

1 STATE OF OKLAHOMA

2 1st Session of the 53rd Legislature (2011)

3 HOUSE BILL 1380

By: Holland

4
5
6 AS INTRODUCED

7 An Act relating to schools; amending 70 O.S. 2001,
8 Sections 6-101.3, as amended by Section 8, Chapter
9 434, O.S.L. 2003 and 6-101.3, as last amended by
10 Section 8, Chapter 291, O.S.L. 2010 (70 O.S. Supp.
11 2010, Section 6-101.3), which relate to teacher
12 contract definitions; modifying certain definitions;
13 deleting certain definitions; amending 70 O.S. 2001,
14 Section 6-101.10, as amended by Section 5, Chapter
15 291, O.S.L. 2010 (70 O.S. Supp. 2010, Section 6-
16 101.10), which relates to teacher evaluation
17 policies; updating statutory language; deleting
18 reference to probationary teachers; deleting certain
19 evaluation requirement; amending 70 O.S. 2001,
20 Sections 6-101.21, 6-101.22, as amended by Section 1,
21 Chapter 112, O.S.L. 2006, 6-101.22, as last amended
22 by Section 10, Chapter 291, O.S.L. 2010, 6-101.24, 6-
23 101.24, as amended by Section 11, Chapter 291, O.S.L.
24 2010, 6-101.25, 6-101.26, as last amended by Section
2, Chapter 112, O.S.L. 2006, 6-101.26, as last
amended by Section 12, Chapter 291, O.S.L. 2010 and
6-101.29 (70 O.S. Supp. 2010, Sections 6-101.22, 6-
101.24 and 6-101.26), which relate to the Teacher Due
Process Act of 1990; updating statutory language and
citations; deleting obsolete language; deleting
inclusion of certain statutory grounds within the
standards document; deleting statutory grounds for
dismissal of a career teacher; deleting reference to
probationary teacher; deleting certain definition;
modifying prohibition for dismissal recommendation;
deleting requirement to include statutory grounds in
dismissal recommendation and hearing notice; deleting
career teacher pretermination hearing procedures and
requirements; deleting right to trial de novo;
deleting requirement to extend suspensions until
completion of a trial de novo; granting certain

1 teachers certain due process rights; repealing 70
2 O.S. 2001, Sections 6-101.27 and 6-101.27, as amended
3 by Section 13, Chapter 291, O.S.L. 2010 (70 O.S.
4 Supp. 2010, Section 6-101.27), which relate to a
5 teacher's right to a trial de novo; providing for
6 codification; providing an effective date; and
7 declaring an emergency.

8 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

9 SECTION 1. AMENDATORY 70 O.S. 2001, Section 6-101.3, as
10 amended by Section 8, Chapter 434, O.S.L. 2003 (70 O.S. Supp. 2010,
11 Section 6-101.3), is amended to read as follows:

12 Section 6-101.3 As used in Section 6-101 et seq. of this title:

13 1. "Administrator" means a duly certified person who devotes a
14 majority of time to service as a superintendent, elementary
15 superintendent, principal, supervisor, vice principal or in any
16 other administrative or supervisory capacity in the school district;

17 2. "Dismissal" means the discontinuance of the teaching service
18 of an administrator or teacher during the term of a written
19 contract, as provided by law;

20 3. "Nonreemployment" means the nonrenewal of ~~an administrator's~~
21 ~~or teacher's~~ the contract of an administrator or teacher upon
22 expiration of the contract;

23 4. ~~"Career teacher" means a teacher who has completed three (3)~~
24 ~~or more consecutive complete school years in such capacity in one~~
~~school district under a written teaching contract;~~

1 5. ~~"Probationary teacher~~ Teacher hearing" means the hearing
2 before a local board of education after a recommendation for
3 dismissal or nonreemployment of a ~~probationary~~ teacher has been made
4 but before any final action is taken on ~~said~~ the recommendation,
5 held for the purpose of affording ~~such~~ the teacher all rights
6 guaranteed by the United States Constitution and the Constitution of
7 Oklahoma under such circumstances and for enabling the board to
8 determine whether to approve or disapprove the recommendation;

9 6. ~~"Career teacher pretermination hearing" means the informal~~
10 ~~proceeding before the local board of education held for the purpose~~
11 ~~of providing a meaningful opportunity to invoke the discretion of~~
12 ~~the decision maker after a recommendation for dismissal or~~
13 ~~nonreemployment of a career teacher has been made but before any~~
14 ~~final action is taken on the recommendation in order to ensure that~~
15 ~~the career teacher is afforded the essential pretermination due~~
16 ~~process requirements of notice and an opportunity to respond;~~

17 7. ~~"Probationary teacher" means a teacher who has completed~~
18 ~~fewer than three (3) consecutive complete school years in such~~
19 ~~capacity in one school district under a written teaching contract;~~

20 8. 5. "Suspension" or "suspended" means the temporary
21 discontinuance of an ~~administrator's or teacher's~~ the services of an
22 administrator or teacher, as provided by law; and

23 9. 6. "Teacher" means a duly certified or licensed person who
24 is employed to serve as a counselor, librarian or school nurse or in

1 any instructional capacity; ~~an~~. An administrator shall be
2 considered a teacher only with regard to service in an
3 instructional, nonadministrative capacity.

