

1 proceeding; requiring the hearing panel to complete
2 the hearing and submit a report within certain time
3 period; providing for additional time under certain
4 circumstance; specifying content of the hearing panel
5 report; making the hearing panel decision final;
6 providing for an appeal; repealing 70 O.S. 2001,
7 Section 6-101.27 and 6-101.27, as amended by Section
8 13, Chapter 291, O.S.L. 2010 (70 O.S. Supp. 2010,
9 Section 6-101.27), which relates to entitlement of a
10 career teacher to a trial de novo; providing an
11 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
amended by Section 8, Chapter 434, O.S.L. 2003 (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 contract upon expiration of the contract;

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

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

12 6. "Career teacher pretermination hearing" means the ~~informal~~
13 ~~proceeding~~ hearing before the ~~local board of education~~ a hearing
14 judge held for the purpose of providing a meaningful opportunity to
15 ~~invoke the discretion of the decision maker~~ after a recommendation
16 for dismissal or nonreemployment of a career teacher has been made
17 but before any final action is taken by the board of education on
18 the recommendation of the hearing judge in order to ensure that the
19 career teacher is afforded ~~the essential pretermination due process~~
20 ~~requirements of notice and an opportunity to respond~~ all rights
21 guaranteed by the United State Constitution and the Constitution of
22 Oklahoma under circumstances and for enabling the board to determine
23 whether to approve or disapprove the recommendation;

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

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

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

12 SECTION 2. AMENDATORY 70 O.S. 2001, Section 6-101.3, as
13 last amended by Section 8, Chapter 291, O.S.L. 2010 (70 O.S. Supp.
14 2010, Section 6-101.3), is amended to read as follows:

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

16 1. "Administrator" means a duly certified person who devotes a
17 majority of time to service as a superintendent, elementary
18 superintendent, principal, supervisor, vice principal or in any
19 other administrative or supervisory capacity in the school district;

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

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

3 4. "Career teacher" means a teacher who:

4 a. for teachers employed by a school district during the
5 2011-12 school year, has completed three (3) or more
6 consecutive complete school years as a teacher in one
7 school district under a written continuing or
8 temporary teaching contract, or

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

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

21 (2) has completed four (4) consecutive complete
22 school years as a teacher in one school district
23 under a written continuing or temporary teaching

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1 contract, has averaged a rating of at least
2 "effective" as measured pursuant to the TLE for
3 the four-year period, and has received a rating
4 of at least "effective" for the last two (2)
5 years of the four-year period, or

6 (3) has completed four (4) or more consecutive
7 complete school years in one school district
8 under a written continuing or temporary teaching
9 contract and has not met the requirements of
10 subparagraph a or b of this paragraph, only if
11 the principal of the school at which the teacher
12 is employed submits a petition to the
13 superintendent of the school district requesting
14 that the teacher be granted career status, the
15 superintendent agrees with the petition, and the
16 school district board of education approves the
17 petition. The principal shall specify in the
18 petition the underlying facts supporting the
19 granting of career status to the teacher;

20 5. "Probationary teacher hearing" means the hearing before a
21 school district board of education after a recommendation for
22 dismissal or nonreemployment of a probationary teacher has been made
23 but before any final action is taken on said recommendation, held

1 for the purpose of affording such teacher all rights guaranteed by
2 the United States Constitution and the Constitution of Oklahoma
3 under such circumstances and for enabling the board to determine
4 whether to approve or disapprove the recommendation;

5 6. "Career teacher pretermination hearing" means the ~~informal~~
6 ~~proceeding~~ hearing before the ~~local board of education~~ a hearing
7 judge held for the purpose of providing a meaningful opportunity to
8 ~~invoke the discretion of the decision maker~~ after a recommendation
9 for dismissal or nonreemployment of a career teacher has been made
10 but before any final action is taken by the board of education on
11 the recommendation of the hearing judge in order to ensure that the
12 career teacher is afforded ~~the essential pretermination due process~~
13 ~~requirements of notice and an opportunity to respond~~ all rights
14 guaranteed by the United States Constitution and the Constitution of
15 Oklahoma under circumstances and for enabling the board to determine
16 whether to approve or disapprove the recommendation;

