSTRUCTIONS TO STAFF 340:2-1-78 [REVOKED]**

**Revised 9-17-18**

~~1. The procedures, listed in (1) – (4) of this Instruction, apply to application processing.~~

~~(1) Any applicant must have successfully completed an online application and meet minimum qualifications.~~

~~(2) The interviewing official confirms with the applicant that an authorization to release information pursuant to a background check is contained within the employment application.~~

~~(3) The interviewing official or local administrator is responsible for preparing the employment reference or letter of personal reference. The applicant has a right to review the information obtained from these inquiries.~~

~~(4) Applications of persons not selected are maintained for two years or in the event of legal action involving an application, these documents must be retained for two years after the exhaustion of all legal remedies.~~

## **340:2-1-79. Eligibility to compete for classified service positions**

**Revised 9-17-18 9-15-21**

(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~~ 30-calendar days of the closing date of an announcement.

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

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

(2) ~~former permanent, classified DHS OKDHS employee with current permanent, classified status at another state agency;~~

~~(3) current, unclassified, DHS OKDHS employee with reinstatement eligibility to the classified service; or~~

~~(4)~~(3) former, permanent, classified DHS OKDHS employee with reinstatement eligibility to the classified service.

(c) When the vacancy posting does not indicate OKDHS employees only, 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 (HCM) under the Model

Project agreement, indicating all sources, then any applicant meeting the education and experience requirements may apply online or as provided in Oklahoma Administrative Code (OAC) 260:25-9-110 Direct Hire Authority.

### **340:2-1-80. Eligibility to compete for positions in the unclassified service**

Revised ~~7-1-109~~-15-21

(a) If the vacancy posting indicates Oklahoma Department of 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.

### **340:2-1-88. Alternate hiring levels**

Revised ~~9-17-189~~-15-21

(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 is a basic, entry, trainee, or similar lower job family levels level for full performance jobs, or where the Oklahoma Human Services (~~DHS~~) (OKDHS) experiences recruiting difficulties for a specific job family descriptor and level. ■-4

(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. ■-2

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

### **INSTRUCTIONS TO STAFF 340:2-1-88 [REVOKED]**

Revised ~~9-17-18~~

~~1. The administrator recommending the alternate hiring level of a position by an employee in a lower class than the position is allocated to is responsible for ensuring:~~

~~(1) the action is accompanied by a corresponding modification in the duties and responsibilities of the position;~~

~~(2) duties assigned to the employee are consistent with the class specification for the alternate hiring level; and~~

~~(3) a request to establish career progression alternate hiring level within a job family descriptor is submitted in writing to Human Resource Management.~~

~~2. The immediate supervisor advises the employee of the conditions of the career progression alternate hiring level assignment.~~

### **340:2-1-93. Applicants previously discharged from classified employment**

Revised ~~9-17-189~~-15-21

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. ■-4

## **INSTRUCTIONS TO STAFF 340:2-1-93 [REVOKED]**

**Issued 9-17-18**

- ~~1. Involuntary discharge from the classified service does not bar a former employee from applying for appointment under the reinstatement provisions of the Human Capital Management Merit System of Personnel Administration Rules (Merit Rules). Human Resource Management contacts HCM to verify reinstatement eligibility. When the applicant is a former state employee who was discharged, this information is included with the application.~~

## **SUBCHAPTER 15. RISK AND SAFETY MANAGEMENT [REVOKED]**

### **PART 1. RISK MANAGEMENT PROGRAM [REVOKED]**

#### **340:2-15-1. Purpose [REVOKED]**

~~Under the guidance of the Department of Central Services (DCS), all state agencies are required to establish a Risk Management Program, appoint a risk manager, and assign personnel sufficient to perform required functions per Section 85.58 A of Title 74 of the Oklahoma Statutes.~~

~~(1) The Oklahoma Department of Human Services (OKDHS) Support Services Division (SSD) Risk, Safety, and Emergency Management Unit, risk manager is: ■-1~~

~~(A) the point of contact between OKDHS and DCS for all risk management functions, including incident scene management, investigations, reporting, and record keeping;~~

~~(B) responsible for coordinating all workers' compensation activities for OKDHS; and~~

~~(C) responsible for coordinating all aspects of employee and public safety for OKDHS as required by state and federal regulations including:~~

~~(i) employee safety training;~~

~~(ii) Oklahoma Department of Labor (ODOL) inspections; and~~

~~(iii) notice posting requirements.~~

~~(2) The local administrator or county director, in cooperation with the OKDHS risk manager, carries out the responsibilities of the Risk Management Program. ■-2~~

#### **INSTRUCTIONS TO STAFF [REVOKED]**

- ~~1. The Oklahoma Department of Human Services (OKDHS) Support Services Division (SSD) Risk, Safety, and Emergency Management Unit, risk manager formulates a procedures manual that:~~

~~(1) outlines the minimum requirements of the rules and regulations contained in the Department of Central Services (DCS) rules at OAC 580:25-3;~~

~~(2) includes samples of all forms in current use;~~

- ~~(3) lists the employee annual safety training required by the Oklahoma Department of Labor (ODOL);~~
- ~~(4) lists the chain of command and telephone numbers for reporting workers' compensation claims, casualty or liability incidents, and safety issues; and~~
- ~~(5) is updated as needed.~~

~~2. The local administrator or county director responsibilities include:~~

- ~~(1) posting required notices;~~
- ~~(2) providing training in conjunction with the OKDHS risk manager; and~~
- ~~(3) appointing a local safety coordinator, whose duties include:~~
  - ~~(A) detecting safety hazards; and~~
  - ~~(B) making recommendations for the elimination of identified safety hazards.~~

**340:2-15-2. Definitions [REVOKED]**

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

**"Authorized legal counsel"** means:

- ~~(A) the Attorney General of the State of Oklahoma; or~~
- ~~(B) an attorney authorized to represent the Oklahoma Department of Human Services (OKDHS).~~

**"Casualty incident" or "liability incident"** means any liability occurrence or event:

- ~~(A) that results in personal injury or property damage; and~~
- ~~(B) where there is probable cause to believe that such event may give rise to a claim for damages against OKDHS or an OKDHS employee and:~~
  - ~~(i) takes place upon or within any real property owned or used by OKDHS;~~
  - ~~(ii) involves participation by any employee or volunteer of OKDHS who is acting within the scope of his or her employment and authority; or~~
  - ~~(iii) involves any vehicle or other personal property owned by OKDHS and operated by an employee or volunteer of OKDHS.~~

**"Claim"** means the formal notice served upon proper legal authority by any claimant or the representative of any claimant, as provided by the Tort Claims Act.

