

**TITLE 260. OFFICE OF MANAGEMENT AND ENTERPRISE SERVICES
CHAPTER 25. MERIT SYSTEM OF PERSONNEL ADMINISTRATION RULES**

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 11. Employee Actions

Part 13. Resignations

260:25-11-134. Resignation or leave without pay to accept an unclassified position [AMENDED]

Subchapter 15. Time and Leave

Part 5. Miscellaneous Types of Leave

260:25-15-40. Enforced leave [AMENDED]

Part 7. Leave When Offices Are Closed Or Services Reduced

260:25-15-71. Leave when an office a state office building is temporarily closed due to unsafe working conditions or hazardous weather; or when services are temporarily reduced due to hazardous weather (paid administrative leave) [AMENDED]

Subchapter 17. Performance Evaluation and Career Enhancement Programs

Part 3. Employee Performance Management System

260:25-17-31. Employee performance management system [AMENDED]

Part 9- Mandatory Supervisory Training

260:25-17-93. Supervisory training requirements [AMENDED]

Subchapter 29. Human Capital Management Division

Part 1. General Provisions

260:25-29-12. Location for information and for filing [AMENDED]

AUTHORITY:

Office of Management and Enterprise Services Human Capital Management Division. 74 O.S. Section 840-1.6A; 74 O.S. Section 840-2.20; 74 O.S. Section 840-2.20A; 62 O.S. Section 34.6(8) The Director of the Office of Management and Enterprise Services.

SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:

November 25, 2020

COMMENT PERIOD:

December 15, 2020 through January 21, 2021

PUBLIC HEARING:

January 21, 2021

ADOPTION:

February 25, 2021

SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:

February 25, 2021

LEGISLATIVE APPROVAL:

Approved June 11, 2021 by HJR 1046

FINAL ADOPTION:

June 11, 2021

EFFECTIVE:

August 26, 2021

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

GIST/ ANALYSIS:

The rules and regulations are necessary to promote and enhance effective operation of the State's workforce. The amended rules correct citations and scrivener's errors, respond to changes in the State's workforce, provide flexibility to Appointing Authorities, and increase clarity of the rules.

260:25-11-134 corrects the statutory reference.

260:25-15-40 provides greater flexibility to employees regarding enforced leave.

260:25-15-71 provides clarity regarding the availability of paid administrative leave to teleworking employees and responds to the expansion of the teleworking workforce.

260:25-17-31 responds to the expansion of the teleworking workforce.

260:25-17-93 affords Appointing Authorities with greater flexibility of mandatory supervisory training reporting.

260:25-29-12 updates the address of the Human Capital Management Division.

CONTACT PERSON:

Tracy Osburn, Deputy General Counsel, General Counsel Section, OMES, 2401 North Lincoln Blvd, Oklahoma City, Oklahoma, 73105, (405) 522-3428, tracy.osburn@omes.ok.gov

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF AUGUST 26, 2021:

**SUBCHAPTER 11. EMPLOYEE ACTIONS
PART 13. RESIGNATIONS**

260:25-11-134. Resignation or leave without pay to accept an unclassified position

(a) No classified employee may be assigned to an unclassified or exempt position unless the employee so desires and such acceptance shall be transmitted in writing to the Administrator.

(b) Any classified employee shall be deemed to have resigned the classified position on the date of accepting an appointment to a position in the exempt or unclassified service of the state; except that, a person appointed to a temporary or acting position in the exempt or unclassified service, including appointment as an acting incumbent as provided in Section 840-5.5(A)(~~50~~) (49) of Title 74 of the Oklahoma Statutes, may alternatively request leave without pay status in the classified position while assigned to the unclassified or exempt position. Such leave without pay shall not exceed 2 years from the date of the appointment to the unclassified service.

