

HOUSE OF REPRESENTATIVES - FLOOR VERSION

STATE OF OKLAHOMA

2nd Session of the 55th Legislature (2016)

HOUSE BILL 2945

By: Henke

AS INTRODUCED

An Act relating to schools; amending 70 O.S. 2011, Section 6-101.10, as last amended by Section 2, Chapter 365, O.S.L. 2015 (70 O.S. Supp. 2015, Section 6-101.10), which relates to the establishment of a written policy of evaluation; deleting authorization for certain school districts to adopt quantitative components; deleting deadline for using the Oklahoma Teacher and Leader Effectiveness Evaluation System (TLE) for employment purposes; amending 70 O.S. 2011, Section 6-101.13, as last amended by Section 3, Chapter 365, O.S.L. 2015 (70 O.S. Supp. 2015, Section 6-101.13), which relates to dismissal or nonreemployment process for administrators; deleting requirement to not reemploy an administrator based on certain TLE qualitative and quantitative rating; deleting quantitative rating as factor for making a dismissal or nonreemployment decision; amending 70 O.S. 2011, Section 6-101.16, as last amended by Section 4, Chapter 365, O.S.L. 2015 (70 O.S. Supp. 2015, Section 6-101.16), which relates to the Oklahoma Teacher and Leader Effectiveness Evaluation System; deleting duty of the Teacher and Leader Effectiveness Commission to adopt certain components and make certain recommendations; deleting certain evaluation system option for certain-sized school districts; stating required uses of the quantitative ratings; allowing school districts the option to use the quantitative ratings for employment purposes; amending 70 O.S. 2011, Section 6-101.22, as last amended by Section 5, Chapter 365, O.S.L. 2015 (70 O.S. Supp. 2015, Section 6-101.22), which relates to grounds for dismissal or nonreemployment of teachers; deleting requirement to not reemploy a career and

1 probationary teacher based on certain TLE qualitative
2 and quantitative rating; deleting quantitative rating
3 as factor for making a dismissal or nonreemployment
4 decision; providing an effective date; and declaring
5 an emergency.

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

7 SECTION 1. AMENDATORY 70 O.S. 2011, Section 6-101.10, as
8 last amended by Section 2, Chapter 365, O.S.L. 2015 (70 O.S. Supp.
9 2015, Section 6-101.10), is amended to read as follows:

10 Section 6-101.10 A. Each school district board of education
11 shall maintain and annually review, following consultation with or
12 involvement of representatives selected by local teachers, a written
13 policy of evaluation for all teachers and administrators. In those
14 school districts in which there exists a professional negotiations
15 agreement made in accordance with Section 509.1 et seq. of this
16 title, the procedure for evaluating members of the negotiations unit
17 and any standards of performance and conduct proposed for adoption
18 beyond those established by the State Board of Education shall be
19 negotiable items. Nothing in this section shall be construed to
20 annul, modify or ~~to~~ preclude the renewal or continuing of any
21 existing agreement heretofore entered into between any school
22 district and any organizational representative of its employees.
23 Every policy of evaluation adopted by a board of education shall:
24

1 1. Be based upon a set of minimum criteria developed by the
2 State Board of Education, which shall be revised and based upon the
3 Oklahoma Teacher and Leader Effectiveness Evaluation System (TLE)
4 developed by the State Board of Education as provided in Section 6-
5 101.16 of this title. The revisions to each policy of evaluation
6 shall be phased in according to the following schedule:

- 7 a. for evaluations of teachers and administrators
8 conducted during the 2012-2013 school year, school
9 districts shall for purposes of testing the TLE
10 incorporate on a trial basis the qualitative
11 components of the TLE as provided for in subparagraph
12 b of paragraph 4 of subsection B of Section 6-101.16
13 of this title into the evaluations used in all or a
14 representative sampling of school sites within the
15 district and may at the option of the school district
16 incorporate on a trial basis the quantitative
17 components of the TLE as provided for in subparagraph
18 a of paragraph 4 of subsection B of Section 6-101.16
19 of this title into the evaluations used in all or a
20 representative sampling of school sites within the
21 district,
22 b. for evaluations of teachers and administrators
23 conducted during the 2013-2014 school year, school
24 districts shall incorporate and put into operation the

