

1                   **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2                                   STATE OF OKLAHOMA

3                                   1st Session of the 53rd Legislature (2011)

4 COMMITTEE SUBSTITUTE  
5 FOR ENGROSSED  
6 SENATE BILL NO. 1

By: Ford and Holt of the Senate

and

Denney and Nelson of the  
House

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10  
11                                   COMMITTEE SUBSTITUTE

12                   An Act relating to schools; amending 70 O.S. 2001,  
13                   Section 6-101.3, as last amended by Section 8,  
14                   Chapter 291, O.S.L. 2010 (70 O.S. Supp. 2010, Section  
15                   6-101.3), which relates to teacher contract  
16                   definitions; modifying certain definitions; deleting  
17                   certain definitions; amending 70 O.S. 2001, Sections  
18                   6-101.26, as last amended by Section 12, Chapter 291,  
19                   O.S.L. 2010 and 6-101.29 (70 O.S. Supp. 2010, Section  
20                   6-101.26), which relate to the Teacher Due Process  
21                   Act of 1990; updating statutory language; deleting  
22                   obsolete language; deleting career teacher  
23                   pretermination hearing procedures and requirements;  
24                   deleting right to trial de novo; deleting requirement  
                 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,

1 O.S.L. 2010 (70 O.S. Supp. 2010, Section 6-101.27),  
2 which relate to a teacher's right to a trial de novo;  
3 providing an effective date; and declaring an  
4 emergency.

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

6 SECTION 1. AMENDATORY 70 O.S. 2001, Section 6-101.3, as  
7 last amended by Section 8, Chapter 291, O.S.L. 2010 (70 O.S. Supp.  
8 2010, Section 6-101.3), is amended to read as follows:

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

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

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

17 3. "Nonreemployment" means the nonrenewal of ~~an administrator's~~  
18 ~~or teacher's~~ the contract of an administrator or teacher upon  
19 expiration of the contract;

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

21 a. for teachers employed by a school district ~~during the~~  
22 ~~2011-12 school year~~ prior to July 1, 2012, has  
23 completed three (3) or more consecutive complete  
24

1 school years as a teacher in one school district under  
2 a written continuing or temporary teaching contract,  
3 or

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

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

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

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

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

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

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

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

20       ~~8.~~ 7. "Suspension" or "suspended" means the temporary  
21 ~~discontinuance of an administrator's or teacher's~~ the services of an  
22 administrator or teacher, as provided by law; and

1        ~~9.~~ 8. "Teacher" means a duly certified or licensed person who  
2 is employed to serve as a counselor, librarian or school nurse or in  
3 any instructional capacity; an administrator shall be considered a  
4 teacher only with regard to service in an instructional,  
5 nonadministrative capacity.

6        SECTION 2.        AMENDATORY        70 O.S. 2001, Section 6-101.26, as  
7 last amended by Section 12, Chapter 291, O.S.L. 2010 (70 O.S. Supp.  
8 2010, Section 6-101.26), is amended to read as follows:

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

1 specify the cause upon which the recommendation is based upon for a  
2 probationary teacher. The notice shall also specify the underlying  
3 facts supporting the recommendation. At the hearing, the teacher  
4 shall be entitled to all rights guaranteed under the circumstances  
5 by the United States Constitution and the Constitution of Oklahoma.

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

8 1. ~~The superintendent or designee shall, in person or in  
9 writing, specify the statutory ground upon which the recommendation  
10 is based. The superintendent or designee shall also specify the  
11 underlying facts and provide an explanation of the evidence  
12 supporting the recommendation for the dismissal or nonreemployment  
13 of the career teacher; and~~

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

17 C. ~~Only after the career teacher has a meaningful opportunity  
18 to respond to the recommendation for dismissal or nonreemployment at  
19 the pretermination hearing shall the board decide whether to accept  
20 or reject the recommendation of the superintendent. The vote made  
21 by the board shall be made in an open meeting. The board shall also  
22 notify the career teacher of its decision, including the basis for  
23 the decision, by certified mail, restricted delivery, return receipt~~

1 ~~requested or substitute process as provided by law. If the decision~~  
2 ~~is to accept the recommendation of the superintendent, the board~~  
3 ~~shall include notification of the right of the career teacher to~~  
4 ~~petition for a trial de novo in the district court within ten (10)~~  
5 ~~days of receipt of notice of the decision. At the pretermination~~  
6 ~~hearing the burden of proof shall be upon the superintendent or~~  
7 ~~designee and the standard of proof shall be by the preponderance of~~  
8 ~~the evidence. The career teacher shall receive any compensation or~~  
9 ~~benefits to which the teacher is entitled as provided in Section 6-~~  
10 ~~101.27 of this title. Such compensation and benefits shall not be~~  
11 ~~provided during any further appeal process.~~

12 ~~D.~~ The probationary teacher hearing shall be conducted by the  
13 district board according to procedures established by the State  
14 Board of Education.

15 ~~E.~~ C. Only after due consideration of the evidence and  
16 testimony presented at the hearing shall the district board decide  
17 whether to dismiss or nonreemploy the probationary teacher. The  
18 vote of the board shall be made in an open meeting. The board shall  
19 also notify the probationary teacher of the decision, including the  
20 basis for the decision, by certified mail, restricted delivery,  
21 return receipt requested, or substitute process as provided by law.  
22 The decision of the board regarding a probationary teacher shall be  
23 final and nonappealable. At the hearing the burden of proof shall

1 be upon the superintendent or designee, and the standard of proof  
2 shall be by the preponderance of the evidence. The ~~probationary~~  
3 teacher shall receive any compensation or benefits to which the  
4 teacher is otherwise entitled until ~~such time as~~ the decision of the  
5 board becomes final. If the hearing for a ~~probationary~~ teacher is  
6 for nonreemployment, such compensation and benefits may be continued  
7 only until the end of the current contract of the teacher.

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

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

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

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

8           SECTION 5.           REPEALER           70 O.S. 2001, Section 6-101.26, as  
9 last amended by Section 2, Chapter 112, O.S.L. 2006 (70 O.S. Supp.  
10 2010, Section 6-101.26), is hereby repealed.

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

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

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

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

21  
22 COMMITTEE REPORT BY: COMMITTEE ON COMMON EDUCATION, dated 03-30-2011  
23 - DO PASS, As Amended and Coauthored.