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

18 a. for teachers employed by a school district during the
19 2011-12 school year, has completed fewer than three
20 (3) consecutive complete school years as a teacher in
21 one school district under a written teaching contract,
22 or

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1 b. for teachers employed for the first time by a school
2 district under a written teaching contract on or after
3 July 1, 2012, has not met the requirements for career
4 teacher as provided in paragraph 4 of this section;

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

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

13 SECTION 3. AMENDATORY 70 O.S. 2001, Section 6-101.26, as
14 last amended by Section 2, Chapter 112, O.S.L. 2006 (70 O.S. Supp.
15 2010, Section 6-101.26), is amended to read as follows:

16 Section 6-101.26 A. ~~Whenever a~~ The recommendation for the
17 dismissal or nonreemployment of a career or probationary teacher
18 submitted by a superintendent as provided for in Section 6-101.25 of
19 this title shall be approved or rejected upon a majority vote of a
20 quorum of the board of education at the board meeting at which the
21 recommendations are considered as provided for in this section.

22 B. If the board of education receives a recommendation from the
23 superintendent for the dismissal or nonreemployment of a teacher,

1 the board or individual designated by the board shall mail a copy of
2 the recommendation to the teacher by certified mail, restricted
3 delivery, return receipt requested, by personal delivery to the
4 teacher with a signed acknowledgement of receipt, or by delivery by
5 a process server. By the same means, if the teacher is a career
6 teacher the board shall notify the teacher of the right to a
7 pretermination hearing before a hearing judge appointed by the board
8 and the date, time and place set by the board for the hearing, which
9 shall be held within the school district not sooner than twenty (20)
10 days or later than sixty (60) days after receipt of ~~notice~~ a request
11 for a hearing by the teacher, the date on the personal receipt by
12 hand-delivery to the teacher, or the date of delivery by a process
13 server. In the case of a probationary teacher, the notice shall
14 state the right of the teacher to have a hearing conducted by the
15 board of education. The notice shall specify the statutory grounds
16 upon which the recommendation is based upon for a career teacher or
17 shall specify the cause upon which the recommendation is based upon
18 for a probationary teacher. The notice shall also specify the
19 underlying facts supporting the recommendation.

20 C. Within ten (10) calendar days of receipt of the notice, the
21 career or probationary teacher shall notify by certified mail,
22 restricted delivery with return receipt requested, the board of
23 education of the decision of the teacher to request a hearing.

1 D. If a career teacher fails to notify the board of education
2 within ten (10) calendar days of the desire of the teacher to have a
3 pretermination hearing before a hearing judge, the teacher shall be
4 deemed to have waived the right to a pretermination hearing and the
5 dismissal of the teacher shall be final. The determination of
6 dismissal or nonreemployment by the board shall be final and
7 nonappealable. If the teacher does make notification within ten
8 (10) calendar days, there shall be appointed, within ten (10)
9 calendar days from the date of notification, a hearing judge to
10 conduct the hearing as provided for in subsection G through I of
11 this section.

12 E. If a probationary teacher fails to notify the board of
13 education within ten (10) calendar days of the desire of the teacher
14 to have a hearing before the board, the teacher shall be deemed to
15 have waived the right to a hearing and the dismissal shall be final.
16 If the teacher does make notification within ten (10) calendar days,
17 the board shall, as soon as possible, hold a hearing as provided for
18 in subsection K of this section.

19 F. At the hearing, the teacher shall be entitled to all rights
20 guaranteed under the circumstances by the United States Constitution
21 and the Constitution of Oklahoma.

22 ~~B.~~ G. The career teacher pretermination hearing shall be
23 conducted by the ~~district board~~ hearing judge as follows:

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

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

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

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

1 ~~of receipt of notice of the decision~~ hearing by a hearing panel to
2 review the decision of the board as set forth in subsection L of
3 this section. If the career teacher seeks a review of the decision
4 by a hearing panel, the decision of the board shall not become final
5 until the hearing panel has issued a final decision. At the
6 pretermination hearing the burden of proof shall be upon the
7 superintendent or designee and the standard of proof shall be by the
8 preponderance of the evidence. The career teacher shall receive any
9 compensation or benefits to which such teacher is otherwise entitled
10 until such time as the ~~teacher's case is adjudicated at a trial de~~
11 ~~novi if the career teacher petitions for the trial de novo~~ decision
12 of the board becomes final. ~~Such compensation~~ Compensation and
13 benefits shall not be provided during any further appeal process.