1 qualitative components of the TLE as provided for in
2 subparagraph b of paragraph 4 of subsection B of
3 Section 6-101.16 of this title into the evaluations
4 used in all school sites within the district. For the
5 2013-2014 school year the evaluation rating of
6 teachers and administrators shall be based on the
7 qualitative component of the TLE. In addition, for
8 evaluations of teachers and administrators conducted
9 during the 2013-2014 school year, school districts
10 shall for purposes of testing the TLE incorporate on a
11 trial basis the quantitative components of the TLE as
12 provided for in subparagraph a of paragraph 4 of
13 subsection B of Section 6-101.16 of this title into
14 the evaluations used in all or a representative
15 sampling of school sites within the district.
16 ~~However, nothing in this subparagraph shall preclude a~~
17 ~~school district with an average daily attendance of~~
18 ~~more than thirty-five thousand (35,000) from~~
19 ~~incorporating at its own expense the quantitative~~
20 ~~components of the TLE into its evaluation system of~~
21 ~~teachers and administrators, as defined by the~~
22 ~~district's written policy, during the 2013-2014 school~~
23 ~~year,~~

1 c. for evaluations of teachers and administrators
2 conducted during the 2014-2015 and 2015-2016 school
3 years, school districts shall for purposes of
4 establishing baseline data incorporate the
5 quantitative components of the TLE as provided for in
6 subparagraph a of paragraph 4 of subsection B of
7 Section 6-101.16 of this title into the evaluations
8 used in all school sites within the district. For the
9 2014-2015 and 2015-2016 school years, the evaluation
10 rating of teachers and administrators shall be based
11 on the qualitative component of the TLE. ~~However,~~
12 ~~nothing in this subparagraph shall preclude a school~~
13 ~~district with an average daily attendance of more than~~
14 ~~thirty-five thousand (35,000) from incorporating at~~
15 ~~its own expense the quantitative components of the TLE~~
16 ~~into its evaluation system of teachers and~~
17 ~~administrators, as defined by the district's written~~
18 ~~policy, during the 2014-2015 and 2015-2016 school~~
19 ~~years, and~~

20 d. for evaluations of teachers and administrators
21 conducted during the 2016-2017 school year and each
22 school year thereafter, school districts shall fully
23 implement the TLE and incorporate and put into
24 operation both the qualitative and quantitative

1 components of the TLE as provided for in paragraph 4
2 of subsection B of Section 6-101.16 of this title into
3 the evaluations used in all school sites within the
4 district. For the 2016-2017 school year and each
5 school year thereafter, teachers and administrators
6 shall receive a qualitative rating based on the
7 qualitative component of the TLE and a quantitative
8 rating based on the quantitative component of the TLE;

9 2. Be prescribed in writing at the time of adoption and at all
10 times when amendments to the policy are adopted. The original
11 policy and all amendments to the policy shall be promptly made
12 available to all persons subject to the policy;

13 3. Provide that all evaluations be made in writing and that
14 evaluation documents and responses thereto be maintained in a
15 personnel file for each evaluated person;

16 4. Provide that every probationary teacher receive formative
17 feedback from the evaluation process at least two times per school
18 year, once during the fall semester and once during the spring
19 semester;

20 5. Provide that every teacher be evaluated once every year,
21 except for career teachers receiving a qualitative rating of
22 "superior" or "highly effective" and a quantitative rating of
23 "superior" or "highly effective" under the TLE, who may be evaluated
24 once every two (2) years; and

1 6. Provide that, except for superintendents of independent and
2 elementary school districts and superintendents of area school
3 districts who shall be evaluated by the school district board of
4 education, all certified personnel shall be evaluated by a
5 principal, assistant principal, or other trained certified
6 individual designated by the school district board of education.

7 B. All individuals designated by the school district board of
8 education to conduct the personnel evaluations shall be required to
9 participate in training conducted by the State Department of
10 Education or training provided by the school district using
11 guidelines and materials developed by the State Department of
12 Education prior to conducting evaluations.

