

DISCLAIMER: *This is an unofficial version of the rules.* THE OFFICIAL RULES ARE PUBLISHED IN THE OKLAHOMA ADMINISTRATIVE CODE AND THE OKLAHOMA REGISTER, AS REQUIRED BY 75 O.S., SECTION 250 ET SEQ. TO ORDER AN OFFICIAL COPY OF THESE RULES, CONTACT THE OFFICE OF ADMINISTRATIVE RULES AT (405) 521-4911.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING PERMANENT RULES ARE CONSIDERED PROMULGATED AND EFFECTIVE UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF September 11, 2016:

**TITLE 75. ATTORNEY GENERAL
CHAPTER 1. ADMINISTRATION**

SUBCHAPTER 1. GENERAL INFORMATION

(a) These rules are promulgated pursuant to the requirements of the Administrative Procedures Act, 75 O.S. § 250, et seq. The purpose of these rules is to effectively implement and enforce the provisions of Title 74 § 18p-1 et seq. of the Oklahoma Statutes. These rules supplement existing state and federal laws, and being duly promulgated, have the force and effect of law.

(b) These rules govern formal proceedings of the Office of the Attorney General. Informal proceedings may be held as announced by the Office of the Attorney General or as agreed with any person.

75:1-1-1.1. Definitions

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

"Certification" means a status which is granted to a person or an entity by the Oklahoma Attorney General, and indicates approval to provide a particular service. In accordance with the Administrative Procedures Act, 75 O.S. § 250.3(8), certification is defined as a "license."

"Certification report" means a written notice of the deficiencies developed by the Office of the Attorney General.

"Certified facility" means any facility which has received a certification status by the Oklahoma Attorney General.

"Conditional Certification" means a status which is granted to a person or entity by the Oklahoma Attorney General, and indicates approval to provide a particular service or services for a specified period of time, typically four (4) months) in order to give a renewal applicant an opportunity to achieve 100% compliance with applicable rules.

"Contractor" or **"contractors"** means any person or entity under contract with the Office of the Attorney General for the provision of goods, products or services.

"Domestic Violence and Sexual Assault Advisory Council" means a nine-member committee appointed by the Attorney General

as described in 74 O.S. § 18p-2.

"Entities" or **"entity"** means sole proprietorships, partnerships, corporations, limited partnerships, limited liability partnerships, and limited liability companies.

"Facilities" or **"facility"** means entities as described in 74 O.S. § 18p-6 and Chapters 15, 25 and 30 in Title 75 of the Oklahoma Administrative Code, domestic violence shelters and programs, sexual assault programs, including programs serving adult victims of sex trafficking, and batterers intervention programs.

"Individual proceeding" means the formal process employed by an agency having jurisdiction by law to resolve issues of law or fact between parties and which results in the exercise of discretion of a judicial nature.

"Levels of performance" means a unit of service by types of service.

"Oklahoma Administrative Code" or **"OAC"** means the publication authorized by 75 O.S. § 256 known as The Oklahoma Administrative Code, or, prior to its publication, the compilation of codified rules authorized by 75 O.S. § 256(A)(1)(a) and maintained in the Office of Administrative Rules.

"Probationary certification" means a certification status granted for a period less than three (3) years.

"Reimbursement rates" means the rates at which all contractors are reimbursed (paid) for services they provide under their contract with the Office of the Attorney General, and which are reported to the Office of the Attorney General as required.

"Respondent" means the person(s) or entity(ies) named in a petition for an individual proceeding against whom relief is sought.

"Site Review Protocol" means an Office of the Attorney General internal document used by the Office of the Attorney General Victims Services Unit staff as a work document in the certification site visit(s) that is based primarily upon the rules (standards/criteria) being reviewed. The Site Review Protocol is used in preparing the Certification Report, which is provided to the facility, and in preparing recommendations regarding certification to the Attorney General for his consideration and action.

"Temporary Certification" means a status which is granted to a person or entity by the Oklahoma Attorney General, and indicates approval to provide a particular service or services for one (1) year in order to give an initial applicant an opportunity to achieve 100% compliance with applicable rules.

"Units" or **"unit"** means an hour, or part of an hour, or group of hours, or a 24-hour day during which a specific service is rendered.

"Victims Services Unit" means the Unit created within the Office of the Attorney General to provide services for persons

who require domestic violence or sexual assault services through a domestic violence program, sexual assault program, including programs serving adult victims of sex trafficking, or batterers intervention program.

[**Source:** Added at 23 Ok Reg 329, eff 11-8-05 (emergency); Added at 23 Ok Reg 2189, eff 7-1-06; Amended at 25 Ok Reg 1834, eff 7-1-08; Revoked and reenacted at 28 Ok Reg 1903, eff 7-11-11]

75:1-1-2. Applicability

This, and all subsequent chapters are applicable, unless otherwise specifically noted in a chapter, subchapter, part or section of Oklahoma Administrative Code Title 75, to the Office of the Attorney General, and all facilities under contract with the Office of the Attorney General and/or subject to certification by the Office of the Attorney General (74 O.S. § 18p-6).

75:1-1-3. Compliance with laws and rules

(a) Any statute of the United States, or of the State of Oklahoma now existing, or duly enacted in the future, shall supersede any conflicting provision of the rules of this and all subsequent chapters to the extent of such conflict, but shall not affect the remaining provisions therein.

(b) All persons and organizations affected by the rules of this and all subsequent chapters and related laws shall be knowledgeable of the conduct pertinent in operating in accordance with all such rules and laws.