14 ~~D.~~ I. The person selected by the board of education to serve as
15 the hearing judge shall reside in Oklahoma, be an attorney with
16 trial experience, be a member of the Oklahoma Bar Association, and
17 be familiar with hearing procedures as set forth in this section.
18 No currently elected public officer, employee of the board of
19 education, or officer or employee of an education employee
20 organization shall be eligible to serve as a hearing judge. No
21 person who is related within the second degree by consanguinity or
22 affinity to an elected public officer, an employee of the board of
23 education that is involved in the termination, or an employee of an

1 education employee organization shall be eligible to serve as a
2 hearing judge. The board of education shall pay all expenses of the
3 hearing judge according to a fee schedule that the board develops
4 each fiscal year for those purposes.

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

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

1 L. 1. A career teacher shall be entitled to request a hearing
2 conducted by a hearing panel to review the decision of the board of
3 education. If the career teacher elects to request a review hearing
4 before a hearing panel, the teacher shall file the request within
5 ten (10) days of receipt of notification of the right for review
6 from the board of education with the State Superintendent for Public
7 Instruction.

8 2. The hearing panel for a career teacher review shall be
9 selected as follows:

10 a. the State Superintendent of Public Instruction shall
11 select not less than twenty nor more than thirty
12 persons to act as hearing judges and who shall be
13 placed on a list of hearing judges by the State
14 Superintendent. The persons selected shall reside in
15 Oklahoma, be an attorney with trial experience, be a
16 member of the Oklahoma Bar Association, and be
17 familiar with hearing procedures as set forth in this
18 section. No currently elected public officer,
19 employee of the board of education involved in the
20 termination, or officer or employee of an education
21 employee organization shall be eligible to serve as a
22 hearing judge. No person who is related within the
23 second degree by consanguinity or affinity to an

1 elected public officer, an employee of the board of
2 education that is involved in the termination, or an
3 employee of an education employee organization shall
4 be eligible to serve as a hearing judge. The board of
5 education shall pay all expenses of the hearing judges
6 according to a fee schedule that the board develops
7 each fiscal year for such purposes, and

8 b. within the (10) calendar days of being notified that a
9 hearing panel is needed, the State Superintendent of
10 Public Instruction or a designee shall provide the
11 names of five hearing judges selected at random from
12 the hearing judge list who are available to serve as a
13 hearing judge on the hearing panel. The parties shall
14 select three hearing judges from the five names within
15 fifteen (15) calendar days after receiving the list of
16 hearing judges. If the parties are unable to agree on
17 names, the names shall be selected by elimination.
18 The teacher shall be given the first opportunity to
19 strike a name from the list, then the school district
20 shall have the opportunity to strike the next name.

21 3. Proceeding for the review hearing of a career teacher by a
22 hearing panel shall be conducted as follows:
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- 1 a. the hearing panel may admit and give probative effect
2 to evidence which possesses probative value commonly
3 accepted by reasonably prudent persons in the conduct
4 of their affairs,
- 5 b. the hearing panel shall give effect to the rules of
6 privilege recognized by law,
- 7 c. the hearing panel shall exclude incompetent,
8 irrelevant, immaterial, and unduly repetitious
9 evidence. Objections to evidentiary offers may be
10 made and shall be noted in the record. Subject to
11 these requirements, any part of the evidence may be
12 received in written form if the interests of the
13 parties will not be substantially prejudiced and it
14 will expedite the hearing,
- 15 d. documentary evidence may be received in the form of
16 copies or excerpts, if the original is not readily
17 available. Upon request, the parties shall be given
18 an opportunity to compare the copy with the original,
- 19 e. a party may conduct cross-examinations required for a
20 full and true disclosure of the facts,
- 21 f. any party shall at all times have the right to
22 counsel, provided that counsel shall be duly licensed
23 to practice law by the Supreme Court of Oklahoma.