13 C. The State Department of Education shall develop and conduct
14 workshops pursuant to statewide criteria which train individuals in
15 conducting evaluations.

16 D. The State Board of Education shall monitor compliance with
17 the provisions of this section by school districts.

18 E. The State Board of Education, in consultation with the
19 Teacher and Leader Effectiveness Commission, shall study continued
20 implementation of the TLE to produce a system that promotes
21 reflection and professional growth for teachers and leaders.

22 F. Refusal by a school district to comply with the provisions
23 of this section shall be grounds for withholding State Aid funds
24 until compliance occurs.

1 G. Data collected pursuant to this section shall not be subject
2 to the Oklahoma Open Meeting Act or the Oklahoma Open Records Act.

3 ~~H. Full implementation of the TLE for the purposes of~~
4 ~~employment shall occur during the 2017-2018 school year.~~

5 SECTION 2. AMENDATORY 70 O.S. 2011, Section 6-101.13, as
6 last amended by Section 3, Chapter 365, O.S.L. 2015 (70 O.S. Supp.
7 2015, Section 6-101.13), is amended to read as follows:

8 Section 6-101.13 A. Whenever the school district board of
9 education or the administration of a school district shall determine
10 that the dismissal or nonreemployment of a full-time certified
11 administrator from the administrative position within the school
12 district should be effected, the administrator shall be entitled to
13 the following due process procedures:

14 1. A statement shall be submitted to the administrator in
15 writing prior to the dismissal or nonreemployment which states the
16 proposed action, lists the reasons for effecting the action, and
17 notifies the administrator of his right to a hearing before the
18 school district board of education prior to the action; and

19 2. A hearing before the school district board of education
20 shall be granted upon the request of the administrator prior to the
21 dismissal or nonreemployment. A request for a hearing shall be
22 submitted to the board of education not later than ten (10) days
23 after the administrator has been notified of the proposed action.
24

1 B. Failure of the administrator to request a hearing before the
2 school district board of education within ten (10) days after
3 receiving the written statement shall constitute a waiver of the
4 right to a hearing. No decision of the board of education
5 concerning the dismissal or nonreemployment of a full-time certified
6 administrator shall be effective until the administrator has been
7 afforded due process as specified in this section. The decision of
8 the school district board of education concerning the dismissal or
9 nonreemployment, following the hearing, shall be final.

10 C. ~~After full implementation of the Oklahoma Teacher and Leader~~
11 ~~Effectiveness Evaluation System (TLE) as set forth in Section 6-~~
12 ~~101.10 of this title, a principal who has received qualitative and~~
13 ~~quantitative ratings of "ineffective" as measured pursuant to the~~
14 ~~TLE as set forth in Section 6-101.16 of this title for two (2)~~
15 ~~consecutive school years, shall not be reemployed by the school~~
16 ~~district, subject to the due process procedures of this section.~~

17 D. After full implementation of the TLE as set forth in Section
18 6-101.10 of this title, a principal who has received qualitative ~~or~~
19 ~~quantitative~~ ratings of "ineffective" as measured pursuant to the
20 TLE as set forth in Section 6-101.16 of this title for two (2)
21 consecutive school years may be dismissed or not reemployed by the
22 school district, subject to the due process procedures of this
23 section.
24

1 SECTION 3. AMENDATORY 70 O.S. 2011, Section 6-101.16, as
2 last amended by Section 4, Chapter 365, O.S.L. 2015 (70 O.S. Supp.
3 2015, Section 6-101.16), is amended to read as follows:

4 Section 6-101.16 A. By December 15, 2011, the State Board of
5 Education shall adopt a new statewide system of evaluation to be
6 known as the Oklahoma Teacher and Leader Effectiveness Evaluation
7 System (TLE). The Board shall work cooperatively with school
8 districts to fully implement both the quantitative and qualitative
9 components of the TLE in all school districts by the 2016-2017
10 school year as provided for in Section 6-101.10 of this title,
11 including determining the final calculation of the student academic
12 growth measurement as provided for in subparagraph a of paragraph 4
13 of subsection B of this section and developing a teacher/student
14 assignment verification system.

