ENGROSSED SENATE
BILL NO. 301 By: Loveless of the Senate

and

Biggs of the House

[schools - State Board of Education - Administrative Procedures Act - noncertification of convicted felons - codification - ~~effective date~~ -

~~emergency~~]

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3-104.8 of Title 70, unless there is created a duplication in numbering, reads as follows:

A. In addition to the powers and duties specified in Section 3-104 of Title 70 of the Oklahoma Statutes, the State Board of Education shall deny certification to and revoke the certification of any person upon determining that such person has been convicted, whether upon a verdict or plea of guilty or upon a plea of nolo contendere or receipt of a deferred sentence, a suspended sentence or any probationary term for a felony or a crime involving moral turpitude, a domestic violence offense, or a crime involving a minor; provided, that if the conviction has been reversed, vacated or otherwise invalidated by an appellate court, such conviction

shall not be the basis for revocation of certification. The sole issue to be determined at the hearing before the State Board of Education shall be whether the person has been convicted of a felony, a crime involving moral turpitude, a domestic violence offense, or a crime involving a minor.

B No person who has had a certification from another state revoked or who has voluntarily surrendered that certification shall be considered for certification by the State Board of Education within five (5) years of the effective date of any such revocation or voluntary surrender of certification.

C. Any person seeking reinstatement of a certification which has been suspended, revoked, or voluntarily surrendered may apply for reinstatement pursuant to rules promulgated by the State Board of Education governing reinstatement. Upon reinstatement, any person whose certification has been revoked, suspended, or voluntarily surrendered shall pay a reinstatement fee as established by the State Board of Education.

D. The State Board of Education may suspend the certification of an administrator, teacher, support personnel, or bus driver, without notice but otherwise subject to the Administrative Procedures Act, if the State Board of Education finds that the actions of the individual may involve a crime against a minor or may present a danger to the individual, the public, a family or household member or students.

E. The State Board of Education may deny certification to or revoke the license of any individual upon a finding that the individual falsified, altered, or forged the information or data certified or submitted to the State Department of Education through application, verification, or to obtain funding from the State Department of Education.

F. Every local school district board of education in this state shall, within thirty (30) days of the issuance of a final order of termination or receipt of a notice of resignation from an employee certified by the State Board of Education while the employee is under investigation for an alleged violation of any state law, report such order or resignation in writing to the State Department of Education. Any report, upon receipt by the Department, shall be considered personnel records and shall be afforded confidential protection pursuant to Sections 24A.7 and 24A.8 of Title 51 of the Oklahoma Statutes. The Department shall ensure that the report is provided to all members of the State Board of Education. The State Board of Education may, by a majority vote, order the suspension for a given period of time, or revocation of the certification of the individual in question if there are sufficient grounds for such actions pursuant to this paragraph and the individual in question has been provided with notice and an opportunity for a hearing pursuant to the Administrative Procedures Act. The State Department of Education shall report all suspensions or revocations of

certification pursuant to this paragraph to the district attorney for the jurisdiction in which the individual was employed.

G. The State Board of Education shall discuss the suspension or revocation of the certification of an individual pursuant to subsection F of this section in executive session; provided, however, that any vote or action thereon shall be taken in a public meeting. All records and investigatory files considered by the State Board of Education shall be kept confidential.

H. All proceedings initiated pursuant to this section shall be conducted pursuant to the requirements of the Administrative Procedures Act and after sufficient hearing has been given before the State Board of Education.

I. The State Board of Education, or its authorized representative, shall be entitled to inspect and receive, upon request, all records necessary to implement the provisions of this section, including but not limited to court records, agency records, district attorney's records, and all state, federal, county or municipal agency law enforcement records, unless federal law prohibits such inspection or receipt.

SECTION 2. AMENDATORY 70 O.S. 2011, Section 3-104, as last amended by Section 1, Chapter 271, O.S.L. 2013 (70 O.S. Supp. 2014, Section 3-104), is amended to read as follows:

Section 3-104. The supervision of the public school system of Oklahoma shall be vested in the State Board of Education and,

subject to limitations otherwise provided by law, the State Board of Education shall:

1. Adopt policies and make rules for the operation of the public school system of the state;

2. Appoint, prescribe the duties and fix the compensation of a secretary, an attorney and all other personnel necessary for the proper performance of the functions of the State Board of Education. The secretary shall not be a member of the Board;

3. Submit to the Governor a departmental budget based upon major functions of the Department as prepared by the State Superintendent of Public Instruction and supported by detailed data on needs and proposed operations as partially determined by the budgetary needs of local school districts filed with the State Board of Education for the ensuing fiscal year. Appropriations therefor shall be made in lump-sum form for each major item in the budget as follows:

a. State Aid to schools,

b. the supervision of all other functions of general and special education including general control, free textbooks, school lunch, Indian education and all other functions of the Board and an amount sufficient to adequately staff and administer these services, and

c. the Board shall determine the details by which the budget and the appropriations are administered.