1 Counsel for a party shall have the right to appear and
2 act for and on behalf of the party represented, and
3 g. a party may request the exclusion of witnesses to the
4 extent and for the purposes stated in Section 2615 of
5 Title 12 of the Oklahoma Statutes. Exclusion of a
6 witness shall not be a violation of the Oklahoma Open
7 Meeting Act.

8 4. Within thirty (30) days from the time a hearing panel has
9 been chosen, the hearing panel shall complete the hearing, prepare a
10 written report and submit copies of the report to the superintendent
11 of the school district and the career teacher. If the hearing panel
12 cannot prepare the report within the thirty-day period, the
13 superintendent and career teacher shall be notified. The hearing
14 panel may then take additional time as is necessary, not to exceed
15 forty (40) days from the time that the hearing panel was chosen.
16 The superintendent of the school district and the career teacher may
17 mutually agree to extend the time limit for preparation and
18 submission of the report an additional fifteen (15) days.

19 5. The report of the hearing panel shall contain an outline of
20 the scope of the hearing, finding of fact and conclusions of law and
21 shall direct either of the following:

22 a. that the board of education reinstate the career
23 teacher with full employment status and benefits, or

1 b. that the decision of the board of education for
2 dismissal or nonreemployment of the career teacher be
3 sustained.

4 6. The decision of the hearing panel as contained in the report
5 shall be final and binding upon the career teacher and the board of
6 education unless the teacher or the board of education appeals the
7 decision to district court in the manner provided by law.

8 SECTION 4. AMENDATORY 70 O.S. 2001, Section 6-101.26, as
9 last amended by Section 12, Chapter 291, O.S.L. 2010 (70 O.S. Supp.
10 2010, Section 6-101.26), is amended to read as follows:

11 Section 6-101.26 A. ~~Whenever a~~ The recommendation for the
12 dismissal or nonreemployment of a career or probationary teacher
13 submitted by a superintendent as provided for in Section 6-101.25 of
14 this title shall be approved or rejected upon a majority vote of a
15 quorum of the board of education at the board meeting at which the
16 recommendations are considered as provided for in this section.

17 B. If the board of education receives a recommendation from the
18 superintendent for the dismissal or nonreemployment of a teacher,
19 the board or individual designated by the board shall mail a copy of
20 the recommendation to the teacher by certified mail, restricted
21 delivery, return receipt requested, by personal delivery to the
22 teacher with a signed acknowledgement of receipt, or by delivery by
23 a process server. By the same means, if the teacher is a career

1 teacher the board shall notify the teacher of the right to a
2 pretermination hearing before a hearing judge appointed by the board
3 and the date, time and place set by the board for the hearing, which
4 shall be held within the school district not sooner than twenty (20)
5 days or later than sixty (60) days after receipt of ~~notice~~ a request
6 for a hearing by the teacher, the date on the personal receipt by
7 hand-delivery to the teacher, or the date of delivery by a process
8 server. In the case of a probationary teacher, the notice shall
9 state the right of the teacher to have a hearing conducted by the
10 board of education. The notice shall specify the statutory grounds
11 upon which the recommendation is based upon for a career teacher or
12 shall specify the cause upon which the recommendation is based upon
13 for a probationary teacher. The notice shall also specify the
14 underlying facts supporting the recommendation.

15 C. Within ten (10) calendar days of receipt of the notice, the
16 career or probationary teacher shall notify by certified mail,
17 restricted delivery with return receipt requested, the board of
18 education of the decision of the teacher to request a hearing.

19 D. If a career teacher fails to notify the board of education
20 within ten (10) calendar days of the desire of the teacher to have a
21 pretermination hearing before a hearing judge, the teacher shall be
22 deemed to have waived the right to a hearing and the dismissal of
23 the teacher shall be final. The determination of dismissal or

1 nonreemployment by the board shall be final and nonappealable. If
2 the teacher does make notification within ten (10) calendar days,
3 there shall be appointed, within ten (10) calendar days from the
4 date of notification, a hearing judge to conduct the hearing as
5 provided for in subsections G through I of this section.