15 B. The TLE shall include the following components:

16 1. Annual evaluations that provide feedback to improve student
17 learning and outcomes, except as provided for in subsection C of
18 this section;

19 2. Comprehensive remediation plans and instructional coaching
20 for all teachers who receive qualitative or quantitative ratings of
21 "needs improvement" or "ineffective" in accordance with the rating
22 system established in paragraph 3 of this subsection;

1 3. A five-tier rating system for both the qualitative and
2 quantitative components set forth in paragraph 4 of this subsection
3 as follows:

- 4 a. superior,
- 5 b. highly effective,
- 6 c. effective,
- 7 d. needs improvement, and
- 8 e. ineffective;

- 9 4. a. The quantitative ratings of teachers and leaders shall
10 be based on quantitative components which shall
11 include performance measures of a teacher and leader
12 that are based on student academic growth using
13 multiple years of standardized test data, as
14 available, and performance measures for teachers in
15 grades and subjects for which there is no state-
16 mandated testing measure, as approved by the State
17 Board of Education pursuant to subsection E of this
18 section, and
- 19 b. The qualitative ratings of teachers and leaders shall
20 be based on rigorous and fair qualitative assessment
21 components;

22 5. An evidence-based qualitative assessment tool for the
23 teacher qualitative portion of the TLE that will include observable
24 and measurable characteristics of personnel and classroom practices

1 that are correlated to student performance success, including, but
2 not limited to:

- 3 a. organizational and classroom management skills,
- 4 b. ability to provide effective instruction,
- 5 c. focus on continuous improvement and professional
6 growth,
- 7 d. interpersonal skills, and
- 8 e. leadership skills;

9 6. An evidence-based qualitative assessment tool for the leader
10 qualitative portion of the TLE that will include observable and
11 measurable characteristics of personnel and site management
12 practices that are correlated to student performance success,
13 including, but not limited to:

- 14 a. organizational and school management, including
15 retention and development of effective teachers and
16 dismissal of ineffective teachers,
- 17 b. instructional leadership,
- 18 c. professional growth and responsibility,
- 19 d. interpersonal skills,
- 20 e. leadership skills, and
- 21 f. stakeholder perceptions;

22 7. For those teachers in grades and subjects for which there is
23 no state-mandated testing measure to create a quantitative
24 assessment for the quantitative portion of the TLE, local school

1 district boards of education shall choose evaluation methods from a
2 list of reliable, research-based options approved by the State Board
3 of Education pursuant to subsection E of this section. Emphasis
4 shall be placed on the observed qualitative assessment as well as
5 contribution to the overall school academic growth. For those
6 teachers who have at least one tested grade or subject, school
7 districts shall have the option of basing up to fifty percent (50%)
8 of the quantitative rating on evaluation methods chosen from a list
9 of reliable, research-based options approved by the State Board of
10 Education pursuant to subsection E of this section;

11 8. For first-year and second-year teachers, evaluations shall
12 be based solely on qualitative components set forth in subparagraph
13 b of paragraph 4 of this subsection; and

14 9. For teachers who were previously employed by a different
15 public school district and for teachers who enter into post-
16 retirement employment with a public school, school districts shall
17 have the option of basing those evaluations solely on the
18 qualitative components set forth in subparagraph b of paragraph 4 of
19 this subsection during their first year of employment.

