

STATE OF OKLAHOMA

2nd Session of the 44th Legislature (1994)

HOUSE BILL NO. 1982

By: Boyd (Betty)

AS INTRODUCED

An Act relating to schools; amending 70 O.S. 1991, Section 509.7, as amended by Section 1, Chapter 102, O.S.L. 1992 (70 O.S. Supp. 1993, Section 509.7), which relates to fact-finding committees in dispute resolutions; eliminating archaic language; limiting time to select fact-finder from list; requiring the State Board of Education to promulgate and adopt certain rules regarding dispute resolutions; specifying administration of the dispute resolution process; requiring the Office of the State Superintendent of Public Instruction to be responsible for certain investigations; providing for dispute resolution panels and procedures related thereto; authorizing certain appeals and providing for procedures related thereto; specifying jurisdiction of the dispute resolution panel; authorizing the State Board of Education to have jurisdiction and issue certain orders under certain circumstances; providing for codification; 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 509.7, as amended by Section 1, Chapter 102, O.S.L. 1992 (70 O.S. Supp. 1993, Section 509.7), is amended to read as follows:

Section 509.7 A procedure for resolving impasses will be developed by the board of education and the representatives of the organization. Said procedure shall include the actions set forth in this section and may include such other actions as are agreed to by both parties. Unless otherwise provided for by law, "days" means calendar days. Time limits set forth herein may be extended by mutual agreement of the parties.

A. If negotiations are not successfully concluded by the first day of school, impasse shall exist. At any earlier time, either party may declare impasse. Upon reaching of impasse, the items causing the impasse shall be referred to a three-member fact-finding committee. This committee shall consist of:

1. One member who shall be selected by the representatives of the organization within five (5) days after the reaching of impasse;

2. One member who shall be selected by the local board of education within five (5) days after the reaching of impasse; and

~~3. Until July 1, 1993, one member who shall be selected by the first two members within fifteen (15) days after selection of the other two members. The member selected by the first two members shall serve as chairman of the committee; and~~

~~4. Beginning July 1, 1993, one One member who shall serve as chairperson of the committee and shall be selected as follows:~~

a. the State Board of Education shall appoint as fact-finders not less than twenty nor more than thirty persons to be placed on the State Superintendent's list of fact-finders. The appointees must reside in Oklahoma, must be neutral and unbiased and must be

knowledgeable in the fields of school operations, school finance, personnel management, dispute resolution and hearing procedures. The appointees shall not currently be elected public officers or employees of a board of education or officers or employees of an organization of education employees. No person who is related within the second degree by consanguinity or affinity to an elected public officer, to an employee of the local board of education that is involved in the impasse, or to an employee of an organization of education employees shall be eligible to serve as a fact-finder.

- b. an appointee shall serve until such appointee resigns or is removed by the State Board of Education from the State Superintendent's list of fact-finders. An appointee must be removed immediately if he or she becomes an elected public officer or employee of a board of education or an officer or employee of an organization of education employees.
- c. within ten (10) days of being notified that a fact-finder is needed, the State Superintendent of Public Instruction or designee shall provide the names of five potential fact-finders selected at random from the list of appointees who are available to serve as a member and the chairperson of the committee. The parties shall select the fact-finder from the five names within five (5) days after receiving the list of fact-finders.
- d. it shall be the responsibility of the State Board of Education to establish rules, regulations, training, hearing procedures, and payment schedules to implement the provisions of this paragraph.

B. Within five (5) days after the selection of the chairman, the representatives who have been negotiating for the board and for the organization shall meet to exchange written language on each item at impasse. The exchanged documents shall also be furnished by each party to the chairman and other members of the committee.

C. The chairman shall convene the committee for fact finding. This committee shall meet with the representatives of both parties. Within twenty (20) days after the chairman is selected, the committee shall present written recommendations to the local board and to the organization.

D. If either party decides it must reject one or more of the committee's recommendations, said party must, within seven (7) days after the committee has presented its recommendations, request a meeting of the representatives who have been negotiating for the board and for the organization. The parties shall meet within seven (7) days of the request, unless both parties deem it unnecessary. At such meeting, the representatives shall exchange written statements expressing each party's rationale for rejecting each recommendation found unacceptable and shall attempt to clarify any remaining differences. The representatives shall then resume good faith effort to resolve the remaining differences; provided, after fourteen (14) days after the exchange of the written statements, either party may discontinue such effort.

E. The local board shall file a copy of the fact-finding report with the office of the State Superintendent of Public Instruction. If the effort to resolve differences is successful, the parties shall draft a written agreement and present the agreement to both parties for ratification, and such agreement shall also be forwarded to the State Superintendent of Public Instruction. If the effort to resolve differences is unsuccessful, the local board of education shall forward to the State Superintendent of Public Instruction in

writing its final disposition of the negotiations impasse process within thirty (30) days of the effective date of implementation.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 509.7a of Title 70, unless there is created a duplication in numbering, reads as follows:

A. It shall be the responsibility of the State Board of Education to promulgate and adopt rules regarding the fair and impartial investigation of disputes that may arise between boards of education and employees or employee organizations. Administration of the dispute resolution process shall be in the Office of the State Superintendent of Public Instruction as provided for in this act.

The office shall be responsible for the investigation of the following bargaining disputes:

1. Bargaining unit determination disputes;
2. Bargaining election disputes;
3. Contractual grievance appeals;
4. Complaints involving failure to negotiate in good faith; or
5. Charges of impeding, coercing, or restraining rights guaranteed by law.

B. When a dispute is declared by a local board of education or employee organization, the State Superintendent of Public Instruction shall be notified by the party declaring the dispute. A dispute resolution panel shall be formed and all timelines shall apply according to the provisions of Section 509.7 of Title 70 of the Oklahoma Statutes. The panel shall be responsible for conducting an investigation, writing a report, and suggesting a settlement to the parties.

C. If either party rejects the panel report, the parties shall resume a good faith effort to resolve the dispute. Provided, after fourteen (14) days either party may discontinue such effort and the

panel report shall be implemented within ten (10) days following such discontinuance.

D. After exhausting the procedures set forth in Section 509.7 of Title 70 of the Oklahoma Statutes but prior to implementing the panel report, either party may appeal the panel recommendations by filing a petition for judicial review in the district court of the county in which the school district is located. The provisions of the Oklahoma Administrative Procedures Act shall apply to such appeal. The status quo between the parties immediately preceding any changes made that lead to the dispute shall be maintained pending resolution of the appeal in district court.

E. The dispute resolution panel shall have jurisdiction over the dispute until the recommendation has been implemented. Such jurisdiction shall include but not be limited to providing any necessary clarification to the parties at the request of either party prior to implementation of the panel's recommendation. Clarification shall be provided by the panel within ten (10) days of the request.

F. After implementation should either party fail to abide by the provisions of the panel's recommendation, the State Board of Education shall have jurisdiction and authority to issue such orders and take such action as necessary and appropriate to compel the parties to comply with the terms of the panel's recommendation.

SECTION 3. This act shall become effective July 1, 1994.

SECTION 4. 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.

44-2-8003

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