6 E. If a probationary teacher fails to notify the board of
7 education within ten (10) calendar days of the desire of the teacher
8 to have a hearing before the board, the teacher shall be deemed to
9 have waived the right to a hearing and the dismissal shall be final.
10 If the teacher does make notification within ten (10) calendar days,
11 the board shall, as soon as possible, hold a hearing as provided for
12 in subsection K of this section.

13 F. At the hearing, the teacher shall be entitled to all rights
14 guaranteed under the circumstances by the United States Constitution
15 and the Constitution of Oklahoma.

16 ~~B-~~ G. The career teacher pretermination hearing shall be
17 conducted by the ~~district board~~ hearing judge as follows:

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

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

4 ~~C.~~ H. Only after the career teacher has a meaningful
5 opportunity to respond to the recommendation for dismissal or
6 nonreemployment at the pretermination hearing shall the ~~board~~
7 hearing judge decide whether to accept or reject the recommendation
8 of the superintendent. Within ten (10) days after the conclusion of
9 the hearing, the hearing judge shall submit a recommendation to the
10 board for approval or rejection. The vote made by the board shall
11 be made in an open meeting. The board shall also notify the career
12 teacher of its decision, including the basis for the decision, by
13 certified mail, restricted delivery, return receipt requested or
14 substitute process as provided by law. If the decision is to accept
15 the recommendation of the superintendent, the board shall include
16 notification of the right of the career teacher to ~~petition for~~
17 request a trial de novo in the district court within ten (10) days
18 of receipt of notice of the decision hearing by a hearing panel to
19 review the decision of the board as set forth in subsection L of
20 this section. If the career teacher seeks a review of the decision
21 by a hearing panel, the decision of the board shall not become final
22 until the hearing panel has issued a final decision. At the
23 pretermination hearing the burden of proof shall be upon the
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1 superintendent or designee and the standard of proof shall be by the
2 preponderance of the evidence. The career teacher shall receive any
3 compensation or benefits to which the teacher is entitled ~~as~~
4 ~~provided in Section 6-101.27 of this title~~ until such time as the
5 decision of the board becomes final or until the decision of the
6 hearing panel is final. ~~Such compensation~~ Compensation and benefits
7 shall not be provided during any further appeal process.

8 ~~D.~~ 1. The person selected by the board of education to serve as
9 the hearing judge shall reside in Oklahoma, be an attorney with
10 trial experience, be a member of the Oklahoma Bar Association, and
11 be familiar with hearing procedures as set forth in this section.
12 No currently elected public officer, employee of the board of
13 education, or officer or employee of an education employee
14 organization shall be eligible to serve as a hearing judge. No
15 person who is related within the second degree by consanguinity or
16 affinity to an elected public officer, an employee of the board of
17 education that is involved in the termination, or an employee of an
18 education employee organization shall be eligible to serve as a
19 hearing judge. The board of education shall pay all expenses of the
20 hearing judge according to a fee schedule that the board develops
21 each fiscal year for those purposes.

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1 J. The probationary teacher hearing shall be conducted by the
2 ~~district~~ board of education according to procedures established by
3 the State Board of Education.

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

20 L. 1. A career teacher shall be entitled to request a hearing
21 conducted by a hearing panel to review the decision of the board of
22 education. If the career teacher elects to request a review hearing
23 before a hearing panel, the teacher shall file the request within

1 ten (10) days of receipt of notification of the right for review
2 from the board of education with the State Superintendent for Public
3 Instruction.

