

and

Crutchfield of the Senate

(schools - amending 70 O.S., Sections 6-101.3, 17-
116.10, 18-114.7 and 18-114.9 - teachers -
postretirement employment - reduction in salary -
effective date -

emergency)

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

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

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

1. "Administrator" means a duly certified person who devotes a majority of time to service as a superintendent, elementary superintendent, principal, supervisor, vice principal or in any other administrative or supervisory capacity in the school district;
2. "Dismissal" means the discontinuance of the teaching service of an administrator or teacher during the term of a written contract, as provided by law;
3. "Nonreemployment" means the nonrenewal of an administrator's or teacher's contract upon expiration of the contract;
4. "Career teacher" means a teacher who has completed three (3) or more consecutive complete school years in such capacity in one school district under a written teaching contract. A career teacher electing to retire under the Teachers' Retirement System of Oklahoma who has filed for benefits and elects to continue to teach in a

school in Oklahoma shall forfeit their career status. Any teacher electing to retire under the Teachers' Retirement System of Oklahoma who has filed for benefits shall not be considered a career teacher until the teacher has completed three (3) or more consecutive complete school years in such postretirement capacity in one school district under a written teaching contract;

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

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

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

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

9. "Teacher" means a duly certified or licensed person who is employed to serve as a counselor, librarian or school nurse or in any instructional capacity; an administrator shall be considered a

teacher only with regard to service in an instructional, nonadministrative capacity.

SECTION 2. AMENDATORY 70 O.S. 2001, Section 17-116.10, as last amended by Section 1, Chapter 198, O.S.L. 2003 (70 O.S. Supp. 2003, Section 17-116.10), is amended to read as follows:

Section 17-116.10 A. Subject to the requirements of Section 6-101.2 of this title and any other applicable requirements of law, a member may enter into post-retirement employment with a public school of Oklahoma and still receive monthly retirement benefits subject to the following limitations:

1. A retired member is not eligible to be employed by the public schools of Oklahoma, in any capacity, for sixty (60) calendar days between the retiree's last day of pre-retirement public-education employment and any post-retirement public-education employment. For purposes of this section, the term "last day of pre-retirement employment" shall mean the last day the employee is required to be physically present on the job to complete the terms of the employment contract or agreement. Employment under any conditions during this time or payment at a later time for services performed during this time period shall cause the forfeiture of all retirement benefits received during the period. Further, this sixty-day period shall be considered a constructive break in service. As such, should the retired employee enter postretirement employment as a full-time teacher, that employee shall do so as a probationary teacher;

2. Unless otherwise provided in paragraph 3 of this subsection, earnings from the public schools may not exceed one-half (1/2) of the member's final average salary used in computing retirement benefits, or the Earnings Limitation for employees allowed by the Social Security Administration, whichever is less. For retired members under the age of sixty-two (62) years, the limit on allowed earnings from the public schools of Oklahoma for employment for the

performance of duties ordinarily performed by classified or nonclassified personnel shall be the lesser of Fifteen Thousand Dollars (\$15,000.00) or one-half (1/2) of the member's final average salary used in computing retirement benefits unless the earnings limitation allowed by the Social Security Administration would be greater than Fifteen Thousand Dollars (\$15,000.00). For retired members sixty-two (62) years of age or older the limit on allowed earnings from the public schools of Oklahoma for the performance of duties ordinarily performed by classified or nonclassified personnel shall be the lesser of Thirty Thousand Dollars (\$30,000.00) or one-half (1/2) of the member's final average salary used in computing retirement benefits. For purposes of this paragraph, the following shall apply:

- a. earnings shall mean "regular annual compensation" as defined in paragraph (25) of Section 17-101 of this title, and shall include any payment by a public school for services rendered by a retired member who is employed for any purpose whatsoever. Supplemental retirement payments paid by a former public school employer pursuant to subsection 9 of Section 17-105 of this title or other state law shall not be considered as earnings,
- b. the Earnings Limitation for employees allowed by the Social Security Administration to workers between the age of sixty-two (62) years and sixty-five (65) years shall apply to retired members below the age of sixty-two (62) years,
- c. the limit on allowed earnings from the public schools shall be automatically adjusted effective the first day of January of each year to reflect the current Earnings Limitation for employees as determined from time to time by the Social Security Administration,