Annually, the Board shall make preparations to consolidate all of the functions of the Department in such a way that the budget can be based on two items, administration and aid to schools. A maximum amount for administration shall be designated as a part of the total appropriation;

4. On the first day of December preceding each regular session of the Legislature, prepare and deliver to the Governor and the Legislature a report for the year ending June 30 immediately preceding the regular session of the Legislature. The report shall contain:

a. detailed statistics and other information concerning enrollment, attendance, expenditures including State Aid, and other pertinent data for all public schools in this state,

b. reports from each and every division within the State Department of Education as submitted by the State Superintendent of Public Instruction and any other division, department, institution or other agency under the supervision of the Board,

c. recommendations for the improvement of the public school system of the state,

d. a statement of the receipts and expenditures of the State Board of Education for the past year, and

e. a statement of plans and recommendations for the management and improvement of public schools and such other information relating to the educational interests of the state as may be deemed necessary and desirable;

5. Provide for the formulation and adoption of curricula, courses of study and other instructional aids necessary for the adequate instruction of pupils in the public schools;

6. Have authority in matters pertaining to the licensure and certification of persons for instructional, supervisory and administrative positions and services in the public schools of the state subject to the provisions of Section 6-184 of this title, and shall formulate rules governing the issuance and revocation of certificates for superintendents of schools, principals, supervisors, librarians, clerical employees, school nurses, school bus drivers, visiting teachers, classroom teachers and for other personnel performing instructional, administrative and supervisory services, but not including members of boards of education and other employees who do not work directly with pupils, and may charge and collect reasonable fees for the issuance of such certificates:

a. the State Department of Education shall not issue a certificate to and shall revoke the certificate of any person who has been convicted, whether upon a verdict or plea of guilty or upon a plea of nolo contendere,

or received a suspended sentence or any probationary term for a crime or an attempt to commit a crime provided for in Section 843.5 of Title 21 of the Oklahoma Statutes if the offense involved sexual abuse or sexual exploitation as those terms are defined in Section 1-1-105 of Title 10A of the Oklahoma Statutes, Sections 741, 843.1, if the offense included sexual abuse or sexual exploitation, 865 et seq., 885, 888, 891, 1021, 1021.2, 1021.3, 1040.13a, 1087, 1088, 1111.1, 1114 or 1123 of Title 21 of the Oklahoma Statutes or who enters this state and who has been convicted, received a suspended sentence or received a deferred judgment for a crime or attempted crime which, if committed or attempted in this state, would be a crime or an attempt to commit a crime provided for in any of said laws,

b. the State Board of Education may take appropriate action, in accordance with Article II of the Administrative Procedures Act, to deny certification to and revoke or suspend the certification of any individual pursuant to the provisions of Section 1 of this act,

c. the State Board of Education may appoint, prescribe the duties, and fix the compensation of an

investigator to assist the Board in the issuance, denial, revocation or suspension of certificates pursuant to the provisions of Section 1 of this act,

d. all funds collected by the State Department of Education for the issuance of certificates to instructional, supervisory and administrative personnel in the public schools of the state shall be deposited in the "Teachers' Certificate Fund" in the State Treasury and may be expended by the State Board of Education to finance the activities of the State Department of Education necessary to administer the program, for consultative services, publication costs, actual and necessary travel expenses as provided in the State Travel Reimbursement Act incurred by persons performing research work, and other expenses found necessary by the State Board of Education for the improvement of the preparation and certification of teachers in Oklahoma. Provided, any unobligated balance in the Teachers' Certificate Fund in excess of Ten Thousand Dollars ($10,000.00) on June 30 of any fiscal year shall be transferred to the General Revenue Fund of the State of Oklahoma. Until July 1, 1997, the State Board of Education shall have authority for approval of teacher education programs.

The State Board of Education shall also have authority for the administration of teacher residency and professional development, subject to the provisions of the Oklahoma Teacher Preparation Act;

7. Promulgate rules governing the classification, inspection, supervision and accrediting of all public nursery, kindergarten, elementary and secondary schools and on-site educational services provided by public school districts or state-accredited private schools in partial hospitalization programs, day treatment programs, and day hospital programs as defined in this act for persons between the ages of three (3) and twenty-one (21) years of age in the state. However, no school shall be denied accreditation solely on the basis of average daily attendance.