20 C. Career teachers receiving a qualitative rating of "superior"
21 or "highly effective" and a quantitative rating of "superior" or
22 "highly effective" under the TLE may be evaluated once every two (2)
23 years.
24

1 D. ~~The Teacher and Leader Effectiveness Commission shall adopt~~
2 ~~the student academic growth quantitative components of the TLE as~~
3 ~~provided for in subparagraph a of paragraph 4 of subsection B of~~
4 ~~this section by May 1, 2014. The Commission shall provide oversight~~
5 ~~and advise the State Board of Education on the development and~~
6 ~~implementation of the TLE.~~

7 E. ~~By December 1, 2015, the Teacher and Leader Effectiveness~~
8 ~~Commission shall recommend to the State Board of Education multiple~~
9 ~~reliable, research-based measures for providing a quantitative~~
10 ~~evaluation component for teachers in grades and subjects for which~~
11 ~~there is no state-mandated testing measure. The State Board of~~
12 ~~Education shall approve and publish a list of approved measures by~~
13 ~~February 1, 2016.~~

14 F. ~~A school district with an average daily attendance of more~~
15 ~~than thirty-five thousand (35,000) which has incorporated~~
16 ~~quantitative components of the TLE into its evaluation system of~~
17 ~~teachers and administrators prior to the 2015-2016 school year may~~
18 ~~continue using its evaluation system, as defined by the school~~
19 ~~district's written policies, notwithstanding the provisions of this~~
20 ~~section and regardless of the State Board of Education's adoption of~~
21 ~~quantitative components pursuant to this section.~~

22 G. The quantitative ratings of teachers and leaders shall be
23 used to inform teacher and leader evaluations and determine career
24 teacher status. Each school district board of education shall have

1 the option to choose whether or not to use the quantitative ratings
2 of teachers and leaders for purposes of employment matters. The
3 option selected by the board shall be included as part of the
4 written policy of evaluation for the school district.

5 E. The State Department of Education shall provide to the
6 Oklahoma State Regents for Higher Education and the Oklahoma
7 Commission for Educational Quality and Accountability timely
8 electronic data linked to teachers and leaders derived from the TLE
9 for purposes of providing a basis for the development of
10 accountability and quality improvements of the teacher preparation
11 system. The data shall be provided in a manner and at such times as
12 agreed upon between the Department, the State Regents and the
13 Commission.

14 ~~H.~~ F. For purposes of this section, "leader" means a principal,
15 assistant principal or any other school administrator who is
16 responsible for supervising classroom teachers.

17 ~~F.~~ G. The State Department of Education shall keep all data
18 collected pursuant to the TLE and records of annual evaluations
19 received pursuant to this section confidential. Records created
20 pursuant to this section which identify, in any way, a current or
21 former public employee shall not be subject to disclosure under the
22 Oklahoma Open Records Act. Nothing in this subsection shall be
23 construed to prohibit disclosure otherwise required by this section;
24 provided, however, any provisions requiring disclosure of TLE

1 records shall be construed narrowly and all individually identifying
2 information shall be removed from such records to the fullest extent
3 possible.

4 SECTION 4. AMENDATORY 70 O.S. 2011, Section 6-101.22, as
5 last amended by Section 5, Chapter 365, O.S.L. 2015 (70 O.S. Supp.
6 2015, Section 6-101.22), is amended to read as follows:

7 Section 6-101.22 A. Subject to the provisions of the Teacher
8 Due Process Act of 1990, a career teacher may be dismissed or not
9 reemployed for:

- 10 1. Willful neglect of duty;
- 11 2. Repeated negligence in performance of duty;
- 12 3. Mental or physical abuse to a child;
- 13 4. Incompetency;
- 14 5. Instructional ineffectiveness;
- 15 6. Unsatisfactory teaching performance;
- 16 7. Commission of an act of moral turpitude; or
- 17 8. Abandonment of contract.

18 B. Subject to the provisions of the Teacher Due Process Act of
19 1990, a probationary teacher may be dismissed or not reemployed for
20 cause.

