

1 ENGROSSED SENATE
2 BILL NO. 1

By: Ford of the Senate

3 and

4 Denney of the House

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6
7 An Act relating to schools; amending 70 O.S. 2001,
8 Section 6-101.26, as last amended by Section 12,
9 Chapter 291, O.S.L. 2010 (70 O.S. Supp. 2010, Section
10 6-101.26) and Section 6-101.29, which relate to the
11 Teacher Due Process Act of 1990; deleting
12 requirements for certain hearing; deleting extension
13 of time for certain suspension; and repealing 70 O.S.
14 2001, Section 6-101.27, as amended by Section 13,
15 Chapter 291, O.S.L. 2010 (70 O.S. Supp. 2010, Section
16 6-101.27), which relates to entitlement to trial de
17 novo.

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

19 SECTION 1. AMENDATORY 70 O.S. 2001, Section 6-101.26, as
20 last amended by Section 12, Chapter 291, O.S.L. 2010 (70 O.S. Supp.
21 2010, Section 6-101.26), is amended to read as follows:

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

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

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

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

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

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 the teacher is entitled as provided in Section 6-~~
17 ~~101.27 of this title. Such compensation and benefits shall not be~~
18 ~~provided during any further appeal process.~~

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

22 ~~E.~~ C. Only after due consideration of the evidence and
23 testimony presented at the hearing shall the district board decide
24 whether to dismiss or nonreemploy the probationary teacher. The

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

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

16 Section 6-101.29 Whenever the superintendent of a school
17 district has reason to believe that cause exists for the dismissal
18 of a teacher and is of the opinion that the immediate suspension of
19 the teacher would be in the best interests of the children in the
20 district, the superintendent or the local board of education upon
21 receiving recommendation for suspension from the superintendent may
22 suspend the teacher without notice or hearing. However, the
23 suspension shall not deprive the teacher of any compensation or
24 other benefits to which otherwise entitled. ~~Such suspension shall~~

1 ~~extend to such time as the teacher's case is adjudicated at a trial~~
2 ~~de novo for a career teacher but such extension shall not include~~
3 ~~time for any further appeal process.~~ Within ten (10) days' time
4 after such suspension becomes effective, the local board of
5 education shall initiate a hearing for dismissal pursuant to law.

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

10 SECTION 3. REPEALER 70 O.S. 2001, Section 6-101.27, as
11 amended by Section 13, Chapter 291, O.S.L. 2010 (70 O.S. Supp. 2010,
12 Section 6-101.27), is hereby repealed.

13 Passed the Senate the 9th day of March, 2011.

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16 Presiding Officer of the Senate

17 Passed the House of Representatives the ____ day of _____,
18 2011.

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21 Presiding Officer of the House
22 of Representatives
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