**"Claimant"** means the person or authorized representative who files notice of a claim in accordance with the Tort Claims Act.

**"Property incident"** means any occurrence or event that involves any real or personal property owned by OKDHS or in the possession of OKDHS for safekeeping, and as a result of the event, property is damaged, lost, or destroyed by accident, misfortune, or mishap.

**"Reportable vehicle incident"** means any occurrence or event involving a vehicle that results in a liability incident. This includes any incident that involves any vehicle or property used to conduct business within the scope of authority or employment of an OKDHS employee, volunteer, or official.

**"Risk manager"** means the manager of the OKDHS Support Services Division (SSD) Risk, Safety, and Emergency Management Unit and such staff as necessary to supervise and manage the OKDHS Risk Management Program.

~~"Risk Management Program" means the system by which OKDHS identifies all risk and works to eliminate, reduce, or minimize that risk through a continuous loss prevention and loss control program. The system includes coordination of activities between OKDHS, the Department of Central Services (DCS), and the Oklahoma Department of Labor (ODOL).~~

~~"Settlement of claim" means DCS may settle a claim brought against OKDHS after conferring with authorized legal counsel, subject to any procedural requirements imposed by statute, resolution, or written policy.~~

~~"Vehicle" means any self-propelled vehicle or mobile equipment, regardless whether the equipment is licensed for road use, that is used by an OKDHS employee or volunteer for official business and is:~~

- ~~(A) owned or leased by OKDHS;~~
- ~~(B) a personal vehicle; or~~
- ~~(C) a privately leased vehicle.~~

#### **340:2-15-4. Risk and safety management functions [REVOKED]**

~~(a) **Incident scene management.** The local administrator or county director:~~

- ~~(1) takes steps at the scene of any liability incident to ensure the safety and security of all persons and property;~~
- ~~(2) manages the incident scene in the best interest of the Oklahoma Department of Human Services (OKDHS); and~~
- ~~(3) conducts a preliminary investigation, with assistance from local law enforcement personnel, as needed.~~

~~(b) **Investigation.** The local administrator or county director ensures that each liability incident is promptly and thoroughly investigated to determine the circumstances surrounding the incident and to mitigate future hazards. The investigation includes, at a minimum:~~

- ~~(1) the identities of all possible claimants and all known witnesses, including each person's:
  - ~~(A) full name;~~
  - ~~(B) address;~~
  - ~~(C) home and business telephone numbers;~~
  - ~~(D) date of birth;~~
  - ~~(E) Social Security number; and~~
  - ~~(F) known or reported account of the incident, briefly summarized;~~~~
- ~~(2) a description of the occurrences that gave rise to the damages, including date, time, location, and an estimate of the possible amount of damages; and~~
- ~~(3) photographs of the accident scene or property damage as close to the date and time of the liability incident as possible.~~

~~(c) **Claims.** Claims against OKDHS are investigated by the local administrator or county director and the Risk, Safety, and Emergency Management Unit to determine whether an employee or volunteer involved in a liability incident was on official state business.~~

- ~~(1) For the purpose of the Risk Management Program, the determination of whether an employee's or volunteer's actions are covered is at the sole discretion of the Department of Central Services (DCS) Risk Management Division. [OAG 580:25-5-1(a)(2)]~~

~~(2) DCS Risk Management Division makes the final determination of the disposition of any claims for damages against OKDHS.~~

~~(d) **Record keeping.** The OKDHS Risk, Safety, and Emergency Management Unit maintains records of all liability incidents. ■-1~~

#### **INSTRUCTIONS TO STAFF [REVOKED]**

~~1. A unique identification number is assigned to each liability incident and is used to identify the incident in any communications between the Oklahoma Department of Human Services (OKDHS) and Department of Central Services (DCS).~~

#### **340:2-15-5. Incident reporting responsibilities [REVOKED]**

~~Any person, including employees and volunteers, must promptly report any liability incident or potential liability incident in which they are involved or witness. Persons other than an employee or volunteer report the incident to a local Oklahoma Department of Human Services (OKDHS) employee. ■-1~~

~~(1) An employee or volunteer whose conduct or performance of duty gives rise to a liability incident, or who witnesses a liability incident, is required to cooperate in good faith with the defense of any claim arising out of the liability incident.~~

~~(2) Cooperation in good faith means not making statements, whether verbally or in writing, regarding the liability incident, except as required by OKDHS, authorized legal counsel, the Department of Central Services (DCS) Risk Management Division, or any law enforcement authority that investigates the liability incident at the scene. ■-2~~

#### **INSTRUCTIONS TO STAFF [REVOKED]**

~~1. (a) When a liability incident or accident, potential liability incident, or near miss incident occurs, the procedures outlined in (b) through (e) of this Instruction are followed.~~

~~(b) The employee or volunteer who is involved in or notified of a liability incident or accident informs the immediate supervisor and completes the appropriate DCS form(s). DCS form, DCS/RISK MGMT - Form 001P, Reporting Procedure for 3<sup>rd</sup> Party Incident/Accident, provides instruction on completion of the required forms:~~