75:1-1-4. Organization

(a) The Oklahoma Attorney General is vested with the authority to make rules for the implementation of the Office of the Attorney General's statutorily mandated and permissible functions related to domestic violence programs, sexual assault programs, including programs serving adult victims of sex trafficking, and/or batterers intervention programs under 74 O.S. §§ 18p-6.

(b) The Oklahoma Attorney General shall maintain such staff as authorized by law and assign said staff to carry out the duties and responsibilities required to fulfill the statutory requirements of 74 O.S. §§ 18p-1 et seq., and the rules and directives of the Oklahoma Attorney General.

75:1-1-5. Objectives

The objectives of the Oklahoma Attorney General are as follows:

(1) The provision of quality domestic violence sexual assault and batterers intervention services, within the resources available, to those persons, and their families, receiving services from the facilities, certified by and/or under contract with the Office of the Attorney General.

(2) The services by domestic violence and sexual assault

providers shall be rendered in an environment of safety, dignity and with respect to the rights of those persons and their families.

(3) Adherence to and compliance with applicable state and federal statutes, including but not limited to Title 74 §§ 18p-1 et seq. of the Oklahoma Statutes and the Public Health Services Act (42 U.S.C.) by all facilities operated by, under contract with, and certified by the Oklahoma Attorney General.

75:1-1-6. Public records

(a) **Official records.** Official records of the Office of the Attorney General include information, rules, forms, the record in individual proceedings, records submitted to the Office of the Attorney General, and other public records in accordance with the Oklahoma Open Records Act 51 O.S. § 24A.1, et seq.

(b) **Copies.** Copies of official records of the Office of the Attorney General not privileged or protected from publication by law, shall be available to the public.

75:1-1-7. Requests for agency public information

Any person making a request pursuant to 75:1-1-6 shall comply with the following:

(1) Although the law does not require requests under the Open Records Act to be in writing, it is preferred that requests be in writing and mailed to the Office of the Attorney General, Victims Services Unit or sent via facsimile to (405) 557-1770, or made in person during regular office hours between 8:00 a.m. and 5:00 p.m.

(2) The request should describe the record(s) requested, indicate the name of the party making the request, and have the party's mailing address and telephone number.

(3) The requesting party shall pay a fee for copies. Said fee shall be twenty-five cents (25¢) per page, twelve dollars (\$12.00) per 3½-inch diskette, and \$1.00 per page for certified documents. Copies provided via FAX machine cost \$1.00 per page, regardless of the destination of the Faxed copy. For commercial requests or those that would cause excessive disruption of office function, such as documents that are archived, either internally or with the Oklahoma Archives and Records Commission, a search fee will be charged based upon the hourly rate of the individual(s) searching for, and locating, the requested records.

(4) Client records of a domestic violence program or sexual assault program, including programs serving adult victims of sex trafficking, are confidential and not subject to release by statutes and federal regulations including, but not limited to, 74 O.S. §§ 18p-3 and 18p-8, and 42 CFR, Part 2.

(5) Certain Office of the Attorney General employee personnel records are confidential and not subject to the Oklahoma Open Records Act, including employee evaluations, payroll deductions, applications submitted by persons not hired by the Office of the

Attorney General; internal personnel investigations including examination and selection material, employees' home addresses, telephone numbers, and social security numbers, medical and employee assistance records, and other personnel records where disclosure would constitute a clear invasion of privacy. Personnel records information that are subject to release are the application of a person who becomes an employee of the Office of the Attorney General, gross receipt of public funds, dates of employment, title or position and any final disciplinary action resulting in loss of pay, suspension, demotion or termination.

(6) Any other document protected, as confidential, by any Oklahoma or federal law, or Oklahoma or federal administrative rule, or by order of a court of competent jurisdiction, is not subject to the Oklahoma Open Records Act.

75:1-1-8. Forms

In order to maintain efficiency and uniformity in the administration of duties, the Office of the Attorney General will devise and maintain forms for use by any party. The forms may be revised periodically to ensure uniformity, efficiency, and expediency. The prescribed forms must be used by all affected parties unless another form is approved by the Office of the Attorney General prior to its submission, or other provisions are stated in subsequent chapters. Additionally, forms may be acquired by request under 75:1-1-7.

75:1-1-9. Procedures to secure a declaratory ruling as to the applicability of any rule or order of the Office of the Attorney General

(a) Any person subject to the rules contained in rules of the Office of the Attorney General (Oklahoma Administrative Code Title 75) may petition for a declaratory ruling as to the applicability of a specific rule and its effect on petitioner. In petitioning the Office of the Attorney General for a declaratory ruling, the following procedures must be followed:

- (1) The petition must be in writing and submitted to the Chief, Victims Services Unit, Office of the Attorney General;
- (2) The petition shall state with specificity the rule in question;
- (3) The petition shall state clearly and with specificity the basis for the action and the action or relief sought;
- (4) The petition shall pose the specific question(s) to be answered by the Office of the Attorney General; and
- (5) The petitioner or petitioner's authorized representative shall print his or her name, address and telephone number on the petition and sign it.

(b) The petition will be stamped upon receipt by the Office of the Attorney General to show the date of submission. The petition shall be referred to the Chief of the Victims Services Unit to make a recommendation to the Attorney General, who shall

issue a ruling within 30 days from the date of submission.

(c) The petitioner shall be notified of the declaratory ruling in writing by the U.S. Mail, certified mail, return receipt requested.

(d) The ruling shall become final unless, within 15 days of receipt, the petitioner files with the Chief of the Victims Services Unit a written request for a hearing before the Attorney General. If the petitioner requests such a hearing, the matter shall be set to be heard by the Attorney General.