21 C. Upon full implementation of the Oklahoma Teacher and Leader
22 Effectiveness Evaluation System (TLE) as set forth in Section 6-
23 101.10 of this title:

1 1. ~~A career teacher who has received a qualitative and~~
2 ~~quantitative rating of "ineffective" for two (2) consecutive school~~
3 ~~years shall be dismissed or not reemployed on the grounds of~~
4 ~~instructional ineffectiveness by the school district, subject to the~~
5 ~~provisions of the Teacher Due Process Act of 1990;~~

6 2. A career teacher who has received a qualitative or
7 ~~quantitative~~ rating of "ineffective" for two (2) consecutive school
8 years may be dismissed or not reemployed on the grounds of
9 instructional ineffectiveness by the school district, subject to the
10 provisions of the Teacher Due Process Act of 1990;

11 3. ~~A career teacher who has received a qualitative and~~
12 ~~quantitative rating of "needs improvement" or lower for three (3)~~
13 ~~consecutive school years shall be dismissed or not reemployed on the~~
14 ~~grounds of instructional ineffectiveness by the school district,~~
15 ~~subject to the provisions of the Teacher Due Process Act of 1990;~~

16 4. 2. A career teacher who has received a qualitative or
17 ~~quantitative~~ rating of "needs improvement" or lower for three (3)
18 consecutive school years may be dismissed or not reemployed on the
19 grounds of instructional ineffectiveness by the school district,
20 subject to the provisions of the Teacher Due Process Act of 1990;

21 5. ~~A career teacher who has not averaged a qualitative and~~
22 ~~quantitative rating of at least "effective" as measured pursuant to~~
23 ~~the TLE over a five-year period shall be dismissed or not reemployed~~
24 ~~on the grounds of instructional ineffectiveness by the school~~

~~district, subject to the provisions of the Teacher Due Process Act of 1990; and~~

~~6. 3.~~ A career teacher who has not averaged a qualitative ~~or~~ quantitative rating of at least "effective" as measured pursuant to the TLE over a five-year period may be dismissed or not reemployed on the grounds of instructional ineffectiveness by the school district, subject to the provisions of the Teacher Due Process Act of 1990.

D. Upon full implementation of the Oklahoma Teacher and Leader Effectiveness Evaluation System (TLE) as set forth in Section 6-101.10 of this title:

~~1. A probationary teacher who has received a qualitative and quantitative rating of "ineffective" as measured pursuant to the TLE for two (2) consecutive school years shall be dismissed or not reemployed by the school district subject to the provisions of the Teacher Due Process Act of 1990;~~

~~2.~~ A probationary teacher who has received a qualitative ~~or~~ quantitative rating of "ineffective" as measured pursuant to the TLE for two (2) consecutive school years may be dismissed or not reemployed by the school district subject to the provisions of the Teacher Due Process Act of 1990; and

~~3. 2.~~ A probationary teacher who has not attained career teacher status within a four-year period shall be dismissed or not

1 reemployed by the school district, subject to the provisions of the
2 Teacher Due Process Act of 1990.

3 E. A teacher shall be dismissed or not reemployed, unless a
4 presidential or gubernatorial pardon has been issued, if during the
5 term of employment the teacher is convicted in this state, the
6 United States or another state of:

7 1. Any sex offense subject to the Sex Offenders Registration
8 Act in this state or subject to another state's or the federal sex
9 offender registration provisions; or

10 2. Any felony offense.

11 F. A teacher may be dismissed, refused employment or not
12 reemployed after a finding that such person has engaged in criminal
13 sexual activity or sexual misconduct that has impeded the
14 effectiveness of the individual's performance of school duties. As
15 used in this subsection:

16 1. "Criminal sexual activity" means the commission of an act as
17 defined in Section 886 of Title 21 of the Oklahoma Statutes, which
18 is the act of sodomy; and

19 2. "Sexual misconduct" means the soliciting or imposing of
20 criminal sexual activity.

21 G. As used in this section, "abandonment of contract" means the
22 failure of a teacher to report at the beginning of the contract term
23 or otherwise perform the duties of a contract of employment when the
24 teacher has accepted other employment or is performing work for

1 another employer that prevents the teacher from fulfilling the
2 obligations of the contract of employment.

3 H. A school district shall notify the State Board of Education
4 within ten (10) days of the dismissal or nonreemployment of a
5 probationary or career teacher for reasons outlined in subsection F
6 of this section.

7 SECTION 5. This act shall become effective July 1, 2016.

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

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13 COMMITTEE REPORT BY: COMMITTEE ON COMMON EDUCATION, dated 02/09/2016
14 - DO PASS.
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