~~(1) Form 230A301E, Standard Liability Incident Report;~~

~~(2) Form 230A302E, Scope of Employment Form; and~~

~~(3) DCS/RISK MGMT - Form 009, Accident Information Reporting Pamphlet.~~

~~(c) When an employee sustains a work related injury, refer to DHS:2-15-1.1.~~

~~(d) The immediate supervisor informs the local administrator or county director of the incident or accident and ensures the appropriate forms are completed.~~

~~(e) The local administrator or county director:~~

~~(1) immediately reports any liability incident to the Oklahoma Department of Human Services (OKDHS) Support Services Division, Risk, Safety, and Emergency Management Unit risk manager by telephone at 405-522-2094;~~



~~(2) reports any potential liability incident or near miss incident to the OKDHS risk manager by the following working day; and~~

~~(3) sends within 24 hours of the incident or by the close of the next working day the required form(s) to the OKDHS risk manager, along with other pertinent documents, such as:~~

~~(A) police reports;~~

~~(B) witness statements; and~~

~~(C) a summary of the facts.~~

~~(f) The OKDHS risk manager:~~

~~(1) immediately notifies DCS Risk Management Division of the liability incident by telephone;~~

~~(2) reviews the information submitted by the local administrator or county director;~~

~~(3) may complete a more detailed investigation; and~~

~~(4) sends to the DCS Risk Management Division:~~

~~(A) the investigation results;~~

~~(B) pertinent documentation; and~~

~~(C) form(s) received from the local administrator or county director.~~

~~2. An employee is free to make any statement or comment concerning OKDHS operations and is protected by Section 840-2.5 of Title 74 of the Oklahoma Statutes.~~

### **340:2-15-7. Driver and motor vehicle safety and liability [REVOKED]**

~~(a) **Motor vehicle liability coverage.** For purposes of this Section, a motor vehicle is any vehicle licensed for road use.~~

~~(1) Department of Central Services (DCS) provides use of state vehicles and liability coverage for any state employee who operates a motor vehicle while in the scope of his or her employment and on official state business.~~

~~(2) DCS does not cover personal errands or other activities undertaken when the employee or volunteer is not within the scope of his or her employment nor on official state business. The employee assumes all liability while engaging in such activities.~~

~~(3) DCS Risk Management Division provides liability insurance for a state employee or volunteer deemed insurable. Any losses that involve an uninsurable employee or volunteer are borne by the Oklahoma Department of Human Services (OKDHS).~~

~~(4) DCS Risk Management Division checks information on an employee's or volunteer's Department of Public Safety records and notifies the OKDHS Support Services Division (SSD) Risk, Safety, and Emergency Management Unit risk manager whether DCS considers the person insurable.~~

~~(b) **Requirements for vehicles used to conduct OKDHS business.** Before an employee or volunteer may operate a motor vehicle while in the performance of official state business he or she must complete Form 23RS100E, Driver License and Liability Insurance Attestation. ■ 1~~

~~(1) In order to operate a vehicle of any type, an employee or volunteer must:~~

~~(A) have and carry a valid driver license;~~

~~(B) observe all traffic laws and abide by all driving and vehicle safety standards;~~

- ~~(C) not allow an unauthorized person to operate the vehicle;~~
- ~~(D) operate the vehicle in a courteous manner at all times; and~~
- ~~(E) not consume alcoholic beverages or narcotics prior to or during operation of a vehicle.~~

~~(2) An employee or volunteer who operates a vehicle is required to report suspension or revocation of his or her driver license to the local administrator or county director.~~

~~(3) An employee or volunteer who is involved in two at fault accidents within a 24 month period while acting as an agent of OKDHS is deemed uninsurable by DCS for a period of three months following the second accident.~~

~~(c) **Requirements for drivers of state owned vehicles.** Employees use state owned vehicles only for state business within the scope of the driver's employment and authority.~~

~~(1) An employee who operates a state owned vehicle complies with the requirements listed in (b)(1)(A) through (E) of this Section.~~

~~(2) An employee involved in a vehicle accident while functioning as an agent of OKDHS and in which the driver acted negligently and caused personal injury, property damage, or both, is required to attend and successfully complete a motor vehicle improvement (MVI) course.~~

~~(A) The MVI course is approved by the DCS Risk Management Division and must be attended within six months of the accident.~~

~~(B) DCS Risk Management Division deems the employee uninsurable until the successful completion of the MVI course.~~

~~(d) **Reporting vehicle liability incidents.** Any vehicle liability incident that involves a fatality, personal injury, or property damage is reported to the nearest law enforcement officer unless the operator is incapacitated. The operator remains at the scene until all acts required by law are completed unless the operator is prevented by injuries or other extenuating circumstances. ■-2~~

### **INSTRUCTIONS TO STAFF [REVOKED]**

~~1. (a) The original of Form 23RS100E, Driver License and Liability Insurance Attestation, is forwarded to the Oklahoma Department of Human Services (OKDHS) Risk, Safety, and Emergency Management Unit and a copy is retained in the local OKDHS office.~~

~~(b) Department of Central Services (DCS) DCS/RISK MGMT - Form 009, Accident Information Reporting Pamphlet, is kept in the glove compartment of the vehicle and is referred to in the event of an accident.~~

~~(c) Before operating a vehicle, the driver is responsible for checking to determine that all necessary safety equipment and control devices are in proper operating condition.~~

~~2. Employees and volunteers follow the procedures included in OAC 340:2-15-5 Instructions to Staff to report the vehicle liability incident.~~

### **PART 3. HAZARD COMMUNICATION PROGRAM [REVOKED]**

**340:2-15-25. Purpose [REVOKED]**

- ~~(a) The purpose of the rules regarding the Hazard Communication Program is to ensure Oklahoma Department of Human Services (OKDHS) is in compliance with Occupational Safety and Health Administration (OSHA) rules at Section 1910.1200 of Title 29 of the Code of Federal Regulations by making employees and emergency first responders aware of chemicals they may encounter during the course and scope of their work.~~
- ~~(b) The OKDHS Support Services Division (SSD) Risk, Safety, and Emergency Management Unit is responsible for administering and managing the Hazard Communication Program. ■-1~~

