

**State Board of Education
Public Comment Summary
Proposed Permanent Rule Changes
Chapter 1. State Board of Education
Subchapter 5. Due Process
210:1-5-6. Revocation of certificates**

Summary of Public Comment	Agency Response
Two (2) commenters requested the agency correct the typographical error in at (e)(3)(D) of the proposed rule, in which the word “any” is duplicated.	<ul style="list-style-type: none"> • The agency has incorporated the change suggested by the commenters into the revised draft of the proposed rule.
<p>One (1) commenter questioned whether the addition of a provision permitting emergency suspension of a certificate in (d) was necessary. Commenter does not believe the provision serves a purpose, as the holder of the certificate is already suspended by the school district in cases involving danger to students, and could possibly bias the board against the teacher when allegations exist with no substantive investigation.</p> <p>Commenter also states that the SDE “either criminal or civil employment investigations and should rely on both local law enforcement and the local district rather than attempting any type of parallel investigation that will only serve to cloud the issues and interfere with local efforts.”</p>	<ul style="list-style-type: none"> • The agency believes that (d) is necessary to protect other school districts from an individual who poses a threat to public school students and seeks employment at other school districts who may not be aware of a pending investigation. • The agency is given statutory authority for emergency suspensions by the Oklahoma Administrative Procedures Act at 75 O.S. § 314(C)(2), which permits agencies to order summary suspension of a certificate “pending proceedings for revocation or other action” if the agency makes a finding that suspension is required by public health, safety, or welfare. • Administrative actions are initiated by agencies separate from civil or criminal proceedings, district investigations, or law enforcement criminal investigations.
Seven (7) commenters agreed that suspension of a certificate may be an appropriate remedy in certain circumstances, but requested clarification of the rules to reflect whether or not procedures for suspension differ from procedures for revocation.	<ul style="list-style-type: none"> • The agency has clarify the proposed rule to clarify the procedure for revocation separate from the summary suspension in emergency circumstances set forth in (d).
Seven (7) commenters suggested changing the language in (b) from “knowingly participate” to “knowing participation” because the current language suggests that the failure to “knowingly participate” in any activity deemed illegal may result in a	<ul style="list-style-type: none"> • The agency has incorporated the change suggested by the commenters into the revised draft of the proposed rule.

<p>recommendation of revocation or suspension.</p>	
<p>Seven (7) commenters questioned whether or not the provisions of (c) stating that a certificate cannot be revoked or suspended “until the holder of the certificate has been provided with a copy of the application to suspend or revoke the certificate and opportunity to request a hearing...” complies with § 309 of the Oklahoma Administrative Procedures Act. Commenters assert that the APA language requires a hearing to be held, with or without the participation of the certificate holder. Commenters suggest changing the language from “opportunity to request a hearing” to “opportunity for a hearing.” Commenters also suggested changing the language in (c)(3)(B) from “fails to request a hearing” to “fails to appear for the hearing.”</p>	<ul style="list-style-type: none"> • The agency has incorporated the change suggested by the commenters into the revised draft of the proposed rule.
<p>Seven (7) commenters suggest deleting the word “application” in (C)(1)(A) and replacing it with “applicant” or “complainant.”</p>	<ul style="list-style-type: none"> • The agency has incorporated the change suggested by the commenters into the revised draft of the proposed rule.
<p>Seven (7) commenters suggest changing the language in (e)(1) from “Upon filing a request for a hearing on the application with the Secretary of the Board” to “The Secretary shall set the matter for a hearing” due to the same due process concerns with (c) asserted by the commenters above.</p>	<ul style="list-style-type: none"> • The agency has incorporated the change suggested by the commenters into the revised draft of the proposed rule.
<p>Seven (7) commenters suggest the language in the first sentence of subsection (e)(2) is confusing. Suggest changing the language from “within ten (10) calendar days prior to the hearing” and replace with “at least ten (10) calendar days prior to the hearing”.</p>	<ul style="list-style-type: none"> • The agency has incorporated the change suggested by the commenters into the revised draft of the proposed rule.
<p>Seven (7) commenters suggest the second sentence of subsection (e)(2) should be changed to add the words “suspension or” before the word “revocation”.</p>	<ul style="list-style-type: none"> • This change is inconsistent with the same commenters’ previous request for clarification of the procedures between suspension and revocation.

<p>Seven (7) commenters suggest that the word “or” was inadvertently deleted between the words “proceeding” and “other” in the first sentence/fourth line of subsection (e)(3)(D).</p>	<ul style="list-style-type: none"> • The agency has incorporated the change suggested by the commenters into the revised draft of the proposed rule.
<p>Seven (7) commenters suggest in the second sentence/third line of subsection (e)(10) that the word “show” should be deleted and replaced with “shown”.</p>	<ul style="list-style-type: none"> • The agency has incorporated the change suggested by the commenters into the revised draft of the proposed rule.
<p>Seven (7) commenters suggest that in subsection (f)(1)(A), the words “suspended or” be placed before the word “revoked”.</p>	<ul style="list-style-type: none"> • This change is inconsistent with the same commenters’ previous request for clarification of the procedures between suspension and revocation.
<p>Seven (7) commenters suggest in the first line of subsection (f)(1)(B) that the words “or a hearing officer presiding at the hearing” be inserted after the word “Education”</p>	<ul style="list-style-type: none"> • The agency has incorporated the change suggested by the commenters into the revised draft of the proposed rule.
<p>Seven (7) commenters questioned that although subsection (f)(2) was intended to comply with the Administrative Procedures Act it is confusing and does not seem to apply to situations in which a decision has already been announced.</p>	<ul style="list-style-type: none"> • The provision referenced by the commenter is only applicable if the hearing is conducted by a hearing officer; the purpose of the provision is to ensure that the Board has an opportunity to review proposed findings of fact and conclusions of law if they have not heard the case.
<p>Seven (7) commenters suggest adding “Proposed findings and exceptions” to the list of items ((A)-(F)) that the hearing record shall include, and re-letter the list to be consistent with Administrative Procedures Act.</p>	<ul style="list-style-type: none"> • This change is inconsistent with the same commenters’ previous request for clarification of the procedures between suspension and revocation.
<p>Seven (7) commenters suggest adding the words “the Board or” after the word “by” in subsection (g)(1)(E).</p>	<ul style="list-style-type: none"> • The agency has incorporated the change suggested by the commenters into the revised draft of the proposed rule.