**SUBCHAPTER 15. TIME AND LEAVE
PART 5. MISCELLANEOUS TYPES OF LEAVE**

260:25-15-40. Enforced leave

(a) The Appointing Authority may grant a probationary or permanent employee time off from regular duties, with compensation for absence necessary when some member of his or her immediate family or household requires the employee's care because of illness or injury, when an employee's son or daughter requires care and supervision due to unavailability of the dependent's routine caregiver or caregiving facility, or in the case of death in the immediate family or household or in the case of personal disaster. Enforced leave shall be charged against the employee's sick leave and may not be granted in excess of accumulated sick leave. The number of days granted will be governed by the circumstance of the case, but in no event shall they exceed 10 working days in any calendar year.

(b) Immediate Family is defined as spouse, children, parents, brothers, sisters, including step, grand, half, foster, or in-law relationships.

(c) Household is defined as those persons who reside in the same home, who have reciprocal duties and provide financial support for one another. This term shall include foster children and

legal wards even if they do not live in the household. The term does not include persons sharing the same general house or when the living style is primarily that of a dormitory or commune.

(d) Personal Disaster is defined as an unforeseeable, catastrophic event such as the destruction of the employee's residence.

(e) Son or daughter is defined as a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis who is either under 18 years of age or is 18 years of age or older and incapable of self-care because of a mental or physical disability.

PART 7. LEAVE WHEN OFFICES ARE CLOSED OR SERVICES REDUCED

260:25-15-71. Leave when an ~~office~~ state office building is temporarily closed due to unsafe working conditions or hazardous weather; or when services are temporarily reduced due to hazardous weather (paid administrative leave)

(a) If agency ~~offices~~office buildings are closed because of an imminent peril threatening the public health, safety, or welfare of state employees or the public, or when state ~~offices~~office buildings are temporarily closed or reduced due to hazardous weather conditions, the Appointing Authority shall place employees who are scheduled to work in the affected work areas on paid administrative leave or, if applicable, shall assign them to work in another location, including, but not limited to, a telework location. During their normal duty hours, employees on paid administrative leave due to unsafe working conditions are on stand-by or on-call status. Appointing Authorities may call employees to return to their normal duties or respond to the demands of the situation as necessary. [74:840-2.20A(A)]

(b) As used in this Section, paid administrative leave means leave granted to affected employees if offices of agencies are closed because of an imminent peril threatening the public health, safety, or welfare of state employees or the public, or when state offices are temporarily closed or reduced due to hazardous weather. Examples of reasons for temporarily closing an office due to unsafe working conditions are: leaks of toxic fumes in buildings; life threatening damage to building structures; or emergency operations which would be disrupted by the presence of the usual work force; or any other condition which poses a significant threat to the safety of the work force.

(c) Paid administrative leave shall be accorded to all affected employees only when a state office building is temporarily closed or services are temporarily reduced due to hazardous weather in accordance with 260:25-15-70 and this Section. Upon its reopening, normal Merit Rules governing leave and agency procedures shall apply. The granting of administrative leave applies only to employees scheduled to work onsite in a state office building during the time period of the closure or reduced services. Administrative leave shall not be granted to employees that telework or have the ability to telework unless otherwise approved by the Appointing Authority or on a case-by-case basis. ~~Administrative leave~~ does not apply to employees who are absent during the closure or reduction on any previously approved leave. Employees who are not eligible to accrue leave, such as temporary employees, shall not be granted administrative leave under this section when state services are temporarily closed or temporarily reduced due to hazardous weather conditions.

(d) When the Governor or a designee of the Governor authorizes agencies or parts of agencies to maintain basic minimum services because hazardous weather conditions impede or delay the movement of employees to and from work, employees responsible for providing such basic minimum services shall report to work. Appointing Authorities of agencies shall be responsible for determining essential agency functions [basic minimum services] and ensuring that employees who staff such functions are so informed. [74:840-2.20A(B)] Employees who are considered responsible for basic minimum services and who are required to work when state services are temporarily reduced due to hazardous weather conditions shall be entitled to accrue administrative leave on a straight-time basis up to eight hours per day for hours worked in their

regularly scheduled work periods during such reduction. Administrative leave accrued under this provision must be taken within 180 days of its accrual or the employee shall be paid for the leave. An extension of the time period for taking the leave may be approved for up to an additional 180 days, providing the Appointing Authority submits a written request with sufficient justification to the Human Capital Management Division. Accrued administrative leave must be used before granting of any annual leave except when the employee may lose accrued leave under 260260:25-15-10 and 260:25-15-11(b) (5).