4 SECTION 2. AMENDATORY 70 O.S. 2001, Section 6-101.3, as
5 last amended by Section 8, Chapter 291, O.S.L. 2010 (70 O.S. Supp.
6 2010, Section 6-101.3), is amended to read as follows:

7 Section 6-101.3 As used in Section 6-101 et seq. of this title:

8 1. "Administrator" means a duly certified person who devotes a
9 majority of time to service as a superintendent, elementary
10 superintendent, principal, supervisor, vice principal or in any
11 other administrative or supervisory capacity in the school district;

12 2. "Dismissal" means the discontinuance of the teaching service
13 of an administrator or teacher during the term of a written
14 contract, as provided by law;

15 3. "Nonreemployment" means the nonrenewal of ~~an administrator's~~
16 ~~or teacher's~~ the contract of an administrator or teacher upon
17 expiration of the contract;

18 4. ~~"Career teacher" means a teacher who:~~

19 a. ~~for teachers employed by a school district during the~~
20 ~~2011-12 school year, has completed three (3) or more~~
21 ~~consecutive complete school years as a teacher in one~~
22 ~~school district under a written continuing or~~
23 ~~temporary teaching contract, or~~

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1 ~~b. for teachers employed for the first time by a school~~
2 ~~district under a written continuing or temporary~~
3 ~~teaching contract on or after July 1, 2012:~~

4 ~~(1) has completed three (3) consecutive complete~~
5 ~~school years as a teacher in one school district~~
6 ~~under a written continuing or temporary teaching~~
7 ~~contract and has achieved a rating of "superior"~~
8 ~~as measured pursuant to the Oklahoma Teacher and~~
9 ~~Leader Effectiveness Evaluation System (TLE) as~~
10 ~~set forth in Section 6 of this act for at least~~
11 ~~two (2) of the three (3) school years, with no~~
12 ~~rating below "effective",~~

13 ~~(2) has completed four (4) consecutive complete~~
14 ~~school years as a teacher in one school district~~
15 ~~under a written continuing or temporary teaching~~
16 ~~contract, has averaged a rating of at least~~
17 ~~"effective" as measured pursuant to the TLE for~~
18 ~~the four year period, and has received a rating~~
19 ~~of at least "effective" for the last two (2)~~
20 ~~years of the four year period, or~~

21 ~~(3) has completed four (4) or more consecutive~~
22 ~~complete school years in one school district~~
23 ~~under a written continuing or temporary teaching~~
24 ~~contract and has not met the requirements of~~

1 ~~subparagraph a or b of this paragraph, only if~~
2 ~~the principal of the school at which the teacher~~
3 ~~is employed submits a petition to the~~
4 ~~superintendent of the school district requesting~~
5 ~~that the teacher be granted career status, the~~
6 ~~superintendent agrees with the petition, and the~~
7 ~~school district board of education approves the~~
8 ~~petition. The principal shall specify in the~~
9 ~~petition the underlying facts supporting the~~
10 ~~granting of career status to the teacher;~~

11 5. "~~Probationary teacher~~ Teacher hearing" means the hearing
12 before a school district board of education after a recommendation
13 for dismissal or nonreemployment of a ~~probationary~~ teacher has been
14 made but before any final action is taken on ~~said~~ the
15 recommendation, held for the purpose of affording ~~such~~ the teacher
16 all rights guaranteed by the United States Constitution and the
17 Constitution of Oklahoma under ~~such~~ circumstances and for enabling
18 the board to determine whether to approve or disapprove the
19 recommendation;

20 6. "~~Career teacher pretermination hearing~~" means the informal
21 proceeding before the school district board of education held for
22 the purpose of providing a meaningful opportunity to invoke the
23 discretion of the decision maker after a recommendation for
24 dismissal or nonreemployment of a career teacher has been made but

1 ~~before any final action is taken on the recommendation in order to~~
2 ~~ensure that the career teacher is afforded the essential~~
3 ~~pretermination due process requirements of notice and an opportunity~~
4 ~~to respond;~~

