

1 STATE OF OKLAHOMA

2 1st Session of the 53rd Legislature (2011)

3 COMMITTEE SUBSTITUTE

4 FOR ENGROSSED

5 SENATE BILL NO. 1

By: Ford of the Senate

and

Denney of the House

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10 COMMITTEE SUBSTITUTE

11 An Act relating to schools; amending 70 O.S. 2001,
12 Section 6-101.3, as last amended by Section 8,
13 Chapter 291, O.S.L. 2010 (70 O.S. Supp. 2010, Section
14 6-101.3), which relates to teacher contract
15 definitions; modifying certain definitions; deleting
16 certain definitions; amending 70 O.S. 2001, Sections
17 6-101.26, as last amended by Section 12, Chapter 291,
18 O.S.L. 2010 and 6-101.29 (70 O.S. Supp. 2010, Section
19 6-101.26), which relate to the Teacher Due Process
20 Act of 1990; updating statutory language; deleting
21 obsolete language; deleting career teacher
22 pretermination hearing procedures and requirements;
23 deleting right to trial de novo; deleting requirement
24 to extend suspensions until completion of a trial de
novo; repealing 70 O.S. 2001, Section 6-101.3, as
amended by Section 8, Chapter 434, O.S.L. 2003 (70
O.S. Supp. 2010, Section 6-101.3), which relates to
teacher contract definitions; repealing 70 O.S. 2001,
Section 6-101.26, as last amended by Section 2,
Chapter 112, O.S.L. 2006 (70 O.S. Supp. 2010, Section
6-101.26), which relates to teacher due process
hearings; repealing 70 O.S. 2001, Sections 6-101.27
and 6-101.27, as amended by Section 13, Chapter 291,
O.S.L. 2010 (70 O.S. Supp. 2010, Section 6-101.27),
which relate to a teacher's right to a trial de novo;
providing an effective date; and declaring an
emergency.

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

SECTION 1. AMENDATORY 70 O.S. 2001, Section 6-101.3, as last amended by Section 8, Chapter 291, O.S.L. 2010 (70 O.S. Supp. 2010, 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~~ the contract of an administrator or teacher upon expiration of the contract;

4. "Career teacher" means a teacher who:
a. for teachers employed by a school district ~~during the 2011-12 school year~~ prior to July 1, 2012, has completed three (3) or more consecutive complete school years as a teacher in one school district under

1 a written continuing or temporary teaching contract,
2 or

3 b. for teachers employed for the first time by a school
4 district under a written continuing or temporary
5 teaching contract on or after July 1, 2012:

6 (1) has completed three (3) consecutive complete
7 school years as a teacher in one school district
8 under a written continuing or temporary teaching
9 contract and has achieved a rating of "superior"
10 as measured pursuant to the Oklahoma Teacher and
11 Leader Effectiveness Evaluation System (TLE) as
12 set forth in Section ~~6~~ 6-101.16 of this ~~act~~ title
13 for at least two (2) of the three (3) school
14 years, with no rating below "effective",

15 (2) has completed four (4) consecutive complete
16 school years as a teacher in one school district
17 under a written continuing or temporary teaching
18 contract, has averaged a rating of at least
19 "effective" as measured pursuant to the TLE for
20 the four-year period, and has received a rating
21 of at least "effective" for the last two (2)
22 years of the four-year period, or

23 (3) has completed four (4) or more consecutive
24 complete school years in one school district

1 under a written continuing or temporary teaching
2 contract and has not met the requirements of
3 subparagraph a or b of this paragraph, only if
4 the principal of the school at which the teacher
5 is employed submits a petition to the
6 superintendent of the school district requesting
7 that the teacher be granted career status, the
8 superintendent agrees with the petition, and the
9 school district board of education approves the
10 petition. The principal shall specify in the
11 petition the underlying facts supporting the
12 granting of career status to the teacher;

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

22 6. "~~Career teacher pretermination hearing~~" means ~~the informal~~
23 ~~proceeding before the school district board of education held for~~
24 ~~the purpose of providing a meaningful opportunity to invoke the~~

1 ~~discretion of the decision maker after a recommendation for~~
2 ~~dismissal or nonreemployment of a career teacher has been made but~~
3 ~~before any final action is taken on the recommendation in order to~~
4 ~~ensure that the career teacher is afforded the essential~~
5 ~~pretermination due process requirements of notice and an opportunity~~
6 ~~to respond;~~

7 7. "Probationary teacher" means a teacher who:

- 8 a. for teachers employed by a school district ~~during the~~
9 ~~2011-12 school year~~ prior to July 1, 2012, has
10 completed fewer than three (3) consecutive complete
11 school years as a teacher in one school district under
12 a written teaching contract, or
13 b. for teachers employed for the first time by a school
14 district under a written teaching contract on or after
15 July 1, 2012, has not met the requirements for career
16 teacher as provided in paragraph 4 of this section;

17 ~~8.~~ 7. "Suspension" or "suspended" means the temporary
18 discontinuance of ~~an administrator's or teacher's~~ the services of an
19 administrator or teacher, as provided by law; and

20 ~~9.~~ 8. "Teacher" means a duly certified or licensed person who
21 is employed to serve as a counselor, librarian or school nurse or in
22 any instructional capacity; an administrator shall be considered a
23 teacher only with regard to service in an instructional,
24 nonadministrative capacity.