(e) At the hearing of the matter by the Attorney General, the petitioner and Chief of the Victims Services Unit shall be permitted to present oral argument to the Attorney General, the length of which shall be limited by the Attorney General. At the conclusion of the presentation of the matter, the Attorney General shall render a decision on the petition and a written decision shall follow within 15 days.

(f) A declaratory ruling or refusal to issue such ruling, shall be subject to judicial review in the manner provided for review of decisions in individual proceedings in the Oklahoma Administrative Procedures Act (75 O.S. § 307).

75:1-1-10. Procedures to petition the Domestic Violence and Sexual Assault Advisory Council to request the promulgation, amendment or repeal of a rule

Any person affected either by a rule adopted and promulgated by the Attorney General, or the lack of a rule and regulation may petition the Domestic Violence and Sexual Assault Advisory Council to recommend to the Attorney General promulgation, adoption, amendment or repeal of a rule pursuant to 75 O.S. § 305 and in accordance with this section.

(1) The petition must be in writing and submitted to the Chief of the Victims Services Unit, Office of the Attorney General:

(A) The proposed amendment, promulgation, or repeal of a specific rule.

(B) The reason for the petition to repeal, promulgate, or amend a rule.

(C) The effect that the repeal, amendment or promulgation of the rule would have on the petitioner.

(2) The petitioner must print his or her name, address and telephone number on the petition and it must be signed by the petitioner.

(3) The Domestic Violence and Sexual Assault Advisory Council shall timely respond to such petition, either by recommending to the Attorney General that rulemaking proceedings be initiated or that the petition be denied.

(4) The petitioner will be notified by regular mail if rulemaking proceedings are initiated.

(5) A petition for rulemaking will be deemed denied if the Office of the Attorney General has not initiated rulemaking proceedings within thirty (30) calendar days after the

petition is submitted.

SUBCHAPTER 3. CONTRACTS FOR DOMESTIC VIOLENCE AND SEXUAL ASSAULT SERVICES

PART 1. ELIGIBILITY TO CONTRACT

75:1-3-1. Purpose

The purpose of this Part is to delineate the criteria for eligibility for entities to contract with the Office of the Attorney General for the provision of domestic violence or sexual assault services to the public as permitted or required under Title 74 O.S. § 18p-1 *et seq.*

75:1-3-2. Applicability

This part is applicable to all entities presently under contract with the Office of the Attorney General to provide domestic violence and sexual assault services; and to all entities which may either be, or desire to be, considered for such contracts.

75:1-3-3. Criteria for eligibility to contract

The criteria for eligibility to contract with the Office of the Attorney General are as follows:

- (1) The entity shall exist in conformity with Oklahoma Statutes regulating said entity, and provide such proof. In addition, if said entity purports to be a not-for-profit corporation, the proof of exemption from federal taxes under the U.S. Internal Revenue Service Code shall be made.
- (2) Revocation, denial or non-renewal of an entity's certification by the Attorney General shall result in contract termination for any service requiring such certification as of the date of the Attorney General's action.
- (3) The facility shall have deficiencies of no more than 30% of the standards on which the facility is reviewed.

PART 3. CONTRACTS AND CONTRACTING PROCESSES

75:1-3-14. Purpose

The purpose of this Part is to describe the contracts and contracting processes of the Office of the Attorney General for the provision of domestic violence or sexual assault services to the public.

75:1-3-15. Applicability

This Part is applicable to all entities presently under contract to provide domestic violence and sexual assault services, and to all entities which may either be, or desire to

be, considered for such contracts.

75:1-3-16. Contract forms

Contracts are in a standardized form and format as determined by the Office of the Attorney General which may be revised from time-to-time to meet changing state and federal statutes and regulations, and the requirement of the Office of the Attorney General to fulfill its functions and responsibilities.

75:1-3-17. Competitive bidding

With regard to competitive bidding:

(1) Contracts which are not based upon fixed uniform rates shall be competitively bid unless said contract is exempt from competitive bidding or meets the requirements for sole source justification.

(2) Contracts based upon fixed uniform rates, which have been previously approved by the Office of Management and Enterprise Services, set by the Attorney General, are not subject to competitive bidding [74 O.S. § 85.7 (11)].

75:1-3-18. Contract, services performance

Contracts shall require performance of specific service(s) to be performed. Where the services cannot be broken down into units, specifically measurable and reviewable services shall be stated. Additionally, contracts may contain requirements of performance based upon measurable quality outcome indicators.

75:1-3-19. Contract renewal

(a) Contracts for domestic violence and sexual assault services are considered during the third (3rd) and fourth (4th) quarter of the state fiscal year, for contracting in the following fiscal year.

(b) Consideration for renewal shall include a review of performance of the current contract including, but not limited to, measurable outcome indicators, target populations served, levels of performance of specific services, having deficiencies of no more than 30% of the standards reviewed, the existence of any client rights violations, and cost effectiveness of the delivery of services.

(c) If the Attorney General determines the contractual relationship shall be renewed, it shall be in a new contract for the upcoming fiscal year and may or may not contain the same terms, conditions, form and format as the previous contract.

75:1-3-20. Contractor reimbursement rates

Reimbursements to contractors for domestic violence and sexual assault services shall be considered and set in the manner described as follows:

(1) Contractors shall annually, or as otherwise prescribed, submit to the Chief of the Victims Services

Unit a uniform cost report in the form and format determined by the Office of the Attorney General, and within time-frames established by the Office of the Attorney General.

(2) The Chief of the Victims Services Unit shall review and analyze these cost reports, requesting where deemed necessary the submission of supporting clarifying information within fifteen (15) days of said request.

(3) The Chief of the Victims Services Unit may recommend to the Attorney General fixed uniform rates for services, taking into consideration variables such as average costs, appropriate inflationary factors, capitation methods, performance outcome measures, staff credentials and available funding.