Any school district which maintains an elementary school and faces the necessity of relocating its school facilities because of construction of a lake, either by state or federal authority, which will inundate the school facilities, shall be entitled to receive probationary accreditation from the State Board of Education for a period of five (5) years after ~~the effective date of this act~~ June 12, 1975, and any school district, otherwise qualified, shall be entitled to receive probationary accreditation from the State Board of Education for a period of two (2) consecutive years to attain the minimum average daily attendance. The Head Start and public nurseries or kindergartens operated from Community Action Program

funds shall not be subjected to the accrediting rules of the State Board of Education. Neither will the State Board of Education make rules affecting the operation of the public nurseries and kindergartens operated from federal funds secured through Community Action Programs even though they may be operating in the public schools of the state. However, any of the Head Start or public nurseries or kindergartens operated under federal regulations may make application for accrediting from the State Board of Education but will be accredited only if application for the approval of the programs is made. The status of no school district shall be changed which will reduce it to a lower classification until due notice has been given to the proper authorities thereof and an opportunity given to correct the conditions which otherwise would be the cause of such reduction.

Private and parochial schools may be accredited and classified in like manner as public schools or, if an accrediting association is approved by the State Board of Education, by procedures established by the State Board of Education to accept accreditation by such accrediting association, if application is made to the State Board of Education for such accrediting;

8. Be the legal agent of the State of Oklahoma to accept, in its discretion, the provisions of any Act of Congress appropriating or apportioning funds which are now, or may hereafter be, provided for use in connection with any phase of the system of public

education in Oklahoma. It shall prescribe such rules as it finds necessary to provide for the proper distribution of such funds in accordance with the state and federal laws;

9. Be and is specifically hereby designated as the agency of this state to cooperate and deal with any officer, board or authority of the United States Government under any law of the United States which may require or recommend cooperation with any state board having charge of the administration of public schools unless otherwise provided by law;

10. Be and is hereby designated as the "State Educational Agency" referred to in Public Law 396 of the 79th Congress of the United States, which law states that said act may be cited as the "National School Lunch Act", and said State Board of Education is hereby authorized and directed to accept the terms and provisions of said act and to enter into such agreements, not in conflict with the Constitution of Oklahoma or the Constitution and Statutes of the United States, as may be necessary or appropriate to secure for the State of Oklahoma the benefits of the school lunch program established and referred to in said act;

11. Have authority to secure and administer the benefits of the National School Lunch Act, Public Law 396 of the 79th Congress of the United States, in the State of Oklahoma and is hereby authorized to employ or appoint and fix the compensation of such additional officers or employees and to incur such expenses as may be necessary

for the accomplishment of the above purpose, administer the distribution of any state funds appropriated by the Legislature required as federal matching to reimburse on children's meals;

12. Accept and provide for the administration of any land, money, buildings, gifts, donation or other things of value which may be offered or bequeathed to the schools under the supervision or control of said Board;

13. Have authority to require persons having administrative control of all school districts in Oklahoma to make such regular and special reports regarding the activities of the schools in said districts as the Board may deem needful for the proper exercise of its duties and functions. Such authority shall include the right of the State Board of Education to withhold all state funds under its control, to withhold official recognition, including accrediting, until such required reports have been filed and accepted in the office of said Board and to revoke the certificates of persons failing or refusing to make such reports;

14. Have general supervision of the school lunch program. The State Board of Education may sponsor workshops for personnel and participants in the school lunch program and may develop, print and distribute free of charge or sell any materials, books and bulletins to be used in such school lunch programs. There is hereby created in the State Treasury a revolving fund for the Board, to be designated the School Lunch Workshop Revolving Fund. The fund shall

consist of all fees derived from or on behalf of any participant in any such workshop sponsored by the State Board of Education, or from the sale of any materials, books and bulletins, and such funds shall be disbursed for expenses of such workshops and for developing, printing and distributing of such materials, books and bulletins relating to the school lunch program. The fund shall be administered in accordance with Section 155 of Title 62 of the Oklahoma Statutes;

15. Prescribe all forms for school district and county officers to report to the State Board of Education where required. The State Board of Education shall also prescribe a list of appropriation accounts by which the funds of school districts shall be budgeted, accounted for and expended; and it shall be the duty of the State Auditor and Inspector in prescribing all budgeting, accounting and reporting forms for school funds to conform to such lists;

16. Provide for the establishment of a uniform system of pupil and personnel accounting, records and reports;

17. Have authority to provide for the health and safety of school children and school personnel while under the jurisdiction of school authorities;

18. Provide for the supervision of the transportation of pupils;

19. Have authority, upon request of the local school board, to act in behalf of the public schools of the state in the purchase of transportation equipment;

20. Have authority and is hereby required to perform all duties necessary to the administration of the public school system in Oklahoma as specified in the Oklahoma School Code; and, in addition thereto, those duties not specifically mentioned herein if not delegated by law to any other agency or official;