(e) Employees who are responsible for basic minimum services who do not report to work have the following options to account for leave:

- (1) Charge the absence to accumulated compensatory time;
- (2) Charge the absence to accumulated annual leave;
- (3) Make up lost time in a manner consistent with the FLSA, if the Appointing Authority determines that office hours and schedules permit.

(f) An employee who leaves earlier than a designated early dismissal time, or who arrives later than a designated late arrival time, shall be charged leave for the excess time.

(g) An employee who is not responsible for basic minimum services shall not be allowed to accrue administrative leave in accordance with (d) of this Section for time worked.

(h) Employees who are placed on paid administrative leave shall receive up to eight hours per day of paid administrative leave.

SUBCHAPTER 17. PERFORMANCE EVALUATION AND CAREER ENHANCEMENT PROGRAMS PART 3. EMPLOYEE PERFORMANCE MANAGEMENT SYSTEM

260:25-17-31. Employee performance management system

(a) The Office of Management and Enterprise Services shall make available one standard performance management system that shall be used by all agencies for completing employee performance evaluations. The purpose of this employee performance management system is to evaluate the performance of each employee in the executive branch of state government except those in the exempt unclassified service as specified in paragraphs 1 and 2 of subsection A of Section 840-5.5 and those employees employed by the institutions under the administrative authority of The Oklahoma State System of Higher Education.

(b) The employee performance management system shall provide for the following:

- (1) An objective evaluation by the immediate supervisor of the performance of the employee within the assigned duties of the job. The evaluation shall contain the agency number, date of review, and employee identification number;
- (2) The identification by the immediate supervisor of accountabilities and behaviors upon which the employee will be evaluated;
- (3) A mid-term interview with the immediate supervisor for the purpose of discussing the progress of the employee in meeting the accountabilities and behaviors upon which the employee will be evaluated;
- (4) Identification of performance strengths and performance areas for development;
- (5) A final interview with the employee by the immediate supervisor who shall provide the employee with a copy of the performance evaluation; and
- (6) The opportunity for the employee to submit written comments regarding the performance evaluation.

(c) Each classified employee in probationary status shall be rated at least thirty days prior to the end of the probationary period. All unclassified and permanent classified employees not otherwise exempt from this requirement shall have an evaluation period of no more than twelve months.

Supervisors may perform as many additional evaluations as they deem necessary in order to effectively manage the performance of a subordinate.

(d) The immediate supervisor shall hold a meeting ~~in person~~ with the employee at least three times during a 12-month evaluation period.

(1) One meeting shall take place at the beginning of the evaluation period in order to communicate the accountabilities and behaviors upon which the employee will be evaluated. A copy shall be provided to the employee.

(2) One meeting shall take place during the rating period for the purpose of discussing the progress of the employee in meeting the accountabilities upon which the employee will be evaluated.

(3) One meeting shall take place at the end of the review period to provide the final evaluation. A copy of the evaluation shall be provided to the employee, and the employee shall have the opportunity to provide written comments.

(e) The agency shall use the performance evaluations of current or former state employees in decisions regarding promotions, appointments, demotions, performance pay increases, and discharges. Reductions-in-force shall not be considered discharges. With or without the performance evaluations the Appointing Authority can make decisions regarding demotions and discharges on current state employees if determined necessary.

(f) The agency shall retain a copy of the performance evaluation for each employee of the agency. A copy of the performance evaluation shall be retained in the employee's personnel file.

(g) The basic document to be used in conducting performance evaluations is the Performance Management Process form, a form prescribed by the Administrator. The form contains spaces for the supervisor to describe a list of accountabilities on which the employee will be evaluated. The form also lists behaviors on which state employees will be evaluated. The form provides spaces for the supervisor to enter an overall accountability rating, an overall performance rating, and a summary/development plan. The form requires signature by the employee, the supervisor, and the reviewer.