(4) Prior to approval by the Attorney General of the proposed rates or changes to existing rates, the following shall occur:

(A) The Victims Services Unit shall provide written notice of an open hearing before the Domestic Violence and Sexual Assault Advisory Council on the proposed fixed rates to each applicable contractor of record.

(B) The Domestic Violence and Sexual Assault Advisory Council shall conduct, and make a summary of, the scheduled Open Meeting.

(5) Consideration of the proposed fixed rate by the Attorney General shall not occur until the Director of the Office of Management and Enterprise Services has been provided with, pursuant to 74 O.S. § 85.7:

(A) Thirty (30) days written notice of the meeting in which the Attorney General will consider the uniform rates of reimbursement;

(B) A copy of the meeting agenda item(s) concerning the proposed rate(s); and

(C) All supporting documentation and materials regarding the reimbursement rates being proposed.

(6) The Attorney General shall, at the meeting referenced in (5)(A) and (B) of this section, separately consider each proposed fixed and uniform rate of reimbursement. These rates, if adopted, shall then take effect on a date determined by the Attorney General when the rates are considered for adoption; and remain in effect until subsequent action by the Attorney General.

(7) All revisions shall be examined, proposed, considered and adopted pursuant to this section.

SUBCHAPTER 5. PROCEDURE IN INDIVIDUAL ADMINISTRATIVE PROCEEDINGS

75:1-5-1. Individual proceedings

Article II of the Administrative Procedures Act ("APA"), 75 O.S. § 308a, *et seq.*, governs individual proceedings by Office of the Attorney General for revocation, denial, suspension and

non-renewal of certification or for reprimand of certified facilities.

75:1-5-2. Persons affected by individual actions

The Attorney General may bring an individual proceeding against any person or entity certified by the Attorney General for violation of Title 74 O.S § 18p-1 *et seq.* or the rules of the Attorney General as set forth in Title 75 of the Oklahoma Administrative Code.

75:1-5-3. Types of sanctions

The following administrative sanctions may be taken against a Respondent:

- (1) Revocation of certification
- (2) Reduction in certification
- (3) Suspension of certification
- (4) Reprimand

75:1-5-4. Petition and notice in individual proceedings

(a) **Petition and Notice.** In the event the Attorney General determines action should be taken, an individual proceeding may be initiated pursuant to the APA by filing a petition and notice with a Hearing Officer, as designated by the Attorney General, for the matter, and by serving the petition on all respondents. The petition and notice shall include a statement of the legal authority and jurisdiction under which the action is taken, reference to the statutes and rules involved, a short and plain statement of the matters asserted and the relief requested. The petition may allege facts by attaching and incorporating a document by reference. The petition and notice shall provide that the action shall commence and become effective fifteen (15) calendar days after receipt of said notice by the Respondent, unless the Respondent timely files a written request for a hearing with the Office of the Attorney General.

(b) **Request for hearing.** A request for hearing will be timely filed if said request is in writing and postmarked or hand delivered to the Hearing Officer within fifteen (15) calendar days of the date the party received the petition and notice. If a timely written request for a hearing is not filed by the Respondent, the allegations in the petition shall be deemed confessed by the Respondent and the action will become final as set forth herein. If the written request for hearing is timely filed, such hearing shall be scheduled before the Attorney General or Hearing Officer at least fifteen (15) days from the date said request is filed, and the parties shall be notified of the date, time and place of the hearing. If an emergency exists, a hearing may be conducted without the filing of a petition and without waiting fifteen (15) days.

75:1-5-5. Service of petition and notice

(a) **Service.** The petition and notice shall be served on the

Respondent(s) personally or by certified mail, return receipt requested to the address of the respondent(s) on file with the Office of the Attorney General.

(b) **Proof of service.** Proof of service shall be filed with the Hearing Officer.

(c) **Substitute service.** If the Office of the Attorney General is unable to obtain service on a Respondent, the petition and notice shall be mailed by regular mail to the last known address of the Respondent. The Office of the Attorney General shall file an affirmation service was attempted which will be deemed as proof of service.

(d) **Service of other papers and documents.** Service of all other papers and documents connected with an individual proceeding shall be served on the parties or their counsel by delivering a copy or via regular mail or facsimile.

75:1-5-5.1. Emergency actions

When the Attorney General or Hearing Officer finds that the public health, safety or welfare requires action be taken immediately and when such a finding is incorporated in an order, emergency action or summary suspension of a certification may be ordered pending the filing of a petition or the outcome of an individual proceeding.

75:1-5-5.2. Procedures in individual proceedings generally

The order of procedure in all individual proceedings shall generally be governed by the APA.

75:1-5-5.3. Prehearing conference

A pre-hearing conference may be ordered and scheduled by the Attorney General or the Hearing Officer on his or her own motion or upon the request of any party. The Attorney General or Hearing Officer may authorize the conference to occur by teleconference. The subjects and objectives of the pre-hearing conference shall be similar to those for pretrial proceedings in district courts.

75:1-5-5.4. Continuances

(a) **Continuance by the Office of the Attorney General.** The Attorney General or the Hearing Officer may continue or adjourn the proceedings at any time for a specified time, with notice or motion.

(b) **Continuance by motion of parties.** Except for good cause shown, or by agreement of all parties, no continuance will be granted upon motion of a party unless written request therefore is filed and served on all parties of record and filed with the Hearing Officer at least seven (7) days prior to the date set for hearing. A stipulation for continuance among all parties of record ordinarily will be approved, unless the Attorney General or the Hearing Officer determines that the public interest requires otherwise.

