



MERIT PROTECTION COMMISSION

Preserving the integrity of the Oklahoma Merit System



Presenter: Commissioner Brian Crain

Executive Director, Carol Shelley

3545 NW 58th Street, Suite 360,
Oklahoma City, Oklahoma 73112
(405) 525-9144

COX v. STATE ex rel. DEPT. OF HUMAN SERVICES
2004 OK 17, 87 P.3d 607 ,Case Number: 96899
Decided: 03/09/2004

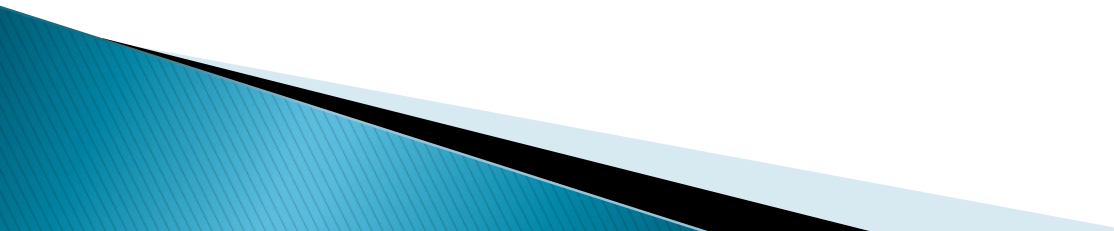
▶ THE SUPREME COURT OF THE STATE OF OKLAHOMA


- ▶ "In reviewing an administrative order our province is not to determine whether, in the first instance, this Court would reach the same result as the administrative agency. We do not substitute our judgment for that of the agency on its factual determinations. Rather, we review the record to determine whether the petitioner's substantial rights have been prejudiced by a clearly erroneous decision considering the reliable, material, probative and substantially competent evidence resulting in an arbitrary or capricious result." *Id.* (Emphasis added).

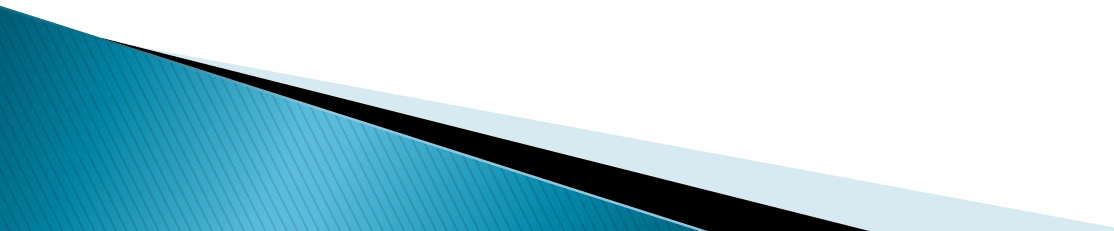
STATE AGENCIES GRANT PROGRAMS STANDARDS AND CONDITIONS OF ELIGIBILITY

- ▶ Title 5: Administrative Personnel
- ▶ PART 900—INTERGOVERNMENTAL PERSONNEL ACT PROGRAMS—Subpart F—Standards for a Merit System of Personnel Administration §900.601 Purpose
- ▶ (b) Certain Federal grant programs require, as a condition of eligibility, that State and local agencies that receive grants establish merit personnel systems for their personnel engaged in administration of the grant-aided program.

