

1 STATE OF OKLAHOMA

2 2nd Session of the 51st Legislature (2008)

3 HOUSE BILL 2680

By: Sears

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5  
6 AS INTRODUCED

7 An Act relating to schools; amending 70 O.S. 2001,  
8 Section 6-101.3, as amended by Section 8, Chapter  
9 434, O.S.L. 2003 (70 O.S. Supp. 2007, Section 6-  
10 101.3), which relates to teacher contract  
11 definitions; modifying definition; deleting  
12 definition; amending 70 O.S. 2001, Sections 6-101.26,  
13 as last amended by Section 2, Chapter 112, O.S.L.  
14 2006 and 6-101.29 (70 O.S. Supp. 2007, Section 6-  
15 101.26), which relate to the Teacher Due Process Act  
16 of 1990; deleting requirements for career teacher  
17 pretermination hearings; making probationary teacher  
18 hearing process apply to all teachers; deleting  
19 reference to trial de novo; repealing 70 O.S. 2001,  
20 Section 6-101.27, which relates to trial de novo  
21 process for career teachers; providing an effective  
22 date; and declaring an emergency.

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

24 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. 2007,  
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

1 superintendent, principal, supervisor, vice principal or in any  
2 other administrative or supervisory capacity in the school district;

3 2. "Dismissal" means the discontinuance of the teaching service  
4 of an administrator or teacher during the term of a written  
5 contract, as provided by law;

6 3. "Nonreemployment" means the nonrenewal of an administrator's  
7 or teacher's contract upon expiration of the contract;

8 4. "Career teacher" means a teacher who has completed three (3)  
9 or more consecutive complete school years in such capacity in one  
10 school district under a written teaching contract;

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

19 6. "~~Career teacher pretermination hearing~~" means the informal  
20 proceeding before the local board of education held for the purpose  
21 of providing a meaningful opportunity to invoke the discretion of  
22 the decision maker after a recommendation for dismissal or  
23 nonreemployment of a career teacher has been made but before any  
24 final action is taken on the recommendation in order to ensure that

1 ~~the career teacher is afforded the essential pretermination due~~  
2 ~~process requirements of notice and an opportunity to respond;~~

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

6 ~~8.~~ 7. "Suspension" or "suspended" means the temporary  
7 discontinuance of an administrator's or teacher's services, as  
8 provided by law; and

9 ~~9.~~ 8. "Teacher" means a duly certified or licensed person who  
10 is employed to serve as a counselor, librarian or school nurse or in  
11 any instructional capacity; an administrator shall be considered a  
12 teacher only with regard to service in an instructional,  
13 nonadministrative capacity.

14 SECTION 2. AMENDATORY 70 O.S. 2001, Section 6-101.26, as  
15 last amended by Section 2, Chapter 112, O.S.L. 2006 (70 O.S. Supp.  
16 2007, Section 6-101.26), is amended to read as follows:

17 Section 6-101.26 A. Whenever a board of education receives a  
18 recommendation from the superintendent for the dismissal or  
19 nonreemployment of a teacher, the board or individual designated by  
20 the board shall mail a copy of the recommendation to the teacher by  
21 certified mail, restricted delivery, return receipt requested, by  
22 personal delivery to the teacher with a signed acknowledgement of  
23 receipt, or by delivery by a process server. By the same means, the  
24 board shall notify the teacher of the right to a hearing before the

1 board and the date, time and place set by the board for the hearing,  
2 which shall be held within the school district not sooner than  
3 twenty (20) days or later than sixty (60) days after receipt of  
4 notice by the teacher, the date on the personal receipt by hand-  
5 delivery to the teacher, or the date of delivery by a process  
6 server. The notice shall specify the statutory grounds upon which  
7 the recommendation is based upon for a career teacher or shall  
8 specify the cause upon which the recommendation is based upon for a  
9 probationary teacher. The notice shall also specify the underlying  
10 facts supporting the recommendation. At the hearing, the teacher  
11 shall be entitled to all rights guaranteed under the circumstances  
12 by the United States Constitution and the Constitution of Oklahoma.

