

1 STATE OF OKLAHOMA

2 2nd Session of the 57th Legislature (2020)

3 SENATE BILL 1480

By: Dahm

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6 AS INTRODUCED

7 An Act relating to school employees; amending 70 O.S.  
8 2011, Section 509.2, as amended by Section 24,  
9 Chapter 124, O.S.L. 2014 (70 O.S. Supp. 2019, Section  
10 509.2), which relates to recognition of employee  
11 organizations; providing certain exception for  
12 certain employees; updating statutory language;  
13 amending 70 O.S. 2011, Section 509.9, which relates  
14 to the prohibition against discrimination of certain  
15 employees; adding certain statutory reference; making  
16 language gender neutral; authorizing school employees  
17 the ability to independently negotiate with an  
18 employer; providing definition; prohibiting greater  
19 or lesser rights or privileges or greater or lesser  
20 duties or obligations from being granted to employees  
21 who independently negotiate; prohibiting provisions  
22 of certain agreements from imposing certain  
23 representation on employees who independently  
24 negotiate; prohibiting more than one exclusive  
25 representative for certain bargaining unit;  
26 prohibiting certain agreements from imposing any  
27 wages or conditions of employment on certain  
28 employees; providing for codification; providing an  
29 effective date; and declaring an emergency.

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

31 SECTION 1. AMENDATORY 70 O.S. 2011, Section 509.2, as  
32 amended by Section 24, Chapter 124, O.S.L. 2014 (70 O.S. Supp. 2019,  
33 Section 509.2), is amended to read as follows:  
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1 Section 509.2. A. The board of education shall recognize an  
2 employee organization designated by an election of the employees in  
3 an appropriate bargaining unit as the exclusive representative of  
4 all the employees in such unit except for those employees choosing  
5 to independently negotiate as provided for in Section 3 of this act.

6 The members of an employee organization shall be employees as  
7 defined in paragraphs 1, 2 and 3 of this subsection and Section 1-  
8 116 of this title. The recognition of such employee organization  
9 shall be made by the board no later than fourteen (14) days after  
10 the election. Any person who desires not to be represented by any  
11 organization may so state in writing to his or her board of  
12 education. Appropriate bargaining units are defined as follows;  
13 however, such definition shall not be construed, of itself, as  
14 requiring that bargaining units engage in bargaining or act to  
15 disengage from bargaining:

16 1. Employees who are employed and certified as principals and  
17 assistant principals and who have responsibilities for the  
18 supervision of classroom teachers shall constitute an appropriate  
19 unit;

20 2. All other employees who are required by the position in  
21 which employed to be certified as teachers as that term is defined  
22 in Section 1-116 of this title and who do not hold supervisory  
23 authority with respect to other teachers in the district shall  
24 constitute an appropriate unit; and

1           3. All employees who are not required by their job description  
2 to be a principal, certified teacher, superintendent or other  
3 certified or noncertified administrator shall constitute a separate  
4 bargaining unit. Provided that, employees with access to  
5 confidential, labor relations information of the school district, or  
6 managerial employees whose responsibilities include making  
7 employment recommendations to the superintendent and for which their  
8 position does not require a certificate, shall be excluded from this  
9 or other bargaining units. Also excluded is any employee position  
10 agreed to be excluded from the bargaining unit by the employee  
11 organization and the school district.

12           Provided, if employees categorized according to paragraphs 2 and  
13 3 of this subsection were organized for bargaining as a single unit  
14 as of April 14, 1986, or are at any time employed in a district  
15 having fewer than seventy-five employees in the two categories taken  
16 together, the employees may, for such time as a majority of the  
17 employees in each category indicate by secret ballot vote they share  
18 a single community of interest, constitute a single appropriate  
19 unit. Further provided, any final judgment of the Supreme Court  
20 denying such community of interest in any school district shall have  
21 the effect of rendering inappropriate all units, in whatever school  
22 districts they exist, which include employees of both categories.