5 ~~7. "Probationary teacher" means a teacher who:~~

6 ~~a. for teachers employed by a school district during the~~
7 ~~2011-12 school year, has completed fewer than three~~
8 ~~(3) consecutive complete school years as a teacher in~~
9 ~~one school district under a written teaching contract,~~
10 ~~or~~

11 ~~b. for teachers employed for the first time by a school~~
12 ~~district under a written teaching contract on or after~~
13 ~~July 1, 2012, has not met the requirements for career~~
14 ~~teacher as provided in paragraph 4 of this section;~~

15 ~~8. 5. "Suspension" or "suspended" means the temporary~~
16 ~~discontinuance of an administrator's or teacher's the services of an~~
17 ~~administrator or teacher, as provided by law; and~~

18 ~~9. 6. "Teacher" means a duly certified or licensed person who~~
19 ~~is employed to serve as a counselor, librarian or school nurse or in~~
20 ~~any instructional capacity; an administrator shall be considered a~~
21 ~~teacher only with regard to service in an instructional,~~
22 ~~nonadministrative capacity.~~

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1 SECTION 3. AMENDATORY 70 O.S. 2001, Section 6-101.10, as
2 amended by Section 5, Chapter 291, O.S.L. 2010 (70 O.S. Supp. 2010,
3 Section 6-101.10), is amended to read as follows:

4 Section 6-101.10 A. Each school district board of education
5 shall maintain and annually review, following consultation with or
6 involvement of representatives selected by local teachers, a written
7 policy of evaluation for all teachers and administrators. In those
8 school districts in which there exists a professional negotiations
9 agreement made in accordance with Sections 509.1 et seq. of this
10 title, the procedure for evaluating members of the negotiations unit
11 and any standards of performance and conduct proposed for adoption
12 beyond those established by the State Board of Education shall be
13 negotiable items. Nothing in this section shall be construed to
14 annul, modify or to preclude the renewal or continuing of any
15 existing agreement ~~heretofore~~ previously entered into between any
16 school district and any organizational representative of its
17 employees. Every policy of evaluation adopted by a board of
18 education shall:

19 1. Be based upon a set of minimum criteria developed by the
20 State Board of Education, which by no later than the 2013-14 school
21 year, shall be revised and based upon the Oklahoma Teacher and
22 Leader Effectiveness Evaluation System (TLE) developed by the State
23 Board of Education as provided in Section ~~6~~ 6-101.16 of this ~~act~~
24 title;

1 2. Be prescribed in writing at the time of adoption and at all
2 times when amendments to the policy are adopted. The original
3 policy and all amendments to the policy shall be promptly made
4 available to all persons subject to the policy;

5 3. Provide that all evaluations be made in writing and that
6 evaluation documents and responses thereto be maintained in a
7 personnel file for each evaluated person;

8 4. ~~Provide that every probationary teacher be evaluated at~~
9 ~~least two times per school year, once prior to November 15 and once~~
10 ~~prior to February 10 of each year;~~

11 ~~5.~~ Provide that every teacher be evaluated once every year,
12 except as otherwise provided by law; and

13 ~~6.~~ 5. Provide that, except for superintendents of independent
14 and elementary school districts and superintendents of area school
15 districts, who shall be evaluated by the school district board of
16 education, all certified personnel shall be evaluated by a
17 principal, assistant principal, or other trained certified
18 individual designated by the school district board of education.

19 B. All individuals designated by the school district board of
20 education to conduct the personnel evaluations shall be required to
21 participate in training conducted by the State Department of
22 Education or training provided by the school district using
23 guidelines and materials developed by the State Department of
24 Education prior to conducting evaluations.

1 C. The State Department of Education shall develop and conduct
2 workshops pursuant to statewide criteria which train individuals in
3 conducting evaluations.

4 D. The State Board of Education shall monitor compliance with
5 the provisions of this section by school districts.

6 E. Refusal by a school district to comply with the provisions
7 of this section shall be grounds for withholding State Aid funds
8 until compliance occurs.

9 SECTION 4. AMENDATORY 70 O.S. 2001, Section 6-101.21, is
10 amended to read as follows:

11 Section 6-101.21 A. The State Board of Education shall
12 promulgate standards of performance and conduct for teachers. A
13 copy of such standards, any amendments to ~~such~~ the standards and any
14 standards adopted by the board of education of the school district
15 shall be provided by the board of education of each school district
16 to each teacher on or before April 10 of each year.

17 ~~B. The State Board of Education shall include the statutory~~
18 ~~grounds for dismissal and nonreemployment of career teachers within~~
19 ~~this standards document.~~

20 ~~C.~~ Standards which may be adopted by the board of education of
21 a school district shall not conflict with state or federal law or
22 standards promulgated by the State Board of Education.