75:1-5-5.5. Discovery

(a) **Purpose.** Discovery is designed to enable a party to obtain relevant information needed for presentation of the party's case. This section is intended to provide a simple method of discovery.

(b) **Explanation.** Discovery is a process apart from the hearing whereby a party may obtain information from another person which has not otherwise been provided. This information is obtained for the purpose of assisting the parties in developing, preparing and presenting their cases.

(c) **Methods.** Discovery shall be conducted generally in accordance with Section 315 of the APA. Additionally, the Attorney General or the Hearing Officer may enter specific orders directing the conduct of discovery.

75:1-5-6. Protective orders

(a) The Attorney General or the Hearing Officer at the hearing or at any time upon application of a party, with or without notice, may make such orders relating to discovery as may be necessary or appropriate for the protection of the parties, and to prevent hardship to and excessive burden upon a party. Such orders may, among other subjects, limit the scope of depositions, prohibit questions or subjects of inquiry, require or excuse answers to questions on deposition, limit or excuse, in whole or in part, production of documents and shorten or extend the time within which any act shall be performed. Disclosure of client identification shall only be ordered pursuant to state and federal law.

(b) The Attorney General or the Hearing Officer may make appropriate orders, including dismissal of a proceeding or denial of relief, as may be warranted for failure or refusal to comply with an order issued pursuant to this rule.

75:1-5-7. Subpoenas

(a) **Issuance and service.** Subpoenas for the attendance of witnesses, the furnishing of information and the production of evidence shall be issued by the Hearing Officer upon request by a party. As an officer of the court, an attorney authorized to practice law in Oklahoma may also issue and sign subpoenas. Filing a formal request for the issuance of subpoenas shall not be required. Subpoenas shall be served and a return made in the same manner as provided in the Oklahoma Pleading Code, 12 O.S. § 2004.1.

(b) **Failure to obey.** The Attorney General or the petitioner may seek an appropriate judicial proceeding to compel compliance by persons who fail to obey a subpoena, who refuse to be sworn or make an affirmation at a hearing or who refuse to answer a proper question during a hearing. The hearing shall proceed despite any such refusal but the Attorney General or the Hearing Officer may, in his discretion at any time, continue the

proceedings as necessary to secure a court ruling.

(c) **Motions to quash.** Any person to whom a subpoena is directed, may file a motion to quash or limit the subpoena with the Hearing Officer, setting forth the reasons why the subpoena should not be complied with or why it should be limited in scope and the Attorney General or Hearing Officer will rule on the motion.

75:1-5-8. Conduct and record of hearing

(a) **Open to public.** Every hearing before the Office of the Attorney General shall be conducted by the Attorney General or designated Hearing Officer. All hearings shall be open to the public unless a protective order is entered to uphold confidentiality laws; however, upon motion of a party to the proceeding, the Attorney General or the Hearing Officer may exclude from the hearing room any witness not at that time under examination. A party to the proceeding and that party's attorney may not be excluded.

(b) **Record.** All testimony shall be taken on the record unless otherwise designated by the Attorney General or the Hearing Officer. An electronic recording of the hearing proceedings shall be made. The recording will not be transcribed as a matter of course. The electronic recording of the Office of the Attorney General shall be the official record. Copies of the recordings shall be provided to a party on written request. The cost of transcription, if done, shall be borne by the party having the recording transcribed.

(c) **Court reporter.** A party may have the proceeding transcribed by a court reporter at the expense of the party. Each party requesting copies shall make arrangements for such with the reporter, and pay the costs.

(d) **Maintenance of the record.** The record of a proceeding and the file containing the notices and the pleadings will be maintained by the Attorney General or the Hearing Officer in a location designated by the Attorney General or the Hearing Officer. All pleadings, motions, orders and other papers submitted for filing in an individual proceeding shall be stamped with the date filed by the Attorney General or the Hearing Officer upon receipt.

(e) **Designation on appeal.** On an appeal to district court, the parties may designate and counter-designate portions of the record to save costs, following the procedures in the APA.

75:1-5-9. Hearing officers

(a) **Exercise of authority.** The Attorney General shall appoint at least one individual who is a licensed attorney to act as the Administrative Hearing Officer in individual proceedings filed before the Office of the Attorney General. The Administrative Hearing Officer shall conduct fair and impartial hearings and take all necessary action to avoid delay in the disposition of all proceedings. He or she shall have all powers necessary to

that end unless otherwise limited by law, including but not limited to, the authority to:

- (1) Administer oaths and affirmations;
- (2) Rule upon objections and offers of proof and receive relevant evidence;
- (3) Rule upon the institution of discovery procedures as appropriate;
- (4) Convene a hearing as appropriate, regulate the course of the hearing, examine any witness in order to clarify issues; maintain decorum and exclude from the hearing any disruptive persons;
- (5) Exclude from the hearing any witness whose later testimony might be colored by testimony of other witnesses or any person whose presence might have a chilling effect on testifying witnesses;
- (6) Rule on all motions, witness and exhibit lists, exhibits and proposed findings;
- (7) Require the filing of memoranda of law and the presentation of oral argument with respect to any question of law;
- (8) Order the production of evidence and the appearance of witnesses whose testimony would be relevant, material and non-repetitious;
- (9) Make inquiries of the parties or witnesses for the purpose of clarification or fact findings to ensure a fair and impartial decision;
- (10) Render decisions pursuant to the particular action taken;
- (11) May require, or allow, the filing of briefs by the parties, and may designate the order and time for filing briefs and reply briefs;
- (12) Close the record when all interested parties have had the opportunity to be heard and to present evidence; and
- (13) Issue proposed final orders.