PART 9. MANDATORY SUPERVISORY TRAINING

260:25-17-93. Supervisory training requirements

(a) Beginning November 1, 1999, all supervisors shall complete 12 hours of supervisory training according to this Part each ~~calendar~~ year [74:840-3.1].

(b) Persons appointed to supervisory positions after November 1, 1999, shall complete 24 hours of supervisory training according to this Part within 12 months before or after assuming a supervisory position [74:840-3.1]. Supervisors shall complete training courses in the State of Oklahoma Performance Management Process and progressive discipline within the first 12 months of being appointed to a supervisory position.

(c) The appointing authority of each agency shall make sure each supervisory employee is notified and scheduled to attend required supervisory training and shall make time available for each supervisory employee to complete the training [74:840-3.1].

(d) Training courses conducted by employing agencies, public and private schools, and colleges and universities may count toward supervisory training requirements if the coursework meets the definition for supervisory training in 260:25-17-91.

SUBCHAPTER 29. HUMAN CAPITAL MANAGEMENT DIVISION PART 1. GENERAL PROVISIONS

260:25-29-12. Location for information and for filing

(a) The address and telephone number for communications with HCM is: Human Capital Management Division, ~~Jim Thorpe Building, Room G80, 2101 North Lincoln Boulevard~~Will Rogers

Building, Suite 106, 2401 North Lincoln Boulevard, Oklahoma City, OK 73105-4904, Telephone (405) 521-2177.

(b) The normal business hours of HCM are 8:00 a.m. to 5:00 p.m., Monday through Friday.

(c) Anyone may file a document with HCM by mail or hand-delivery during normal business hours. The "filing date" is the date HCM receives a document by mail or hand-delivery, not the date it is mailed or postmarked.

(d) HCM does not accept facsimiles or "FAXs" instead of original official documents except for the following documents:

- (1) Agency Payroll Initialization (HCM-38);
- (2) Agency Transfer (HCM-30);
- (3) Carl Albert Public Internship Program application materials, and completed and signed agreement forms;
- (4) Certified Public Manager nomination;
- (5) Classification Grievance Audit Request (HCM-70);
- (6) Dependent birthday change (EBC-20);
- (7) Delegated authority application;
- (8) Documents and related correspondence on legislation, rules, and Employment Relations Services (except for Employee Assistance Program participant documents and alleged discrimination complaint documents);
- (9) HRDS Course Nomination;
- (10) Interagency employee transfer correspondence;
- (11) Mandatory Supervisory Training Report;
- (12) Model Project application;
- (13) Notice to Announce (HCM-29);
- (14) PEP Nomination (HCM-102);
- (15) Personnel Transaction Freeze Exception Request;
- (16) Position Description Questionnaires
- (17) Quality Oklahoma Project Report;
- (18) Reallocation Forms;
- (19) Request for personnel action;
- (20) State Mentor Program nomination forms, application materials, and Appointing Authority endorsement forms;
- (21) State Personnel Interchange Program completed and signed agreement and contract forms;
- (22) Test Use and Security Agreement; and
- (23) Voluntary Payroll Deduction Application (VPD-1) and related correspondence.

(e) HCM does not accept electronic mail or "e-mails" instead of original official documents except for the following documents:

- (1) Carl Albert Public Internship Program transcripts, enrollment verifications, and resumes;
- (2) Certified Public Manager nomination;
- (3) HRDS Course Nomination;
- (4) Mandatory Supervisory Training Report; and
- (5) Quality Oklahoma Project Report.

(f) Unless a document clearly states otherwise, the signature of a person on a document filed with HCM shall mean the person has read it and has personal knowledge of the information it contains, that every statement is true, that no statements are misleading; and that filing the document is not a delay tactic. If any document is not signed or is signed with intent to defeat the purposes of the rules in this Title, the Administrator may ignore it and continue as though it had not been filed.