23 ~~D.~~ C. In determining whether or not the professional
24 performance of a teacher is adequate, the standards adopted by the

1 State Board of Education shall be considered. Consideration may be
2 given to any written standards of performance which have been
3 adopted by any other education-oriented organization or agency.
4 Professional performance or conduct of a teacher which is in
5 compliance with standards adopted by the State Board of Education or
6 the local board of education pursuant to Section ~~71~~ 6-101.10 of this
7 ~~act~~ title shall not be considered in support of any dismissal or
8 nonreemployment action against the teacher.

9 SECTION 5. AMENDATORY 70 O.S. 2001, Section 6-101.22, as
10 amended by Section 1, Chapter 112, O.S.L. 2006 (70 O.S. Supp. 2010,
11 Section 6-101.22), is amended to read as follows:

12 Section 6-101.22 A. ~~Subject to the provisions of the Teacher~~
13 ~~Due Process Act of 1990, a career teacher may be dismissed or not~~
14 ~~reemployed for:~~

- 15 1. ~~Willful neglect of duty;~~
- 16 2. ~~Repeated negligence in performance of duty;~~
- 17 3. ~~Mental or physical abuse to a child;~~
- 18 4. ~~Incompetency;~~
- 19 5. ~~Instructional ineffectiveness;~~
- 20 6. ~~Unsatisfactory teaching performance;~~
- 21 7. ~~Commission of an act of moral turpitude; or~~
- 22 8. ~~Abandonment of contract.~~

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24

1 ~~B.~~ Subject to the provisions of the Teacher Due Process Act of
2 1990, a ~~probationary~~ teacher may be dismissed or not reemployed for
3 cause.

4 ~~C.~~ B. A teacher shall be dismissed or not reemployed, unless a
5 presidential or gubernatorial pardon has been issued, if during the
6 term of employment the teacher is convicted in this state, the
7 United States or another state of:

8 1. Any sex offense subject to the Sex Offenders Registration
9 Act in this state or subject to another state's or the federal sex
10 offender registration provisions; or

11 2. Any felony offense.

12 ~~D.~~ C. A teacher may be dismissed, refused employment or not
13 reemployed after a finding that such person has engaged in criminal
14 sexual activity or sexual misconduct that has impeded the
15 effectiveness of the individual's performance of school duties. As
16 used in this subsection:

17 1. "Criminal sexual activity" means the commission of an act as
18 defined in Section 886 of Title 21 of the Oklahoma Statutes, which
19 is the act of sodomy; and

20 2. "Sexual misconduct" means the soliciting or imposing of
21 criminal sexual activity.

22 ~~E.~~ ~~As used in this section, "abandonment of contract" means the~~
23 ~~failure of a teacher to report at the beginning of the contract term~~
24 ~~or otherwise perform the duties of a contract of employment when the~~

1 ~~teacher has accepted other employment or is performing work for~~
2 ~~another employer that prevents the teacher from fulfilling the~~
3 ~~obligations of the contract of employment.~~

4 SECTION 6. AMENDATORY 70 O.S. 2001, Section 6-101.22, as
5 last amended by Section 10, Chapter 291, O.S.L. 2010 (70 O.S. Supp.
6 2010, Section 6-101.22), is amended to read as follows:

7 Section 6-101.22 A. ~~Subject to the provisions of the Teacher~~
8 ~~Due Process Act of 1990, a career teacher may be dismissed or not~~
9 ~~reemployed for:~~

- 10 1. ~~Willful neglect of duty;~~
- 11 2. ~~Repeated negligence in performance of duty;~~
- 12 3. ~~Mental or physical abuse to a child;~~
- 13 4. ~~Incompetency;~~
- 14 5. ~~Instructional ineffectiveness;~~
- 15 6. ~~Unsatisfactory teaching performance;~~
- 16 7. ~~Commission of an act of moral turpitude; or~~
- 17 8. ~~Abandonment of contract.~~

18 B. Subject to the provisions of the Teacher Due Process Act of
19 1990, a ~~probationary~~ teacher may be dismissed or not reemployed for
20 cause.

21 C. B. 1. A ~~career~~ teacher who has been rated as "ineffective"
22 as measured pursuant to the Oklahoma Teacher and Leader
23 Effectiveness Evaluation System (TLE) as set forth in Section ~~6~~ 6-
24 101.16 of this ~~act~~ title for two (2) consecutive school years shall

1 be dismissed or not reemployed ~~on the grounds of instructional~~
2 ~~ineffectiveness~~ by the school district, subject to the provisions of
3 the Teacher Due Process Act of 1990.

