

STATE OF OKLAHOMA

1st Session of the 44th Legislature (1993)

HOUSE BILL NO. 1283

By: Gates

AS INTRODUCED

An Act relating to schools; amending 70 O.S. 1991, Sections 6-101.22, 6-101.24, as amended by Section 1, Chapter 34, O.S.L. 1992 (70 O.S. Supp. 1992, Section 6-101.24) and 6-101.26, which relate to the Teacher Due Process Act of 1990; clarifying language; modifying certain noncompliance provisions for certain recommendation of termination and nonreemployment; modifying certain hearing rights and procedures; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY 70 O.S. 1991, Section 6-101.22, is amended to read as follows:

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

1. Willful neglect of duty;
2. Repeated negligence in performance of duty;
3. Mental or physical abuse to a ~~child~~ student;
4. Incompetency;

5. Instructional ineffectiveness;
6. Unsatisfactory teaching performance; or
7. Any reason involving moral turpitude.

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

C. A teacher convicted of a felony shall be dismissed or not reemployed unless a presidential or gubernatorial pardon has been issued.

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

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

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

SECTION 2. AMENDATORY 70 O.S. 1991, Section 6-101.24, as amended by Section 1, Chapter 34, O.S.L. 1992 (70 O.S. Supp. 1992, Section 6-101.24), is amended to read as follows:

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

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

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

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

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

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

SECTION 3. AMENDATORY 70 O.S. 1991, Section 6-101.26, is amended to read as follows:

Section 6-101.26 A. Whenever a board of education receives a superintendent's recommendation for the dismissal or nonreemployment of a teacher, the board shall mail a copy of the recommendation to the teacher by certified mail, restricted delivery, return receipt requested or by substitute process as provided by law. By the same means, the board shall notify the teacher of such teacher's right to a hearing before the board and the date, time and place set by the

board for the hearing, which shall be held within the school district not sooner than twenty (20) days or later than sixty (60) days after the teacher's receipt of notice. The notice shall specify the statutory grounds upon which the recommendation is based ~~upon~~ for a career teacher or shall specify the cause upon which the recommendation is based ~~upon~~ for a probationary teacher. Said notice shall also specify the underlying facts supporting the recommendation. ~~At such hearing, the teacher shall be entitled to all rights guaranteed under such circumstances by the United States Constitution and the Constitution of Oklahoma.~~

B. The hearing shall be conducted by the local board according to procedures established by the State Board of Education.

C. ~~Only after due consideration of the evidence and testimony presented at the hearing shall the local board decide whether to dismiss or nonreemploy the teacher.~~ The board's decision shall be voted in open meeting. The board shall also notify the teacher of its decision, including the basis for the decision, by certified mail, restricted delivery, return receipt requested or substitute process as provided by law. If the decision is to dismiss or nonreemploy a career teacher, the board shall include notification of said teacher's right to petition for a trial de novo in the district court within ten (10) days of receipt of notice of said decision. The board's decision regarding a probationary teacher shall be final. ~~At the hearing the burden of proof shall be upon the superintendent or designee and the standard of proof shall be by the preponderance of the evidence.~~ The career teacher shall receive any compensation or benefits to which such teacher is otherwise entitled until such time as the teacher's case is adjudicated at a trial de novo if the career teacher petitions for the trial de novo. Such compensation and benefits shall not be provided during any further appeal process. The probationary teacher shall receive any

compensation or benefits to which such teacher is otherwise entitled until such time as the board's decision becomes final.

Provided, however, if the hearing for a probationary teacher is for nonreemployment of the probationary teacher, such compensation and benefits may be continued only until the end of such teacher's current contract.

SECTION 4. This act shall become effective July 1, 1993.

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

44-1-5561

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