21. Administer the State Public Common School Building Equalization Fund established by Section 32 of Article X of the Oklahoma Constitution. Any monies as may be appropriated or designated by the Legislature, other than ad valorem taxes, any other funds identified by the State Department of Education, which may include, but not be limited to, grants-in-aid from the federal government for building purposes, the proceeds of all property that shall fall to the state by escheat, penalties for unlawful holding of real estate by corporations, and capital gains on assets of the permanent school funds, shall be deposited in the State Public Common School Building Equalization Fund. The fund shall be used to aid school districts and charter schools in acquiring buildings, subject to the limitations fixed by Section 32 of Article X of the Oklahoma Constitution. It is hereby declared that the term "acquiring buildings" as used in Section 32 of Article X of the Oklahoma Constitution shall mean acquiring or improving school

sites, constructing, repairing, remodeling or equipping buildings, or acquiring school furniture, fixtures, or equipment. For charter schools, the fund shall only be used to acquire buildings in which students enrolled in the charter school will be attending. It is hereby declared that the term "school districts" as used in Section 32 of Article X of the Oklahoma Constitution shall mean school districts and charter schools created pursuant to the provisions of the Oklahoma Charter Schools Act. If sufficient monies are available in the fund, the Board shall solicit proposals for grants from school districts and charter schools and shall determine the process for consideration of proposals. Grants shall be awarded only to school districts which have a total assessed property valuation per average daily membership that is less than the state average total assessed property valuation per average daily membership and, at the time of application, the district has voted the five-mill building fund levy authorized in Section 10 of Article X of the Oklahoma Constitution, and has voted indebtedness through the issuance of new bonds for at least fifty percent (50%) within the last three (3) years of the maximum allowable pursuant to the provisions of Section 26 of Article X of the Oklahoma Constitution as shown on the school district budget filed with the State Board of Equalization for the current school year and certifications by the Attorney General prior to April 1 of the school year. Grants shall be awarded only to charter schools which have secured matching funds

for the specific purpose of acquiring buildings in an amount of not less than ten percent (10%) of the total grant amount. The amount of each grant awarded by the Board each year shall not exceed Four Million Dollars ($4,000,000.00). From the total amount available to provide grants to public schools and charter schools, charter schools shall be allocated the greater of ten percent (10%) of the total amount or the percent of students enrolled in charter schools that are not sponsored by the Statewide Virtual Charter School Board as compared to the student enrollment in school districts which have a total assessed property valuation per average daily membership that is equal to or less than twenty-five percent (25%) of the state total assessed property valuation per average daily membership. The Board shall give priority consideration to school districts which have a total assessed property valuation per average daily membership that is equal to or less than twenty-five percent (25%) of the state average total assessed property valuation per average daily membership. The Board is authorized to prorate grants awarded if monies are not sufficient in the fund to award grants to qualified districts and charter schools. The State Board of Education shall make available to eligible charter schools any unused grant funds that remain after the initial allocation to all eligible public school districts and charter schools of this state. The State Board of Education shall prescribe rules for making grants of aid from, and for otherwise administering, the fund pursuant to

the provisions of this paragraph, and may employ and fix the duties and compensation of technicians, aides, clerks, stenographers, attorneys and other personnel deemed necessary to carry out the provisions of this paragraph. The cost of administering the fund shall be paid from monies appropriated to the State Board of Education for the operation of the State Department of Education;

22. Recognize that the Director of the Oklahoma Department of Corrections shall be the administrative authority for the schools which are maintained in the state reformatories and shall appoint the principals and teachers in such schools. Provided, that rules of the State Board of Education for the classification, inspection and accreditation of public schools shall be applicable to such schools; and such schools shall comply with standards set by the State Board of Education; ~~and~~

23. Have authority to administer a revolving fund which is hereby created in the State Treasury, to be designated the Statistical Services Revolving Fund. The fund shall consist of all monies received from the various school districts of the state, the United States Government, and other sources for the purpose of furnishing or financing statistical services and for any other purpose as designated by the Legislature. The State Board of Education is hereby authorized to enter into agreements with school districts, municipalities, the United States Government, foundations and other agencies or individuals for services, programs or research

projects. The Statistical Services Revolving Fund shall be administered in accordance with Section 155 of Title 62 of the Oklahoma Statutes; and

24. Have the authority to conduct investigations necessary to implement the provisions of this title.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3-104.9 of Title 70, unless there is created a duplication in numbering, reads as follows:

The State Board of Education shall promulgate rules necessary to implement the provisions of this act.

SECTION 4. REPEALER 70 O.S. 2011, Section 3-104.1 is hereby repealed.

~~SECTION 5. This act shall become effective July 1, 2015.~~

~~SECTION 6. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.~~

Passed the Senate the 11th day of March, 2015.

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Presiding Officer of the Senate

Passed the House of Representatives the ____ day of _____, 2015.

_____
Presiding Officer of the House
of Representatives