4 2. The hearing panel for a career teacher review shall be
5 selected as follows:

6 a. the State Superintendent of Public Instruction shall
7 select not less than twenty nor more than thirty
8 persons to act as hearing judges and who shall be
9 placed on a list of hearing judges by the State
10 Superintendent. The persons selected shall reside in
11 Oklahoma, be an attorney with trial experience, be a
12 member of the Oklahoma Bar Association, and be
13 familiar with hearing procedures as set forth in this
14 section. No currently elected public officer,
15 employee of the board of education involved in the
16 termination, or officer or employee of an education
17 employee organization shall be eligible to serve as a
18 hearing judge. No person who is related within the
19 second degree by consanguinity or affinity to an
20 elected public officer, an employee of the board of
21 education that is involved in the termination, or an
22 employee of an education employee organization shall
23 be eligible to serve as a hearing judge. The board of

1 education shall pay all expenses of the hearing judges
2 according to a fee schedule that the board develops
3 each fiscal year for such purposes, and

4 b. within the (10) calendar days of being notified that a
5 hearing panel is needed, the State Superintendent of
6 Public Instruction or a designee shall provide the
7 names of five hearing judges selected at random from
8 the hearing judge list who are available to serve as a
9 hearing judge on the hearing panel. The parties shall
10 select three hearing judges from the five names within
11 fifteen (15) calendar days after receiving the list of
12 hearing judges. If the parties are unable to agree on
13 names, the names shall be selected by elimination.
14 The teacher shall be given the first opportunity to
15 strike a name from the list, then the school district
16 shall have the opportunity to strike the next name.

17 3. Proceeding for the review hearing of a career teacher by a
18 hearing panel shall be conducted as follows:

19 a. the hearing panel may admit and give probative effect
20 to evidence which possesses probative value commonly
21 accepted by reasonably prudent persons in the conduct
22 of their affairs,

- 1 b. the hearing panel shall give effect to the rules of
2 privilege recognized by law,
- 3 c. the hearing panel shall exclude incompetent,
4 irrelevant, immaterial, and unduly repetitious
5 evidence. Objections to evidentiary offers may be
6 made and shall be noted in the record. Subject to
7 these requirements, any part of the evidence may be
8 received in written form if the interests of the
9 parties will not be substantially prejudiced and it
10 will expedite the hearing,
- 11 d. documentary evidence may be received in the form of
12 copies or excerpts, if the original is not readily
13 available. Upon request, the parties shall be given
14 an opportunity to compare the copy with the original,
- 15 e. a party may conduct cross-examinations required for a
16 full and true disclosure of the facts,
- 17 f. any party shall at all times have the right to
18 counsel, provided that counsel shall be duly licensed
19 to practice law by the Supreme Court of Oklahoma.
20 Counsel for a party shall have the right to appear and
21 act for and on behalf of the party represented, and
- 22 g. a party may request the exclusion of witnesses to the
23 extent and for the purposes stated in Section 2615 of

1 Title 12 of the Oklahoma Statutes. Exclusion of a
2 witness shall not be a violation of the Oklahoma Open
3 Meeting Act.

4 4. Within thirty (30) days from the time a hearing panel has
5 been chosen, the hearing panel shall complete the hearing, prepare a
6 written report and submit copies of the report to the superintendent
7 of the school district and the career teacher. If the hearing panel
8 cannot prepare the report within the thirty-day period, the
9 superintendent and career teacher shall be notified. The hearing
10 panel may then take additional time as is necessary, not to exceed
11 forty (40) days from the time that the hearing panel was chosen.
12 The superintendent of the school district and the career teacher may
13 mutually agree to extend the time limit for preparation and
14 submission of the report an additional fifteen (15) days.

15 5. The report of the hearing panel shall contain an outline of
16 the scope of the hearing, finding of fact and conclusions of law and
17 shall direct either of the following:

- 18 a. that the board of education reinstate the career
19 teacher with full employment status and benefits, or
20 b. that the decision of the board of education for
21 dismissal or nonreemployment of the career teacher be
22 sustained.

1 6. The decision of the hearing panel as contained in the report
2 shall be final and binding upon the career teacher and the board of
3 education unless the teacher or the board of education appeals the
4 decision to district court in the manner provided by law.

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

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

10 SECTION 7. This act shall become effective July 1, 2011.

11 SECTION 8. It being immediately necessary for the preservation
12 of the public peace, health and safety, an emergency is hereby
13 declared to exist, by reason whereof this act shall take effect and
14 be in full force from and after its passage and approval.

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16 COMMITTEE REPORT BY: COMMITTEE ON COMMON EDUCATION, dated 02-23-2011
17 - DO PASS, As Coauthored.

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UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.