- d. earnings in excess of the maximum limit on allowed earnings from public schools of Oklahoma shall result in a loss of future retirement benefits for the year the post-retirement employment was performed of One Dollar (\$1.00) for each One Dollar (\$1.00) earned over the maximum allowed earnings amount,
- e. for those members age seventy (70) years and over, the earnings in excess of the maximum limit allowed earnings from public schools of Oklahoma shall be one-half (1/2) the member's final average salary used in computing retirement benefits. However, any retired member receiving benefits from the Retirement System who reached age seventy (70) years prior to July 1, 1991, shall not be restricted by the earnings limits pursuant to this subparagraph until January 1, 1994. To qualify for the provisions of this subparagraph, the member must be employed less than one-half (1/2) time compared to other full-time employees in similar positions;

3. Notwithstanding paragraph 2 of this subsection, a retired classified or nonclassified member who has been retired for thirty-six (36) or more months and who is employed by a public school to perform duties ordinarily performed by classified or nonclassified personnel shall be able to receive annualized earnings from the public school not to exceed Thirty Thousand Dollars (\$30,000.00); and

4. A member shall be considered to be employed by a school district to perform the duties ordinarily performed by classified or nonclassified personnel if the member is hired by the school district in the member's individual capacity to perform the duties or if the member performs the duties through employment with a proprietorship, partnership, corporation, limited liability company

or partnership, or any other business structure that has agreed or contracted to provide the services to the school district.

B. A public school district that employs a retired member shall be required to make contributions to the System for the retired member in an amount as required in Section 17-108.1 of this title.

C. For purposes of this section, post-retirement employment of less than one thousand (1,000) hours per year with the Governor, the State Senate, the House of Representatives or the Legislative Service Bureau shall not be considered as post-retirement employment with a public school of Oklahoma.

D. The Board of Trustees of the Teachers' Retirement System of Oklahoma shall promulgate such rules as are necessary to implement the provisions of this section.

E. A member who has entered into post-retirement employment with a participating employer of the Teachers' Retirement System of Oklahoma must fully comply with all the provisions of the rules promulgated by the Board of Trustees pursuant to this section in order to continue receiving his or her monthly retirement benefit.

SECTION 3. AMENDATORY 70 O.S. 2001, Section 18-114.7, is amended to read as follows:

Section 18-114.7 A. Beginning with the 2000-01 school year, teachers in the public schools of Oklahoma shall receive in salary and/or fringe benefits not less than the amounts specified in the following schedule:

MINIMUM SALARY SCHEDULE

Years of Experience	Bachelor's Degree	Master's Degree	Doctor's Degree
0	\$27,060	\$28,166	\$29,272
1	\$28,221	\$29,327	\$30,433
2	\$28,553	\$29,659	\$30,765
3	\$28,885	\$29,991	\$31,097
4	\$29,217	\$30,323	\$31,429

5	\$29,549	\$30,655	\$31,761
6	\$29,881	\$30,987	\$32,093
7	\$30,213	\$31,319	\$32,425
8	\$30,545	\$31,651	\$32,757
9	\$30,877	\$31,983	\$33,089
10	\$31,209	\$32,315	\$33,421
11	\$31,541	\$32,647	\$33,753
12	\$31,873	\$32,979	\$34,085
13	\$32,205	\$33,311	\$34,417
14	\$32,537	\$33,643	\$34,749
15	\$32,869	\$33,975	\$35,081
16	\$33,201	\$34,307	\$35,413
17	\$33,533	\$34,639	\$35,745
18	\$33,865	\$34,971	\$36,077
19	\$34,197	\$35,303	\$36,409
20	\$34,529	\$35,635	\$36,741
21	\$34,861	\$35,967	\$37,073
22	\$35,193	\$36,299	\$37,405
23	\$35,525	\$36,631	\$37,737
24	\$35,857	\$36,963	\$38,069
25	\$36,189	\$37,295	\$38,401

For the 2000-01 school year, any amounts received pursuant to Section 1, Chapter 1, O.S.L. 2000, shall count towards the minimum salary schedule established in this section for those teachers who qualified for the salary increase under Section 1, Chapter 1, O.S.L. 2000.

When determining the Minimum Salary Schedule, "fringe benefits" shall mean all or part of hospital or medical benefits, and sickness, accident, health or life insurance, and retirement benefits, excluding the contributions made pursuant to subsection A of Section 17-108.1 of this title and the flexible benefit allowance pursuant to Section 26-105 of this title from the flexible benefit

allowance funds disbursed by the State Board of Education and the State Board of Career and Technology Education pursuant to Section 26-104 of this title. Any of the degrees referred to in this section shall be from a college recognized by the State Board of Education. The State Board of Education shall accept teaching experience from out-of-state school districts that are accredited by the State Board of Education or appropriate state accrediting agency for said districts. For the purpose of state salary increments and retirement, no teacher shall be granted credit for more than five (5) years' active duty in the military service, or out-of-state teaching experience as a certified teacher or its equivalent. Nothing in this section shall prohibit boards of education from crediting more years of experience on local salary schedules than those allowed for state purposes. The State Board of Education shall recognize, for purposes of certification and salary increments, the years of experience of a certified teacher who teaches in the Department of Corrections' educational program beginning with fiscal year 1981. The State Board of Education shall recognize for purposes of certification and salary increments the years of experience of a Vocational Rehabilitation Counselor under the Department of Human Services if such counselor was employed as a certified teacher by the State Department of Education when the Division of Vocational Rehabilitation was transferred from the State Board of Career and Technology Education or the State Board of Education to the Oklahoma Public Welfare Commission on July 1, 1968.