23           B. 1. Within seven (7) business days of receiving a sealed  
24 packet containing an employee petition filed by or on behalf of

1 thirty-five percent (35%) or more of the employees in a unit, such  
2 petition calling for an election to determine which, if any,  
3 employee organization represents the employees in a bargaining unit,  
4 the board shall arrange for verification that there are a sufficient  
5 number of correct names to constitute at least thirty-five percent  
6 (35%) of the employees in the unit. Such arrangements shall include  
7 the transmitting of the sealed packet and a list of employees  
8 eligible to be included in the bargaining unit to the individual  
9 designated pursuant to the provisions of paragraph 2 of this  
10 subsection.

11 2. The petition calling for the secret ballot election shall  
12 contain only the names of employees of the bargaining unit who have  
13 signed and dated the petition. Within thirty (30) days of receipt  
14 of the sealed packet by the district court judge in and for the  
15 county in which the school district has its main office, the sealed  
16 packet shall be opened and the petition shall be verified by an  
17 individual designated by the district judge of such court for the  
18 county in which the school district has its main office. Upon  
19 verification of the number of signatures on the petition, the  
20 district court judge shall notify in writing the district board of  
21 education and any employee organization that has requested notice of  
22 the verification. Under no circumstances shall the individual so  
23 designated reveal the names of employees who signed or did not sign  
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1 the petition. If an employee has signed more than one petition, the  
2 name of the employee shall be removed from each petition.

3 3. The period of time for signing of a recognition petition  
4 shall commence upon receipt of written notification by the school  
5 board from an organization indicating that it intends to circulate a  
6 petition and shall cease thirty (30) days thereafter. Provided, if  
7 an organization recognized as representative of a unit for  
8 bargaining is being challenged for discontinuation of representation  
9 as provided in paragraph 7 of subsection C of this section or is  
10 being challenged by another organization seeking recognition, the  
11 period for signing shall commence on the first day of February and  
12 end on the last day of that same February.

13 C. 1. Not less than forty-five (45) days nor more than sixty  
14 (60) days after receipt of notification that the petition has been  
15 verified as sufficient, a secret ballot election shall be held to  
16 determine which, if any, employee organization shall represent the  
17 unit. No election shall be held for a unit within which a valid  
18 election was held in the preceding two (2) years.

19 On or after March 2, 1995, the board shall recognize within ten  
20 (10) days an organization which has obtained signed authorization  
21 from a majority of the employees eligible to be included in the unit  
22 but has not been recognized. No election shall be held for such  
23 unit within two (2) years of recognition. An appropriate election  
24 ballot shall be printed for this election, which contains the names

1 of all employee organizations having presented a petition verified  
2 as signed by at least thirty-five percent (35%) of the employees  
3 eligible to be in the unit to represent or currently recognized as  
4 representing the unit; provided, no such organization shall be shown  
5 on the ballot unless the organization pays to the board a filing fee  
6 of Two Hundred Fifty Dollars (\$250.00). The ballot shall also  
7 provide an option whereby any employee of the unit may indicate a  
8 preference that the unit not be represented by any organization.  
9 Every organization that receives at least fifteen percent (15%) of  
10 the vote in the election shall be reimbursed the Two Hundred Fifty  
11 Dollars (\$250.00) by the board. The board shall use any remaining  
12 filing fee money to help offset the cost of the validation process  
13 of the petition, if any, as well as any election costs incurred.

14 2. When none of the choices on the ballot receives a majority  
15 of the votes, a runoff election shall be conducted on the fourteenth  
16 day following the first election between the two choices which  
17 received the largest number of votes in the preceding election.

18 3. The employee organization or organizations and the school  
19 board shall, by agreement, determine the method by which each  
20 election shall be conducted. All costs incurred in an election  
21 shall be shared equally by all parties involved.