Subpart F—Standards for a Merit System of Personnel Administration

- ▶ **Appendix A to Subpart F of Part 900—Standards for a Merit System of Personnel Administration**
 - ▶ **Part I: The following programs have a statutory requirement for the establishment and maintenance of personnel standards on a merit basis.**
 - ▶ *Program, Legislation, and Statutory Reference*
 - ▶ **Food Stamp, Food Stamp Act of 1977, as amended; 7 U.S.C. 2020(e)(6)(B).**
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- ▶ **EMPLOYMENT SECURITY (Unemployment Insurance and Employment Services)**, Social Security Act (Title III), as amended by the Social Security Act Amendments of 1939, Section 301, on August 10, 1939, and the Wagner–Peyser Act, as amended by Pub. L. 81–775, section 2, on September 8, 1950; 42 U.S.C. 503(a)(1) and 29 U.S.C. 49d(b).
 - ▶ **Grants to States for Old–Age Assistance for the Aged** (Title I of the Social Security Act); 42 U.S.C. 302(a)(5)(A).
 - ▶ ¹Public Law 92–603 repealed Titles I, X, XIV and XVI of the Social Security Act effective January 1, 1974, except that “such repeal does not apply to Puerto Rico, Guam, and the Virgin Islands.”
 - ▶ **Aid to Families with Dependent Children**, (Title IV–A of the Social Security Act); 42 U.S.C. 602(a)(5).
 - ▶ **Grants to States for Aid to the Blind**, (Title X of the Social Security Act); 42 U.S.C. 1202(a)(5)(A).
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- ▶ **Grants to States for Aid to the Permanently and Totally Disabled**, (Title XIV of the Social Security Act); 42 U.S.C. 1352(a)(5)(A).¹
 - ▶ **Grants to States for Aid to the Aged, Blind or Disabled**. (Title XVI of the Social Security Act); 42 U.S.C. 1382(a)(5)(A).¹
 - ▶ **Medical Assistance (Medicaid), Social Security Act** (Title XIX), as amended, section 1902 (a)(4)(A); 42 U.S.C. 1396(a)(4)(A).
 - ▶ **State and Community Programs on Aging (Older Americans)**, Older Americans Act of 1965 (Title III), as amended by the Comprehensive Older Americans Act Amendments of 1976, section 307 on October 18, 1978; 42 U.S.C. 3027(a)(4).
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- ▶ **Federal Payments for Foster Care and Adoption Assistance**, (Title IV–E of the Social Security Act); 42 U.S.C. 671(a)(5).
- ▶ **Part II: The following programs have a regulatory requirement for the establishment and maintenance of personnel standards on a merit basis.**
- ▶ **Occupational Safety and Health Standards**,
 - ▶ Williams–Steiger Occupational Safety and Health Act of 1970; Occupational Safety and Health State Plans for the Development and Enforcement of State Standards; Department of Labor, 29 CFR 1902.3(h).
- ▶ **Occupational Safety and Health Statistics**, Williams–Steiger Occupational Safety and Health Act of 1970; BLS Grant Application Kit, May 1, 1973, Supplemental Assurance No. 15A.
- ▶ **Robert T. Stafford Disaster Assistance and Emergency Relief Act** (42 U.S.C. 5196b), as amended; 44 CFR 302.4.

Statistical Review FY20

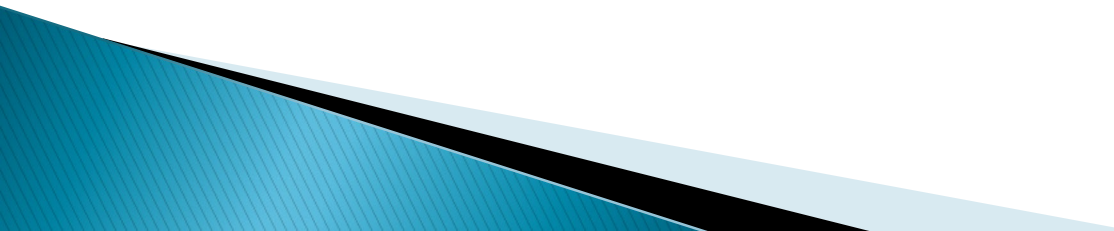
| | |
|--------------------------|-----|
| ▶ Petitions Filed | 182 |
| ▶ Investigations | 110 |
| ▶ Discharges | 33 |
| ▶ Suspension without pay | 30 |
| ▶ Involuntary Demotion | 5 |
| ▶ Payroll Protest | 4 |

Hearings with an ALJ

| | |
|------------------------------------|----|
| ▶ Number of hearings held | 31 |
| ▶ Prehearings | 17 |
| ▶ Full Hearings on the merits | 14 |
| ▶ Hearings delayed due to COVID 19 | 12 |

Alternative Dispute Resolution (ADR)

| | |
|------------------------------------|----|
| ▶ ADR Mediations and Negotiations | 71 |
| ▶ Mediations | 12 |
| ▶ Negotiation Conferences | 59 |
| ▶ Total ADR's delayed due to COVID | 8 |