#### **INSTRUCTIONS TO STAFF [REVOKED]**

- ~~1. (a) Risk, Safety, and Emergency Management Unit. The Oklahoma Department of Human Services (OKDHS) Support Services Division (SSD) Risk, Safety, and Emergency Management Unit is responsible for:~~
- ~~(1) assisting divisions in implementation of the Hazard Communication Program;~~
  - ~~(2) maintaining the master list of material safety data sheets (MSDSs);~~
  - ~~(3) training supervisors on the program; and~~
  - ~~(4) consulting with divisions on program compliance.~~
- ~~(b) Divisions. Divisions are responsible for carrying out the Hazard Communication Program in accordance with the rules in this Part and any financial expenses associated with the implementation of this program.~~
- ~~(c) Local administrator or county director. The local administrator or county director is responsible for:~~
- ~~(1) ensuring that employees are trained;~~
  - ~~(2) ensuring that MSDSs are handled in accordance with the rules for this program;~~
  - ~~(3) labeling hazardous chemical containers; and~~
  - ~~(4) working with contractors to ensure program compliance.~~
- ~~(d) Employees. Employees are responsible for:~~
- ~~(1) complying with rules in this Part and procedures established by their local administrator or county director to minimize potential chemical exposure; and~~
  - ~~(2) informing their local administrator or county director if they encounter any problems with the procedures or have a chemical exposure.~~

#### **340:2-15-27. Scope [REVOKED]**

~~The rules in this Part apply to all Oklahoma Department of Human Services (OKDHS) employees and responding public officials, such as a police officer, fireman, or any person acting in the role of an emergency first responder within OKDHS facilities. A copy of these rules is made available upon request. These rules do not cover consumer products used in the manner that a consumer would use the product.~~

#### **340:2-15-27.1. Definitions [REVOKED]**

~~The following words and terms when used in this Part shall have the following meanings, unless the context clearly indicates otherwise:~~

**"Chemical"** means any element, chemical compound, or mixture of elements and/or compounds.

**"Chemical name"** means the scientific designation of a chemical or a name that clearly identifies the chemical for the purpose of conducting a hazard evaluation.

**"Common name"** means any designation or identification, such as trade name, brand name, or generic name used to identify a chemical other than by its chemical name.

**"Exposure" or "exposed"** means that an employee is subjected in the course of employment to a chemical that is a physical or health hazard at a level above that allowed by Section 1910 of Title 29 of the Code of Federal Regulations. It includes accidental or possible exposure by any route of entry such as inhalation, ingestion, skin contact, or absorption.

**"Hazardous chemical"** means any chemical that is a physical hazard or a health hazard.

**"Health hazard"** means chemicals for which there is statistically significant evidence based on at least one study conducted in accordance with established scientific principles that acute or chronic health effects may occur to exposed employees.

**"Immediate use"** means the hazardous chemical will be under the control of and used only by the person who transfers it from a labeled container and only within the work shift in which it is transferred.

**"Material safety data sheet (MSDS)"** means a document prepared by the supplier or manufacturer of a product clearly stating the:

- (A) hazardous nature;
- (B) ingredients;
- (C) precautions to follow;
- (D) health effects; and
- (E) safe handling and storage information.

**"Physical hazard"** means a chemical for which there is scientifically valid evidence that is:

- (A) a combustible liquid;
- (B) a compressed gas, explosive or flammable;
- (C) an organic peroxide; or
- (D) an oxidizer, pyrophoric, unstable or water reactive.

### **340:2-15-28. Elements of compliance [REVOKED]**

The Oklahoma Department of Human Services (OKDHS) Hazard Communication Program elements of compliance with Section 1910.1200 of Title 29 of the Code of Federal Regulations (CFR) are explained this Section.

(1) **Material safety data sheet (MSDS).** OKDHS requires the manufacturer or the supplier of a chemical product to furnish an MSDS for each chemical product before a purchase contract is awarded. The OKDHS Support Services Division (SSD) Risk, Safety, and Emergency Management Unit maintains the MSDS master list. ■ 1

(2) **Chemical inventory.** The Risk, Safety, and Emergency Management Unit maintains a current chemical inventory list (CIL) containing the common and trade names of all hazardous chemicals present in the workplace. ■ 2

~~(3) **Workplace labeling.**—Appropriate signs to warn of hazardous chemicals are required on buildings or structures, pipelines, containers, tanks, and vessels. ■-3~~

~~(A) Except as provided in (iii)(II)(III) and (IV) of this subparagraph, each container of hazardous materials in the workplace must be labeled, tagged, or marked with the chemical identity, appropriate hazard warning, and name and address of the manufacturer or other responsible party. ■-3~~

~~(i) All shipping containers containing hazardous chemicals must be labeled or placarded in accordance with Oklahoma Department of Transportation (ODOT) regulations. OKDHS shippers provide the MSDS to transport vehicle drivers upon request.~~

~~(ii) The labels on containers of hazardous substances that come into the work site must be inspected by the work site supervisor or qualified designee to ensure legibility.~~

~~(iii) In order to meet the Oklahoma Hazard Communication Standard found at OAC **580:45**, the label affixed to a container by the manufacturer, importer, or distributor must:~~

~~(I) identify the hazardous chemical(s);~~

~~(II) display appropriate hazard warnings: may use words, pictures, or symbols as appropriate; and must be legible and in English;~~

~~(III) specify carcinogens and other regulated chemicals that require specific labeling per Occupational Safety and Health Administration (OSHA) standards if present in concentrations greater than 0.1% of the total volume of a substance;~~

~~(IV) contain the name and address of the chemical manufacturer, importer, or other responsible party; and~~

~~(V) be prominently displayed.~~

~~(iv) If a label is missing or illegible, the hazardous chemical is not used in the work location until the supplier furnishes a replacement label.~~