22 If no agreement can be reached by thirty (30) days prior to the  
23 election, the board of education shall notify the county election  
24 board of the county in which the board is located of such fact, and

1 the following method for conducting the secret ballot election shall  
2 be followed and conducted by the county election board:

3 a. At the time of such notice, the board of education  
4 shall provide to the county election board:

- 5 (1) a list of all the polling places for the  
6 election, such list to include every middle  
7 school or junior high school and the central  
8 administration office in the district;
- 9 (2) a list of names of all the persons eligible to  
10 vote in the election, such list to be in  
11 alphabetical order and duplicated in such number  
12 that there shall be one for each polling place,  
13 plus an additional five copies;
- 14 (3) the names of each organization entitled to have  
15 its name appear on the ballot; and
- 16 (4) the date of the election which shall not be a  
17 special election date specified by subsection B  
18 of Section 3-101 of Title 26 of the Oklahoma  
19 Statutes.

20 b. Ballots for the election shall be printed by the  
21 county election board in the same manner as for other  
22 elections conducted by the county election board,  
23 insofar as is possible. The names of organizations  
24 shall be listed on the ballot in the order in which  
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1           ~~said~~ the names are furnished to the county election  
2 board by the board of education. The option  
3 specifying that no organization shall represent the  
4 employee bargaining unit shall be listed last on the  
5 ballot, in such language as may be specified by the  
6 board.

7           c. The secretary of the county election board shall  
8 appoint an inspector, judge and clerk for each polling  
9 place. The inspector, judge and clerk shall be  
10 selected from among the regular precinct officials in  
11 the county.

12           d. Polling places shall be open from 7:00 a.m. to 7:00  
13 p.m. on the day of the election. Any eligible person  
14 who appears to vote no later than 7:00 p.m. shall be  
15 entitled to vote.

16           e. Eligible voters may vote after signing their  
17 signatures beside their names on the list of names of  
18 all the persons eligible to vote in the election. The  
19 voter shall place his or her ballot in the ballot box  
20 in the presence of the inspector.

21           f. Each organization entitled to have its name appear on  
22 the ballot shall be permitted to appoint one  
23 challenger at each polling place. Each such  
24 challenger shall be properly identified as such, and



1 shall be limited to inquiring of a prospective voter,  
2 ~~said~~ the prospective voter's name, address, job  
3 classification and work site. The challenger may  
4 challenge the right of any prospective voter to vote  
5 by so informing the judge. Upon being so challenged,  
6 the prospective voter may vote if, after being  
7 informed by the judge of such a challenge, the voter  
8 signs his or her signature beside his or her name on  
9 the list of names of all the persons eligible to vote  
10 in the election. If same occurs, the judge shall  
11 write the words "Challenged by \_\_\_\_\_" beside the  
12 voter's signature.

13 g. The county election board shall certify in writing the  
14 results of the election to the board of education on  
15 the day following the election and on the same day  
16 shall mail a copy of the certification to all employee  
17 organizations that have requested copies of the  
18 certification.

19 h. Costs of the election shall be paid to the county  
20 election board by the board of education. The costs  
21 shall include the regular salaries of the inspector,  
22 judge, and clerk, in addition to all other necessary  
23 and reasonable costs. Such costs shall include  
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1 compensation for members of the county election board,  
2 including the secretary.

3 i. Anyone guilty of voting more than one time in the  
4 election will be guilty of a misdemeanor and subject  
5 to a fine of Two Hundred Dollars (\$200.00) or thirty  
6 (30) days in the county jail.

7 4. No employee shall use regularly scheduled duty time for  
8 campaign purposes.

9 5. A list of the employees eligible to vote in the election  
10 including their names, addresses, phone numbers, job classification  
11 and work site shall be provided not less than fourteen (14) days  
12 before the election to each organization listed on the official  
13 ballot.

14 6. Any board or organization challenging the results of any  
15 election held pursuant to the provisions of this section shall post  
16 with the district court a bond of One Thousand Dollars (\$1,000.00)  
17 which shall be forfeited if the court finds that the challenge is in  
18 bad faith.