13 ~~B. The career teacher pretermination hearing shall be conducted~~  
14 ~~by the district board as follows:~~

15 ~~1. The superintendent or designee shall, in person or in~~  
16 ~~writing, specify the statutory ground upon which the recommendation~~  
17 ~~is based. The superintendent or designee shall also specify the~~  
18 ~~underlying facts and provide an explanation of the evidence~~  
19 ~~supporting the recommendation for the dismissal or nonreemployment~~  
20 ~~of the career teacher; and~~

21 ~~2. The career teacher or designee shall have the opportunity to~~  
22 ~~present reasons, either in person or in writing, why the proposed~~  
23 ~~action should not be taken.~~

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1       ~~C. Only after the career teacher has a meaningful opportunity~~  
2 ~~to respond to the recommendation for dismissal or nonreemployment at~~  
3 ~~the pretermination hearing shall the board decide whether to accept~~  
4 ~~or reject the recommendation of the superintendent. The vote made~~  
5 ~~by the board shall be made in an open meeting. The board shall also~~  
6 ~~notify the career teacher of its decision, including the basis for~~  
7 ~~the decision, by certified mail, restricted delivery, return receipt~~  
8 ~~requested or substitute process as provided by law. If the decision~~  
9 ~~is to accept the recommendation of the superintendent, the board~~  
10 ~~shall include notification of the right of the career teacher to~~  
11 ~~petition for a trial de novo in the district court within ten (10)~~  
12 ~~days of receipt of notice of the decision. At the pretermination~~  
13 ~~hearing the burden of proof shall be upon the superintendent or~~  
14 ~~designee and the standard of proof shall be by the preponderance of~~  
15 ~~the evidence. The career teacher shall receive any compensation or~~  
16 ~~benefits to which such teacher is otherwise entitled until such time~~  
17 ~~as the teacher's case is adjudicated at a trial de novo if the~~  
18 ~~career teacher petitions for the trial de novo. Such compensation~~  
19 ~~and benefits shall not be provided during any further appeal~~  
20 ~~process.~~

21       ~~D. The probationary teacher hearing shall be conducted by the~~  
22 ~~district board according to procedures established by the State~~  
23 ~~Board of Education.~~

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1        ~~E-~~ C. Only after due consideration of the evidence and  
2 testimony presented at the hearing shall the district board decide  
3 whether to dismiss or nonreemploy the ~~probationary~~ teacher. The  
4 vote of the board shall be made in an open meeting. The board shall  
5 also notify the ~~probationary~~ teacher of the decision, including the  
6 basis for the decision, by certified mail, restricted delivery,  
7 return receipt requested, or substitute process as provided by law.  
8 The decision of the board regarding a ~~probationary~~ teacher shall be  
9 final and nonappealable. At the hearing the burden of proof shall  
10 be upon the superintendent or designee, and the standard of proof  
11 shall be by the preponderance of the evidence. The ~~probationary~~  
12 teacher shall receive any compensation or benefits to which the  
13 teacher is otherwise entitled until such time as the decision of the  
14 board becomes final. If the hearing for a ~~probationary~~ teacher is  
15 for nonreemployment, such compensation and benefits may be continued  
16 only until the end of the current contract of the teacher.

17        SECTION 3.        AMENDATORY        70 O.S. 2001, Section 6-101.29, is  
18 amended to read as follows:

19        Section 6-101.29 Whenever the superintendent of a school  
20 district has reason to believe that cause exists for the dismissal  
21 of a teacher and is of the opinion that the immediate suspension of  
22 the teacher would be in the best interests of the children in the  
23 district, the superintendent or the local board of education upon  
24 receiving recommendation for suspension from the superintendent may

1 suspend the teacher without notice or hearing. However, the  
2 suspension shall not deprive the teacher of any compensation or  
3 other benefits to which otherwise entitled. ~~Such suspension shall~~  
4 ~~extend to such time as the teacher's case is adjudicated at a trial~~  
5 ~~de novo for a career teacher but such extension shall not include~~  
6 ~~time for any further appeal process.~~ Within ten (10) days' time  
7 after ~~such~~ the suspension becomes effective, the local board of  
8 education shall initiate a hearing for dismissal pursuant to law.

9 However, in a case involving a criminal charge or indictment,  
10 ~~such~~ the suspension may extend to such time as the teacher's case is  
11 finally adjudicated at trial. Provided, however, ~~such~~ the extension  
12 shall not include any appeal process.

13 SECTION 4. REPEALER 70 O.S. 2001, Section 6-101.27, is  
14 hereby repealed.

15 SECTION 5. This act shall become effective July 1, 2008.

16 SECTION 6. It being immediately necessary for the preservation  
17 of the public peace, health and safety, an emergency is hereby  
18 declared to exist, by reason whereof this act shall take effect and  
19 be in full force from and after its passage and approval.

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21 51-2-8405 KB 12/27/07

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