

1 STATE OF OKLAHOMA

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

3 SENATE BILL 1

By: Ford

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5  
6 AS INTRODUCED

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; 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; providing an effective date; and declaring an  
18 emergency.

19 SUBJECT: Teacher personnel actions and procedures

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

21 SECTION 1. AMENDATORY 70 O.S. 2001, Section 6-101.26, as  
22 last amended by Section 12, Chapter 291, O.S.L. 2010 (70 O.S. Supp.  
23 2010, Section 6-101.26), is amended to read as follows:

24 Section 6-101.26 A. Whenever a board of education receives a  
recommendation from the superintendent for the dismissal or  
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

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

16 ~~B. The career teacher pretermination hearing shall be conducted~~  
17 ~~by the district board 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~~

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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. Only after the career teacher has a meaningful opportunity~~  
5 ~~to respond to the recommendation for dismissal or nonreemployment at~~  
6 ~~the pretermination hearing shall the board decide whether to accept~~  
7 ~~or reject the recommendation of the superintendent. The vote made~~  
8 ~~by the board shall be made in an open meeting. The board shall also~~  
9 ~~notify the career teacher of its decision, including the basis for~~  
10 ~~the decision, by certified mail, restricted delivery, return receipt~~  
11 ~~requested or substitute process as provided by law. If the decision~~  
12 ~~is to accept the recommendation of the superintendent, the board~~  
13 ~~shall include notification of the right of the career teacher to~~  
14 ~~petition for a trial de novo in the district court within ten (10)~~  
15 ~~days of receipt of notice of the decision. At the pretermination~~  
16 ~~hearing the burden of proof shall be upon the superintendent or~~  
17 ~~designee and the standard of proof shall be by the preponderance of~~  
18 ~~the evidence. The career teacher shall receive any compensation or~~  
19 ~~benefits to which the teacher is entitled as provided in Section 6-~~  
20 ~~101.27 of this title. Such compensation and benefits shall not be~~  
21 ~~provided during any further appeal process.~~

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

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 2.        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 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 suspension may extend to such time as the teacher's case is  
11 finally adjudicated at trial. Provided, however, such extension  
12 shall not include any appeal process.

13       SECTION 3.       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 4. This act shall become effective July 1, 2011.

17       SECTION 5. 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.

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