4 2. A ~~career~~ teacher who has been rated as "needs improvement"
5 or lower pursuant to the TLE for three (3) consecutive school years
6 shall be dismissed or not reemployed ~~on the grounds of instructional~~
7 ~~ineffectiveness~~ by the school district, subject to the provisions of
8 the Teacher Due Process Act of 1990.

9 3. A ~~career~~ teacher who has not averaged a rating of at least
10 "effective" as measured pursuant to the TLE over a five-year period
11 shall be dismissed or not reemployed ~~on the grounds of instructional~~
12 ~~ineffectiveness~~ by the school district, subject to the provisions of
13 the Teacher Due Process Act of 1990.

14 ~~D. 1. A probationary teacher who has been rated as~~
15 ~~"ineffective" as measured pursuant to the TLE for two (2)~~
16 ~~consecutive school years shall be dismissed or not reemployed by the~~
17 ~~school district subject to the provisions of the Teacher Due Process~~
18 ~~Act of 1990.~~

19 ~~2. A probationary teacher who has not attained career teacher~~
20 ~~status within a four year period shall be dismissed or not~~
21 ~~reemployed by the school district, subject to the provisions of the~~
22 ~~Teacher Due Process Act of 1990.~~

23 ~~E. C.~~ A teacher shall be dismissed or not reemployed, unless a
24 presidential or gubernatorial pardon has been issued, if during the

1 term of employment the teacher is convicted in this state, the
2 United States or another state of:

3 1. Any sex offense subject to the Sex Offenders Registration
4 Act in this state or subject to another state's or the federal sex
5 offender registration provisions; or

6 2. Any felony offense.

7 ~~F.~~ D. A teacher may be dismissed, refused employment or not
8 reemployed after a finding that such person has engaged in criminal
9 sexual activity or sexual misconduct that has impeded the
10 effectiveness of the individual's performance of school duties. As
11 used in this subsection:

12 1. "Criminal sexual activity" means the commission of an act as
13 defined in Section 886 of Title 21 of the Oklahoma Statutes, which
14 is the act of sodomy; and

15 2. "Sexual misconduct" means the soliciting or imposing of
16 criminal sexual activity.

17 ~~G. As used in this section, "abandonment of contract" means the~~
18 ~~failure of a teacher to report at the beginning of the contract term~~
19 ~~or otherwise perform the duties of a contract of employment when the~~
20 ~~teacher has accepted other employment or is performing work for~~
21 ~~another employer that prevents the teacher from fulfilling the~~
22 ~~obligations of the contract of employment.~~

23 SECTION 7. AMENDATORY 70 O.S. 2001, Section 6-101.24, is
24 amended to read as follows:

1 Section 6-101.24 A. When an administrator who has the
2 responsibility of evaluating a teacher identifies poor performance
3 or conduct that the administrator believes may lead to a
4 recommendation for the ~~teacher's~~ dismissal or nonreemployment of the
5 teacher, the administrator shall:

6 1. Admonish the teacher, in writing, and make a reasonable
7 effort to assist the teacher in correcting the poor performance or
8 conduct; and

9 2. Establish a reasonable time for improvement, not to exceed
10 two (2) months, taking into consideration the nature and gravity of
11 the ~~teacher's~~ performance or conduct of the teacher.

12 B. If the teacher does not correct the poor performance or
13 conduct cited in the admonition within the time specified, the
14 administrator shall make a recommendation to the superintendent of
15 the school district for the dismissal or nonreemployment of the
16 teacher.

17 C. Whenever a member of the board of education, superintendent,
18 or other administrator identifies poor performance or conduct that
19 may lead to a recommendation for dismissal or nonreemployment of a
20 teacher within the district, the administrator who has
21 responsibility for evaluation of the teacher shall be informed, and
22 that administrator shall comply with the procedures set forth in
23 this section. If the administrator fails or refuses to admonish the
24 teacher within ten (10) days after being so informed by the board,

1 superintendent, or other administrator, such board, superintendent
2 or other administrator shall admonish the teacher pursuant to the
3 provisions of this section.

4 ~~D. Repeated negligence in performance of duty, willful neglect~~
5 ~~of duty, incompetency, instructional ineffectiveness or~~
6 ~~unsatisfactory teaching performance, for a career teacher, or any~~
7 Any cause related to inadequate teaching performance for a
8 ~~probationary teacher,~~ shall not be a basis for a recommendation to
9 dismiss or not reemploy a teacher unless and until the provisions of
10 this section have been complied with.