State Agencies Utilizing MPC Services in FY20

| | |
|---|--|
| Department of Human Services (830) | |
| Department of Corrections (131) | |
| Dept. Mental Health & Sub. Abuse (452) | |
| OK State Department of Health (340) | |
| Dept. of Rehabilitation Services (805) | |
| Dept. of Veterans Affairs (650) | |
| OK Military Department (025) | |
| OK State Bureau of Investigations (308) | |
| OK Dept. of Environmental Quality (292) | |
| OK Employment Security Commission (290) | |
| Office of Management & Enterprise Serv. (090) | |
| Office of Juvenile Affairs (400) | |
| Department of Public Safety (595) | |
| OK Corporation Commission (185) | |
| OK Dept. of Transportation (345) | |
| OK State Board of Medical Licensure (450) | |
| J.D McCarty Center for Children w/Disabilities. (670) | |
| Employee Group Insurance Division (OMES) (090) | |
| Ok Real Estate Commission (588) | |
| OK Workers Compensation Commission (369) | |
| Oklahoma Indigent Defense System (047) | |

ALJ Salaries Of Various Agencies as Provided by OMES

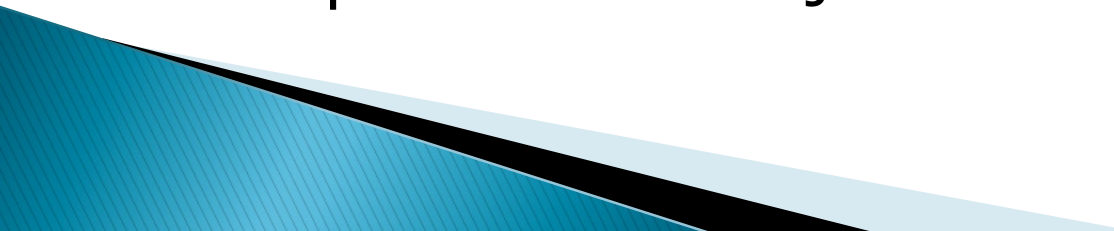
| Agency | Job Title | # of Employees | Average of Annual |
|---|---------------------------------|----------------|-------------------|
| Corporation Commission | Appeals Admin Law Judge | 2 | \$80,100.00 |
| | Dep Administrative Law Judge | 4 | \$78,600.00 |
| | Mang Dep Admin Law Judge | 1 | \$90,600.00 |
| | Sr Administrative Law Judge | 5 | \$73,600.00 |
| Horse Racing Commission | Mang Dep Admin Law Judge | 1 | \$30,590.00 |
| Human Services Department – OKDHS | Administrative Law Judge III | 2 | \$88,905.84 |
| | Adm Law Judge II – Tax Comm | 2 | \$126,798.00 |
| Tax Commission | | | |
| Workers' Compensation Commission | Administrative Law Judge I | 6 | \$126,492.65 |
| | | 22 | \$82,652.85 |

Merit Protection Commission

Administrative Law Judges (ALJ)

| <u>Fiscal Year</u> | <u>19</u> | <u>20</u> |
|------------------------------------|-----------|-----------|
| ALJ 1 | 4,000.00 | 5,500.00 |
| ALJ 2 | | 1,000.00 |
| ALJ 3 (Inactive) | 1,000.00 | |
| ALJ 4 | 2,000.00 | 500 |
| ALJ 5 | 6,250.00 | 5,750.00 |
| ALJ 6 (Inactive) | 2,500.00 | 2,750.00 |
| ALJ 7 | 1,000.00 | 3,000.00 |
| ALJ 8 (Inactive) | | 500 |
| | | |
| | | |
| Inactive: No Longer serving as ALJ | | |

Conclusion

- ▶ The benefits of the Merit Protection Commission outweigh the cost of its funding by:
 - ▶ Enhanced legal standard protection in Oklahoma Courts
 - ▶ Maintaining the eligibility of Oklahoma to receive federal grants in core functions of state government
 - ▶ The MPC is in danger of failing in its mission due to inadequate funding for salaries and compensation to ALJ's and MPC staff.
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Thank you