(b) **Disqualification of hearing officer.**

(1) The Administrative Hearing Officer shall withdraw from any individual proceeding in which he or she cannot accord a fair and impartial hearing or consideration, stating on the record the reasons therefore, and shall immediately notify all parties of the withdrawal.

(2) Any party may file a motion requesting the Administrative Hearing Officer withdraw on the basis of personal bias or other disqualification and specifically setting forth the reasons for the request. This motion shall be filed as soon as the party has reason to believe there is a basis for the disqualification. The Administrative Hearing Officer shall rule on said motion.

75:1-5-10. Order of hearing

(a) **Appearances and default.** At the hearing, every party shall announce an appearance. An individual may appear on their

own behalf or be represented by an attorney. A corporation must be represented by counsel. Any Respondent who fails to appear as directed, after service of the petition and notice of hearing as provided by these rules, may be determined to have waived the right to appear and present a defense to the allegations contained in the petition, and the Hearing Officer may default the party and issue an order sustaining the allegations.

(b) **Preliminary matters.** The following shall be taken up prior to receiving evidence:

(1) The Office of the Attorney General and other parties may offer preliminary exhibits, including pleadings necessary to present the issues to be heard.

(2) Ruling shall be made on any pending motions, including requests for delivery of documents.

(3) Stipulations of fact and stipulated exhibits shall be received.

(4) Parties shall make opening statements where appropriate.

(5) Any other preliminary matters appropriate for disposition prior to offers of evidence.

(c) **Rules of evidence.** The rules of evidence shall be those specified by the APA.

(d) **Presentation of the case.** At the hearing, each party may make a brief opening statement, present witnesses and exhibits, cross-examine adverse witnesses, and make closing arguments.

75:1-5-11. Order

(a) **Issuance and services of final order.** Not more than twenty (20) calendar days after conclusion of the hearing, the Hearing Officer shall issue a proposed order with findings of fact and conclusions of law. If the Office of the Attorney General proves its allegations in the petition and notice by clear and convincing evidence, the Attorney General shall issue an order sustaining the allegations. If the Office of the Attorney General does not meet its burden, the Attorney General shall issue an order in favor of the respondent(s). The Attorney General shall file and serve the final order on respondent(s) by certified mail, return receipt requested.

(b) **Appeal.** A party may appeal a Final Order as provided in the APA.

75:1-5-12. Settlement

Unless precluded by law, individual proceedings may be resolved by agreed settlement or consent order, with the concurrence of the Office of the Attorney General or the Hearing Officer.

SUBCHAPTER 7. CERTIFICATION AND DESIGNATION OF DOMESTIC VIOLENCE PROGRAMS, SEXUAL ASSAULT PROGRAMS, INCLUDING PROGRAMS SERVING ADULT VICTIMS OF SEX TRAFFICKING, AND BATTERERS INTERVENTION PROGRAMS

75:1-7-1. Applicability of certification

This subchapter applies to all entities which are subject to certification by the Attorney General as set forth in 74 O.S. § 18p-6.

75:1-7-2. Purpose of certification

The purpose of certification is to assess a facility's responsibility to the client, and delivery of acceptable services to the client. Responsibility to the client is demonstrated through the provision of suitable facilities, trained staff and needed services which are accessible, safe and confidential. In addition to the above is the demonstration of the willingness and ability of the governing authority and staff to provide the planning, budgeting and management of resources necessary to the continued existence and effectiveness of the facility/services.

75:1-7-3. Reviewing authority

The Attorney General shall certify domestic violence shelters and programs, sexual assault programs, including programs serving adult victims of sex trafficking, programs, and batterers intervention programs and direct that such shall be carried out as stated in this subchapter.

75:1-7-4. Certification of facilities and programs and individuals

Certification requires compliance with applicable Standards and Criteria as set forth in Chapter 15, Chapter 25 and/or Chapter 30 of OAC Title 75 regulating Standards and Criteria for Domestic Violence Programs, Sexual Assault Programs, including programs serving Adult Victims of Sex Trafficking, and Batterers Intervention Programs.

75:1-7-5. Procedures for application for certification

(a) Applications for certification as a domestic violence shelter or program, sexual assault program, including programs serving adult victims of sex trafficking, or batterers intervention program must be made to the Office of the Attorney General in writing on a form and in a manner prescribed by the Attorney General and include the following:

- (1) A fully completed application for certification form signed by authorized officials;
- (2) The necessary written documentation or supporting evidence required on the application for certification form; and
- (3) The required certification fee in the form of a check or money order, payable to the Office of the Attorney General.

(b) The following fees are required: Applicants for domestic violence shelters or programs, sexual assault programs,

including programs serving adult victims of sex trafficking, and batterers intervention programs shall submit \$150.00 with an initial application and \$150.00 with each renewal application. Fees paid by applicants are not refundable.

(c) The application for certification form, required written documentation and fee must be submitted to the Office of Attorney General, Victims Services Unit.

(d) The application may require a listing of all services provided by the applicant, as well as specifics about the applicant including but not limited to governing authority, administrative, fiscal, all locations or sites where applicant will provide services and types of services to be provided.

(e) If, after being certified, a program desires to provide services at a new office location maintained and operated by the certified program or change its current office location, the facility must submit an application on a form and in a manner prescribed by the Victims Services Unit of the Office of the Attorney General, the required documentation and fee, if any. Approval may be granted by the Attorney General upon submission of the required application and documentation to the Victims Services Unit. Before constructing a new facility, the program shall consult with the OAG for review and recommendations regarding victim safety and confidentiality. Approval from the Attorney General must be obtained prior to providing services at the new location. The Victims Services Unit may conduct a visit of the facility in accordance with 75:1-7-8.