11 SECTION 8. AMENDATORY 70 O.S. 2001, Section 6-101.24, as
12 amended by Section 11, Chapter 291, O.S.L. 2010 (70 O.S. Supp. 2010,
13 Section 6-101.24), is amended to read as follows:

14 Section 6-101.24 A. When a teacher receives a rating as
15 measured pursuant to the Oklahoma Teacher and Leader Effectiveness
16 Evaluation System (TLE) as set forth in Section ~~6~~ 6-101-16 of this
17 ~~act~~ title that may lead to a recommendation for the dismissal or
18 nonreemployment of the teacher or when an administrator identifies
19 poor performance or conduct that the administrator believes may lead
20 to a recommendation for the dismissal or nonreemployment of the
21 teacher, the administrator shall:

22 1. Admonish the teacher, in writing, and make a reasonable
23 effort to assist the teacher in correcting the poor performance or
24 conduct; and

1 2. Establish a reasonable time for improvement, not to exceed
2 two (2) months, taking into consideration the rating on the
3 evaluation or the nature and gravity of the performance or conduct.

4 B. If the teacher does not correct the poor performance or
5 conduct cited in the admonition within the time specified, the
6 administrator shall make a recommendation to the superintendent of
7 the school district for the dismissal or nonreemployment of the
8 teacher.

9 C. Whenever a member of the board of education, superintendent,
10 or other administrator identifies poor performance or conduct that
11 may lead to a recommendation for dismissal or nonreemployment of a
12 teacher within the district, the administrator who has
13 responsibility for evaluation of the teacher shall be informed, and
14 that administrator shall comply with the procedures set forth in
15 this section. If the administrator fails or refuses to admonish the
16 teacher within ten (10) days after being so informed by the board,
17 superintendent, or other administrator, ~~such~~ the board,
18 superintendent or other administrator shall admonish the teacher
19 pursuant to the provisions of this section.

20 D. ~~Repeated negligence in performance of duty, willful neglect~~
21 ~~of duty, incompetency, instructional ineffectiveness or~~
22 ~~unsatisfactory teaching performance, for a career teacher, or any~~
23 Any cause related to inadequate teaching performance for a
24 ~~probationary~~ teacher, shall not be a basis for a recommendation to

1 dismiss or not reemploy a teacher unless and until the provisions of
2 this section have been complied with.

3 SECTION 9. AMENDATORY 70 O.S. 2001, Section 6-101.25, is
4 amended to read as follows:

5 Section 6-101.25 Whenever a superintendent decides to recommend
6 that a teacher employed within the school district be dismissed or
7 not reemployed, the superintendent shall state the recommendation in
8 writing, setting forth the basis for the recommendation, and shall
9 submit such recommendation to the board of education.

10 ~~If the teacher subject to such recommendation is a career~~
11 ~~teacher, the recommendation shall specify the statutory grounds for~~
12 ~~which the recommendation is based.~~

13 ~~If the teacher subject to such recommendation is a probationary~~
14 ~~teacher, the~~ The recommendation shall specify the cause for which
15 the recommendation is based.

16 The superintendent shall also specify the underlying facts
17 supporting the recommendation.

18 SECTION 10. AMENDATORY 70 O.S. 2001, Section 6-101.26,
19 as last amended by Section 2, Chapter 112, O.S.L. 2006 (70 O.S.
20 Supp. 2010, Section 6-101.26), is amended to read as follows:

21 Section 6-101.26 A. Whenever a board of education receives a
22 recommendation from the superintendent for the dismissal or
23 nonreemployment of a teacher, the board or individual designated by
24 the board shall mail a copy of the recommendation to the teacher by

1 certified mail, restricted delivery, return receipt requested, by
2 personal delivery to the teacher with a signed acknowledgement of
3 receipt, or by delivery by a process server. By the same means, the
4 board shall notify the teacher of the right to a hearing before the
5 board and the date, time and place set by the board for the hearing,
6 which shall be held within the school district not sooner than
7 twenty (20) days or later than sixty (60) days after receipt of
8 notice by the teacher, the date on the personal receipt by hand-
9 delivery to the teacher, or the date of delivery by a process
10 server. The notice shall specify the ~~statutory grounds upon which~~
11 ~~the recommendation is based upon for a career teacher or shall~~
12 ~~specify the cause upon which the recommendation is based upon for a~~
13 ~~probationary teacher.~~ The notice shall also specify the underlying
14 facts supporting the recommendation. At the hearing, the teacher
15 shall be entitled to all rights guaranteed under the circumstances
16 by the United States Constitution and the Constitution of Oklahoma.