~~(B) In lieu of labels, storage tanks such as bulk oxygen storage must display a Hazard Identification Table (HIT) number on a permanently affixed display device that provides employees and responding public officials a reference by which the vessel's contents and emergency response guide can be referenced from the U.S. Department of Transportation Emergency Response Guidebook. ■-4~~

~~(C) In compliance with the Oklahoma Hazard Communication Standard, OAC **380:45-5-5** for fire safety, OKDHS posts the appropriate sign, as approved by the Oklahoma Department of Labor (ODOL) Commissioner, identifying the locations and severity categories of hazardous chemicals deemed to be present in a significant amount. This is:~~

~~(i) any amount of the ODOT classified chemicals as:~~

~~(I) a class A explosive; and~~

~~(II) a class B explosive;~~

~~(III) a class A poison;~~

~~(IV) a class B poison;~~

~~(V) a flammable solid designated as "hazardous when wet"; or~~

~~(VI) any radioactive material requiring a special license from the Nuclear Regulatory Agency; and~~

~~(ii) 55 gallons of liquid or 500 pounds of non-liquid hazardous chemical aggregately stored, placed or used within the workplace and where the numerical rating of the hazardous material results in a National Fire Protection Agency (NFPA) 704 Hazard Identification System rating of:~~

- ~~(I) two or greater health hazard;~~
- ~~(II) two or greater flammability hazard; or~~
- ~~(III) one or greater reactivity hazard.~~

~~(4) **Contractors.** Construction contractors are asked to inform OKDHS of any hazardous chemicals that will be used in a project and the contractor is informed by OKDHS of any hazardous chemicals they may come into contact with during the OKDHS construction process. Non-construction contractors are required by OKDHS to supply the MSDS for chemicals that could result in OKDHS employee exposure.~~

~~(5) **Hazard Communication Program plan.** The OKDHS Hazard Communication Program plan is maintained in the Risk, Safety, and Emergency Management Unit. The plan is available for review upon written request by an affected employee, employee representative, vendor, contractor, responding public official, or authority having jurisdiction. ■-5~~

~~(6) **Hazard Communication Program plan revisions.** The Hazard Communication Program plan is reviewed and updated at least annually and as necessary to reflect new or modified tasks, procedures, exposures, or rule changes. The Risk, Safety, and Emergency Management Unit maintains documentation of the review. ■-6~~

## **INSTRUCTIONS TO STAFF [REVOKED]**

~~1. When a product is not purchased through state wide contract, the local administrator or county director is responsible for obtaining the material safety data sheet (MSDS) from the supplier at the time of purchase of a hazardous chemical(s). A copy of the MSDS is forwarded to the Oklahoma Department of Human Services (OKDHS) Support Services Division (SSD) Risk, Safety, and Emergency Management Unit for entry into the master list database.~~

~~(1) Each work location maintains a copy of the MSDS for each hazardous chemical stored at that work location in the ORANGE Hazard Communication Manual and ensures they are readily accessible to employees in their work area during each work shift.~~

~~(2) When any new hazardous chemical is introduced into the workplace, the MSDS must be on file before the chemical is used.~~

~~2. Each work location develops and maintains a current chemical inventory list (CIL) containing the common and trade names of all hazardous chemicals present in the work location. The CIL is maintained in the ORANGE Hazard Communication Manual and is available on request. In case of a medical emergency, the information is provided immediately and in no case later than the next working day after a request is made.~~

~~3. The workplace supervisor ensures:~~

- ~~(1) incoming chemical container labels are not defaced or removed;~~
- ~~(2) labels are written in English; and~~

- ~~(3) employees immediately use chemicals transferred into secondary or portable containers. Otherwise the secondary or portable containers require labeling.~~
- ~~4. The local administrator or county director is responsible for ensuring that:~~
- ~~(1) the appropriate Hazard Information Table (HIT) number is legibly displayed on each building or storage tank requiring this method of hazard identification; and~~
  - ~~(2) a current copy of the U.S. Department of Transportation Emergency Response Guidebook is maintained in the workplace at all times.~~
- ~~5. (a) Employees are provided with information and training on hazardous chemicals in their work area at the time of their initial assignment and whenever a new chemical hazard is introduced into their work area. Information and training is provided employees regarding:~~
- ~~(1) the requirements of this Section;~~
  - ~~(2) any operations in their work area where hazardous chemicals are present;~~
  - ~~(3) the location and availability of these rules including the MSDS and CIL location;~~
  - ~~(4) the methods and observations that may be used to detect the presence or release of a hazardous chemical;~~
  - ~~(5) the physical and health hazards of the chemicals in the work area; and~~
  - ~~(6) the measures employees can take to protect themselves from these hazards such as specific procedures OKDHS has implemented to protect employees from exposure including:~~
    - ~~(A) work practices;~~
    - ~~(B) emergency procedures; and~~
    - ~~(C) personal protective equipment.~~
- ~~(b) Some OKDHS employees are periodically required to perform hazardous non-routine tasks. The supervisor is responsible for identifying and informing employees of the hazardous substances that may be involved prior to the work being performed. Employees are given information regarding:~~
- ~~(1) the specific chemical hazard;~~
  - ~~(2) any protective safety measures employees can take, such as wearing gloves or protective clothing;~~
  - ~~(3) procedures for decreasing the hazard, such as proper ventilation, respiratory protection, or requiring the presence of other employees; and~~
  - ~~(4) any established emergency procedures.~~
- ~~6. The OKDHS risk manager annually forwards an updated Hazardous Communication Program plan to each primary workplace where hazardous chemicals are present. The local administrator or county director updates the plan specific to that workplace and sends a completed copy to the Risk, Safety, and Emergency Management Unit, risk manager.~~