(f) If, after being certified, a program desires to provide services at a public facility maintained for or used by the people or community, the certified program must notify the Victim Services Unit in writing of the name and location of the public facility and the type of service(s) offered. Additionally, the certified program must assure that the facility provides the necessary safety, confidentiality, and privacy of victims being served. Approval may be granted by the Attorney General upon submission of the required documentation to the Victims Services Unit. Approval from the Attorney General must be obtained prior to providing services at the new location.

(g) If after being certified, a program desires to offer a new type of service, the facility must submit an application for certification, the required documentation and fee to the Victims Services Unit of the Office of Attorney General prior to providing a new service. Failure to become certified prior to providing services shall be grounds for injunctive relief pursuant to 74 O.S. § 18p-7.

75:1-7-6. Procedures for completion of certification process

(a) **Certification process.** Completion of the certification process will be done in cooperation between the applicant and certification team established and assigned by the Victims Services Unit of the Office of Attorney General, and consists

of:

- (1) a review of all application materials;
- (2) a site review of the facility and completion of the applicable site visit protocol;
- (3) a review of all applicable records;
- (4) preparing certification reports for applicants;
- (5) reviewing and approving any needed plans of correction;
- (6) follow-up site reviews; and
- (7) presentation by Victims Services Unit staff of the review results and associated recommendations to the Attorney General.

(b) **Initial applications.** All initial applications for certification shall be reviewed for completeness by Victims Services Unit staff. If the application is deemed complete, site review of the facility or program will be scheduled. If the applicant is cited for deficiencies of thirty percent (30%) or more of the applicable standards and rules, based on the initial site review findings, a plan of correction will not be requested and a notice of denial of the certification application shall be sent to the applicant by the Attorney General. In such case, re-application will be accepted after three (3) months have passed since issuance of the notification of denial.

(c) **Length of certification process.** If an applicant for initial certification fails to achieve full certification within one (1) year of being granted temporary certification, the applicant shall not receive certification and a recommendation of revocation of the existing certification will be made to the Attorney General. In such case, re-application for certification shall be made in accordance with the requirements of 75:1-7-6 and 75:1-7-11. If the applicant requests withdrawal of the certification status because of the circumstances cited above, the applicant may reapply three (3) months after receipt of the written request by the Victims Services Unit.

(d) **Renewal applications.**

(1) The Victims Services Unit will, prior to the renewal date, notify facilities the application for renewal of certification is due.

(2) The facility shall submit its application for renewal within sixty (60) days before the expiration of its certification.

(3) Renewal applications for certification shall be reviewed for completeness by Victims Services Unit staff. If the facility is cited for deficiencies on 30% or more of the applicable standards and rules based on the site review findings, a plan of correction will not be requested and revocation of the certification status will be recommended to the Attorney General.

(4) If, after being granted conditional certification, an applicant for renewal fails to achieve full certification within four (4) months, the applicant shall

not receive full certification and a recommendation of revocation of the certification status will be made to the Attorney General.

(e) **Site reviews.**

(1) Initial, renewal or follow-up site reviews, based on the current certification status of the applicant, will be scheduled by designated representatives of the Victims Services Unit at each location or site of the applicant. The review will be conducted by the assigned certification team or a certification team member.

(2) The follow-up site review(s) to Conditional Certification will be conducted to review implementation of the plan of correction to ensure cited deficiencies have been corrected or to demonstrate continued correction and compliance with the previously cited deficiencies. Failure to comply with applicable rules and implement the plan of corrections shall result in a recommendation that Certification be denied and Conditional Certification status be revoked.

(3) The follow-up site visit(s) to Temporary Certification will be conducted on standards not applicable during the initial certification visit, implementation of the plan of correction to ensure cited deficiencies have been corrected or to demonstrate continued correction and compliance with the previously cited deficiencies, and a review of a minimum of five (5) records. Failure to comply with applicable rules and implement the plan of correction shall result in a recommendation that Certification be denied and Temporary Certification status be revoked.

(4) A Site Review Protocol shall be completed during each site visit. Protocols shall contain the current Standards and Criteria applicable to the facility.

(A) A facility must be prepared to provide evidence of compliance with each applicable standard.

(B) In the event the reviewer(s) identifies some aspect of facility operation that adversely affects client safety or health, the reviewer(s) shall notify the facility director and appropriate Victims Services Unit staff. An immediate suspension of certification may be made by the Attorney General.

(f) **Deficiencies.** A deficiency shall be cited for a failure to comply with the weighted value of each rule.

(g) **Report to applicant and plan of correction.**

(1) During the course of the certification process, and prior to determination of certification status, Victims Services Unit staff shall report the results of the site review to the facility. The facility shall receive written notice of the deficiencies in a Certification Report.

(2) The facility must submit a written plan of correction for each deficiency for approval within two (2)

weeks of the receipt of the Certification Report. Approval of the plan of correction shall be required before the completed application for certification will be presented to the Attorney General. Failure to submit the required plan of correction within two (2) weeks of the receipt of the Certification Report may result in denial of the certification application. In such case, re-application will be accepted after three (3) months from the date of issuance of the notification of denial from the Attorney General. However, if the facility is cited for deficiencies on thirty percent (30%) or more of the applicable standards and rules based on the initial site review findings, a plan of correction will not be requested, and the application will be denied.

(h) **Notification of Victims Services Unit recommendation for certification.**

(1) After completion of the site review and report on the Application for Certification, Victims Services Unit staff shall prepare a recommendation on the certification status or application for the Attorney General.