17 B. ~~The career teacher pretermination hearing shall be conducted~~
18 ~~by the district board as follows:~~

19 1. ~~The superintendent or designee shall, in person or in~~
20 ~~writing, specify the statutory ground upon which the recommendation~~
21 ~~is based. The superintendent or designee shall also specify the~~
22 ~~underlying facts and provide an explanation of the evidence~~
23 ~~supporting the recommendation for the dismissal or nonreemployment~~
24 ~~of the career teacher; and~~

1 ~~2. The career teacher or designee shall have the opportunity to~~
2 ~~present reasons, either in person or in writing, why the proposed~~
3 ~~action should not be taken.~~

4 ~~C. Only after the career teacher has a meaningful opportunity~~
5 ~~to respond to the recommendation for dismissal or nonreemployment at~~
6 ~~the pretermination hearing shall the board decide whether to accept~~
7 ~~or reject the recommendation of the superintendent. The vote made~~
8 ~~by the board shall be made in an open meeting. The board shall also~~
9 ~~notify the career teacher of its decision, including the basis for~~
10 ~~the decision, by certified mail, restricted delivery, return receipt~~
11 ~~requested or substitute process as provided by law. If the decision~~
12 ~~is to accept the recommendation of the superintendent, the board~~
13 ~~shall include notification of the right of the career teacher to~~
14 ~~petition for a trial de novo in the district court within ten (10)~~
15 ~~days of receipt of notice of the decision. At the pretermination~~
16 ~~hearing the burden of proof shall be upon the superintendent or~~
17 ~~designee and the standard of proof shall be by the preponderance of~~
18 ~~the evidence. The career teacher shall receive any compensation or~~
19 ~~benefits to which such teacher is otherwise entitled until such time~~
20 ~~as the teacher's case is adjudicated at a trial de novo if the~~
21 ~~career teacher petitions for the trial de novo. Such compensation~~
22 ~~and benefits shall not be provided during any further appeal~~
23 ~~process.~~

1 ~~D.~~ The ~~probationary~~ teacher hearing shall be conducted by the
2 district board according to procedures established by the State
3 Board of Education.

4 ~~E.~~ C. Only after due consideration of the evidence and
5 testimony presented at the hearing shall the district board decide
6 whether to dismiss or nonreemploy the ~~probationary~~ teacher. The
7 vote of the board shall be made in an open meeting. The board shall
8 also notify the ~~probationary~~ teacher of the decision, including the
9 basis for the decision, by certified mail, restricted delivery,
10 return receipt requested, or substitute process as provided by law.
11 The decision of the board regarding a probationary teacher shall be
12 final and nonappealable. At the hearing the burden of proof shall
13 be upon the superintendent or designee, and the standard of proof
14 shall be by the preponderance of the evidence. The ~~probationary~~
15 teacher shall receive any compensation or benefits to which the
16 teacher is otherwise entitled until ~~such time as~~ the decision of the
17 board becomes final. If the hearing for a ~~probationary~~ teacher is
18 for nonreemployment, such compensation and benefits may be continued
19 only until the end of the current contract of the teacher.

20 SECTION 11. AMENDATORY 70 O.S. 2001, Section 6-101.26,
21 as last amended by Section 12, Chapter 291, O.S.L. 2010 (70 O.S.
22 Supp. 2010, Section 6-101.26), is amended to read as follows:

23 Section 6-101.26 A. Whenever a board of education receives a
24 recommendation from the superintendent for the dismissal or

1 nonreemployment of a teacher, the board or individual designated by
2 the board shall mail a copy of the recommendation to the teacher by
3 certified mail, restricted delivery, return receipt requested, by
4 personal delivery to the teacher with a signed acknowledgement of
5 receipt, or by delivery by a process server. By the same means, the
6 board shall notify the teacher of the right to a hearing before the
7 board and the date, time and place set by the board for the hearing,
8 which shall be held within the school district not sooner than
9 twenty (20) days or later than sixty (60) days after receipt of
10 notice by the teacher, the date on the personal receipt by hand-
11 delivery to the teacher, or the date of delivery by a process
12 server. The notice shall specify the ~~statutory grounds upon which~~
13 ~~the recommendation is based upon for a career teacher or shall~~
14 ~~specify the cause upon which the recommendation is based upon for a~~
15 ~~probationary teacher.~~ The notice shall also specify the underlying
16 facts supporting the recommendation. At the hearing, the teacher
17 shall be entitled to all rights guaranteed under the circumstances
18 by the United States Constitution and the Constitution of Oklahoma.