**PART 5. ALCOHOL AND DRUG TESTING FOR DRIVERS OF COMMERCIAL VEHICLES [REVOKED]**

### **340:2-15-40. Purpose [REVOKED]**

~~The purpose of the rules in this Part is to establish a program to help prevent accidents and injuries resulting from the misuse of alcohol or the illegal or improper use of drugs by Department of Human Services (DHS) drivers of commercial motor vehicles in accordance with federal procedures outlined in 49 CFR, Parts 40, 382, 383, and 390.~~  
■-1

### **INSTRUCTIONS TO STAFF [REVOKED]**

~~1. See OAC 340:2-15-40.1, Instructions to Staff # 1 regarding federal regulations governing the Department's safety-sensitive alcohol and drug testing program.~~

### **340:2-15-40.1. Adoption by reference [REVOKED]**

~~(a) The Department of Human Services (DHS) adopts by reference the following United States Department of Transportation regulations contained in Title 49 of the Code of Federal Regulations and pertaining to motor carrier safety:~~

~~(1) Part 40, Procedures for Transportation Workplace Drug and Alcohol Testing Programs; [49 CFR Section 40, et seq.]~~

~~(2) Part 382—Controlled Substance and Alcohol Use and Testing; [49 CFR Section 382, et seq.]~~

~~(3) Part 383—Commercial Driver's License Standards, Requirements and Penalties; [49 CFR Section 383, et seq.] and~~

~~(4) Part 390—General. [49 CFR Section 390, et seq.]~~

~~(b) Copies of Title 49 of the Code of Federal Regulations pertaining to motor carrier safety are available by contacting the DHS designated employer representative at (405-521-3613).~~  
■-1

### **INSTRUCTIONS TO STAFF [REVOKED]**

~~1. (a) Federal regulations governing the Department's safety-sensitive alcohol and drug testing program are extensive and subject to frequent revision.~~

~~(b) Not all federal regulations governing this program are reproduced in the Department's alcohol and drug testing policy.~~

~~(c) The designated employer representative (DER) maintains current copies of the federal regulations governing the Department's alcohol and drug testing program and provides copies to all affected individuals.~~

~~(d) All affected individuals are responsible for reading, learning, and maintaining personal copies of this policy and the federal regulations governing the Department's alcohol and drug testing program.~~

~~(e) Copies of the federal regulations referenced in this policy may be obtained from the DER, HR Programs, Human Resources Management Division, Department of Human Services.~~

### **340:2-15-41. Definitions [REVOKED]**

~~The following words and terms, when used in this Part, shall have the following meanings unless the context clearly indicates otherwise:~~



**"Alcohol"** means the intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols including methyl and isopropyl alcohol.

**"Affected individual"** means an applicant, employee, or volunteer who possesses a commercial driver's license and operates a commercial motor vehicle as defined in this Part. This includes, but is not limited to, full time, regularly employed drivers; casual, intermittent, or occasional drivers; leased or independent drivers; and anyone spending any time at the driving controls of any DHS commercial vehicle as defined elsewhere in this policy.

**"Applicant"** means an individual making application through either initial hire, transfer, demotion, or promotion into a Department position requiring alcohol and drug testing.

**"Commercial motor vehicle"** means a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle:

(A) has a gross combination weight rating of 26,001 or more pounds inclusive of a towed unit with a gross vehicle weight rating of more than 10,000 pounds;

(B) has a gross vehicle weight rating of 26,001 or more pounds;

(C) is designed to transport 16 or more passengers, including the driver; or

(D) is of any size and is used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act and which require the motor vehicle to be placarded under the Federal Hazardous Materials Regulations.

**"Confirmation test for alcohol testing"** means a second test, following a screening test with a result of 0.02 or greater, that provides quantitative data of alcohol concentration.

**"Confirmation test for drug testing"** means a second analytical procedure to identify the presence of a specific drug or the presence of a specific drug or metabolite which is independent of the screen test and which uses a different technique and chemical principle from that of the screen test in order to ensure reliability and accuracy. Gas chromatography/mass spectrometry is the confirmation method for cocaine, marijuana, opiates, amphetamines, and phencyclidine.

**"DER"** means the DHS designated employer representative assigned the responsibility for overseeing the Department's federal alcohol and drug testing program.

**"Drugs"** means a federally controlled substance including marijuana, cocaine, amphetamines, opiates, and phencyclidine (PCP).

**"Employee"** means an employee occupying a position within the Department who is subject to alcohol and drug testing.

**"Evidential breath testing device"** means the test approved by the National Highway Traffic Safety Administration (NHTSA) for the evidential testing of breath, placed on NHTSA's conforming products list of evidential breath measurement devices and identified as conforming with the model specifications available from the NHTSA, Office of Alcohol and State Programs.

**"Medical review officer (MRO)"** means a licensed medical doctor or doctor of osteopathy responsible for receiving laboratory results generated by an employer's drug testing program and who has knowledge of substance abuse disorders and appropriate medical training to interpret and evaluate an individual's confirmed positive test result together with his or her medical history and any other relevant biomedical information.

**"Reasonable suspicion"** means a reasonable belief based upon observable facts that an affected individual is using, has used, or is under the influence of alcohol or drugs. Observable facts include:

(A) physical symptoms or direct observation of being under the influence of a drug or alcohol while on duty;

(B) reported drug or alcohol use while on duty which has been independently corroborated;

(C) evidence that an affected individual has tampered with an alcohol or drug test during employment; or

(D) evidence that an affected individual is involved in the use, possession, sale, solicitation, or transfer of drugs while on duty or on DHS premises or operating a state or DHS vehicle, machinery, or equipment.