(2) Prior to the Victims Services Unit staff's presentation of its recommendation of an applicant's certification to the Attorney General, the Victims Services Unit staff shall notify the applicant of the recommendation.

(3) Achievement of certain scores is a prerequisite for consideration of a specific certification status but may not be the sole determinant. Individual deficiencies that meet the criteria in 75:1-7-9 may be grounds for suspending or revoking certification or denying applications for certification.

(4) Consideration of certification may be deferred while additional information regarding a facility's compliance status is reviewed.

(5) The minimum compliance scores for recommendation of a certification status to the Attorney General are:

(A) **Certification with Commendation.** Facility is in compliance with 100% of the applicable rules.

(B) **Certification.** Facility achieves compliance with 100% of the applicable rules after on-site correction(s).

(C) **Conditional Certification.** Facility is in compliance with at least 70% but less than 100% of the applicable rules and will be given an opportunity to correct deficiencies.

(D) **Temporary Certification.** Facility is in compliance with at least 70% but less than 100% of the applicable rules and will be given an opportunity to correct deficiencies.

(i) **Actions on Non-Certified Providers.** If at the initial site review it is found the facility is providing services:

(1) The review will be continued including the review of applicable records.

(2) The facility must comply with the requirements cited in 75:1-7-6 to continue the certification process.

(3) If the applicant achieves less than 100% compliance, full certification must be achieved within four (4) months.

(4) Upon successful completion of the process, Probationary Certification status will be recommended for no more than one (1) year.

(5) The desire for continued certification after the Probationary Certification period will require the submission of a new application for each of the next two (2) years. The requirements in 75:1-7-6 shall apply. A recommendation for Certification for one (1) year will be made to the Attorney General.

(j) **Actions on certification applications.** Victims Services Unit staff shall make one of the following recommendations to the Attorney General:

(1) Certification with Commendation;

(2) Certification;

(3) Conditional Certification;

(4) Temporary Certification

(5) Probationary Certification; or

(6) Revocation or Denial.

(k) If the Attorney General approves a recommendation to revoke certification, an individual proceeding shall be initiated pursuant to the Administrative Procedures Act.

75:1-7-7. Duration of certification status

(a) Certification status of either "Certification with Commendation" or "Certification" shall be for the period of three (3) years.

(b) Conditional Certification granted to applicants for renewal shall be for a period not to exceed four (4) months. During that period, a follow-up site review will be conducted.

(c) Temporary Certification granted to applicants for initial certification shall be for a period not to exceed one year. During that period, a follow-up site review will be conducted.

(d) Certification, Conditional, or Temporary Certification granted to an applicant shall become effective upon approval of the Attorney General.

(e) Certification is not transferable. A change of the ownership of a facility automatically terminates any certification status, requiring application for certification by the new ownership. If the certified facility is owned by a corporation the following applies:

(1) If the corporation is not-for-profit, a change in membership of the Board of Directors of more than fifty percent (50%) of the Directors in three (3) or fewer calendar months, unless such change was caused by the normal expiration of terms in accordance with the By-Laws

of the Board of Directors, shall require the facility to be re-certified.

(2) If the corporation is other than not-for-profit, a change in the ownership of more than forty per cent (40%) of the stock in the corporation from the owners at the beginning of the period of certification shall require the facility to be recertified.

(3) It is the responsibility of the facility to notify the Office of the Attorney General of the occurrence of either of the conditions requiring recertification as set forth in (1) and (2) of this subsection; and to request the application materials for recertification.

(f) Certification may be suspended, revoked or not renewed with the basis for such action being delineated in Section 75:1-7-9 of this Subchapter.

75:1-7-8. Site reviews

The Victims Services Unit may conduct a site review or visit or an investigation, which may or may not be announced. Reasons for such review include but are not limited to:

- (1) determination of correction of cited deficiencies;
- (2) receipt of a complaint;
- (3) change in ownership, management or location;
- (4) establishment of a new service location;
- (5) substantial change in either the service provided or new service(s) initiated;
- (6) substantial turnover in staff at the executive or professional level;
- (7) change in statutorily required licensure status; and
- (8) change in external accreditation status.

75:1-7-9. Basis for a decision to issue administrative sanction of suspension, or revocation

(a) A determination that the certification status shall be reduced, suspended, or revoked or that a reprimand be issued, may be made upon the following basis:

- (1) failure to comply with certification standards;
- (2) failure to comply with appropriate statutory licensing provisions;
- (3) violation of client rights or client confidentiality;
- (4) endangerment of the safety, health, and/or the physical or mental well-being of a client served by the program;
- (5) failure to comply with accreditation, inspection, safety, or building code regulations required by local, state, or federal authorities and laws;
- (6) defrauding a client, potential client, or third party payer;
- (7) inappropriate conduct by program staff or its governing authority;

(8) utilization of treatment techniques which endanger the safety, health, and mental health or physical well-being of program clients; or

(9) any other just cause.

(b) Determinations to initiate proceedings for suspension or revocations are made by the Attorney General.

(c) The facility's certification status continues unless the facility fails to timely file a written request for a hearing as cited in OAC 75:1-5-4 or an order sustaining the allegations made by the Attorney General is issued.

75:1-7-10. Contingency for non-action by the Attorney General

In the event the Attorney General is unable for any reason to consider the certification in a timely manner, any current certification status shall be automatically extended unless to do so would endanger the health, welfare and safety of clients, and there would be a danger of imminent harm.

75:1-7-11. Reapplication following denial, suspension, revocation or denial of certification

Reapplication for consideration of certification for any program for which certification has been suspended, revoked, denied or not renewed will not be accepted or considered unless at least three (3) months has passed since issuance of a Final Order of suspension, revocation, denial or nonrenewal.