B. The State Board of Education shall recognize for purposes of certification and salary increments all of the years of experience
a:

1. Vocational Rehabilitation Counselor completed while employed by the Department of Human Services if such counselor was certified as a teacher or was eligible for certification as a teacher in Oklahoma;

2. Certified teacher completed while employed by the Department of Human Services Child Study Center at University Hospital, if the teacher was certified as a teacher in Oklahoma; and

3. Certified school psychologist or psychometrist completed while employed as a doctoral intern, psychological assistant, or psychologist with any agency of the State of Oklahoma if such experience primarily involved work with persons of school or pre-school age and if such person was, at the time the experience was acquired, certified as, or eligible for certification as, a school psychologist or psychometrist.

C. The minimum salary provisions of this section shall not apply to teachers who have entered into postretirement employment with a public school in Oklahoma and are still receiving a monthly retirement benefit.

D. When a teacher retired under the Teachers' Retirement System of Oklahoma and receiving a monthly retirement benefit enters into postretirement employment with a public school in Oklahoma, the minimum salary schedule in this section shall be viewed as a maximum in accordance with paragraph 2 of subsection A of Section 17-116.10 of this title. For postretirement maximum calculations, the years of experience shall be calculated by determining the years of experience in postretirement employment as a teacher in a public school in Oklahoma.

SECTION 4. AMENDATORY Section 18, Chapter 434, O.S.L. 2003 (70 O.S. Supp. 2003, Section 18-114.9), is amended to read as follows:

Section 18-114.9 A. If a teacher, as defined in Section 6-101.3 of ~~Title 70 of the Oklahoma Statutes~~ this title, is employed by the same school district for the next school year as the preceding school year, the salary and fringe benefit level of the teacher shall not be decreased the next school year unless the hours or the duties of the teacher are reduced proportionately. The

provisions of this section shall not apply to individuals receiving retirement benefits from the Teachers' Retirement System of Oklahoma.

B. Subject to the provisions of this section, any school district that willfully reduces or has in years previous to enactment of this section willfully reduced the salary of a teacher in violation of subsection A of this section shall forfeit as a penalty a portion of its State Aid equal to the total amount that the teacher was underpaid. If the teacher was underpaid for more than one (1) school year, the amount forfeited shall equal the cumulative amount that the teacher was underpaid. The amount to be forfeited shall be deducted from the State Aid payment following confirmation of the underpayment by the State Department of Education.

C. In addition to the amount of State Aid forfeited as a penalty pursuant to subsection B of this section, in order to ensure that the teacher receives the full amount of unpaid salary, the State Department of Education shall withhold an amount which is equal to the total amount that the teacher was underpaid from the State Aid payment of the school district and pay the amount directly to the teacher. The Board shall not withhold an amount for payment to the teacher pursuant to the subsection if the teacher has recovered the underpayment pursuant to judicial action.

D. Complaints filed with the State Board of Education pursuant to this section may be based on alleged underpayments during fiscal years that began:

1. On or after July 1, 2002; or
2. Before July 1, 2002, if the teacher filed an action to recover the underpayment in a court of competent jurisdiction before July 1, 2002.

E. Complaints filed with the State Board of Education alleging underpayment during fiscal years that began on or after July 1,

2002, shall be filed within one (1) year of the end of the fiscal year in which the underpayment is alleged to have occurred.

F. Filing a complaint with the State Board of Education pursuant to this section shall not operate to prohibit a teacher from filing an action for underpayment in a court of competent jurisdiction or continuing to pursue an action for underpayment pending in a court of competent jurisdiction on the effective date of this act.

G. The State Board of Education shall promulgate rules necessary to implement the provisions of this section. The rules shall include, but not be limited to, procedures for a teacher to file a complaint for violation of this section and the Department to investigate the complaint.

SECTION 5. This act shall become effective July 1, 2004.

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 4th day of March, 2004.

Presiding Officer of the House of
Representatives

Passed the Senate the ____ day of _____, 2004.

Presiding Officer of the Senate