19 7. In any February more than two (2) years after recognition of  
20 an organization pursuant to the provisions of this section and upon  
21 the receipt of a petition calling for discontinuation of  
22 representation signed by thirty-five percent (35%) of the employees  
23 eligible to be included in the unit, a board shall call an election  
24 to determine whether the members of a unit wish to discontinue being

1 represented for bargaining. If a majority of the votes cast are  
2 votes to discontinue representation, efforts to gain recognition by  
3 any organization shall be prohibited for a period of two (2) years  
4 commencing with the expiration of the contract then in force. The  
5 ballots used in such election shall, without reference to any  
6 organization by name, offer the single choice of continued  
7 representation or discontinuation of representation.

8 SECTION 2. AMENDATORY 70 O.S. 2011, Section 509.9, is  
9 amended to read as follows:

10 Section 509.9. No employee shall be discriminated against by  
11 the board of education, superintendent or any other administrative  
12 officer of a district or by any employee organization, its officers  
13 or any member thereof because of his or her exercise or nonexercise  
14 of rights under this act. It shall be prohibited for an employee  
15 organization, employee or employer to impede, restrain or coerce an  
16 employer or employees in the exercise of the rights guaranteed in  
17 Sections 509.1 through ~~509.10~~ 509.11 of this title and Section 3 of  
18 this act.

19 SECTION 3. NEW LAW A new section of law to be codified  
20 in the Oklahoma Statutes as Section 509.12 of Title 70, unless there  
21 is created a duplication in numbering, reads as follows:

22 A. Notwithstanding any other provision of Title 70 of the  
23 Oklahoma Statutes, school employees shall have the ability to  
24 independently negotiate with their employer regardless of the

1 existence of an exclusive representative as provided for in Section  
2 509.2 of Title 70 of the Oklahoma Statutes. For the purposes of  
3 this section, "independent negotiating" or "to negotiate  
4 independently" means to negotiate between an employer and an  
5 employee with respect to rates of pay, wages, hours of employment,  
6 adjustment of grievances or other terms and conditions of employment  
7 without the intervention of an employee organization.

8 B. 1. Independent negotiating shall not grant any greater or  
9 lesser rights or privileges to employees who have chosen to  
10 represent themselves in a bargaining unit with an exclusive  
11 representative than those employees in a bargaining unit without an  
12 exclusive representative.

13 2. Independent negotiating shall not grant any greater or  
14 lesser duties or obligations for an employer to employees who have  
15 chosen to represent themselves in a bargaining unit with an  
16 exclusive representative than those duties or obligations the  
17 employer owes to employees in a bargaining unit without an exclusive  
18 representative.

19 C. No provision of any agreement between an employee  
20 organization and an employee, nor any other public policy, shall  
21 impose representation by an employee organization on employees who  
22 are not members of that organization and have chosen to negotiate  
23 independently. Nothing in any collective bargaining agreement shall  
24 limit an employee's ability to negotiate with his or her employer or

1 address his or her grievances directly with his or her employer, nor  
2 shall a resolution of any such negotiation or grievance be  
3 controlled or limited by the terms of a collective bargaining  
4 agreement.

5 D. There shall be not more than one exclusive representative  
6 pursuant to the provisions of Section 509.2 of Title 70 of the  
7 Oklahoma Statutes as the representative of the employees in an  
8 appropriate collective bargaining unit.

9 E. No provision of any agreement between an employee  
10 organization and an employer shall impose any wages or conditions of  
11 employment for members of an employee organization which are linked  
12 or contingent upon wages or conditions of employment to employees  
13 who are not members of an employee organization.

14 SECTION 4. This act shall become effective July 1, 2020.

15 SECTION 5. It being immediately necessary for the preservation  
16 of the public peace, health or safety, an emergency is hereby  
17 declared to exist, by reason whereof this act shall take effect and  
18 be in full force from and after its passage and approval.

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