ENROLLED HOUSE
BILL NO. 1174

By: McCarter and Staggs of the House

and

Fisher, Johnson and Crutchfield of the Senate

An Act relating to schools; amending 70 O.S. 1991, Sections 6-101.13 and 6-101.14 as amended by Section 1, Chapter 8, O.S.L. 1995 (70 O.S. Supp. 1998, Section 6-101.14), which relate to dismissal or suspension of an administrator; modifying procedure for dismissal of administrators; stating reasons for which an administrator may be dismissed; allowing certain dismissals to occur; clarifying statutory cites; providing for a plan of improvement for an administrator prior to nonreemployment action; stating authorized actions of the board; providing for certain due process procedures; excluding certain positions from the term administrator for certain purposes; 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 6-101.13, is amended to read as follows:

Section 6-101.13 A. Whenever the local board of education or the administration of a school district shall determine that the dismissal ~~or nonreemployment~~ of a full-time certified administrator from ~~his~~ the administrative position within the school district should be effected, the administrator shall be entitled to the following due process procedures:

1. A statement shall be submitted to the administrator in writing prior to the dismissal ~~or nonreemployment~~ which states the proposed action, lists the reasons for effecting the action, and notifies the administrator of ~~his~~ the right to a hearing before the local board of education prior to the action. The recommendation for dismissal shall specify the statutory grounds for which the recommendation is based; and

2. A hearing before the local board of education shall be granted upon the request of such administrator prior to the dismissal ~~or nonreemployment~~. A request for a hearing shall be submitted to the board of education not later than ten (10) days after the administrator has been notified of the proposed action. If requested, the hearing shall be held no later than sixty (60) days after receipt of the notice by the administrator.

B. Failure of the administrator to request a hearing before the local board of education within ten (10) days after receiving the written statement shall constitute a waiver of the right to a hearing. No decision of the local board of education concerning the dismissal ~~or nonreemployment~~ of a full-time certified administrator shall be effective until the administrator has been afforded due process as specified in this section. The decision of the local board of education concerning the dismissal ~~or nonreemployment~~, following the hearing, shall be final.

C. Subject to the provisions of this section, a full-time certified administrator may be dismissed for only the following reasons:

1. Willful neglect of duty;

2. Repeated negligence in performance of duty;

3. Repeated failure to follow direct orders of a supervisor;

4. Incompetency;

5. Misappropriation of funds;

6. Unlawful conduct in the supervision of personnel or students; or

7. Any reason involving moral turpitude.

D. Nothing in this section shall be construed so as to prevent the dismissal of an administrator as provided for in Section 6-101.15 of this title.

SECTION 2. AMENDATORY 70 O.S. 1991, Section 6-101.14, as amended by Section 1, Chapter 8, O.S.L. 1995 (70 O.S. Supp. 1998, Section 6-101.14), is amended to read as follows:

Section 6-101.14 Whenever the local board of education or the administration of a school district has reason to believe that cause exists for the dismissal of an administrator, and when they are of the opinion that the immediate suspension of an administrator would be in the best interests of the children in the district, the local board of education or the superintendent of the school district may suspend the administrator without notice or hearing. However, the suspension of the administrator shall not deprive the administrator of any compensation or other benefits to which ~~he or she~~ the administrator would otherwise be entitled under ~~his or her~~ a contract or pursuant to law. Within ten (10) days' time after such suspension becomes effective, the local board of education shall initiate proceedings pursuant to Section ~~6-102.4~~ 6-101.13 of this title to have the administrator dismissed. However, in a case involving a criminal charge or indictment, ~~such~~ the suspension may extend to such time as the administrator's case is finally adjudicated at a trial. ~~Provided, however, such~~ An extension shall not include any appeal process.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6-101.16 of Title 70, unless there is created a duplication in numbering, reads as follows:

A. When a board of education or the administration of a school district determines that there exist reasons for the nonreemployment of a full-time certified administrator, the board or administration shall:

1. Notify the administrator in writing of the reasons being considered for nonreemployment;

2. No later than March 15th, establish a plan of improvement during which the board shall delay action on nonreemployment. The time for improvement shall not be less than twenty (20) days; and

3. At the end of the time for improvement, reevaluate the administrator.

B. If the administrator has not corrected the problem, the superintendent shall make a recommendation of nonreemployment of the administrator.

C. When a board of education makes or receives a recommendation for nonreemployment of an administrator, the administrator shall be entitled to the following due process procedures:

1. A statement shall be submitted to the administrator in writing prior to nonreemployment which states the proposed action, lists the reasons for effecting the action and notifies the administrator of the right to a hearing before the local board of education prior to the action;

2. A hearing before the local board of education shall be granted upon the request of the administrator prior to the nonreemployment. A request for a hearing shall be submitted to the board of education not later than ten (10) days after the administrator has been notified of the proposed action. If a hearing is requested, it shall be held no later than sixty (60) days after the receipt of the notice by the administrator; and

3. Failure of the administrator to request a hearing before the local board of education within ten (10) days after receiving the written statement shall constitute a waiver of the right to a hearing. No decision of the local board of education concerning the nonreemployment of a full-time certified administrator shall be effective until the administrator has been afforded due process as specified in this section. The decision of the local board of education concerning the nonreemployment, following the hearing, shall be final.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6-101.17 of Title 70, unless there is created a duplication in numbering, reads as follows:

For purposes of Sections 6-101.13 and 6-101.14 of Title 70 of the Oklahoma Statutes and Section 3 of this act, the term "administrator" shall not include a superintendent or elementary superintendent.

SECTION 5. This act shall become effective July 1, 1999.

SECTION 6. 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.

Passed the House of Representatives the 13th day of May, 1999.

Speaker of the House of Representatives

Passed the Senate the 17th day of May, 1999.

President of the Senate