**"Refusal to submit to an alcohol or drug test"** means that a driver:

(A) fails to appear for any test, except a pre-employment test, within a reasonable time, as determined by the employer and consistent with applicable United States Department of Transportation (DOT) agency regulations, after being directed to do so by the employer. This includes the failure of an employee to appear for a test when called by a Department provider of alcohol and drug testing services;

(B) fails to remain at the testing site until the testing process is complete. Provided, that an employee who leaves the testing site before the testing process commences a pre-employment test is not deemed to have refused to test;

(C) fails to provide a urine specimen for a drug test required by this Part or DOT agency regulations, provided that an employee who does not provide a urine specimen because he or she has left the testing site before the testing process commences for a pre-employment test is not deemed to have refused the test;

(D) in the case of a directly observed or monitored collection in a drug test, fails to permit the observation or monitoring of the driver's provision of a specimen;

(E) fails to provide a sufficient amount of urine when directed, and it has been determined through a required medical evaluation that there was no adequate medical explanation for the failure;

(F) fails or declines to take a second test the employer or collector has directed the employee to take;

(G) fails to undergo a medical examination or evaluation as directed by the MRO as part of the verification process, or as directed by the DER. In the case of a pre-employment drug test, the employee is deemed to have refused to test on this basis only if the pre-employment test is conducted following a contingent offer of employment;

(H) fails to cooperate with any part of the testing process, such as refuses to empty his or her pockets when so directed by the collector or behaves in a confrontational way that disrupts the collection process; or

(I) is reported by the MRO as having a verified adulterated or substituted test result.

**"Screening test or initial test for alcohol"** means an analytic procedure to determine whether an individual has a prohibited concentration of alcohol in a breath specimen.

**"Screening test or initial test for drugs"** means an immunoassay screening to eliminate negative urine specimens from further analysis by drug testing.

~~"Testing coordinator" means an individual or individuals selected by the DHS appointing authorities to administer the Department's alcohol and drug testing program within the appointing authority's respective area of responsibility.~~

~~"Volunteer" means an individual not employed by the Department but who provides volunteer services in a position that requires alcohol and drug testing.~~

### **340:2-15-42. Implementation of alcohol and drug testing of affected OKDHS employees, applicants, and volunteers [REVOKED]**

#### **(a) Notice of communication.**

~~(1) The rules in this Part and the pertinent federal regulations are conspicuously posted in all Oklahoma Department of Human Services (OKDHS) working units.~~

~~(2) All persons in affected positions shall receive a copy of the rules in this Part and the federal regulations 30 days prior to the initial implementation or implementation of changes in the rules.~~

~~(3) Each local administrator is responsible for obtaining and maintaining written documentation that each affected person received a copy of the rules as well as any subsequent rule amendments to this Part.~~

~~(4) All affected persons are provided the name, work location, and telephone number for the designated employee representative (DER) and the local testing coordinator. Affected persons may direct questions and concerns to the DER and the testing coordinator.~~

#### **(b) Coordination.**

~~(1) **DER.** The DER is responsible for the overall implementation and administration of this program, including coordination with the contracted testing provider, training, and record keeping.~~

~~(2) **Testing coordinator.** Each OKDHS appointing authority designates one or more employees to coordinate all aspects of the drug and alcohol testing program within the designee's respective area of responsibility.~~

#### **(c) Affected person.** Affected persons, as defined in this Part, are subject to alcohol and drug testing.

~~(1) With an applicant's written authorization, OKDHS shall request information from an applicant's former employer concerning any prior alcohol test with a result of 0.04 alcohol concentration or higher; a verified positive drug test; or a refusal to be tested.~~

~~(2) No applicant with a prior alcohol test with a result of 0.04 alcohol concentration or higher, a verified positive drug test, or a refusal to be tested, shall be hired by OKDHS for any position requiring the operation of a commercial motor vehicle.~~

~~(3) At least once per calendar year, OKDHS shall obtain and review motor vehicle reports for all affected persons.~~

#### **(d) Actual knowledge of alcohol or drug use.** No supervisor or administrator having actual knowledge that an affected person has used drugs or has used alcohol within four hours of operating an OKDHS commercial vehicle shall permit the person to operate or continue to operate the vehicle.

#### **(e) Types of testing.**

~~(1) **Pre-employment or pre-placement.** All candidates, including potential volunteers, whether conditionally offered initial hire, transfer, promotion, demotion, or placement into affected positions are tested for alcohol and drugs. Candidates~~

receive a copy of this policy prior to testing. Positive test results prohibit the hiring, promotion, transfer, or placement into an affected position.

~~(2) **Random testing.** Random alcohol and drug testing is administered at a minimum annual rate of 50 percent of affected persons for drugs and 25 percent of affected persons for alcohol. Tests are unannounced and conducted throughout the calendar year. Each testing coordinator provides to the contracted testing provider a list of the names, employee identification numbers, and work locations for all affected persons. Each testing coordinator ensures that the list of affected persons is kept current.~~

~~(3) **Reasonable suspicion.** Reasonable suspicion for submitting a person for testing is documented by two appropriately trained supervisors.~~

~~(A) Upon documentation, the supervisor or designated authority arranges for the affected person to be tested for alcohol and drugs. OKDHS Form 11PE094E, Reasonable Suspicion Checklist, is available to assist supervisors in correctly documenting reasonable suspicion.~~

~~(B) Each reporting supervisor certifying an affected person for reasonable suspicion testing must have completed at least one hour of training in alcohol abuse and one hour of training in drug abuse. Training is provided or arranged by the testing coordinator and the DER.~~

~~(4) **Post-accident testing.** Immediately following an accident involving a commercial motor vehicle, the supervisor or designated authority arranges for the driver to be tested for alcohol and drugs. If the operator does not submit to an alcohol test within two hours of the accident, the supervisor prepares a report stating the reason a test was not given. If the operator does not submit to an alcohol test within eight hours, the supervisor ceases attempting to have the alcohol test administered and prepares a report stating the reasons a test was not given. If the operator does not submit to drug testing within 32 hours, the supervisor ceases attempts to have the drug test administered and prepares a report stating the reasons a test was not given. The reporting supervisor provides copies of the reports to the local administrator, respective testing coordinator, and the DER within 24 hours of the accident. Post-accident testing occurs when:~~