19 B. ~~The career teacher pretermination hearing shall be conducted~~
20 ~~by the district board as follows:~~

21 1. ~~The superintendent or designee shall, in person or in~~
22 ~~writing, specify the statutory ground upon which the recommendation~~
23 ~~is based. The superintendent or designee shall also specify the~~
24 ~~underlying facts and provide an explanation of the evidence~~

1 ~~supporting the recommendation for the dismissal or nonreemployment~~
2 ~~of the career teacher; and~~

3 ~~2. The career teacher or designee shall have the opportunity to~~
4 ~~present reasons, either in person or in writing, why the proposed~~
5 ~~action should not be taken.~~

6 ~~C. Only after the career teacher has a meaningful opportunity~~
7 ~~to respond to the recommendation for dismissal or nonreemployment at~~
8 ~~the pretermination hearing shall the board decide whether to accept~~
9 ~~or reject the recommendation of the superintendent. The vote made~~
10 ~~by the board shall be made in an open meeting. The board shall also~~
11 ~~notify the career teacher of its decision, including the basis for~~
12 ~~the decision, by certified mail, restricted delivery, return receipt~~
13 ~~requested or substitute process as provided by law. If the decision~~
14 ~~is to accept the recommendation of the superintendent, the board~~
15 ~~shall include notification of the right of the career teacher to~~
16 ~~petition for a trial de novo in the district court within ten (10)~~
17 ~~days of receipt of notice of the decision. At the pretermination~~
18 ~~hearing the burden of proof shall be upon the superintendent or~~
19 ~~designee and the standard of proof shall be by the preponderance of~~
20 ~~the evidence. The career teacher shall receive any compensation or~~
21 ~~benefits to which the teacher is entitled as provided in Section 6-~~
22 ~~101.27 of this title. Such compensation and benefits shall not be~~
23 ~~provided during any further appeal process.~~

24

1 ~~D.~~ The ~~probationary~~ teacher hearing shall be conducted by the
2 district board according to procedures established by the State
3 Board of Education.

4 ~~E.~~ C. Only after due consideration of the evidence and
5 testimony presented at the hearing shall the district board decide
6 whether to dismiss or nonreemploy the ~~probationary~~ teacher. The
7 vote of the board shall be made in an open meeting. The board shall
8 also notify the ~~probationary~~ teacher of the decision, including the
9 basis for the decision, by certified mail, restricted delivery,
10 return receipt requested, or substitute process as provided by law.
11 The decision of the board regarding a ~~probationary~~ teacher shall be
12 final and nonappealable. At the hearing the burden of proof shall
13 be upon the superintendent or designee, and the standard of proof
14 shall be by the preponderance of the evidence. The ~~probationary~~
15 teacher shall receive any compensation or benefits to which the
16 teacher is otherwise entitled until ~~such time as~~ the decision of the
17 board becomes final. If the hearing for a ~~probationary~~ teacher is
18 for nonreemployment, such compensation and benefits may be continued
19 only until the end of the current contract of the teacher.

20 SECTION 12. AMENDATORY 70 O.S. 2001, Section 6-101.29,
21 is amended to read as follows:

22 Section 6-101.29 Whenever the superintendent of a school
23 district has reason to believe that cause exists for the dismissal
24 of a teacher and is of the opinion that the immediate suspension of

1 the teacher would be in the best interests of the children in the
2 district, the superintendent or the local board of education upon
3 receiving recommendation for suspension from the superintendent may
4 suspend the teacher without notice or hearing. However, the
5 suspension shall not deprive the teacher of any compensation or
6 other benefits to which otherwise entitled. ~~Such suspension shall~~
7 ~~extend to such time as the teacher's case is adjudicated at a trial~~
8 ~~de novo for a career teacher but such extension shall not include~~
9 ~~time for any further appeal process.~~ Within ten (10) days' time
10 after ~~such~~ the suspension becomes effective, the local board of
11 education shall initiate a hearing for dismissal pursuant to law.

12 However, in a case involving a criminal charge or indictment,
13 ~~such~~ the suspension may extend ~~to such time as~~ until the teacher's
14 case for the teacher is finally adjudicated at trial. ~~Provided,~~
15 ~~however,~~ The extension shall not include any appeal process.

16 SECTION 13. NEW LAW A new section of law to be codified
17 in the Oklahoma Statutes as Section 6-101.32 of Title 70, unless
18 there is created a duplication in numbering, reads as follows:

19 Any teacher who had completed three (3) or more consecutive
20 complete school years as a teacher in one school district under a
21 written teaching contract prior to July 1, 2011, shall be entitled
22 to the due process rights that were set forth in the Teacher Due
23 Process Act of 1990 prior to the effective date of this act.

24

1 SECTION 14. REPEALER 70 O.S. 2001, Section 6-101.27, is
2 hereby repealed.

3 SECTION 15. REPEALER 70 O.S. 2001, Section 6-101.27, as
4 amended by Section 13, Chapter 291, O.S.L. 2010 (70 O.S. Supp. 2010,
5 Section 6-101.27), is hereby repealed.

6 SECTION 16. This act shall become effective July 1, 2011.

7 SECTION 17. It being immediately necessary for the preservation
8 of the public peace, health and safety, an emergency is hereby
9 declared to exist, by reason whereof this act shall take effect and
10 be in full force from and after its passage and approval.

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