1 SECTION 2. AMENDATORY 70 O.S. 2001, Section 6-101.26, as
2 last amended by Section 12, Chapter 291, O.S.L. 2010 (70 O.S. Supp.
3 2010, Section 6-101.26), is amended to read as follows:

4 Section 6-101.26 A. Whenever a board of education receives a
5 recommendation from the superintendent for the dismissal or
6 nonreemployment of a teacher, the board or individual designated by
7 the board shall mail a copy of the recommendation to the teacher by
8 certified mail, restricted delivery, return receipt requested, by
9 personal delivery to the teacher with a signed acknowledgement of
10 receipt, or by delivery by a process server. By the same means, the
11 board shall notify the teacher of the right to a hearing before the
12 board and the date, time and place set by the board for the hearing,
13 which shall be held within the school district not sooner than
14 twenty (20) days or later than sixty (60) days after receipt of
15 notice by the teacher, the date on the personal receipt by hand-
16 delivery to the teacher, or the date of delivery by a process
17 server. The notice shall specify the statutory grounds upon which
18 the recommendation is based upon for a career teacher or shall
19 specify the cause upon which the recommendation is based upon for a
20 probationary teacher. The notice shall also specify the underlying
21 facts supporting the recommendation. At the hearing, the teacher
22 shall be entitled to all rights guaranteed under the circumstances
23 by the United States Constitution and the Constitution of Oklahoma.

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

3 ~~1. The superintendent or designee shall, in person or in~~
4 ~~writing, specify the statutory ground upon which the recommendation~~
5 ~~is based. The superintendent or designee shall also specify the~~
6 ~~underlying facts and provide an explanation of the evidence~~
7 ~~supporting the recommendation for the dismissal or nonreemployment~~
8 ~~of the career teacher; and~~

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

12 ~~C. Only after the career teacher has a meaningful opportunity~~
13 ~~to respond to the recommendation for dismissal or nonreemployment at~~
14 ~~the pretermination hearing shall the board decide whether to accept~~
15 ~~or reject the recommendation of the superintendent. The vote made~~
16 ~~by the board shall be made in an open meeting. The board shall also~~
17 ~~notify the career teacher of its decision, including the basis for~~
18 ~~the decision, by certified mail, restricted delivery, return receipt~~
19 ~~requested or substitute process as provided by law. If the decision~~
20 ~~is to accept the recommendation of the superintendent, the board~~
21 ~~shall include notification of the right of the career teacher to~~
22 ~~petition for a trial de novo in the district court within ten (10)~~
23 ~~days of receipt of notice of the decision. At the pretermination~~
24 ~~hearing the burden of proof shall be upon the superintendent or~~

1 ~~designee and the standard of proof shall be by the preponderance of~~
2 ~~the evidence. The career teacher shall receive any compensation or~~
3 ~~benefits to which the teacher is entitled as provided in Section 6-~~
4 ~~101.27 of this title. Such compensation and benefits shall not be~~
5 ~~provided during any further appeal process.~~

6 D. The ~~probationary~~ teacher hearing shall be conducted by the
7 district board according to procedures established by the State
8 Board of Education.

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

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

3 Section 6-101.29 Whenever the superintendent of a school
4 district has reason to believe that cause exists for the dismissal
5 of a teacher and is of the opinion that the immediate suspension of
6 the teacher would be in the best interests of the children in the
7 district, the superintendent or the local board of education upon
8 receiving recommendation for suspension from the superintendent may
9 suspend the teacher without notice or hearing. However, the
10 suspension shall not deprive the teacher of any compensation or
11 other benefits to which otherwise entitled. ~~Such suspension shall~~
12 ~~extend to such time as the teacher's case is adjudicated at a trial~~
13 ~~de novo for a career teacher but such extension shall not include~~
14 ~~time for any further appeal process.~~ Within ten (10) days' time
15 after ~~such~~ the suspension becomes effective, the local board of
16 education shall initiate a hearing for dismissal pursuant to law.

17 However, in a case involving a criminal charge or indictment,
18 ~~such~~ the suspension may extend ~~to such time as~~ until the ~~teacher's~~
19 ~~case~~ for the teacher is finally adjudicated at trial. ~~Provided,~~
20 ~~however, such~~ The extension shall not include any appeal process.

21 SECTION 4. REPEALER 70 O.S. 2001, Section 6-101.3, as
22 amended by Section 8, Chapter 434, O.S.L. 2003 (70 O.S. Supp. 2010,
23 Section 6-101.3), is hereby repealed.

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1 SECTION 5. REPEALER 70 O.S. 2001, Section 6-101.26, as
2 last amended by Section 2, Chapter 112, O.S.L. 2006 (70 O.S. Supp.
3 2010, Section 6-101.26), is hereby repealed.

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

6 SECTION 7. REPEALER 70 O.S. 2001, Section 6-101.27, as
7 amended by Section 13, Chapter 291, O.S.L. 2010 (70 O.S. Supp. 2010,
8 Section 6-101.27), is hereby repealed.

9 SECTION 8. This act shall become effective July 1, 2011.

10 SECTION 9. It being immediately necessary for the preservation
11 of the public peace, health and safety, an emergency is hereby
12 declared to exist, by reason whereof this act shall take effect and
13 be in full force from and after its passage and approval.

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