~~(A) the accident involves a fatality;~~

~~(B) the operator receives a citation for a moving traffic violation arising from the accident;~~

~~(C) any vehicle is towed from the scene; or~~

~~(D) the person operating the vehicle or any other person sustains an injury that results in lost work time or requires treatment away from the scene of the accident.~~

~~(5) **Return-to-duty and follow-up testing.** Operators who test positive for alcohol must undergo a return-to-duty alcohol test before being permitted to resume the operation of any vehicle utilized in the performance of the operator's duties. Each operator, after returning to duty, is subject to a minimum of six follow-up alcohol tests in the first 12 months following the date of the initial positive test. The operator does not pay for return-to-duty or follow-up testing.~~

~~(6) **Positive test.** OKDHS employees scoring positive on an alcohol or drug test are referred to the Employee Assistance Program (EAP).~~

~~(f) **Testing procedures.**— In accordance with federal regulations, drug testing is conducted for marijuana, cocaine, amphetamines, opiates, including heroin, and phencyclidine (PCP). Testing for alcohol is performed using breathalyzers as specified in federal regulations.~~

~~(1) Drug testing is a two stage process. Split urine specimens are collected at the test site.~~

~~(2) If the first drug test is positive for one or more of the five listed drugs, a second confirmation test is performed using gas chromatography/mass spectrometry analysis.~~

~~(3) Positive drug test results are reviewed by a medical review officer (MRO). The MRO:~~

~~(A) contacts each person having a positive drug test to determine whether there is a medical reason for a positive test result; and~~

~~(B) provides the final test report to the DER.~~

### **340:2-15-43. Disciplinary action [REVOKED]**

~~(a) **Disciplinary action for illegal drug involvement or usage.**— The on-duty or off-duty sale, distribution, or possession with intention to distribute illegal drugs or the manufacture of illegal drugs by an affected Department employee resulting in a criminal conviction requires the employee's immediate discharge. A confirmed positive result for a drug test requires the affected employee's discharge.~~

~~(b) **Disciplinary action for positive alcohol test results.**— The Department follows required levels of discipline for employees with positive alcohol test results. Aggravating circumstances such as serious injuries or fatalities may result in more serious disciplinary action.~~

~~(1) An affected employee's first incident of an alcohol level from .02 to .039 results in a written reprimand. An affected employee's first incident of an alcohol level from .04 to .079 results in a five day involuntary suspension without pay.~~

~~(2) When an affected employee has an alcohol level of .08 or higher, the employee is discharged.~~

~~(3) An affected employee's second offense of an alcohol level of .02 to .039, within 24 calendar months of the first offense, results in a ten-day involuntary suspension without pay. An affected employee's second offense of an alcohol level of .04 to .079, within 24 calendar months of a first offense, results in a 30-day involuntary suspension without pay.~~

~~(4) Any third offense, regardless of the alcohol level, within 36 calendar months of a second offense results in the employee's discharge.~~

~~(c) **Refusal to submit to an alcohol or drug test.**— Employees refusing to submit to an alcohol or drug test are considered to have a positive test result and are subject to discharge.~~

~~(d) **Removal action for volunteers.**— A volunteer whose volunteer activities include operating a commercial motor vehicle and testing at an alcohol level above .02, or drugs at any level, is immediately removed from duty and no longer permitted to operate any DHS or state vehicle.~~

~~(e) **Pre-duty use of alcohol.**— No affected individual shall operate any Department commercial vehicle within four hours after consuming alcohol.~~

**340:2-15-44. Use of prescribed medications [REVOKED]**

~~An employee immediately reports in writing to his or her supervisor the use of any prescribed medications or other substances which may in any way impair his or her ability to properly perform assigned duties. Employees also provide appropriate, written medical authorization from the prescribing medical professional.~~

**340:2-15-45. Employee Assistance Program (EAP) referral [REVOKED]**

~~The Department has a strong interest in assisting individuals with substance abuse problems and makes available an Employee Assistance Program (EAP) to assist employees who may have substance abuse problems. Affected Department employees who receive positive results on alcohol or drug tests are referred to the EAP.~~

**340:2-15-46. Confidentiality [REVOKED]**

~~All tests and associated documents relating to such tests are confidential. All documentation is maintained in secure files, marked confidential, and kept separate from other personnel files. Alcohol and drug testing documents are not released to any person other than the affected individual or another person with assigned responsibility for corrective discipline, or an Employee Assistance Program referral, or by lawful court order.~~

**340:2-15-47. Traffic violations [REVOKED]**

~~Any affected individual reports to his or her supervisor and testing coordinator in writing and within two normal working days any conviction for any moving traffic violation received as a result of the operation of any motor vehicle.~~

**340:2-15-48. Individual driver's licenses [REVOKED]**

~~Any affected individual shall have only one driver's license which shall be a commercial license issued by the State of Oklahoma.~~

**340:2-15-49. Training [REVOKED]**

~~(a) Each affected individual receives at least one hour of training in alcohol abuse and at least one hour of training in drug abuse each fiscal year.~~

~~(b) Each reporting supervisor completes at least one hour of training in alcohol abuse and at least one hour of training in drug abuse prior to certifying an affected individual for reasonable suspicion testing.~~

~~(c) All training includes educational materials which provide and explain:~~

~~(1) the requirements of this policy and the federal regulations;~~

~~(2) what positions are subject to testing;~~

~~(3) information concerning safety sensitive duties and positions;~~

~~(4) appropriate and required driver conduct;~~

~~(5) circumstances requiring testing;~~

~~(6) testing procedures;~~

~~(7) what constitutes a refusal to submit to a test and the consequences;~~

~~(8) the consequences for drivers found to have violated the policy or federal regulations; and~~

~~(9) information concerning the effects alcohol and drugs have on an individual's health, work, and life, including symptoms of an alcohol or drug problem and available intervention methods.~~

~~(d) Training is provided or arranged by the designated employee representative and the local testing coordinator.~~